

## Prevention of Bullying Harassment Discrimination Guidelines

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<b>Approval Authority:</b>	Vice-Chancellor

### 1. BACKGROUND

These guidelines confirm the University's commitment to ensuring people are treated with dignity and respect. All members of the University community have the right to study and work in an environment that is safe and inclusive.

### 2. PURPOSE

The purpose of these guidelines is to:

- Promote ethical interactions between members of the University community
- Enable members of the University community to identify, prevent, report and/or resolve incidents of harassment, bullying or discrimination
- Prevent likelihood of bullying, harassment or discrimination occurring.
- Ensure compliance with the provisions of the [Health and Safety at Work Act 2015](#).

### 3. APPLICATION

These guidelines apply to all members of the University community – staff, students, contractors and visitors to Lincoln University and its subsidiaries.

### 4. GUIDELINES

Risks to health and safety arise from people being exposed to hazards (anything that can cause harm, such as bullying).

#### What is bullying?

Bullying means unreasonable behaviour, repeated over time, which can be reasonably expected to humiliate, exclude, undermine or otherwise have a detrimental effect on the recipient(s) and/or pose a risk to their health and safety even though it may not be unlawful.

There are four key features of bullying behaviours, which are they are:

- i. targeted at an individual or individuals;
- ii. unreasonable (the behaviour is not acceptable in the circumstances);
- iii. repeated; and
- iv. perceived to have a detrimental effect (physically, emotionally, financially, or otherwise) and/or pose a risk to their health and safety.

For bullying to have occurred, all four features must be present. For examples of behaviours which do and do not constitute bullying refer to Appendix 1.

### **What is harassment?**

Harassment is defined as any unwelcome comment, conduct or gesture that is insulting, intimidating, humiliating, malicious, degrading or offensive. It might be an isolated incident or repeated but it is so significant that it adversely affects someone's performance, contribution or work environment. It can include physical, psychological, degrading or threatening behaviour, abuse of power, isolation, discrimination, sexual and/or racial harassment. It is behaviour that is unwanted by the recipient even if the recipient does not tell the harasser that the behaviour is unwanted. It may be unintentional. For examples of harassment, refer to Appendix 2.

### **What is discrimination?**

**Direct discrimination** occurs when a person is treated less favourably than another person, in the same or similar circumstances, because of a prohibited ground such as their gender, colour, religious belief, race, marital status, ethnic or national origin, family status, ethical belief, gender identity, sexual orientation, political opinion, age, employment status or disability.

**Indirect discrimination** occurs when there is a requirement, rule, policy, practice or procedure that is the same for everyone, but has an unequal effect on groups. This type of requirement is likely to be indirect discrimination unless the requirement is reasonable in all circumstances.

**Unlawful discrimination** occurs when one person is treated less favourably than someone else is treated, or would be treated, in the same or similar circumstances, because that person has a particular attribute, such as gender, colour, religious belief, race, marital status, ethnic or national origin, family status, ethical belief, gender identity, sexual orientation, political opinion, age, employment status or disability, that is specifically listed in the Human Rights Act 1993.

For examples of discrimination, please refer to Appendix 3.

### **How do we deal with bullying, harassment and discriminatory behaviours?**

The University recognises that the prevention of bullying, harassment and discriminatory behaviours requires both an individual and a collective effort, requiring the participation, collaboration and co-operation of all members of the University community to ensure that such behaviours are not tolerated. The University provides training opportunities for staff on how to deal effectively with behaviours they perceive as bullying, harassment or discrimination and assists in the resolution of complaints.

University staff with line management responsibilities must take all reasonable steps to ensure that the work or learning environment is free from any form of bullying, harassment or discrimination and deal as promptly as possible with any concerns raised.

### **What resolution processes are available?**

Any member of the Lincoln University community who believes they have experienced some form of bullying, harassment or discrimination should act promptly. They are encouraged to use any of the options outlined below to try to stop and prevent future occurrences of the behaviours. The complaints processes are confidential, follow principles of natural justice and procedural fairness, and are designed to protect the integrity and self-esteem of individuals involved.

Depending on the severity of the situation and the wishes of the complainant, different approaches are available:

#### **A. Self-Resolution**

In many cases, telling the person concerned that their behaviour is causing distress, explaining why it is unwelcome and asking for it to stop will be sufficient. Often, the person is not aware that their behaviour is causing distress, and they will stop immediately once told.

Staff may also access the University's Employee Assistance Programme (Clearhead) for support and advice about actions and approaches that they may take.

#### **B. Informal Resolution**

If a complaint cannot be resolved by direct discussion, or an individual does not feel comfortable addressing the issue face to face or in writing, they should discuss the matter and seek guidance from an \*appropriate person.

For staff members this can be their:	<ul style="list-style-type: none"> <li>♦ Manager</li> <li>♦ Health &amp; Safety Representative</li> </ul>	<ul style="list-style-type: none"> <li>♦ HR Business Partner</li> <li>♦ Union Representative</li> </ul>
For students this can be:	<ul style="list-style-type: none"> <li>♦ Class representatives</li> <li>♦ Student Advocacy Network (LUSA)</li> <li>♦ International Student Advisor</li> <li>♦ Student Administration</li> </ul>	<ul style="list-style-type: none"> <li>♦ Dean or Head of Department</li> <li>♦ Course Convenor</li> <li>♦ Proctor</li> </ul>

*\* Please refer to Appendix 5 for contact names and details*

Any of these contacts for either staff members or students can provide information on the policy and are able to discuss options available to the individual on how to deal with their particular concerns. Initiating a discussion with one of these people may help to determine whether the behaviour experienced constitutes bullying, harassment or discrimination and will help to understand the process and develop options for resolving the concerns.

These contacts can help to:

- establish the fundamental issue – explore options for resolution
- determine if the issue is appropriate for mediation (refer to Appendix 4)
- develop skills to address the alleged behaviour
- clearly understand the further options available if the matter cannot be resolved by direct discussion.

#### **C. Formal Complaint**

A student or employee can make a formal complaint about a staff member in writing or verbally to the Executive Director, People, Culture Wellbeing. If the alleged perpetrator is a student, a formal complaint can be made in writing or verbally to the University Proctor.

A Formal Complaint Form is provided in Appendix 6.

Formal complaints will be investigated following rules of procedural fairness and natural justice which means the complaint will be presented to the alleged perpetrator for the right to respond. The complaint protocol and associated timeframe are included in Appendix 7.

**Note:** Bullying, harassment or discrimination presents a risk to health and safety. Where such behaviour is alleged, the University will, where considered necessary, take steps to investigate and address the risk as required by the Health and Safety at Work Act 2015.

### **Alternative Formal Complaints Processes**

As an alternative to following the internal University processes, complainants may make a complaint to WorkSafe or the Human Rights Commissioner about alleged bullying or harassment.

### **Vexatious complaints**

Allegations of bullying and/or harassment are serious matters and can potentially damage an individual's reputation. Intentionally false accusations of a frivolous or vexatious nature will be viewed seriously and may result in the University taking disciplinary action against the complainant.

## **5. LINKS TO RELATED LEGISLATION**

- [The Health and Safety at Work Act 2015 \(HSWA\)](#)
- [Employment Relations Act 2000 \(ERA\)](#)
- [The Human Rights Act 1993 \(HRA\)](#)
- [Public Service Act 2020](#)
- [Te Tiriti o Waitangi](#)
- [Harassment Act 1997 \(HA\)](#)
- [Privacy Act 2020](#)
- [Crimes Act 1961](#)
- [Protected Disclosures \(Protection of Whistleblowers\) Act 2022](#)
- [The Harmful Digital Communications Act 2015 \(HCDA\)](#)

## **6. LINKS TO RELATED DOCUMENTS**

- [Prevention of Bullying, Harassment and Discrimination Policy](#)
- [Student Discipline Regulations](#)
- [University Calendar](#)
- [Code of Conduct](#)
- [Equal Opportunity in Employment Policy](#)
- [Disciplinary Policy and Procedure \(Staff\)](#)
- [Protected Disclosures Policy](#)
- Preventing and Responding to Bullying at Work (*WorkSafe Quick Guide*)  
<https://www.worksafe.govt.nz/topic-and-industry/bullying/good-practice-guidelines-preventing-and-responding-to-bullying-at-work/>

Bullying means unreasonable behaviour, repeated over time, which can be reasonably expected to humiliate, undermine or otherwise have a detrimental effect on the recipient(s) and/or pose a risk to their health and safety even though it may not be unlawful.

**What are some examples of bullying?**

Some examples of repeated, persistent behaviour that may constitute bullying are:

- continually making jokes or demeaning remarks about a person, or making more remarks about one member of a team compared to other team members
- verbal abuse, swearing or name calling
- excluding or isolating individuals
- intimidation
- assigning meaningless tasks unrelated to a person's role
- deliberately changing rosters to inconvenience particular individuals
- deliberately withholding information that is vital for effective work performance
- placing demeaning comments on social networking sites
- putting hateful or derisory messages on social media e.g. attacks on a person's personality or appearance
- abuse of supervisory or managerial authority.

Whilst all of these behaviours are unacceptable, some will be considered more serious than others.

**What is not bullying?**

Examples of behaviours that are not bullying include:

- differences of opinion, non-aggressive conflicts, and problems in working relationships
- robust intellectual debate
- differences of religious beliefs
- constructive feedback and advice from the staff member's manager or peer review
- evaluative critical comments in the context of assessment
- constructive feedback
- performance management and other disciplinary actions in accordance with the University's policies and procedures
- setting expectations and discussing performance assessments
- direction of day-to-day management
- a single incident of unreasonable behaviour - unless there is an established pattern.

Harassment is defined as any unwelcome comment, conduct or gesture that is insulting, intimidating, humiliating, malicious, degrading or offensive. It might be repeated or an isolated incident, but it is so significant that it adversely affects someone's performance, contribution or work environment. It can include physical, degrading or threatening behaviour, abuse of power, isolation, discrimination, sexual and/or racial harassment.

**What are some examples of harassment?**

Harassment can take many forms including:

- unwanted physical contact, ranging from an invasion of space to an assault
- offensive comments, including insults, jokes or gestures, open hostility, verbal or physical threats
- insulting, abusive, embarrassing or patronising behaviour or comments, humiliating, intimidating, and/or demeaning criticism
- spreading malicious rumours about an individual
- putting up pictures of a person on social media without consent
- attacks on the privacy of the individual, for example by putting personal information on social media without their consent
- persistently shouting at, insulting, threatening, disparaging or intimidating an individual
- constantly criticising an individual without providing constructive support to address any performance concerns
- persistently overloading an individual with work that s/he cannot reasonably be expected to complete
- posting offensive comments on social media, including using mobile communication devices
- isolation from normal work or study place, conversations, or social events.

**Sexual harassment** may involve, for example:

- sexual assault
- requests for sexual favours, or sexual advances
- leering, wolf whistles, obscene gestures, jokes or innuendo
- inappropriate comments or a conversation about a person's sex life or relationships
- unwelcome comments about a person's sexual orientation or gender identity
- displays of sexually offensive material, such as emails, posters, pictures, graffiti, screen savers or text messages
- suggestive or sexual jokes, suggestive behaviour, telephone calls
- uninvited touching, hugging or kissing or other forms of physical contact
- inappropriate invasion of a person's personal space
- persistent comments or images placed on social networking sites, for example Facebook and Twitter
- persistent and unwelcome personal contact after being asked to desist
- deliberately using the wrong name or pronoun in relation to a transgender person, or persistently referring to their gender identity history
- threatening to disclose, or disclosing, a person's sexuality or gender identity to others without their permission.

**Racial harassment** may include:

- making offensive remarks about a person's race
- mimicking the way a person speaks
- making jokes about a person's race
- calling people by racist names
- deliberately pronouncing people's names incorrectly.

**Stalking** may be characterised by any of the following repeated and unwanted behaviours:

- repeatedly following a person
- persistently contacting, or attempting to contact, a person by any means
- monitoring a person use of the internet, email or any other form of electronic communication
- loitering in any place (whether public or private) with the intention of catching the attention of someone who does not wish for contact
- interfering with any property in the possession of a person
- watching or spying on a person including through the use of CCTV or electronic surveillance
- giving gifts which are unwanted or inappropriate.

It is unlawful to discriminate against a person based on any of the following grounds of discrimination (contained in the [Human Rights Act 1993](#))

- gender
- marital status
- ethical belief
- religious belief
- colour
- race
- ethnic or national origins
- disability
- age
- political opinion
- employment status
- family status
- sexual orientation

Discrimination can be **direct discrimination** or **indirect discrimination**. Discrimination is unlawful even if there is no intention to discriminate.

#### **Which activities are specifically addressed by the laws against discrimination?**

Discrimination is unlawful in areas, including:

- recruitment
- terms and conditions of employment
- refusing or limiting access to opportunities for promotion, salary increases, leave or professional development
- termination of employment
- vocational services
- provision of goods and services
- education and employment

The University has a particular commitment to ensuring safe, inclusive and equitable environment for the groups named in the equity policy, which include Māori as tangata whenua, pacific peoples, people with disabilities, people with refugee backgrounds, students from low socio economic backgrounds, lesbian, gay, bisexual, transgender, Intersex (LGBTQIA and including people of diverse gender identities).



## What are some examples of victimisation?

Examples of **victimisation** include:

- suggesting to a would-be complainant that it would be better for them (or the team) if they did not make a formal complaint
- threatening or intimidatory actions or behaviour towards another person
- unwarranted disciplinary action designed to influence a complainant or any witness
- disciplinary action that is not otherwise warranted and would not have been taken if a complaint had not been made
- unreasonable change in duties or relocation
- exclusion or isolation
- failure to promote a person or downgrading a performance rating because they are regarded as a 'troublemaker' due to making a complaint
- allocating tasks which are not usually part of a person's normal duties because they have made a complaint
- deliberately grading/marking a student's work lower than it warrants.

**What is mediation?**

- Mediation is a conversation between people with the help of the mediator; it is an informal and voluntary process, in which the participants identify the issues, generate options and consider alternatives in order to reach a mutually acceptable solution. It is confidential and non-disciplinary. Participants enter the process willingly and may withdraw at any time.
- The participants of the mediation retain all decision-making power. The mediator does not act as an advocate, a support person or a decision-maker but as a neutral facilitator. Mediation is a non-judgmental process that does not result in a winner and a loser, but in an outcome which is acceptable to both or all (where there are more than two) participants.
- All things said and any notes written in mediation are confidential. This ensures that the participants can trust the process as an opportunity to resolve issues in an open, frank and honest manner. They decide whether any agreement they reach is made available and, if so, to whom. Sometimes even the fact that mediation is occurring or has occurred will be kept private.
- Support people may be present at the mediation.

**What are the advantages of mediation?**

- Mediation is confidential and private and can often provide the quickest and easiest way for people to sort out their differences. It is non-adversarial and promotes a co-operative problem solving approach. It provides participants with an equal opportunity to have their say in a non-threatening environment.
- Mediation often produces the best outcome because the issues and concerns can be fully canvassed, and the participants themselves determine the outcome. This helps to repair the working relationships that have broken down in a conflict. The process is future-focused with the aim being to find creative ways to meet the real needs and interests of everyone involved.
- Mediation is most successful when people use it earlier rather than later, before their differences have become entrenched, but it can help even with long-standing and intractable problems.

## Appendix 5

## Important Contacts

If a complaint cannot be resolved by direct discussion, or an individual does not feel comfortable addressing the issue face to face or in writing, they should discuss the matter and seek guidance from an appropriate person in confidence. These contacts can be approached at any stage of the process.

Below is a list of internal contacts for students and staff within Lincoln University, as well as external providers of support and advice for both students and staff:

Role Organisation	Title/ Contact Details	Notes
<b>STUDENT CONTACTS</b>		
Lincoln University Students Association (LUSA)	Student Advice & Support Service <a href="mailto:SAS@lusa.org.nz">SAS@lusa.org.nz</a> telephone 03 423 0578 <a href="http://www.lusa.org.nz/advice-support">www.lusa.org.nz/advice-support</a>	LUSA's advocacy service is informal, professional and confidential. It is also 100% independent from the University.
Proctors	Greg Ryan <a href="mailto:greg.ryan@lincoln.ac.nz">greg.ryan@lincoln.ac.nz</a> Telephone 03 423 0402 Location: F611 (Forbes) Amrapali MacDonald <a href="mailto:amrapali.macdonald@lincoln.ac.nz">amrapali.macdonald@lincoln.ac.nz</a> Telephone 03 423 0246 Location: C012 (Commerce)	
Dean or Head of Department	Check in the Lincoln <a href="#">University Calendar</a> publication or the Staff Profiles page on the website for the full list of Deans and HoDs by Faculty	
International Student Support	Denise Pelvin International Student Advisor Telephone 423 0086 <a href="mailto:denise.pelvin@lincoln.ac.nz">denise.pelvin@lincoln.ac.nz</a> or through Student Health on 325 3835 Spring Xing International Student Advisor Telephone 325 3845 <a href="mailto:spring.xing@lincoln.ac.nz">spring.xing@lincoln.ac.nz</a> or through Student Health on 325 3835	
Māori Student Support	Māori Support Co-ordinator Telephone 423 0198 Te Awhioraki: Māori Students' Association <a href="mailto:teawhioraki@lincoln.ac.nz">teawhioraki@lincoln.ac.nz</a>	
Student Health	Counsellors, Nurses, Doctors Opening hours 8.30am to 4.30pm Telephone 325 3835 (after hours support available)	A confidential support service for students on the Lincoln University campus

Role Title/ Organisation	Contact Details	Notes
Course Convenor	Contact your Course Convenor for assistance and referral if required	If you are not sure who your Course Convenor is, please contact your Faculty (for the course of study you are undertaking) Administrator
Class representatives	Contact your Class Rep for assistance and referral if required	If you are not sure who your class representative is, please
The Chaplain on Lincoln University's campus	Refer to the website or hub <a href="#">Student Support</a> for contact details Email <a href="mailto:chaplains@lincoln.ac.nz">chaplains@lincoln.ac.nz</a> or phone 423 0514	The Chaplain supports spiritual and emotional wellbeing, provides pastoral care and support for the emotional wellbeing of students and staff
<b>STAFF CONTACTS</b>		
Your Manager	Have a confidential discussion with your line manager (HoD, Team Leader) or senior manager (Dean, Director)	
Health & Safety Representative	The Health & Safety Representative for your Faculty/Business Unit	If you do not know who your local Health & Safety rep is, please refer to the Hub/Health and Safety page
Human Resources	The relevant HR Business Partner for your Faculty/Business Unit	If you do not know who your local HR person is, please refer to the Hub/Human Resources page
Tertiary Education Union (TEU)	John Miller <a href="mailto:john.miller@teu.ac.nz">john.miller@teu.ac.nz</a>	
Public Services Association (PSA)	0508 367 772 or send message via <a href="http://www.psa.org.nz">www.psa.org.nz</a>	
Etū	0800 186 466 or <a href="mailto:support@etu.nz">support@etu.nz</a>	
Clearhead	<a href="https://lincoln.myclearhead.com/en-NZ">https://lincoln.myclearhead.com/en-NZ</a> or via the SafeLU App	Free counselling for staff and their families

Role Title/ Organisation		Contact Details	Notes
<b>EXTERNAL CONTACTS: STUDENTS &amp; STAFF</b>			
ACC Compensation Corporation	Accident	<a href="http://www.findsupport.co.nz">www.findsupport.co.nz</a> or <a href="mailto:ISSCclaims@acc.co.nz">ISSCclaims@acc.co.nz</a>	ACC funds therapy for people who have experienced sexual abuse or assault.
Lifeline		0800 543 354	
Shakti		0800 742 584 24 hour crisis line	For migrant and refugee women of Asian, African and Middle Eastern origin
Rape Crisis		0800 883 300	For support after rape or sexual assault

This form is to lay a formal complaint. Please record the details of the complaint below. Feel free to work with a support person, union or legal representative in completing this form. Your support person or representative can also be present at any meetings you need to attend.

**INCIDENT 1** (repeat table as needed if there is more than one incident)

Your Name:

Name of Respondent (*person who is being complained about*):

When did it happen? (date and time) Time:

Date:

Where did it occur?

Who was present?

What was said and who said what?

Why do you think it is bullying, harassment or discrimination?

It has endangered my health and safety because:

Who witnessed the incident?

How did the incident make you feel?

How has the incident affected your work/studies

Please give this complaint to the Executive Director, People, Culture & Wellbeing (where the respondent is not a student) or the University Proctor (where the respondent is a student).

*Note: The Respondent is the person who is being complained about.*

Have you taken any actions? If so, what?

As a result of this complaint, what do you want to happen?

**Appendix 7****Complaint Protocol**

This is the process to be followed if a complaint is received regarding a Lincoln University staff member:

	<b>Process</b>	<b>Follow Up</b>	<b>Who?</b>	<b>Timeframe</b>
1	Complaint Received	Initial acknowledgement via email that 'the complaint has been received and sent to the Executive Director, People, Culture & Wellbeing' (ED) as appropriate	Receiver	Within 24 Hours of complaint being received
2	Complaint sent to Exec Director, People, Culture & Wellbeing (ED) and relevant HR representative*	Exec Director decides what process is invoked depending on type/substance of complaint	ED	Within 48 hours of complaint being received or forwarded on
3a	Formal acknowledgement to complainant of receipt via email/letter	Completed by person appointed by Exec Director	HR rep	Within 3 days of complaint being received
3b	HR Rep liaises with the Respondent's line manager	HR rep to liaise with the Respondent's line manager regarding the investigation process IF a process is deemed necessary	HR rep	Within 3 days
3c	HR Rep advises Complainant of the next steps and timeframes	Keep email record that this information has been provided	HR rep	Within 3 days
3d	Carry out an initial investigation with complainant (if deemed necessary)	Talk to the complainant and/or witnesses as appropriate, review evidence, determine if appropriate to progress	Line manager and HR rep	Within 10 days (as appropriate)
4	In consultation with the line manager, the HR rep arranges a meeting with the Respondent – it is recommended that the full complaint is provided to the Respondent in advance	Ensure there is a written invitation, and the respondent (staff member) knows: they can bring a representative/ support, and that there is the potential of a disciplinary outcome as a result of the process.	HR rep	Meeting to occur within 2 weeks
5	Carry out a (further) investigation as needed	Talk to the respondent, complainant and/or witnesses as appropriate, review evidence	Line manager and HR rep	Within 3 weeks
6	Advise the respondent of the preliminary views as to the findings and penalty, if any	Seek and record their verbatim feedback	Line manager and HR rep	Within 3 weeks
7	Receive and consider representations on those preliminary views and any mitigating factors	Consider feedback and make decisions	Line manager and HR rep	Within 3 weeks



8	Make and advise the person complained about of the final decision on the findings and as to the penalty	Outcome confirmed in writing and file	Line manager and HR rep	Within 3 weeks
9	Advise Complainant in confidence that a final decision has been made and give appropriate details.		Line manager or HR rep	Within 3 weeks

*\*refers to an HR staff member – most likely the HR Business Partner OR the ER Consultant - who is tasked with facilitating the complaint. At serious/senior levels, the complaint process will be dealt with directly by the Executive Director, People, Culture & Wellbeing.*

### Definitions

- **Complainant** – the person who lodged the complaint and could be a staff member, student or member of the public
- **Respondent** – the staff member that the complaint refers to.

### Informal Resolution

If a written/verbal complaint is not received but a potential complainant asks about the process or indicates they may submit a complaint, advise them of informal resolution process including:

- establish the fundamental issue and explore options for resolution with the respondent directly and/or the line manager and/or senior manager
- determine if the issue is appropriate for mediation – to be conducted internally
- develop skills to address the alleged behaviour
- clearly understand the further options available if the matter cannot be resolved by direct discussion.