Workplace Bullying Prevention Procedure

Version: 1.0 Effective XX Month 2019 [Consultation draft 20 March to 3 April 2019]

Procedure Statement

This procedure describes the standards, values and expectations for appropriate behaviour in the workplace at UNSW, and obligations on individuals to:

- act in good faith, with trust, ethics, and integrity, and the best interests of UNSW
- emphasise UNSW’s commitment to maintaining a workplace free from harassment and bullying
- provide guidance about what constitutes workplace bullying
- inform staff and affiliates about how to make a complaint in relation to workplace bullying
- outline the consequences for people who engage in workplace bullying
- encourage all staff and affiliates to report any incidents of conduct covered by this procedure; and demonstrate UNSW’s commitment to a diverse and inclusive workplace.

Scope

This procedure applies to all staff and affiliates of UNSW and any person who otherwise falls within the definition of a worker under the Work, Health and Safety Act 2011 (NSW).

It applies to all work performed and duties carried out for UNSW, as well as related activities, such as work-related functions, travel, conferences and any circumstances in which a person is representing UNSW. This procedure applies to all forms of communication, both verbal and written, including email, text messages, instant messaging services, social media and networking forums.

This procedure does not apply to Arc, student clubs; and affiliated residential colleges.

Are Local Documents on this subject permitted? ☐ Yes, however Local Documents must be consistent with this Procedure. ☒ No

Procedure Processes and Actions

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1. Preamble

UNSW’s 2025 Strategy emphasises our commitment to seek wellbeing for all, in a fair and just society through, among other things, providing a workplace environment where people are treated with respect and that is free from workplace bullying.

The UNSW Code of Conduct sets out standards of conduct and behaviour that are expected of all staff and affiliates, including that all people should be treated with respect; and all workers and affiliates should develop awareness regarding the impact of their behaviour on others.

At UNSW:

- all workers and affiliates have a responsibility to support and promote a positive and respectful workplace culture
- workplace bullying is unacceptable behaviour
- appropriate action will be taken when workplace bullying is identified, which may include disciplinary action.

If a staff member breaches this procedure, UNSW may take disciplinary action. In serious cases, this may include termination of employment. The disciplinary process for dealing with alleged breaches of this procedure by staff will be in accordance with the applicable enterprise agreement, industrial instrument or employment contract. Affiliates may have commensurate action taken against them, which may include termination or non-renewal of their contract or appointment.

2. Workplace Bullying Reporting and Resolution Procedure

At UNSW, the process for staff and affiliates to report concerns or complaints about behaviour and conduct in the workplace, is set out in the UNSW Staff Complaint Procedure.

When the complainant is a person who falls within the definition of “worker” under the Work, Health and Safety Act 2011 (NSW) but who is not a staff member or an affiliate, the UNSW Staff Complaint Procedure may not apply, and the person should make a Hazard Incident Report through MyUNSW.

Complaints will be treated seriously by UNSW and dealt with promptly, confidentially and impartially. UNSW will take reasonable steps to ensure that staff and affiliates who make complaints, and anyone else who may be involved in the process, are not victimised for their role in the process.

3. Guidance in response to workplace bullying and similar complaints

A worker who considers they may have experienced workplace bullying by another worker is encouraged to seek assistance at any time from UNSW.

UNSW has a positive duty to take reasonable steps to prevent and eliminate workplace bullying from the workplace.

UNSW may, at its discretion, determine that the seriousness of a matter may require a legal obligation to ensure that a matter is fully investigated without the consent of the individual raising the complaint.

UNSW may, at its discretion, take any action it deems necessary in response to concerns regarding the health, wellbeing or safety of a worker irrespective of the actions contemplated in this procedure.

For the purpose of this procedure any apparent malicious or vexatious behaviour will be addressed as inappropriate behaviour.

While workers are encouraged to use the actions set out in this procedure, they have a right to seek advice from and/or lodge a complaint with external bodies, including the NSW Police, the NSW Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission, the Fair Work Ombudsman, the Fair Work Commission and SafeWork NSW. Making a complaint to an external body does not preclude UNSW from investigating a matter as set out in this procedure.

3.1. Informal assistance

A worker who considers they may have experienced workplace bullying and seeks to have the matter addressed informally may seek assistance from either their manager or a member of the Human Resources team.

Informal assistance may include:

i. providing information about what is meant by workplace bullying in breach of this procedure
ii. providing information about this procedure
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.

3.2. Formal complaint
A worker who considers they may have experienced workplace bullying may submit a formal complaint in accordance with the UNSW Staff Complaint Procedure.

It is not necessary for a person to have sought informal assistance before submitting a formal complaint. A complaint must be in writing and must detail the particular behaviour and incidents to which the complaint relates.

The staff member’s manager is the primary point of contact for staff member’s wishing to make a complaint. The manager’s role is to handle the complaint under the UNSW Staff Complaint Procedure. The manager can help to resolve a matter through a broad range of options, suited to the particular issue, including informal and formal avenues.

Staff members and affiliates are encouraged to contact their manager as soon as possible if they believe they have been bullied, as this creates the best prospect of resolving the issue. If the complaint is about the manager, the staff member or affiliate should contact the next most senior manager, who will handle the complaint or refer it to another manager at an appropriate level.

3.3. Lodging an Incident Report
Where a complaint is made that involves (or may involve) workplace bullying then a Hazard Incident Report must be made through the UNSW Health and Safety Management System, accessed via MyUNSW. This can be done by the staff member or affiliate who has made the complaint or the supervisor or other person handling the complaint.

The UNSW Safety and Wellbeing team can provide information and advice about reporting a matter through the UNSW Health and Safety Management System.

If it is evident to the complaint manager that conflict exists within the particular workplace, regardless of a complaint being substantiated or not, the complaint manager may refer the matter to the Director, Employee Relations.

The Director, Employee Relations will develop a plan to endeavour to resolve the conflict in collaboration with the appropriate:

i. head of school or division (or delegate);
ii. Human Resources Business Partner (or delegate);
iii. Director, Safety and Wellbeing (or delegate); or
iv. for matters involving students, the Student Integrity Unit.

3.4. Additional support
In addition to their manager, a staff member may contact Human Resources, the UNSW Health and Safety team, the UNSW Complaint Officer and/or the Employee Assistance Program about a complaint. Further, at any stage of the complaint process a staff member or affiliate can nominate their own support person to attend meetings and provide support throughout the process.
### Accountabilities

<table>
<thead>
<tr>
<th>Responsible Officer</th>
<th>Vice-President, Human Resources</th>
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<tr>
<td>Contact Officer</td>
<td>Senior Manager, Health and Safety</td>
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### Supporting Information

#### Legislative Compliance

This Procedure supports the University’s compliance with Commonwealth, NSW and ACT laws, regulations, standards or other legislative instruments dealing with: employee entitlements and health and safety, and unlawful discrimination and harassment on the basis of disability. This includes but is not limited to:

- **Anti-Discrimination Act 1977 (NSW)**
- **Disability Discrimination Act 1992 (Cth)**
- **Discrimination Act 1991 (ACT)**
- **Fair Work Act 2009 (Cth)**
- **Work Health & Safety Act 2011 (Cth)**
- **Work Health & Safety Act 2011 (NSW)**;
- **Work Health and Safety Act 2011 (ACT)**; and
- All related regulations, standards and codes.

#### Parent Document (Policy)

- Code of Conduct
- Health and Safety Policy

#### Supporting Documents

- UNSW Australia (Academic Staff) Enterprise Agreement 2015
- UNSW Australia (Professional Staff) Enterprise Agreement 2015

#### Related Documents

- Health and Safety Policy
- Reasonable Adjustment Guidelines for Managers of Staff and Potential Staff with Disabilities.

#### Superseded Documents

- Workplace Bullying Policy, approved VCAC 21 March 2001 and amended December 2003

#### File Number

[For Governance Use]

### Definitions and Acronyms

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<th>Term</th>
<th>Definition</th>
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<tr>
<td>Affiliates</td>
<td>means, conjoint, visiting and adjunct title holders, consultants, contractors, agency staff, members of UNSW committees, emerit and any other person appointed or engaged by UNSW to perform duties or functions for UNSW, University Council members, volunteers, and visitors.</td>
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<td>Complainant</td>
<td>means an individual who considers they may have experienced discrimination, harassment, sexual harassment, bullying and/or victimisation by a worker or student and has brought the matter to the attention of the University either as a concern or a complaint.</td>
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<td>Complaint manager</td>
<td>means the person responsible for managing a complaint as assigned by the University.</td>
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<td>External employment</td>
<td>means work undertaken not for the University or as part of the normal duties of the worker’s role and includes secondary employment, paid work external to the University (including propership), directorships or consultancy.</td>
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<td>Harassment</td>
<td>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.</td>
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<td>Inappropriate behaviour</td>
<td>means behaviour or conduct that does not comply either with this procedure or the standards and expectations of the University.</td>
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Reasonable management action includes, among other actions by the University:

a. requesting a worker 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 a worker about unsatisfactory work performance or inappropriate workplace behaviour.

Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time. There is no specific number of incidents required for the behaviour to be ‘repeated’, provided there is more than one occurrence, nor does the same specific behaviour have to be repeated.

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 New South Wales Act 1989 (NSW).

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.

Unreasonable behaviour means behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

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 procedure.

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.

Worker means an individual employed by the University within the meaning of the Work Health and Safety Act 2011 (NSW). Worker is also commonly referred to as an employee, staff member, academic staff member or technical or professional staff member, including casual employees.

Workplace Bullying means repeated and unreasonable behaviour (by an individual or a group of individuals) directed towards an individual or a group of individuals that creates a risk to health and safety. Bullying does not include reasonable management action. Workplace bullying can be intentional or unintentional. (Proof of actual harm to health and safety is not necessary). Reasonable management action is not workplace bullying.

Revision History

<table>
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<th>Version</th>
<th>Approved by</th>
<th>Approval date</th>
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<td>1.0</td>
<td>Director Safety and Wellbeing</td>
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<td>New Procedure</td>
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Further Information

This section is not published on the final PDF document. It is for website purposes only

Keywords for search engine Bullying, Harassment, Victimisation, Behaviour, Culture, Safety

FAQs and answers
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<td>Workers and affiliates are encouraged to contact their manager early, as this creates the best prospect of resolving the issue. If the complaint is about a worker’s manager or affiliate’s manager, the worker or affiliate should contact the next most senior manager, who will handle the complaint or refer it to another manager at an appropriate level.</td>
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