

Discrimination, Bullying, Harassment and Sexual Misconduct Policy

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1. PURPOSE

This policy affirms that Barton Business School (“BBS”) has a zero-tolerance policy toward harassment (including sexual harassment), vilification, victimisation, bullying, discrimination, and other wrongful, unlawful, and inappropriate conduct. BBS is committed to actively developing and maintaining an environment that is free from these forms of behaviour.

This Policy also informs students and staff of their rights regarding equal opportunity and their responsibilities in upholding appropriate standards of conduct.

2. SCOPE

This policy applies to all students of BBS, all members of BBS's Boards and Committees, and all BBS staff, including sessional staff and contractors.

3. DEFINITIONS

Refer to BBS’s *Glossary of Terms*.

4. POLICY

BBS is committed to the values of integrity, respect, diversity, and inclusion. Students and staff are expected to understand and acknowledge their rights and responsibilities to treat each other with respect, irrespective of their race, religion, gender, cultural background, political convictions, or sexual orientation.

4.1. PRINCIPLES OF EQUAL OPPORTUNITY

BBS aims to ensure that all students and staff understand their responsibility toward maintaining an environment free of discrimination, bullying, harassment, and sexual misconduct. Student orientation and staff induction programs provide information to students and staff regarding their rights and responsibilities and possible consequences of a breach of this and other relevant policies.

BBS provides equal opportunity in all aspects of its study and work environment through:

- a. informing students and staff about appropriate and inappropriate behaviours;
- b. maintaining transparency and fairness regarding student admission, progression, and assessment;
- c. providing equal access to support services, resources, and career development opportunities;

- d. using inclusive and non-discriminatory language;
- e. using merit-based criteria for staff recruitment and promotion processes;
- f. ensuring the accountability of management and staff in upholding equal opportunity practices;
- g. maintaining the confidentiality of and dealing promptly with complaints of discrimination, bullying, harassment, or sexual misconduct.

4.2. DISCRIMINATION

Discrimination occurs if a person is treated less favourably on the grounds of one or more of those attributes of a person that are protected by law (protected attributes).

For instance, discrimination can arise in relation to age, gender, sexual orientation, relationship status, pregnancy, parental responsibilities (including breastfeeding), race, ethnicity, religion, socio-economic background, disability, political beliefs or activities, and industrial relations beliefs or activities.

Irrespective of their intended purpose, a person may perform a discriminatory action. They may or may not know that their actions are discriminatory.

Direct discrimination occurs when a person is treated less favourably because of a protected attribute (e.g., ethnicity).

Indirect discrimination occurs when an action or a workplace policy or procedure that *prima facie* appears to be impartial in fact disadvantages someone who has a protected attribute.

4.3. BULLYING AND HARASSMENT

Bullying refers to offensive behaviour that may or may not be related to discrimination. Bullying is unreasonable, repeated behaviour directed toward a person or group that creates health and safety risks. It includes physical abuse, verbal abuse, or threats that involve yelling, insulting, and offensive language. It also includes deliberately excluding someone from activities or denying them access to information, supervision, consultation, or resources.

Harassment is any physical contact or behaviour that makes another person feel intimidated, uncomfortable, humiliated, or offended. Harassment frequently involves misuse of power. It can occur between supervisors and staff, co-workers, and students. It can also occur between students and staff. It can occur via face-to-face or online contact.

Harassment includes sarcasm, ridicule, repeated unreasonable criticism, offensive abuse and shouting, spreading malicious rumours, deliberate exclusion or isolation, offensive emails, setting impossible expectations, allocating demeaning tasks, sabotage of a person's work, vilification,

inciting others to harass another person, threatening gestures, actual violence, and abusive comments on an internet chat room or social media.

4.4. SEXUAL MISCONDUCT

Sexual misconduct occurs when a person makes an unwelcome sexual advance or an unwelcome request for sexual favours or engages in other unwelcome conduct of a sexual nature with another person. It includes uninvited and unwanted physical contact, remarks or insinuations about someone's morality or sex life, sexual propositions or suggestive comments about someone's appearance or body, sexually explicit jokes or conversations, offensive gestures, offensive displays of sexually graphic material, or offensive sexual comments conveyed via telephone, email, or social media.

5. PROCEDURE

This procedure describes how complaints about discrimination, bullying, harassment, and sexual misconduct may be raised and how they will be assessed and resolved.

Any student, staff member, or contractor who feels they have been the target of bullying, discrimination, harassment, or sexual misconduct has the right to make a complaint.

Someone who witnesses behaviour that breaches this Policy should also take appropriate action.

5.1. INFORMAL RESOLUTION

- a. If possible, parties should seek to informally resolve issues of discrimination, bullying, harassment, or sexual misconduct. A direct approach to the person whose conduct is deemed unacceptable is the preferred option. An explanation that the behaviour is unacceptable and a request to stop the behaviour may be an effective means of dealing with the matter.
- b. Where it is not possible to directly approach another person or they are unwilling to discuss the issue, the matter must be reported to the Dean if it concerns a student and to the Administration and Human Resource (HR) Manager if it concerns a staff member or contractor.
- c. In circumstances where the complaint involves the Dean or HR Manager, the complaint must be made to the Chief Executive Officer (CEO).
- d. Reports about complaints must be in writing and include details of times, dates, and witnesses and a description of the instances of discrimination, bullying, harassment, or sexual misconduct. Complainants are also encouraged to seek counselling or other support.

- e. Once a complaint is received, the Dean or HR Manager will immediately meet the complainant to notify them of their alternatives and, when appropriate, to offer counselling and support services.
 - i. The Dean or HR Manager will decide whether the complaint involves student, staff, or contractor misconduct. They will also consider the level of seriousness of the complaint.
 - ii. The Dean or HR Manager will decide whether it is appropriate to follow the formal procedures outlined below. Where the complaint involves unlawful activity, the matter will be reported immediately to the police.
 - iii. Where circumstances do not warrant formal procedures, the Dean or HR Manager will address the complainant's concerns and act to stop the behaviour. The complainant will be notified of all actions taken.
 - iv. Options for dealing with a complaint include:
 - a) Discuss the matter with the person about whom the complaint has been made but not make an allegation.
 - b) Recommend counselling, mediation, and other support services.
 - c) Meet other students and staff to inform them of responsibilities.
 - d) Arrange training on an equal opportunity, discrimination, bullying, harassment, and sexual misconduct for students and staff.
 - e) Terminate a student's enrolment, a staff member's employment, and contractor's engagement with BBS.
 - f) Refer the matter to the police.

5.2. FORMAL RESOLUTION

- a. Where the issue does not resolve within two weeks or the complaint involves serious misconduct, the Dean or HR Manager will advise the complainant to make a formal complaint per BBS's *Student Complaints and Appeals Policy and Procedure* or *Staff Complaints and Appeals Policy and Procedure*.
- b. If a student is making a formal complaint, BBS will act in accordance with the *Student Complaints and Appeals Policy and Procedure*.
- c. If staff, contractors, or visitors make a formal complaint, BBS will act in accordance with the *Staff Complaints and Appeals Policy and Procedure*.
- d. Where appropriate, a complainant should also be notified of their right to make an external complaint (e.g., to the police).
- e. A formal complaint will prompt an investigation, which may result in a wide range of outcomes if a student, staff, or contractor is found to have committed discrimination, bullying, harassment, or sexual misconduct.
- f. Outcomes for students determined under the *Student Complaints and Appeals Policy and Procedure* include a formal reprimand, suspension, or exclusion from a course or campus for a specified time.

- g. Outcomes for staff under the *Staff Complaints and Appeals Policy and Procedure* include a directed apology, formal reprimand, counselling, change of location, change of role, or dismissal.
- h. Outcomes for contractors include a formal reprimand or termination of engagement with BBS.
- i. Outcomes for visitors include a formal reprimand and a ban from BBS campuses.

6. EXCLUSIONS

Appropriate directions from lecturers, supervisors, or managers do not constitute harassment. A legitimate part of the role of lecturers, supervisors, and managers is to offer advice and comment on performance (refer to *Feedback Policy and Procedure*). Appropriate directions may include but are not limited to practical guidance, constructive feedback on unsatisfactory performance, counselling, and invoking unsatisfactory performance or misconduct procedures.

This policy does not apply to incidents of discrimination, bullying, harassment, and sexual misconduct unrelated to the BBS's learning and work environment or beyond the control of BBS.

7. VERSION CONTROL

Document title	Discrimination, Bullying, Harassment, and Sexual Misconduct Policy	
Approved By	Board of Directors	
Date of Review	This document is to be reviewed every two-years at a minimum from the date of final approval	
Related Documents	<ul style="list-style-type: none"> • First Nations Peoples Policy • Conflict of Interest Policy • Credit and Recognition of Prior Learning Policy and Procedures • Diversity, Equity & Inclusion Policy • Feedback Policy and Procedures • Staff Code of Conduct • Staff Complaints and Appeals Policy and Procedures • Staff Recruitment and Selection Policy • Student Code of Conduct • Student Complaints and Appeals Policy and Procedures • Student Wellbeing and Support Policy and Procedures • Health and Safety Policy and Procedures 	
Related Legislation and References	<ul style="list-style-type: none"> • Age Discrimination Act 2004 • Charter of Human Rights and Responsibilities 2006 • Disability Discrimination Act 1992 • Disability Standards for Education • Equal Opportunity Act 2010 • Fair Work Act 2009 • Racial and Religious Tolerance Act 2001 • Racial Discrimination Act 1975 • Sex Discrimination Act • Work Health and Safety Act 2011 • Work Safe Victoria • Workplace Relations Act 1996 • Higher Education Support Act 2003 • Higher Education Provider Guidelines 2023 	
Version	Notes	Date Approved
1.0	<ul style="list-style-type: none"> • Document approved subject to changes in section 5.1 of the policy. 	13/09/2022
1.1	<ul style="list-style-type: none"> • Document approved subject to changes to sections 1, 4.2 and editorial changes in sections in 5.1 and 5.2. 	11/09/2023