

## FAIR TREATMENT POLICY

Please note that the 'Fair Treatment Guidelines for Students', referred to in this document, were revoked by the Vice-Chancellor and President on 29 October 2009 and replaced by the ['Student Grievance Resolution Process'](#).

Authorised By: Vice Chancellor and President

Date Authorised: 07/12/2005

Effective Date: 01/01/2006

Last Amendment Date:

Review Due Date: 01/01/2008

TRIM File Number: F. 2005/3416

Related Documents: [Fair Treatment Guidelines for Staff](#)  
[Fair Treatment Guidelines for Students](#)  
[Complaints by Staff Policy, Guidelines and Toolkit](#)  
[The University of Adelaide Code of Conduct for Staff](#)

Implementation & Review: Human Resources

Superseded Documents: Sexual Harassment Policy, 8 December 1995  
Anti Racism Policy, 11 December 1992

Students requiring assistance or advice relating to this document should contact Student Policy and Appeals, ext 37503 or ext 37572.

Any other person requiring assistance or advice relating to this document should contact Human Resources ext. 35666.

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## 1 OVERVIEW

The University of Adelaide values and celebrates the diversity of its community, and promotes the recognition, acceptance and right of all people to be treated with fairness, equity and justice. The University does not condone or tolerate unfair treatment of its students or staff. In accord with the University's fair treatment principles and legislative requirements, this policy:

- Informs all students and staff of their rights and obligations;
- Sets standards of behaviour in accordance with legal requirements; and
- Addresses the consequences of breaches of this policy.

## 2 SCOPE

This policy sets out behavioural standards required of all *members of the University community* in their interactions with other *members of the University community* and the public whilst undertaking University activities.

## 3 DEFINITIONS

**Agreement** refers to the instrument, which sets out a staff member's terms and conditions. It can either be an Australian Workplace Agreement (AWA) as replaced or varied from time to time or the University of Adelaide Enterprise Certified Agreement as replaced or varied from time to time.

**Complainant** means the person making a complaint about unfair treatment. (See **Respondent** also)

**Duty of care** refers to the duty owed by a member of staff to a student or member of staff under their care or control.

**Procedural Fairness (also referred to as Natural Justice)** in the handling of a complaint or appeal involves all of the following elements:

- The right to a fair hearing;
- The right to attend hearings with a support person, if required;
- The opportunity for all parties involved to openly present their case;
- The subject of the complaint having full knowledge of the nature and substance of all allegations;
- The person making the complaint or appeal not determining the complaint or appeal
- The right to an independent, unbiased decision-maker; and
- A final decision that is based solely on the relevant evidence.

**Respondent** refers to a person nominated to respond to an unfair treatment complaint involving students. (See **Complainant** also)

**University community**, for the purpose of this Policy, includes all staff, all students, all staff and student representatives in the Adelaide University Union, and other people, such as title-holders, contractors, volunteers and visitors, who are involved in a University-related activity.

See the [Fair Treatment Guidelines for Staff](#) and [Fair Treatment Guidelines for Students](#) for other definitions and examples of terms and behaviours described in this policy.

## 4 POLICY PRINCIPLES

### 4.1 General Principles

4.1.1 All *members of the University community* have right to study and work in a fair, safe and productive environment.

4.1.2 At all times while engaged in University activities or interactions or on University grounds, *members of the University community* and the public are entitled to be treated with courtesy, fairness and equity by other *members of the University community*. The University expects all *members of the University community* to abide by the relevant State and Federal legislation, the [University By Laws](#) and [Codes of Conduct](#) and to adhere to high standards of behaviour that reflect well on the University. The relevant State and Federal legislation includes:

- [Age Discrimination Act 2004 \(Cth\)](#)
- [Disability Discrimination Act 1992 \(Cth\)](#)
- [Equal Opportunity Act 1984 \(SA\)](#)
- [Human Rights and Equal Opportunity Commission Act 1986 \(Cth\)](#)
- [Occupational Health, Safety and Welfare \(SafeWork SA\) Amendment Act 2005 \(SA\)](#)
- [Racial Discrimination Act 1975 \(Cth\)](#)
- [Racial Vilification Act 1996 \(SA\)](#)
- [Sex Discrimination Act 1984 \(Cth\)](#)

4.1.3 The University encourages people affected by unfair treatment to talk directly to the person engaging in unfair treatment to explain to him/her how it impacts on them and to ask that they stop.

- 4.1.4 In cases where it is impracticable or ineffective to resolve issues of unfair treatment in the manner described above the University provides [complaints procedures](#) to support this policy and to ensure that complaints are treated promptly, confidentially and according to the principles of procedural fairness. The University's complaints procedure encourages the resolution of complaints through informal discussion, raising awareness, facilitation, and mediation wherever possible.
- 4.1.5 [Members of the University community](#) who feel they have been treated unfairly are encouraged to seek advice from [Student Policy and Appeals](#) or [Human Resources](#).
- 4.1.6 Breaches of sections 4.4 to 4.11 of this policy are prohibited by the University and can lead to disciplinary action.

## 4.2 Creating a Fair Treatment climate

- 4.2.1 All *members of the University community* are expected to help create a Fair Treatment climate within the University by:
- Speaking up, and making it clear when behaviour is unacceptable
  - Supporting people who are affected by breaches of this policy and encouraging them to take action
  - Promoting mutual respect between individuals
  - Openly supporting and promoting this policy
  - Completing the [Equity and Diversity](#) training program (for staff)
  - Circulating this policy and making it clear to students and staff that compliance is obligatory (for educators and supervisors).

## 4.3 Specific unacceptable behaviours

- 4.3.1 While the general principle of acting with courtesy, fairness and equity applies at all times, *members of the University community* are specifically prohibited from engaging in the behaviours listed at sections 4.4 to 4.11 while on University grounds or engaged in University activities.

## 4.4 Harassment, bullying and vilification

- 4.4.1 All *members of the University community* are entitled to a fair, safe and productive study and work environment that is free of all forms of harassment, bullying or vilification. Members of the public interacting with the University are also entitled not to be harassed, bullied or vilified. The University prohibits all *members of the University community* from engaging in such conduct while on University grounds or engaged in University activities.

## 4.5 Racial vilification and racist behaviour

- 4.5.1 All *members of the University community* are entitled to a fair, safe and productive work and education environment that is free of racial vilification and racist behaviour. Members of the public are also entitled not to be racially vilified or the subject of racist behaviour by *members of the University community*. Racial vilification is unlawful. The University prohibits all *members of the University community* from engaging in any form of racial vilification or racist behaviour while on University grounds or engaged in University activities.

#### **4.6 Sexual harassment**

- 4.6.1 All *members of the University community* are entitled to a fair, safe and productive work and education environment that is free of sexual harassment. Members of the public are also entitled not to be sexually harassed by *members of the University community*. Sexual harassment is unlawful. The University prohibits all *members of the University community* from engaging in any form of sexual harassment while on University grounds or engaged in University activities.

#### **4.7 Discrimination on grounds of age, sex, marital status, pregnancy, sexuality or race**

- 4.7.1 In relation to education, employment, accommodation and the provision of goods and services, all *members of the University community* and the general public are entitled not to be discriminated against on the grounds of age, sex, marital status, pregnancy, sexuality or race. Such discrimination is unlawful. All staff, in particular, are expected to ensure that bias or prejudice on any of these grounds do not influence or override their objectivity when engaged in University-related activities.
- 4.7.2 More broadly, the University prohibits any member of the University community from discriminating against other members or the general public on the grounds of age, sex, marital status, pregnancy, sexuality, or race, for any reason. The University expects all *members of the University community* to treat everyone fairly and without bias or prejudice on any of these grounds while on University grounds or engaged in University activities.
- 4.7.3 Special measures taken for the sole purpose of securing adequate advancement of certain groups or individuals may not be deemed discriminatory or unfair, provided they are not unlawful.

#### **4.8 Discrimination on the grounds of disability or medical condition**

- 4.8.1 All *members of the University community* and the general public are entitled not to be discriminated against on the grounds of disability or medical condition, ie physical or intellectual impairment. This applies not only in the areas of education, employment, accommodation and the provision of goods or services, but also in respect of access to premises used by the public, sports, activities of clubs and associations, and provision of facilities. Such discrimination is unlawful.
- 4.8.2 In addition, associates of people with a disability or medical condition (their partners, relatives, friends, carers and co-workers) are entitled not to be discriminated against because of that association. Such discrimination is also unlawful.
- 4.8.3 More broadly, the University prohibits any member of the University community from unlawfully discriminating against other students and staff or the general public on the grounds of disability for any reason. The University expects all *members of the University community* to treat everyone fairly and without bias or prejudice on the grounds of disability while on University grounds or engaged in University activities.
- 4.8.4 Special measures taken for the sole purpose of securing adequate advancement of certain groups or individuals may not be deemed discriminatory or unfair provided they are not unlawful.

#### **4.9 Discrimination on grounds of religion, political opinion, criminal record or trade union activity**

**4.9.1** In relation to University employment, all staff members are entitled not to be discriminated against on the grounds of religion, political opinion, criminal record (when irrelevant to their employment), or trade union activity. The University prohibits such discrimination. Although discrimination on these grounds is not unlawful, it can be the subject of complaint under Federal legislation. All staff members are expected to avoid bias or prejudice on these grounds.

**4.9.2** More broadly, the University prohibits discriminatory behaviour on the grounds of religion, political opinion, criminal record (when irrelevant) or trade union activity, even where it does not relate specifically to employment. The University expects all *members of the University community* to treat each other fairly and without bias or prejudice on any of these grounds while on University grounds or engaged in University activities.

#### **4.10 Discrimination on ground of family responsibilities**

**4.10.1** The University prohibits *members of the University community* discriminating against others because of their family responsibilities while on University grounds or engaged in University activities. The University encourages a flexible approach to scheduling and work practices to enable students and staff to accommodate their family responsibilities.

**4.10.2** More specifically, all staff members are entitled not to be dismissed on the grounds of family responsibilities. Such dismissal is unlawful.

#### **4.11 Victimisation**

**4.11.1** The University supports the right of any member of the University community to make a complaint under this policy without suffering any victimisation, harassment, recrimination, or detriment as a result. Victimisation in connection with a complaint of unlawful discrimination or harassment is itself unlawful. Other forms of victimisation are prohibited.

### **5 COMPLAINTS**

#### **5.1 Complaints Involving Students**

**5.1.1** Complaints of any breach of this policy by or against a student or students are made in the first instance in accord with the [Fair Treatment Guidelines for Students](#)

**5.1.2** Breaches of this policy by students can lead to disciplinary action in accord with the [Rules for Student Conduct](#) or the [Rules of Conduct for Roseworthy Campus](#).

#### **5.2 Complaints Involving Staff or Persons who are Formally Involved in University-related Activities**

**5.2.1** Complaints of any breach of this policy by or against a staff member are made in the first instance in accord with the [Complaints by Staff Policy](#) and associated guidelines.

**5.2.2** Breaches of this policy by staff can lead to disciplinary action on the grounds of misconduct, or serious misconduct in accord with the [Agreement](#).

5.2.3 Serious breaches of this policy by persons who are not staff but who are involved in a University-related activity in a formal capacity may result in the person's relationship with the University being terminated.

### 5.3 Complaints by Members of the General Public

As members of the general public do not have a formal relationship with the University, they cannot use the complaints procedures listed here. However, complaints may be made in writing to the Executive Dean of the relevant Faculty, or the Vice-President (Services and Resources), who will arrange for the complaint to be investigated promptly, confidentially and according to the principles of natural justice.

### 5.4 Malicious complaints

5.4.1 Complaints by staff that are malicious, or intended to intimidate or harass the person complained about, can lead to disciplinary action against the complainant on the grounds of misconduct, or serious misconduct.

5.4.2 Complaints by students that are malicious, or intended to intimidate or harass the person complained about, can lead to disciplinary action under the [Rules for Student Conduct](#) or the [Rules of Conduct for Roseworthy Campus](#).

5.4.3 Complaints by other *members of the University community* that are malicious, or intended to intimidate or harass the person complained about, can lead to the immediate termination of the person's relationship with the University.

### 5.5 Lodging Grievances with an External Body

5.5.1 Nothing in this policy prevents complaints of unfair treatment being made directly to the State [Equal Opportunity Commission](#), the [Commonwealth Human Rights and Equal Opportunity Commission](#) or the [Office of the State Ombudsman](#) in accord with their own procedures, although the University encourages *members of the University community* to attempt to resolve complaints internally in the first instance.

## 6 RESPONSIBILITIES

<i>Role</i>	<i>Accountability</i>
All students	Comply with this policy. Help create a Fair Treatment climate in accord with Principle 4.2.
All staff	Comply with this policy. Help create a Fair Treatment climate in accord with Principle 4.2. Complete the Equity and Diversity training program.
All title-holders, contractors, volunteers or visitors involved in a University-related activity in a formal capacity	Comply with this policy. Help create a Fair Treatment climate in accord with Principle 4.2.
Supervisors	Promote and provide information to students and staff on the location of the policy and where to seek advice on the issues relating to the policy. Regularly make it clear to their students and staff that

	compliance is obligatory.
Vice Chancellor and President or nominee	Arrange investigation of complaints by members of the public that this policy has been breached by a member of the University Community.

Human Resources	Promote, administer, monitor, evaluate and report on this Policy. Provide appropriate management training for University staff. Provide professional advice on this policy.
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### COMMUNICATION

The policy will be communicated through publication on the University's Policies website, and in the annual Student Guide. It will also be publicised through *Inside Adelaide* and *On Dit*, and by way of a memo to the heads of Faculties, Divisions, and student organisations. It will be referred to in the online Induction Course undertaken by all new staff. Occasional awareness-raising campaigns will be held from time to time.