

Promoting a Respectful and Collaborative University: Diversity and Inclusiveness Policy

Section 1 - Introduction

(1) The University of Newcastle has reviewed and integrated the procedures dealing with various types of workplace concerns and conflicts. The procedures and guidelines acknowledge and promote healthy workplace responsibilities and behaviours. It empowers employees to manage their relationships in the workplace and resolve workplace concerns and conflicts as early as possible in order to achieve a positive workplace culture for staff, students, contractors, visitors, and other members of the University community.

(2) The University of Newcastle promotes the resolution of concerns and conflict through consultation, cooperation and collaborative discussion as close to its source as possible. This Diversity & Inclusiveness Policy establishes standards of behaviour expected of all members of the University community, to avoid and prevent bullying, discrimination, harassment (including sexual harassment), vilification and victimisation.

(3) The University of Newcastle will take a proactive risk management approach to preventing and responding to workplace bullying, as detailed in the procedures which support this policy. Alleged instances of workplace bullying (including cyber bullying) and/or harassment will be managed in accordance with the [Resolving Workplace Concerns or Conflict Procedure](#).

Section 2 - Policy Scope

(4) This Policy applies to all University staff, conjoint appointees, students, volunteers, visitors, and members of advisory and governing bodies, in all campuses and locations of the University, and at all times whilst engaged in University business or otherwise representing the University.

(5) The scope encompasses affiliates, contractors and consultants, appointed or engaged by the University, to perform duties or functions and/or recognised for their contribution to the University.

Section 3 - Policy Aim and Intent

(6) The aim of this policy and associated procedures is to improve the workplace environment through achieving strong communications and relationships within the organisation.

(7) This policy provides a framework for promoting and supporting appropriate standards of behavior, and managing associated risk in order to avoid and prevent bullying, discrimination, harassment, including sexual harassment, vilification and victimisation.

(8) This policy aims to:

- a. recognise the unique capabilities, experiences and characteristics of staff and students in their workplaces and study environments. The University values and celebrates diversity and is committed to providing a safe and respectful environment in which to work and study;

- b. explain that the teaching, learning, research and creative endeavors of the University, along with its management policies and practices, will foster and reflect an inclusive culture free from bullying, harassment and discrimination;
- c. demonstrate the University's commitment to condemn any unwelcome or unfair treatment. This includes any form of bullying, harassment (including sexual harassment), discrimination, victimisation and vilification by any member of the University community in their interactions with other members of the University community or whilst involved in University related activities;
- d. apply the values of honesty, fairness, trust, accountability and respect (as outlined in the University's [Code of Conduct](#)) and detail the behavioural standards required to provide a work and study environment where all members of the University community abide by and act in accordance with those values.

(9) Non-compliance with the provisions of this Policy is a serious matter. Depending on the severity and implications of the breach, action may be taken under the misconduct provisions of the relevant agreement, or student disciplinary proceedings and sanctions may include a warning, counselling, or disciplinary action including termination of employment.

(10) Breaches of this Policy may also result in referral to, and action being taken by, a statutory authority and/or agency.

Section 4 - Principles

(11) At all times while engaged in University activities or interaction, or on the grounds of any University location, all members of the University community will act according to the values of honesty, fairness, trust, accountability and respect, as set out in the University's [Code of Conduct](#).

(12) The University expects all members of the University community to abide by relevant Federal and State legislation, including the [University of Newcastle By-Law](#) and policies, and to adhere to standards of behaviour that reflect positively on the University.

(13) The University does not tolerate any unwelcome or unfair treatment by any person or group of people whilst engaged in activity or business on behalf of or in association with the University, regardless of the day, time or place. Unwelcome or unfair treatment may be expressed through bullying, discrimination, unlawful discrimination, harassment, unlawful harassment, sexual harassment, intimidation or vilification. Refer to section 7 of this policy and [Examples of Harassment Bullying Discrimination Victimisation](#) for definitions and examples of such behaviour.

(14) The University expects that performance issues will be identified and dealt with in a constructive and objective manner without resorting to personal insults or derogatory or demeaning remarks. In situations where a member of the University community is dissatisfied with management or supervisory practices, those concerns should also be raised in a professional and objective manner through the [Resolving Workplace Concerns and Conflict Procedure](#) for employees and by contacting the Complaints Office for other members of the University community.

(15) The University commits to the prompt and confidential treatment of workplace concerns or conflicts according to the principles of procedural fairness and natural justice.

(16) The University upholds the right of any person within the University community to raise a matter through the [Resolving Workplace Concerns or Conflict Procedure](#) or make a complaint following the [Complaint Management Procedure](#) or to any relevant external agency without fear of retaliation, victimisation or punishment.

(17) Unwelcome or unfair treatment may be regarded as misconduct or serious misconduct and may result in disciplinary action in accordance with the misconduct provisions of the applicable [Staff Enterprise Agreements](#) or [Student Conduct Rule](#).

(18) For members of the University community who are neither staff nor students, the University may impose sanctions such as exclusion from University grounds and premises, activities and associations. This will be under the direction of appropriate Officers of the University such as the Vice-Chancellor, Deputy Vice-Chancellors, or Chief Operating Officer.

(19) The University recognises that it is obliged to report various matters to external authorities such as the [Independent Commission Against Corruption \(ICAC\)](#) and/or [NSW Police Force](#) or the [Australian Federal Police](#).

Section 5 - Roles and Responsibilities

(20) The Vice-Chancellor, Deputy Vice-Chancellors, Pro Vice-Chancellors, Directors, Heads of Schools, and Associate Directors are responsible for ensuring that members of the University community are aware of, and comply with, the University's commitment to respect, diversity and inclusiveness, and fair treatment.

(21) All members of the University community will ensure that:

- a. their own behaviour is appropriate and in accordance with the University's values and relevant policies;
- b. they attempt to stop if possible and/or report any type of bullying, discrimination, harassment, unwelcome or unfair treatment or behaviour, having regard for their own safety;
- c. they refuse to join in with any type of bullying, discrimination, harassment, unwelcome or unfair treatment or behaviour; and
- d. they tell the person to stop if they believe they are bullying or harassing them or someone else, or report the matter to a Supervisor or other appropriate party if they are unable to take this course of action.
- e. stop their behaviour immediately and apologise if somebody indicates that they feel uncomfortable with the behaviour.
- f. they support other members of the University community who are experiencing any type of bullying, harassment, discrimination, unwelcome or unfair treatment or behaviour and/or encourage and assist them to raise their concerns through the appropriate processes and procedures relating to this policy.

(22) All Leaders and supervisors are required to:

- a. lead by example and model respectful workplace behaviour.
- b. ensure their team understands this policy and their responsibilities.
- c. ensure their team understands the University values and [Code of Conduct](#).
- d. take reasonable steps to acquire, and keep up to date with, applicable knowledge of work health and safety policy, procedures, and other information in the organisation.
- e. not tolerate discrimination, bullying or harassing behaviour in their team;
- f. take steps to identify and eliminate hazards in the workplace.
- g. quickly respond to an alleged complaint or any change in employee/team behaviour that could indicate bullying or harassment is occurring.
- h. treat all complaints seriously and quickly respond to a complaint or any change in employee/team behaviour that could indicate discrimination, harassment or bullying is occurring.
- i. raise any concerns of potential transgression to a higher level of management, the University Complaints Office or Human Resource Services through the [Resolving Workplace Concerns and Conflict Procedure](#), if unsure how to respond.

(23) If a Leader is concerned about a person's wellness and health due to the reported behavior, assistance and support should be provided. If the Leader is unsure how to support the employee, they should refer to Human Resource Services for advice.

(24) Leaders or supervisors who fail to respond appropriately may be subject to disciplinary action in accordance with the misconduct or serious provisions of the applicable [Staff Enterprise Agreements](#), and sanctions may include a warning, counselling, or disciplinary action including termination of employment.

(25) University Support Officers have responsibility to:

- a. promote the role of the University Support Officer throughout the organisation;
- b. promote other University and external services and resources, as listed in section 11 of this policy, throughout the organisation;
- c. be a point of contact for information on discrimination, harassment or bullying, and the procedures and mechanisms available for staff, students, and other members of the University community in dealing with workplace conflict;
- d. encourage aggrieved persons to take appropriate action to resolve their own issues;
- e. listen to the individual and act as a support person to enable them to make informed choices;
- f. provide general information and copies of organisational policies and [Resolving Workplace Concerns or Conflict Procedures](#) to any member of staff;
- g. follow the steps set out in the [Resolving Workplace Concerns or Conflict Procedure](#);
- h. remain impartial - remember not to advocate on behalf of the complainant or play an active role in the [Resolving Workplace Concerns or Conflict Procedure](#);
- i. maintain confidentiality.

Section 6 - Confidentiality

(26) All members of the University community have rights and responsibilities in relation to confidentiality. Information about a bullying, discrimination, harassment, including sexual harassment, vilification and victimization concern should only be provided on a legitimate basis.

(27) There are some circumstances where it will be appropriate to disclose information and not to maintain confidentiality. That is, where:

- a. There is serious risk of safety to an employee or other person;
- b. The conduct is reportable and the University has a mandatory requirement to report it;
- c. Information is required to be released due to a court proceeding;
- d. A crime or fraud has been committed.

Section 7 - Types of inappropriate Workplace Behaviour

Workplace Bullying

(28) Workplace bullying is repeated, unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety.

(29) Generally workplace bullying meets the following criteria:

- a. It is repeated – that is, it is persistent in nature and can be a range of behaviours that occur over time. Although it can also be a serious single incident;
- b. It is unwelcome and unsolicited;

- c. The recipient considers it victimising, humiliating, undermining or threatening;
- d. A reasonable person would consider the behaviour victimising, humiliating, undermining or threatening.
- e. Examples of workplace bullying behaviour are contained in [Examples of Harassment Bullying Discrimination Victimisation](#).

What is Not Workplace Bullying?

(30) Appropriate management actions are a necessary function of all workplaces.

(31) In acceptable workplace interactions the following may occur:

- a. Reasonable comment, advice or administrative action from supervisors or academic and teaching staff on work, academic performance or behaviour;
- b. Reasonable disciplinary action, carried out in a fair and respectful manner;
- c. The implementation of organisational change;
- d. Difference of opinion between individuals;

(32) The University has a legal right to direct and control how work is done. Managers and Supervisors have a responsibility to:

- a. allocate job-appropriate work to staff;
- b. negotiate performance goals, standards and deadlines;
- c. roster and allocate working hours to meet organisational needs;
- d. transfer staff;
- e. make decisions about who does and does not get promoted or recognised in other ways such as awards;
- f. inform a staff member about unsatisfactory work performance;
- g. inform a staff member about inappropriate behaviour;
- h. implement organisational change;
- i. execute performance management processes;
- j. provide constructive feedback.

Harassment

(33) Harassment means any unwelcome behaviour that intimidates, offends, or humiliates, an individual, or group of people, and occurs because of race, colour, nationality or ethnic origin, religion, sex, pregnancy (actual, presumed and/or breastfeeding) marital status, age, disability, transgender status, homosexuality, sexual preference, carer's responsibilities, trade union activity or association, political opinion or irrelevant criminal record or some other characteristic specified under anti-discrimination or human rights legislation.

(34) Examples of harassing behaviour are contained in [Examples of Harassment Bullying Discrimination Victimisation](#).

Discrimination

(35) Discrimination is when an individual or group of people are treated unfairly or less favorably than another person or group, because they belong to a particular group or have a particular characteristic. It may be direct, for example when a person is treated unfairly compared to another person in the same or similar circumstances, or, indirect, for example, where policies, rules or practices that appear neutral or impartial, disadvantage an individual or group, unless that policy, rule or practice is "reasonable in all the circumstances".

(36) Refer to [Examples of Harassment Bullying Discrimination Victimisation](#) for examples of what is and is not discrimination.

Unlawful Discrimination

(37) Unlawful Discrimination is when an individual or a group of people, are treated unfairly or less favorably than another person or group on the basis of race, colour, nationality or ethnicity, religion, sex, pregnancy (actual, presumed and/or breastfeeding) or parental responsibilities, marital status, age, disability, homosexuality, transgender status or sexual preference, carer's responsibilities, trade union activity or association, political opinion or irrelevant criminal record or some other characteristic specified under anti-discrimination or human rights legislation.

(38) Refer to [Examples of Harassment Bullying Discrimination Victimisation](#) for examples of what is and is not unlawful discrimination.

Vilification

(39) Vilification means an act of hatred, or the incitement of others to act in hatred against a person or group of people because of their race, sexual preference, transgender status, religion, HIV/AIDS status or disability.

(40) Examples of vilification are contained in [Examples of Harassment Bullying Discrimination Victimisation](#).

Victimisation

(41) Victimisation means behaviour that harasses or treats unfairly an individual or a group of people, who has made a complaint to an employer or another person or an external agency, about bullying, discrimination or harassment; or who has supported someone with a bullying, discrimination or harassment complaint; or who has or may act as a witness in a bullying, discrimination or harassment case.

Section 8 - Prevention of Workplace Bullying - A Risk Management Approach

(42) Like any other hazard in the workplace preventing bullying by minimizing the chances of it occurring or continuing to occur, is a priority for the University community. The following risk management approach can be undertaken by local area leaders and supervisors, with assistance from Human Resource Services, Health and Safety, Equity Diversity and Inclusivity, or University Support Officers.

(43) Risk management of bullying involves a staged prevention approach:

- a. Identify bullying risks;
- b. Assess the likelihood of those risks causing a risk to health and safety and its impact;
- c. Implement risk control measures to eliminate and/or minimise the risks as far as reasonably practicable;
- d. Review and improve the effectiveness of risk control measures over time.

Identifying and Assessing the Risk

(44) Some potential risk factors that could contribute to bullying or conflict are set out in [Risk Factors for Bullying and Conflict](#).

(45) Identifying and assessing the risk at a local level can be conducted by observing and analysing:

- a. Whether the University community members are communicating in a manner that aligns with the University's values;
- b. Whether employees are using the Self Help Pathway in the [Resolving Workplace Concerns and Conflict Procedure](#) to have constructive and collaborative conversations;

- c. Incident and hazard reports;
- d. Issues raised with the Health and Safety representatives and/or the Workplace Health & Safety Committees;
- e. Examining HRServices metrics and other workplace data, for example, absenteeism, staff turnover, exit interviews, transfer requests;
- f. Workers compensation claims;
- g. Data contained on the Workplace Concerns and Conflict Register;
- h. Root cause concerns discussed in association with Workplace Concerns and Conflict in the Complex Case meetings which are conducted by Human Resource Services;
- i. Staff survey results;
- j. [Employee Assistance Program \(EAP\)](#) hot spot identifications;
- k. Data analysed by the Complaints Office.

Controlling the Risk

(46) The best way to address bullying is to eliminate the factors that can cause it at the source. If that's not reasonably practicable, measures that reduce the risk should be utilised.

(47) Some potential risk controls that could control the risk of bullying or conflict are set out in [Risk Controls for Bullying and Conflict](#).

Monitoring, Evaluating and Reviewing the Risk

(48) University Senior Management, leaders and supervisors have an ongoing responsibility to monitor the workplace for early identification and resolution of workplace bullying or other workplace concerns or conflict. This requires proactive involvement in addressing concerns and considering the underlying work environment risk factors that could be present in their teams or area of influence.

(49) Incidences of workplace bullying will be monitored through the Complex Case meetings managed by Human Resource Services.

(50) The Director, Human Resource Services, Director of Complaints and Information Management, Associate Director, Health and Safety, and Manager Equity, Diversity and Inclusion will monitor and evaluate data collected through a Workplace Concerns or Conflict Register in order to identify any preventative measures and systemic change necessary to respond to trends. This group will consult with others such as Associate Director Employee Relations as required. A report regarding the analysis will be provided to the Executive Leadership Team and University Council via Risk Committee annually to ensure they are aware of the trends regarding bullying and workplace concerns or conflict and identify appropriate steps to ensure the organisation has and uses appropriate resources and processes to eliminate or minimise the risks associated with workplace concerns and conflicts.

Section 9 - Raising Concerns about Workplace Bullying, Discrimination, Harassment, Vilification and Victimisation

(51) Suspected incidence of workplace bullying, discrimination, harassment, vilification or victimisation will be managed in accordance with the [Resolving Workplace Concerns or Conflict Procedure](#).

Section 10 - University Support

(52) The University will ensure that all members of the University community are informed and educated on this policy to prevent all forms of bullying, discrimination, harassment, vilification and victimisation.

(53) Staff may access the [Employee Assistance Program \(EAP\)](#), a free and confidential service that provides counseling, advice and support. Detailed information about EAP may be obtained from:

- a. Human Resource Services;
- b. Complaints Office;
- c. Equity Diversity and Inclusivity.

(54) Where members of the University community feel confident to do so, the University encourages them to speak directly with the perpetrator of bullying, discrimination, harassment, unwelcome or unfair behaviour and request that they stop. Alternatively, persons may address their concerns as appropriate with:

- a. Complaints Office;
- b. University Support Officers in the Faculties and Divisions
- c. [Counselling Service](#).
- d. Student Advocates;
- e. Employee Association or Union;
- f. Equity Diversity and Inclusivity;
- g. Human Resource Services;
- h. Manager/Supervisor; or
- i. Student Association.
- j. Any relevant external agency such as the [Anti-Discrimination Board of NSW](#), [Australian Human Rights Commission](#) or [Workcover NSW](#).

Section 11 - Further Information

(55) For further information, advice and case studies, members of the University community are encouraged to consult the following University and external services and resources:

[ALLY Network](#)

(56) ALLY is a support network that aims to create and sustain a more inclusive culture at the University by promoting greater visibility and awareness of gay, lesbian, bisexual, transgender and intersex (GLBTI) staff and students and their related issues.

[Australian Human Rights Commission](#)

(57) Provides information on the types of discrimination and harassment that are against the law, and in what circumstances they are unlawful, across Australia. The [Human Rights Commission](#) can also investigate and try to resolve complaints of discrimination, harassment and bullying based on a person's race, colour, national or ethnic origin, religion, sex, pregnancy (actual, presumed and/or breastfeeding), marital status, age, disability, homosexuality, transgender status or sexual preference, trade union activity, political opinion or criminal record. Complaints must be made within twelve months of the incident.

Complaints Office ([Complaints Process](#))

(58) A unit that manages all types of complaints ranging from minor administrative matters to more serious grievances concerning unwelcome, unfair, unjust or unreasonable behaviour.

Complaints Officers

(59) University staff trained to provide assistance and information on options for resolving complaints. They may also notify the University's Complaints Manager of more serious complaints.

[Counselling Service](#)

(60) Provides a free counselling service to students on all campuses of the University. Counselling can help with issues such as adjustment to University life, personal and family difficulties, anxiety, depression, bereavement, relationship problems, situational stress, and course-related problems such as examination anxiety, motivation etc. The Service offers both individual and group counselling.

Student Advocates

(61) The Student Advocates provides assistance and support to students. The Students Advocates can assist students in understanding the rules, regulations, policies and procedures of the University.

[Employee Assistance Program](#)

(62) The Employee Assistance Program provides staff with confidential external professional counselling for personal or work related issues. Face to face counselling is available during work hours, or phone counselling is available 24 hours a day to all employees and their immediate family members. Staff can contact the EAP directly without anyone at the University knowing they are accessing the service.

[EO Online](#)

(63) A self-paced on-line learning program developed for staff. The program explains equity principles, terminology and application through real life case studies and interactive learning techniques.

Equity Diversity and Inclusivity ([Equity and Excellence](#))

(64) Works in partnership with the University and the wider community to ensure that the principles of equity, diversity, access and social justice are embedded into all that the University aims to achieve.

[Fair Work Australia Ombudsman](#)

(65) An independent statutory office set up to give advice and to help people understand their workplace rights and responsibilities. The role of the [Fair Work Ombudsman](#) is to work with staff, employers, contractors and the community to promote harmonious, productive and cooperative workplaces, and to investigate workplace complaints and enforce compliance with Australia's workplace laws.

[Human Resource Services](#)

(66) Provides managers, supervisors and staff members with employment-related advice and assistance relating to a broad range of issues.

[Anti-Discrimination Board of NSW](#)

(67) Provides information on the types of discrimination and harassment that are against the law and in what circumstances they are against the law in NSW. The [Anti-Discrimination Board of NSW](#) can also investigate and try to resolve complaints of discrimination, vilification and harassment. Complaints must be made within twelve months of

the incident.

NSW Ombudsman

(68) Investigates complaints concerning conduct that is illegal, unreasonable, unjust or oppressive, improperly discriminatory, based on improper or irrelevant grounds, based on a mistake of law or fact, or otherwise wrong.

Section 12 - Attachments

(69) [Examples of Harassment Bullying Discrimination Victimisation](#)

(70) [Risk Factors for Bullying and Conflict](#)

(71) [Risk Controls for Bullying and Conflict](#)

Status and Details

Status	Historic
Effective Date	12th April 2013
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Responsible Executive	Martin Sainsbury Chief People and Culture Officer martin.sainsbury@newcastle.edu.au
Enquiries Contact	Human Resource Services

Glossary Terms and Definitions

"University" - The University of Newcastle, a body corporate established under sections 4 and 5 of the University of Newcastle Act 1989.

"Risk" - Effect of uncertainty on objectives. Note: An effect is a deviation from the expected, whether it is positive and/or negative.

"Risk management" - The co-ordination of activities to optimise the management of potential opportunities and reduce the consequence or impact of adverse effects or events.

"Award" - When referring to a University qualification, this term means an academic qualification approved by Academic Senate that is conferred when a student has met the relevant program requirements. For all other uses of this term, the generic definition applies.

"Complainant" - As defined in Australian/New Zealand Standard - Guidelines for complaint management in organisations.

"Complaint" - As defined in Australian/New Zealand Standard - Guidelines for complaint management in organisations.

"Course" - When referring to a course offered by the University, a course is a set of learning activities or learning opportunities with defined, assessed and recorded learning outcomes. A course will be identified by an alphanumeric course code and course title. Course types include core courses, compulsory courses, directed courses, capstone courses and electives. For all other uses of this term, the generic definition applies.

"Law" - All applicable statutes, regulations, by-laws, ordinances or subordinate legislation in force from time to time anywhere in Australia, whether made by the Commonwealth, a State, a Territory or a local government and, where the context permits, includes the common law and equity.

"Student" - A person formally enrolled in a course or active in a program offered by the University or affiliated entity.

"Disability" - As defined by the Disability Discrimination Act 1992 (Cth) (as amended from time to time, or as per any replacing legislation).

"Disciplinary action" - When used in relation to staff of the University, this is as defined in the applicable and current Enterprise Bargaining Agreement, or the staff member's employment contract. When used in relation to

students of the University, this is as defined in the Student Conduct Rule.

"Staff" - Means a person who was at the relevant time employed by the University and includes professional and academic staff of the University, by contract or ongoing, as well as conjoint staff but does not include visitors to the University.

"Supervisor" - Staff members with direct supervisory responsibility for other staff within the workplace (a Supervisor may also be member of Senior Management, with duties as an Officer as defined in the Work Health and Safety Act 2011, or any replacing legislation).

"University business" - Work that the University has directed to be undertaken which is required, essential, and beneficial for the functions of the University. This includes, but is not limited to, attending meetings, conferences or fieldwork, but does not include activity that is not location specific, e.g. email management, writing papers. University business may be undertaken by staff and non-staff.

"University Support Officer" - Appropriately trained staff members who are able and available to assist others in resolving workplace concerns or conflicts.