

Bullying and Harassment Procedure



Institute of Health &
Management Pty. Ltd.

ABN: 19 155 760 437
HEP ID: PRV 14040
CRICOS Code: 03407G

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Purpose

1. The purpose of this document is to set out the procedures in providing a positive, safe, and supportive study and work environment for students, staff, and visitors and reducing and eliminating bullying and harassment.
2. This Procedure sets out the Institute's principles and commitment to preventing and responding to incidents of bullying and/or harassment.

Scope

3. This Procedure applies to all IHM staff, students, contractors, business partners, interns, volunteers and visitors participating in online, on-campus and offshore activities.
4. The Procedure applies to any conduct is connected to the IHM, including that:
 - a) Occurs on, or in connection to, IHM's property, managed or occupied by the IHM.
 - b) Takes place at or in connection to any IHM related function, conference or event.
 - c) Involves any form of contact or communication, whether initiated in person, by phone, fax, cameras, social networking or media, email, SMS communication or any other means.
 - d) Occurs in connection with the employment or enrolment status of a student or staff member.

Definitions

5. The following definitions have their meaning as spelt out below:
 - a) **Bullying** - as defined by the Occupational Health, Safety and Welfare Act 1986, is behaviour that is directed towards a person or a group of persons, that is repeated and systematic, and that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten personnel to whom the behaviour is directed, creating a risk to health or safety.
 - b) **Occupational violence** - any incident where personnel is physically attacked or threatened in the workplace.
 - c) **Offensive** - any conduct or language which a reasonable person would regard as insulting or humiliating in the circumstances.
 - d) **Sexual Harassment** is defined as:
 - a. making an unwelcome sexual advance, or an unwelcome request for sexual favours, to another person; or
 - b. engaging in other unwelcome conduct of a sexual nature in relation to another person (including making a statement of a sexual nature to, about or, in the presence of another person).
 - e) **Victimisation** - refers to unfavourable treatment of a person because of their involvement in a complaint made under the Institute's grievance procedures or to an external body.
 - f) **Vilification** - is publicly encouraging or inciting hatred, ill-feeling or severe contempt for someone or a group of people on the basis of race and certain other personal characteristics.

Suite documents

6. This Procedure is linked to the following procedures:
- a) Bullying and Harassment Procedure
 - b) See also the associated information listed in the 'Related Internal Documents' in Section 3 below.

SECTION 2

Procedure

7. Code of Conduct

- a) As outlined in the Staff Business Code of Conduct, the Student Code of Conduct, the Student Code of Conduct Implementation Guidelines, individuals are responsible for making themselves aware of and adhering to IHM Policies and Procedures relating to all forms of discrimination, bullying and harassment.
- b) Discrimination, bullying or harassment will not be tolerated at the Institute under any circumstances and may in fact be unlawful under the State or Commonwealth law.

8. Forms of Discrimination

- a) The *Anti-Discrimination Act 1991* prohibits discrimination on the basis of the following attributes such as sex, relationship status, parental status, race, religious belief or activity, political belief or activity, impairment, trade union activity, lawful sexual activity, pregnancy, breastfeeding, family responsibilities, gender identity (IHM also recognises gender expression and intersex status as extensions of the gender identity attribute), sexuality, age or an association with, or relation to, a person identified on the basis of any of the above attributes.
- b) Direct discrimination takes place when an individual is disadvantaged or treated less favourably than another person.
- c) Indirect discrimination happens when a practice or policy appears to be fair because it treats everyone the same way but disadvantages people from a particular group.

9. Forms of Harassment

Under federal and state legislation, it is unlawful to harass anyone based on any of the attributes specified under the anti-discrimination or human rights legislation. Below are some examples of behaviours that Harassment can take under particular attributes, however this is not an exhaustive list.

a) Sexual Harassment

Occurs when a person is subjected to unwanted sexual conduct and which makes a person feel offended, humiliated and/or intimidated where that reaction is reasonable in the circumstances.

Sexual Harassment can take various forms such as:

- a. unwelcome touching, hugging or kissing; staring or leering or suggestive comments; sending sexual material online or via email.
- b. unwanted invitations to go out on dates or requests for sex; insults and taunts based on a person's sex.
- c. behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

b) **Disability Harassment**

Under the Disability Discrimination Act 1992, it is unlawful to harass someone based on their disability or based upon a relative or associate having a disability. Their disability may be in the past, the present or the future.

Disability harassment can take various forms such as:

- a. Making rude, abusive or insulting comments or using actions about a person's disability which are insulting or humiliating, such as suggestive pictures, jokes or computer screensavers.
- b. Making comments or using actions which create a hostile environment.
- c. Using overbearing or abusive behaviour with a person with a disability.

c) **Racial Harassment**

Racial Harassment is any behaviour which is reasonably likely to 'offend, insult, humiliate or intimidate' and can consist of behaviour which negatively comments on a person's race, colour, nationality, accent, or ethnic origin.

Racial harassment can take various forms such as:

- a. Racially oriented ridicule, e.g. derogatory reference to physical features, skin colour or cultural and religious observances or imitating someone's accent.
- b. Displaying or circulating racist cartoons or literature or writing racist graffiti.
- c. Isolation or segregation on the basis of race or ethnicity wearing racist symbols (such as badges) or clothing with racist slogans in public.

d) **Sexuality**

Harassment under the grounds of sexuality covers those who are heterosexual, lesbian, gay or bi-sexual. Vilification is also prohibited based on sexuality or gender identity.

Sexuality based harassment can take various forms such as:

- a. Using derogatory language on the phone, in person or in online discussions to describe a person based on their sexuality or their sexual preference.
- b. Using posters in public places to abuse people because of their sexuality.
- c. Websites inciting hatred of people who are gay or lesbian, or deriding people on the basis of their sexuality in public meetings.

e) **Gender-based Harassment**

Gender-based Harassment is defined as a person who identifies as a member of the opposite sex by living or wanting to live as someone of that sex, or a person of indeterminate sex, who seeks to live as a member of a particular sex.

It can include behaviour such as:

- a. Telling someone to use a toilet that doesn't fit with that person's gender self-identity.
- b. Derogatory language such as referring to someone as "it", remarks, jokes or practical jokes.
- c. Employees in the reception area of a business discussing a person and making derogatory comments and encouraging members of the public to join in.

f) Age-based Harassment

Age based harassment consists of negative references resulting from stereotypes of what people can do at a particular age.

It may include:

- a. Derogatory remarks about a person's age, mental and physical capabilities and appearance
- b. patronising or humiliating someone because of their age.
- c. Isolation or segregation based on someone's age.
- d. Circulating ageist cartoons or literature, displaying offensive age related material on walls, online or on computer screens.

g) Workplace Harassment

As described under the Work Health and Safety Act 2011, Workplace harassment may include:

- a. Physical or verbal abuse.
- b. Excluding or isolating a person from normal work interaction, training and development or career opportunities, unreasonable "administrative sanctions" e.g., undue delay in processing applications for training, leave or payment of wages.
- c. Psychological Harassment such as unexplained job changes and meaningless tasks, assigning tasks beyond a person's skills, failure to give credit where due.
- d. Intimidation - for example using unwarranted threats of disciplinary action.
- e. Repeated threats of dismissal or other severe punishment for no reason.
- f. Giving a person an impossible job or deadline; sabotaging someone's work by deliberately withholding vital Information or resources; hiding documents or equipment, not passing on messages, or creating a situation of 'under-work' with a feeling of uselessness.
- g. Maliciously excluding or isolating a person from work activities.
- h. Unacceptable aggressive manner from the Supervisor.
- i. Insulting messages or gestures, such as leaving offensive messages on email or on the telephone.
- j. Inappropriate use of discussion boards and interactive chat rooms.
- k. Humiliating a person through gestures, by using sarcasm, belittling someone's opinion, patronising or intimidating remarks.
- l. Spreading misinformation or malicious rumours.
- m. Constant criticism or insults.
- n. Manipulating the impression of others to split the work group into taking sides.
- o. Displaying written or pictorial material which may degrade or offend certain employees.
- p. Spreading gossip or false, malicious rumours about a person with an intent to cause that person harm.

10. Exclusions of Discrimination, Bullying and Harassment

- a. Managers and Supervisors have responsibilities to manage and supervise their employees, particularly with regard to unsatisfactory performance of duties.
- b. Teaching staff and Supervisors also have responsibilities to provide academic guidance and advice to students. Such comment and advice may include critical statements and feedback along with monitoring and review of work and academic performance.

- c. The act of correcting employees and students, pointing out areas for improvement, invoking performance counselling or misconduct procedures does not in itself constitute bullying or harassment.
- d. Managers, supervisors and teaching staff have the responsibility to establish and maintain a workplace free from bullying and harassment by offering constructive and legitimate advice and comment in a way that does not demean or humiliate either employees or students.

11. Education, Awareness and Orientation

- a. IHM is committed to *preventing* bullying, harassment and discrimination in its physical and virtual environments through ongoing education and training.
- b. The online education and awareness module is delivered through CANVAS learning management system which must be successfully undertaken by all enrolled students prior to course commencement.
- c. To ensure effective communication and re-enforcement of this policy and students' understanding of their responsibilities, the Institute staff also cover bullying and harassment topic during the orientation presentations at each of its campuses.
- d. IHM provides education about the policy and procedure to the staff during staff induction processes and through the Business Code of Conduct.

12. Responsibility for the eradication of Discrimination and Harassment

- a) Individual employees and students have a responsibility not to participate in discriminatory, harassing, or victimising behaviour within the workplace or learning environment and to behave in a respectful, tolerant and equitable manner to all members of the organisation.
- b) Managers, supervisors and lecturers have a particular responsibility to:
 - a. Take reasonably practicable steps to ensure that their workplace or learning environment both on-campus and online, is free from discrimination, bullying and harassment.
 - b. Inform all employees and students clearly of what is and what is not acceptable behaviour and advise that if claims of discrimination, bullying, harassment, victimisation or vilification are substantiated, then disciplinary procedures may be invoked.
 - c. Inform employees and students of the support available to them for resolving Informal complaints including the support offered by Human Resources and Student Services staff to people experiencing discrimination, bullying, harassment, vilification or victimisation.
 - d. Inform employees and students who experience discrimination, bullying and harassment of their rights and provide them with the appropriate policy and procedures to resolve their concerns.
 - e. Ensure that the employee or student not be made to feel that they should take certain action, or no action because of their responsibility to employees or other students.
 - f. Ensure that employees and students who make a complaint are not victimised for doing so and always respect their privacy and confidentiality.
 - g. Ensure that the policies and procedures in relation to the resolution of a Grievance/Complaint are followed as written.
 - h. Seek appropriate assistance from Human Resources and Student Services staff if required.
- c) The human resource department in conjunction with the Student Support Services are responsible for:
 - a. Education and training campaigns within the Institute to eliminate discrimination, bullying and harassment.

- b. Providing advice to all employees and supervisors on discrimination, bullying and harassment
- c. Nominating external mediators and investigators to the Human Resources Manager for inclusion on the approved list of external mediators and investigators.
- d. Securely archiving all documentation pertaining to complaints according to IHM's policy on record keeping and storage.
- i. Maintaining separate statistics in a confidential data base of complaints

13. Managing Complaints

- a) Complaints of discrimination, bullying and harassment will be treated seriously by the Institute and will be managed promptly in a thorough and confidential manner.
- b) The principles of natural justice will apply and will guide the application of this process as outlined in the employee Bullying and Harassment Policy.

14. Resolution Process

- a) Individuals can seek Information from any of the following support persons: an employee, a manager or supervisor, a student support officer, or the appropriate human resource officer in the first instance.
- b) Employees and students are encouraged to report all instances of discrimination, bullying or harassment behaviour, threats of violence and violent acts involving them through the use of this Policy and the associated resolution procedures.
- c) By not addressing discrimination, bullying and harassment, when and if it occurs, the problem cannot be resolved and other people may be subjected to conduct, which may be unlawful, which is not tolerated by the Institute on any level.
- d) If a concern is with an immediate Supervisor, the employee can ask for assistance from that supervisor's manager.
- e) A student can seek assistance from the course coordinator or student support staff member if the concern relates to their lecturer.
- f) Senior managers have a responsibility to identify discrimination, bullying and harassment behaviour amongst those that they supervise, and to provide the individual with assistance to resolve these concerns.
- g) Senior managers are required to provide individuals with an opportunity to discuss, plan, review, develop, support and progress individual performance through the IHM's performance planning and review process. Supervisors and lecturers can be asked to provide assistance in resolving issues of discrimination, bullying and harassment.
- h) Employees or students wishing to lodge a formal complaint of discrimination, bullying and/or harassment against any student or staff are referred to the Harassment and Bullying Policy.

15. Disciplinary action

- a) **Employees**
 - b. Where discrimination, bullying or harassment is found to have occurred, this may be considered as misconduct or serious misconduct and disciplinary action may be commenced against the person against whom the findings were made.
 - c. Where disciplinary action is recommended against an employee the Human Resource Officer/Manager will advise the Chief Operations officer (COO). The COO will determine whether or not disciplinary action should be commenced against the person(s) subject to the findings.

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- d. The Chief Operations Officer will provide written advice of the decision to both the complainant and the respondent.

b) Students

- e. Students engaged in unlawful discrimination, bullying, harassment, victimisation or vilification may be disciplined under the Student Misconduct Policy and Procedure. Students found to have committed misconduct may be subject to penalties.
- f. Where disciplinary action is recommended against a student, the course coordinator/ Registrar/ Head of school will advise the Academic Dean. The Dean will determine whether disciplinary action should be commenced against the person(s) subject to the findings.
- g. The Academic Dean will provide written advice of the decision to both the complainant and the respondent.

16. Appeals

- a) A student found guilty of misconduct under the Code of Conduct and the Student Misconduct Procedure may lodge an Appeal against that Decision or the Decision in relation to penalties/restitution, if any. The process for lodging an Appeal is outlined in the Student Complaints and Appeals Procedure.

SECTION 3

Associated information

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| Related Internal Documents | Bullying and Harassment Policy Business Code of Conduct for Staff Critical Incident Response Policy Critical Incident Response Procedure Sexual Assault and Sexual Harassment Policy Sexual Assault and Sexual Harassment Procedure Student Code of Conduct Student Code of Conduct Implementation Guidelines Student Complaints and Appeals Policy Student Complaints and Appeals Procedure |
| Related Legislation, Standards, and Codes | Fairwork Ombudsman, Government of Australia – Fairworks Act- 2009 Safe Work Australia- Guide for preventing workplace bullying Preventing Workplace Violence and aggression Australian Human Rights Commission- Ending workplace sexual harassment: A resource for small, medium and large employers Worksafe Victoria- Guides for Employers TEQSA - Guidance notes Universities Australia- Guidelines for University Responses To Sexual Assault And Sexual Harassment |
| Date Approved | 01.06.2022 |
| Date Endorsed | 22.06.2022 |
| Date of Effect | 02.06.2022 |

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| Date of Next Review | 01.06.2025 |
| Approval Authority | Academic Board and Board of Directors |
| Responsibility for implementation | Academic Dean and Human Resources Manager |
| Document Custodian | Chief Operations Officer |
| PinPoint Doc ID | IHM-BHRP2 |

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|------------------------|-------------|---|
| Version Control | Version 1 | |
| Change Summary | Date | Short description of the change, incl version number, changes, who considered, approved etc |
| | 19/05/2022 | New Policy |