



Appropriate Workplace Behaviour

Document control

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Purpose

This policy and procedure:

- specifies the Institute's expectations for appropriate behaviour in the workplace;
- defines what constitutes discrimination, harassment and bullying under the law;
- outlines the process for making a complaint about inappropriate behaviour (including anonymous complaints);
- defines the framework for managing inappropriate behaviour, including disciplinary action and termination of employment.

Scope

This policy and procedure applies to employees and students of the Walter and Eliza Hall Institute for Medical Research. A reference to employee in this policy should be read as meaning a reference to Institute employees and students.

Research Misconduct: This policy and procedure does not address professional research misconduct. Allegations of research misconduct will be managed using the Institute's policy and procedure for Good Scientific Practice.

Managing Unsatisfactory Work Performance: This policy and procedure does not address unsatisfactory work performance. This will be managed using the Institute's policy and procedure for Managing Unsatisfactory Work Performance.

Review of Actions: This policy and procedure does not address disagreements about management decisions (i.e. the approval of leave, performance management decisions, recruitment and selection decisions, changes to job role or location, allocation of work or resources etc). This will be managed using the Institute's policy and procedure for Review of Actions.

Expectations

The Institute expects the highest standard of behaviour and conduct in the workplace. Employees at the Institute must:

- uphold the values of the Institute;
- behave in a reasonable and professional manner;

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- treat others with dignity, courtesy and respect;
- listen and respond appropriately to the views and concerns of others;
- respect the opinions and beliefs of others;
- be fair and honest in the dealings with others; and
- comply with all Institute policies and procedures.

Where an employee fails to meet these expectations and engages in inappropriate behaviour, appropriate action will be taken. This may involve mediation, coaching, counselling and/or disciplinary action.

Examples of inappropriate behaviour include (but are not limited to):

- not complying with Institute policies and procedures;
- disruptive or negative behaviour that impacts on colleagues;
- discriminating against, harassing or bullying another employee(s) or any other person; and/or
- improper use of Institute equipment and resources.

This policy and procedure applies to behaviours that occur:

- in connection with work, even if it occurs outside normal working hours;
- during work activities;
- at work related events, for example, at conferences and work related social functions; and/or
- on social media, where employees interact with colleagues and their actions may affect them either directly or indirectly.

Workplace Discrimination, Harassment and Bullying

The Institute does not tolerate discrimination, harassment and bullying in the workplace.

What is Discrimination?

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability. Protected personal characteristics under discrimination law include:

- age;
- carer and parental status;
- disability (including physical, sensory and intellectual disability, work related injury, medical conditions, and mental, psychological and learning disabilities);
- employment activity;
- gender identity, lawful sexual activity and sexual orientation;
- industrial activity;
- marital status;
- physical features;
- political belief or activity;
- pregnancy and breastfeeding;
- race (including colour, nationality, ethnicity and ethnic origin);
- religious belief or activity;
- sex;
- expunged homosexual conviction; and
- personal association with someone who has, or is assumed to have, one of these personal characteristics.

It is also against the law to treat someone unfavourably because it is assumed they have a personal characteristic or may have it at some time in the future.

Discrimination can occur directly or indirectly.

Direct discrimination is when a person or group is treated less favourably than another person or group in a similar situation because of a personal characteristic protected by law, e.g. an employee is refused promotion because they are 'too old'.

Indirect discrimination is when an unreasonable requirement, condition or practice is imposed that has, or is likely to have, the effect of disadvantaging people with a personal characteristic protected by law. For example, it could be indirect sex discrimination if a policy says that supervisors must work full-time, as this might disadvantage women because they are more likely to work part-time because of family responsibilities. Or, it could be indirect disability discrimination if the only way to enter a public building is by a set of stairs because people with disabilities who use wheelchairs would be unable to enter the building.

What is Harassment?

Harassment is any form of behaviour that is uninvited, unwelcome and which humiliates, offends or intimidates another person, or makes the workplace or training environment uncomfortable and unpleasant. It is important to understand that a one-off incident can constitute harassment.

Harassment is unlawful if it:

- is based on particular protected attributes such as a person's sex, race, disability or age; or
- hurts another person (even if it was not intended to cause hurt - intent is irrelevant under the law).

Australian law also has specific provisions relating to sexual harassment, racial hatred and disability harassment:

- the *Sex Discrimination Act 1984* prohibits harassment in the workplace by employers, co-workers and other 'workplace participants', such as partners, commission agents and contract workers. Sexual harassment is broadly defined as unwelcome sexual conduct that a reasonable person would anticipate would offend, humiliate or intimidate the person harassed;
- the *Disability Discrimination Act 1992* prohibits harassment in the workplace based on or linked to a person's disability or the disability of an associate; and
- the *Racial Discrimination Act 1975* prohibits offensive behaviour based on racial hatred. Racial hatred is defined as something done in public that offends, insults or humiliates a person or group of people because of their race, colour or national or ethnic origin.

Harassment in the workplace/ can take many forms (verbal, written, visual or physical) and can be obvious, subtle, direct or indirect. Examples of harassment include (but are not limited to):

- telling insulting jokes about particular racial groups;
- sending explicit or sexually suggestive emails or text messages;
- displaying offensive or pornographic posters or screen savers;
- making derogatory comments or taunts about a person's disability;
- asking intrusive questions about someone's personal life;
- making sexual or suggestive remarks, references and propositions;
- persistent and unwelcome requests to go out;
- spreading rumours;
- mimicking or making fun of someone;
- name calling, threats or insults;

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- circulating humiliating or intimidating literature;
- unwelcome practical jokes;
- following someone to and from work;
- offensive hand or body gestures, wolf whistling; and/or
- unnecessary physical contact (pinching, patting, touching, hugging against a person's will, kissing, pushing, shoving or jostling).

What is Workplace Bullying?

Workplace bullying is defined as *repeated* and *unreasonable behaviour* directed towards an employee, or group of employees that *creates a risk to health and safety*.

Repeated behaviour refers to the persistent nature of behaviour and can involve a range of behaviours over time.

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

Examples of bullying, whether intentional or unintentional, that may be considered workplace bullying if they are **repeated, unreasonable** and **create a risk to health and safety** include (but are not limited to):

- aggressive or intimidating conduct;
- abusive, insulting, humiliating or offensive language or comments;
- unjustified criticism or complaints;
- deliberately excluding someone from workplace activities and work-related events;
- withholding information that is vital for effective work performance;
- setting tasks that are unreasonably beyond or below a person's skill level;
- denying access to information, supervision, consultation or resources to the detriment of the employee;
- spreading misinformation or malicious rumours;
- teasing, practical jokes or 'initiation ceremonies';
- displaying offensive material;
- changing work arrangements (leave and rosters) to deliberately inconvenience an employee or group of employees; and/or
- pressure to behave in an inappropriate manner.

What is not Workplace Bullying?

A single incident of unreasonable behaviour is not considered to be workplace bullying – the behaviour must be repeated and unreasonable and must create a risk to health and safety.

Reasonable Management Action

Bullying does not include reasonable management action carried out in a reasonable manner. Reasonable management action includes (but is not limited to):

- performance management processes;
- disciplinary action for misconduct;
- informing a worker about unsatisfactory work performance or inappropriate work behaviour;
- directing a worker to perform duties in keeping with their job;
- setting reasonable performance goals, standards and deadlines; and
- implementing organisational changes or restructuring.

However, a reasonable management action must be conducted in a reasonable manner. If not, it could still be bullying.

Workplace Conflict

Differences of opinion and disagreements are generally not considered to be workplace bullying. People can have respectful disagreements and differences in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety.

Reporting Inappropriate Behaviour

Employees who feel they have been discriminated against, harassed or bullied (or who are experiencing other types of inappropriate behaviour) are encouraged to contact their supervisor or People & Culture for advice and assistance about the process for resolving their concerns. Any complaint will be handled with sensitivity and discretion. The Institute takes allegations of inappropriate behaviour in the workplace seriously and supports employees in raising honest concerns. Employees will be protected from any repercussions if they make a genuine complaint.

Employee Assistance Program

Employees who witness or experience inappropriate behaviour in the workplace are encouraged to contact the Institute's [employee assistance program provider](#) for free and confidential advice and assistance.

How to resolve a conflict or issue

Employees wishing to resolve conflicts or issues regarding inappropriate behaviour (including making a complaint) may do so by:

- by direct discussion with the person involved;
- referring the matter to their supervisor or People & Culture;
- contacting the independent workplace complaints reporting service: Integrity Line - 1800 468 456; and/or
- lodging a formal written complaint to the Head of People & Culture.

Option 1: Direct Discussion

If the employee is comfortable, they can choose to raise their concerns in a direct private discussion with the person(s) their complaint is about. Employees can structure the discussion to cover:

- the nature of their complaint; and
- the outcome they are seeking and how the situation can be resolved.

Employees can contact the Institute's [employee assistance program provider](#) for free and confidential advice and assistance about how to best approach the conversation.

Option 2: Referral to Supervisor or People & Culture

Where a direct discussion fails to resolve the issue, or the employee does not feel comfortable with a direct approach, the matter can be referred to the employee's supervisor, or to People & Culture, who may:

- speak to the person(s) who the complaint is about, conveying the employee's concerns and desired outcome;
- mediate a meeting between the parties help them talk to each other and find a solution;
- arrange for an independent mediator to meet with the parties to help them talk to each other and find a solution; and/or
- if considered sufficiently serious in nature, arrange for the matter to be investigated.

Option 3: Contact the Independent Workplace Complaints Reporting Service (Integrity Line)

The Integrity Line is an externally run independent workplace complaints reporting service.

Integrity Line provides an independent, secure channel for the confidential reporting of inappropriate behaviour at the Institute. You can contact Integrity Line on 1800 468 456 to discuss concerns and make a complaint.

Option 4: Submit a Formal Written Complaint

An employee may consider lodging a formal written complaint to the Head of People & Culture where:

- the options outlined above were not successful in resolving the matter; and/or
- the matter is of a sufficiently serious nature to warrant formal investigation; and/or
- they wish to lodge a formal complaint.

When a formal complaint has been received, the Head of People & Culture will determine the most appropriate course of action to address the complaint in consultation with the supervisor and Division/Department Head.

This may involve:

- speaking to the person(s) who the complaint is about, conveying the employee's concerns and desired outcome;
- mediating a meeting between the parties help them talk to each other and find a solution;
- arranging for an independent mediator to meet with the parties to help them talk to each other and find a solution; and/or
- if considered sufficiently serious in nature, arrange for the matter to be investigated.

Matters are considered sufficiently serious in nature where:

- there are recurring problems or issues; and/or
- the alleged behaviours:
 - cover a long period of time;
 - involve multiple people;
 - are in dispute;
 - involve senior managers (Department Head, Division Head, Deputy Director or Director);
 - when an employee has submitted a formal complaint; or
 - where other processes have not resolved the matter.

Investigations may be conducted by an internal or external person.

External Review

Both the Institute, and employees are able to refer a grievance to an external agency at any time, such as the Victorian Equal Employment and Human Rights Commission, the Fair Work Commission, or WorkSafe.

Managing Inappropriate Behaviour

The following **principles** apply when managing concerns about inappropriate behaviour in the workplace:

Efficiency - Concerns regarding inappropriate behaviour will be addressed as quickly as possible, with a focus on resolving them between the parties concerned without escalation.

Natural Justice and Procedural Fairness - Decision making about matters involving inappropriate behaviour, including disciplinary action will be fair and reasonable. The principles of natural justice and procedural fairness will apply. This means that:

- the employee will be informed of the concerns about inappropriate behaviour;
- the employee will be given the opportunity to provide a response to the concerns about inappropriate behaviour;
- decision makers will be impartial and make their decisions on the basis of evidence; and
- employees will be given an opportunity to respond to any decisions and proposed disciplinary action.

Confidentiality - Concerns regarding inappropriate behaviour will be handled sensitively in a confidential manner. This means that information about a matter will only be provided to those who need to know about it, in order for the issue to be addressed appropriately.

Transparency - The Institute's procedure for managing inappropriate behaviour will be transparent and accessible. This means that the procedure, possible outcomes, progress, and reasons for decisions will be made available and clearly explained to those involved.

The following **process** applies when managing allegations of inappropriate behaviour.

Step 1: Determine Approach: the Head of People & Culture will determine the approach needed to substantiate the allegations of inappropriate behaviour. In the majority of cases, an investigation (undertaken by an internal or external investigator) will be conducted. If the matter involves a potential criminal offence, it will be referred to the Police. If the matter involves an employee or student under the age of 18, the Head of People & Culture will determine whether the matter needs to be considered under the Institute's Child Safe policy and reporting procedures.

Step 2: Suspension: the Head of People & Culture will determine whether there are reasonable grounds to suspend the employee suspected of inappropriate behaviour from work while the allegations are investigated. Reasonable grounds include where there:

- are significant concerns about an employee's alleged behaviour, such that it could possibly lead to termination of employment;
- are concerns that the employee would represent a danger to themselves or others if left in the workplace; and/or
- is a concern that the employee will tamper with or remove evidence relevant to the investigation if left in the workplace.

If reasonable grounds exist, the employee will be advised of their suspension from work in writing. The employee will continue to receive full pay during their suspension. Suspended employees must remain available for interview and communication whilst suspended from work.

Step 3: Advise the Employee: the Head of People & Culture will advise the employee in writing of:

- the allegations of inappropriate behaviour;
- the possible disciplinary action that may be taken if the allegations are substantiated;
- their right to respond to the allegations and have that response considered;
- the confidential process that will be used to investigate / substantiate the allegations and the expected timeframes;
- the person who will make decisions about the findings of any investigation and disciplinary action;
- their right to have a support person present in any discussions / interviews relating to the allegations;
- their obligation to not harass or victimise the person(s) making the complaint in any way; and
- the Institute's policy and procedure for addressing concerns regarding inappropriate behaviour.

Step 4: Investigation: an investigation into the allegations of inappropriate behaviour will take place to determine whether it did, or did not occur. The standard for substantiating the inappropriate behaviour is via the balance of probabilities (i.e. it is more probable than not that what is alleged to have happened did happen). To determine whether the allegations have substance, investigators may:

- interview the employee and provide them with an opportunity to respond to the allegation of inappropriate behaviour;
- interview witnesses or other people who can provide relevant information about the alleged inappropriate behaviour;
- review relevant correspondence and documentation regarding the alleged inappropriate behaviour; and/or
- consider the employee's response to the allegations.

The investigator will present their findings to the Head of People & Culture.

Step 5: Determination of Outcomes (including Disciplinary Action): the Head of People & Culture, Deputy Director, Strategy & Operations and/or Institute Director will consider the findings of the investigation and determine an appropriate outcome.

Unsubstantiated allegations

Where the allegations of inappropriate behaviour are found to be unsubstantiated, the employee will be advised of this in writing and the disciplinary process will conclude. Where an employee is found to have made a vexatious complaint (a claim that is false, lacking in substance, designed to harass, annoy, or damage the reputation of another employee), disciplinary action will be taken.

Substantiated allegations

Where the allegations of inappropriate behaviour are substantiated (i.e. found to have occurred) the Institute will take prompt and appropriate action. This may include:

- counselling;
- a requirement to attend awareness training;
- a requirement to formally apologise to the employee who made the complaint;
- participation in mediation to restore relationships in the workplace; and/or
- disciplinary action (warnings or termination of employment).

Outcomes for the employee making the complaint

Outcome for the employee making the complaint may include:

- participation in mediation to restore relationships in the workplace;
- re-crediting of leave taken as a result of inappropriate behaviour (i.e. discrimination, harassment or bullying);
- supportive counselling;
- a change in work environment (i.e. a change in team / lab / or work location); and/or
- participation in mediation to restore relationships in the workplace.

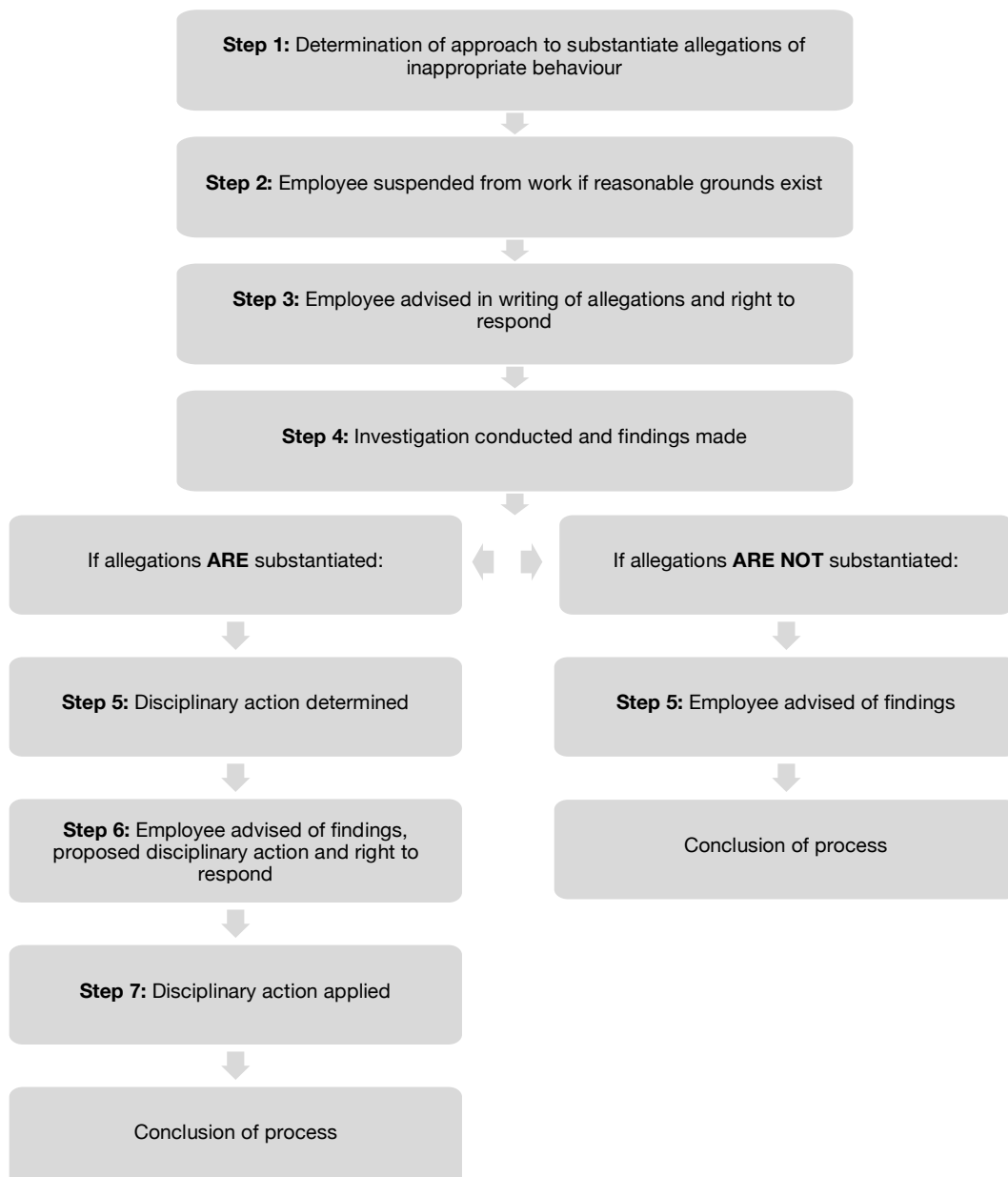
Research misconduct

Concerns relating to research misconduct are investigated in accordance with the *Good Scientific Practice Policy*. Where allegations of research misconduct are substantiated, disciplinary action may apply (as outlined above).

Step 6: Advise Employee of the Outcome (including proposed disciplinary action): the Head of People & Culture, Deputy Director, Strategy & Operations and/or Institute Director will meet with the employee and advise them of the findings of the investigation and proposed disciplinary action. The outcomes of the investigation and proposed disciplinary action will be confirmed in writing. The employee will be provided with an opportunity to respond.

Step 7: Application of Disciplinary Action: After considering the employee's response (if provided), the Head of People & Culture, Deputy Director, Strategy & Operations and/or Institute Director will then impose the disciplinary action.

Overview of the Process for Managing Inappropriate Behaviour



Disciplinary Action

Disciplinary action taken for inappropriate behaviour may include:

- a verbal warning;
- a first written warning;
- a final written warning; or
- termination of employment.

The type of disciplinary action taken will depend on the circumstances. For example, it may be appropriate to give a first written warning in one situation, however, termination of employment may be appropriate in a more serious situation. (Note: the provisions for disciplinary action do not apply to casual employees or those serving a probationary period of employment).

Disciplinary action may only be taken with the approval of the Head of People & Culture, Deputy Director, Strategy & Operations and/or Institute Director.

Serious Misconduct

As defined by the *Fair Work Regulations 2009*, serious misconduct includes:

- willful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;
- conduct that causes serious and imminent risk to the:
 - health or safety of a person;
 - the reputation, viability or profitability of the employer;
- engaging in theft, fraud or assault;
- being intoxicated at work; and/or
- refusing to carry out a lawful and reasonable instruction that is consistent with the employee's contract of employment.

In cases of serious misconduct, summary dismissal (termination of employment without notice) may be warranted.

Verbal Warnings

Verbal warnings must cover:

- the behavioural standards required;
- that an investigation has found that the employee has behaved inappropriately;
- that as a result the Institute is issuing the employee with a verbal warning;
- the possible further disciplinary action that may be taken should their behaviour not improve to the required standard (further written warnings and termination of employment);

A file note outlining the details of the verbal warning will be placed on the employee's personnel file.

Written Warnings (first written warning and final written warning)

A written warning must cover:

- the details of the warning;
- the standard of behaviour required; and
- that a failure to improve behaviour to the required standard period may result in further disciplinary action (final written warning or termination of employment).

Written warnings are prepared by People & Culture and signed by the Head of People & Culture, Deputy Director, Strategy & Operations and/or Institute Director.

Termination of Employment

The Institute will consider any response provided by the employee in relation to a proposal to terminate their employment. If the matter is to proceed, they will be provided with a letter confirming the termination of their employment, and details of the notice period or payment in lieu of notice. This letter will be prepared by People & Culture and be signed by the Head of People & Culture, Deputy Director, Strategy & Operations and/or Institute Director.

Record Keeping

Copies of all documentation relating to the inappropriate behaviour and associated investigation will be held on file within People & Culture. Copies of documentation regarding disciplinary action taken will be placed on the employee's personnel file.

Support People

Employees may have a support person accompany them at interviews or meetings. Support persons may provide emotional support, take their own notes and ask for clarification on what has been said. They cannot offer their own opinion, or represent or act in a legal capacity.

Care and Due Diligence

Decisions relating to disciplinary action and termination of employment can subject the Institute to external review by bodies such as the Victorian Equal Employment Opportunity and Human Rights Commission and the Fair Work Commission. These external bodies can review any actions taken by the Institute and determine whether they were lawful, just and reasonable given the circumstances. Given this, it is essential that supervisors contact People & Culture and follow the advice provided to address any concerns they have regarding inappropriate behaviour.

Safe Reporting of Inappropriate Behaviour

Employees with genuine complaints about inappropriate behaviour are safe to report them. The Institute has a zero tolerance approach to victimisation of anyone who makes a complaint. Victimisation is against the law. The Institute will take disciplinary action against any employee found to have victimised another person. Victimisation involves subjecting or threatening to subject someone to a detriment because they:

- have asserted their rights under equal employment law;
- have made a complaint;
- have helped someone else make a complaint;
- may be involved in investigating a complaint (such as a witness) and/or
- refuse to do something because it would be discrimination, harassment or victimisation.

Employees must not be personally disadvantaged as a result of making a complaint by:

- a) dismissal;
- b) demotion;
- c) any form of harassment;
- d) discrimination; and/or
- e) current or future bias.

Complaints about victimisation in connection with a complaint or attempted complaint must be directed to the Head of People & Culture, who will investigate the matter. If it is established that victimisation has occurred, the Head of People & Culture will ensure all reasonable steps are taken to stop the activity and protect the employee who made the complaint. This will include disciplinary action against those involved in the victimisation.

An employee who considers that they are the subject of victimisation may also seek independent legal advice or contact appropriate authorities, including the Human Rights and Equal Opportunity Commission.

Vexatious claims

Where an employee is found to have made a vexatious complaint (a claim lacking in substance, designed to harass, annoy, or damage the reputation of another employee), disciplinary action may be taken.

Roles and Responsibilities

Employees are responsible for:

- following the standards of behaviour outlined in this policy and procedure;
- offering support to people who experience inappropriate behaviour (including discrimination, bullying or harassment), including providing information about how to make a complaint;
- avoiding gossip and respecting the confidentiality of complaint resolution procedures; and
- treating everyone with dignity, courtesy and respect.

Supervisors are responsible for:

- modeling appropriate standards of behaviour;
- intervening quickly and appropriately when they become aware of inappropriate behaviour;
- acting fairly to resolve issues and enforce workplace behavioural standards;
- helping employees resolve complaints informally;
- referring formal complaints about breaches of this policy and procedure to People & Culture;
- determining the appropriate action to take in consultation with People & Culture;
- keeping records of discussions regarding inappropriate behaviour; and
- ensuring employees who raise an issue or make a complaint are not victimised.

People & Culture are responsible for:

- providing advice on how to best manage allegations of inappropriate behaviour;
- acting fairly to resolve issues and enforce workplace behavioural standards;
- providing assistance to employees and supervisors during the resolution process;
- attending meetings with supervisors and employees regarding inappropriate behaviour;
- preparing correspondence and warnings; and
- ensuring employees who raise an issue or make a complaint are not victimised.

The Head of People & Culture is responsible for:

- determining how to manage allegations of inappropriate behaviour;
- determining whether to suspend employees suspected of inappropriate behaviour;
- appointing investigators;
- considering the findings of investigations and determining disciplinary action in consultation with the Deputy Director Strategy & Operations and Institute Director;
- endorsing the termination of employment for employees with inappropriate behaviour in consultation with the Deputy Director Strategy & Operations and Institute Director; and
- ensuring employees who raise an issue or make a complaint are not victimised.

The Deputy Director Strategy & Operations and the Institute Director are responsible for:

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- considering the findings of investigations and determining disciplinary action in consultation with the Head of People & Culture;
- endorsing the termination of employment for employees with inappropriate behaviour in consultation with the Head of People & Culture; and
- ensuring employees who raise an issue or make a complaint are not victimised.

Additional support for students

In addition to the options above, students can also discuss workplace concerns with their PhD Advisory Committee, or with the Science Education Team. Students may also seek free and confidential advice from the [University of Melbourne Graduate Student Association](#) by calling [\(03\) 8344 8657](#).

Associated documents

Managing Unsatisfactory Performance Policy and Procedure

Good Scientific Practice Policy

Review of Actions Policy and Procedure

Health and Safety Issues Resolution Procedure

References

The content of this policy and procedure is based on, and contains information from:

- [The Australian Human Rights Commission Good Practice Guidelines for Internal Complaint Processes](#)
- [The Fair Work Ombudsman Best Practice Guide for Effective Dispute Resolution](#)
- [Australian Human Rights Commission Good Practice Guide: Workplace discrimination, harassment and bullying](#)
- [Australian Human Rights Commission Good Practice Policy Template: Workplace discrimination, harassment and bullying](#)
- [Worksafe Victoria Guide: Workplace bullying – prevention and response](#)
- [Safe Work Australia: Guide for Preventing and Responding to Workplace Bullying](#)
- [Fair Work Commission Guide: Anti-bullying](#)

Legislation

Applicable Legislation and Regulations used and referenced in this policy, (as updated and amended from time to time), includes but is not limited to the following:

- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act (1986) (Cth)
- Disability Discrimination Act 1992 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Work Place Gender Equality Act 2012 (Cth)
- Fair Work Act 2009 (Cth)
- Victoria Equal Opportunity Act 1995 (VIC)
- Victorian Occupational Health and Safety Act 2004 (VIC)