



# University Procedure

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## Bullying Prevention and Management

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### 1. Purpose

To positively influence the behaviour of staff, students and members of the University so that a safe and respectful workplace and study environment is maintained and bullying is prevented.

To ensure that appropriate arrangements are in place to manage allegations of bullying.

### 2. Scope

2A This Procedure applies to all staff, students and other members of the University in situations related to their employment, studies or activities at the University of Ballarat.

2B This Procedure is not intended to, and does not diminish, an employer's managerial prerogative to direct and control how work is done in the University, other than in terms of ensuring, so far as practicable, the health and safety of employees. It is not intended to apply to poor or bad management practices that do not constitute bullying.

2C This Procedure does not cover situations where a staff member has a grievance about legitimate and reasonable:

- performance management processes
- disciplinary action
- allocation of work loads

2D Subject to paragraph 2E below, if a Complainant has a complaint, which could be considered under a number of different University grievance procedures, the Complainant must choose which procedure they would like to use to have the matter resolved. A Complainant is not able to make applications under different procedures in relation to the same subject matter or incident.

2E If a Complainant lodges a Workcover claim that involves allegations of bullying, the relevant portion of the Workcover claim will be taken to be a written complaint in accordance with Part 4D Formal Procedure of this Procedure.

2F The University will be guided by the following principles in attempting to resolve bullying issues:

- ensure so far as reasonably practicable the health and safety of all parties
- be fair and equitable
- ensure the Principles of Natural Justice are upheld
- ensure privacy and confidentiality
- be aimed at resolving the problem rapidly
- ensure people are not victimised as a result of using this Procedure.

### 3. Definitions

**Bullying** – a form of persecution with these key features

- *Directed towards a specific person or persons*

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- *Unreasonable Behaviour which causes harm* to another person's body, feelings, property or reputation
- *Distress* for the recipient
- *Repetition* of the harmful actions
- *A power imbalance* (which can be obtained in a variety of ways such as numbers in a group, official position or stronger social influence)
- *Inability of the targeted person(s) to easily leave or avoid* the situation

For further information refer to information on the Bullying Prevention & Management website [http://www.ballarat.edu.au/vco/legal/bullying\\_prevention\\_and\\_management.shtml](http://www.ballarat.edu.au/vco/legal/bullying_prevention_and_management.shtml)

**Complainant** – the staff member, student or other member of the University reporting an alleged incident(s) of bullying.

**Local Manager** – for staff means their Supervisor or Head of School or Section and for students their Course Coordinator/Program Coordinator or Head of School

**Other members of the University** – members of the Council; members of any board, committee or other body established by or constituted under the University Statutes and Regulations; members of the Professoriate, Visiting Teaching or Research staff and Academic Associates appointed under the University Statutes and Regulations.

**Principles of natural justice** – involves all of the following elements:

- (a) the right to a fair and prompt hearing
- (b) presumption of innocence until proven guilty
- (c) the right to attend hearings with a friend or support person, if required
- (d) the opportunity for all parties involved to be heard
- (e) the respondent having full knowledge of the nature and substance of the complaint
- (f) the complainant not determining the outcome, but may be a party to it
- (g) the right to an independent, unbiased decision-maker
- (h) a final decision that is based solely on the relevant evidence

**Repetition** – refers to the persistent nature of the behaviour, not the specific form the behaviour takes. Behaviour is considered “repeated” if an established and consistent pattern can be identified over a period of time.

**Senior Management** – the Vice-Chancellor, Deputy Vice-Chancellors and Pro-Vice-Chancellors.

**Staff member** – any person who is an employee of the University at the time of the alleged bullying. This includes full-time, part-time, sessional or casual staff. Staff member, for the purpose of this policy only, includes other contracted staff.

**Student** – any person enrolled as a student of the University at the time of the alleged bullying. This includes full-time, part-time, block-mode or distance education students.

**University Grievance Officer** – an officer of the University employed within the Legal and Secretariat Section of the University.

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**Unreasonable behaviour** – refers to behaviour that a reasonable person, having regard to all the circumstances, would expect to humiliate, intimidate, undermine or threaten. In this context, the hypothetical *reasonable person* does not require total knowledge of every aspect of the situation – rather this person knows as much as the alleged bully could reasonably be expected to know.

### 4. Actions

#### A Preliminary Action

##### A1 Advice

A staff member who experiences bullying may seek advice from:

- their Supervisor / Head of School or Section (where appropriate)
- Head, Human Resources
- University Grievance Officer

A student who experiences bullying may seek advice from:

- their lecturer/teacher, Course Coordinator/Program Coordinator or Head of School (where appropriate)
- University Grievance Officer

Other members of the University community who experience bullying may seek advice from the University Grievance Officer.

##### A2 Support

A staff member who experiences bullying may seek support from:

- A counsellor as part of the Employee Assistance Program

A student who experiences bullying may seek support from:

- A counsellor through Student Development Services

##### A3 Personal Resolution

A person who experiences bullying may resolve the issue directly with the other party concerned and if required with the assistance of an agreed independent third party. Any meeting with the person(s) who is/are allegedly bullying should be respectful, civil and where possible objective.

##### A4 Persons experiencing bullying may:

- Keep a diary of the alleged bullying
- Assemble, where practical, any objective evidence of the bullying, including the names of witnesses
- Request to be removed from the work situation, or request alternate study arrangements, until the matter is resolved. This request should be in writing to the Local Manager or

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Head, Human Resources for staff members if a complaint is against the Local Manager, together with reasons for the request

### **B Informal Procedure – Conflict Resolution**

- B1 While this stage is not compulsory, in many cases a meeting with an independent officer qualified to manage conflict resolution (“resolution officer”), can assist the parties in understanding their differing points of view and can lead to constructive resolution of the issues.
- B2 A request for conflict resolution should be referred to the Head, Human Resources if requested by a staff member, or the University Grievance Officer if requested by a student, who will negotiate the appointment of an appropriate resolution officer with all parties. The resolution officer and person(s) involved should be provided with documentation outlining the instances of bullying, name(s) of person(s) involved and any other material (ie emails, letters etc) relevant to the allegations.
- B3 The calling of a conflict resolution conference does not imply there is a case to answer or that any conduct complained of has occurred. It is not the resolution officer’s role to make a formal finding but to assist the parties to reach a mutually agreed resolution to the problem, where possible.

### **C Informal Procedure – Local Resolution**

- C1 The local resolution process involves the Local Manager and the affected parties discussing the issues involved and attempting to develop appropriate local solutions. The Local Manager should seek advice from the Head, Human Resources or the University Grievance Officer.
- C2 The local resolution process may be conducted with the assistance of an agreed independent third party.
- C3 This process is best used in the early stages if possible, where people are willing to come to an amicable agreement. Such an agreement may take the form of a clarification of a misunderstanding, an apology, a conflict resolution conference between the parties or an agreed plan of action to avoid future incidents.
- C4 This process may also highlight the need for further education in the local area or the implementation of a local strategy that raises awareness of appropriate behaviour within the workplace or learning environment.

### **D Formal Procedure**

- D1 A Local Manager under the Formal Procedure must be no less than a Head of School or Head of Section.

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- D2 The Formal Procedure should be invoked where a complaint of bullying cannot be resolved promptly or locally or one or more parties has lodged a written complaint asking for formal resolution. The written complaint should be forwarded to either the Local Manager or Head, Human Resources for a staff member, or the Local Manager or University Grievance Officer for a student.
- D3 Within 5 working days of receiving all relevant documentation pertaining to the complaint, the Local Manager, Head, Human Resources or University Grievance Officer will determine whether the subject matter of the complaint, prima facie, falls within the bullying definition. If it is determined that the subject matter of the complaint does not constitute bullying in accordance with the Policy, the complainant will be referred to:
- the Informal Procedure of the Staff or Student Grievance Procedure; or
  - the Formal Procedure of the Staff or Student Grievance Procedure; or
  - the Sexual, Sex-based, Racial or Disability Harassment Complaints Procedure.
- D4 In the instance of a decision made under paragraph D3 above, the complainant may request a review of the decision to refer the complaint to another Procedure to the Head, Human Resources or the University Grievance Officer.
- D5 If the subject matter of the complaint, prima facie, falls within the bullying definition, the Local Manager, Head, Human Resources or University Grievance Officer will formally notify any persons specifically mentioned in the complaint of:
- (a) any matters directly involving them;
  - (b) this process;
  - (c) their right to an impartial investigator nominated by the Head, Human Resources or University Grievance Officer;
  - (d) their right to respond and the appropriate manner of response. This will usually be in writing and through cooperation with the investigator;
  - (e) the need to avoid any confrontation or actions that may be perceived to aggravate the situation and the need to act prudently, confidentially and sensitively in matters surrounding the complaint.
- D6 If a written complaint asking for formal resolution was sent to the Local Manager under paragraph D2 above, the complaint will now be referred to the Head, Human Resources (for complaints made by staff members) or the University Grievance Officer (for complaints made by students).
- D7 If the complaint includes aspects which might constitute unlawful discrimination or harassment as defined under the University's Valuing Diversity/Equal Opportunity Policy, the Manager, Equity & Equal Opportunity must be consulted.

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- D8 The Head, Human Resources or the University Grievance Officer will promptly nominate an investigator independent to the parties and the subject matter of the complaint, notify all the parties and act as the liaison point for the investigator throughout the formal process.
- D9 Where practicable, the investigator will promptly advise all parties of the process to be used and the expected timeline and will within twenty working days of being appointed:
- (a) interview the complainant, the person(s) who is/are allegedly bullying and any witnesses and seek any further information, documents or evidence the investigator considers necessary. All interviews and the investigation will be conducted in accordance with Principles of Natural Justice and will be conducted in order to establish the facts as clearly as possible and to record the views of the relevant parties accurately;
  - (b) provide a report to the Vice-Chancellor of the investigation and recommendations of appropriate action/resolution which may include:
    - conciliatory action by the person(s) who is/are allegedly bullying, such as an apology and commitment to cease the inappropriate behaviour
    - conflict resolution between the parties
    - other organisational measures such as appropriate training for the alleged bully or area concerned
    - disciplinary action against the bully
    - disciplinary action against the complainant, if the complaint is found to be vexatious
    - dismissal of the complaint with no action required.
- D10 On receipt of the report, the Vice-Chancellor will
- (a) take such action as the Vice-Chancellor deems appropriate; and
  - (b) notify the parties in writing, conveying the results of the investigation, the reasons for the Vice-Chancellor's subsequent decision and specifying any action to be taken.
- D11 The decision of the Vice-Chancellor is the final step in the grievance process and is not open to challenge via any other dispute settling procedures of the University.
- D12 If a complaint is against the Head, Human Resources, for the purposes of the Formal Procedure, the University Grievance Officer will act in place of the Head, Human Resources.

### E Senior Management

- E1. If a complaint is against a member of the University's Senior Management, the matter will be taken directly to the University Grievance Officer who will refer the matter to the Chancellor.
- E2. The Chancellor, after consultation with one Deputy Chancellor, will have discretion as to the appropriate procedure to be used and any subsequent action required, using the spirit of this Procedure.

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### F Confidentiality

All persons associated with this Procedure are expected to maintain confidentiality and only discuss the complaint with those directly involved or those who have responsibility for dealing with the complaint. A breach of confidentiality may constitute misconduct and result in disciplinary action.

### G Complaint from someone other than the person being bullied

If a Local Manager, Head, Human Resources or University Grievance Officer receives a complaint of bullying from a witness rather than the alleged victim, or observes behaviour that may constitute bullying, the Local Manager, Head, Human Resources or University Grievance Officer should:

- (a) seek advice from the Head, Human Resources or the University Grievance Officer; and
- (b) take reasonable steps to stop behaviour which is consistent with bullying or which is disrespectful; and
- (c) speak confidentially with the parties about this Procedure

### H External Agencies

Complaints about administrative actions and decisions of the University can be made to the Victorian Ombudsman [<http://www.ombudsman.vic.gov.au>]. The Ombudsman is, generally, the office of last resort. If you have not followed the steps laid down in the relevant University procedures, the Ombudsman may ask you to do so before accepting your complaint.

## 5. Responsibilities

### Staff members, students and other members of the University:

- are responsible for their own behaviour and must not participate in or encourage bullying;
- are discouraged from using an intimidating interpersonal style characterised by disrespect, putdowns etc, although the behaviour may not constitute bullying;
- who believe they are being bullied, or who are aware of or witness bullying within the University should report it promptly in accordance with the Procedure;
- may face disciplinary action if they participate in or encourage bullying.

### Academic and Teaching staff are expected to:

- take reasonable steps to stop students behaving disrespectfully in class or in other academic or teaching contexts; and
- report student behaviour consistent with bullying in accordance with this Procedure.

### Local Managers are expected to:

- take reasonable steps to stop any behaviour which is consistent with bullying or which is disrespectful, even if unreported; and
- take seriously any reports of workplace bullying and investigate them promptly, confidentially and impartially; and

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- publicise the terms of the Policy and this Procedure.

The **Head, Human Resources** is responsible for providing advice and suitable independent resolution officers and investigators in accordance with this Procedure.

The **University Grievance Officer** is responsible for providing advice and procedural guidance to all parties in accordance with this Procedure and for providing suitable independent resolution officers and investigators in accordance with this Procedure.

The **Pro-Vice-Chancellor (Governance & External)**, as nominee of the Vice-Chancellor, has overall responsibility for the implementation and review of this Procedure.

### 6. Policy Base

University of Ballarat Bullying Prevention and Management Policy  
University of Ballarat Sexual, Sex-based, Racial and Disability Harassment Policy  
University of Ballarat Staff Grievance Policy  
University of Ballarat Student Grievance Policy

### 7. Associated Documents

For further information refer to information on the Bullying Prevention and Management website at [http://www.ballarat.edu.au/vco/legal/bullying\\_prevention\\_and\\_management.shtml](http://www.ballarat.edu.au/vco/legal/bullying_prevention_and_management.shtml)

### 8. Forms/Record Keeping

The Local Manager, Head, Human Resources and University Grievance Officer are required to keep file notes of any complaint, witness report and action under the Informal or Formal Procedures. Such files notes are to be marked strictly confidential and held in a secure and restricted filing cabinet. Notes should be kept to a minimum stating only facts and relevant details (including names, dates, times etc) as described by the parties and the outcome of the interview.

At the conclusion of the process, the confidential file should be forwarded to the University Grievance Officer. If the complaint is taken outside the University this record may be used to demonstrate what steps were taken to settle the complaint.

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