

CRICOS PROVIDER 00123M

Preventing and Responding to Workplace Bullying

Fair Treatment Contact Officer – your role

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Bullying, Harassment, Discrimination

- The Voice survey in 2016 identified that 15% of the respondents felt that they had been bullied at work;
- The University recognises that some staff find it difficult to approach a person with whom they feel has treated them unfairly, or raise the issue with their manager;
- To address this, the University has committed that a number of FTCOs are in place across the University to ensure easy access.

Fair treatment at the University of Adelaide

- Discrimination, Bullying and harassment is a risk to the health and safety of workers and is not tolerated;
- Procedures are in place to receive/investigate complaints and, where required, formal disciplinary processes may be used;
- As with all formal disciplinary processes a range of sanctions can apply if workers are found guilty of discrimination, bullying or harassment;
- All complaints will be treated seriously and in accordance with natural justice principles.

Role of the FTCO

- Have a commitment to the serious nature of workplace discrimination, bullying and harassment and its risks to the health and safety of workers;
- Provide a 'point of contact' for staff with enquiries related to discrimination, bullying and/or harassment;
- Clearly explain the complaint resolution process so workers can make an informed choice on the process they prefer – informal/formal;
- Avoid conflicts of interest;

Role of the FTCO (contd.)

- Provide accurate information and appropriately refer matters as required;
- By their own behaviour, act as a role model to other staff and to students;
- Be discreet and maintain confidentiality of the issues raised by persons seeking advice;
- Advise an appropriate senior staff member if they believe a worker may be in danger or potentially endangering someone else, or if they believe the issue is or may be criminal conduct.

What not to do......

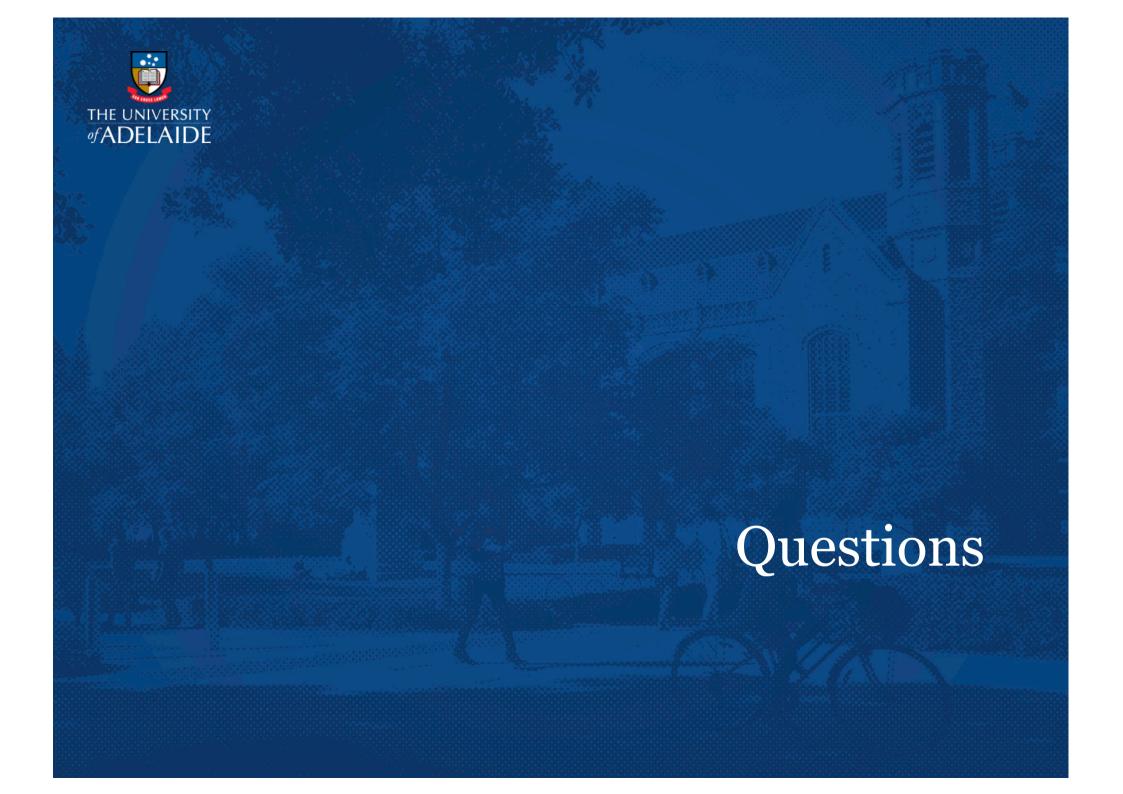
- Discuss a case with anyone without their permission;
- Advocate or become involved in the resolution processes;
- Act to resolve or investigate the complaint;
- Try to influence the complainant to take a particular action;
- Make a finding, determination or value judgement in relation to allegations of discrimination, sexual harassment or bullying.

Be prepared

- Staff are likely to ask you questions
 - Do you think I am being bullied/harassed?
 - Can I change my supervisor?
 - Can I work in a different office?
- It helps if you have already provided some key information when setting up the meeting with the staff member
 - Links to EAP information, Bullying Handbook chapter, Staff Grievance process, Code of Conduct etc.
 - Some templates and tools have been developed to ensure a consistent service across the FTCO network.

Key takeaways about the FTCO role

- Only talk about
 - The criteria to help *the staff member* assess behaviour
 - The processes and pathways open to them;
- Know the limitations of your role;
- Best to schedule meetings for no longer than 1 hour;
 - (you can also reschedule another meeting)
- Do not take notes, just listen to the concerns;
- It is not your role to fix the problem;
- If you need any support or guidance in performing your role contact Paul Roberts (37377) or a HR Advisor.



Bullying

<u>Repeated</u> and <u>unreasonable behaviour</u> directed towards a worker or a group of workers that <u>creates a risk to health and safety</u>

Repeated

Must be more than one occurrence

Unreasonable behaviour

Behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening

Creates a risk to health and safety

Could reasonably result in injury or harm

Examples of what may be considered bullying behaviour

- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person's skill level

- denying access to information, supervision, consultation or resources such that it has a detriment to the worker
- spreading misinformation or malicious rumours
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker or workers
- excessive scrutiny at work.

Some of these behaviours, if carried out on social networks or electronically, could also be considered bullying by the University.

Examples of what IS NOT considered to be bullying behaviour

- Setting reasonable performance goals, standards and deadlines (i.e. PDR);
- Allocating work where the requirements are reasonable;
- Transferring/moving a worker for operational reasons;
- Deciding not to select a worker for promotion where a reasonable process is followed and documented;
- Informing a worker about unsatisfactory work performance when undertaken in accordance with any workplace policies or agreements such as performance management guidelines;
- Informing a worker about inappropriate behaviour in an objective and confidential way;
- Implementing organisational changes or restructuring;
- Disciplinary action and/or termination of employment undertaken in accordance with the University policies, procedures and the enterprise agreement.

It is reasonable for managers and supervisors to allocate work and to give fair and reasonable feedback on a worker's performance

Discrimination

Discrimination occurs when a person, or a group of people, is treated less favourably than another person or group because of their background or certain personal characteristics.

Federal discrimination laws protect people from discrimination of the basis of their:

- race, including colour, national or ethnic origin or immigrant status
- sex, pregnancy or marital status and breastfeeding
- age
- disability, or
- sexual orientation, gender identity and intersex status.

Discrimination

Unlawful discrimination is usually based on a personal characteristic;

- Discrimination can be a one time event it does not need to be repeated and systematic;
- A person does not need to "intend" to hurt someone's feelings, for their behaviour to be discriminatory;
- Discrimination can either be direct or indirect.

When is it discrimination?

Discrimination is against the law when there is:

- 1. unfair treatment based on personal characteristics
- 2. occurring in an area of public life
- 3. that causes loss or humiliation
- **4.** and it happened within the last twelve months

1. Personal Issue¹ ✓

Race

Age

Disability Sexuality

Sex

Chosen Gender

Pregnancy

Marital or Domestic

Partnership Status

Caring Responsibilities

Association with a child²

Identity of spouse

Religious Appearance or Dress³

Sexual Harassment

Victimisation

2. Public Area 🗸

Employment -

Goods and Services

Accommodation

Education

Clubs and Associations

Sale of Land

Granting of Qualifications

Recruitment

Dismissal

Promotion

Terms and Conditions

Resignation

Treatment on the job

3. Detriment 🗸

Injury to Feeling
Denied Access

Lost Opportunity

Lost Income

Refused Services

Humiliation

Denigration

Ridicule

Embarrassment

Segregation

4. Time 🗸

12 months (SA)4

⁴For events that happened on or after 2 April 2009

www.eoc.sa.gov.au

TTY 8207 1911 Phone 8207 1977 Country Callers 1800 188 163



²In customer service or accomodation only

³In employment or education only

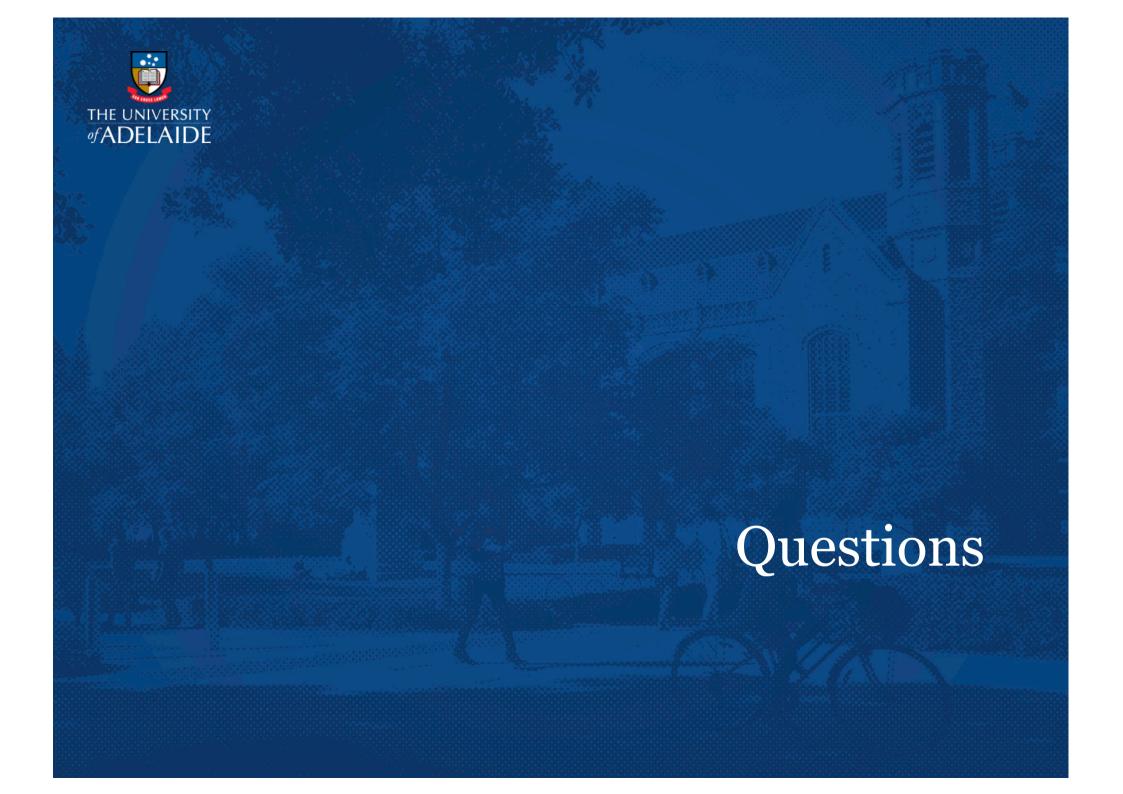
¹Federal laws also cover discrimination on the grounds of religion, political opinion, social origin, irrelevant criminal record and trade union activity.

Harassment

Under discrimination law, it is unlawful to treat a person less favourably on the basis of particular protected attributes such as a person's sex, race, disability or age. Treating a person less favourably can include harassing or bullying a person. The law also has specific provisions relating to sexual harassment, racial hatred and disability harassment.

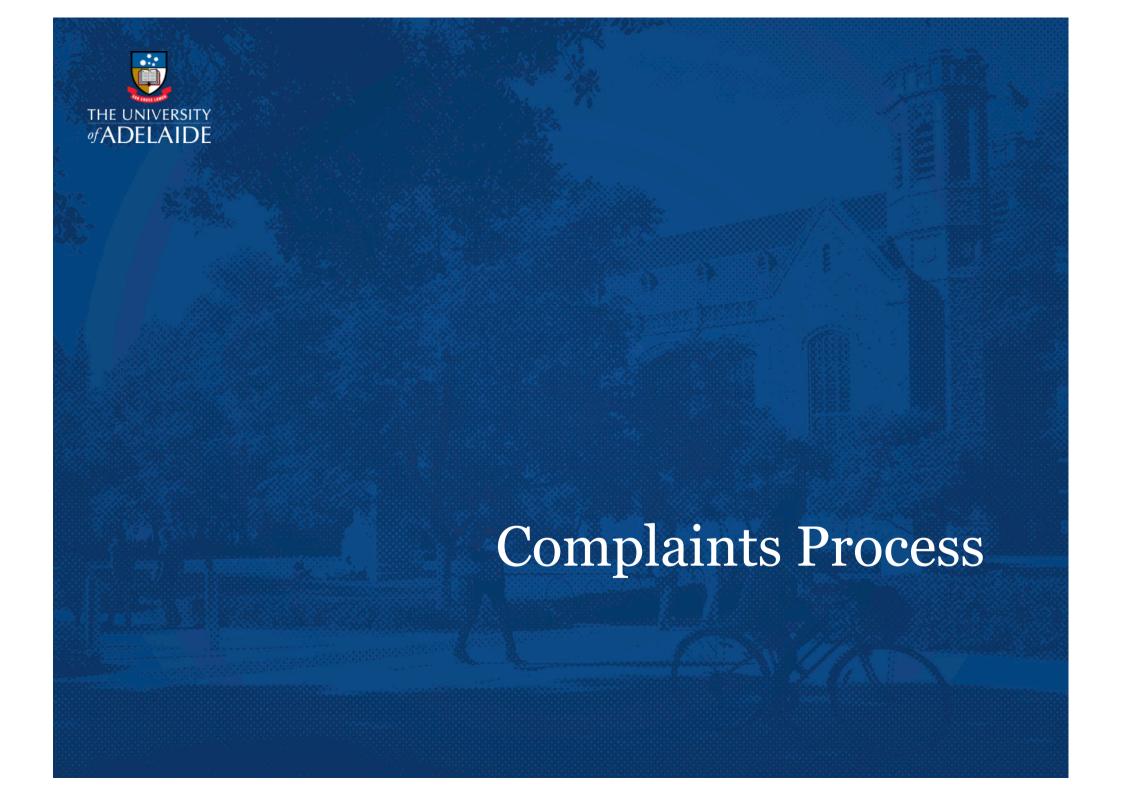
Can include behaviour such as:

- telling insulting jokes about particular racial groups
- sending explicit or sexually suggestive emails or text messages
- displaying racially offensive or pornographic posters or screen savers
- making derogatory comments or taunts about a person's disability, or
- asking intrusive questions about someone's personal life, including his or her sex life.



Documentation/files/notes

- There is no requirement to document and collect information from staff on each case;
- You should encourage workers who come and see you to keep their own detailed records;
- The only information that is recorded is that used for statistical purposes and contains no identifying information.



This takes time...... Take the time!

- Time that we want our FTCO's to take with workers to ensure unrealistic expectations are not established;
- FTCO's need to clearly explain the complaints process;
- FTCO's are crucial to Stage 1 of the complaints process.



PROCEDURES TO RESPOND TO COMPLAINTS OF WORKPLACE BULLYING AND HARASSMENT AT THE UNIVERSITY OF ADELAIDE

APPENDIX A

Stage 1 Concerns about bullying & harassment

Workers who believe they may have been exposed to workplace bullying & harassment should refer to the <u>definitions</u> <u>section 3.35.7</u> and seek advice and assistance from their Manager/Supervisor or a Fair Treatment Contact Officer (FTCO).



If following the information received the worker(s) wish to raise their concerns with the University, they should approach their Manager/Supervisor or the Associate Director, HSW, who will clarify the concerns and then provide options to the worker(s).

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OPTIONS

- If the worker wishes to resolve their concerns via HR supported mediation, move to stage 2 (For Manager/ Supervisor supported mediation refer to section 2 Informal Resolution of the Staff Complaints Information Sheet.)
- If the worker wishes to formalise their complaint, then move to Stage 4.
- If the worker chooses to withdraw from the process, then no further action is required.

Stage 2 Steps to mediation

The person perceived to have engaged in bullying & harassment is notified at this point.



HR will support a process to summarise the workers concerns and provide an opportunity for a response.

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Both parties will be provided a copy of the summary of concerns prior to mediation.



If both parties agree to resolve their concerns via mediation.

Move to Stage 3.

If at any stage it becomes clear that completion of mediation will not be possible and the worker wishes to proceed with a complaint

Move to Stage 4.

Stage 3 Mediation

HR Advisory Team, in consultation with both parties, shall appoint an independent and trained mediator.

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The aim of mediation will be to document a specific agreement between both parties on the behaviour they will demonstrate towards each other in the future.

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If the mediation does not result in agreement by both parties, the worker may elect to resolve the matter by making a complaint.

Move to Stage 4 (as applicable).

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If agreement is reached between the parties the matter is considered resolved.

Copies of the Agreement will be provided to both parties.

Stage 4 Formal resolution

If the allegation is against a staff member the allegation is processed in accordance with the formal resolution procedures of the Staff Complaints Procedure and Information Sheet and/or the misconduct/serious misconduct provisions of the Enterprise Agreement.

If the allegation is against a contractor, the allegation is processed in accordance with the procedures advised by the Contractor's Manager and in liaison with the relevant University representative(s).

If the outcome of the formal resolution process is that there was not sufficient evidence to substantiate that bullying & harassment took place

Stage 3 mediation

will be offered, if the parties are willing, in an attempt to secure a resolution.

Note: Appeal rights only exist where provided by the Enterprise Agreement.

Withdrawal of a complaint can be made at any time during the complaint resolution process

NOTE: Students are excluded from this process. They should refer to the Student Grievance Resolution Process.

HSW Handbook	3.35 Preventing and responding to workplace bullying and harassment	Effective Date:	31 January 2017	Version 2.0	
Authorised by	Chief Operating Officer (University Operations)	Review Date:	31 January 2020	Page 1 of 9	
Warning	This process is uncontrolled when printed. The current version of this document is available on the HSW Website.				



Appendix A

FLOWCHART OF STAFF COMPLAINTS PROCESS - FOR GUIDANCE **Formal Resolution** Informal Resolution **Review of Resolution** Complainant lodges formal complaint with The DVC(A) or nominee establishes a Review and Complainant approaches respondent to resolve the issue in the first instance the relevant Supervisor Appeals Committee No Complaint resolved Supervisor acknowledges in writing the further receipt of complaint and outlines the action Committee provides a report to the VC Yes process to be followed. No required Complainant requests Supervisor or other support person to help resolve the issue VC determines the outcome of the review Complaint investigated in a timely manner Supervisor/support person attempts to resolve complaint as soon as possible. Supervisor determines if there are grounds Complainant and respondent advised in writing of for the complaint and determines the the outcome of the review Supervisor/support person identifies resolution based on results of investigation resolution with the parties & informs complainant & respondent Complaint finalised Complainant Resolution process and outcome is noted The outcome of the review will not be subject to has 10 working and retained further review or appeal within the University days to lodge a Complaint resolved request to the DVC(A) or Complaint resolved nominee for a Yes review of the The report is filed Yes proposed resolution No further action required Supervisor monitors outcome of resolution Withdrawal of complaint can be made at any time during the complaint resolution process

Behaviour and Conduct Handbook	Staff Complaints Procedure	Effective Date:	4 March 2016	Version 2.0	
Authorised by	Associate Director, HR Shared Services	Review Date:	4 March 2019	Page 5 of 5	
Warning	This process is uncontrolled when printed. The current version of this document is available on the HSW Website.				



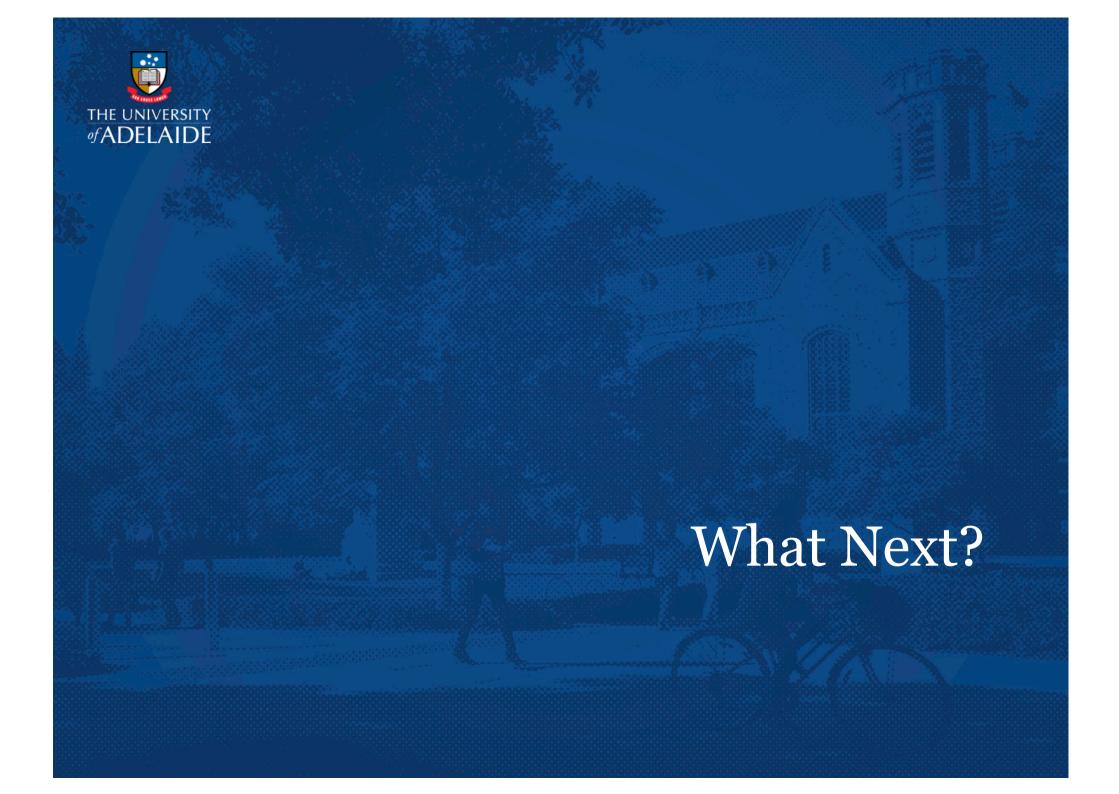
Employee Assisatance Provider (EAP)

EAP is a service to support staff

The EAP is a short-term, solutions focused counselling, coaching and mentoring service provided by a team of Psychologists within CHG. The program is designed to help you explore and implement strategies to address issues which may be having an impact on you at work and/or at home, including:

- Interpersonal conflict (workplace/home)
- Grief / Trauma counselling
- Emotional and mental health issues e.g. anxiety, depression or post-traumatic stress disorder.

Any staff member of the University and their immediate family can access the service.



FTCO's Network

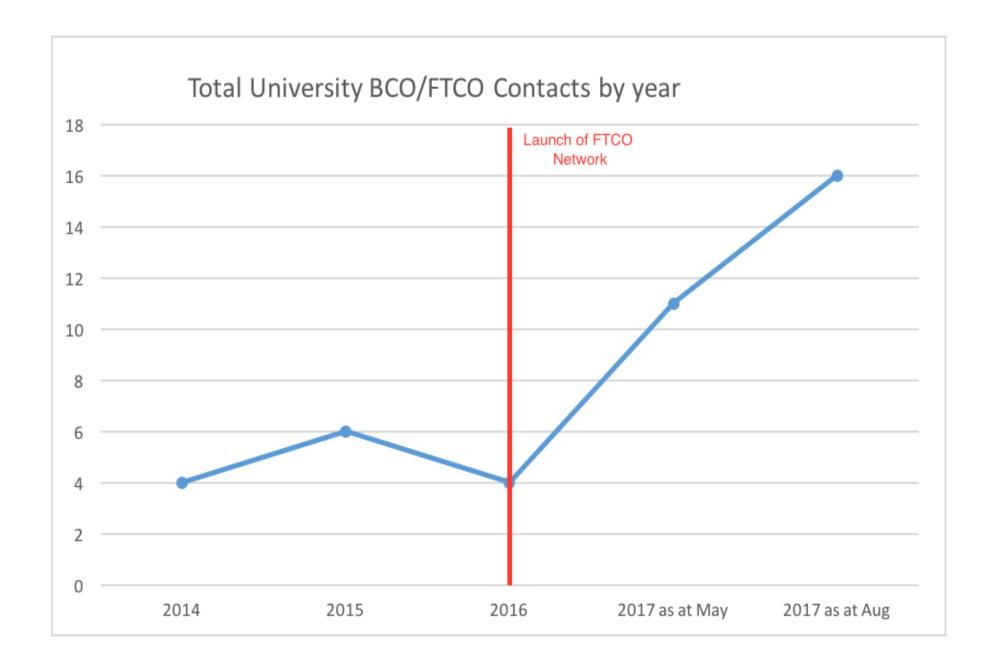
- FTCO names and contacts with a link are placed on the HSW website;
- Staff are advised they can pick anyone from the list
 - They do not have to see someone in their Faculty
 - We are aiming to maintain the FTCO numbers around 18
- An FTCO page has been built (behind a firewall) which includes resources and tools.
 - Email templates
 - FTCO training presentation
 - EAP details
 - FAQ sheets

Statistical Record Form

As an FTCO you **MUST** complete an on-line record.

The only identifying information collected is you – which FTCO is filling out the record.

The rest of the information is limited to the Faculty/Division level, so there is no possibility of identifying an individual



BCO/FTCO contact by year and type since 2014

