

INTERNAL POLICY

AUSA Prevention of Harassment and Discrimination Policy

The Auckland University Students' Association (AUSA) is committed to contributing to a work and study environment that is free from any form of harassment, including sexual harassment and discrimination. The AUSA finds any form of harassment totally unacceptable and recognises the adverse effect such behaviour has on people who work and study in or use the AUSA facilities.

AUSA is committed to the promotion of an anti-harassment stance and to the education of its members regarding what constitutes harassment. Among its responsibilities AUSA will include options for the provision of assistance and advice for the victims of harassment and where serious, the pursuit of disciplinary action against those who breach its standards of conduct.

1. Purpose

- a. To assist in the resolution of any harassment complaints made by any member of the AUSA community against any other member and to provide a clear policy and fair procedure that is well known and understood by staff and students.
- b. Whilst working, studying, attending and being involved in AUSA-related services and activities, it is an individual's responsibility to:
 - i. Treat all students and staff associated with this University and Association with dignity and respect;
 - ii. Not bully, harass or victimise anyone;
 - iii. Report what a reasonable person would deem to be inappropriate behaviour, if they see it or experience it, as soon as possible to the AUSA President, EVP or AVP or General Manager;
 - iv. Keep confidential all investigation and documents related to this conduct;
 - v. Only make complaints of Inappropriate Behaviour which are genuine; and
 - vi. Not intentionally make false allegations of inappropriate behaviour.
- c. All AUSA Executive Officers, staff and AUSA members must take reasonable steps to ensure that the AUSA environment is free from all forms of Inappropriate Behaviour. They are expected to:
 - i. Lead by example and ensure they do not bully, harass or victimise others;
 - ii. Ensure that all Executive members and students are familiar with and understand their obligations under this Policy;

- iii. Treat all complaints respectfully and take prompt actions to resolve the complaint according to the guidelines of this policy.

2. Scope

- a. This policy applies to the conduct of everyone involved in AUSA, including, but not limited to, the Executive Officers, club members, staff, contractors and students at the University.
- b. This policy applies when staff and students are:
 - i. Working, volunteering or attending AUSA-related activities during and outside normal AUSA working hours;
 - ii. Involved in activities off-site related to AUSA events, sports and clubs activities, for example, AUSA Ball, Blues Awards etc;
 - iii. Using social networking tools, for example AUSA-based Facebook, Twitter and other online social network accounts;
 - iv. Using electronics, email, mobile texts, pictures and SMS; and/or
 - v. Engaged in other interactions within the university community.

3. Policy Content and Guidelines

3.1 Definitions

- a. Harassment has been broadly defined as a pattern of unwelcome, unsolicited and unreciprocated behaviour by a person or group that may offend, humiliate or intimidate another, and interferes with a person's right to work or study in a non-threatening environment.
- b. The Harassment Act 1997 seeks to give protection to victims of harassment, intimidation and stalking, by strangers or other people.
- c. Further, Section 63 of the Human Rights Act says that it is unlawful for anyone to use any behaviour that expresses hostility against, or brings into contempt or ridicules someone on the basis of their race, colour, national or ethnic origins, in such a way that is offensive to the person, and is either repeated or so significant that it has a detrimental effect on their study and/or employment.

3.1.1 Harassment

- a. Watching, loitering near, or preventing or hindering access to or from a person's place of residence, business, employment, on university campuses or any other places the person frequents for any purpose;
- b. Following, stopping, or confronting that person;

- c. Entering, or interfering with, property in that person's possession;
- d. Making contact with that person (whether by telephone, correspondence, email, or any other way);
- e. Giving offensive material to that person, or leaving it where it will be found by, given to, or brought to the attention of that person; and/or
- f. Acting in any way that causes a person to fear for their safety, and that would cause a reasonable person in the same particular circumstances to fear for their safety. This includes acts done to members of the complainant's family.

3.1.2 Sexual Harassment

- a. Section 62 of the Human Rights Act defines two types of sexual harassment:
 - i. Requests for sexual contact or activity with an implied or overt promise of preferential treatment or threat of detrimental treatment if the request is refused; and/or
 - ii. Behaviour of a sexual nature that is unwelcome or offensive and which is either repeated or of such a significant nature that it has a detrimental effect on another person.
- b. In both cases the harassment must take place in one of the areas of life to which the Act applies (such as in employment, education, access to public places, access to goods and services, or in access to land, accommodation or housing).
- c. Sexual harassment can involve:
 - i. Personally sexually offensive comments;
 - ii. Sexual jokes;
 - iii. Repeated comments about a person's alleged sexual activities or private life;
 - iv. Offensive hand or body gestures;
 - v. Physical contact such as patting, pinching, or touching;
 - vi. Following someone home from work;
 - vii. Provocative posters with a sexual connotation; and/or
 - viii. Sexual assault and rape.

3.1.3 Misuse of Authority

The behaviour of a member of AUSA towards another who stands in a position of lesser authority, or is charged with the provision of services, constitutes harassment if it results in the humiliation of, or loss of dignity to the complainant due to excessive criticism, lack of respect, or illegitimate inattention given to need and/or complaints. Authority is also misused in cases where demands are made of a person that fall outside that person's role or job description, or prevent the person from being able to properly carry out their job.

3.1.4 Discrimination

Under section 21 of the Human Rights Act 1993, discrimination is prohibited on the grounds of:

- i. Sex (including pregnancy and childbirth);
- ii. Marital status;
- iii. Religious belief;
- iv. Ethical belief;
- v. Colour;
- vi. Race;
- vii. Ethnic and national origins;
- viii. Disability (including physical, psychological, presence of organisms)
- ix. Age;
- x. Political opinion;
- xi. Employment status;
- xii. Family status;
- xiii. Sexual orientation;
- xiv. Sexual harassment; and/or
- xv. Racial harassment.

3.1.5 Bullying

Bullying is usually a pattern of behaviour which escalates over time and which targets an individual or group; the behaviour is one sided, and creates humiliation or offence and/ or distress and it would be reasonable to assume an intention; that some kind of disadvantage (as well as psychological harm) happens to the target.

3.2 *Guidelines for AUSA action in response to complaints about harassment*

3.2.1 Informal Complaints Process

- a. Members who believe they have experienced some form of harassment should act promptly:

- i. AUSA staffs are encouraged to contact their Line Manager, the General Manager, their Union or the University Mediation Service.
 - ii. Students are encouraged to contact the Senior Advocate, the University Mediation Service or Peer Mediation Service.
 - iii. AUSA Executive members are encouraged to contact the AVP or President or the University Mediation Service.
 - iv. AUSA club members are encouraged to contact the Club President or AUSA Senior Advocate, the University Mediation Service or Peer Mediation Service.
- b. The role of the contact person is to:
- i. Listen to an explanation of the problem and be empathetic and respectful. Clarify issues and options;
 - ii. Provide information on possible courses of action;
 - iii. Help identify what action the complainant wishes to take, if any; and
 - iv. Facilitate and document subsequent processes.
- c. Following such discussions, the person may choose:
- i. To take no further action;
 - ii. To attempt to resolve the issue by meeting and discussing with the person they have complained about if appropriate (they are encouraged to attend with a support person); or
 - iii. To request formal procedures.

3.2.2 AUSA Formal Complaints

- a. The complainant will make a formal written complaint to the Chair of the AUSA Discipline Sub-Committee (or, if more appropriate, the AUSA President or General Manager), requesting an investigation, findings and outcome. They may be referred to:
- i. The University Mediation Service;
 - ii. The AUSA General Manager or their Union (where the complaint is from an AUSA staff member);
 - iii. The Police (if there is reasonable evidence that there may have been criminal behaviour);

- iv. Netsafe website for text or cyber bullying from email or social networking sites; and/or
 - v. The Human Rights Commission.
- b. If a breach of the Student Union Statute or Rule is alleged, the AUSA President will delegate the investigation to the Chair of the AUSA Discipline Sub-Committee to investigate as per section 36 of the AUSA Constitution.
- c. After an investigation, the AUSA Discipline Sub-Committee shall make one of three findings. It shall determine that:
- i. The complaint is substantiated;
 - ii. That there is insufficient evidence available; or
 - iii. That the complaint is frivolous, vexatious or malicious.
- d. After the investigation is complete, the AUSA Discipline Sub-Committee may initiate section 8 of the University of Auckland Discipline Statute 1998 for misbehaviour in the Student Union Building or its precincts, or the powers set out in the AUSA Constitution. Specifically, the Sub-Committee may:
- i. Do nothing (and provide an explanation); or
 - ii. Impose a fine;
 - a. Not exceeding \$500 where there has been a breach of section 8 of the University of Auckland Discipline Statute; or
 - b. Not exceeding \$300 where there has been a breach of the AUSA Prevention of Harassment and Discrimination Policy and the party is a member of the Association; and/or
 - iii. Refer the most serious matters to the University's Discipline Committee; and/or
 - iv. Request an apology from one or more parties and/or
 - v. Recommend that the parties seek mediation from the University Mediation Service.
- e. The outcome of the decision shall be communicated to all parties by the Chair of the AUSA Discipline Sub-Committee, or, where appropriate, the AUSA President or General Manager.

3.3 Procedural Fairness

- a. The AUSA will observe the principals of natural justice and procedural fairness by ensuring that anyone whose interest may be adversely affected by a complaint is aware of the

allegations against them and receives a copy of the complaint, including the identity of the person making the allegations, and given the opportunity to respond.

- b. The AUSA will not act on anonymous complaints.
- c. The parties involved with or affected by complaints dealt with under these procedures are entitled to a fair hearing and will be kept fully informed throughout the process.
- d. Parties may appeal the decision of the AUSA Disciplinary Sub-Committee, but only on limited grounds (as per section 36(iv) of the AUSA Constitution). They are as follows:
 - i. That the decision of the Committee is unreasonable or cannot be supported having regard to the evidence; and/or
 - ii. That the penalty imposed by the Committee was excessive or inappropriate; and/or
 - iii. That the Committee did not grant that person a fair hearing *provided that* those members of the Committee which pronounced the decision appealed from shall not participate in the voting on the decision reached by the executive.
- e. In considering appeals, the AUSA Executive shall grant due deference to the decision of the AUSA Discipline Sub-Committee.

4. Related Policies, Procedures, and Forms

- 4.1 AUSA Constitution
- 4.2 AUSA Strategic Plan
- 4.3 Human Rights Act 1993
- 4.4 Harassment Act 1997
- 4.5 Education Act 1989
- 4.6 University of Auckland Discipline Statute 1998
- 4.7 University of Auckland Prevention of Bullying and Harassment Policy
- 4.8 AUSA Harassment Policy Flowchart

5. Approval Dates

Version: 1
Last modified: 28 June 2012
First approved: 2 July 2012
Resolution: NA

Review Date: 25 June 2014
Policy Owner: Women's Rights Officer