



UNIVERSITY OF CAPE TOWN POLICY ADDRESSING BULLYING

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1 Preamble

- 1.1 The University of Cape Town (UCT) is committed to creating, promoting, and maintaining a safe, welcoming and inclusive working, learning and research environment that is free from any form of harassment or bullying that respects the integrity, dignity and privacy of all employees and student.
- 1.2 Any employee (“complainant”) who believes that he or she has been or is being subjected to harassment or bullying by any person employed by or under the jurisdiction of UCT has the right to submit a complaint in terms of this policy.
- 1.3 There may be circumstances in which members of the university seek advice from or the assistance of the Ombud in addressing instances of alleged bullying, whilst preserving their anonymity. If members of the university approach the Ombud, they should be aware that any subsequent intervention by the Ombud may not lead to disciplinary action.

2 Purpose of the policy

- 2.1 The purpose of this policy is to give practical guidance to all employees on the types of conduct which constitute harassment or bullying, to ensure that adequate measures are readily available to redress any form of harassment or bullying and to prevent its recurrence.
- 2.2 This policy does not cover cases of sexual harassment and racial harassment as these falls under the sexual misconduct and racism policies.

3 Application of the policy

- 3.1 This policy applies to all employees of UCT irrespective of the level of employment and authority and extends beyond working hours and primary places of work.
- 3.2 While UCT has no jurisdiction over third parties who are not employees, UCT intends that this and related policies will be upheld and respected by all who work at or visit UCT or who take part in UCT activities at any premises regardless of location, and irrespective of working hours. This includes academic visitors and visiting researchers, tutors/teaching assistants, contractors, suppliers and their staff, and members of the public. This list is not exhaustive. Human Resources will keep a record of all complaints and reported violations it receives, and this information will be communicated to the appropriate procurement office so it can be taken into account in terms of its impact on service level agreements or contracts with such third parties. Students may also lodge complaints against staff. such

complaints must be submitted via the Office for Inclusivity and Change (OIC) which shall provide appropriate assistance to the complaining student.

3.3 All members of the university community have a personal responsibility to comply with this policy and its related procedures and demonstrate active commitment to it by:

3.3.1 treating others with dignity and respect

3.3.2 discouraging any form of harassment and/or bullying by challenging inappropriate behaviour, making it clear that such behaviour is unacceptable (and raising concerns with managers where appropriate so that these can be dealt with)

3.3.3 supporting any member of the university who feels they have been subjected to harassment or bullying, including supporting them in making a formal complaint if appropriate.

3.4 Managers have a particular responsibility for setting standards and ensuring that appropriate workplace behaviours are demonstrated and maintained. They should set a good example and ensure concerns raised are acted upon timeously.

3.5 The respondent must be made aware of the nature and details of the complaint in order to respond. It is important to note that no decision will be taken against the respondent until the complaint has been investigated and the respondent has been afforded an opportunity to respond to the allegations.

3.6 In order to safeguard individuals, confidentiality must be strictly respected, and information limited to those who have a need to know (and only to the extent necessary) for the purposes of the operation of these procedures and for the maintenance of good order at the university. The university reserves the right to seek advice from or involve appropriate external authorities if it believes it is under an obligation to do so. Any breach of confidentiality may result in disciplinary action.

4. Definition of terms

4.1 In this policy, unless the context indicates a contrary intention, the following words and expressions bear the following corresponding meanings:

4.1.1 “**Complainant**” include any person who works at, studies, visits UCT or participates in UCT activities at any of its locations, irrespective of working

hours. This includes academic visitors, visiting researchers, tutors/teacher assistants, contractors, suppliers and their staff, and members of the public.

- 4.1.2 **“Confidentiality”** means any information disclosed by either party to another party, either directly or indirectly, in writing or verbally, which is designated as ‘Confidential’. The information disclosed is securely stored with only an approved list of persons having access to this information. The University can only be responsible for keeping information private and confidential which is within its control.
- 4.1.3 **“Day”** means any day other than a Saturday, Sunday, or public holiday, and when any particular number of days is prescribed for the doing of any act, the number of days must be calculated by excluding the first day and including the last day.
- 4.1.4 **“Employee”** means any person, regardless of remuneration or level of authority or responsibility, who works for UCT excluding independent contractors.
- 4.1.5 **“Respondent”** means any person against whom a complaint has been lodged in terms of this policy.

5. What constitutes harassment and/or bullying

- 5.1 Harassment or bullying is conduct that is persistent or isolated, hostile or offensive to a reasonable person, and induces fear of harm, demeans humiliates or creates a hostile

or intimidating environment. Such conduct can be direct or indirect, physical or psychological and can be committed by a single individual or a group.

- 5.2 The intention of the alleged bully/harasser (“**Respondent**”) is irrelevant when determining if bullying and/or harassment has occurred.
- 5.3 Examples of unacceptable behaviour (in no order of severity or importance) are as follows:
 - 5.3.1 Persecution in any form whatsoever, threats or the instilling of fear.
 - 5.3.2 Behaviour or language that frightens, humiliates, belittles or degrades, including criticism that is delivered with yelling or screaming.
 - 5.3.3 Unfair treatment and intimidation as retribution for rejection.
 - 5.3.4 Unreasonable work expectations.
 - 5.3.5 Rumour mongering or bad-mouthing an employee and/or that employee’s family.
 - 5.3.6 Sabotaging or impeding an employee in the performance of their work.
 - 5.3.7 The display of material or the use of social media or social platforms to intimidate, humiliate, harass or otherwise impair an employee’s dignity; inappropriate comments about an employee’s appearance, sexuality, gender, lifestyle, race, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, beliefs, political opinion, culture, language, or any other arbitrary grounds; teasing or making someone the target of pranks or practical jokes.
 - 5.3.8 Interfering with an employee’s personal property or work equipment.
 - 5.3.9 Harmful or offensive initiation practices.
 - 5.3.10 Unreasonably denying access to resources or workplace benefits and entitlements.
 - 5.3.11 Arbitrarily changing work arrangements, such as rosters and leave arrangements, that has the effect of inconveniencing a particular employee or group of employees.
 - 5.3.12 Unreasonably isolating a particular employee or employees from normal work activities.

5.3.13 Unreasonably withholding information that is necessary for effective work performance and/or the resolution of disputes.

Note: The above examples do not represent a full or closed list of examples of unacceptable behaviour.

6. What does not constitute workplace harassment and/or bullying?

6.1 Line managers have the right, and are obliged, to manage their staff. This includes directing the way in which work is performed, undertaking performance reviews, and providing feedback (even if negative), and disciplining and counselling staff. These activities would not constitute harassment and/or bullying.

6.2 Examples of acceptable management practices include:

- 6.2.1 Setting and managing reasonable performance goals, standards and deadlines in consultation with employees and after considering their respective skills and experience.
- 6.2.2 Allocating work fairly.
- 6.2.3 Fairly rostering and allocating working hours.
- 6.2.4 Transferring employees for legitimate and explained operational reasons.
- 6.2.5 Selecting employees for promotion, following a fair and due process.
- 6.2.6 Informing employees about unsatisfactory work performance in a constructive way.
- 6.2.7 Informing employees about inappropriate behaviour in an objective and confidential way.
- 6.2.8 Implementing organisational changes or restructuring, following a fair and due process.
- 6.2.9 Disciplinary action, following a fair and due process.

7. Eliminating, preventing and reporting harassment and/or bullying

7.1 All employees should commit themselves to upholding the UCT Statement of Values and to reflecting these values in their institutional and personal relationships in alignment with this policy.

- 7.2 Every employee has the right (whether as a complainant or observer) to report behaviour which contravenes this policy to their line manager or an appropriate member of management. Reprisal by the line manager or any employee against an employee who, in good faith, reports or provides information in terms of this policy will constitute a violation of this policy and may result in disciplinary action in terms of UCT's disciplinary policy.
- 7.3 Any allegations of bullying and/or harassment should be reported to the line manager or human resources business partner (“**HRBP**”) responsible for the area in which the complainant is employed/situated. Where a complaint is against the highest executive authority, i.e. the Vice-Chancellor, then it should be reported to the Chair of Council who is the line manager in this instance, or nominee, to be addressed in terms of clause 8 of this policy.
- 7.4 All allegations of harassment and/or bullying will be dealt with expeditiously, sensitively, confidentially and with the seriousness which allegations of this nature deserve.

8. Procedures

8.1 Informal procedure

- 8.1.1 The purpose of this step is for the complainant, if they so desire, to attempt to discuss the complaint with the respondent on an informal basis within five (5) days of the incident occurring.
- 8.1.2 The complainant may elect to approach the respondent to explain to them that their conduct is not welcome, that the conduct is offensive or that it makes the complainant uncomfortable and interferes with their work.
- 8.1.3 The complainant may elect to follow this approach against the respondent either on their own or with the line manager or with the assistance of a human resources business partner, trade union representative or colleague of choice.
- 8.1.4 The complainant may also elect to approach the Office of the Ombud for advice. The Office of the Ombud will provide guidance in respect of the various approaches the complainant may take in addressing the complaint.
- 8.1.5 Failure by the complainant to comply with the required timelines to report the complaint will not prejudice the process of addressing the complaint by UCT. However, once a complaint has been initiated, then the complainant should comply with the timelines in order to avoid undue prejudice to the respondent.

8.2 Formal procedure

8.2.1 Formal procedure: Step one

8.2.1.1 The complainant should report the alleged bullying and/or harassment (“**complaint**”) to the line manager. If the alleged bullying and/or harassment has been perpetrated by the line manager, the complainant should report the complaint to the HRBP responsible for the area in which the complainant is employed/situated within five (5) days of the incident occurring or at the end of the informal process should the complainant elect to follow the informal process.

8.2.1.2 The line manager/HRBP will then inform the complainant of the next steps, as set out below. The line manager/HRBP must inform the Employee Relations Manager, of the complaint as soon as possible.

8.2.1.3 The complainant and the respondent will be required to provide a statement relating to the incident within five (5) days of receipt of the complaint. Should the complainant fail and/or refuse to provide a written statement, this may have an impact on the complaint not proceeding due to lack of evidence. If the respondent fails and/or refuses to provide a written statement, the evidence will be assessed without the version of the respondent on record. Each case will be determined on its own merits.

8.2.2 Formal procedure: Step two

8.2.2.1 The relevant HR personnel tasked with assessing the complaint will determine whether the matter should be referred to mediation or to an internal investigation which could result in disciplinary action. The assessment will be based on the statements provided by both the complainant and the respondent.

8.2.2.1 The recommendation will be communicated to the respondent and complainant within 7 days from the date of receipt of the complaint, following which relevant steps will be taken to either initiate the mediation process or the investigation process.

8.2.2.3 In the event that a process to follow has not been determined for any reason whatsoever, an advisory panel will be constituted to make a recommendation

in this regard. If the complaint has been lodged against the ED:HR, the advisory panel will be constituted by the line manager of the ED: HR.

8.2.3 Formal procedure: Step three

8.2.3.1 The final step will be for either the mediation or the investigation process undertaken in terms of UCT's mediation and disciplinary policy.

8.2.3.2 The outcome of either of the above processes will signify the end of the matter in terms of UCT processes.

8.2.3.3 In the event that the complainant is not satisfied with the outcome of the mediation or disciplinary process, the complainant may, if they so wish, refer the matter to the Commission for Conciliation, Mediation and Arbitration (CCMA) in terms of the dispute resolution mechanism provided for under the Labour Relations Act and/or Employment Equity Act for further intervention.

9. Advisory panel

9.1.1 An advisory panel may be constituted in order to assist the relevant HR personnel to determine the process which will be followed, i.e. whether to proceed to mediation or to commence with an investigation which could result in disciplinary action.

9.1.2 The advisory panel will be convened by the Executive Director: Human Resources (ED:HR) (or nominee). If the complaint is against the ED:HR or the Vice-Chancellor, then advisory panel will be constituted by the relevant line manager.

9.1.3 The composition of the advisory panel will comprise representatives from the following:

9.1.3.1 a member of the academic staff with a qualification in law, nominated by the ED: HR (or nominee) or Chair of Council (or nominee).

9.1.3.2 a member of the PASS staff with a qualification in law, nominated by the ED: HR (or nominee) or Chair of Council (or nominee).

9.1.3.2 a representative from HR in the employee relations department nominated by the ED: HR (or nominee) or Chair of Council (or nominee).

9.1.4 The decision of the advisory panel will be treated as a recommendation to the ED: HR (or nominee), which decision will be communicated to the HRBP responsible for the department/faculty which the complainant is employed/situated for action.

10. Further assistance – counselling support

- 10.1 Counselling support will be offered at any stage of the process to all parties.
- 10.2 The parties will be given access to counselling support in line with UCT HR's Employee Health and Wellness Programme.
- 10.3 The health and wellness office should follow up with the parties to determine if the wellness programme has assisted the complainant.

11. Communication and awareness

- 11.1 This policy will be duly communicated as follows:
 - 11.1.1 training and awareness sessions will be provided to all employees and union representatives.
 - 11.1.2 included in the induction process for all new employees.
 - 11.1.3 available on the UCT website
 - 11.1.4 shared with representative trade unions.
 - 11.1.5 shared with all suppliers/contractors of the university.

12. Review of this Policy

- 12.1 To evaluate its effectiveness and/or to take cognisance of changes to legislation, UCT reserves the right to amend this policy every three years.

13. Breach of policy/rules

- 13.1 Any transgression of this policy will constitute misconduct (in some instances gross misconduct) and will be subject to disciplinary action, including the possibility of dismissal in appropriate circumstances.
- 13.2 If it is found through a formal investigation that an employee has made a false complaint, or frivolous or vexatious claims of bullying (e.g., making up a false complaint or making a complaint where there is no foundation for the complaint), that employee may be disciplined. Employees who are falsely accused of harassment and/or bullying will be protected, and formal steps will be taken against the complainant of baseless allegations of this nature.



14. Criminal and civil litigation

- 14.1 A victim of harassment has the right to pursue separate criminal and/or civil charges against a respondent, and the legal rights of all parties are in no way limited by reason of the provisions of this policy and procedure. Such referral will be at the cost of the complainant.