Category: Employment
Version: 9
Document Type: Policy
Document Status: Published
Approved On: 07 March, 2024
Audience: Staff, Students, Research, Academic, Affiliate
Effective Date: 07 March, 2024
Review due by: 20 February, 2026
Policy Approver: Deputy Vice-Chancellor (People And Community)
Policy Steward: Chief People Officer
Supporting Process:

Employment Processes , Guidelines for the Appropriate Exercise of Freedom of Speech

Appropriate Workplace Behaviour Policy (MPF1328)

1. Objectives

1.1. The objectives of this policy are to:

a) set out the standards, values and expectations for appropriate behaviour in the workplace, and the consequences for not doing so, reinforcing 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 applies to all employees and provides the framework of principles for employees conducting University activities and dealing with other employees, students, honoraries, volunteers, partners, suppliers, and members of the public.

3. Authority

3.1. 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) *Racial and Religious Tolerance Act 2001* (Vic);
p) *Racial Discrimination Act 1975* (Cth);
q) *Sex Discrimination Act 1984* (Cth);
r) *Working with Children Act 2005* (Vic); and
s) *Workplace Gender Equality Act 2012* (Cth).

4. Policy

Standards and expectations

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

4.2. The University's core values are at the heart of how we work and are a key aspect of delivering the University's vision and priorities. If applied consistently, our values help us maintain the trust of our stakeholders. 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 — for example, freedoms of thought, expression, and assembly and the right to be free of discrimination and harassment;

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) to preserve, defend and promote the principles of freedom of speech in accordance with the Freedom of Speech Policy (MPF1342);

g) sustaining a diverse, inclusive and harmonious scholarly community committed to supporting employees and students to realise their full potential; and

h) maintaining a respectful, safe, rewarding and environmentally sustainable learning and working environment;

i) The University does not tolerate: the behaviours set out in clause 4.19.

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

4.4. 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 fraud, corrupt conduct or improper conduct.

4.5. 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.

4.6. Contravention of this policy and related policies and processes may be considered to be inappropriate behaviour, and on occasion misconduct or serious misconduct. An employee in breach of this policy may be subject to disciplinary action, including termination.

4.7. Failure to comply with section 4.5 may result in 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.

Personal and professional behaviour

4.8. 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) lawfully 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;

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; and

h) comply with conditions of employment.

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

a) ensure that relationships with all 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 protecting the welfare and wellbeing of the student;

d) not initiate, cultivate or encourage relationships nor engage in sexual activity with a student inconsistent with the standards and expectations set out broadly in this policy and specifically set out above at (a), (b) and (c); and

e) remain impartial and take all reasonable steps to avoid and resolve any possible, perceived or actual bias in dealing with students.

4.10. 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.

4.11. To address conflicts 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 and directions on the management of the conflict.

4.12. Executive Disclosure

a) In addition to declaring any conflicts, all executives must make annual declarations about private financial, business, personal and other interests or relationships that have the potential to influence, or could be perceived to influence, decisions they make or advice they give.

b) If you are acting in an executive role for six months or more, you must also make this declaration.

c) Declarations are made annually or as soon as practicable following any relevant change to your private interest, commencement in a new role or additional responsibilities.

4.13. Employees must take all reasonable steps not to:

a) directly or indirectly through any party use the University's intellectual property (as set out in the Intellectual Property Policy (MPF1320)) or resources to benefit a third party without prior written authority of the University;

b) induce or attempt to induce an employee or student to perform work in competition with the University or to act in a manner contrary to an employee's employment obligations.

External employment

4.14. 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.

4.15. Employees who wish to engage in external employment must declare this activity to the University.

4.16. Employees engaged in external employment must not:

a) use the intellectual property of the University without prior written consent of the University;
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 which may serve to bring the University into disrepute by association (except for action or statements that accord with the Academic Freedom of Expression Policy (MPF1224);
d) undertake any activity that does not accord with compliance with the Foreign Interference Transparency Scheme, and the Guidelines to Counter Foreign Interference in the Australian University Sector ; or
e) undertake any activity for which the University might be held legally liable. Employees when engaging in outside work must not hold themselves out as representing the University or take any steps that might expose the University to reputational damage, or a claim for breach of contract or breach of any law.

Promoting a respectful, diverse and inclusive workplace

4.17. The University:

a) continually reviews and improves its practices and structure for 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 encourages 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 information 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.

4.18. 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.

4.19. Employees must not directly or indirectly, or incite or assist others to, engage in any of the following behaviours (each defined in the Definitions at section 7 with the exception of (k)):

a) acts of violence, assault or aggression in any form or manifestation;
b) acts of racism, including but not limited to racial discrimination, racial harassment, racial vilification, and offensive behaviour because of race, colour or national or ethnic origin ;
c) unlawful discrimination against other individuals based on a protected attribute defined in this policy or at law;
d) harassment;
e) sexual harassment;
f) sexual assault;
g) physical or verbal assault;
h) bullying;
i) stalking;
j) victimisation;
k) vilification of an individual or group of individuals;
l) child abuse or any form of unlawful dealing with a child; or

m) wilful or deliberate breach of the positive obligation to protect the interests of students of the University as described at section 4.9 of this policy.

University Finances

4.20. 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.

Fraud, Corruption and Improper Conduct

4.21. The University does not tolerate fraudulent, dishonest, corrupt or improper activity or behaviour. by employees. These matters are dealt with separately to this policy through the Fraud and Corruption Management Policy (MPF1351).

University resources

4.22. 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.

4.23. 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.

Political contributions and political donations

4.24. The University maintains a position of political impartiality.

4.25. 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.

4.26. Employees may, in their private capacity, make political contributions or donations or attend political fundraisers, in their own time, using their personal funds or personal assets.

4.27. 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.

5. Procedural principles

Raising a complaint or disclosure against an employee relating to harassment, bullying or victimisation

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

5.2. If proven, the following are criminal activities:

a) sexual assault;

b) physical assault;

c) stalking; and

d) child abuse and unlawful dealing with a child.

5.3. As such, the University will address disclosures, allegations, or complaints about the above separately to the processes set out in these procedural principles, subject to any investigations undertaken by external government authorities.

5.4. The University urges a victim of, or a witness to, any apparent physical, sexual or other assault (as dealt with in section 5.2 above) 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 government authorities.

5.5. If preferred, an individual may anonymously disclose matters rather than make an informal or formal complaint. If an anonymous disclosure is received, the person making that disclosure cannot be identified or contacted to preserve anonymity. The University considers that any form of disclosure is better than silence on these important matters.

5.6. Complaints (formal or informal) and disclosures (including anonymous disclosure) against an employee or inquiries about this policy and associated processes may be made:

a) **online** via the Inappropriate Workplace Behaviour Reporting Line www.mustaffcontactline.com.au ;

b) **on the phone** via the Inappropriate Workplace Behaviour Reporting Line (1800 685 463);

c) for staff and students, **in person** , over the phone or in writing to any representative of the University's Human Resources teams; or

d) for staff and students, **in person,** via support services provided through the Safer Communities Program.

Complaints, disclosures or inquiries will be dealt with in a confidential and sensitive manner, and in accordance with this policy.

Case management procedure for complaints or disclosures against an employee

5.7. The following describes the University's usual practice in managing complaints and disclosures but does not in any way limit the University's discretion to set out alternative an process on occasions where it is considered appropriate to address the particular circumstance of the case. Further, where the University elects not to follow all and every step described below, this does not in itself constitute a procedurally unfair process.

5.8. On all occasions processes for managing complaints will be based on:

a) principles of procedural fairness and natural justice; and

b) in the case of reported sexual misconduct, a trauma-informed approach as defined and described in the Sexual Misconduct Prevention and Response Policy (MPF1359).

5.9. For complaints pertaining to sexual misconduct this policy shall be read in conjunction with the Sexual Misconduct Prevention and Response Policy (MPF1359).

5.10. Actions:

a) An employee complainant may seek to have their complaint addressed through informal assistance as set out below at section 5.11.

b) With exception to the above, complaints received by any individual will be addressed through the formal complaint process set out at section 5.12.

c) The University may use findings of facts arising from the relevant processes set out in these procedural principles to inform (in part or in full) the particulars, its deliberations and its decisions pertaining to misconduct, serious misconduct, or unsatisfactory work.

d) 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 may not provide support where the employee has not complied with this policy.

e) While individuals are encouraged to use the options set out in this policy (and to report criminal behaviours to the proper authority), they have a right to seek assistance from and/or lodge a complaint with external bodies, including Victoria Police, the Victorian Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission, the Fair Work Ombudsman, the Fair Work Commission and WorkSafe Victoria.

f) 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.

5.11. Informal assistance:

a) An employee who considers they may have experienced an incident set out at section 4.19 and seeks to have the matter addressed informally may seek assistance from either their manager or a member of the Human Resources team.

b) Informal assistance may include, but is not limited to:

i. providing information about what is meant by discrimination, sexual harassment, harassment, bullying or victimisation;

ii. providing information about this policy, including this section 5.11;

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 on a mutually agreed and confidential basis between the parties; and

vi. facilitate a discussion between the parties.

5.12. Formal complaint:

a) A complaint or disclosure made by anyone against an employee about behaviours and/or conduct described in this Policy and/or the Sexual Misconduct Prevention and Response Policy (MPF1359) will be referred to the Director - Workplace Investigations (in the Workplace Relations department), or as otherwise delegated by the Executive Director - Workplace Relations, Investigations and HR Governance (Complaint Manager).

b) Upon receiving a complaint the complaint manager will:

i. provide a copy of relevant policies to the complainant;

ii. where the complainant is experiencing difficulties arising from incident-related trauma or other related difficulties, assist the complainant in detailing the particulars of their complaint;

iii. respond appropriately and in a timely manner to disclosures or complaints made by individuals;

iv. arrange ongoing support for all parties during the investigation process;

v. take any steps necessary to protect the safety of any party to the matter before, during and after the investigation; and

vi. actively work to address victimisation before, during and after the investigation.

c) If the complainant withdraws the complaint, the complaint manager in consultation with the Executive Director Workplace Relations - Investigations and HR Governance (or delegate) will consider and refer to the Chief People Officer for decision 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/or

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.

d) The complaint manager, in consultation with the Executive Director - Workplace Relations, Investigations and HR Governance (or delegate) may continue with, and conclude, the complaint where the complainant or respondent repeatedly refuses to participate in the processes set out below.

e) Employees of the University are obliged to make themselves available to participate in any process or proceedings contemplated in the policy as directed by the complaint manager.

f) Managing formal complaints must be balanced with protecting a vulnerable complainant from disclosure or requiring them to participate in proceedings without their agreement.

5.13. Preliminary assessment by the complaint manager:

a) Upon receipt of a complaint, the complaint manager will conduct a preliminary assessment for the purpose of determining whether or not the complaint has sufficient basis to warrant action under the processes set out below at sections 5.14 and 5.15 and, if so, to consider appropriate action to address the complaint. Accordingly, the complaint manager may do one or more of the following:

i. seek any additional information necessary to inform the preliminary assessment (including a fact-finding inquiry);

ii. seek advice and consult with any person the complaint manager considers appropriate, with the requirement of confidentiality for any person so consulted.

b) At conclusion of the preliminary assessment, the complaints manager will provide the Executive Director – Workplace Relations, Investigations and HR Governance, and the Chief People Officer for approval their recommended action such as, but not limited to, one or more of the following:

i. propose that the complaint be addressed informally as described in these procedural principles;

ii. propose that the complaint be addressed through mediation between the complainant and respondent (as set out at section 5.14);

iii. propose that the complaint be addressed through an alternative conflict or dispute resolution process;

iv. refer the complaint for formal impartial investigation (as set out at section 5.15);

v. reject the complaint if it is shown to be malicious, vexatious, misconceived or lacking in substance; and

vi. recommend interim actions as necessary to address any immediate concerns regarding any person's health, wellbeing and safety and participation in work or study.

5.14. Mediation:

a) To facilitate effective mediation, a mediation can only take place if the complainant is willing to be identified to the respondent and both parties agree to attend mediation voluntarily.

b) Mediation is conducted either internally or via an external provider (as recommended by the complaint manager and approved by the Chief Human Resource Officer), without prejudice to any other actions relating to or that might arise from the complaint. Nothing in this Policy prevents the complaint manager from conducting the mediation.

c) The respondent and mediator will be provided with a copy of the complaint.

d) If the parties agree to participate in mediation, they will be asked to accept a mediation agreement provided by the mediator which sets out the terms of reference for the mediation, the way the mediation will be conducted, and the expectations of the parties during the mediation.

e) The respondent may submit to the complaint manager a written response to the complaint within a timeframe determined by the complaint manager. A copy of the respondent's response will be provided to the mediator and the complainant.

f) The mediator will invite 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 will advise the complaint manager of the outcome of the mediation.

g) The complainant and respondent may both have a support person attend the mediation.

If the complaint is not resolved through mediation, the complaint manager may initiate formal investigation contemplated at section 5.15.

5.15. Formal investigation and findings of fact:

The complaint manager may refer a complaint to formal impartial investigation (as authorised by the Chief People Officer (or delegate)) where the alleged behaviours are such that, if proven, they may constitute breaches of this Policy and/or the Sexual Misconduct Prevention and Response Policy (MPF1359).

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

i. engage an investigator who may be a University employee (including the complaint manager where deemed appropriate), or an external party appointed by the University;
ii. notify the respondent that the complaint has been received; and
iii. notify the complainant and the respondent that the matter has been referred for investigation.

b) The investigator will make findings of fact in relation to each allegation, on the balance of probabilities and based on established legal principles, having collected and assessed available evidence determined to be relevant by the investigator such as, but not limited to :

i. written submissions and material provided by the parties;
ii. material provided by the University;
iii. interview(s) with the parties;
iv. interview(s) with witnesses who are deemed relevant by the investigator; and
v. written submissions and material provided by relevant witnesses.

c) The investigator will:

i. provide the respondent with a copy of the complaint, if the respondent has not already received a copy, and the allegations developed in consultation with the complaint manager and the complainant;
ii. give 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. conduct the investigation with regard for procedural fairness, timeliness, privacy and all involved persons' health and safety; and
iv. determine 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 probabilities.

d) Any person to be interviewed under this policy may have a support person attend the interview. To maintain confidentiality the support person must not be an employee of the University nor have an association with the University. The support person is an observer who must 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.

e) The complainant and respondent may seek the advice of a representative. In providing their client/member with assistance, the representative must not act to directly or indirectly interfere with or displace direct interaction between the parties and the investigator.

f) Strict confidentiality is to be maintained at all times to preserve the integrity of the investigation processes and to ensure the process does not unduly prejudice the interests of the and all parties involved in the investigation are required not to discuss any aspect of the Investigation with anyone (unless otherwise approved by the University), except with their:

i. support person;
ii. nominated representative;

iii. immediate family members; and
iv. registered treating health practitioner (if and where required).

g) At the conclusion of the investigation, the investigator will provide the University via the complaint manager with an investigation report.

h) The University, separately to this policy, may apply findings of facts arising from the investigation to inform the particulars, deliberations and decisions pertaining to misconduct, and/or serious misconduct, and/or unsatisfactory work performance in accordance with the employee's particular terms and conditions of employment.

i) The complainant, respondent and, if appropriate, any witnesses to a complaint will be notified that an investigation is concluded. The complaint manager will provide the complainant and respondent with the investigation findings and, where appropriate under the University's obligations of privacy and confidentiality to the parties, any relevant outcomes that may be disclosed.

j) Employees who receive any material or advice about the Investigation must not disclose this sensitive and confidential information to anyone without prior written consent from the University.

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

l) Statements, material and other forms of information arising from an assessment, inquiry or investigation under this policy is obtained for the primary purpose of this policy and remains highly sensitive and confidential University records and internal working documents.

5.16. Direct action by the University

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

5.17. Resolving workplace conflict:

Following an investigation, where it is evident that there is residual conflict remaining in the workplace, the Director – Workplace Investigations will co-ordinate a cross-functional case management group to endeavour to resolve the conflict in collaboration with the:

a) head of division (or delegate);
b) Human Resources Director (or delegate);
c) Director, Health and Safety (or delegate); or
d) for matters involving students, Principal Advisor, Student Grievances and Complaints.

Whistleblower disclosure

5.18. Whistleblower disclosures are dealt with separately to this policy through the Whistleblower Protection Policy (MPF1346).

Employee notification of offence

5.19. 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.

Fit and Proper Checks

5.20. Where the University determines a position 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.

5.21. For the purpose of this policy, direct contact includes verbal, written or electronic communication as well as face-to-face and physical contact.

Gifts

5.22. 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.

5.23. The University maintains a register of reportable gifts.

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

5.25. An employee who receives a reportable gift of nominal value of $100 or more must report the gift to their manager or supervisor within 14 days of receiving the gift.

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

5.27. 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.

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

6. Roles and responsibilities

6.1. All individuals who have responsibilities for making decisions or supporting decision-makers under this policy must be free from conflict of interest or bias in exercising these responsibilities, both for or against complainants or respondents generally or a particular complainant or respondent.

6.2. The following table describes the University's usual practice in managing key decisions regarding a case, but does not anyway limit the University's discretion to set out an alternative process on occasion where it is considered appropriate to address the particular circumstance of the case.

Role/Decision/Action	***Responsibility***	***Conditions and limitations***
COMPLAINTS AGAINST EMPLOYEES		

Decisions about whether a case should be referred for formal investigation, addressed through alternative means (e.g. mediation), or not proceed. Decisions about the nomination of an Investigator.	Chief People Officer or delegate.	Decision will be in consultation with the relevant Dean or Executive and will take into account all relevant material available, advice from Workplace Relations and, where required, legal advice. *See also Note 1 below.*
COMPLAINTS AGAINST VICE-CHANCELLOR OR MEMBER OF COUNCIL		
Decisions whether a case should be referred for formal investigation, addressed through alternative means (e.g. mediation), or not proceed. Decisions about the nomination of an investigator.	University Council	Decision will take into account all relevant material available.
DISCIPLINARY ACTION AGAINST EMPLOYEES COVERED BY THE ENTERPRISE AGREEMENT *Provided as information only – process governed by the University of Melbourne Enterprise Agreement 2018 (as amended) and delegations of responsibilities may change from time to time at the absolute discretion of the University.*		
Determine preliminary view on whether the findings of the investigation constitute serious misconduct (at clause 1.35.4 of the EA). Decisions about the nomination of an impartial Reviewer if and when an employee requests a Review (at clause 1.35.4.3 of the EA)	Chief People Officer or delegate.	Must take account of all relevant material (such as the investigation report, advice from Workplace Relations and, where required, legal advice).

Following a Review (if any); final decisions that serious misconduct has taken place and subsequent determination of proportionate disciplinary action (at clauses 1.35.5 and 1.35.6 of the EA).	Provost (or delegate) for serious misconduct (Academic Division) Vice-President, Strategy and Culture, or Vice-President, Administration & Finance and Chief Operating Officer for serious misconduct (Chancellery and Chief Operating Officer portfolio).	Must take account of all relevant material (such as the investigation report, independent review report, Workplace Relations advice, legal advice – if any – and the like) and guided but not bound by the recommendation of the relevant Dean (or delegate) and the Chief People Officer (or delegate). Must take account of all relevant material (such as the investigation report, independent review report, Workplace Relations advice, legal advice – if any – and the like) and guided but not bound by the recommendation of the relevant Manager (or delegate) and the Chief People Officer (or delegate). *See also Note 2 below.*
DISCIPLINARY ACTION AGAINST EMPLOYEES COVERED BY COMMON LAW CONTRACTS *Provided as information only – process governed by the employee's contractual terms of employment and delegations of responsibilities may change from time to time at the absolute discretion of the University.*		
Decisions that serious misconduct has taken place and subsequent determination of proportionate disciplinary action (excluding members of the University Executive).	Vice-President (Strategy and Culture) or Vice-President (Administration & Finance) and Chief Operating Officer	Must take account of all relevant material (such as the investigation report, independent review report, Workplace Relations advice, legal advice – if any – and the like) and guided but not bound by the recommendation of the relevant Executive line manager (or delegate) and the Chief People Officer (or delegate). *See also note 2 below.*

Decisions that serious misconduct has taken place and subsequent determination of proportionate disciplinary action where the employee is a member of University Executive.	Vice-Chancellor	Must take account of all relevant material (such as the investigation report, independent review report, legal advice and the like) and the recommendation of the Chief People Officer (or delegate)
Decisions that serious misconduct has taken place and subsequent determination of proportionate disciplinary action where the employee is the Vice-Chancellor or a member of University Council or its committees	University Council	Must take account of all relevant material (such as the investigation report, independent review report, legal advice and the like) and the recommendation of the Chief People Officer (or delegate)

NOTES:

1. For complaints against employees, the Vice-Chancellor will be informed of all decisions.
2. Where disciplinary action is to be taken against an employee of the Chancellery (Strategy and Culture), the Vice-President (Administration & Finance) and Chief Operating Officer will make the decision. Where disciplinary action is to be taken against an employee of the Chief Operating Officer Portfolio, the decision will be made by the Vice-President (Strategy and Culture). In the case of other Chancellery portfolios either of these officers may be charged with determining disciplinary action in consultation with the relevant portfolio Executive.

6.3. Unless otherwise specified, roles and responsibilities are performed as required by the nominated authorised officer as per the University's delegations of authority.

6.4. Complete, accurate and reliable records must be kept in accordance with the University's Records Management Policy (MPF1106).

7. Definitions

A term defined in this Definitions section importing the singular includes the plural.

The following provides general explanations of terms to assist the reader, noting that some terms might also have more specific technical definitions under particular legislation referenced at section 3 of this policy.

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:

- age or age group;
- breastfeeding;
- employment activity;
- family or carer's responsibilities; parental status or status as a carer
- 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;

- industrial activity;
- lawful sexual activity;
- marital status;
- national extraction or social origin;
- physical features;
- political opinion, belief or activity;
- pregnancy or potential pregnancy;
- race or colour, descent or ancestry, nationality or national origin, ethnicity or ethnic origin, national extraction or social origin;
- religious belief or activity;
- sex, gender identity or intersex status;
- sexual orientation; and
- 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 and has brought the matter to the attention of the University either as a disclosure or a complaint.

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

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:

- adversely affects a public officer or public body in the honest performance of their functions;
- constitutes or involves the dishonest performance of a public body or public officer's functions as a public officer or public body;
- constitutes or involves knowingly or recklessly breaching public trust;
- 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
- 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:

- action causing injury, loss or damage;
- intimidation or harassment;

- discrimination, disadvantage or adverse treatment in relation to a person's employment, career, profession, trade or business, including the taking of disciplinary action; and
- other action that causes detriment as defined by the Whistleblower Protection Policy (MPF1346).

Discrimination means unfavourable treatment of a person due to that person's Protected Attribute, including an attribute that a person has, has had in the past, is presumed to have, or may have in future, and includes direct and indirect discrimination.

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:

- that has, or is likely to have, the effect of disadvantaging a person with an attribute; and
- 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.

Fraud means dishonest activity causing actual or potential financial loss to any individual or entity including theft of moneys or other property by employees or individuals external to the entity and where deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a non-business purpose or the improper use of information or position for financial benefit.

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 a Protected 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:

- adversely affects the honest performance by a public officer or public body of his or her, or its, functions;
- constitutes or involves the dishonest performance of a public body or public officer's functions as a public officer or public body;
- constitutes, or involves, knowingly or recklessly breaching public trust;
- 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;
- constitutes a conspiracy or an attempt to engage in any of the above conduct; or
- conduct of a public officer or public body that involves substantial:

    ii. mismanagement of public resources;

iii. risk to public health or safety; or
iv. 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.

Offensive behaviour because of race, colour or national or ethnic origin means an act, otherwise than in private, where:

- the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and
- the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.

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 **.**

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

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

Reportable gift means:

- a gift with a value of more than $100;
- 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 disclosure is raised or complaint is made.

Sexual assault has the same meaning for this policy as set out in the *Sexual Misconduct Prevention and Response Policy* (MPF1359)

Sexual harassment has the same meaning for this policy as set out in the *Sexual Misconduct Prevention and Response Policy* (MPF1359).

Sexual misconduct has the same meaning for this policy as set out in the *Sexual Misconduct Prevention and Response Policy* (MPF1359)

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 means the University of Melbourne which 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 disclosure, or considering whether to raise a disclosure or complaint, or participating in proceedings about a matter under this policy.

Vilification means an act to incite hatred, serious contempt, or severe ridicule towards an individual or group of individuals on the grounds of the race, religion, sex, gender identity, or intersex status of the individual or group through:

- 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
- 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 Community Safety (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

Deputy Vice-Chancellor (People & Community)

POLICY STEWARD

Chief People Officer

REVIEW

This policy is to be reviewed by 20 Feb 2026.

VERSION HISTORY

Version	Approved By	Approval Date	Effective Date	Sections Modified

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.

3	Vice-Chancellor	7 March 2019	19 August 2019	Changed Policy Approver to Vice-President (Strategy & Culture) (previously Vice-Principal, Administration and Finance & CFO).
4	Vice-President (Strategy & Culture)	7 November 2019	8 November 2019	Sections 4.2 (f) and 5.1 (e)
5	Vice Principal Strategy & Culture	1 April 2021	13 April 2021	Policy amended to address: Freedom of Speech policy; Foreign interference guidelines for external employment; and Drafting improvements.
6	Policy Officer	8 November 2021	8 November 2021	Updated supporting Process links.

7	Deputy Vice Chancellor (People & Community)	13 February 2023	20 February 2023	Drafting improvements to reflect current practice and processes in case management, complaints-handling, investigation and mediation. Reorganisation of policy to comply with Policy Style Guide made by Policy Officer. Major review completed in line with Policy Framework.

9	Deputy Vice-Chancellor (People & Community)	7 March 2024	7 March 2024	Cl. 4.19 expanded to specify that the University does not tolerate 'acts of racism', listing the types of prohibited racist acts already prohibited in the policy, but also adding a new prohibition of Offensive behaviour because of race, colour or national or ethnic origin, from section 18C of the Racial Discrimination Act 1975. Inserted definition of Offensive behaviour because of race, colour or national or ethnic origin in section 7. Corrected some of the titles of key University positions, to reflect the current terminology.