

# Appropriate Workplace Behaviour Policy (MPF1328)

## 1. Objectives

The objectives of this policy are to:

- (a) detail the standards, values and expectations for appropriate behaviour in the workplace, in particular the obligations on individuals to act in good faith, with trust, ethically, and with integrity in the best interests of the University; and
- (b) demonstrate the University's commitment to a diverse and inclusive workplace.

## 2. Scope

2.1. This policy and associated procedural principles apply to employees and, on the occasions set out in this policy, students. All other individuals engaged in activities reasonably connected with the University (including activities that extend beyond University premises and encompass electronic communications and virtual environments) are also expected to conduct themselves in a manner consistent with this policy. Typically such individuals include:

- (a) contractors;
- (b) consultants;
- (a) honorary, visiting or adjunct appointees;
- (b) University Council members;
- (c) volunteers; and
- (d) visitors.

2.2. This policy does not apply to:

- (a) student clubs;
- (b) student unions; and
- (c) affiliated residential colleges.

2.3. Where there is inconsistency or uncertainty between this policy and other employment related policies, this policy prevails.

## 3. Authority

This policy is made under the *University of Melbourne Act 2009* (Vic) and the Vice-Chancellor Regulation and supports compliance with the following legislation as amended:

- (a) *Age Discrimination Act 2004* (Cth);
- (b) *Australian Human Rights Commission Act 1986* (Cth);

- (c) *Charter of Human Rights and Responsibilities Act 2006* (Vic);
- (d) *Crimes Act 1958* (Vic);
- (e) *Child Wellbeing and Safety Act 2005* (Vic);
- (f) *Disability Discrimination Act 1992* (Cth);
- (g) *Disability Standards for Education 2005* (Cth);
- (h) *Equal Opportunity Act 2010* (Vic);
- (i) *Fair Work Act 2009* (Cth);
- (j) *Financial Management Act 1994* (Vic);
- (k) *Fringe Benefits Tax Assessment Act 1986* (Cth);
- (l) *Independent Broad-based Anti-corruption Commission Act 2011* (Vic);
- (m) *Occupational Health and Safety Act 2004* (Vic);
- (n) *Privacy and Data Protection Act 2014* (Vic);
- (o) *Protected Disclosure Act 2012* (Vic);
- (p) *Racial and Religious Tolerance Act 2001* (Vic);
- (q) *Racial Discrimination Act 1975* (Cth);
- (r) *Sex Discrimination Act 1984* (Cth);
- (s) *Working with Children Act 2005* (Vic); and
- (t) *Workplace Gender Equality Act 2012* (Cth).

## Policy

### 4. Standards and expectations

4.1. The standards and expectations set out in this policy are consistent with the values of the University.

4.2. Consistent with the University's strategic imperatives in the pursuit of excellence, the University's values are:

- (a) maintaining the highest international standards of ethics and quality in research, teaching and administration;
- (b) advancing the intellectual, cultural, economic and social welfare of communities, and recognising the particular needs and aspirations of Indigenous Australians;

- (c) working with other organisations to extend educational opportunity and enrich intellectual discourse, educational quality and research activity around the world;
- (d) advocating and upholding fundamental human rights;
- (e) to preserve, defend and promote the traditional principles of academic freedom in the conduct of its affairs, as set out in the Academic Freedom of Expression Policy (MPF1224), so that all scholars at the University are free to engage in critical enquiry, scholarly endeavour and public discourse without fear or favour;
- (f) sustaining a diverse, inclusive and harmonious scholarly community committed to supporting employees and students to realise their full potential; and
- (g) maintaining a respectful, safe, rewarding and environmentally sustainable learning and working environment.

4.3. Employees are expected to take all reasonable steps to protect University resources and demonstrate respect for others.

4.4. Employees must comply with:

- (a) all relevant Commonwealth and state legislation, regulations, codes and agreements derived from legislation;
- (b) University statutes, regulations, policies and processes; and
- (c) their respective terms and conditions of employment.

4.5. Failure to comply with section 4.4 may lead to the employee being held legally responsible, and in some circumstances the University may also be held responsible. Serious penalties may apply to breaches of legislation.

4.6. The University does not tolerate acts of violence, assault or aggression in any form or manifestation.

4.7. Employees must take all reasonable steps to bring to the attention of the University at the first available opportunity and, where appropriate, take action to prevent any:

- (a) apparent instances of non-compliance with this policy;
- (b) behaviour that breaches any law;
- (c) behaviour that breaches any University statute, regulation or policy; or
- (d) possible instances of corrupt conduct or improper conduct.

4.8. Contravention of this policy and related policies and processes will be considered to be inappropriate behaviour and dealt with in accordance with the employee's particular terms and conditions of employment.

## **5. Personal and professional behaviour**

5.1. Employees must:

- (a) act in good faith and use skill, care and diligence in the performance of their duties and responsibilities, and not intentionally cause serious risk to the reputation or viability of the University, consistent with their employment obligations;
- (b) uphold the values of the University set out at section 4.2;
- (c) maintain a standard of conduct and work performance required by the University and demonstrate professionalism and courtesy in dealing with other employees, students, contractors, visitors and members of the public;
- (d) apply authority only in accordance with University standards, expectations and delegations;
- (e) respect the opinions and beliefs of others and their right to practise their beliefs;
- (f) comply with University policies and processes and any reasonable directions by the University; and
- (g) take reasonable care that their actions and decisions do not harm the health and safety of themselves or others, and that personal use of alcohol or any other substance does not adversely affect their work performance or the health and safety of others.

5.2. Employees are expected to protect the interests of all students of the University and to:

- (a) ensure that relationships with students are professional, trusting and respectful;
- (b) be mindful at all times of the power imbalance that may exist between employees and students;
- (c) pay proper regard to the welfare and wellbeing of the student, and not initiate, cultivate or encourage relationships with students that do not pay that proper regard ;
- (d) not engage in sexual activity with a student inconsistent with the standards and expectations set out in this Policy; and
- (e) take all reasonable steps to avoid and resolve conflicts of interest.

5.3. To meet the standards and expectations set by the University, employees are expected to actively participate in performance development, training and development activities as and when determined and requested by the University.

5.4. To address conflict of interest, employees must:

- (a) act in the best interests of the University when carrying out their duties and responsibilities and must not allow their private interests or the interests of others to interfere with that obligation; and
- (b) disclose any conflict of interest and adhere to the University's determination on the management of the conflict.

5.5. Employees and students assisting employees must take all reasonable steps not to directly or indirectly or through any third party:

- (a) use the University's intellectual property (as set out in the Intellectual Property Policy) and resources to benefit a third party without prior written authority of the University;
- (b) solicit the business or service of a student in competition with the University;
- (c) induce or attempt to induce an employee to perform work in competition with the University or to act in a manner contrary to an employee's employment obligations.

## 6. External employment

- 6.1. Employees must not engage in external employment where the University has determined that a conflict of interest may arise and the conflict is not able to be managed.
- 6.2. Employees who wish to engage in external employment must declare this activity to the University.
- 6.3. Employees engaged in external employment must not:
  - (a) use the intellectual property of the University in a manner contrary to the requirements of the University of Melbourne Statute and the Intellectual Property Policy;
  - (b) use the resources of the University for the benefit of their other employer or their consultancy activities;
  - (c) take any action or make any statement as part of their external employment or consultancy which may serve to bring the University into disrepute by association (save for action or statements that accord with the Academic Freedom of Expression policy (MPF1224)); or
  - (d) undertake any activity for which the University may be held legally liable.

## 7. Promoting a diverse and inclusive workplace

- 7.1. The University:
  - (a) continually develops and improves its practices and structure to provide an inclusive and diverse workplace;
  - (b) makes decisions on employment, promotion and reward on the basis of merit;
  - (c) regularly reviews its policies, processes, practices, official documentation and publications to accord with equal opportunity and health and safety principles;
  - (d) supports and assists managers, supervisors and heads of departments to exercise their leadership and authority to ensure a supportive, flexible, safe and inclusive work environment;
  - (e) provides continued advice and support to employees and students through awareness, training and development programs; and
  - (f) requires all individuals to participate in and complete any programs or training to promote a diverse and inclusive workplace.

7.2. The authorised officer is responsible for developing and implementing reasonable adjustments to any requirement, condition or practice in order to avoid direct or indirect discrimination which may disadvantage a person with a protected attribute or be unreasonable in the circumstances.

7.3. An individual must not directly or indirectly, or incite others to, engage in any of the following behaviours, in any circumstance which may have an impact on the workplace:

- (a) unlawfully discriminate against other individuals based on a protected attribute defined in this policy or at law;
- (b) engage in harassment;
- (c) engage in sexual harassment;
- (d) sexually assault an individual;
- (e) physically or verbally assault an individual;
- (f) engage in bullying;
- (g) engage in stalking;
- (h) engage in victimisation;
- (i) vilify an individual or group of individuals; or
- (j) engage in child abuse or any form of unlawful dealing with a child.

## **8. University Finances**

8.1. Employees must observe the highest standards of integrity in financial matters in accordance with relevant financial management legislation and the University's Financial Code of Conduct Policy and processes.

## **9. Theft, fraud and corrupt conduct**

9.1. The University does not tolerate fraudulent, dishonest, corrupt or improper activity or behaviour.

## **10. University resources**

10.1. Employees must reasonably endeavour to:

- (a) use and manage University equipment and resources economically, efficiently and for legitimate University purposes;
- (b) secure University equipment and resources against theft or misuse; and
- (c) minimise their environmental impact by complying with the University's sustainability plan and environmentally sustainable practices.

10.2. Employees and students assisting employees are provided access to the University's computing, email, intranet and networking facilities (Information Technology) for work, research and study

purposes, and are required to observe this policy and associated policies and processes when using the Information Technology.

## **11. Gifts, political contributions and political donations**

11.1. Unless authorised by the University, employees are not permitted to offer or solicit gifts or benefits or to offer or provide benefits to others in exchange for gifts.

11.2. The University maintains a position of political impartiality.

11.3. The University does not make political contributions or donations to any political party, politician, politically affiliated entity, elected official or candidate for public office. The University does, however, contribute to public policy debate on issues that affect the University, the higher education sector and the work of our partners.

11.4. Employees are not prevented from making political contributions or donations or attending political fundraisers in their private capacity, in their own time, using their personal funds or personal assets.

11.5. Employees:

(a) are not to directly or indirectly use University funds, resources or assets to make any political contributions or donations or attend any political fundraisers as a representative of the University; and

(b) must take reasonable steps to ensure that their employment with the University is not associated with making any political contributions or donations or attending any political fundraisers.

## **Procedural principles**

### **12. Physical, sexual and other assaults**

12.1. The University urges a victim of or a witness to any apparent physical, sexual or other assault by an employee to bring the matter to the immediate attention of the University through an appropriate authorised officer. The University deals with these matters confidentially, sensitively and in conjunction with external authorities.

12.2. In circumstances where an individual prefers to disclose matters rather than make a formal complaint, the University may draw on these disclosures to initiate appropriate actions.

12.3. Disclosures may be made:

(a) in person via support services provided through the Safer Communities Program;

(b) online via the Inappropriate Workplace Behaviour site; or

(c) on the phone via the Inappropriate Workplace Behaviour Reporting Line (1800 685 463).

### **13. Harassment, discrimination, bullying and associated complaints against an employee**

13.1. Actions in response to harassment, discrimination, bullying and other similar complaints:

(a) A person engaged in activities reasonably connected with the University who considers they may have experienced one or more of the following committed by an employee or other person performing work on behalf of the University is encouraged to seek assistance at any time from the University:

- i. discrimination;
- ii. harassment;
- iii. sexual harassment;
- iv. stalking;
- v. bullying;
- vi. vilification;
- vii. victimisation;
- viii. child abuse and unlawful dealing with a child.

(b) Matters raised regarding individuals who are not employees of the University will be addressed under the contractual provisions of engagement of those individuals, rather than via the process described in these procedural principles.

(c) The University views the following matters as alleged misconduct and will address them separately through the appropriate misconduct provisions in accordance with the employee's particular terms and conditions of employment.

These matters will therefore not be considered under the process described in these procedural principles.

i Sexual assault

ii Physical assault

iii Stalking

iv Child abuse and Unlawful dealing with a child

(d) Any matter deemed by the University to be sufficiently serious may be treated as potential misconduct, in which case the following procedural principles will not apply.

(e) The University has a positive duty to prevent and eliminate unlawful discrimination, sexual harassment, bullying and victimisation from the workplace.

(f) Complaints of sexual harassment can be brought against individuals as well as the University.

(g) Separate to the workplace matters set out in this policy, individuals may also be personally liable for external complaints, including criminal complaints. In such circumstances, the University will not provide support where the employee has not complied with the policy.



(h) The University may, at its discretion, determine that suspected or alleged non-compliance with this policy may warrant investigation of the matter without necessity of a complaint being raised.

(i) The University may, at its discretion, take any lawful action it deems necessary in response to concerns regarding the health, wellbeing or safety of an individual, irrespective of the actions contemplated in this policy or any other policy.

(j) While employees and students are encouraged to use the options set out in this policy, they have a right to seek advice 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.

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

### 13.2. Informal assistance:

(a) An employee who considers they may have experienced an incident set out at section 12.1(a) and seeks to have the matter addressed informally may seek assistance from either their manager or a member of the Human Resources team.

(b) A student who considers they may have experienced an incident set out in section 12.1(a) and seeks to have the matter addressed informally may seek assistance from a point of contact nominated by the University.

(c) Informal assistance may include:

- i. providing information about what is meant by discrimination, sexual harassment, harassment, bullying or victimisation;
- ii. providing information about this policy, including this section 12.2;
- iii. providing information about the options available to address the matter, including making a complaint to an external body;
- iv. assisting the person to seek any support that they feel they need;
- v. exploring strategies to informally resolve the matter.

### 13.3. Formal complaint:

(a) Any person who considers they may have experienced an incident set out in section 13.1(a) may submit a formal complaint. It is not necessary for a person to have sought informal assistance before submitting a formal complaint. The complaint will be submitted to the Director Workplace Relations (or delegate) or to the Executive Director Human Resources & OHS if the complaint concerns the Director Workplace Relations.

(b) A complaint must be in writing and must detail the particular behaviour and incidents to which the complaint relates.

(c) The Director Workplace Relations (or delegate) will refer the complaint to a complaint manager. The complaint manager will generally be a member of the Human Resources team with no conflict of interest in the matter.

(d) The complaint manager provides a copy of this policy and the complaint to:

- i. the complainant; and
- ii. if the complaint is not rejected following a preliminary assessment (as set out at section 13.4), the respondent.

(e) The complaint manager will keep all parties involved in the complaint informed of relevant decisions, requests, progress and outcomes of the matter.

(f) Where an employee is alleged to have engaged in any of the behaviours outlined at 6.3, particularly those behaviours that cause serious and ongoing personal harm, the complaints manager will:

- i. respond appropriately and in a timely manner to disclosures or complaints made by individuals;
- ii. arrange ongoing support for all parties during the investigation process;
- iii. take any steps necessary to protect the safety of any party to the matter before, during and after the investigation; and
- iv. actively work to address victimisation before, during and after the investigation.

(g) If the complainant withdraws the complaint, the complaint manager in consultation with the Director Workplace Relations (or delegate) will consider whether to proceed with the matter. This may be required:

- i. to afford the respondent the opportunity to address the complaint in accordance with the principle of procedural fairness and fair treatment; and
- ii. where the alleged behaviour is sufficiently serious, to ensure the University community is appropriately protected from damaging behaviour, even in the absence of a complainant

(h) The complaint manager, in consultation with the Director Workplace Relations (or delegate) may continue with, and conclude, the complaint in circumstance where the complainant repeatedly refuses to participate in the processes set out below.

(i) Employees of the University who might be the complainant, the respondent or witnesses (if applicable) are obliged to make themselves available to participate in any process or proceedings contemplated in the Policy as directed.

#### 13.4. Preliminary assessment:

(a) Upon receipt of a complaint, the complaint manager conducts a preliminary assessment and may do one or more of the following:

- i. seek any information necessary to inform the preliminary assessment;

- ii. seek advice and consult with any person the complaint manager considers appropriate, with the requirement of confidentiality for any person so consulted;
- iii. propose that the complaint be addressed informally under this policy;
- iv. propose that the complaint be addressed through informal internal mediation between the complainant and respondent (as set out at section 13.5);
- v. propose that the complaint be referred to external independent mediation (as set out at section 13.5);
- vi. propose that the complaint be addressed through an alternative conflict or dispute resolution process;
- vii. refer the complaint for formal investigation (as set out at section 13.6);
- viii. reject the complaint if it is shown to be malicious, vexatious, misconceived or lacking in substance; and
- ix. recommend interim actions as necessary to address any immediate concerns regarding any person's health, wellbeing and safety and participation in work or study.

#### 13.5. Mediation:

- (a) To facilitate effective mediation, the complainant must be willing to be identified to the respondent and both parties must agree to attend mediation voluntarily.
- (b) Mediation is conducted without prejudice to any other actions relating to or that might arise from the complaint.
- (c) If it is determined by the complaint manager that mediation is appropriate, the complainant and the respondent are invited to participate in mediation. The respondent is provided with a copy of the complaint and a mediator is appointed by the complaint manager.
- (d) If the parties agree to participate in mediation, the respondent may submit a written response to the complaint manager within ten working days from the date of the invitation to mediation. A copy of the respondent's response is provided to the mediator and the complainant.
- (e) The mediator invites the complainant and the respondent to meet with the mediator either together or separately or both. The role of the mediator is to assist the parties to reach a mutually agreed resolution. It is not the role of the mediator to make a formal finding. The mediator advises the complaint manager of the outcome of the mediation.
- (f) The complainant and respondent may both have a support person attend the mediation.
- (g) If the complaint is not resolved through mediation, the complaint manager may initiate further action contemplated at section 13.6.

#### 13.6. Formal investigation and determination:

- (a) If the complaint is referred for investigation under this policy, the complaint manager:

i. appoints an investigator who has had no previous involvement in the matter to conduct an impartial investigation into the complaint. This may be a University employee or an external party appointed by the University;

ii. notifies the respondent that the complaint has been received;

iii. notifies the complainant and the respondent that the matter has been referred for investigation.

(b) The investigator:

i. provides the respondent with a copy of the complaint, if the respondent has not already received a copy;

ii. gives the respondent reasonable opportunity to seek advice, respond to the complaint, produce relevant information, have relevant individuals interviewed and make written submissions in relation to the complaint;

iii. conducts the investigation with regard for procedural fairness, timeliness, privacy and all involved persons' health and safety; and

iv. determines whether the facts pertaining to the complaint are substantiated (in part or in full) based on an assessment of the information arising from the investigation and the balance of probability.

(c) Any person to be interviewed under this policy may have a support person attend the interview.

(d) At the conclusion of the investigation, the Investigator will provide the complaint manager with a detailed report (Investigation Report).

(e) Following review of the Investigation Report, the complaint manager, in consultation with appropriate advisors as and where required, will provide the nominated authorised officer with a recommendation on how the matter progresses. The nominated authorised officer will determine whether the complaint is substantiated based on the recommendation of the complaint officer, the investigation report and supporting materials. This involves:

i. where the complaint is not substantiated, recommending what action, if any, should be taken which may involve one or more of the following:

I. addressing inappropriate behaviour identified in accordance with University policies and processes and the employee's particular terms and conditions of employment;

II. taking no further action;

III. acknowledging the different perspectives;

IV. referring the respondent to professional development;

V. setting out to those involved the expected standards of behaviour;

VI. monitoring the situation; and/or

VII. taking any other appropriate or necessary lawful action

ii. where the complaint is substantiated in full or in part, refers the matter to the relevant authorised officer for consideration. The authorised officer determines whether to undertake one or more of the following action:

II. arrange suitable counselling for any person;

III. require undertakings that inappropriate behaviour will cease;

IV. clarify standards of expected behaviour;

V. implement a period of monitoring;

VI. refer the respondent to professional development;

VII. refer the respondent to appropriate support services;

VIII. require any person to undertake training on expected standards of behaviour;

IX. determine and address inappropriate behaviour identified in the investigation for action as set out at section 13.1(f);

X. take any other appropriate or necessary action.

(f) If the authorised officer determines that the complaint is frivolous, malicious or vexatious, this will be addressed as inappropriate behaviour.

(g) Inappropriate behaviour is determined and addressed by the University in accordance with the employee's particular terms and conditions of employment and associated University policies or processes.

(h) The complainant, respondent and, if appropriate, any witnesses to a complaint are notified that an investigation is concluded. The complaint manager will provide the complainant and respondent with the Investigation Report, and any relevant outcomes that may be disclosed in accordance with the University's privacy obligations.

(i) The University may rely on assessments, investigation, findings, determinations and other actions pursuant to this policy in any subsequent action the University may take.

#### 13.7. Resolving workplace conflict:

If it is evident to the complaint manager that conflict exists within the particular workplace (including learning environments involving students), regardless of a complaint being substantiated or not, the complaint manager refers the matter to the Director, Workplace Relations (or delegate). The Director Workplace Relations (or delegate) co-ordinates a plan to endeavour to resolve the conflict in collaboration with the appropriate:

(a) head of division (or delegate);

(b) Human Resources Manager (or delegate);

(c) Associate Director, Health and Safety (or delegate); or

- (d) for matters involving students, Principal Advisor, Student Grievances and Complaints.

## 14. Protected disclosure

14.1. To ensure University compliance with the *Protected Disclosure Act 2012* (Vic), the University expects transparency and accountability in its administrative and management practices, and supports the making of disclosures (whether disclosures are made to the University or to external bodies) that reveal:

- (a) corrupt conduct or improper conduct (including bribery);
- (b) conduct involving a substantial mismanagement of public resources; or
- (c) conduct involving a substantial risk to public health and safety or the environment.

14.2. The University takes all reasonable and practicable steps to protect people who make disclosures described at section 13.1 from any detrimental action in reprisal for making the disclosure.

14.3. In relation to protected disclosures made under the Protected Disclosure Act, the University aims to:

- (a) protect the confidentiality of the disclosure and the identity of the person who made the protected disclosure; and
- (b) afford procedural fairness to all parties including the person who is the subject of the protected disclosure.

14.4. Employees and students must comply with the requirements of the procedural principles in section 14. and not harass or take detrimental action in reprisal for actual or suspected protected disclosures or participation in an investigation into such a protected disclosure.

14.5 This section sets out how to make a protected disclosure against the University, its employees, third-party contractors or Council:

- (a) Individuals who wish to make a protected disclosure of:
  - i. conduct contemplated in section 13.1 (a) to (c);
  - ii. improper conduct by the University, its employees, third-party contractors or Council; or
  - iii. detrimental action by the University, its employees, third-party contractors or Council taken in response to making such a protected disclosure or cooperating with an investigation into such a protected disclosure must make that protected disclosure directly to the Independent Broad-based Anti-corruption Commission (IBAC) or the Victorian Ombudsman. IBAC then assesses the content of that disclosure to determine whether it is a protected disclosure within the meaning of the Protected Disclosure Act, and therefore to be investigated as a protected disclosure complaint under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic).
- (b) An individual who makes a protected disclosure has certain protections under the Protected Disclosure Act from civil and criminal liability and from detrimental action in reprisal for making the protected disclosure.

14.6. Protected Disclosure Officers and Protected Disclosure Coordinator:

(a) The University has appointed Protected Disclosure Officers and a Protected Disclosure Coordinator to provide information about making a protected disclosure, about any detrimental action, or the threat of any detrimental action, taken in reprisal for that disclosure and about protection from detrimental action or threat of detrimental action.

(b) The Vice-Principal, Policy and Projects is the Protected Disclosure Coordinator.

(c) The Protected Disclosure Officers are:

- i. Executive Director, Academic Services;
- ii. Executive Director, Human Resources and OHS;
- iii. Deputy Vice-Chancellor (Research);
- iv. President, Academic Board;
- v. Deputy Provost; and
- vi. Director, Office for Research Ethics and Integrity.

14.7. Protection from detrimental action:

(a) Where the University is aware of the identity of a person who makes a protected disclosure, the University must protect that person from detrimental action, or the threat of detrimental action, taken in reprisal for that protected disclosure.

(b) The University must protect a person who cooperates with an investigation of a protected disclosure from detrimental action or the threat of detrimental action.

(c) The obligation to protect persons from detrimental action outlined in sections 13.7(a) and 13.7(b) applies from the time a protected disclosure is made to IBAC or the Victorian Ombudsman and the University has been made aware of the protected disclosure.

(d) An individual who has made a protected disclosure to IBAC or the Victorian Ombudsman may approach a Protected Disclosure Officer or the Protected Disclosure Coordinator, who will:

- i. provide for the individual's immediate health, wellbeing, safety and protection;
- ii. provide the individual with information about the process;
- iii. listen and respond immediately to any concerns about reprisals for making a protected disclosure; and
- iv. keep notes of all meetings and actions.

(e) The University must keep the content of any protected disclosure confidential, along with the identity of the individual who has made the protected disclosure.

#### 14.8. Criminal offences:

- (a) Where a protected disclosure has been made to IBAC or the Victorian Ombudsman, it is an offence:
  - i. to take or threaten to take reprisals against an individual who has made a protected disclosure;
  - ii. to disclose the identity of an individual who has made a protected disclosure;
  - iii. to disclose the content, or information about the content, of a protected disclosure; and
  - iv. in certain cases, to disclose that a disclosure has been notified to IBAC for assessment or that a protected disclosure has been determined by IBAC to be a protected disclosure complaint.

#### 14.9. Making a complaint directly to the University:

(a) Any individual may make a complaint directly to the University's authorised officer about improper conduct, detrimental action or any other corrupt conduct or misconduct by the University, its employees or Council. The University deals with the complaint in accordance with the University's policies and processes.

(b) Complaints made directly to the University are not considered to be protected disclosures and therefore are not assessed and dealt with in accordance with the Protected Disclosure Act.

(c) An individual may at any time make a protected disclosure regardless of a complaint being made to the University. However, the University may exercise its discretion to discontinue any actions arising out of a complaint made directly to the University when a protected disclosure is made for the same matter.

### 15. Employee notification of offence

15.1 An employee must notify their Human Resource Manager at the first available opportunity if they have been charged with a criminal offence or have received an adverse finding following the hearing of a criminal offence. The employee must cooperate with any reasonable request of the University to provide information to ascertain whether the matter could reasonably affect the employee's ability to meet the inherent requirements of their employment.

### 16. Fit and Proper Checks

16.1 Where the University identifies a position that requires an individual to work or have direct contact with a child, that employee must cooperate with any reasonable request of the University for relevant probity disclosures and verification processes necessary to ascertain that the employee is a fit and proper person to work with a child.

16.2 For the purpose of this Policy, direct contact includes oral, written or electronic communication as well as face-to-face and physical contact.

### 17. Gifts

17.1. The University maintains a register of reportable gifts.

17.2. An employee may accept a gift of nominal value less than \$100 and retain that gift for their own use without reporting it.



17.3. An employee who receives a reportable gift must report the gift to their manager or supervisor within 14 days of receiving the gift.

17.4. A gift with a value of \$500 or more must also be reported to the Chief Financial Officer or delegate.

17.5. If the value of a gift is not apparent or the gift is of cultural or historical value, the University determines the appropriateness of accepting and reporting the gift.

17.6. The University funds gifts to employees only in accordance with policy.

## 18. Roles and responsibilities

18.1. Unless otherwise specified, roles and responsibilities are performed as required by the nominated authorised officer as per University Delegations.

18.2. Complete, accurate and reliable records must be kept in accordance with the University's Records Management Policy.

## 19. Glossary

A term defined in this Glossary importing the singular includes the plural.

**Authorised officer** is an employee who has been delegated authority and responsibility by the University to perform a particular role or action, or make a decision.

**Protected Attribute** means, as defined in the *Equal Opportunity Act 2010 (Vic)* and relevant Commonwealth legislation:

- (a) age or age group;
- (b) breastfeeding;
- (c) employment activity;
- (d) family or carer's responsibilities; parental status or status as a carer
- (e) impairment or 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;
- (f) industrial activity;
- (g) lawful sexual activity;
- (h) marital status;
- (i) national extraction or social origin;
- (j) physical features;
- (k) political opinion, belief or activity;

- (l) pregnancy or potential pregnancy;
- (m) race or colour; descent or ancestry; nationality or national origin; ethnicity or ethnic origin; national extraction or social origin;
- (n) religious belief or activity;
- (o) sex, gender identity or intersex status;
- (p) sexual orientation;
- (q) personal association with a person who is identified by reference to any of the above attributes.

**Bullying** means repeated behaviour that a reasonable person, having regard to all the circumstances, would anticipate to be humiliating, intimidating, undermining or threatening and which causes a risk to health and safety. Bullying does not include reasonable management action.

**Child** means a person who is under the age of 18 years.

**Child abuse** means any act committed against a child involving:

- physical violence (including threats of physical violence)
- sexual abuse
- serious emotional or psychological abuse; or
- serious neglect.

**Complainant** means an individual who considers they may have experienced discrimination, harassment, sexual harassment, bullying and/or victimisation by an employee or student and has brought the matter to the attention of the University either as a concern or a complaint.

**Complaint manager** means the person responsible for managing a complaint as assigned by the University.

**Conflict of interest** is a conflict between an employee's private interests and performance of their duties and responsibilities to the University, which improperly influences their actions as a University employee or is contrary to the interests of the University. Conflicts of duty are a form of conflict of interest. These can occur where an employee has two or more roles and there is a conflict between their duties to act in each role. Conflicts of interest can be actual, perceived or potential:

- (a) an actual conflict of interest occurs where there is a conflict;
- (b) a potential conflict of interest occurs where circumstances exist that could create a conflict; and
- (c) a perceived conflict of interest occurs where it appears that a conflict exists but this is not in fact the case.

**Contact officer** means a person, nominated by the University, who may be contacted for information or assistance by someone who considers they may have experienced discrimination, harassment, sexual harassment, bullying and victimisation.

**Corrupt conduct** means conduct that:

- (a) adversely affects a public officer or public body in the honest performance of their functions;
- (b) constitutes or involves the dishonest performance of a public body or public officer's functions as a public officer or public body;
- (c) constitutes or involves knowingly or recklessly breaching public trust;
- (d) involves the misuse of information or material acquired in the course of the performance of public duties, whether or not this is done for the benefit of the public body or officer, or for any other purpose; or
- (e) constitutes a conspiracy or an attempt to engage in any of the above conduct

where such conduct, if proven, would constitute an indictable offence or a common law offence (perverting, or attempting to pervert, the course of justice, bribery of a public official).

**Detrimental action** means action taken against a whistleblower in reprisal for making a disclosure. Detrimental action can include:

- (a) action causing injury, loss or damage;
- (b) intimidation or harassment; and
- (c) discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action.

**Discrimination** means unfavourable treatment of a person due to that person's 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.

Direct discrimination is when a person treats, or proposes to treat, another person unfavourably because of that person's attribute. In relation to a person with an impairment or disability, direct discrimination also occurs if a person does not make, or proposes not to make, reasonable adjustments for that person, and a failure to make a reasonable adjustment has the effect, because of the impairment or disability, of that person being treated unfavourably.

Indirect discrimination is when a person imposes, or proposes to impose, a requirement, condition or practice:

- (a) that has, or is likely to have, the effect of disadvantaging a person with an attribute; and
- (b) that is not reasonable.

**Employee** means an individual employed by the University and is a national system employee within the meaning of the *Fair Work Act 2009* (Cth). Employee is also commonly referred to as staff member, academic staff member or professional staff member.

**External employment** means work undertaken not for the University or as part of the normal duties of the employee's role, and includes external employment, paid work external to the University (including proprietorship), directorships or consultancy.

**Gifts** means a gift or series of gifts of entertainment, hospitality, travel or other benefit; or a gift of an item of property, whether of a personal nature or otherwise; excluding farewell gifts and gifts to which employees have contributed.

**Harassment** means any conduct of an individual towards another individual on the basis of an attribute of that other individual that is reasonably likely, in all the circumstances, to humiliate, offend, intimidate or distress the other individual.

**Hospitality** means any expenditure given or received of an entertainment nature including but not limited to meals, beverages, theatrical performances, cinema, sporting events, ceremonies or public relations events.

**Improper conduct** means conduct that:

- (a) adversely affects the honest performance by a public officer or public body of his or her, or its, functions;
- (b) constitutes or involves the dishonest performance of a public body or public officer's functions as a public officer or public body;
- (c) constitutes, or involves, knowingly or recklessly breaching public trust;
- (d) involves the misuse of information or material acquired in the course of the performance of public duties, whether or not this is done for the benefit of the public body or officer, or for any other purpose;
- (e) constitutes a conspiracy or an attempt to engage in any of the above conduct; or
- (f) conduct of a public officer or public body that involves substantial:
  - i. mismanagement of public resources;
  - ii. risk to public health or safety; or
  - iii. risk to the environment

where such conduct, if proven, would be either 'corrupt conduct' as defined under the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) which includes conduct listed in (a) to (e) above, where such conduct would constitute an indictable offence or a common law offence (perverting, or attempting to pervert, the course of justice, bribery of a public official); a criminal offence; or reasonable grounds for dismissing or dispensing with, or otherwise terminating the services of the officer who was, or is, engaged in that conduct.

**Inappropriate behaviour** means behaviour or conduct that does not comply either with this policy or the standards and expectations of the University.

**Physical assault** means the direct or indirect application of force by a person to the body of, or to clothing or equipment worn by, another person, which is either intended to cause harm or the person is reckless of the possibility that harm will be inflicted.

**Protected disclosure** means a disclosure about improper conduct or detrimental action made in accordance with the *Protected Disclosure Act 2012* (Vic) which affords the person making the disclosure protection from liability and from detrimental action in reprisal for making the disclosure.

**Reasonable management action** includes, among other actions by the University:

- (a) requesting an employee to perform reasonable duties in keeping with their position and responsibility;
- (b) maintaining reasonable workplace expectations and standards;
- (c) performance management processes;
- (d) disciplinary action;
- (e) informing an employee about unsatisfactory work performance or inappropriate workplace behaviour.

**Reportable gift** means:

- (a) a gift with a value of more than \$100;
- (b) a series of gifts from a single provider within a 12 month period with an aggregate value of more than \$200.

**Respondent** means a person about whom a concern is raised or complaint is made.

**Sexual assault is unlawful in accordance** with the Crimes Act 1958. It is any sexual act in which an individual is coerced, tricked or physically forced to engage against their will, or where they have withdrawn their consent. Sexual assault also includes any non-consensual sexual touching of an individual, or exposure to sexual content against their will.

Specifically, sexual assault includes:

- Rape
- Indecent assault (sexual acts that involve touching but not penetration)
- Any sexual contact with a child
- Sexual servitude
- Forcing someone to witness a sex actor sexual content (eg pornography or exposing yourself to another person).

**Sexual harassment** is unlawful in accordance with the Sex Discrimination Act 1984 and Equal Opportunity Act 2010. Sexual harassment is any unwelcome and uninvited harassment where the behaviour has a sexual element or implication and the harasser in all the circumstances should have reasonably anticipated that the other person would be offended, humiliated or intimidated. The harasser does not need to intend to offend, humiliate or intimidate, or even to know, that this was the effect of the behaviour for this conduct to breach this policy or be against the law.

**Stalking** is the wilful and repeated following, watching and/or harassing of another person, which usually involves a series of actions that occur over a period of time. Stalking is not limited to the workplace and may include actions through electronic communication and virtual environments such as social media.

**Student** means a graduate or an undergraduate student of the University, or a person designated as a student pursuant to section 3 of the *University of Melbourne Act 2009* (Vic).

**Support person** means an observer who does not actively participate in any aspect of the investigation or hearing of a complaint beyond the role of passive observer. In particular, the support person does not advocate on behalf of the complainant or respondent or play an active role in representing and advancing the views and positions of the complainant or respondent.

**University** is a national system employer within the meaning of the *Fair Work Act 2009* (Cth). In this policy University has the same meaning as employer or organisation.

**Unlawful dealing with a child** is where a person who has a duty of care takes, or fails to take, action that has either resulted in harm to the child, or has the potential to cause harm. This includes subjecting a child to any activity deemed inappropriate for a minor.

**Victimisation** means when a person is treated, or threatened to be treated, in a detrimental manner as a result of seeking assistance, making or threatening to make a complaint or raising a concern, or considering whether to raise a concern or complaint, about a matter under this policy.

**Vilification** means a wilful and deliberate act to incite hatred, serious contempt, or severe ridicule towards an individual or group of individuals on the grounds of the race, religion, sexuality or gender identity of the individual or group through:

- (a) any form of communication throughout the University or to the public, such as speaking, writing, printing, displaying notices and messages on the University intranet, internet and social media; or
- (b) any conduct observable within the University or by the public, including actions, gestures, wearing or display of clothing, signs, flags, emblems or insignia.

**Working With Children Check** is a check conducted by the State Government of Victoria through the Department of Justice and Regulation (the department) to screen an applicant or cardholder's criminal records and the professional conduct reports made by the bodies listed in the Act. If the Check finds serious sexual, violent or drug offences, or adverse professional reports, the department assesses these to determine if the person will pass the Check.

## POLICY APPROVER

Vice Principal Administration and Finance and Chief Financial Officer

## POLICY STEWARD

Executive Director, Human Resources and OHS

## REVIEW

This policy is to be reviewed by 21 November 2021.

## VERSION HISTORY

Version	Approved by	Approval Date	Effective Date	Sections modified
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1	VP Admin & Finance and CFO	21 November 2016	30 November 2016	New policy arising from the Policy Consolidation Project (incorporating the former Equal Opportunity Policy MPF1241, Discrimination, Sexual Harassment and Bullying Procedure MPF1230, Responsible Conduct of Staff Policy MPF1160, Conflict of Interest Procedure MPF1162, Gifts Procedure MPF1163, Staff-Student Relationships Procedure MPF1137, Theft, Fraud and Corrupt Conduct Procedure MPF1166 and Whistleblowers and Protected Disclosures Procedure MPF1217).
2	VP Admin & Finance and CFO	15 October 2018	19 October 2018	Policy amended to address: Changes to the Employee Relations function; Introduction of the Child Safety Policy; Incorporation of content regarding secondary employment (formerly known as Outside Work) to allow for the revocation of the existing Outside Work Procedure; Clarification of content regarding employee-student relationships; Changes to complaint handling processes; Incorporation of recommendations from Universities Australia Guidelines regarding disclosures; and, Drafting improvements. Policy amended to address: Changes to the Employee Relations function; Introduction of the Child Safety Policy; Incorporation of content regarding secondary employment (formerly known as Outside Work) to allow for the revocation of the existing Outside Work Procedure; Clarification of content regarding employee-student relationships; Changes to complaint handling processes; Incorporation of recommendations from Universities Australia Guidelines regarding disclosures; and, Drafting improvements.