



MANDELBAUM HOUSE DISCRIMINATION, HARASSMENT AND BULLYING POLICY

- 1.1 Mandelbaum House Ltd is committed to providing a safe, happy and productive living and working environment for its residents, staff, volunteers, Council members, guests, and other members of its community.
- 1.2 All community members have the right to study, work or relax in an environment that is free from unlawful discrimination, harassment, vilification and bullying, and to be treated with dignity and respect.
- 1.3 All community members have an obligation to ensure that they do not engage in unlawful discrimination, harassment, vilification and bullying:
- at Mandelbaum House;
 - at events or activities run by or associated with Mandelbaum House, including social functions;
 - at the University or in University accommodation; or
 - on social media or by any other means of electronic communication.
- 1.4 This policy should be read in conjunction with the *Complaint Resolution Procedures*.
- 1.5 Residents should also be familiar with the University's [Bullying, Harassment and Discrimination Prevention Policy 2015](#) and [Student Complaints Procedures 2015](#), which provide an alternative avenue for making a complaint of unlawful discrimination, harassment or bullying.

2 Definitions

- 2.1 In this policy:

CEO means the Chief Executive Officer of Mandelbaum House.

characteristic means:

- race, colour, religious belief, ethnic or ethno-religious background, descent or nationality;
- sex;
- pregnancy, childbirth or breastfeeding;
- marital, relationship or domestic status;
- carers' responsibilities;
- transgender, transsexual or intersex status, or gender identity;
- homosexuality or sexual orientation;

- age; or
- disability (past, present or future), including physical, intellectual, psychiatric or psychological, learning or cognitive disabilities, and any virus or bacteria that can cause disease, such as HIV;

and includes an actual or perceived (imputed) characteristic.

community member	means a resident, staff member, volunteer, Council member, guest, or other member of the Mandelbaum House community.
complainant	means any person who makes a complaint of unlawful discrimination, harassment, vilification or bullying in accordance with this policy and the <i>Complaint Resolution Procedures</i> .
complaint	means a complaint of discrimination, harassment, vilification or bullying made in accordance with clause 10 and the <i>Complaint Resolution Procedures</i> .
Harassment and Discrimination Officer (HDO)	means the person nominated by Mandelbaum House to receive concerns and complaints of sexual misconduct, sexual harassment, discrimination, harassment, vilification and bullying.
respondent	means a person whose conduct is the subject of a complaint of discrimination, harassment, vilification or bullying.
staff (member)	means continuing, fixed term and casual employees, and contractors.
University	means the University of Sydney.
University accommodation	means University owned and affiliated residential accommodation.

3 Meaning of unlawful direct discrimination

- 3.1 Unlawful discrimination occurs when a person, or a group of people, is treated less favourably than another person or group of people, on the grounds of one or more characteristics.
- 3.2 Discrimination might be unlawful if it is based on a characteristic and it happens:
- at work (for example, in determining who should be offered employment, in the terms on which employment is offered, or when terminating a person's employment);
 - in the provision of accommodation (for example, by refusing a person's application for accommodation, in the terms on which accommodation is offered, by denying a person access to any benefit associated with their accommodation, or by evicting a person from their accommodation);
 - in the provision of goods and services (for example, by refusing to provide a person with goods or services, or in the terms on which goods or services are offered);

- (d) in education (for example, by refusing to accept an application for admission, in the terms on which admission is offered, by denying a student access to any benefit provided to other students, or by expelling the student);
- (e) in clubs and associations (for example, by refusing to accept an application for membership, in the terms or conditions on which membership is permitted, by denying a person access to any benefit of membership);
- (f) in access to premises (for example, by failing to make reasonable adjustments that would enable a person with a disability to access to Mandelbaum House).

4 Meaning of unlawful indirect discrimination

4.1 Indirect discrimination occurs when an unreasonable rule, condition or requirement disadvantages a person or group of people more than another person or group of people, because of one or more characteristics.

4.2 Examples of unlawful indirect discrimination include:

- (a) requiring a staff member to be able to walk long distances when this is not an inherent requirement of the job, because it discriminates against people with a disability;
- (b) having a height restriction when this is not an inherent requirement of the job, because it discriminates against women and some ethnic groups;
- (c) requiring a person to be able to climb stairs in order to access a building, because it discriminates against people with a disability.

5 Meaning of unlawful harassment

5.1 Unlawful harassment is a type of unlawful discrimination. It occurs when a person, or a group of people, is offended, intimidated, insulted or humiliated on the grounds of one or more characteristics.

5.2 Unlawful harassment can be the result of a single incident as well as repeated incidents.

5.3 Harassment does not need to be directed at a particular person to be unlawful.

5.4 Lack of intent is not a defence to unlawful harassment. What matters is how other people experience the behaviour. If a person finds a particular act or behaviour offensive, intimidating, insulting or humiliating and it relates to a characteristic, it may constitute unlawful harassment even if the person doing the act did not intend to harass anyone.

5.5 Harassment can occur in person, through email, text, messaging, social media posts and other forms of electronic communication, or through another person.

5.6 Harassment can take many forms, including:

- (a) jokes about particular racial groups, or about a person's disability or age;
- (b) drawing or writing racist, sexist or homophobic drawings or words on public notice boards or white boards;
- (c) imitating someone's accent, habits or disability;

- (d) displaying offensive websites or screensavers;
- (e) making derogatory comments about a person's race, religion, gender or sexual orientation;
- (f) making derogatory comments about clothing worn by people of a particular race or religion.

6 Meaning of vilification

6.1 Vilification is a public act that incites hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the grounds of race, colour, nationality, descent, ethno-religious or national origin, transgender, homosexuality or HIV/AIDS.

6.2 Vilification can take many forms, including:

- (a) shouting racial abuse at another person;
- (b) wearing clothing with racist or homophobic words;
- (c) social media comments that are abusive towards or threaten transgender people.

7 Meaning of bullying

7.1 Bullying is repeated and unreasonable behaviour directed towards a person or group of people that creates a risk to health and safety. Bullying in the workplace is unlawful.

7.2 Repeated behaviour is behaviour that occurs more than once, and may involve a range of different behaviours over time.

7.3 Unreasonable behaviour is behaviour that a reasonable person, having regard to all the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

7.4 Behaviour does not have to be based on a characteristic to constitute bullying.

7.5 Examples of bullying include:

- (a) verbal abuse or threats, including yelling, insulting or offensive language;
- (b) constant or public criticism or belittling;
- (c) baiting or teasing;
- (d) deliberately excluding someone from activities;
- (e) withholding information that is essential to perform a task properly;
- (f) assigning impossible tasks, or meaningless tasks unrelated to a person's job, or giving someone the majority of unpleasant tasks;
- (g) spreading misinformation or rumours;
- (h) sabotaging someone's work or isolating them from their peers;
- (i) unreasonably changing work targets or guidelines;
- (j) initiation ceremonies and practical jokes;
- (k) physical abuse.

- 7.6 Bullying can occur through any kind of communication, including in person, by telephone, email, text, messaging, social media and other forms of electronic communication, or through another person.
- 7.7 For the purposes of this policy, bullying also includes stalking, which means:
- (a) following, watching or contacting a person without their consent, including by telephone, text, email or social media;
 - (b) with the intention of annoying, intimidating or causing the person to fear physical or mental harm.
- 7.8 Stalking or intimidating another person with the intention of causing them to fear physical or mental harm is a criminal offence.

8 What is not bullying

- 8.1 The following behaviours do not constitute bullying:
- (a) a single incident of unreasonable behaviour (however, if it is based on a characteristic it may constitute unlawful harassment);
 - (b) reasonable management practices, such as setting reasonable work performance goals, reasonable supervision, reasonable allocation of work, and reasonable performance management, counselling and discipline;
 - (c) low-level conflict.
- 8.2 Low-level conflict is interpersonal conflict or disagreement that is not sufficient to constitute bullying. What differentiates low level conflict situations from bullying is whether there is a risk to a person's health and safety, and the reasonableness of the behaviour overall.

9 Harassment and Discrimination Officer

- 9.1 Mandelbaum House encourages any community member who has a concern about discrimination, harassment, vilification or bullying to seek assistance and support from the Harassment and Discrimination Officer, Naomi Winton: 0412 544 854 nwinton@mandelbaum.usyd.edu.au.
- 9.2 Any resident at Mandelbaum House who is approached by a community member with a concern about discrimination, harassment, vilification or bullying should refer the community member to the HDO.
- 9.3 The role of the HDO is to:
- (a) help the community member clarify if the conduct could constitute discrimination, harassment or bullying;
 - (b) explain this policy and the *Complaint Resolution Procedures*;
 - (c) explain the need for confidentiality;
 - (d) encourage the community member to try to informally resolve the issue, if appropriate;

- (e) if informal resolution is not appropriate, explore with the community member other means for resolving the issue, as set out in the *Complaint Resolution Procedures*;
- (f) advise the community member of their right to make an external complaint to the [University](#), the [NSW Anti-Discrimination Board](#) or the [Australian Human Rights Commission](#).

10 Complaints of discrimination, harassment and bullying

- 10.1 All current and former community members have a right to make a complaint of discrimination, harassment, vilification or bullying in accordance with the *Complaint Resolution Procedures*.
- 10.2 Mandelbaum House may decline to accept a complaint of discrimination, harassment, vilification or bullying if:
 - (a) the complaint relates to alleged conduct that occurred more than 12 months before the complaint was made; or
 - (b) the complaint is frivolous or vexatious.
- 10.3 A person cannot make a complaint of discrimination, harassment, vilification or bullying on behalf of another person. However, they can accompany and provide support to someone who wishes to make a complaint.
- 10.4 Complainants do not have to specify what action they would like Mandelbaum House to take in order to make a complaint. If a complainant chooses to specify what action they want Mandelbaum House to take, we may decide to take that action or some other action, as appropriate.
- 10.5 In most cases, a person wishing to make a complaint of discrimination, harassment, vilification or bullying will need to provide their name. Mandelbaum House cannot act on anonymous complaints of discrimination, harassment or bullying unless:
 - (a) it is not necessary for the respondent to be aware of the identity of the complainant in order to properly respond to the complaint; or
 - (b) there is independent documentary or other evidence supporting the complaint and the allegation can be tested fairly.
- 10.6 If a community member makes a complaint of discrimination, harassment, vilification or bullying that occurred at, or necessarily involves, the University or University accommodation, Mandelbaum House may refer the complaint to, or seek assistance from, the relevant external organisation to resolve the complaint. We will not do this without seeking the views of the complainant.
- 10.7 Community members may also (or instead of making a complaint to Mandelbaum House) elect to contact the [University](#), the [NSW Anti-Discrimination Board](#) or the [Australian Human Rights Commission](#) to make a complaint of discrimination or harassment.

11 Confidentiality

- 11.1 Complainants and respondents must comply with the confidentiality requirements prescribed in the *Complaint Resolution Procedures*. A breach of confidentiality,

including on social media, may result in disciplinary action, including (as relevant) expulsion, suspension, termination of employment or termination of contract.

12 No victimisation

- 12.1 A community member must not victimise or otherwise subject another person to detrimental action as a consequence of that person:
- (a) making a complaint about discrimination, harassment, vilification or bullying;
 - (b) providing information about a complaint of discrimination, harassment, vilification or bullying; or
 - (c) supporting a person who has made a complaint about discrimination, harassment, vilification or bullying.
- 12.2 Victimisation may result in disciplinary action, including (as relevant) expulsion, suspension, termination of employment or termination of contract.

13 Breach of this policy

- 13.1 Mandelbaum House may take disciplinary action against any community member who breaches this policy, including (as relevant) expulsion, suspension, termination of employment or termination of contract.
- 13.2 Other actions that may result from a breach of this policy include, but are not limited to:
- (a) the complainant receiving an oral or written apology from the respondent, with a commitment to cease the behaviour that is the subject of the complaint;
 - (b) the parties being required to participate in some form of counselling, mediation or conciliation;
 - (c) the respondent being required to undertake training in relation to their behaviour;
 - (d) the development and implementation of an agreement or management plan to document agreed or proposed actions by the parties.

14 Opportunity to be heard

- 14.1 Complaints of discrimination, harassment, vilification or bullying will be resolved sensitively, fairly, confidentially and with a minimum of disruption, while following the principles of procedural fairness.
- 14.2 Complainants and respondents will have a reasonable opportunity to state or respond to a complaint orally and in writing, and to provide any documents relevant to the complaint.
- 14.3 Complainants and respondents are encouraged to bring a support person to any meeting.

15 Vexatious complaints

- 15.1 A person must not make a vexatious or malicious complaint of discrimination, harassment, vilification or bullying.
- 15.2 For the purposes of this policy, a complaint will be considered vexatious or malicious if the person makes it:
- (a) knowing it to be false; and
 - (b) for the primary purpose of damaging Mandelbaum House or the person against whom the complaint is made.
- 15.3 Making a vexatious complaint may result in disciplinary action, including (as relevant) expulsion, termination of employment or termination of contract.

16 Record keeping

- 16.1 Mandelbaum House will keep appropriate records in a secure location, in accordance with the Commonwealth *Privacy Act 1988*.
- 16.2 Access to information about a complaint of discrimination, harassment or bullying will be restricted to Mandelbaum House staff and Council members who have a need to access and use the information in order to meet their responsibilities under this policy and the *Complaint Resolution Procedures*.

SCHEDULE 1 – Emergency contacts

- 1) In an emergency, students should contact **emergency services** by dialling triple zero (**000**).
- 2) Residents who feel unsafe on campus or are concerned for someone else's safety can also contact **Campus Security** on **9351 3333**, 24 hours a day.
- 4) Residents who have experienced discrimination, harassment, vilification or bullying have access to a range of University support services and assistance, including:
 - (a) **Counselling and Psychological Services (CAPS): 8627 8433** (from 9am-4:30pm, Monday to Friday);
 - (b) **USYD 24/7 Crisis Line: 1300 474 065 (telephone support)** (from 5pm to 9am weekdays, 24 hours on weekends and public holidays);
 - (c) **USYD 24/7 Crisis Text: 0488 884 429 (SMS chat)** (from 5pm to 9am weekdays, 24 hours on weekends and public holidays);
 - (d) **University Health Service: 9351 3484** (from 8:30am to 5pm, Monday to Friday).

Notes

Discrimination, Harassment and Bullying 2019

Date adopted: 7 November 2019

Date commenced: 7 November 2019

Related documents: *Sexual Misconduct Policy 2019*
Complaint Resolution Procedures 2019

Related legislation: *Anti-Discrimination Act 1977 (NSW)*
Privacy Act 1988 (Cth)
Disability Discrimination Act 1992 (Cth)
Racial Discrimination Act 1975 (Cth)
Sex Discrimination Act 1984 (Cth)