



CHRISTIAN HERITAGE COLLEGE

POLICY: Bullying, Harassment and Sexual Misconduct

Policy Group(s)	Group G: G2/1011.1		
Related Policy:	Code of Conduct Disability Support Grievance Policy for Domestic Students – Non-Academic Grievances Grievance Policy for Overseas Students Risk Management Staff Grievance		
Commencement Date:	January 2012	Review Date:	July 2016 March 2018 July 2019 Scheduled Review: November 2020

POLICY STATEMENT

Intent:

Christian Heritage College (CHC) is committed to developing and maintaining an environment that is free of discrimination and harassment and promotes respect for persons, integrity, equitable treatment and natural justice. CHC is committed to the Biblical principle that every person is created in the image of God and is of great value and worth.

CHC has a zero-tolerance policy towards harassment (including sexual harassment), vilification, victimisation, bullying, discrimination and other wrongful, unlawful and inappropriate conduct. This type of behaviour is unacceptable and for staff can result in summary dismissal and for students is reason for exclusion and may be unlawful under State or Commonwealth law.

Scope:

All staff, current students, applicants, volunteers and visitors of CHC.

Restrictions: Nil

Exclusions: Nil

This policy relates to, but is not limited by the following types of communication:

- Verbal communication including either over the telephone or in person at CHC, and outside of it;
- Written communication including; letters, notes, minutes of meetings etc;
- Internal and external electronic communication including:
 - email;
 - Moodle forums and posts;
 - instant messaging services;
 - social media and networking forums including; Facebook, LinkedIn, Twitter and other forms of social media; and
 - communication via text message.

Objectives:

1. To promote an environment which is free from harassment (including sexual harassment), vilification, victimisation and bullying where all persons are treated fairly, with respect, dignity and courtesy.

2. To ensure that all persons are aware of this policy and their rights and obligations to a safe work and teaching environment.
3. To promote appropriate standards of conduct at all times.¹
4. To express CHC's commitment to provide accessible, transparent and equitable processes through which all persons can seek resolution of reported incidences of alleged bullying, harassment and sexual harassment.
5. To provide opportunity for all persons to resolve issues in a fair, timely and confidential manner.
6. To encourage the reporting of behaviour that is perceived as inappropriate which breaches this policy and to protect complainants from reprisals when making a complaint.
7. To ensure CHC complies with its legal responsibilities.

Policy

Provisions:

Harassment, bullying and/or unlawful discrimination will not be tolerated in any form or under any circumstances at CHC, including but not limited to: phone calls, emails, classroom, work related functions, study excursions, internship or practicum placements.

1. Definitions

1.1. What constitutes bullying at work is defined by the *Fair Work Act 2009*. Harassment and/or discrimination occurs when a person is harassed or discriminated against in the workplace and in certain areas of public life:

1.1.1. because of their race, colour, descent or national or ethnic origin, as defined under the *Racial Discrimination Act 1975*;

1.1.2. or because of their sex, marital status, pregnancy as defined under the *Sexual Discrimination Act 1984*;

1.1.3. or because of a disability as defined under the *Disability Discrimination Act 1992*;

1.1.4. or because of age as defined under the *Age Discrimination Act 2004*.

1.2. **Harassment/Bullying** is defined as behaviour, other than sexual harassment, that is directed towards a person or group of persons that is repeated and systematic and that a reasonable person having regard to all the circumstances would expect to victimise, humiliate, undermine or threaten the persons or group of persons to whom the behaviour is directed. It is persistently disturbing, unwelcome and unsolicited, is considered to be offensive, intimidating, humiliating, threatening, bothering, pestering or persecuting another person, or which creates a risk to health and safety. Detailed below are examples of behaviours that may be regarded as workplace harassment, if the behaviour is repeated or occurs as part of a pattern of behaviour. This is not an exhaustive list – however, it does outline some of the more common types of harassing behaviours. Examples include:

- abusing a person loudly, usually when others are present;
- repeated threats of dismissal or other severe punishment for no apparent reason;
- constant ridicule and being put down;
- practical jokes or initiation;
- leaving offensive messages on email or the telephone;
- sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information or not passing on messages;
- maliciously excluding and isolating a person from workplace activities;
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters;

¹ CHC recognizes that harassment (including sexual harassment), bullying and unlawful discrimination may involve comments and behaviours that offend some people and not others. CHC accepts that individuals may react differently to comments and behavior. That is why a minimum standard of behavior is required of students, staff, and volunteers.

- humiliating a person through gestures, sarcasm, criticism and insults, often in front of students, management or other employees;
 - spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.
- 1.3. **Sexual harassment** is defined as any unwanted or unwelcome sexual behaviour which makes a person feel offended, humiliated or intimidated.
- 1.4. "Workplace harassment" does not include reasonable management action taken in a reasonable way by the person's direct manager or other member of management in connection with the person's employment.
- 1.5. Legitimate and reasonable management actions and business processes, such as, actions taken to transfer, demote, discipline, redeploy, retrench or dismiss an employee are not considered to be workplace harassment, provided these actions are conducted in a reasonable way.

2. General

CHC will take the following actions to prevent and control exposure to the risk of workplace harassment:

- 2.1. CHC will provide employees with workplace bullying and harassment training.
- 2.2. CHC will provide a system for making and resolving complaints (refer to the *Grievance Policy* and *Grievance and Disputes Procedure*).
- 2.3. The Vice President has oversight of this issue and may seek to resolve the issue through a mediation process as a first step in the process.
- 2.4. Where a complaint is made against the Vice President, the President will resolve the matter as per this policy.
- 2.5. Where a complaint is made against the President, the CHC Council has the discretion to resolve the matter itself or it may decide to appoint an external reviewer to make recommendations to the Council.
- 2.6. All investigations will be investigated promptly, fairly and impartially.
- 2.7. CHC requires all employees to behave responsibly by complying with this policy, to not tolerate unacceptable behaviour, to maintain privacy during investigations and to immediately report incidents of workplace harassment to management or a member of the Executive.
- 2.8. Managers must also ensure that employees are not exposed to workplace harassment. CHC Executive is required to personally demonstrate appropriate behaviour, promote the workplace harassment prevention policy, treat complaints seriously and ensure where a person lodges or is witness to a complaint, that this person is not victimised (i.e. treated less favourably).
- 2.9. The procedures set out in this document do not replace or modify procedures or any other responsibilities which may arise under other higher education provider policies or under statute or any other law. Nothing in this policy prevents a complaint of sexual harassment from being dealt with by an appropriate authority including but not limited to the police or the Ombudsman.
- 2.10. The parties to a discrimination and/or harassment complaint are required at all stages of this policy and procedure, to maintain confidentiality in relation to the concern or complaint and to deal with it in a timely manner.
- 2.11. The parties must not disclose, by any form of communication, either the fact or the substance of the matter to anyone other than, as relevant, the staff representative, or an Australian qualified counsellor or relevant medical practitioner.
- 2.12. A person must not victimise or otherwise subject another person to detrimental action as consequence of that person raising, providing information about, or otherwise being involved in the resolution of a complaint.

- 2.13. Any persons found to have breached any of the laws regarding discrimination, bullying or harassment may have the case referred to the police.
- 2.14. Disciplinary action may be taken against a person who harasses an employee/student or who victimises a person who has made or is a witness to a complaint. Complaints of alleged harassment found to be malicious, frivolous or vexatious may make the complainant liable for disciplinary action. Disciplinary action can include termination of employment or termination of study.

3. Workplace Harassment/Bullying

3.1. Workplace harassment/bullying can be committed by:

- 3.1.1. an employer
- 3.1.2. employee
- 3.1.3. co-employee
- 3.1.4. group of co-employees
- 3.1.5. student
- 3.1.6. group of students
- 3.1.7. client or customer or
- 3.1.8. a member of the public.

3.2. Workplace harassment/bullying covers a wide range of behaviors' ranging from subtle intimidation to more obvious aggressive tactics, including:

- 3.2.1. abusing a person loudly, usually when others are present;
- 3.2.2. repeated threats of dismissal or other severe punishment for no reason;
- 3.2.3. constant ridicule and being put down;
- 3.2.4. leaving offensive messages on email or the telephone;
- 3.2.5. sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways;
- 3.2.6. maliciously excluding and isolating a person from workplace activities;
- 3.2.7. persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters;
- 3.2.8. humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers or
- 3.2.9. spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.

3.3. Action may be considered as workplace harassment and bullying where it is used:

- 3.3.1. primarily to offend, intimidate, humiliate or threaten workers; or
- 3.3.2. to create an environment where workplace harassment is more likely to occur.

3.4. Workplace harassment and bullying does not include:

- 3.4.1. reasonable action taken in a reasonable manner, by an employer to transfer, discipline, counsel, retrench or dismiss an employee;
- 3.4.2. a decision by an employer, based on reasonable grounds not to award or provide a promotion or benefit in connection with an employee's employment;

- 3.4.3. reasonable administrative action taken in a reasonable manner by CHC in connection with an employee's employment;
- 3.4.4. reasonable action taken in a reasonable manner in accordance with legislation affecting an employee;
- 3.4.5. a single incident of harassing type behaviour; or
- 3.4.6. reasonable management action taken in a reasonable way.

4. Harassment/Bullying of Students

- 4.1. Harassment/bullying of students can be committed by:
 - 4.1.1. a CHC employee;
 - 4.1.2. a group of CHC employees;
 - 4.1.3. a student;
 - 4.1.4. a group of students or
 - 4.1.5. a member of the public.
- 4.2. Student harassment may include a student harassing a fellow student, a student harassing a CHC employee, or a CHC employee harassing a student.
- 4.3. Harassment/bullying covers a wide range of behaviors' ranging from subtle intimidation to more obvious aggressive tactics, including:
 - 4.3.1. abusing a person loudly, usually when others are present;
 - 4.3.2. repeated threats for no reason;
 - 4.3.3. constant ridicule and being put down;
 - 4.3.4. leaving offensive messages on email or the telephone;
 - 4.3.5. sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways;
 - 4.3.6. maliciously excluding and isolating a student from activities;
 - 4.3.7. persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters;
 - 4.3.8. humiliating a person through gestures, sarcasm, criticism and insults, often in front of others or
 - 4.3.9. spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.
- 4.4. Action may be considered as harassment/bullying where it is used:
 - 4.4.1. primarily to offend, intimidate, humiliate or threaten a person; or
 - 4.4.2. to create an environment where harassment is more likely to occur
- 4.5. Harassment and bullying do not include:
 - 4.5.1. reasonable action taken in a reasonable manner and in accordance with CHC policies, by a CHC employee to discipline, counsel or exclude a student;
 - 4.5.2. a decision by a CHC staff member, based on reasonable grounds and in accordance with CHC policies not to:
 - 4.5.2.1. approve an application for admission;
 - 4.5.2.2. approve an application for a deferral;
 - 4.5.2.3. approve an application to transfer course;
 - 4.5.2.4. approve an application for transfer of credit;

- 4.5.2.5. approve an application for a leave of absence;
- 4.5.2.6. approve an application for graduation;
- 4.5.2.7. approve an application for an extension of an assessment date;
- 4.5.2.8. approve an application for an extension of a resource loan;
- 4.5.2.9. release results.

- 4.5.3. reasonable administrative action taken in a reasonable manner by CHC in connection with a student's enrolment;
- 4.5.4. reasonable action taken in a reasonable manner in accordance with legislation affecting a student;
- 4.5.5. a single incident of harassing type behaviour; or
- 4.5.6. reasonable management action taken in a reasonable way.

5. Sexual Harassment

- 5.1. Sexual harassment particularly is an affront to the dignity of the individual and as such is not tolerated at CHC.
- 5.2. Sexual harassment is not interaction, flirtation or friendship which is mutual or consensual.
- 5.3. Sexual harassment is a type of sex discrimination.
- 5.4. The *Sex Discrimination Act 1984* (Cth) makes sexual harassment unlawful in some circumstances.
- 5.5. According to the Australian Human Rights Commission, sexual harassment may include:
 - 5.5.1. staring or leering;
 - 5.5.2. unnecessary familiarity, such as deliberately brushing up against you or unwelcome touching;
 - 5.5.3. suggestive comments or jokes;
 - 5.5.4. insults or taunts of a sexual nature;
 - 5.5.5. intrusive questions or statements about your private life;
 - 5.5.6. displaying posters, magazines or screen savers of a sexual nature;
 - 5.5.7. sending sexually explicit emails or text messages;
 - 5.5.8. inappropriate advances on social networking sites;
 - 5.5.9. accessing sexually explicit internet sites;
 - 5.5.10. requests for sex or repeated unwanted requests to go out on dates;
 - 5.5.11. behaviour that may also be considered to be an offence under criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene; or

6. Sexual Assault or Sexual Violence is a particular type of sexual harassment that includes non-consensual sexual contact, non-consensual sexual intercourse, rape or physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent. Specific examples of sexual assault or sexual violence includes but is not limited to physical assaults of a sexual nature, such as:

- 6.1. rape;
- 6.2. sexual assault
- 6.3. sexual battery;
- 6.4. domestic violence;
- 6.5. dating violence;

- 6.6. stalking; or
- 6.7. attempts to commit these acts.
- 7. **Force** refers to the use of physical violence and/or imposing on someone to gain sexual access. Specific examples include but are not limited to:
 - 7.1. threats;
 - 7.2. intimidation (implied threats); and
 - 7.3. coercion that overcomes resistance or produce consent.
- 8. **Indecent Exposure** refers to the exposure of the private or intimate parts of the body in a lewd manner in public or private premises when the accused may be readily observed.
- 9. **Consent** – can only be freely given by a person with the cognitive capacity to do so. Consent is the voluntary agreement to do the act or the acts in question and to continue to engage in the act or acts. Voluntary agreement to engage in the activity or to continue to engage in the activity must be communicated through words or conduct.
- 10. **Sexual Misconduct** is a broad term encompassing any unwelcome behaviour of a sexual nature without consent. It includes behaviour that could amount to a sexual offence or harassment.
- 11. **Confidentiality and Privacy**
 - 11.1. If a person makes a complaint, it will be dealt with confidentially. Staff and student's confidential and personal information will only be released with the consent of the person involved, or where it may be necessary to protect the health and wellbeing of others.

Supporting Procedures and Guidelines:

1. Training

- 1.1. CHC undertakes staff training to develop awareness of issues related to discrimination, harassment, and workplace bullying, including sexual harassment and provides mechanisms to deal with grievances under this policy.
 - 1.1.1. Training occurs through monthly staff meetings, Moodle modules and face-to-face professional development
 - 1.1.2. Information on the website made available to staff (permanent and sessional) and students
 - 1.1.3. Induction processes for commencing staff
- 1.2. Information to develop awareness of issues related to discrimination, harassment, and workplace bullying, including sexual harassment and provides mechanisms to deal with grievances under this policy is made available to students upon admission, orientation, around campus and on the website.
- 1.3. CHC requires staff and student representatives to undertake compulsory First Responder online and face to face training. A 'Sexual Harassment and Assault Prevention' online module is compulsory for all new students. Face to face training is also offered to students each semester.

2. Making a complaint of Discrimination and/or Harassment

- 2.1. In the case of sexual discrimination or sexual misconduct, CHC reserves the right to suspend or place on immediate administrative leave any member of the community accused of violating this policy, or to take any other interim measures CHC deems appropriate.
- 2.2. Such interim measures can include, but are not limited to, placing an employee on paid or unpaid leave, removing a student from current classes, modifying course timetables, and issuing a 'no contact' order.

2.3. If a staff member or student believes they are being harassed, bullied or unlawfully discriminated against there are a number of important steps they should take:

2.3.1. tell the person their behaviour is unacceptable

2.3.2. report the behaviour or incident to their upline or submit a grievance under the CHC Grievance Policy. If the incident is sexual in nature, there are 3 forms available on the CHC website to assist with reporting. The options are for 'Reporting a disclosure on behalf of a student or of an incident that I have witnessed', 'Reporting a complaint about an incident that affected me' or 'Reporting a disclosure of an incident that affected me'.

2.3.3. if the alleged perpetrator is an upline, then the grievance should be submitted to the Vice President.

3. Staff role

3.1. Every member of staff must adhere to this policy and should be aware that they can be held legally responsible for their unlawful acts.

3.2. Staff who aid, abet or encourage other persons to harass, bully or unlawfully discriminate can also be held liable.

3.3. A member of staff who believes that they have experienced sexual harassment should make a complaint under the *Staff Grievance Policy* or if the incident is sexual in nature, they may choose to report using the online forms mentioned in 2.2.3*.

3.4. If the allegation is of a criminal nature (e.g. physical molestation, indecent exposure, obscene communications (including email), sexual assault, rape, stalking), a person affected may elect to report such conduct to police.

3.5. When made aware of such a matter under these procedures, an authorised officer for grievances may assist the person to make a report to the police.

3.6. If a matter is reported to police and it will interfere with the police investigation/action to continue to deal with the matter under CHC procedures, the College will suspend action.

3.7. If there is no risk of interference with a police investigation the matter may be dealt with under CHC's grievance procedures.

4. Student role

4.1. All students must adhere to this policy and should be aware that they can be held legally responsible for their unlawful acts.

4.2. Students who aid, abet or encourage other persons to harass, bully or unlawfully discriminate can also be held liable.

4.3. A student who believes that they have experienced sexual harassment should make a complaint under the *Grievance Policy for Domestic Students – Non-Academic Grievances*, *Grievance Policy for Overseas Students* or if the incident is sexual in nature, they may choose to report using the online forms mentioned in 2.2.3*.

4.4. If the allegation is of a criminal nature (e.g. physical molestation, indecent exposure, obscene communications (including email), sexual assault, rape, stalking), a person affected may elect to report such conduct to police.

4.5. When made aware of such a matter under these procedures, the Director of Student Services or authorised CHC member of staff may assist the person to make a report to the police.

4.6. If a matter is reported to police and it will interfere with the police investigation/action to continue to deal with the matter under CHC procedures, the College will suspend action.

4.7. If there is no risk of interference with a police investigation the matter may be dealt with under CHC's grievance procedures.

**Note:* If a student or staff member makes a disclosure of sexual assault or sexual harassment using the online forms, this indicates that they or the affected person DO NOT want CHC to investigate or to take any specific action in response to the incident. If the student or staff member make a disclosure, it does not prevent them from making a complaint to CHC about the same incident at a later time. A complaint will lead to specific action including an investigation about the incident.

The online forms can be used to report a recent or historical incident of sexual assault or sexual harassment that has been experienced, that has been experienced by another CHC student, or that has been witnessed. Students or staff cannot make a complaint on behalf of another student.

POLICY FURTHER INFORMATION

Relevant Commonwealth/State Legislation	Age Discrimination Act 2004 Disability Discrimination Act 1984 Equal Opportunity Act 2010 Fair Work Act 2009 Racial Discrimination Act 1975 Sex Discrimination Act 1984
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ACCOUNTABILITIES

Compliance:	CHC CEO/President
Implementation:	CHC CEO/President & Director of Quality and Standards
Monitoring and Evaluation:	CHC CEO/President, Director of Quality and Standards & CHC Council
Development/Review:	CHC CEO/President, Director of Quality and Standards & CHC Council
Approval Authority:	CHC Council
Interpretation & Advice:	CHC CEO/President, Director of Quality and Standards & CHC Council

WHO SHOULD KNOW THIS POLICY?

All Staff
Students (current and prospective)
Volunteers

EFFECTIVENESS OF THIS POLICY

Performance Indicators:	<ul style="list-style-type: none">Effectiveness of training and awarenessNumber of grievances
Other	Nil
Definitions and Acronyms:	CHC - Christian Heritage College Dean – the head of the School administering the course, includes the Executive Director, Millis Institute.

School – the academic organisational unit of CHC, includes the Millis Institute.

Victimisation – treating someone badly because they have done a ‘protected act’. This includes making a claim or complaint of discrimination, helping someone else make a claim by giving evidence.

Vilification – a public act capable of inciting hatred towards, serious contempt for, or severe ridicule of a person or group of persons on the grounds of race, religion, sexuality or gender identity of the person or group.

APPROVAL – section maintained by the Director of Quality and Standards

Reference No.	Approved	Date	Committee/Board	Resolution No. / Minute Ref.
G2/1011.1	Approved	22/11/2011	CHC CEO	2

REVISION HISTORY – section maintained by the Director of Quality and Standards

Revision Reference No.	Approved/Rescinded	Date	Committee/Board	Resolution No. / Minute Ref.
0318	Approved	27/03/2018	CHC CEO	Email

Additional Changes:		Date
New title: Bullying, Harassment and Sexual Misconduct	Old title: Harassment and Bullying	March 2018