

Policy Title: Prevention of Harassment, Bullying, Discrimination and Violence

Policy Owner: Director Human Resources Service Centre

**Keywords: 1) Harassment 2) Complaints 3) Victimization
4) Discrimination 5) Equal Opportunity 6) Bullying 7) Violence**

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1. INTENT

Edith Cowan University is committed to providing safe and inclusive work and learning environments, and intends to minimise the risk of inappropriate behaviours such as bullying and all unlawful forms of harassment, discrimination and assault (including racial harassment, racial vilification, sexual harassment, sexual assault, other forms of violence and victimisation), in accordance with our duty of care.

So far as is practicable the University will take all reasonable steps to:

- a) Prevent inappropriate behaviours and violence in its workplaces and learning environments.
- b) Raise awareness amongst staff and students of the standards of behaviour required while working and studying at ECU and the expectation that individuals will report unacceptable behaviours if they become aware of any unethical behaviour or wrongdoing.
- c) Provide guidelines and procedures to assist in the prompt, confidential and effective resolution of complaints, confidentially and effectively.
- d) Prevent bullying, harassment, discrimination and violence, to comply with its legislated responsibilities.
- e) Provide appropriate support for staff and students who are victims of sexual harassment and assault or affected by family or domestic violence.

2. ORGANISATIONAL SCOPE

All ECU students, staff and visitors

3. DEFINITIONS

TERM	DEFINITION
Bullying	Bullying occurs when an individual or a group of individuals repeatedly behaves unreasonably towards another individual, or group of individuals, and that behaviour creates a risk to physical or mental health and safety.
Complaint	A statement made to the University that something is unsatisfactory or unacceptable. Complaints made to the University are subject to processes outlined in the relevant rules, policies and guidelines.
Discrimination	Discrimination on the grounds of gender, marital status, pregnancy, breast feeding, family responsibility, family status, race, religious or political convictions, gender history, impairment, age or sexual orientation.
Duty of Care	The legal responsibility of the University to take reasonable care in ensuring the safety of its employees, visitors and students in reasonably foreseeable circumstances.
Harassment	Unacceptable conduct, including racial or sexual harassment, that consists of unwelcome and uninvited comments or actions that intimidate, offend, humiliate or embarrass a person or a group of persons. Equal opportunity laws prohibit harassment on the grounds of gender, race and/or disability.
Racial Harassment	Unacceptable conduct that consists of unwelcome or uninvited comments, including threats, abuse or taunts in relation to a person's race or by association, descent or nationality, colour, language or ethnic origin, or a racial characteristic. It may include derogatory remarks about people from particular countries or races, disparaging remarks about someone's accent or manner of speaking, mockery of skin colour or appearance, or displays of material prejudicial to a particular race and racial jokes.
Racial Vilification	Unacceptable conduct that involves the incitement of racial hatred, racial violence, or racial harassment by statements or other public acts.
Reasonable Management Action	Refers to the rights and obligations of the University to take appropriate action and make appropriate decisions in its business and academic operations and in the application of rules, policies and guidelines.
Sexual Harassment	An unwelcome sexual advance, unwelcome request for sexual favours or conduct of a sexual nature that a reasonable person, having regard to all the circumstances would have anticipated the possibility that a recipient would be humiliated, intimidated or offended. It may include kissing, embracing, patting, pinching, touching, leering, gestures, questions about a person's private or sexual life, smutty jokes, inappropriate phone calls, emails, electronic messaging, offensive noises or displays of sexually graphic or suggestive material.

University Sanctioned Activity	Any activity taking place on a campus, facility or location under the control of the University or at any other location in which the University has sanctioned an activity to take place.
Victimisation	Unacceptable conduct that consists of any unfavourable treatment of a person resulting from their involvement in a complaint or enquiry process. Unfavourable treatment could include: adverse changes to the workplace environment, denial of access to resources, work opportunities or training, refusing to provide information, ignoring the person, violence, refusing to renew a contract of employment, or lower assessment of student work.
Violence	Unacceptable conduct that consists of actions ranging from intimidation and low level threatening behaviour, through to physical and/or sexual assault and verbal abuse.
Workplace	Any campus, facility or location under the control of the University, and at which the University is the recognised employer.

4. POLICY CONTENT

4.1 All staff, students and visitors have a responsibility to ensure that they do not promote or engage in bullying, harassment, discrimination, racial vilification, victimisation or violence.

4.2 Any person subjected to inappropriate behaviour is encouraged to:

- a. raise the issue with the other person directly, where appropriate and only if a person feels comfortable in doing so, with a view to resolving the issue by identifying the behaviour, explaining that the behaviour is inappropriate and requesting that the behaviour ceases; and
- b. alternatively or additionally, report any incidents of such behaviour so that a process of resolution can be initiated.

4.3 All reports will be treated seriously. Unfavourable treatment of any person as a consequence of their actual or intended participation in an inquiry, investigation or resolution process may constitute victimisation and be unlawful.

4.4 The University has the right to determine how a report should be addressed in accordance with its obligations and this policy. The University may also consider reasonable adjustments in the interim, such as amending an employee's duties and reporting lines, or those required to allow a student to continue their studies or for the University to comply with its duty of care obligations.

4.5 Some types of sexual harassment and/or violent behaviour may also be offences under criminal law. These include:

- Physical molestation or assault
- Indecent exposure
- Sexual assault
- Stalking
- Obscene communications (telephone calls, letters etc)
- Sexually explicit physical contact, and

- Sexually explicit emails or SMS text messages.

In circumstances where a crime may have occurred the matter may be reported to the police.

- 4.6** Reasonable management action carried out in a proper manner regarding expected standards of work, performance, behaviour, or feedback on student work given appropriately by managers, supervisors, and academic staff does not, of itself, constitute harassment, bullying and victimisation.
- 4.7** Persons involved in the investigation of any activities proscribed by this policy, including support people or witnesses, must maintain confidentiality of information disclosed or provided during the process subject to any legal obligations of disclosure. In some circumstances such as where serious safety or criminal activities are raised confidential information may need to be divulged.
- 4.8** Safety of people within the University and any University sanctioned activity is the first priority in any situation, and may take precedence over a person's desire for confidentiality
- 4.9** In all actions taken under this policy, the principles of procedural fairness will be observed as appropriate to the circumstances, including:
- a. conducting an inquiry expeditiously upon the receipt of any report;
 - b. providing an opportunity for a person to present their allegations and any supporting facts;
 - c. informing a respondent of sufficient particulars of the allegations to enable them to respond to any allegations;
 - d. affording the respondent with a reasonable opportunity to respond, and to provide a written or oral response to the report and information provided;
 - e. any investigation process relating to an allegation will be conducted by an impartial decision-maker; and
 - f. the right to have a support person at any interview.
- 4.10** Any persons found to have committed or condoned bullying, discrimination harassment, racial vilification, victimisation, or violence within the University or at a University sanctioned activity may, in accordance with relevant policies, procedures and industrial obligations be subject to, without limitation:
- a. disciplinary action for staff, up to and including termination of employment; and
 - b. penalties for misconduct for students, up to and including expulsion, under any applicable terms of employment or contract, by-laws, rules, policies and procedures.
- 4.11** All staff, students and visitors are required to participate in the relevant resolution process or investigations under the University terms of employment or contract, rules, policies and processes in good faith, and in an open and honest manner.
- 4.12** If a report is found to be made vexatiously by a person, the University may take action against that person under any applicable terms of employment or contract, by-laws, rules, policies and procedures.

5. ACCOUNTABILITIES AND RESPONSIBILITIES

In relation to this policy, the Director Human Resources Service Centre is the policy owner and has overall responsibility for the content of this policy and its operation in ECU, subject to over-riding obligations under the Statutes and Rules of the University.

The proper application of the requirements set down in this policy, information and advice on other relevant rules, policies and procedures is provided by the following areas:

- a. **Staff Grievances**
Human Resources Services Centre
- b. **Student Wellbeing**
Student Services Centre
- c. **Formal Student and Public Complaints**
Strategic Governance Services

Staff, students, contractors and visitors are required to comply with the content of this policy and seek guidance in the event of uncertainty as to its application.

6. RELATED DOCUMENTS:

Other documents which are relevant to the operation of this policy are as follows:

- Code of Conduct Policy (Staff)
- Grievance Resolution Policy (Staff)
- Employee Assistance Program Policy (Staff)
- Social Media Policy
- Student Complaints Policy
- General Misconduct Rules (Students)
- University Lands and Traffic By-Laws
- Work Health and Safety Policy
- University Statute 22- Student Conduct
- Student Charter
- Relevant Industrial Instrument

7. CONTACT INFORMATION

For queries relating to this document please contact:

Policy Owner	Director, Human Resources Services Centre
All Enquiries Contact:	Director, Human Resources Services Centre
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8. APPROVAL HISTORY

Policy Approved by:	Vice Chancellor
Date Policy First Approved:	15 June 2005
Date last modified:	17 July 2017
Revision History:	<p>July 2009 - Policy amended to comply with University Guidelines re Drafting of Policy Documents.</p> <p>04 December 2013</p> <p>June 2017 Updated to reference sexual assault and violence; policy title now includes “violence” – approved by Vice-Chancellor on 17.07.2017</p>
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