

and if based on personal characteristics is protected by equal opportunity law as a form of discrimination. This is unacceptable behaviour and is also against WHS law.

Sexual Harassment: ACHW complies with the Commonwealth Sex Discrimination Act 1984 which states it occurs when:

- The person makes an unwelcome or uninvited sexual advance, or an unwelcome or uninvited request for sexual favours, to the person harassed, or
- Engages in other unwelcome or uninvited conduct of a sexual nature in relation to the person harassed

In circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the person harassed would be offended, humiliated or intimidated.

Sexual Assault is the unwanted, non-consensual sexual act in which a person is threatened, intimidated or forced to comply against their will, or where a person is unable to give consent because they are unconscious, asleep or incapacitated due to the effects of alcohol or other drugs. Some sexual harassment and assault may be offences under the criminal law. Sexual Harassment may be a single incident or repetitive behaviour.

Sexual Harassment has nothing to do with mutual attraction or friendship. Sexual interaction such as flirtation and attraction is not sexual harassment when it is invited, mutually consensual or reciprocated.

Appropriate behaviour is that which respects the rights and sensitivities of all people in the organisation's work and learning environment. We are all responsible for contributing to an environment of trust and respect as the basis of appropriate professional relationships.

Examples of behaviours that may amount to sexual harassment include:

- Unwelcome or uninvited physical touching
- Sexual or suggestive comments, jokes or innuendoes
- Unwelcome or uninvited request for sex
- Intrusive questions about a person's private life
- The display of sexually explicit material (eg posters, pictures)
- Unwanted invitations
- Staring or leering
- Sex based insults or taunts
- Offensive communications, including telephone calls, letter, faxes and email.

LIABILITY

Federal and State legislation provide that the organisation can be found vicariously liable for the sexual harassment of others by its employees or agents (students, those providing a service, visitors, adjuncts). Individuals can also be liable in terms of Personal (individuals engaging in unlawful acts of sexual harassment and victimisation) and Accessory Liability (individuals aiding/permitting individuals to commit an unlawful act) as in the Sex Discrimination Act 1984 (Commonwealth).

Consequently, the organisation will train staff and educate students to better understand their rights and responsibilities; and ensure effective measures are in place for reporting and resolution of complaints.

VICTIMISATION

This involves subjecting a person to victimisation if they have made or are connected with a complaint (Sect. 94 of the Sex Discrimination Act 1984 (Commonwealth)). Staff and students have the right to raise issues or make an inquiry or complain in a reasonable and respectful manner without being victimised. Vexacious unfounded complaints will not be tolerated.

CONFIDENTIALITY

Records of grievances and their outcomes and the Grievances Register will be kept for 7 years in strictly confidential files. Parties to the grievance will be allowed supervised access to these records on request.

Management of and access to any grievance records (including the Grievances Register) will be restricted to the Academic Manager and the Dean of ACHW.

All parties, subject to the grievance process, shall at all times treat Grievance as confidential and shall not reveal the names of complainants making a grievance or where applicable those referred to in the grievance to any third party without the express permission of those concerned.

- each stage of the following procedure is free of charge;
- the complainant and respondent will not be victimised or discriminated against at any stage of this procedure; and
- the complainant and respondent have the right to be represented by a third person (such as a family member, friend, counsellor or other professional support person, other than a lawyer).

SECTION 3 – PROCEDURE

ROLES AND RESPONSIBILITIES OF ACHW STAFF MEMBERS

All employees must ensure that all they, facilitators, students, training delegates, customers and visitors are treated equitably and are not subject to discrimination, bullying, or sexual harassment. All complaints involving students or clients must be reported immediately to the Dean or nominee. Reports about other Scenia staff should be reported to the Head of People and Culture.

All ACHW staff and consultants are expected to understand the appropriate legislation, understand and apply AIMET's Grievance & Appeals policy and procedure, and ensure students know of and use of the Grievance & Appeals policy and procedure as appropriate.

Management and employees have a responsibility and duty of care to ensure a safe working and learning environment and may be liable unless reasonable steps have been taken to prevent/eliminate assault/harassment/discrimination. Action should be taken if inappropriate behaviour is evident even without a formal complaint being made. Any employee, facilitator and student found to be discriminating against, harassing or victimising any other person, will be subject to serious disciplinary action which may include dismissal or refusal of further services offered by AIM.

Staff and students should know what action they can take and where support and advice is available to them, knowing that confidentiality will be maintained. Staff and students should follow the standards of behaviour outlined in this policy.

Staff should offer support to anyone in the organisation experiencing discrimination, bullying or sexual harassment, including providing information on how to make a complaint, and respecting the confidentiality of complaint resolution procedures.

Supervisors and managers need to make staff and students aware of their obligations under this policy and the law; to intervene appropriately and in a timely manner if they become aware of inappropriate behaviour; and to help resolve complaints informally/formally ensuring relevant parties are heard.

If an ACHW employee believes a criminal incident has taken place, the matter must be reported to the police, and the individual be supported by the organisation.

Management, employees, facilitators, students and visitors should not ignore sexual harassment or discrimination. Silence may give the impression that discrimination or sexual harassment is acceptable. Similarly, confidentiality is essential for a quick resolution of the action or behaviour and employees and Facilitators should not publicly make allegations or defame the alleged offender.

If an employee, facilitator, student or visitor believes that he or she is being subjected to sexual harassment, the individual should personally and immediately notify the Dean, the Academic Manager or ACHW HR director, whichever is the most appropriate.

An investigation will be undertaken and appropriate sanctions and corrective measure will be instituted if the allegations warrant such action. Persons who commit acts of intimidation and harassment will be admonished to discontinue such conduct and will be disciplined according to the severity of the case.

Appropriate discipline may include actions up to and including termination of employment or refusal of further services offered by ACHW.

When confronted with discriminatory behaviour an individual can:

- Take no action, but it is unlikely that the offensive behaviour will stop. It may be that the person is not aware of the offence caused, but may be willing to change the behaviour if told.
- Directly approach the alleged offender, explaining what behaviour is discriminatory or offensive and request that it stop. Silence could be seen to be acceptance of behaviour in some circumstances.
- Make a complaint to any Senior Manager of ACHW. The appropriate manager will examine and resolve the complaint quickly and confidentially.
- Lodge a complaint with the Anti-Discrimination Commission.
- Complaints do not have to be in writing and all ACHW personnel will treat all complaints seriously, confidentially and impartially.
- No person will be disadvantaged in employment conditions or opportunities as a result of lodging a complaint.

ACHW's Senior Managers will:

- Fully investigate the allegation of discrimination, bullying or sexual harassment
- Recommend an appropriate resolution and maintain confidentiality for all parties
- Advise the person making the complaint that if it is found, the complaint is not substantiated, they have the right to take their case to the Anti-Discrimination Commission, if they are not satisfied
- Take appropriate corrective action against the person responsible if discrimination, bullying or sexual harassment has occurred.

ACHW Management, employees, facilitators, students and visitors to ACHW facilities are responsible to ensure this policy is adhered to at all times.

Staff and students can access support from their facilitators, Student Services team, the Dean, the Academic Manager, and the Director People and Culture, external Counsellors, or relevant State or Federal authorities.

Staff and students are entitled to a certain amount of free, professional counselling from the Scentia Employee Assistance program. This counselling is confidential and nothing discussed will be communicated back to the organisation.

Should a student wish to make a complaint the Australasian College of Health and Wellness Grievance policy should be utilised. In summary the policy uses the following steps:

- a) Informal approach managed by the Dean involving the parties concerned
- b) Formal complaint managed by the Dean/Chair of Academic Board
- c) If (b) is unsatisfactory, an External Review directed to the appropriate state or federal government body may be made (e.g. The Australian Human Rights Commission)
- d) If it is considered that the offence pertains to criminal law, the State Police need to be involved.

The full details of the policy are located <https://www.tachw.edu.au/policies-procedures/>. Requests can be put in writing to support@tac.edu.au. If a confidential call is required the Dean can be requested by calling 1300 227 603.

RELATED SCENTIA POLICIES AND PROCEDURES

- Grievance Policy
- Workplace Health & Safety Policy
- Grievance Policy
- Privacy Policy
- Social Media Policy

RELATED LEGISLATION

ACHW/Scentia complies with the following Australian legislation:

- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Anti-discrimination Act 1977 (NSW) and other relevant State Acts
- Fair Work Act (2009)
- Australian Human Rights Commission Act (1986)
- TEQSA Act (2011)
- Higher Education Framework, Standard 2: Learning Environment. 2.3 Well Being and Safety
- Higher Education standards Framework (Threshold Standards) (2015); National Code 2007, Standard 8 (Complaints and Appeals)
- Australian Privacy Principles (APPs)

SECTION 4 – REFERENCE AND SUPPORTING INFORMATION

DEFINITIONS

Word/Term	Definition
Grievance	An official statement of a complaint or appeal over something believed to be wrong or unfair
Complaint	Is a formal statement made in writing that something is unsatisfactory or unacceptable.
Appeal	Is a formal application in writing to a higher authoritative figure or court to have a decision reversed
Mediation	Is the intervention of a third party in a dispute in order to resolve it in a fair and equitable manner
ACHW	The Australasian College of Health and Wellness

SUPPORTING DOCUMENTATION

Document name	Document type	Location
Grievance Form	Form	G:\Compliance\Policies & Procedures
Grievance Register	Register	G:\Compliance\Policies & Procedures

KEY CONTACT DETAILS

Director: Janene Barrett, jbarrett@scentia.com.au

Dean: Professor Elizabeth More, elizabeth.more@aim.com.au

Head of Academic Delivery: Candice Heskey, cheskey@scentia.com.au

Success Coach: Sarah Timbs, stimbs@tac.edu.au

Head of People and Culture: Liz Douglas, ldouglas@scentia.com.au



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