

Frequently Asked Questions about Workplace Bullying and Harassment

What is a respectful workplace?

Every employee has the right to dignity and respect in the workplace, and share responsibility for ensuring a respectful workplace.

In a respectful workplace, employees treat each other fairly and with dignity, acknowledge and value diversity, and work cooperatively together. They set a positive example in their behaviour, communicate openly and courteously, and strive to prevent or eliminate disrespectful behaviour, bullying, harassment and discrimination.

Charles Sturt University is committed to providing equity of opportunity in employment and to achieving an employment environment that is free from bullying, harassment and discrimination and supportive of academic achievement and the dignity and self-esteem of every employee.
(Enterprise Agreement 2013-2016, Clause 59.1, Charles Sturt University, Australia).

What is workplace bullying?

“Bullying at work is repeated, unreasonable behaviour directed towards an employee or a group of employees that creates a risk to health and safety. Bullying does not include reasonable management practices, including performance management, conducted in a reasonable manner.”
(Enterprise Agreement 2013-2016, Clause 3: Definitions, Charles Sturt University, Australia)

Bullying can take the form of verbal, physical, emotional, social and/or sexual abuse. It can occur face-to-face or via avenues such as social media, Internet chat rooms, email, text messaging, telephone and videoconference.

Examples of bullying include but are not limited to:

- Abusive or offensive language, insults, ridicule, sarcasm or intimidating remarks
- Spreading derogatory innuendo or rumours about a person
- Teasing or practical jokes/pranks, particularly after the person targeted has objected
- Physical aggression
- Making phone calls or sending letters or e-mails that are threatening, abusive or offensive
- Interfering with or damaging a person's property
- Repeatedly criticising or making comments intended to discredit or undermine a person or devalue their work
- Deliberately excluding someone from work-related/study-related events, social activities or networks
- Deliberately withholding work-related/study-related information or resources or supplying incorrect information to an individual
- Inappropriately threatening a student with low grades or a staff member with dismissal, disciplinary action or demotion
- Unrealistic job changes, including too much or too little work, unreasonable deadlines or work targets, or tasks below or well beyond a person's skill level
- Subjecting a person to constant surveillance or over-detailed supervision and unwarranted checking of performance
- Denying access to training and development or career opportunities without justification
(Harassment and Bullying Prevention Guidelines, Clause 27, Charles Sturt University, Australia, 22 May 2014)

What is not workplace bullying?

- An isolated incident of unwelcome behaviour
- Reasonable management action carried out in a reasonable manner – this includes:
 - *setting reasonable performance goals, standards and deadlines*
 - *rostering and allocating working hours where the requirements are reasonable*
 - *transferring a worker for operational reasons*
 - *deciding not to select a worker for promotion where a reasonable process is followed*
 - *informing a worker of their unsatisfactory performance*
 - *informing a worker of their unreasonable or inappropriate behavior in an objective and confidential way*
 - *implementing organisational changes or restructuring*
 - *taking disciplinary action including suspension or termination of employment.*(Dealing with workplace bullying – A worker's Guide, p. 3, Safe Work Australia, November 2013)
- Making a complaint about a manager's or another employee's conduct
- A workplace conflict, e.g. a difference of opinion or a disagreement

What is harassment?

Harassment – refers to unwelcome behaviour that:

- (a) makes a person feel offended, belittled, intimidated or apprehensive; and that*
- (b) a reasonable person, taking into account all of the circumstances, would expect to cause offence, intimidation or apprehension.*

Under State and Commonwealth anti-discrimination legislation, harassment on any of the following grounds is deemed to constitute discrimination:

- *sex;*
 - *sexual orientation, gender identity or intersex status;*
 - *marital, relationship or domestic status;*
 - *pregnancy or potential pregnancy;*
 - *breastfeeding;*
 - *family or carer responsibilities;*
 - *race, colour, nationality, descent, national or ethno religious origin;*
 - *disability (including physical, sensory, intellectual, psychiatric, neurological and learning disability, physical disfigurement, the presence in the body of an organism capable of causing disease, and current, past, future or imputed disability);*
 - *age;*
 - *religious or political affiliation, views or beliefs;*
 - *actual or imputed characteristics of any of the attributes listed above; or*
 - *association with a person identified by reference to any of the attributes listed above.*
- (Harassment and Bullying Prevention Policy, Clauses 4-5, Charles Sturt University, Australia, September 2014)

How can bullying occur? (power imbalance)

A bully misuses relative or assumed power to intimidate, humiliate, threaten or control a target on a repeated basis.

This power imbalance can be:

- Upwards, e.g. a manager bullied by an employee or a lecturer bullied by a student
- Downwards, e.g. an employee bullied by their manager
- Sideways, e.g. an employee bullied by a team member or colleague

The bully always uses power for their own gain. It is never about win-win.

What types of bullying are there?

Bullying can take the following forms:

- **Conflict escalation** – most bullying begins with a conflict. In the early stages, both parties might try to resolve the conflict in a constructive manner. However, if this is not successful and the conflict escalates, the more powerful person starts to dominate and target the other with behaviours that are a risk to the target's health and safety.
- **Predatory behaviour** – a predatory bully singles out a target and then tries to make that person's life miserable or get rid of them. The behaviour is usually based on the target being perceived as different, and can involve unlawful discrimination or harassment.
- **"Normal behaviour" or "see no evil" approach** – in this approach bullying is accepted as normal behaviour. Bad behaviour is ignored, concerns about bullying are downplayed by treating complaints as personality clashes or performance management issues, and targets who complain are labelled as "sensitive". Bullying may even be viewed as a legitimate management style to pressure staff (or students) to reach very high targets or tight deadlines.
- **Victimisation of a "whistle blower"** – bullying may be used to punish a person who has reported or made a complaint about poor practice or bad behaviour.
- **"Mobbing"** – this refers to an individual being bullied by a group of people, especially when the target has violated group norms.

(Mediating workplace bullying complaints: Using an evidence-based model to ensure sustainable outcome, pp. 1.17-1.20, Moira Jenkins, LEADR Association of Dispute Resolvers, Sydney, 2011)

What are the impacts of bullying?

Workplace bullying may negatively affect the **target** through:

- Stress
- Depression
- Physical illness, e.g. headaches, digestive problems, muscle tension
- Reduced self-confidence and self-esteem
- Social withdrawal
- Deterioration in relationships with family, friends and/or colleagues
- Reduced work performance and productivity
- Reduced job satisfaction

In addition, it may negatively impact on the **workplace** through:

- Reduced morale and motivation
- Reduced productivity
- Increased absenteeism
- Increased staff turnover and associated recruitment and training costs
- Loss of knowledge, skills and experience when staff leave
- Costs associated with workers' compensation claims, internal and external investigations, legal cases and increased insurance premiums
- Loss of workplace reputation

What is our duty of care in relation to bullying and harassment?

Everyone in the workplace has a duty of care, under Work Health and Safety legislation, to ensure that workplace bullying and harassment do not occur.

The **employer** has the primary duty of care to ensure that staff and students are not exposed to harm in the work and study environments. This requires that risks to health and safety be eliminated where practicable or otherwise minimised.

Managers and supervisors have a duty of care to prevent and eliminate discrimination and harassment in the workplace, which extends to all aspects of the recruitment, selection, appointment, promotion and management of staff.

Staff have a duty of care to ensure that their acts or omissions do not adversely affect the health and safety of others who are on the University's premises or engaged in University-related activities.

Anti-discrimination laws set out three types of liability for unlawful harassment and discrimination:

- **Vicarious liability** – an employer is legally responsible for the unlawful actions of employees. Vicarious liability may be reduced if an organisation takes all reasonable steps to prevent discrimination and harassment from occurring.
- **Personal liability** – individuals can be held legally responsible for their own unlawful behaviour, and can have amounts awarded against them in court and tribunal hearings. This can occur even where the employing organisation has successfully made out the defence of having taken “all reasonable steps”.
- **Accessory liability** – this can apply where an individual or organisation was aware that unlawful discrimination or harassment was occurring but failed to take any steps to prevent it. In some cases, this is referred to as “wilful blindness”.

Penalties

The maximum penalties that apply for breaching duty of care are set out in the table below and may depend on the degree of harm that results.

State or Territory	Duty	Penalty
NSW, QLD, SA, TAS, NT, ACT, CTH Work Health and Safety Act (2011)	General duty	Up to \$300,000 fine for workers Up to \$1,500,000 fine for corporation
	Reckless endangerment	Up to \$300,000 fine for workers Up to \$600,000 fine for officers Up to \$3,000,000 fine for corporation Up to 5 years' gaol for relevant person
VIC Occupational Health and Safety Act (2004)	General duty	Up to \$253,512 fine for workers Up to \$1,267,560 fine for corporation
	Reckless endangerment	Up to \$300,000 fine for workers Up to \$253,512 fine for officers Up to \$1,267,560 fine for corporation Up to 5 years' gaol for relevant person

(*OH&S Handbook*, pp. D4/19-20, ed. Andrew Douglas and Michael Sellinger, Portner Press P/L, Port Melbourne, VIC, 2012)

Am I being bullied?

Try the following quiz. While a response of “yes” to any of the questions may not be evidence in itself of being bullied, it does raise the need for further investigation.

Am I being bullied? Does someone:	Yes
1. Persistently attempt to belittle me or undermine my work?	
2. Persistently and unjustifiably criticise me or monitor my work?	
3. Persistently attempt to humiliate me in front of colleagues?	
4. Use destructive innuendo and sarcasm against me?	
5. Physically or verbally threaten me?	
6. Freeze me out, ignore or exclude me?	
7. Set me impossible deadlines?	
8. Alter my work goals without telling me?	

(State Services Authority, now the Victorian Public Sector Commission, Victoria, 2010)

What can you do if you are being bullied?

- Understand that a bully tries to provoke a response that can be used against you. Stand your ground but always act reasonably and politely, even in the face of rudeness.
- Keep an accurate and confidential record of the bullying incidents, including times, dates and places; what you and others said and did; and names of any witnesses. Also keep emails and documents that are evidence of bullying.
- Be aware of and monitor your stress levels. Put your health before any other consideration.
- Follow the steps outlined in Charles Sturt University's [Harassment and Bullying Prevention Guidelines](#) and the [Complaints Procedure - Workplace](#) or [Complaints Procedure - Students](#) to resolve the situation.
 - If it is safe, let the alleged bully know that their behaviour is unwelcome and ask them to stop.
 - Talk to people you trust, e.g. a friend, support person, counsellor through the [Employee Assistance Program](#) or [Student Counsellor](#).
 - Tell your line manager or another appropriate manager, e.g. a more senior manager or Human Resources Manager (staff and students) or the relevant Course Director, Head of School or Faculty Executive Officer (students) about your concerns.
 - Make a written complaint to the University Ombudsman.
 - If discrimination, seek advice internally from the Manager, Diversity and Equity (staff) or Student Liaison Officer (Equity) (students) or externally from the NSW Anti-Discrimination Board or Australian Human Rights Commission.
 - If someone has been assaulted or injured, contact the Police.
- Avoid having one-to-one meetings with the alleged bully if you have lodged a complaint about the bullying. Ensure that you have a trusted support person with you as a witness in any meeting with the alleged bully.

What can you do if you are being bullied by a student?

- Ensure behavioural and communication expectations are clearly explained for students in course materials, outlines and introductory information. For example, set clear guidelines at the start of the academic session about how you will communicate.
- If issues arise in relation to student behaviour and/or communication, inform the student of the expected behaviour/communication and the consequences of inappropriate behaviour / communication, as contained in the [Student Charter](#), [Academic Communication with Students Policy](#), [Communicating without Bias Guidelines](#) and/or [Social Media Guidelines](#) (Division of Information Technology).
- If the issues persist, collaborate with the Head of School and student to develop a communication management plan in support of the staff member and student, in accordance with the [Academic Communication with Students Policy](#) or, if applicable, follow the [Process for Handling Complaints of Offensive Comments in Online Evaluations](#).
- If the issues still persist, action can be taken under the [Student General Misconduct Rule](#).
 - Make a written complaint to the Head of Campus.
 - Students can be suspended from classes or banned from campus for up to 2 weeks.
 - If misconduct is proven, students can be suspended from the University for up to 12 months.

What can you do if you witness bullying?

- Do not ignore any bullying or pretend that it didn't happen.
- Do not encourage or participate in bullying behaviour. If you feel confident and it is safe to do so, ask the alleged bully to stop.
- Do not harass, tease or spread gossip about others – this includes using social networking sites like Facebook and Twitter.
- Do not acknowledge, reply to or forward on messages or photos that may be offensive or upsetting.
- Keep a confidential, accurate record of what you have observed.
- Encourage the person who considers they are being bullied to ask for help, e.g. accompany them to a place where they can get help or provide them with information about where to go for help.
- Report the bullying to someone in authority, e.g. to a manager or the Division of Human Resources (staff and students) or Head of School (students). If the bullying involves assault, injury or damage to property, report it to the police. If it occurs online, report it to the owner of the website.

What can a manager do about bullying?

- Ensure all new staff members are properly inducted in the Code of Conduct and relevant policies.
- Evaluate staff behaviour as well as the achievement of outcomes in performance reviews.
- Do not ignore bullying or wait until a complaint is made to take action.
- Check Charles Sturt University's (CSU's) [Harassment and Bullying Prevention Policy](#) and [Guidelines](#).
- Check the facts and assess whether further investigation is required.
- If appropriate, attempt to resolve the matter informally first.
- If further investigation is required, seek advice from the Division of Human Resources.
- Depending on the outcomes of the assessment or investigation, a performance improvement plan may be developed or, for more serious matters, misconduct or serious misconduct proceedings may be initiated.
- Encourage the person being bullied to contact the [Employee Assistance Program](#) (staff) or [Student Counsellor](#) (students) for professional support.
- Ensure protection is provided against victimisation (i.e. retaliation for making a complaint).
- Monitor and review the bully's behaviour in accordance with the performance improvement plan.
- If the bullying behaviour does not cease or if the allegation is serious, make a formal complaint to the Division of Human Resources (staff and students) or Head of Campus (students) for investigation.

Do I bully others?

Even though your behaviour may seem innocent to you, it is important to consider its effect on others. Would a reasonable person consider it to be bullying? Try the following quiz.

Do I bully others? Do I:	Yes
1. Place undue pressure on others to produce the results I want?	
2. Change job descriptions, goals or guidelines without explanation?	
3. Remove someone's responsibility unfairly or without explanation?	
4. Criticise or reprimand others publicly instead of counselling them in private?	
5. Exclude people from relevant meetings and other information?	
6. Use unfair techniques to influence others?	
7. Abuse my authority to get what I want?	
8. Assign menial or meaningless tasks to people I dislike?	

(State Services Authority, now the Victorian Public Sector Commission, Victoria, 2010)

What can you do if you are accused of bullying?

- Listen carefully to the complaint. Seek clarification about what aspects of your behaviour are considered unacceptable. If needed, ask for a break or time to consider your response. Apologise for any offence that may have been caused and discuss how you might work together more effectively.
- Check Charles Sturt University's [Harassment and Bullying Prevention Policy](#) and [Guidelines](#) to determine if your behaviour can be considered to be bullying.
- If you do not understand the complaint, discuss it confidentially with someone you trust, e.g. friends, peers, manager or [Employee Assistance Program](#) counsellor (staff) or [Student Counsellor](#) (students).
- Stop the behaviour and review what you are doing.
- If you feel that you are being unjustly accused and/or that the allegation is false and malicious, contact the Division of Human Resources (staff and students) or the relevant Course Director, Head of School or Faculty Executive Officer (students) for advice.
- If a formal complaint is made against you, you will have the right to be informed of the allegations, to respond to them, and to have a support person accompany you to meetings. Gather evidence in your defence, including witnesses.
- If the complaint is upheld, then disciplinary action will be taken.
- If the complaint is not upheld and the University believes that it was not made in good faith, then disciplinary action will be taken against the person making the false complaint. The Division of Human Resources (staff and students) or Head of School (students) will also support arrangements for the resumption of a harmonious work/study environment.
- Do not victimise the complainant or anyone who has supported the complainant and given evidence. Victimisation is likely to lead to disciplinary action.

How do I make a complaint if I am bullied?

The aim is to resolve complaints in a timely fashion and as close as possible to the source.

- Try to sort out the issue directly with the person concerned.
- If not resolved, then seek assistance from your immediate supervisor or another supervisor or manager.
- If the issue is still not resolved, then make a formal complaint to the immediate supervisor or other appropriate person, and follow the [Complaints Procedure – Workplace](#) or [Complaints Procedure - Students](#).

All parties will be afforded natural justice and procedural fairness in the handling of complaints.

What are the consequences for bullying?

Bullying and harassment breach Charles Sturt University's (CSU's) standards of behaviour, as outlined in the Code of Conduct. Depending on the severity of the breach, the following sanctions may be imposed on staff:

- *counselling;*
- *formal censure;*
- *withholding of a salary step;*
- *demotion by one or more salary steps;*
- *demotion by one or more classification levels; or*
- *termination of employment* (Enterprise Agreement 2013-2016, Clause 37.13, Charles Sturt University, Australia, 22 May 2014);
- civil action; or
- reporting of the breach to the police or any other appropriate authority external to CSU.

The following sanctions may be imposed upon a student who is declared guilty of misconduct:

- *caution or reprimand the student; or*
- *require the student to pay for damage and/or expense caused by the misconduct...; or*
- *impose a fine and the conditions of payment of the fine on the student...; or*
- *suspend the student from the use of any specific facility, or the right to enter any specific building or area of land of the University or any specific part thereof; or*
- *suspend the student from the University for a specified period not exceeding one calendar year...; or*
- *... expel the student from the University for a specified period of at least two years...*
(Student General Misconduct Rule, Clause 38, Charles Sturt University, Australia, 22 May 2014)