



Complaints: Discrimination, Harassment, Victimization and Vilification (Staff) procedure

Section 1 - Preamble

(1) This Procedure is effective from 16 March 2023.

Section 2 - Purpose

(2) This Procedure provides staff and associates with a fair, effective and accessible resolution process for complaints of discrimination, harassment, victimisation and vilification.

Section 3 - Scope

(3) This Procedure applies to all staff and associates of the University where a complaint relates to the actions of another staff member or associate.

(4) This Procedure does not apply to student complaints processes. Complaints, including those of discrimination, harassment, victimisation and/or vilification involving a student can be made by following the University's [Student Complaints Resolution procedure](#). Allegations of student misconduct are dealt with through the [Student Misconduct procedure](#).

(5) The University's response to sexual harm is outlined in the [Sexual Harm Prevention and Response Policy](#) and the [Sexual Harm Response Procedure](#). For staff members and associates who have experienced sexual harm, including sexual harassment, advice and support is available from Deakin's Safer Community.

(6) Bullying and/or other inappropriate workplace behaviors will be responded to in accordance with the [Workplace Bullying Procedure](#), [Staff Discipline procedure](#) and other procedures as appropriate.

(7) The University encourages individuals to use the options set out in this procedure, however, also acknowledges staff and associates have a right to seek assistance from and/or lodge a complaint with external bodies, including Victoria Police, the Victorian Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission, the Fair Work Ombudsman, the Fair Work Commission and WorkSafe Victoria.

(8) The University may redirect complaints where it appears that the complaint could be more appropriately managed under a different procedure.

Section 4 - Policy

(9) This Procedure is pursuant to the [Diversity, Equity and Inclusion policy](#).

Section 5 - Procedure

(10) If you believe you have experienced, or are experiencing discrimination, sexual harassment, victimisation or vilification you can:

- a. seek information and advice from a [Harassment or Discrimination Contact Officer](#) (HDCO), a leader or Diversity, Equity and Inclusion
- b. seek to resolve the matter informally by directly approaching the other party if it is appropriate and safe to do so. You may request the support of a leader and/or Diversity, Equity and Inclusion when seeking to resolve a matter informally.
- c. seek formal resolution via investigation.

(11) Timely reporting of complaints is important to ensure fair treatment of all involved. Complaints should be reported as soon as practicable from when the staff member or associate first becomes aware of the matter but no later than 12 months after the most recent incident related to the complaint.

(12) By special exemption, the Executive Director, Diversity, Equity and Inclusion may accept a complaint where the most recent incident related to that complaint occurred more than 12 months prior.

(13) Where the most recent incident relating to a complaint occurred more than 12 months prior, the staff member or associate must notify the Executive Director, Diversity, Equity and Inclusion, in writing, of the circumstances that prevented them from reporting earlier.

(14) A staff member or associate may make a complaint where behaviours observed, or drawn to their attention, could amount to discrimination, harassment, victimisation or vilification.

(15) A complaint cannot be made under this procedure if a determination relating to the same facts, is underway, or has already been made under another internal University process.

(16) Making a complaint to an external body does not preclude the University from investigating a matter as set out in this procedure, although the University will be mindful of the need to ensure co-operation with external agencies.

(17) A complainant can withdraw their complaint at any time by writing to the Executive Director, Diversity, Equity and Inclusion or nominee (eeo@deakin.edu.au).

(18) Complainants and respondents may seek the assistance of a support person at any stage during the complaints process.

(19) The University acknowledges that complaint processes can be difficult for all parties involved and strongly encourages people to seek support. Further information is available at [Employee Wellbeing Support \(EWS\)](#).

Resolution processes

Informal resolution

(20) The University encourages staff and associates to resolve complaints of discrimination, harassment, victimisation and vilification as early as possible, directly and informally if it is appropriate and safe to do so, either independently or with the support of a HDCO.

(21) Diversity, Equity and Inclusion can also assist the complainant with strategies for effective informal resolution. Strategies can include:

- a. directly approaching the respondent to request a change in behaviour

- b. requesting a leader to implement policy or request a change in the respondent's behaviour
- c. where appropriate and where there is willingness to participate, an impartial mediator can be appointed to assist parties in resolving the complaint. This may be a staff member of Diversity, Equity and Inclusion.

(22) Any resolution or agreements reached during the mediation process will be provided in writing to both parties and retained by Diversity, Equity and Inclusion.

(23) Where informal resolution has not been successful or is not appropriate, for example due to lack of willingness to participate by one or more parties or due to the seriousness of the allegation(s), the Executive Director, Diversity, Equity and Inclusion or nominee may determine that the matter be dealt with through formal resolution via investigation.

Formal resolution via investigation

(24) Staff/Associates may write to the Executive Director, Diversity, Equity and Inclusion to seek formal resolution via investigation by completing the appropriate [Raising a complaint or concern online form](#) or by emailing eeo@deakin.edu.au with the following information:

- a. name and contact details
- b. details of what happened including when, where, who was involved
- c. names of the respondent/s and any potential witnesses
- d. any attempts at resolution or reasons for none
- e. a preference for how the complaint should be resolved and
- f. any other supporting information.

(25) In response to a request for formal resolution via investigation the Executive Director, Diversity, Equity and Inclusion or nominee will appoint a Diversity Equity and Inclusion Case Co-ordinator (Case Co-ordinator).

(26) The Case Co-ordinator will acknowledge receipt of the complaint in writing.

(27) The Executive Director, Diversity, Equity and Inclusion or nominee will consider all relevant information and take appropriate action. Actions include:

- a. referring the matter for investigation by an external investigator on the grounds that the allegations, if proven, are likely to be a breach of relevant University policy or procedures;
- b. referring to other appropriate processes or team; and/or
- c. no further action.

(28) Where the matter is not referred for formal resolution via investigation, the Case Co-ordinator will advise the complainant in writing of the reasons for this decision.

(29) If the complaint proceeds to formal resolution via investigation the Case Co-ordinator will:

- a. inform the complainant that the matter is proceeding under formal resolution via investigation
- b. notify the relevant Senior People and Culture Partner for each party
- c. where appropriate, notify the leader of each party
- d. notify the Director, People Partnering and Solution (People and Culture) or nominee
- e. advise the respondents Faculty/Business Unit member of Executive of the associated costs of the external investigation being attributed to them
- f. inform the respondent in writing that the matter is proceeding to formal resolution via investigation

- g. appoint an external investigator
- h. inform the complainant and the respondent the name of the external investigator and provide contact details.

(30) Once appointed, the external investigator will contact the complainant to develop a summary of allegations and obtain any supporting evidence.

(31) The Case Co-ordinator will provide a summary of the complainant's allegations to the respondent. The respondent will be given an opportunity to respond within 5 business days.

(32) The Case Co-ordinator will provide the respondent's response to the complainant and the appointed external investigator.

(33) If the respondent does not provide a response to the complainant's allegations, the Investigator will proceed on the basis of the information provided to them.

(34) Subject to the specific circumstances of each case, the Investigator will:

- a. treat matters sensitively, seriously and confidentially
- b. investigate all matters in an impartial, timely and procedurally fair way
- c. disclose actual, perceived or potential conflicts of interest as soon as they become apparent
- d. identify and speak to relevant people, including any witnesses
- e. assess complaints on their merits and facts
- f. listen to each person separately
- g. record the facts surrounding the matter and
- h. obtain and consider any further relevant information.

(35) The Investigator will provide the Case Co-ordinator and the Executive Director, Diversity, Equity and Inclusion with a confidential report usually within 6 weeks from the Investigator's receipt of the complaint. The report will include:

- a. the investigation process
- b. the allegations investigated
- c. an outline of the relevant evidence and supporting information
- d. findings and recommendations, including:
 - i. whether any, all or part of the allegations were substantiated
 - ii. whether any substantiated allegation breaches the [Diversity, Equity and Inclusion policy](#), this Procedure, the [Code of Conduct](#) or other relevant policy or procedure
 - iii. whether any, all or part of the allegations should be dismissed and on what grounds
 - iv. any recommendations in relation to i-iii above and the rationale for each and
 - v. any other matters the Investigator considers relevant.

(36) The findings and recommendations section of this report will be shared by the Case Co-ordinator with the below stakeholders giving them an opportunity to provide comment within 5 business days:

- a. Business Unit/Faculty member of Executive;
- b. General Counsel;
- c. Director, People Partnering and Solutions (People and Culture) or nominee;
- d. relevant Senior People and Culture Partners.

(37) At the completion of the five-business day period, the Case Co-ordinator will provide a summary of the finding and recommendations to the complainant and respondent. The full report provided by the external investigator will not be provided to parties and is stored in accordance with clauses 46 and 47 of this procedure. The complaint is then considered closed.

Disciplinary Action

(38) Once the complaint is closed, as a separate process the Director, People Partnering and Solutions or nominee will determine whether any disciplinary action is required in accordance with the [Staff Discipline procedure](#)

(39) In considering the most appropriate disciplinary action, the Director, People Partnering and Solutions or nominee may draw on findings and recommendations made through the formal resolution process as well as any other information in accordance with the [Staff Discipline procedure](#).

Work Arrangements

(40) In conjunction with the Senior People and Culture Partner, the Executive Director, Diversity, Equity and Inclusion or nominee will consider any requests for alternative work arrangements and may advise the relevant leader to prevent any further risk to the health and wellbeing of any person involved, which may include:

- a. change in reporting line,
- b. alternative work locations,
- c. other work arrangements deemed appropriate.

Responsibilities of staff/associates

(41) Staff and associates have responsibilities to:

- a. treat others with respect
- b. uphold the behaviours set out in the [Code of Conduct](#), [Diversity, Equity and Inclusion policy](#) and other relevant policies
- c. participate in complaint processes in good faith.

Responsibilities of leaders

(42) Leaders have additional responsibilities to:

- a. lead safe, inclusive and diverse learning and work environments, free from discrimination, sexual harassment, victimisation and vilification
- b. model behaviour in accordance with the [Diversity, Equity and Inclusion policy](#) and other relevant policies
- c. identify and address any behaviour that could be discriminatory, sexually harassing, victimising or vilifying in their work teams
- d. ensure staff and associates understand their responsibilities to not discriminate against, sexually harass, victimise or vilify or authorise or assist anyone else to discriminate against, sexually harass, victimise or vilify others
- e. treat all complaints seriously and confidentially and take immediate action to refer a staff member or student to the relevant policy and procedure.

Victimisation and Vilification

(43) All reasonable steps will be taken to ensure that the complainant, respondent or other persons participating in the complaints resolution process are not victimised.

(44) If a person believes they have been victimised or vilified they should immediately seek advice from their leader, a HDCO, or Diversity, Equity and Inclusion.

Vexatious complaints

(45) Vexatious complaints are complaints made in bad faith and are a form of misconduct. As such, disciplinary action in accordance with the [Staff Discipline procedure](#) will apply where complaints are found to be vexatious.

Record keeping, reporting and monitoring

(46) A confidential record of any agreements, reports or other documentation related to the complaint will be retained by Diversity, Equity and Inclusion in accordance with the Deakin [Privacy policy](#). Where relevant, and in line with the procedure, other areas within the University may also retain records of the complaint.

(47) Diversity, Equity and Inclusion will report annually to the Vice-Chancellor and the Director, Audit, Risk and Business Continuity on complaints, identified trends and systemic issues as well as improvements, remedies and preventative actions.

Section 6 - Definitions

(48) For the purpose of the Procedure:

- a. complaint: A statement that something is unsatisfactory or unacceptable.
- b. complainant: A person who makes a Complaint or on whose behalf a Complaint is made.
- c. discrimination: Unfavourable treatment of a person due to that person's protected attribute, including an attribute that a person has, has had in the past, is presumed to have, or may have in future, and includes direct and indirect discrimination.
- d. discrimination (direct): When a person treats, or proposes to treat, another person unfavourably because of that person's protected attribute.
- e. discrimination (in-direct): Is when a person imposes, or proposes to impose, a requirement, condition or practice:
 - i. that has, or is likely to have, the effect of disadvantaging a person with a protected attribute, and
 - ii. that is not reasonable.
- f. diversity: as defined in the [Diversity, Equity and Inclusion policy](#)
- g. equal opportunity: as defined in the [Diversity, Equity and Inclusion policy](#)
- h. Harassment and Discrimination Contact Officer: A person trained to provide information and support to an individual who believes they may have been subjected to or accused of unlawful conduct
- i. inclusive practices: as defined in the [Diversity, Equity and Inclusion policy](#)
- j. protected attribute: As defined in the [Equal Opportunity Act 2010 \(Vic\)](#) and relevant Commonwealth legislation:
 - i. age or age group
 - ii. breastfeeding
 - iii. employment activity
 - iv. expunged homosexual conviction
 - v. family or carer's responsibilities; status as a parent or carer
 - vi. gender identity (including gender expression)
 - vii. disability, whether short term, long term or permanent, including behaviour that is a symptom or manifestation of a disability or a genetic predisposition to that disability
 - viii. industrial activity

- ix. lawful sexual activity
 - x. marital or relationship status
 - xi. social origin
 - xii. parental status or status as a carer
 - xiii. physical features
 - xiv. political opinion, belief or activity
 - xv. pregnancy or potential pregnancy
 - xvi. race or colour; descent or ancestry; nationality (i.e. citizenship) or national origin; ethnicity or ethnic origin; national extraction or social origin
 - xvii. religious belief or activity
 - xviii. sex characteristics
 - xix. sex or intersex status
 - xx. sexual orientation
 - xxi. personal association with a person who is identified by reference to any of the above attributes.
- k. respondent: A person or organisation against whom a complaint is made.
- l. sexual harassment: Behaviour that has a sexual element or implication is considered to be sexual in nature. Under the [Equal Opportunity Act 2010 \(Vic\)](#) and the [Sex Discrimination Act 1984](#), sexual harassment is when a person:
- i. makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person, or
 - ii. engages in any other unwelcome conduct of a sexual nature in relation to another person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the other person would be offended, humiliated or intimidated.
- m. staff: Any person employed by the University, as defined in section 3 [Deakin University Act 2009 \(Vic\)](#).
- n. support person: A person chosen by the complainant or respondent who will assist them by providing support during any stage of a complaint. The person must not be a practising lawyer acting on the person's behalf.
- o. victimisation: as defined in the [Diversity, Equity and Inclusion policy](#)
- p. vilification: as defined in the [Diversity, Equity and Inclusion policy](#)
- q. workplace: Any place where a person attends for the purpose of carrying out any functions in relation to their employment. In the University context, this includes all work-related activities at all campuses, including online and off-site activities that are related to a staff member's employment.

Status and Details

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Responsible Executive	Kerrie Parker Deputy Vice-Chancellor, University Services dvc-us@deakin.edu.au
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Glossary Terms and Definitions

"Harassment and Discrimination Contact Officer" - A person who provides information and support to an individual who believes they may have been subjected to or accused of unlawful conduct.