

BEHAVIOURS IN THE WORKPLACE PROCEDURE

SCOPE

This procedure applies to all staff and associates of Monash University ('us', 'our' or 'we').

Staff members and associates include all staff, contractors, agents, adjuncts, official visitors and other individuals performing services/work for and on behalf of Monash or who are engaged in activities reasonably connected with Monash, herein collectively referred to as 'you'.

This procedure does not apply to students. Student conduct is managed under the [Monash University \(Council\) Regulations](#), Part 7 – Student Discipline and the [Student Charter](#).

In this procedure, the Enterprise Agreement means the [Monash University Enterprise Agreement \(Academic & Professional Staff\) 2019](#) or the [Trades and Services staff \(Building and Metal Trades staff\) 2009](#) or [Trades and Services staff \(Catering and Retail, Cleaning and Caretaking, and Miscellaneous services staff\) 2005](#) as applicable to you in accordance with your contract of employment. Links to relevant clauses are included in the definitions of this procedure.

PROCEDURE STATEMENT

This procedure supports you to understand our commitment and expectations towards a culture of integrity and respect and setting standards of the highest professional behaviours for our workplace.

You have the right to work in a safe environment that promotes equal opportunity, inclusion, respect and integrity.

1. Expectation of professional behaviour

- 1.1 You are expected to treat everyone with professional respect ensuring you follow the University's ethical principles detailed in the [Ethics policy](#). Leaders are expected to model these behaviours, and the entire University community is expected to practice them in their daily work activities.
- 1.2 Additionally, you must not discriminate, harass, bully, vilify, victimise, act or threaten to act violently towards another person or engage in any other form of unacceptable behaviour as determined by us.
- 1.3 If you have seen or experienced unacceptable behaviour we strongly encourage you to report it (refer to experiencing/witnessing unacceptable behaviour in this procedure).

2. Unacceptable behaviours

- 2.1 We will not tolerate unacceptable behaviour and any such report is managed under the [Resolution of unacceptable behaviour procedure](#) and/or under the relevant [Enterprise Agreement](#) or contract terms. A breach may lead to an outcome such as termination of employment/contract.
- 2.2 If you harass, bully or discriminate against others in our workplace, you are responsible for your own actions. Your motive and intention (i.e. "it was a joke" or "I didn't mean to upset them") is not decisive.

3. Reasonable management action

- 3.1 We rely on your supervisor to direct and oversee your work, which includes the quality, efficiency and accuracy of your work/outputs.
- 3.2 It is expected that your supervisor takes reasonable management action to effectively direct and control the way your work is carried out. It is reasonable for your supervisor to allocate work and give performance feedback to you. This is recognised by law as not being workplace bullying, albeit this action may cause you some discomfort.

3.3 Reasonable management action includes (but is not limited to):

- directing and controlling the way your work is carried out;
- giving fair and constructive feedback on your performance;
- setting reasonable performance goals, standards and deadlines;
- addressing unsatisfactory performance;
- taking disciplinary action; and
- refusing your return to work for safety reasons.

3.4 The Fair Work Commission recognises reasonable management action is lawful and not bullying, albeit this action may cause you some discomfort. As a guide to what is 'reasonable', it found that:

- reasonable does not mean perfectly executed;
- the overall conduct may be reasonable despite particular steps being unreasonable;
- the action must be lawful, and not "irrational, absurd or ridiculous", to be reasonable;
- the reasonableness of management action must be viewed from an objective view, not from the recipient's perception of it; and
- adherence or departure from policies and procedures may be considered in determining reasonableness.

Example

A staff member was placed on a performance plan after making several errors on their last few projects to develop their skills and output however, they continued to make errors. As such, the staff member's daily duties changed while they were undergoing further training/coaching.

In this example, it is lawful to alter the staff member's employment duties because the reason was based on a genuinely made assessment of their work performance.

4. Discrimination

4.1 You must not engage in conduct amounting to unlawful discrimination.

4.2 Discrimination is the unfavourable treatment of an individual or group, because they have a legally protected attribute. This may lead to disadvantage for some and advantage for others. It can be classified as either direct or indirect and is unlawful in areas such as employment, the workplace and in recruitment.

Legal Protections

4.3 It is against the law to discriminate because of a protected attribute, which includes:

- age;
- carer and parental status;
- disability;
- employment activity;
- [gender identity](#) (which includes gender expression);
- industrial activity;
- Intersex status;
- [lawful sexual activity and sexual orientation](#);
- marital status or relationship status;
- physical features;
- political belief or activity;
- pregnancy and breastfeeding;
- race;
- religious belief or activity;
- sex;
- expunged homosexual conviction; or
- personal association with someone who has, or is assumed to have, one of these personal characteristics.

- 4.4 Discrimination can be overt (direct) when an individual is treated unfavourably because of a protected attribute (refer above). Direct discrimination often happens because people make unfair assumptions about what individuals with a protected attribute can and cannot do.

Example

A staff member applies for another internal position but does not get the job. When the staff member calls the hiring manager to ask why, the manager states: "you mentioned you didn't have kids but would like to have them one day and we can't have you getting pregnant and then we have to go through this process again."

- 4.5 Discrimination can be less obvious (indirect) where a requirement, condition or practice is applied to everyone but it disadvantages an individual or group because of a protected attribute and this is not reasonable in the circumstances.

Example

A supervisor makes all staff start at 6am. This treats everyone equally, but it disadvantages one staff member, as this individual needs to care for their child prior to school hours. This may amount to indirect discrimination depending on all the circumstances of their situation.

Exceptions

- 4.6 The law provides that in some circumstances, an otherwise unlawful discriminatory action may not be discrimination because an exception applies. This includes where the action:

- is permissible under another law;
- is based on the inherent requirements of the particular position concerned

Example

A 17-year-old applicant applied for a position working in a food service venue serving alcohol. Without even an interview, the venue wrote to this applicant indicating they were under 18 and therefore did not meet the requirements of the position, as Victoria's liquor legislation does not allow individuals under 18 years to serve alcohol. The venue has lawfully discriminated against this applicant because of their age.

5. Harassment

- 5.1 You must not engage in conduct that is unlawful harassment.
- 5.2 Harassment occurs when unwelcome behaviour causes the person affected to feel intimidated, insulted or humiliated and a reasonable person would expect it would have this effect. It can occur in a single incident or a series of incidents. Harassment can be experienced by witnessing behaviour not directed to that person e.g. overhearing a lewd joke.
- 5.3 It is unlawful to sexually harass, harass or vilify based on race or disability.
- 5.4 Harassment can include behaviour such as (but is not limited to):
- telling insulting jokes about particular racial or religious groups;
 - sending explicit or sexually suggestive emails, text messages or memos;
 - displaying racially offensive or pornographic images or sending explicit images or footage;
 - making derogatory comments or taunts about a person's disability;
 - asking intrusive questions about someone's personal life, including someone's sex life; and
 - repeatedly making jokes at a colleague's expense.

Sexual harassment

- 5.5 Sexual harassment is a specific form of harassment. It is unwelcome behaviour of a sexual nature and can affect all genders. Sexual harassment can be physical, spoken, visual or written.
- 5.6 Sexual harassment can include behaviour such as (but not limited to):
- indecent exposure;
 - stalking;
 - unwanted sexual attention;
 - sexual assault;
 - offensive jokes; and
 - obscene or threatening communications such as phone calls, letters, emails, text messages and postings on social networking sites.

Example

A staff member was asked at a team lunch what their bra size was, and was told to wear low cut tops to get the attention of their manager. The person making the comments intended them to be funny; however the staff member was offended and upset.

- 5.7 If an individual does not object to the conduct at the time, it does not make the conduct welcome, or mean it is not harassment. Sexual harassment occurs if a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would feel offended, humiliated or intimidated.
- 5.8 If an interaction is consensual, welcome and reciprocated it is not sexual harassment.

Racial harassment

- 5.9 Racial harassment is another form of harassment. It describes any unwelcome conduct in relation to a person's colour, race, nationality, social or ethnic origin or extraction. It can range from stereotypical negative comments to name calling, abuse and physical violence. It can be discriminatory remarks, behaviours or practices, which show racial intolerance.
- 5.10 Racial harassment can include behaviour such as (but is not limited to):
- making jokes, insinuations, humiliating comments or racially oriented remarks;
 - criticising and being intolerant in regards to the ethnic differences such as accent, clothing, hairstyle, dress, customs and beliefs;
 - acting seemingly disgusted or showing contempt to another related to race or ethnic activities; and
 - showing pictures or images that are racially degrading.

Example

After the Christmas holidays, a group of staff were discussing what they did over the holiday break. One staff member talked about their holiday to the Philippines and how much they loved laying by the pool in the sun. A colleague turned to them and said 'didn't you go back to your country and fight for Islam'?

6. Bullying

- 6.1 You must not engage in conduct that is bullying.
- 6.2 Workplace bullying is repeated unreasonable behaviour directed towards another person in the workplace that creates a risk to health and safety in accordance with [clause 64.1](#) of the relevant enterprise agreement.
- 6.3 Bullying can be verbal, physical, social or psychological abuse. It includes offensive language, insulting someone about physical characteristics such as their weight or height, teasing or telling jokes, hitting/hurting someone, shoving or intimidating another person, consistently excluding or isolating another person e.g. from work related activities. Bullying can be unlawful even if there is no intent to bully.
- 6.4 Examples of repeated behaviour include (but is not limited to):
- spreading misinformation or malicious rumors;
 - behaviour or language that frightens, humiliates, belittles or degrades at work, including yelling or screaming;
 - teasing or regularly making someone the brunt of pranks or practical jokes;
 - deliberately excluding, isolating or marginalising a person from normal work activities;
 - withholding information that is vital for effective work performance;
 - deliberately changing work arrangements, such as rosters and leave, to inconvenience a person; and
 - excluding a person from work related activities intending to humiliate.

Example

A staff member is feeling intimidated and frustrated by their supervisor because their supervisors often blocks applications for leave or training. They continually belittle the staff member in team meetings, often make jokes about them in front of colleagues and forget to include them in invitations to team meetings.

- 6.5 Differences of opinion and disagreements are generally not workplace bullying. You can have differences or disagreements in the workplace without bullying occurring. Additionally, management is entitled to direct work or provide performance feedback. This is not bullying. Although performance feedback may upset you, it does not mean that the management action was bullying. However, management action that is excessive or over the top may be bullying. Essentially, management action is not bullying if it is reasonable.

Example

A new supervisor provided feedback to a staff member that their report was not meeting requirements. The staff member was upset because they had submitted the same type of report many times previously under their prior supervisor and had always received positive feedback.

A new supervisor is able to redirect a staff member's work requirements/outputs, if they have different expectations. This is reasonable management action.

7. Vilification

7.1 You must not engage in conduct that is vilification of a person or group.

7.2 Vilification occurs when someone incites hatred towards, serious contempt for or severely ridicules a person or group of persons on the ground of their race, religion, sexuality, gender identity, colour, nationality, descent, ethnicity, ethno-religious status, national origin, homosexuality, HIV or aids status or trans-gender status, disability, sexual orientation or lawful sexual activity.

Example

A staff member continually expresses in the workplace their distaste for a colleague whose sexuality they do not approve and encourages others not to associate with this colleague.

8. Impairment

8.1 We expect you to carry out your work without risking the safety and health of yourself or others.

8.2 We may be required to address your ability to work safely. We will ensure you are not in a position of personal risk and do not present a hazard or risk to the safety and health of yourself or others.

8.3 There are a number of factors, which may contribute to impairment (i.e. alcohol or drugs, fatigue, medical conditions). Where we suspect or observe impairment or unacceptable behaviour, we may take any of (but not limited to) the following actions:

- send you home;
- remove you from a workplace or activity;
- offer support, counselling or education;
- contact the Police or emergency services; and/or
- apply disciplinary procedures up to and including termination of employment/contract.

Example

A manager returns from lunch smelling strongly of alcohol, slurring their words and they lost their balance a number of times. Colleagues were concerned for their welfare and the safety of others around them therefore reported their observations.

9. University functions and activities

9.1 Our expectations of your behaviour described in this procedure extends to all places and situations where you perform work for us. They also extend to work related social functions, work related trips (such as conferences offsite, interstate and overseas) and events run either by us or where you attend as our representative.

9.2 It is a requirement that professional behaviour must be adhered to when you attend any workplace social functions, conferences or events etc.

Example

A celebration was taking place to mark the successful implementation of a project, which included managers, project members and representatives of the vendor company.

At this celebration, a manager discussed the negative performances of colleagues involved in the project with the vendor of the product.

9.3 Events should be catered to mitigate the risk of alcohol causing problem behaviour. You can access further information in the [Alcohol Risk Management Procedure](#)

10. Use of University resources

- 10.1 We expect you to safeguard and use our resources responsibly and in accordance with applicable conditions, contractual obligations and other general obligations.

Example

Staff must not use University data resources (such as computers, tablets, phones) to breach copyright laws or access/transmit pornography, or in contravention of licence/contract conditions.

11. Use of social media

- 11.1 You are personally responsible for your use of social media, including the content you publish on your own private social media. We remind you that content identifying us or a work colleague/student must comply with University Media and Social Media policies/procedures and this procedure.

Example

A group of staff were posting comments on their personal Facebook pages about a fellow colleague, suggesting this person was 'up for anything' and they were voting who would try to 'crack this person at the next Monash function'. The comments came to the attention of the recipient who was embarrassed and upset and therefore made a report to the University.

12. Experiencing unacceptable behaviour

- 12.1 If you have experienced unacceptable behaviour, we encourage you to take action.
- 12.2 Tell someone and let others help. Your safety and attention to your immediate needs is paramount. Expert help, advice and support is available to assist you with your decisions. Information about how to report unacceptable behaviour is detailed below.

13. Bystanders (witnesses)

- 13.1 You may have been in a situation when you have seen something that did not feel quite right and you decided not to intervene. It may have been because you did not feel like it was any of your business, that you felt unsafe, or you may not have known what to do. Being a bystander is being there and observing when something harmful is happening to someone else. Being an active bystander involves doing something about it.
- 13.2 Being an active bystander, includes:
- Witnessing an incident
If someone is acting inappropriately, the only way the behaviour can be addressed is if you see it and decide to act.
 - Understanding that something needs to be done
Ignoring what is happening will not help anyone, and it will not help to create a safe and positive community.
 - Taking responsibility
It is common to feel scared about stepping in. These are thoughts that everyone will have. However, if everyone thinks that someone else should act, that means that no one will. It is up to all of us to look out for each other.
 - Deciding what action to take, and being confident to do it safely.
The most important thing to always remember is that you need to keep yourself safe first, both for your own sake and because you cannot help anyone else if you are hurt.
- 13.3 If you do witness unacceptable behaviour, you can play a key role in challenging the social norms and attitudes that perpetuate unacceptable behaviours, as well as take action to respond to or prevent further unacceptable behaviour.
- 13.4 Should you feel *safe and comfortable* to challenge the unacceptable behaviour:
- let the person know what they are doing is unacceptable; and/or
 - distract the individual to diffuse the behaviour; and/or
 - ask for help from others around; and
 - always ensure you ask the individual who is receiving the unacceptable behaviour if they are ok and if you can help them.
- 13.5 You are strongly encouraged to raise a concern or lodge a complaint even if you are not a party to an incident. For example, you may overhear a racist joke, witness a person assaulting, harassing, intimidating or bullying another person. You can even make a report without identifying yourself, if this makes you feel more comfortable.

14. Reporting unacceptable behaviour

14.1 You may seek support, advice, referrals or report unacceptable behaviour based on your need at the time.

Contact	Need/Purpose
Emergency Services (Dial 000 for immediate assistance)	In emergency situations
Campus Security (+61 3 9905 3333 or ext 333 from a Monash phone)	Where swift attendance is required on campus
Safer Community Unit (+61 3 990 51599 or safercommunity@monash.edu)	For reporting and investigating of concerning and threatening behaviour, and referrals to services within and outside the University
Manager, Ethical Conduct (ethical.conduct.queries@monash.edu or 03 9902 4945)	For advice regarding unacceptable behaviours, and referrals to approved University services
Coordinator, Diversity and Inclusion, Campus Community Division, (diversity-inclusion@monash.edu or 03 9905 9499)	For advice regarding unacceptable behaviours, and referrals to approved University services
SARAH (safety and risk hub for incident reporting)	Online system for reporting unacceptable behaviours and hazards for escalation to the Manager, Ethical Conduct for resolution (including investigation)

15. Protection from reprisals, retaliation or threats

Victimisation

- 15.1 It is against the law to victimise someone (i.e. subjecting them to some detriment or threaten to do so) because they have made a complaint or helped someone else to make a complaint.
- 15.2 Anyone engaged in such conduct may be subject to discipline in accordance with the requirements of the law, University regulations, policies and procedures and relevant enterprise agreement.

Example

A colleague sent a staff member a sexually explicit text messages and often make sexual jokes in their presence. After the recipient made a complaint about their behaviour, colleagues of the recipient stopped including them in the usual workplace activities e.g. stopped inviting them to lunch or drinks after work.

False, malicious and vexatious claims

- 15.3 Reports of unacceptable behaviour must be genuine and honest. If you are found to have made a false or vexatious complaint against another person this may lead to disciplinary action.

Legal obligations and considerations

- 15.4 There are instances where we will act on a matter without a complaint, or even if the person making a complaint does not want further action taken. These are serious allegations of unacceptable behaviour where we feel or are legally obligated to take action.
- 15.5 Some matters may also be considered a criminal offence and may be reported to the Police, such as (but are not limited to):
- physical molestation or assault;
 - indecent exposure and stalking; and
 - assault or sexual assault.

Recording conversations

- 15.6 Our Ethics Statement details the ethical values and principles that we expect from you. The Ethics Statement highlights the necessity for you to conduct yourself in an honest and fair manner, based on mutual respect. You are expected to act with integrity, transparency and in a professional manner in all your work activities. Covert recording of conversations is not consistent with these ethical principles.
- 15.7 Not only is covert recording generally unlawful, it also involves deception, and lacks fairness and transparency. Therefore, it is not consistent with the Ethics Statement.
- 15.8 We consider covert recordings in the workplace to be objectionable as it undermines the mutual trust and confidence required in an employment relationship and between workplace participants.

15.9 If you make covert recordings, you may be considered to have seriously breached your employment contract and face disciplinary action up to and including termination of employment/contract.

16. Internal support services

16.1 Additional support options are available for you which include (but are not limited to):

- your supervisor
- [Human Resources \(email\)](#) via phone 9902 0400, [ask.monash](#) or [Human Resources](#)
- the [Employee Assistance Program](#)
- [MyCoach for People Leaders](#)
- [Culture of Integrity & Respect](#) webpage
- [Health and wellbeing services](#)
- [Counselling services](#) (for confidential professional counselling)
- [Student Life and Support Services](#)

Safer Community Unit (SCU)

16.2 You can seek support from SCU, who can:

- help connect you with support services
- explore appropriate safety measures
- provide information on your formal reporting options
- and assist you with formal reporting processes.

16.3 If your report is about:

- something that could be a criminal offence, SCU can explain the process for formally reporting to the police, and assist you with that process
- another Monash staff member, SCU can explain the processes for making a formal report for Monash Workplace Relations
- a Monash student's behaviour, you can make a formal report of [general misconduct](#). General misconduct is any form of unacceptable behaviour that breaches Monash rules and regulations. SCU will refer all formal reports of general misconduct to the Office of Student Conduct.

17. Breach of procedure

17.1 We treat any breach of our policies or procedures seriously. We encourage reporting of concerns about non-compliance and manage compliance in accordance with the applicable Enterprise Agreement or contract terms.

DEFINITIONS

Enterprise Agreement	The Enterprise Agreement means the Monash University Enterprise Agreement (Academic & Professional Staff) 2019 or the Trades and Services staff (Building and Metal Trades staff) 2009 or Trades and Services staff (Catering and Retail, Cleaning and Caretaking, and Miscellaneous services staff) 2005 as applicable to the staff member in accordance with their contract of employment. Clauses relating to this procedure include: Monash University Enterprise Agreement (Academic and Professional Staff) 2019 <ul style="list-style-type: none"> • Clause 64 – Workplace Bullying
Impairment	A derogation from an individual's ability to perform duties of their position or associated activities at the required level.
Malicious	Is characterised by the intentionally harmful spiteful act.
Vexatious	The intentional causing of annoyance, embarrassment, frustration, worry or harassment regardless of merits.

University activities	<p>For the purpose of this procedure include (but not limited to):</p> <ul style="list-style-type: none"> gatherings of university staff members and/or students and their guests, or events at University performance venues, e.g. social or sports clubs meetings, barbeques, fund-raisers, departmental book launches, seminars, reading groups, conferences, etc.; conferences, seminars, business partner sponsored/arranged events; informal social events such as lunch or after work drinks; University events that take place on licensed premises; and off-campus activities undertaken as part of teaching and/or research activities involving staff, students and authorised volunteers.
University resources	Both assets and physical resources such as (but not limited to) finances, funding/grants, facilities, equipment, vehicles and information systems equipment.

GOVERNANCE

Parent policy	Integrity and Respect
Supporting schedules	
Associated procedures	<ul style="list-style-type: none"> Information Technology Acceptable Use Resolution of unacceptable behaviour Social media: employees and associates use Media Monash University Statute Monash University Student Discipline Guidelines
Legislation mandating compliance	<p>Federal Legislation</p> <ul style="list-style-type: none"> Age Discrimination Act 2004 Australian Human Rights Commission Act 1986 Disability Discrimination Act 1992 Racial Discrimination Act 1975 Sex Discrimination Act 1984 Fair Work Act 2009 <p>Victorian Legislation</p> <ul style="list-style-type: none"> Equal Opportunity Act 2010 Racial and Religious Tolerance Act 2001 (VIC) <p>Fair Work Commission – ‘reasonable’ determination reference (Ms SB (2014) FWC 2104)</p>
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