

Student Conduct Policy

Student Conduct Policy

1 OVERVIEW

- 1.1 The Leo Cussen Centre for Law (**Leo Cussen**) is committed to ensuring that its learning environment is one where all Students, facilitators of training, training support staff, and all persons connected with the learning environment are free from discrimination, vilification, sexual harassment, bullying and victimisation and any other forms of behaviour as outlined in this Policy (collectively known as 'unacceptable behaviour').
- 1.2 We encourage Students to raise any concerns about unacceptable behaviour in accordance with the process outlined in this policy.

2 APPLICATION OF THE POLICY

- 2.1 This policy applies to all Students enrolled in any educational course or participating in any educational program provided by Leo Cussen generally, (**Course**), and applies to the behaviour of everyone who learns at Leo Cussen, either face to face, blended, or 100% online:
 - 2.1.1 including outside core Leo Cussen operating hours;
 - 2.1.2 during Leo Cussen activities, including lectures, seminars and workshops; and
 - 2.1.3 at all Leo Cussen related events, including social functions.
- 2.2 At Leo Cussen, we expect Students to behave in a manner which is consistent with this policy. At no time should anyone be subjected to unacceptable behaviour and Leo Cussen will take appropriate action if any Students breach the standards of behaviour set out in this policy.

3 RESPONSIBILITIES

- 3.1 A Student at Leo Cussen is responsible for ensuring that they:
 - 3.1.1 are familiar with this policy;
 - 3.1.2 comply with this policy; and
 - 3.1.3 attend training in this policy as required.

4 DISCRIMINATION

- 4.1 Discrimination can occur either directly or indirectly.

Direct discrimination	Direct discrimination occurs when a person is treated (or is proposed to be treated) unfavourably because of any of the grounds or attributes listed in paragraph 4.2.
Indirect discrimination	Indirect discrimination occurs when there is an unreasonable rule, requirement or practice which appears neutral, but that will (or is likely to) disadvantage people with an attribute or ground listed in paragraph 4.2.

4.2 At Leo Cussen, discrimination by a Student towards any person (including, but not limited to, another Student, facilitators of training, training support staff, and all persons connected with the learning environment) based on any of the following grounds or attributes is unacceptable and unlawful:

4.2.1 sex;

4.2.2 marital status;

4.2.3 pregnancy and potential pregnancy;

4.2.4 race;

4.2.5 religion;

4.2.6 political beliefs;

4.2.7 disability, illness or injury;

4.2.8 industrial activity or trade union membership;

4.2.9 employment activity;

4.2.10 workplace right or right under a workplace law;

4.2.11 sexual orientation or lawful sexual activity;

4.2.12 gender history or gender identity;

4.2.13 carer status or family responsibilities;

4.2.14 physical features;

4.2.15 breastfeeding;

4.2.16 age; and

4.2.17 personal association (whether as a relative or otherwise) with a person who is identified by reference to any of the above attributes.

Examples of discriminatory behaviour

Discrimination may involve:

- offensive 'jokes' or comments about another person's racial or ethnic background, sex, sexual preference, age, disability, and the like;
- refusing a female Student access to training because she is pregnant;
- expressing negative stereotypes of particular groups;
- judging a person on characteristics such as religious or political beliefs, cultural practices, sex or age rather than work performance; or
- using stereotypes or assumptions when making decisions about a person's career.

4.3 In some situations, the legislation may provide exceptions to discrimination or permit what would otherwise be unlawful discrimination. In these circumstances, discrimination will be permissible. For example, while it is unacceptable to discriminate against a person with a disability, what would otherwise be unlawful discrimination may

be justified if the person cannot meet the inherent requirements of the National Competency Standards for Entry Level Lawyers that all Students must comply with, regardless of any disability.

5 VILIFICATION

- 5.1 Vilification is a public act which incites hatred towards, serious contempt for, or severe ridicule of, a person or group on the grounds of race or religion. Vilification breaches this policy and is also unlawful. It may also amount to a criminal offence if physical harm is threatened towards a person or their property.
- 5.2 Vilification can take many forms, including hate speech, graffiti, websites and other types of written material. It is an act which happens publicly, as opposed to privately.

Examples of vilification

Examples of vilification include:

- a person inciting their colleagues to racially abuse an indigenous person in a cafeteria;
- posters or graffiti displayed in a public area inciting hatred of an ethnic group;
- a person urging others to abuse a colleague to that colleagues religious affiliation, garb or external religious symbols worn by them.

- 5.3 The following things are not vilification:
- 5.3.1 a fair report by TV, radio or newspaper of someone else's act of hatred (unless extra material has been added which is vilifying);
- 5.3.2 fair discussions or debates about issues, done '*reasonably and in good faith*'; or
- 5.3.3 material used in parliament, courts, tribunals or other government inquiries.

6 SEXUAL HARASSMENT

- 6.1 A person sexually harasses another person if in the workplace they:

- 6.1.1 make an '*unwelcome sexual advance*';
- 6.1.2 make an '*unwelcome request for sexual favours*'; or
- 6.1.3 engage in other '*unwelcome conduct of a sexual nature*',

and **a reasonable person**, having regard to all the circumstances, would have anticipated the possibility that the other person would be offended, humiliated or intimidated.

- 6.2 '*Conduct of a sexual nature*' includes:

- 6.2.1 subjecting a person to any act of physical intimacy;
- 6.2.2 making, verbally or in writing, any remark or statement with sexual connotations to a person or about a person; and
- 6.2.3 making any gesture, action or comment of a sexual nature.

- 6.3 Sexual harassment can involve any physical, visual, verbal or non-verbal conduct of a sexual nature including one-off incidents or a series of incidents. Sexual harassment is unacceptable and unlawful.
- 6.4 It also includes behaviour at Leo Cussen or behaviour in connection with the Course, for example, at a Leo Cussen Christmas party, at a Student social function outside of work hours, a seminar/conference held off-site, or during any Student to Student interaction.
- 6.5 Sexual harassment is unwelcome, uninvited behaviour which is offensive from the viewpoint of the person being harassed. It does not matter that the offender did not mean to or intend to sexually harass the other person. In other words, an offender's 'innocent intent' is irrelevant.

Examples of sexual harassment

Depending on the circumstances, some other examples of sexual harassment are:

- displays of sexually graphic material including posters, pictures, calendars, cartoons, graffiti or messages left on boards or desks;
- electronic mail messages, voice mail messages, SMSs, screen savers, posts on social networking sites to which colleagues and other Students have access, any material of a sexual nature downloaded from the internet, or viewed on a computer, offensive telephone calls, faxes, or gifts;
- deliberate and unnecessary physical contact, such as patting, pinching, fondling or deliberately brushing against another body, attempts at kissing;
- leering or staring at a person's body;
- inappropriate 'humour' such as smutty or sexist jokes or comments;
- innuendo, including sexually provocative remarks, suggestive or derogatory comments about a person's physical appearance, inferences of sexual morality or tales of sexual performance;
- repeatedly asking someone out, especially after prior refusal; and
- intrusive inquiries into a person's private life or in reference to a person's sexuality.

- 6.6 Leo Cussen may decide that behaviour breaches this Policy even if a complaint has not been raised by any individual. For example, storing and viewing sexually explicit images on a computer at Leo Cussen or in a Leo Cussen class may constitute sexual harassment under this policy, even if a complaint has not been made against the offender.

This behaviour is still unacceptable even if it is not unlawful, and may result in Leo Cussen taking disciplinary action against the Student, including termination of enrolment.

7 BULLYING

- 7.1 Bullying is unreasonable behaviour directed towards another Student, facilitator of training, training support staff or any person connected with the Leo Cussen learning environment that creates a risk to their health and safety.
- 7.2 Unreasonable behaviour is behaviour that victimises, humiliates, undermines or threatens the person being bullied, or would reasonably be expected to do so.

- 7.3 Bullying breaches this policy and also Leo Cussen's occupational health and safety policy in that it requires that all Students and employees must take reasonable care for the health and safety of their fellow Students and Leo Cussen employees and contractors. Bullying can also amount to stalking, which is a criminal offence reportable to the police.

Examples of bullying

Bullying can include behaviour such as:

- verbal or written abuse (eg being sworn at, threats, insults, continual criticism, name calling, practical jokes, unjustified threats of dismissal);
- direct violence including physical assault and harassment;
- threatening body language;
- online derogatory or abusive comments about other Students or Leo Cussen employees;
- unreasonably undermining work performance, deliberately withholding work-related information or resources, or deliberately supplying incorrect information;
- constant, intrusive surveillance or monitoring; and
- inappropriate interference with personal belongings or work equipment.

- 7.4 Bullying does not include:

7.4.1 genuine and reasonable disciplinary or remedial procedures;

7.4.2 constructively delivered feedback or counselling that is intended to assist Students, training facilitators, training support staff, and all persons connected with the learning environment to improve their work performance or the standard of their behaviour. For example, objective comments that indicate observable performance deficiencies requiring Students to perform additional work or to re-do work in order to meet the required standards of performance;

7.4.3 directing and controlling how work is done (a fundamental right of all employers); or

7.4.4 any other reasonable management action or reasonable academic requirement.

8 VICTIMISATION

- 8.1 Victimization means subjecting or threatening to subject someone to a 'detriment' (see 8.2 below), because they propose to, have or are believed to have, under this policy, equal opportunity, occupational health and safety or industrial legislation:

8.1.1 asserted their rights under this policy, or the relevant legislation;

8.1.2 alleged that another person has breached this policy or the relevant legislation; or

8.1.3 assisted someone in raising an issue.

- 8.2 A '*detriment*' can be loss of a benefit, being ostracised from the learning environment or course related social functions, or being the subject of gossip or innuendo.

- 8.3 Leo Cussen does not permit retaliation against a person just because they propose to, have or are believed to have made a complaint of unacceptable behaviour under this policy, equal opportunity, occupational health and safety or industrial legislation.

9 ADDITIONAL BEHAVIOURAL OBLIGATIONS

- 9.1 In addition to the Student behaviour obligations set out above, a Student must also ensure that they do not engage in any of the following behaviours:

Behaviour	Example / Explanation
Dishonesty	Any conduct which is deemed to be dishonest including (but not limited to) theft, falsifying records, fraud, plagiarism or any other conduct which would ordinarily be considered a breach of the relevant Solicitor Conduct Rules of a Student's resident jurisdiction.
Violence or threats	Any conduct which amounts to physical assault, threats, harassment or bullying.
Health and safety breaches	Reckless disregard of safety rules putting other at risk.
Substance abuse	Intoxication or otherwise using illicit drugs (whether recreationally or as a dependence) during contact hours within relevant Course which has an effect on performance or safety.
Breach of undertaking	Where applicable, any breach of the Student's undertaking which they provide at the commencement of the Graduate Diploma in Legal Practice course in which they are enrolled.

- 9.2 Leo Cussen has a general *zero tolerance* policy in relation to the behaviours set out in paragraph 9.1.

- 9.3 If, after Leo Cussen conducts an investigation into any allegation of a Student's behaviour in accordance with this Policy, and Leo Cussen determines that the allegation is substantiated, then depending on the severity of the conduct, Leo Cussen may terminate the Student's enrolment in the Course.

10 STUDENT CONDUCT COMPLAINT PROCEDURES

- 10.1 This Student Conduct Policy incorporates the Complaints Procedure as set out in the GDLP Complaints Procedure Policy as amended from time to time.
- 10.2 The Schedule to this Student Conduct Policy sets out important information and Leo Cussen's general approach to Conduct Complaints.

11 RELATED POLICIES

- 11.1 Students are encouraged to read this policy in conjunction with other relevant Leo Cussen policies including:

11.1.1 GDLP Complaints Policy;

11.1.2 IT Policy;

- 11.1.3 Social Media Policy;
- 11.1.4 References and Referee Policy; and
- 11.1.5 Workplace Health and Safety Policy.

12 QUESTIONS ABOUT THIS POLICY

- 12.1 Any questions about this policy should be referred to the Director Education Delivery.

13 EXTERNAL AGENCIES WHO CAN ALSO PROVIDE ASSISTANCE

- 13.1 You can also contact the following agencies for advice and assistance, and information about the assistance these organisations provide can be found on their websites:
 - 13.1.1 Concerns about unlawful discrimination or sexual harassment - [Australian Human Rights Commission](#);
 - 13.1.2 Bullying and sexual harassment – [Victorian Legal Services Board + Commissioner](#); and
 - 13.1.3 Concerns about bullying – [Worksafe](#).
- 13.2 You can also seek legal advice. In order to keep matters confidential and to avoid the perception of conflict of interest, lawyers who work with Leo Cussen as mentors or employees are not able to provide this assistance to Leo Cussen or its employees.

SCHEDULE: COMPLAINT PROCEDURE INFORMATION

SECTION A: COMPLAINT RESOLUTION APPROACHES

Informal complaint	<p>We support openness at Leo Cussen, so if you believe that you are experiencing unacceptable behaviour in the course we encourage you to raise it directly with the person involved, in the first instance.</p> <p>This should help to ensure that the other person is fully aware that their behaviour is unwelcome or that you believe it is unacceptable.</p> <p>In our experience, this recommended approach will often resolve the issue quickly and effectively. However, if it does not resolve your concerns or if you are not comfortable with raising it directly with the other person, you should seek assistance from a Contact Officer.</p> <p>The Contact Officer may discuss with you other informal options including</p> <ul style="list-style-type: none">• assisting you to have the discussion with the individual• involving the HR Manager, your mentor or other facilitator of training to assist and/or engaging an external person to facilitate or mediate.
Formal complaint	<p>Depending on the seriousness of the concerns raised, the Contact Officer may recommend that the situation is best resolved through using a more formal approach. The formal complaint resolution approaches include</p> <ul style="list-style-type: none">• engaging an external person to undertake a workplace mediation;• an investigation to ascertain the full facts involving an internal or external investigator; and/or• contacting the relevant external agency for assistance. <p>The decision about the approach to take will be made by the Director as set out in the Complaints Policy.</p>

SECTION B: COMPLAINT PROCEDURE QUALITIES

Confidential	<p>Only the people involved in the attempted resolution or the investigation of an issue or complaint will have access to information about it. This means that only those people with a genuine role to play in helping to resolve an issue or complaint should know its details or discuss them. Anyone found to have engaged in gossip or innuendo about an issue or complaint is at risk of disciplinary action from Leo Cussen and possibly legal action under the laws of defamation.</p> <p>Leo Cussen considers confidentiality one of the most important aspects of dealing with issues and complaints about unacceptable behaviour. However, in some circumstances information may not be able to be kept confidential, such as where physical threats are involved or the law otherwise requires it.</p>
Respectful	<p>Everyone involved in an issue or complaint raised under this policy will be treated with dignity and respect throughout the complaint process. Similarly, everyone involved in an issue or complaint is required to treat each other with dignity and respect even if they feel aggrieved by a situation.</p>
Fair and impartial	<p>Both parties will have the opportunity to tell their side of the story. No assumptions will be made and, to the extent possible, no action will be taken until all relevant information has been collected and considered.</p>
Supportive	<p>No action will be taken against anyone for making or helping someone to raise an issue or a genuine complaint. Leo Cussen will take all reasonable steps to support anyone raising an issue or making a complaint, and to ensure that they are not victimised.</p>
Prompt	<p>All issues and complaints will be dealt with as quickly as possible.</p>

SECTION C: CONTACT OFFICERS

Contact Officers	<p>Leo Cussen's Contact Officers are the first point of contact should you wish to raise an issue or make a complaint regarding unacceptable behaviour as set out under clauses 4 to 8 inclusive of the Policy. They will assist and support you to take action to resolve your issue or complaint in a manner appropriate to the seriousness and nature of it.</p> <p>You can ask for a Contact Officer's details by contacting Reception.</p>
Contact Officer's role	<p>Leo Cussen's Contact Officers have a defined role to assist and support you if you have a concern that relates to unlawful discrimination, sexual harassment or bullying. They provide this assistance independent of your supervisors and Leo Cussen management.</p> <p>The Contact Officers responsibilities include to</p> <ul style="list-style-type: none">(a) Discuss issues of concern and outcomes being sought and to assist staff members to understand which behaviours might constitute a breach of the Student Behaviour Policy and which ones might not.(b) Inform & explain options available which might help to resolve the issue (including the advantages and disadvantages of each option). These may include:<ul style="list-style-type: none">(i) assisting you to speak directly with the person involved;(ii) directly approaching the HR Manager to discuss possible resolutions;(iii) informal complaints resolution procedures including direct discussion, discussion with your mentor, Director of Education Delivery or with the Head of People and Culture;(iv) formal complaints resolution procedures including a formal investigation, mediation or contacting an external agency;(v) external assistance - contact the relevant agency depending on the situation eg Worksafe or the Australian Human Rights Commission.(c) Facilitate informal options and assist with the option that is most suitable to the situation;(d) Act as a support person by being present while issues are discussed with the person involved, with the Investigation Officer and/or management;

SECTION C: CONTACT OFFICERS

	<p>(e) Recommend actions to management to assist in the prevention of discrimination and harassment in the workplace;</p> <p>(f) Perform an educative role by:</p> <ul style="list-style-type: none"> (i) raising awareness in the workplace of discrimination and harassment issues (ii) provide information on issues such as equity and diversity, work life balance etc (iii) assisting with training and education on equal opportunity principles <p>If the concerns you raise are of a very serious nature, the Contact Officer may be required to raise your concerns confidentially with someone in authority in management as part of maintaining a safe learning environment.</p>
<p>What a Contact Officer does not do</p>	<p>It is important to understand what these staff members do not do in their Contact Officer roles. They are not:</p> <ul style="list-style-type: none"> • responsible for the management of the complaint; • investigators or decision-makers in the resolution process; and • counsellors or mediators; <p>These responsibilities lie with others as set out in the Complaints Policy.</p>
<p>What happens if you raise an issue or make a complaint with a Contact Officer?</p>	<p>In order to facilitate the handling of your issue or complaint in a manner which is appropriate to the seriousness and nature of it, a Contact Officer may</p> <ul style="list-style-type: none"> • take notes; • discuss your concerns with specific individuals to assist you; • provide information on this policy and the complaint procedure; • encourage you to discuss your concerns with specific individuals (eg your mentor); and/or • refer the issue or complaint to a Manager or Director for investigation or other action including workplace mediation.

SECTION D: COMPLAINTS ABOUT YOU

If someone raises a complaint with you about your behaviour	<p>If a person raises a complaint directly with you about your behaviour, you should appreciate that they are letting you know that they find your behaviour unacceptable. They are giving you an opportunity to change your behaviour, and possibly prevent a formal complaint from being made against you. If someone does raise a complaint with you about your behaviour, you should consider monitoring and changing your behaviour, and you should not victimise the person making the complaint.</p> <p>If you do not believe you have behaved in a way that is unacceptable or unlawful under this policy, please raise this concern with a Contact Officer so they can assist you and the person making the complaint to address this situation.</p>
Support if a complaint is made against you	<p>If a concern or complaint is raised in relation to your conduct, you can seek support and assistance from a Contact Officer. To be able to assist you with there being a concern about a potential conflict of interest, the Contact Officer must not have been involved in providing support or assistance to the person who made the complaint.</p>

SECTION E: INVESTIGATIONS AND DECISION OUTCOMES

Investigations about what occurred and decision outcomes

1. In addition to the Complaints process set out in the Complaints Policy, the Director shall have the power to appoint a third party external independent investigator as their delegate to impartially investigate the complaint.
2. If, in accordance with the Complaints Policy, the Director appoints a delegate to investigate the complaint, the investigator will write a confidential report for the decision maker which includes the written allegations, the responses and a summary of any witness statements or further information gathered.
3. This report will also outline the investigator's views as to whether the complaint/s can be substantiated or not. Ideally, the report will be available to the person who made the complaint and the person who responded to the complaint, though the decision maker has the right to withhold some or all sections of the report.
4. The decision maker's role is to make a decision about the conduct being investigated on the *balance of probabilities*. The decision maker will also keep in mind that the more serious the ramifications of a finding, the more substantial the evidence needed to make an adverse finding against a Student or employee, as the case may be.
5. The decision maker will decide how the complaint should be resolved and inform those involved of their decision and the reason for reaching that decision. The decision maker will take into account any wishes of the person who made the complaint and the person who responded to the complaint but is not bound by them in any way.
6. The decision maker will also decide what disciplinary action, if any, to take, and will communicate this to the person who made the complaint and the person who responded. The decision maker will provide written reasons to explain any disciplinary action.
7. Appropriate ongoing monitoring will be discussed and put in place.
8. If the person who made the complaint does not accept the outcome at first instance, they may appeal the decision in accordance with the terms of the Complaints Policy.

SECTION E: INVESTIGATIONS AND DECISION OUTCOMES

<p>Formal complaint resolution possible outcomes</p> <p><i>This table sets out the possible outcomes from a complaint.</i></p>	<p>Complaint substantiated</p>	<p>If a complaint is substantiated Leo Cussen will take appropriate action according to the seriousness of the matter. If you are found to have breached this policy, you may be subject to appropriate remedial action. This may include a formal written warning or termination of your enrolment.</p>
	<p>Complaint unsubstantiated</p>	<p>Sometimes the complaint is unable to be substantiated as there is not enough evidence to decide whether or not the alleged conduct took place. In this case, the decision maker will recommend action to support those involved to understand this, and to continue to work together.</p>
	<p>Behaviour occurred, but did not breach this policy</p>	<p>Behaviour did occur however the decision maker finds it is not reasonable in the circumstances to make a decision that this behaviour is in breach of equal opportunity or is sexual harassment or bullying. The decision maker will take steps to explain the reasons for this assessment of the situation.</p>
	<p>Malicious and/or false complaints</p>	<p>If you are found to have raised a malicious or false complaint against another person in order to prejudice that person, then Leo Cussen will take appropriate action according to the seriousness of the matter. You may be subject to appropriate remedial action. This may include a formal written warning or termination of your enrolment.</p>

Policy status

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Policy Approver	Leo Cussen Management Committee

* Unless otherwise indicated, this policy and procedure will still apply beyond the review date

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