

# **Bullying, Harassment and Discrimination Prevention Policy and Procedure**

## **1 Background**

This policy affirms Menzies Institute of Technology objective (hereinafter known as the 'Institute') to provide a safe and healthy workplace and learning environment that is free from bullying and unlawful harassment and discrimination and can provide members of the Institute with information and training in relation to bullying, unlawful harassment and discrimination. The policy is designed to reflect the Institute's values of respect, integrity, inclusion and diversity. Further, the policy is designed to meet its obligations and responsibilities in education and employment under equal opportunity laws, to provide guidelines for students, staff, affiliates and management on standards of interpersonal interaction and to provide solutions for dealing with breaches of these standards, policies and laws.

## **2 Purpose**

The purpose of this policy is to state and affirm the Institute's commitment to the following objectives related to equal opportunity:

- The elimination of bullying, harassment and discrimination, to the greatest extent possible.
- To encourage the elimination and identification of causes of bullying, harassment and discrimination.
- To promote and facilitate the realization of equality as much as possible.
- Provide a safe and healthy workplace and learning environment.

## **3 Audience**

This policy applies to all staff including management, students and the wider stakeholder community while on Institute premises or engaged in performing duties or functions of the Institute.

## **4 Definitions**

**Bullying:** refers to repeated and unreasonable behaviour directed towards a person or group of people that causes them to be subject to acts of intimidation, offensive behaviour, hostility or other actions that make them feel uncomfortable and creates a risk to health and safety. The following may be considered to be examples of bullying: verbal abuse or threats including yelling, insulting or offensive language; unjustified criticism or complaints; deliberately excluding someone from activities; withholding information that is essential to perform a task properly; physical abuse; spreading misinformation or rumours and may occur in person, by telephone or email, through another person or any other means.

**Characteristic:** means a feature or quality that identifies a particular person or group of people that is protected by applicable legislation.

**Complainant:** The person who claims to be the subject of bullying, harassment or discrimination and who makes complaints about the experience.

**Conciliation:** A process that occurs when a third party brings together the two other parties to a grievance in which the views of the parties are stated with the aim of reaching a resolution. A monitoring process is undertaken to ensure the agreement does not break down.

**Discrimination:** occurs when a person or a group of people is treated less favourably than another person or group because of one or more characteristics. Direct discrimination can occur in decisions such as those relating to: recruiting, selecting or promoting staff; offering particular terms, conditions or benefits as part of employment; offering and providing training, including selecting who is offered training and the kind of training offered; offering redundancy; determining dismissal and offering access to educational services. It may also apply if assumptions are made which result in a person or group being treated differently on the basis of one or more characteristics. Indirect discrimination occurs when there is a rule or requirement that disadvantages one group more than another on the basis of one or more of the characteristics unless it can be shown that the particular rule or requirement is reasonable in all the circumstances or is required to perform the inherent requirements of the job.

**Harassment:** occurs when a person or group of people is intimidated, insulted or humiliated because of one or more characteristics and can arise as a result of a single incident as well as repeated incidents. Harassment can occur through behaviour such as: telling jokes about particular racial groups; sending explicit or sexually suggestive emails or texts; displaying offensive or pornographic website or screen savers; making derogatory comments or taunts about

someone's race or religion, gender or sexual orientation; asking intrusive questions about someone's personal life including their sex life and/or creating a hostile working environment.

**Respondent:** The person who is alleged to have engaged in conduct inconsistent with this policy and acted in a way which causes the bullying, harassment or discrimination and is the person whom the complaint is made.

## 5 Policy

The Institute's goal is to provide an atmosphere which encourages individuals to realize and reach their potential. Therefore, it is against the Institute's policy for any employee, student or other person to engage in prohibited bullying harassment or discrimination of any member of the Institute community.

The Institute prohibits unlawful direct or indirect bullying, harassment or discrimination which occurs when a person, or a group of people, is treated less favourably than another person or group because of characteristics based on race, colour, national origin, religion, marital status, sex, age, veteran status, disability, sexual orientation, or any other status that is protected by state, local or federal law in any area, operation or activity associated with the Institute. The Institute also prohibits retaliation against an individual who engages in activities protected under this policy and interfering with rights or privileges that are granted under anti-discrimination laws.

All students, staff and affiliates of the Institute will be treated equally and equitably. Under this policy, equal and equitable opportunity for admission, recruitment, employment and participation in the Institute's training programs, activities and services will be extended to all students and staff. The Institute will promote equal opportunity and treatment through the application of this policy and other Institute efforts designed for that purpose.

Under the Institute's policy, bullying, harassment and discriminatory or retaliatory behaviour is not tolerated. Therefore, it is the responsibility of all members of the Institute community to strictly comply with the policy and procedures directed by the Vocational Management Team to implement the policy. All employees will be accountable to take reasonable actions to maintain educational environments and work sections free of conduct that causes or could be considered to cause hostility, intimidation, discrimination or retaliation.

Any individual who believes he/she has been a victim of bullying, harassment or discrimination by any person associated with the Institute is encouraged to address their concerns with the

Discrimination and Harassment Contact Officer who can offer a grievance procedure to resolve such complaints in an equitable and prompt manner.

The Discrimination and Harassment Contact Officer is appointed by the Vocational Management Team. Contact details of the Discrimination and Harassment Contact Officer is made available to all students with their orientation documents and to all staff in their induction documents. The Discrimination and Harassment Contact Officer is introduced to the students at the orientation program and to staff at the induction program.

## **6 Procedures**

In order to deal with bullying, harassment or discrimination there are procedures in place for reporting, investigating and providing appropriate penalties.

### **Reporting bullying, harassment or discrimination**

Bullying, harassment or discrimination can be reported in many ways. It can come as a formal or informal complaint. It can be in verbal or written form. Informal complaints of bullying, harassment or discrimination can be made to anyone connected with the Institute. A person that has received a complaint of bullying, harassment or discrimination in any form is required to report it to the Discrimination and Harassment Contact Officer. All complaints should be as complete as possible and include any information that can be used to understand and resolve the issue. This includes the parties involved, dates and times of bullying, harassment or discrimination incidents, any actions that occurred that were considered to be bullying, harassment or discrimination and any physical evidence of the bullying, harassment or discrimination.

Formal complaints should be in writing and should include all information that is needed. The formal complaints should be directed to the Discrimination and Harassment Contact Officer. Formal complaints should include the date that they are submitted along with who they are being submitted to. It is not required, but suggested, that a copy of all formal complaints be kept by the person making the complaint.

### **Investigating the Complaints**

The Institute takes all complaints, whether they are formal or informal, seriously and will act on any complaint that is received. Investigations will be done as quickly as possible and will include gathering information from all of the parties involved including the person making the complaint and the person that the complaint is being made about.

#### Steps in Complaint Investigation and Resolution

1. A complainant consults the Discrimination and Harassment Contact Officer for advice and addresses the matter with the alleged respondent; or the complainant composes a letter to the alleged respondent describing the grievance and requesting cessation of the specific acts. Discrimination and Harassment Contact Officers may assist in the composition of such letter.
2. Assistance from the Discrimination and Harassment Contact Officer, if needed, to accompany the complainant to address the issues with the alleged respondent; or, the Discrimination and Harassment Contact Officer may him/herself compose the letter to the alleged respondent detailing the complainant's concerns and requesting to cease the actions.
3. The complainant or a Discrimination and Harassment Contact Officer approaches the appropriate authority with a request for an intervention; or the Discrimination and Harassment Contact Officer, at the request of the complainant, requests the appropriate authority to take measures to intervene by either speaking or writing to the alleged respondent.
4. A designated party acts as an intermediary between the parties with a goal of reaching an agreed upon solution. This process can be defined as mediation.
5. If necessary, a request for conciliation is submitted by the Discrimination and Harassment Contact Officer. The following principles apply to this process:
  - A conciliator is appointed by the Vocational Management Team.
  - The Discrimination and Harassment Contact Officer may not take on the role of a conciliator in any matter that he/she was initially consulted for.
  - Either party in the matter can request the presence of the Discrimination and Harassment Contact Officer, other staff member, student or colleague during the conciliation conference.
  - If necessary, the alleged respondent may be instructed to appear before the conciliator. Should the respondent fail to appear, an investigation may be initiated.
  - The role of the conciliator is to provide each party with the opportunity to state his/her case and not to imply that there is a case to answer to.

- Both parties will be provided the opportunity to state their views in the presence of one another. Separate interviews may be required by the conciliator at any time during this process.
  - At the end of the conciliation conference, both parties will be required to sign a written record of the conference which shall remain confidential.
  - A confidential record containing the names of both parties, the dates of any meetings and a summary of outcomes and agreements is lodged with the Vocational Management Team. The record is to be made available to the designated individuals who are responsible for monitoring the adherence to such agreement.
6. If needed, a staff member or student who feels he/she has been subject to bullying harassment or discrimination or has been victimized as a result of an action taken under these procedures may submit a written request through the Discrimination and Harassment Contact Officer to the Vocational Management Team. The Vocational Management Team will initiate an investigation regarding this and the following statements are related to this process:
- Should the Vocational Management Team feel options for resolution are inappropriate, or if the options have proved to be unsatisfactory, the Vocational Management Team will approve a formal investigation to be conducted.
  - Any requests for an investigation must be lodged with the Vocational Management Team within twelve (12) months of the date of the last occurrence which is the subject of the complaint. Any requests will not be accepted outside this period of twelve (12) months unless the Vocational Management Team considers the circumstances to be appropriate.
  - Any request for investigation must be supported by a written statement which describes the actions causing the complaint along with any evidence or supporting documentation which may be in the form of emails, text messages etc.
  - A complainant may seek the assistance from any individual in the preparation of the required written statement. It is recommended that when composing such statements, caution should be exercised to avoid defamation.

The following principles apply to the Institute's manner in the handling of complaints related to bullying, harassment and discrimination:

### **Positive Duty**

- The Institute recognises its positive duty to ensure all staff makes themselves aware of the potential for bullying, harassment, discrimination, vilification and victimization and the need to take appropriate action to prevent them.
- The Institute reserves the right to act in a manner that addresses any potential incidents of sexual harassment and unlawful discrimination which leads to the conduction of an investigation. All sexual harassment incidents will be dealt according to the MITP22 Sexual Harassment Policy.

### **Procedural Fairness**

- The process of complaint resolution will be equitable and fair. Parties involved in such process must not be biased or affected by conflict of interest and must act only in a manner that is perceived fair and impartial. Alleged respondents must be given the opportunity to be aware of the accusations against them and have the opportunity to be heard.

### **Confidentiality**

- Wherever possible, confidentiality will be maintained in the management of bullying, harassment or discrimination complaints.

### **Frivolous Complaints**

- If necessary, appropriate actions will be taken to address complaints received under this policy that subsequently prove to be frivolous in intent and nature, which may include disciplinary action.

### **Self-Managed Resolution**

- Any individual who makes a claim that he/she has experienced bullying, harassment, discrimination, or victimization is encouraged to discuss the matter directly with the alleged party as long as the circumstances are appropriate.

### **Protection Against Victimization**

- Individuals who make complaints in accordance with this policy will not suffer any adverse consequences from the Institute as a result. Should, victimization occur, the Institute will take necessary action to appropriately address the situation.

### **The Institute's Actions Related to Breaches of This Policy**

- All complaints received alleging behaviours of bullying, harassment or discrimination will be treated seriously and acted upon in a timely fashion.
- Consequences for a substantiated breach of this policy will vary depending on the seriousness of the actions related to the complaint. Disciplinary action is a potential outcome in such complaints.

- Penalties can be assessed at any time during the process depending on what is discovered. Actions that can be taken as a result of the investigation include:
  - Determination of any disciplinary action against the parties that are involved
  - Steps taken to prevent bullying, harassment or discrimination in the future
  - Decision about any restitution that may be due to the person making the complaint
  - Determination of any further action that should be taken to benefit/discipline the victim, the person that has committed the bullying, or the Institute.

### **Managing bullying, harassment or discrimination**

- The Institute will take steps to assess potential areas of bullying, harassment or discrimination even if they are not occurring. Regular assessments of the practices of the academic staff and students along with the employees of the Institute will be conducted to make sure that bullying, harassment or discrimination does not occur.
- Regular education regarding the problem of bullying, harassment or discrimination and the impact of bullying, harassment or discrimination will be held by the Institute to help create an atmosphere that does not accept bullying, harassment or discrimination. Programs may be created that are designed to prevent bullying, harassment or discrimination from occurring in the first place.
- All incidents of bullying, harassment or discrimination that are investigated will be further reviewed to determine the underlying cause of the problem. The information that is gathered will be used to put into place policies that can help prevent any bullying, harassment or discrimination in the future. The Institute will work to be proactive in its approach to prevent bullying, harassment or discrimination to limit the amount of complaints that are received.

### **Responsibility of Reporting**

- Anyone that witnesses, is a party in, or is the victim of bullying, harassment or discrimination has a duty to report it. A person that receives a report of bullying, harassment or discrimination has the duty to make sure that it is passed on to the Discrimination and Harassment Contact Officer. Not reporting bullying, harassment or discrimination will be looked upon in the same way that the acts of bullying, harassment or discrimination are and will not be tolerated.



## 7 Review

This policy will be subjected to a review and update at intervals of three years from the approval date. Exceptions to frequency of review can be made if necessary. Any person who wishes to enter a complaint concerning this policy may do so in accordance with the appropriate policies.

<b>RTO Code:</b>	21834	
<b>CRICOS Code:</b>	02815M	
<b>Document Title:</b>	Bullying, Harassment and Discrimination Prevention Policy	
<b>Document Number:</b>	MITP21	
<b>Version:</b>	Version 06	
<b>Relevant Standards:</b>		
<b>Related Policies/Documents:</b>	Racial Discrimination Act 1975 (Cth) Sex Discrimination Act 1984 (Cth) Age Discrimination Act 2004 (Cth) Disability Discrimination Act 1992 (Cth) Human Rights and Equal Opportunity Commission Act 1986 (Cth) Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Bill 2013 (Cth) Victorian Equal Opportunity Act 2010 Fair Work Act 2009(Cth) Work Place Gender Equality Act 2012(Cth) MITP22 Sexual Harassment Policy and Procedure MITP88 Staff Code of Conduct MITP04 Student Code of Conduct	
<b>Responsibility:</b>	Vocational Management Team and all staff	
<b>Approved By:</b>	PEO	
<b>Date Approved:</b>	April 2021	
<b>Next Review Date:</b>	April 2024	
<b>Version Control and Change History:</b>		
<b>Version Number</b>	<b>Approval Date</b>	<b>Amendment</b>
1	25/09/2009	Creation of policy
2	01/06/2012	Reviewed and updated the next review date
3	01/09/2016	Reviewed and updated the next review date
4	01/03/2017	Update clause 4.0
5	18/04/2018	Change policy name to Bullying, Harassment and Discrimination Prevention Policy to incorporate elements and discrimination and harassment. Policy and procedures updated to reflect the changes to the policy name.
6	April 2021	Updated details on responsibilities and contact people titles