

# Policy against Bullying, Discrimination, Harassment, and Sexual Misconduct

## Intent

The intent of this policy is to ensure that all students, staff, and affiliates, work, research, study, and socialize in an environment that is based on inclusivity and respect and free from discrimination, bullying, harassment, including hazing and vilification, and sexual misconduct. The intent of the policy is to also ensure that students, staff, and affiliates understand the University's required accountabilities and formal report handling principles, and the necessity to afford natural justice to affected persons.

## Scope

This policy applies to all members of students, staff, and affiliates of Singapore campus of James Cook University (hereinafter described as JCU Singapore or the University) while engaged in activities undertaken as part of their study, research, work, and socializing which is associated with JCU Singapore. The policy extends to wherever that conduct or activity takes place. The scope of the policy includes conduct or activities that occur at or in connection with (but is not limited to):

- The JCU Singapore campus and offices
- Sporting and recreational clubs and facilities to the extent that they fall within the University community
- Managed digital environments (including the use of information technology and other University-operated digital platforms), and
- Conduct and activities related to the University's business that are not conducted on University's premises, including (but not limited to):
  - Field trips
  - Placements and internships
  - Conferences
  - Student camps
  - Inter-university events, and
  - Parties and other social functions.

The University acknowledges that while performing duties as a staff member, affiliate, or student while undertaking official duties for the University, that person may experience behaviour that constitutes bullying, discrimination, harassment, or sexual misconduct at locations outside of the University and/or by an individual not connected with the University. The University will liaise with the responsible authority / party to ensure proper procedures are followed and will provide support services.

## Definitions

**Affiliate** is a person (other than a staff member or student, including HDR candidates) who is affiliated with JCU by letter of appointment or invitation to work, research, or study at the University for a particular activity and typically for a prescribed timeframe and who is bound to comply with the University's policies during that period (for example, visiting scholars and adjunct appointees).

**Bullying** is successive, repeated, and unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety. Cyberbullying, which is a form of bullying or harassment using electronic means, e.g. social media, chat applications, messaging applications and other electronic platforms.

- **Repeated** behaviour is behaviour which occurs more than once and may involve a range of behaviours over time.
- **Unreasonable** behaviour is behaviour that a reasonable person, having regard for the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating, or threatening.

The following behaviours do not constitute bullying:

- A single incident of unreasonable behaviour. (However, single or one-off incidents of unreasonable conduct can also cause a risk to health and safety, may breach other University policies and could constitute misconduct)
- Low level conflict defined as interpersonal conflict or disagreement is not sufficient to constitute as bullying. People can and will disagree with each other.

**Bystander.** A bystander includes a person who observes someone bullying, harassing, discriminating against, sexually harassing, or sexually assaulting another person.

**Child Sexual Abuse.** Sexual assault of a child (an individual under 18 years of age) is defined as child sexual abuse and constitutes a criminal offence with mandatory reporting requirements. All cases involving students under 18 years of age must be referred directly to the Associate Director of Student Affairs and the Student Counsellor for immediately further actions.

**Consent.** Consent means the free and voluntary agreement to participate in an activity which may include an intimate or sexual relationship given by a person with the cognitive capacity to do so. Consent is not freely and voluntarily given if the person is:

- Under force
- Unconscious or asleep
- Under the influence of drugs or alcohol
- Under threat or intimidation

- In fear of bodily harm
- Subjected to the exercise of authority
- Under false or fraudulent representations about the nature or purpose of the act, or
- Under a mistaken belief that the offender was someone else (for example, their sexual partner).

Consent can be given and subsequently withdrawn at any point.

**Discrimination**, including direct and indirect discrimination, occurs when a person is treated less favourably or harassed in certain areas of life including their employment because of a personal characteristic or attribute, whether real or imputed, including the setting of a requirement, condition or practice that is unreasonable and that people with a particular characteristic cannot meet.

The grounds for which a report may be made under this policy include discrimination and harassment based on one or more of the following characteristics:

- Sex or gender
- Relationship status, pregnancy, breastfeeding, parental status and family responsibility
- Disability or impairment
- Race, accent, colour, national or ethnic origin, nationality, ethnicity, descent or ancestry, or immigration
- Age
- Religious or political belief or activity.

Discrimination can be on the basis of direct or indirect discrimination:

- Direct discrimination on the basis of an attribute happens if a person treats, or proposes to treat, a person with an attribute less favourably than another person without the attribute is or would be treated in circumstances that are the same or not materially different.
- Indirect discrimination on the basis of an attribute happens if a person imposes, or proposes to impose, a term:
  - With which a person with an attribute does not or is not able to comply, and
  - With which a higher proportion of people without the attribute comply or are able to comply, and
  - That is not reasonable.

**Duty of care.** The University's duty of care requires all staff, affiliates, and students to take reasonable care in order to avoid reasonably foreseeable harm that may arise. The safety and wellbeing of staff, affiliates, students, volunteers, and visitors is the first priority in any situation.

**First Responder.** Any member of the University community may be a first responder. A first responder is a person who is the first to become aware (or is confided in by another) that a

person has experienced or is currently experiencing an incident of bullying, discrimination, sexual harassment, or sexual assault.

**Harassment** occurs when a person, or a group of people, is intimidated, insulted, or humiliated because of one or more characteristics, or from working in a hostile or intimidating environment that makes a person feel offended, humiliated, or intimidated, and where that reaction is reasonable in the circumstances. Harassment can arise as the result of a single incident as well as repeated incidents. See further definition of Sexual Harassment below.

**Incident Register** is a confidential register that is maintained by the Associate Director, Student Affairs and Director Human Resources for student and staff respectively. All reports of sexual misconduct are recorded on the Incident Register to enable University to identify patterns in behaviours, or high-risk University activities or premises, and to monitor progress in eliminating sexual assault or sexual harassment.

**Sexual Assault** e.g. outrage of modesty, is any unwanted or forced sexual act or behaviour without consent. Sexual Assault occurs when a person:

- Touches or makes contact with another person (and the touching or making contact is sexual in nature) without their consent – groping and any physical contact such as patting, pinching or touching in a sexual way is a form of sexual assault
- Forces another person against their will to commit an act of gross indecency – a sexual act that does not involve penetration, for example a person forces another person to touch their genitals
- Forces another person to see an act of gross indecency, for example the person masturbates in front of the other person.

Rape is the most serious form of sexual assault and occurs where a person or persons force another person or persons to have sexual intercourse without his or her consent. Rape includes forcing someone to perform oral sex, digital penetration, and inserting any object into the vulva, vagina, or anus of another person without their consent.

**Sexual Harassment** is an unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature that is done either to offend, humiliate, or intimidate another person, or where it is reasonable to expect the person might feel that way. Sexual harassment may include:

- Displays of sexually graphic materials including posters, cartoons or messages left on noticeboards, desks or common areas
- Repeated invitations to develop a closer or intimate relationship after prior refusal
- Unwelcome and uncalled for remarks or insinuations about a person's sex or private life
- Comments of a sexually suggestive nature about a person's appearance or body
- Sexually offensive phone calls
- Offensive emails and text messages of a sexual nature

- Unwanted sexual attention using internet, social networking sites and mobile phones
- Sexually offensive screensavers or posters
- A publication, such as sexually offensive emails or graphics
- Threats online of a sexual nature
- Revenge porn
- Sexual propositions
- Indecent exposure
- Stalking
- Pressuring a student or staff member to engage in sexual behaviour for some educational or employment benefit, or
- Making a real or perceived threat that rejecting sexual behaviour will carry a negative consequence for the student in education, accommodation, or University programme or activity.

**Sexual Misconduct** refers to instances of sexual harassment or sexual assault that the University is notified of, or is responding to. If proven, allegations of sexual misconduct are a breach of this policy and also of the Codes of Conduct that apply to both the staff and students at the University.

**Student** is a person who has been admitted to the University and has enrolled for a course or a subject and whose enrolment for that course or for that subject has not lapsed or been cancelled.

## Policy

### 1. Commitment

The University confirms that:

- 1.1 The University is committed to the rights of all students, staff, and affiliates to work, research, study, and socialize in an environment that is based on inclusivity and respect.
  - 1.1.1 All people have a right to an environment free from discrimination, bullying, harassment, and sexual misconduct while engaged in activities undertaken as part of their study, research and work, or other association with JCU.
  - 1.1.2 Discrimination, bullying, harassment, and sexual misconduct will not be tolerated under any circumstances.
  - 1.1.3 Discrimination, bullying, harassment, and sexual misconduct in employment and education is unlawful under various legislative enactments as listed in the related documents and legislation section of this policy.
  - 1.1.4 JCU will use educative approaches for the prevention of discrimination, bullying, harassment, and sexual misconduct to inform members of the JCU community of their

rights and responsibilities, to encourage the reporting of behaviour, practices or publications that contravene this policy, and ensure JCU's systems and processes are not discriminatory.

- 1.1.5 The University's response to sexual assault is integrated with the specialist sexual assault services. The University has referral protocols in place with sexual assault services and works together with the services to meet the needs of Staff and Students. The University will provide additional and complementary support services.
- 1.1.6 Except to the extent that disclosure is required, or authorised by legislation, confidentiality will be maintained to the greatest possible extent, with communication limited to persons to whom disclosure is made (consistent with position and responsibility), or those with specific responsibility to assist in the resolution of the report.
- 1.1.7 Sexual assault against a child is defined as child sexual abuse and constitutes a criminal offence with mandatory reporting requirements.

1.2 The University acknowledges that:

- 1.2.1 Sexual harassment most often occurs in relationship of unequal power or authority, although it may also take place between peers. In providing a working and learning environment free of harassment, it is important to recognise that certain groups may be particularly vulnerable, including:
  - People from non-English-speaking backgrounds
  - People with disabilities, and
  - People working or learning in non-traditional areas.

1.3 With respect to sexual misconduct, JCU:

- 1.3.1 Encourages any person who has experienced or who has witnessed any sexual harassment or sexual assault by, or toward, a member of the University community to report the incident.
- 1.3.2 All reports of sexual misconduct are recorded to enable JCU to identify patterns in behaviours, or areas of the University, and to monitor progress in eliminating sexual assault and sexual harassment.
- 1.3.3 Supports any person to make a decision about making a report to the University. The University understands the decision to make a report can be complex.
- 1.3.4 Will follow due process, and afford natural justice to all parties. The University will ensure that there are single points of contact whenever possible.
- 1.3.5 Individual well-being and the reduction of harm are key drivers in any response to sexual assault.

## 2. Accountabilities and responsibilities

2.1 Every member of the University Community, has the following obligations to:

- Take reasonable care for their own health and safety,
- Take reasonable care for the health and safety of others,
- Comply with any reasonable instruction from JCU, and
- Comply with all applicable JCU Policies and Procedures.

2.2 A bystander who observes someone bullying, harassing, discriminating against, sexually harassing, or sexually assaulting another person, should address the person offending at the time, if they are able to, and it is safe to do so. Bystanders should let the person subjected to the offence know that they have noticed and ask what they can do to help.

2.3 Some members of the University community have further obligations in respect of their positions or delegated authority that it is their responsibility to understand.

2.4 Managers and supervisors:

- Members of the University community in management or supervisory positions have responsibility to ensure that, when an instance of bullying, harassment, discrimination, or sexual misconduct is brought to their attention, they take appropriate action to address or remedy the situation expeditiously. They need to:
  - Ensure other members of the University community under their supervision, whether these be staff, affiliates, volunteers, or Students are familiar with JCU's policies and procedures regarding conduct, and undertake mandated training where required
  - Discuss the University's Policy against Bullying, Discrimination, Harassment, and Sexual Misconduct, and related procedures at staff and student meetings, and check for understanding
  - Ensure all staff are aware of the Staff Code of Conduct
  - Ensure all students are aware of the Student Code of Conduct
  - Model exemplary behaviours in this regard themselves
  - Monitor workplace behaviours to ensure compliance with policies
  - Remove any inappropriate material, including sexually inappropriate material, from the work or study environment
  - Take appropriate and early action using relevant procedures when they observe instances of potential bullying, discrimination and harassment, or sexual misconduct, even without or prior to a report being made
  - Follow up promptly and undertake appropriate action when a bullying, discrimination, harassment, or sexual misconduct matter is raised with them
  - Advise and/or refer parties to relevant support services, policies and procedures

- Maintain the confidentiality required by this policy.

## 2.5 Director Human Resources (HR)

- The Director, HR, in addition to the accountabilities and responsibilities identified within other JCU policies and procedures, will facilitate the provision of education and information to discourage bullying, discrimination, harassment, and sexual misconduct for staff, and monitoring the effectiveness of this policy.

## 2.6 Associate Director, Student Affairs (SA)

- The Associate Director, SA will facilitate the provision of education and information to discourage bullying, discrimination, harassment, and sexual misconduct for Students, including Administration and Facilities staff and outsourced security staff and monitor the effectiveness of this policy including through Counselling services provided by Counsellor
- The Associate Director, SA also has accountabilities and responsibilities under the Student Code of Conduct and Misconduct Procedures where the respondent to a report of bullying, discrimination, harassment, or sexual misconduct is a Student.

# 3. Inquiry Committee and Reporting to Government Authorities

3.1 The University may convene an Independent Committee of Inquiry (Investigation Committee) as determined by Deputy Vice Chancellor and Head of Campus Singapore.

3.2 The University reserves all rights to take appropriate disciplinary actions against students who may have committed Bullying, Discrimination, Harassment, and Sexual Misconduct, including but not limited to placing student on suspension and termination.

3.3 The University investigations may be suspended if the relevant Government Authorities are involved due to criminal proceedings. If deemed necessary, the University may resume investigation after investigations by the Government Authorities have concluded.

# 4. Resolutions

4.1 Potential Resolutions (outcomes) of a Bullying, Discrimination, Harassment, or Sexual Misconduct case may include but not limited to mediation / intervention agreement, no contact instructions, sanctions, disciplinary procedures, and in extreme, cases exclusion.

# 5. Continuous Improvement

5.1 This policy shall be reviewed periodically, as part of James Cook University's effort towards reviewing its effectiveness and for continuous improvement.

## Related Policy Instruments

Personal Data Protection Act  
Student Code of Conduct  
Student Feedback Management Policy  
Staff Code of Conduct

## Related Documents and Legislation

Singapore Penal Code (Cap. 224)  
Singapore Employment Act (Cap. 91)  
Tripartite Guidelines  
Handling of Student Disciplinary Procedures (Non-Academic)

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## Administration

### Approval Details

Policy Sponsor:	Chief Operating Officer
Approval Authority:	Board of Directors
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### Revision History

Version	Revision date	Description of changes	Author
1.0	01/10/2020	Establish Policy	Associate Director, Student Affairs
1.1	8/10/2021	Reviewed Policy to align with Procedure Updated Related Policy Instruments Added numbering	Manager, Student Feedback

### Contact Person/Unit

Contact Persons/Unit:	Student Ambassador / Student Affairs/ Student Feedback
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### Keywords

Keywords:

Bullying, Discrimination, Sexual Misconduct, Harassment, Assault