

PROCEDURE C5.2-P5.2

BULLYING, HARASSMENT AND DISCRIMINATION (STAFF AND STUDENTS)

1.0 INTRODUCTION

1.1 Related Policy

Bullying, Harassment and Discrimination (Staff and Students) Policy

In addition, the following policies and procedures provide additional process requirements:

- Staff Grievances Policy
- Student Grievances and Complaints Policy
- Health Safety and First Aid in the Workplace Policy
- Sexual Assault and Sexual Harassment Prevention And Response (Students And Staff) Policy

1.2 Purpose

This procedure outlines Scentia's proactive approach and the support available for students and staff who have experienced bullying, harassment or discrimination. It also provides an overview of the Grievance and Complaints process which is the mechanism for formal reporting and responding to bullying, harassment or discrimination.

This procedure should be read in conjunction with the Bullying, Harassment and Discrimination policy and the Staff Grievances policy and procedure, or the Student Grievances and Complaints policy and procedure.

1.3 Scope

This policy applies to:

- all students.
- all non-academic and academic staff of Scentia whether full-time or fractional, continuing, fixed-term, contractors or casual.
- members of Scentia, AIM and ACHW Boards.
- volunteers who contribute to Scentia's activities or who act on behalf of Scentia.
- Scentia's third party partners.

It applies to incidents that occur:

- at any of Scentia's or third-party partner premises.
- on any of its online learning platforms and online environments (for staff and students).
- during Scentia business, when representing Scentia or during events affiliated with Scentia.

This includes work outside normal working hours and covers all methods of communication through which bullying, harassment and discrimination can take place including, but not limited to, face to face, email, text messaging and social media platforms.

1.4 Scope Exceptions

Sexual harassment is covered under the Sexual Harassment and Assault Prevention and Response policy and procedure.

2.0 RESPONSIBILITIES

1. All staff responsible for responding to bullying, harassment and discrimination through informal and formal processes must:
 - act in accordance with the relevant grievance policy and process;
 - treat all disclosures seriously, confidentially, and impartially;
 - ensure no parties are victimised or discriminated against at any stage of this procedure; and
 - ensure the process and treatment of the alleged offender is guided by the principles of natural justice and procedural fairness.
2. The Student Welfare Committee on a quarterly basis, reviews incidents of bullying, harassment and discrimination raised by students, even if they do not proceed to formal reports.
3. The Head of Academic Delivery, VET is responsible for reporting to the Executive Leadership Team (ELT) via the Executive Director, AIM on a quarterly basis, incidents of bullying, harassment and discrimination raised by students, even if they do not proceed to formal reports.
4. The Head of People and Culture (for staff) will report incidents of bullying, harassment and discrimination raised by staff to the ELT, even if they do not proceed to formal reports.
5. All other responsibilities outlined in the Bullying, Harassment and Discrimination policy extend to this procedure.

3.0 PROCEDURE

3.1 Prevention

1. Training on identifying and responding to bullying, harassment and discrimination and information on the support available is provided to:
 - staff during induction;
 - students during orientation;
 - managers and student-facing staff when appointed to the role; and
 - at various intervals throughout their employment/enrolment.
2. Staff are required to follow recruitment practices (for example, panel interviews) to ensure employment decisions are based upon merit, fit, fact and circumstance. These are outlined in staff recruitment policies and procedures.
3. Members of the Executive Leadership Team are expected to role model positive and respectful behaviour and encourage staff to engage with training and report relevant risks.

3.2 Support

1. In the event of an emergency, students and staff should contact emergency services (police, ambulance) by calling 000.
2. Individuals affected by bullying, harassment or discrimination can:
 - access professional counselling through the Employee Assistance Program (EAP) for support. Contact details: 1800 818 728, www.accesseap.com.au. Further information on the support available can be found in staff and student handbooks.
 - request special consideration to extend assignment deadlines and reschedule exams by contacting Student Support.
 - seek adjustments to work requirements, deadlines or location by discussing this with their direct manager or the Head of People and Culture.
 - access information about, and obtain assistance to navigate, Scentia's formal reporting process from student support (for students) and the Head of People and Culture (for staff).

3.3 Responding to bullying, harassment, and discrimination

1. Individuals affected by bullying, harassment or discrimination can address the incident(s) informally or formally, as outlined below. However, if an individual believes a criminal incident has taken place, they must report the matter to the police. The individual will be supported by the organisation.

Informal

2. When confronted with bullying, harassment or discrimination, an individual should consider their level of safety. If appropriate and safe to do so, they can:
 - attempt to resolve directly by approaching the alleged offender to discuss the offensive behaviour and request that it stop. (It should be noted this is not considered a disclosure - it will not lead to a record of the incident or a referral to support services).
 - tell a trusted colleague, student, teacher or staff member about the incident. This is considered a 'disclosure'. They can refer you to support available and outline your reporting options.

Informal resolution

3. Affected individuals can seek to resolve their incident via informal resolution. This is not a formal report; however, it involves the intervention of a third party to address an incident or resolve an issue in a fair and equitable manner.
4. Requests for informal resolution do not have to be in writing, however, they must be directed to:
 - Student Support- for students
 - their direct manager - for staff
5. Student Support (for students) or the direct manager (for staff) will manage the informal resolution process and involve the parties concerned. The process will follow the principles of natural justice and procedural fairness, as outlined in the Student Grievance and Complaints procedure or the Staff Grievances policy.
6. If the incident of bullying, harassment or discrimination involves any people named in clause 3.3.4 of this policy, the affected individual can inform their Manager's Manager (if staff) or Executive Director (if student).
7. If the individual is not satisfied with how the informal resolution is handled, they can either escalate to their Manager's Manager (if staff) or Executive Director (if student) or formally report the matter as outlined in this policy.

Formal reporting

8. Affected individuals can formally report incidents of bullying, harassment or discrimination as a grievance. This will be addressed in accordance with the Staff Grievances policy, and the Student Grievances and Complaints policy. Refer to these policies and their related procedures for details on formal reporting.

9. Where bullying, harassment or discrimination causes an individual extreme stress, fear or injury and results in psychological and/or physical trauma, the affected individual should lodge the incident(s) as a critical incident. This will provide a more immediate response. Refer to the Critical Incident Management policy.
10. An individual can seek independent advice, as noted in section 3.2 of this policy, if they need further support or information on the formal reporting process.

3.4 Responding to a formal report

1. Once a formal report has been submitted, the assessment will follow the process outlined in the Staff Grievances policy and procedure or the Student Grievance and Complaints policy and procedure.
2. To summarise, this involves the following stages:
 - A prompt response confirming receipt.
 - An investigation of the allegation of bullying, harassment or discrimination.
 - Recommendation of an appropriate resolution.
 - Appropriate sanctions or corrective action against the person responsible, if bullying, harassment or discrimination has occurred.
 - Advice to the individual of external avenues for further review if the incident(s) have not been substantiated by Scentia.
3. The Executive Director (for students) and Head of People and Culture (for staff) will provide regular and timely communication to all parties throughout the process about next steps and resolution. This includes providing the accused with details of reports made about them.
4. The process is free of charge and all parties have the right to be represented by a third person (such as a family member, friend, counsellor, or other professional support person, other than a lawyer) throughout the process.
5. If any individual is unsatisfied with the outcome of the grievance and complaints process, they can request an External Review by the appropriate state or federal government body as outlined in the relevant grievance policy and procedure.

3.5 Privacy, Confidentiality and Record Keeping

1. A report showing the number of student disclosures and formal reports of bullying, harassment and discrimination incidents, their status and outcomes will be provided to the relevant committee.

- For HE students - the Executive Directors will report to the Student Welfare Committee
 - For VET students- the Head of Academic Delivery will report to the SLT via the Executive Director, AIM
 - For staff - the Head of People and Culture will report to the ELT and WHS Committee.
2. These reports must be de-identified and include any recommendations for changes to policies and procedures for preventing and responding to bullying, harassment and discrimination.
 3. All other procedures to maintain privacy, confidentiality and ensure appropriate record keeping are outlined in the Staff and Student Grievances and Complaints policy.

3.6 Reporting, Evaluation and Risk Management

1. Scentia utilises a risk management approach to inappropriate behaviour and unlawful conduct which is outlined in the Scentia Risk Management Policy. Risk is monitored by the Audit and Risk Committee and captured in the Corporate Risk Register.
2. Additional factors are used to inform the risk assessment including but not limited to:
 - industry characteristics that may affect staff and students
 - industry data on rates of relevant unlawful conduct
 - industry-relevant WHS guidance, including approved Codes of Practice which set out what is reasonably practicable to manage hazards under WHS laws.
3. Regular reports on risk are made to the Corporate Board by the Audit and Risk Committee to confirm that sufficient and adequate risk mitigation controls are in place.
4. Data analytics and recommendations are presented to the Corporate Board to determine compliance with positive duty and evaluate effectiveness of policies, processes and control measures in place. Data reports may include but are not limited to:
 - Student and staff feedback.
 - Demographic data including gender balance.
 - Formal and informal incidents and actions taken, including nature and frequency.
 - response to an informal or formal incident.
 - trend data from EAP counselling services.

- frequency of access of support services.
5. Data and reports are prepared in accordance with privacy and confidentiality requirements as outlined in clause 3.5 of this procedure.

4.0 DEFINITIONS

- **Affected individual** - An individual who has experienced an incident or incidents of bullying, harassment or discrimination.
- **Bullying** - is repeated and unreasonable behaviour - such as victimising, humiliating, intimidating or threatening - directed towards a staff member or a group that creates a risk of physical and/or psychological harm.
- **Disclosure** - when a victim/survivor or witness tells someone about an incident(s) of bullying, harassment or discrimination. Disclosing is not the same as reporting but enables the victim/survivor to be provided with support and options.
- **Discrimination** - is any practice that makes distinction between individuals or groups so as to arbitrarily advantage one and disadvantage the other. Discrimination occurs when somebody is treated less favourably on grounds such as: gender, imputed characteristics (stereotypes), parental status, sexual orientation, gender identity, marital status, race, age, impairment (physical or intellectual), religion, political belief or activity, trade union activity, pregnancy or breastfeeding.
- **First responder** - Anyone who receives a disclosure of an incident of bullying, harassment or discrimination.
- **Grievance** - An official statement of a complaint or appeal over something believed to be wrong or unfair.
- **Harassment** - is considered to be any form of behaviour that is unwanted; offends, humiliates or intimidates a person or a group of people because of a particular personal characteristic (such as race, sex, age, gender, disability or sexuality); or creates a hostile environment.
- **Inappropriate behaviour** - behaviour that does not respect the rights and sensitivities of all people in the organisation's work and learning environment.
- **Natural Justice** - a principle that provides for procedural fairness to all parties by:
 - ensuring all parties are given an opportunity to present their case.
 - the respondent must be provided with notice and information about allegations made against them and information about their rights including to have a support person.

- the respondent must be given a reasonable timeframe within which to respond; the decision maker must declare any conflict of interest.
- the decision maker must act fairly and without bias, consider all relevant evidence; and base any decision on evidence that supports it.
- All relevant parties will be informed in writing of the outcome of a formal investigation.
- **Positive Duty** - defined in the Sex Discrimination Act 1984 (Cth) as the duty to take reasonable and proportionate measures to eliminate, as far as possible, the following conduct:
 - discrimination on the ground of sex in a work context
 - sexual harassment in connection with work
 - sex-based harassment in connection with work
 - conduct that amounts to subjecting a person to a hostile workplace environment on the ground of sex.
 - related acts of victimisation.
- **Unlawful conduct** - as defined by the Sex Discrimination Act 1984.

5.0 REFERENCES AND ASSOCIATED INFORMATION

- Bullying, Harassment and Discrimination (Staff and Students) Procedure
- Student Grievances and Complaints Policy and Procedure
- Staff Grievances Policy and Procedure
- Critical Incidents Policy and Procedure
- Sexual Harassment and Assault Prevention and Response Policy and Procedure
- Grievance Form
- Grievance Register
- Privacy of Student Information and Records Policy
- Privacy of Staff Information and Records Policy
- Scentia Risk Management Policy
- Guidelines for Complying with the Positive Duty under the Sex Discrimination Act 1984 (Cth)
- Anti-Discrimination Act 1991

- Disability Discrimination Act (DDA) 1992
- Higher Education Standards Framework (Threshold Standards) 2021
- TEQSA Guidance Note: Diversity and Equity
- Tertiary Education Quality and Standards Agency (TEQSA) Act 2011

6.0 POLICY/PROCEDURE OWNERSHIP

Policy Owner	Head of People and Culture
Status	Reviewed on December 2023
Approval Authority	Scentia Corporate Board, with endorsement by ACHW and AIM Corporate Boards
Date of Approval	13/12/2023
Effective Date	13/12/2023
Implementation Owner	Head of People and Culture
Maintenance Owner	Head of Compliance
Review Due	December 2026
Content Enquiries	Liz Douglas - Head of People and Culture Email: ldouglas@scentia.com.au

7.0 AMENDMENTS

Version	Amendment Approval (Date)	Amendment Made By (Position)	Amendment Details
C5.0-P5.0	21 October 2021	Director of Education	Rewrite. Incorporated clauses from previous Equal Opportunity and Discrimination policy. Added prevention and support sections and new clauses. Added sections and further detail on informal resolution and formal reporting.

Version	Amendment Approval (Date)	Amendment Made By (Position)	Amendment Details
C5.1-P5.1	November 2022	Head of Compliance	Updated to include relevant legislation and guidance notes.
C5.2-P5.2	13 December 2023	Corporate Board	Revision to meet requirements of the amendments to the Sex Discrimination Act 1984 on 'positive duty'.