



HARASSMENT AND BULLING POLICY

The policy aims to assist Australian Driving Institute to meet its obligation to provide learning and working environment free from unlawful discrimination, sexual harassment and bullying. This procedure applies to all staff and students of ADI engaged in activities reasonably connected with the Institute and its semi-autonomous bodies.

Such activities may extend beyond Institute premises. For example, this policy applies during field trips organised by the Institute, staff parties, staff attendance at conferences and student orientation.

PROCEDURE

1. Complaint's procedure

1.1 A staff member or student who believes that they have experienced unlawful discrimination, discriminatory harassment, sexual harassment, bullying and victimisation may make a complaint under this procedure.

1.2 Complaints must be lodged within 3 months of an incident unless there are relevant exceptional circumstances.

1.3 A student or staff member with a concern or complaint about discrimination, sexual harassment, discriminatory harassment, bullying or victimisation against a student or staff member, or a group of students or staff, may:

- seek advice and informal resolution of the complaint without lodging a written complaint (Stage 1 – advice and Informal Resolution)
- lodge a written complaint and request conciliation (Stage 2 - conciliation)
- Request investigation by the Institute (Stage 3 – investigation and determination).

These three stages will generally, although not always, be undertaken in sequence.

1.4 A staff member or student who is concerned about a single incident of bullying-style behaviour may raise the issue with the Operations Manager.

1.5 Only those staff members involved in the Complaints Procedure will have access to material relating to the complaint.

1.6 In general, the complainant will direct the progress of the complaint through this procedure Institute under a legal obligation to ensure that a matter is investigated beyond that which the complainant intends or wishes. In these cases, the Institute may initiate a complaint or progress a complaint of its own volition under this procedure and/or bring an allegation of misconduct or serious misconduct to the CEO.

1.7 At any stage of the complaint's procedure, or when a concern cannot be addressed using this procedure, Institute staff such as supervisors or the relevant head of department may take action to address concerns regarding the safety, well-being and participation of staff and students in work or study. These actions do not imply any wrongdoing or any case to answer.

1.8 While staff and students are encouraged to use the Institute complaints procedure, they have a right to seek advice from and/or lodge a complaint with external bodies



including SAPOL, the South Australian Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission, the Fair Work Ombudsman and WorkSafe SA.

2. Complaint's procedure Stage 1: advice and informal resolution

2.1 A staff member or student who is a complainant or a respondent to a complaint may seek advice from a specialist adviser who can assist by:

- clarifying whether the alleged behaviour may constitute unlawful discrimination, sexual harassment, discriminatory harassment, bullying or victimisation
- providing information about this policy and procedure
- advising of their rights under relevant legislation
- advising of the options available to them, including making a complaint to an external body
- encouraging the complainant or respondent to seek the type of support that they need and providing referrals as appropriate
- exploring strategies to resolve the matter.

2.2 After seeking advice of the specialist adviser, the complainant may seek informal resolution of his or her complaint either directly with the respondent, or:

- in the case of a complainant who is a staff member, by asking his or her supervisor or other suitable person to speak to the respondent on their behalf
- in the case of a complainant who is a student, by asking a senior officer or other suitable person to speak to the respondent on their behalf.

2.3 A senior officer or other suitable person who has been asked to speak to the respondent on behalf of the complainant will, after seeking advice from the Operations Manager, convey to the respondent the complainant's concerns and reiterate the Institute's Policy without assessing the merits of the case, and, if necessary, take practical steps to ensure, as far as possible, that the behaviour that allegedly occurred ceases and will not recur.

2.4 If the complaint is not resolved at this stage:

- the complainant, the respondent or the Operations Manager may request conciliation (Stage 2) or
- the complainant may request investigation and determination (Stage 3).

3. Complaint's procedure Stage 2: conciliation

3.1 A complainant may lodge a complaint with and make a written request for conciliation to the Operations Manager, setting out his or her complaint in the form of a brief summary (up to two pages) of the particular incidents.

- Where the complaint concerns the Operations Manager the request for conciliation should be addressed to the Director.



- For a conciliation to occur, the complainant must be willing to be identified to the respondent.
- A respondent to a complaint may also, after seeking the advice of a specialist Adviser, submit a written request for conciliation to the Operations Manager.

3.2 Upon receipt of the request for conciliation, the Operations Manager will review the complaint and related documentation and:

- if they determine that conciliation is appropriate, invite the parties to participate in conciliation, appoint a conciliator and provide the respondent and the conciliator with a copy of the complaint
- if they determine that conciliation should not proceed, refer the parties to their Adviser to discuss further options.

3.3 Conciliation only occurs if both parties agree to it voluntarily.

3.4 Where the parties have been invited to participate in conciliation, the respondent will be given the opportunity to seek advice from an Adviser and to submit a short-written response to the complaint (of up to two pages) to the Operations Manager, within ten working days from the date of the invitation to conciliation. The Operations Manager will provide a copy of the response to the conciliator and the complainant.

3.5 The conciliator will invite the complainant and the respondent to meet with him or her either together or separately. The role of the conciliator is not to make a formal finding but to assist the parties to reach a mutually agreed resolution. The conciliator will advise the Operations Manager of the outcome of the conciliation.

3.6 The complainant and respondent may have a support person during the conciliation, but the support person cannot be a legal representative or advocate.

3.7 If the complaint is not resolved through conciliation, the complainant, or the Operations Manager, may request the complaint be investigated and a determination made.

4. Complaint's procedure Stage 3: investigation and determination

4.1 A complainant or the Operations Manager who wishes to refer a complaint for an investigation, may lodge a written complaint (if a complaint has not already been lodged under Stage 2 of the Complaints Procedure) and make a written request for investigation by submitting details of incidents and any supporting documentation to:

- in the case of a complaint against a staff member, or
- in the case of a complaint against a student.

4.2 A complaint concerning the Trainer, Student Services Officer or any staff should be addressed to and dealt with by the Complaint Manager.

4.3 The person responsible for the investigation and determination process referred to in sections 4.1 to 4.4 will be known as the 'Complaint Manager'.

4.4 Upon receipt of a request for investigation, the Complaint Manager may do one or more of the following:



- seek advice from the Manager, Fairness and Diversity or the Executive Director, Legal Services or consult with any other person they determine appropriate
- refer the complaint for informal resolution or conciliation
- refer the matter for investigation by the Institute
- refer the matter to an external agency
- refer the matter to alternative complaints resolution processes within or external to the Institute
- decline to investigate a complaint if it is frivolous, vexatious, misconceived or lacking in substance
- decline to investigate a complaint if more than 3 months has elapsed between the event complained of and the complaint notification and there is no good cause to address the complaint after this delay
- recommend actions as necessary to address any immediate concerns regarding individuals' safety, well-being and participation in work or study.

4.5 Where the Complaint Manager is satisfied that a complaint is malicious, frivolous, or vexatious, he or she may bring an allegation of misconduct or serious misconduct against the complainant to the attention of the relevant head of department (or an appropriate alternative).

4.6 In the event of the matter being referred for investigation, the Operations Manager will appoint an individual investigator or panel of investigators to conduct the investigation.

4.7 The investigator/s will:

- notify the complainant and the respondent of the investigation
- provide the respondent with a copy of the complaint if the respondent has not already received a copy
- give the respondent an opportunity to seek advice from an Adviser and to respond to the complaint in writing within ten working days of the date of notification of the investigation
- conduct the investigation with regard for procedural fairness, timeliness, privacy and individuals' safety and wellbeing
- determine whether the allegations are proven according to the weight of evidence and on the balance of probabilities, and
- at the conclusion of the investigation, prepare a report, setting out the complaint or terms of reference, how the investigation was conducted, relevant facts, conclusions and findings.

4.8 Any investigation under Stage 3 of this procedure and its outcomes will conform with the requirements of the current Code of Conduct.

4.9 The Complaint Manager will consider the report and determine the outcomes of the investigation.



4.10 Outcomes from an investigation may include any one or more of the following:

- a finding that the complaint was not substantiated
- a finding that the complaint was substantiated or substantiated in part
- steps to restore the complainant to the position that the complainant was in prior to the incident(s) that led to the complaint
- training in the Responsible Conduct of Staff Policy and this Procedure
- referral to other support services or strategies
- further monitoring of the situation
- statement of regret or apology, where appropriate
- requirement to change processes or procedures
- recommendation that disciplinary action be taken against a staff member under the Misconduct Procedure or, in the case of a student, Statute 13.1 – Student Discipline.

4.11 The Complaint Manager will inform the complainant and respondent of the findings and relevant outcomes of the investigation.

4.12 If a staff member or student pursues a complaint with an external body, this Complaints Procedure may be suspended or terminated. In these circumstances, the College may consider and implement other actions as necessary to address concerns regarding the safety, well-being and participation of staff and students in work or study.