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The attached Equal Employment Opportunity, Discrimination, Bullying and Harassment Policy outlines USANZ’s commitment to a safe workplace and is aimed at ensuring, so far as it reasonably can, that employees have equal employment opportunities and are not subjected to any form of bullying, harassment, sexual harassment or discrimination while at work. It also details the legal responsibilities of USANZ and employees in relation to preventing bullying, harassment, sexual harassment and discrimination in the workplace.

### Related policies, documents and legislation

- Fair Work Act 2009 (Cth)
- Anti-Discrimination Act 1977 (NSW), Anti-Discrimination Act 1977 (NSW), Anti-Discrimination Act 1991 (Qld), Equal Opportunity Act 2010 (Vic), Racial and Religious Tolerance Act 2001 (Vic), Discrimination Act 1991 (ACT), Equal Opportunity Act 1984 (SA), Anti-Discrimination Act 1998 (TAS), Equal Opportunity Act 1984 (WA) and Anti-Discrimination Act 1996 (NT)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)

### Revision history

Version	Date Approved	Notes	By
1.0	28.11.2020	Adopted Policy and delegated LG to finalise minor amendments.	Board of Directors
1.1	2.3.2021	Approved minor amendments	Leadership Group

### Review date

This policy will be reviewed every 3 years. The next review date will be in August xxx.

### Contact

Michael Nugara, Chief Executive Officer, Email: [michaelnugara@usanz.org.au](mailto:michaelnugara@usanz.org.au)



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### 1. Scope

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- 1.1 Urological Society of Australia and New Zealand (**USANZ**) supports equal employment opportunity for all employees and persons who represent USANZ and strives to provide a workplace that is a safe and flexible work environment, that is, respectful, inclusive, and free from all forms of discrimination, harassment, sexual harassment and bullying.
- 1.2 This policy applies to all employees of USANZ and persons who represent USANZ, including full-time, part-time, casual or temporary employees, job candidates, students, trainees, contractors, sub-contractors and volunteers.
- 1.3 Discrimination, harassment, sexual harassment and bullying are risks to the health and safety of the workplace. Discrimination, harassment, sexual harassment and bullying are unacceptable and will not be tolerated by USANZ.
- 1.4 Whilst you are required to comply with this policy at all times, this policy does not form part of your contract of employment or contract for services and does not create any rights enforceable by you against USANZ.
- 1.5 To the extent there is an inconsistency between the law and this policy, the law will prevail.
- 1.6 This policy outlines USANZ's commitment to a safe workplace and is aimed at ensuring, so far as it reasonably can, that employees have equal employment opportunities and are not subjected to any form of bullying, harassment, sexual harassment or discrimination while at work. It also details the legal responsibilities of USANZ and employees in relation to preventing bullying, harassment, sexual harassment and discrimination in the workplace.
- 1.7 By effectively implementing this Equal Employment Opportunity, Discrimination, Bullying and Harassment Policy, USANZ will attract and retain talented employees and create a positive environment for all employees and contractors.

### 2. What is Equal Employment Opportunity?

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- 2.1 Equal Employment Opportunity (**EEO**) means that everyone should have fair and equitable access to jobs, employment conditions, training and promotion opportunities. It does not assume that everyone has the same abilities but aims to ensure that everyone has a fair chance to demonstrate their abilities, to use them, improve them and benefit from them.
- 2.2 EEO is consistent with the principle of merit. It means that the best person is chosen for the job, promotion or training opportunity and that they are selected based on criteria, which is relevant to the position or opportunity.
- 2.3 USANZ supports EEO in the workplace.

### 3. What is discrimination in the workplace?

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3.1 Within Australia, discrimination can be unlawful at both Federal and State levels pursuant to the following legislation:

- (a) *Anti-Discrimination Act 1977 (NSW), Anti-Discrimination Act 1991 (Qld), Equal Opportunity Act 2010 (Vic), Racial and Religious Tolerance Act 2001 (Vic), Discrimination Act 1991 (ACT), Equal Opportunity Act 1984 (SA), Anti-Discrimination Act 1998 (TAS), Equal Opportunity Act 1984 (WA) and Anti-Discrimination Act 1996 (NT);*
- (b) *Disability Discrimination Act 1992 (Cth);*
- (c) *Age Discrimination Act 2004 (Cth);*
- (d) *Sex Discrimination Act 1984 (Cth);*
- (e) *Racial Discrimination Act 1975 (Cth); and*
- (f) *Australian Human Rights Commission Act 1986 (Cth).*

3.2 It is unlawful for a person to discriminate against another person in the course of employment or when applying for employment because of a protected personal characteristic.

3.3 Protected personal characteristics, whether actual or presumed, include:

- (a) Age: which includes being considered too young, too old or on the basis of age-specific characteristics or characteristics that are generally imputed to a person of a particular age;
- (b) Association: treating a person unfairly because of the race, gender (including transgender status), disability, age, marital status, sexuality, trade union activity or political opinion of the person's relative or associate, which includes friends, housemates or colleagues;
- (c) Carer's responsibilities: including a spouse, dependent child, a child for whom the person has parental responsibility, or a member of the person's immediate household;
- (d) Compulsory retirement: requiring an employee to retire or threatening to retire an employee on the grounds of their age;
- (e) Disability: whether past, present, future, and includes physical disability, physical illness or disease that makes someone's body or brain function differently, malfunction, disfigurement or loss of any part of the body, psychiatric disability including behavioural disorders, intellectual disability, learning difficulty or any organism in the body that could cause disease or illness, and includes behaviour which is a symptom or manifestation of the disability;
- (f) Marital status: whether they are married, single, living in a de facto relationship, separated, divorced or widowed;
- (g) Political belief: whether they have or do not have a lawful political belief, is a member of a political party, or takes part in or refuses to take part in political action;



- (h) Pregnancy: whether pregnant or potentially pregnant or breastfeeding;
  - (i) Race: including colour, nationality, descent and ethnic, ethno-religious or national origin and in some circumstances immigrant status. Ethno-religion refers to close or inextricable linkage between a group's ethnic and religious origins and practices;
  - (j) Sex: whether female or male, sexual orientation, gender identity or intersex status; and
  - (k) Transgender: a person is defined as being transgender if they live, have lived or want to live as a member of the opposite gender to that of their birth sex.
- 3.4 It is also unlawful to treat someone unfavourably because they are associated with a person who has, or is assumed to have, one of the characteristics listed in clause 3.3.
- 3.5 Discrimination of any form is not tolerated by USANZ. Employees who engage in discriminatory conduct in breach of this policy may be subject to disciplinary action, including but not limited to dismissal.

#### **4. Examples of discrimination**

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- 4.1 Discrimination can be both direct and indirect.

##### ***Direct Discrimination***

- 4.2 Direct discrimination occurs when a person or group is treated differently, or it is proposed that a person or group will be treated differently, because of a personal attribute protected by law.
- 4.3 Direct discrimination in the workplace includes but is not limited to:
- (a) not promoting an employee because they are considered too old;
  - (b) not employing a woman because she is, or may become, pregnant; and
  - (c) harassing an employee because of their racial background.
- 4.4 Direct discrimination can often be made on the basis of a stereotyped view about a particular group of people.

##### ***Indirect Discrimination***

- 4.5 Indirect discrimination occurs when there is an unreasonable requirement, rule, policy, practice or procedure that has, or is likely to have, the effect of disadvantaging a person or group with a personal attribute protected by law.
- 4.6 An example of indirect discrimination is where an employer introduces a new dress code in the workplace which prohibits the wearing of any head garments including yarmulkes or turbans, which would indirectly discriminate against the observation of ethno-religious beliefs by some employees.

### 5. What is harassment?

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- 5.1 Harassment is unwelcome and unsolicited behaviour that a reasonable person would consider to be offensive, intimidating, humiliating or threatening.
- 5.2 Harassment of any kind will not be tolerated in the workplace. Employees who engage in harassment in breach of this policy will be subject to disciplinary action, including but not limited to dismissal.

### 6. What is sexual harassment?

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- 6.1 Sexual harassment is any form of unwelcome behaviour of a sexual nature, which makes a person feel offended, humiliated and intimidated.
- 6.2 It is unlawful for an employee to engage in sexual harassment or encourage or allow another employee to do so. Employees who engage in sexual harassment in breach this policy will be subject to disciplinary action, including but not limited to dismissal.
- 6.3 A person sexually harasses another if:
- (a) they make an unwelcome advance or an unwelcome request for sexual favours to the person harassed or they engage in unwelcome conduct of a sexual nature (such as that described in clause 7.1) in relation to the person harassed; and
  - (b) in the situation, a reasonable person, having regard to all the circumstances, would have anticipated the person harassed would be offended, humiliated or intimidated.
- 6.4 If the behaviour is consensual, welcome and reciprocated, it is not sexual harassment. Appropriate professionalism in the workplace is expected of all employees who engage in consensual behaviour.
- 6.5 A person can be sexually harassed by any person in the workplace, including a manager, supervisor, co-worker, client, contractor, member or service provider.
- 6.6 Sexual harassment may involve individuals of the same or different gender and is prohibited whether directed towards a person of the same or different gender.
- 6.7 Sexual harassment can occur within the workplace at any time, or in a work-related context outside the workplace or normal working hours, including conferences or work-related social functions.
- 6.8 It can also occur in situations or by means which do not have an obvious connection with the workplace. For example, it can occur near a person's home or in a public place where they are followed by a co-worker.
- 6.9 Sexual harassment can occur where the unwelcome behaviour is not repeated or continuous, a single incident may amount to sexual harassment.

- 6.10 A pattern of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be sexual harassment.
- 6.11 Employees are prohibited from sexually harassing other employees of USANZ, whether or not the incidents of harassment occur on USANZ premises and whether or not the incidents occur during working hours.

### **7. Examples of sexual harassment in the workplace**

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- 7.1 Sexual harassment includes unwelcome conduct in the form of:
- (a) physical contact such as kissing, hugging, patting, pinching, touching, massaging or putting an arm around another person's body at work;
  - (b) staring or leering at a person or at parts of their body;
  - (c) flashing or sexual gestures;
  - (d) sexually intrusive questions;
  - (e) sexually explicit comments, conversations, emails or jokes;
  - (f) sexual insults, taunts, teasing or name calling;
  - (g) sexual material displayed at workstations, on notice boards or in common areas;
  - (h) making promises or threats in return for sexual favours;
  - (i) persistent, unwelcome social invitations or telephone calls from colleagues at work or at home; or
  - (j) persistent questioning about someone's personal life.

### **8. Who is liable for sexual harassment?**

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- 8.1 It is unlawful for a person to:
- (a) sexually harass another person at work or in connection with the workplace; and
  - (b) cause, instruct, induce, aid or permit another person to sexually harass another person;
- 8.2 An employee who has been sexually harassed may be able to obtain an order for compensation against:
- (a) the person who has engaged in unwelcome behaviour;
  - (b) the person who has caused, instructed, induced, aided or permitted another person to sexually harass another person; and
  - (c) USANZ, unless USANZ can establish that it took all reasonable steps to prevent the harassment from occurring.
- 8.3 This means that an employee who engages in sexual harassment or otherwise encourages or allows it to occur may be liable to compensate the person who was sexually harassed.

- 8.4 It also means that USANZ may be held legally responsible for acts of sexual harassment committed by employees or agents (in connection with their duties). USANZ can limit or avoid liability to compensate an employee for sexual harassment by ensuring its employees observe this policy.
- 8.5 Even if USANZ is found to be vicariously liable for sexual harassment committed by an employee, the individual employee will remain personally liable for their acts.
- 8.6 In the discharge of its legal responsibilities, USANZ has implemented this policy and in the event that sexual harassment does occur, USANZ will take appropriate remedial action against any employee in breach of this policy which may include termination of employment.

## 9. Workplace bullying

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- 9.1 Workplace bullying is repeated, unreasonable behaviour that intimidates, offends, degrades, insults or humiliates a person, who is protected from bullying, at their place of work.
- 9.2 Bullying is defined in the *Fair Work Act 2009* (Cth) as:
- 'Repeated, unreasonable behaviour directed towards a person or group of persons at a workplace, which creates a risk to health and safety.'*
- 9.3 It is unlawful for an employee to engage in bullying or encourage or allow another employee to do so. Bullying will not be tolerated at USANZ.
- 9.4 Bullying does not need to be intentional to be unlawful. While one-off incidents of unreasonable behaviour may not be considered bullying, they are still inappropriate and/or may constitute discrimination or harassment. One-off incidences of inappropriate behaviour will not be condoned and may result in disciplinary action to prevent repeated behaviour.
- 9.5 Bullying can take many forms, including physical, spoken, written, overt or covert.
- 9.6 Behaviours that may constitute bullying include:
- (a) aggressive or intimidating conduct or threatening gestures;
  - (b) manipulation, intimidation or coercion;
  - (c) threats, abuse, offensive language, shouting or belittling;
  - (d) innuendo, sarcasm and other forms of demeaning language;
  - (e) ganging up against a particular employee;
  - (f) public humiliation;
  - (g) initiation activities;
  - (h) practical jokes, teasing, or ridicule;
  - (i) isolation, exclusion or ignoring people;
  - (j) inappropriate emails/pictures/text messages;





- (k) unreasonable accusations or undue unconstructive criticism;
- (l) allocating unpleasant, meaningless or impossible tasks;
- (m) placing unreasonably high work demands on selected employees;
- (n) deliberately withholding information or equipment that a person needs to do their job or access their entitlements;
- (o) unreasonable refusal of requests for leave, training or other workplace benefits; and
- (p) withholding access to opportunities within the workplace.

### **10. What is not bullying?**

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- 10.1 Bullying is repeated incidences. It does not include one-off incidents where a normally subdued person loses their temper and causes offence to another worker.
- 10.2 It is not bullying for an employer to take reasonable management action in a reasonable manner. Reasonable management action includes:
- (a) performance management processes;
  - (b) setting performance goals, standards and deadlines;
  - (c) reasonably allocating work;
  - (d) giving fair, honest and constructive feedback on a team member's performance; and
  - (e) counselling and disciplinary action.

### **11. Who is liable for bullying?**

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- 11.1 USANZ has an obligation to provide a working environment for its employees that is safe and without risks to employees' health, so far as is reasonably practicable.
- 11.2 An employee who has been bullied, may be entitled to relief under workers compensation laws and seek an application for a stop bullying order from the Fair Work Commission.

### **12. Vilification**

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- 12.1 Vilification is where a person, by a public act, incites hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the grounds:
- (a) of the race of the person or the members of the group;
  - (b) that the person or members of the group, identify as transgender or homosexual; or
  - (c) the person is, or members of the group are, HIV/AIDS infected, or thought to be HIV/AIDS infected, whether or not they actually are HIV/AIDS infected.

- 12.2 Employees are prohibited from engaging in vilification and those who do may be subject to disciplinary action.

### **13. Victimisation**

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- 13.1 Victimisation is where a person is subject to, or threatening to subject a person to, a detriment because they have asserted their rights under equal opportunity or anti-discrimination law, made a complaint, helped someone else make a complaint, or refused to do something because it would constitute discrimination, sexual harassment or victimisation.
- 13.2 Threatening someone (such as a witness) who may be involved in investigating a complaint pursuant to any USANZ policy or under law will also constitute victimisation.
- 13.3 USANZ will not tolerate victimisation under any circumstances. Employees who engage in victimisation may be subject to disciplinary action. Victimisation can result in legal proceedings under relevant anti-discrimination legislation and under criminal law.

### **14. Employee rights and responsibilities**

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- 14.1 Employees have a responsibility to treat all people in the course of their employment at USANZ fairly and with respect. Each employee is required to contribute to a professional atmosphere that promotes equal opportunity and non-discriminatory practices.
- 14.2 Employees must:
- (a) comply with this policy;
  - (b) bring this policy to the attention of any person who is being subject to discrimination, harassment, sexual harassment or bullying conduct;
  - (c) where reasonable, report the occurrence of conduct in breach of this policy to USANZ;
  - (d) where applicable, assist in the investigation of complaints in accordance with this policy; and
  - (e) maintain complete confidentiality in respect of complaints, investigation and resolution processes made pursuant to this policy.

### **15. Additional responsibilities of managers and supervisors**

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- 15.1 Managers and supervisors must, in addition to the responsibilities of employees under this policy:
- (a) take steps to educate employees within their work area about this policy and ensure that employees understand their obligations under it;
  - (b) model appropriate behaviour themselves by making fair, non-discriminatory decisions;



- (c) intervene appropriately and in a reasonable period of time once made aware of conduct that may be considered a breach of this policy;
- (d) act fairly to resolve issues and enforce workplace behavioural standards;
- (e) refer formal complaints about breaches of this policy to the Chief Executive Officer (CEO) or to a Complaints Handler as defined under clause 17.1; and
- (f) intervene if they become aware that an employee may have been, is being subjected to, victimisation as a result of raising an issue or making a complaint pursuant to this policy.

### **16. USANZ's responsibilities**

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- 16.1 USANZ is committed to achieving a productive work environment in which all individuals are treated with mutual respect and dignity.
- 16.2 USANZ has a legal responsibility to take reasonable steps to prevent discrimination, bullying, harassment, and sexual harassment from occurring in the workplace. If an employee engages in discrimination, bullying, harassment, or sexual harassment in connection with their employment at USANZ, that act may be taken to have been committed by USANZ and USANZ may be held legally responsible.
- 16.3 USANZ will endeavour to prevent unlawful discrimination, harassment, sexual harassment and bullying in the workplace by:
  - (a) adopting this policy;
  - (b) keeping this policy in a place where it can be readily accessed by employees;
  - (c) providing training to employees regarding this policy;
  - (d) informing employees who join USANZ about the terms of this policy during their induction;
  - (e) monitoring compliance with this policy;
  - (f) handling complaints about discrimination, harassment, sexual harassment and bullying in accordance with this policy; and
  - (g) taking appropriate disciplinary action where a complaint of discrimination, harassment, sexual harassment, bullying, victimisation, or vilification is substantiated.

### **17. Grievance and Complaints Procedures**

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- 17.1 The CEO will determine and assign the role of Complaint Handler. The CEO may appoint themselves to the role of Complaint Handler or may appoint USANZ's HR Consultant, Catalina Consultants or HWL Ebsworth Lawyers, USANZ's solicitor to the role of Complaint Handler.
- 17.2 Where the CEO is the subject of the complaint, the complainant should contact Catalina Consultants at the details set out below, in relation to their complaint:

Merilyn Speiser

Merilyn Speiser, Principal, Catalina Consultants on 9251 5638 or  
merilyn@catalinaconsultants.com.au

- 17.3 The Complaint Handler handling a specific complaint is authorised to contact USANZ's external legal advisor regarding a complaint, on a confidential basis, in order to obtain advice in relation to handling a complaint. In such circumstances, legal privilege may apply.
- 17.4 USANZ encourages any employee who believes they have been subjected to any conduct in breach of this policy to report the behaviour to the CEO or, where appropriate, to the identified contact at Catalina Consultants.
- 17.5 Employees with questions about the complaints process and how this policy operates may discuss this with the CEO or with the identified contact at Catalina Consultants.

### ***How a complaint will be handled***

- 17.6 A complaint made under this policy will be treated seriously, respectfully and confidentially to the extent possible.
- 17.7 Employees who make a complaint, or who are the subject of a complaint, under this policy will be treated with respect and in the strictest of confidence, to the extent possible. USANZ will take all reasonable steps to prevent an employee from being treated poorly, victimised or disadvantaged as a result of making or intending to make a complaint, providing information as a witness or providing support to the complainant. Similarly, USANZ will ensure that any person who is the subject of a complaint, or who is called as a witness or support person, will be treated fairly and will be given every reasonable support throughout the complaint process.
- 17.8 Complaints under this policy may be dealt with either informally or formally.
- 17.9 A complaint made under this policy will usually be dealt with in accordance with the process set out at clauses 17.10 to 17.18 below. However, where it is considered appropriate to do so, the Complaint Handler may, in their sole discretion, decide to deal with the complaint in an alternate manner. Where this occurs, the Complaint Handler will ensure that all parties to the complaint are made aware of the manner in which the complaint will be dealt with and are afforded procedural fairness.

### ***Informal complaints***

- 17.10 Some complaints of inappropriate workplace conduct may be resolved informally, such as, where the complaints are of a less serious nature. Where appropriate, employees are encouraged to try and resolve any complaints informally.
- 17.11 Informal ways of dealing with complaints of inappropriate conduct include:
- (a) if appropriate, in the first instance, the complainant should approach the employee alleged to have engaged in the inappropriate conduct and indicate that the behaviour is inappropriate and unwelcome; or



- (b) the complainant may approach the CEO or HR Consultant to notify them of the inappropriate conduct and ask them to help resolve the matter informally by holding a meeting with the complainant and the employee the subject of the complaint.

### Formal complaints

17.12 Formal grievance or complaints procedures are appropriate where:

- (a) informal attempts at resolution have failed;
- (b) the complaint involves an allegation of serious misconduct, as set out a clause 17.15 below;
- (c) the complaint is against a more senior employee;
- (d) the complainant also alleges victimisation; and
- (e) the allegations are denied but the complainant wishes to proceed and an investigation is required to substantiate the complaint.

17.13 A complaint must be treated as a formal complaint where it concerns the behaviour of an employee that is likely to constitute serious misconduct, if proven.

17.14 Serious misconduct includes, but is not limited to:

- (a) illegal behaviour;
- (b) serious bullying or harassment (including sexual harassment);
- (c) discrimination;
- (d) corruption; or
- (e) serious breaches of confidentiality.

17.15 For the purposes of a formal complaint, serious misconduct is conduct, which, if proven, it is likely to result in action other than a caution, issuing of an apology or reprimand. Serious misconduct may result in any of the following actions:

- (a) termination of employment;
- (b) assignment to a different role; or
- (c) legal action.

17.16 If a formal investigation is conducted, USANZ must ensure that the principles of natural justice and procedural fairness are followed. These principles include:

- (a) treating the person who is the subject of the complaint (**Respondent**) as innocent unless the allegations are substantiated;
- (b) all complaints will be investigated as promptly as the circumstances permit;
- (c) all allegations will be put to the Respondent who will be given a chance to respond to each allegation and explain their version of events; and
- (d) if the complaint is substantiated, any disciplinary action taken will be commensurate with the seriousness of the matter. Any mitigating factors will

be taken into account when assessing what form of discipline will be implemented.

### ***Role of the Complaint Handler***

17.17 The Complaint Handler's role includes, but is not limited to:

- (a) treating the complaint seriously, sensitively and in the strictest confidence, to the extent possible;
- (b) maintaining the confidentiality of the complaint and any complaint process as confidential unless disclosure to other management or the Board of USANZ is required (such as where a complaint is of a seriously significant nature or where required by law);
- (c) keeping the complainant's identity confidential to the extent possible. Where the identity of the complainant is needed to be disclosed (such as to a witness to provide context to an incident or conversation), the Complainer Handler must notify the complainant prior to disclosing the complainant's identity;
- (d) acting impartially;
- (e) outlining the process for resolving the complaint to both parties, including the approximate timeframe, and explaining the possible outcomes of the investigation. The Complaint Handler may suggest that the parties try to resolve the matter informally;
- (f) providing the Respondent with full details of the allegations against them and providing the Respondent with an opportunity to fully respond to the allegations;
- (g) interviewing any witnesses to the alleged incident(s) and advising any witnesses of the confidential nature of the matter;
- (h) ensuring all parties are regularly updated on the progress of the complaint and any investigation being undertaken by the Complaint Handler; and
- (i) keeping an accurate record of all information gathered in the course of the investigation.

### ***Formal complaints process***

17.18 Generally, the formal complaints process will be as set out below. However, where it is considered appropriate to do so, this process may be altered at the discretion of the Complaint Handler:

- (a) the Complaint Handler will confirm the scope of the complaint with the complainant;
- (b) if considered appropriate, the Complaint Handler will arrange a meeting with all parties involved in the complaint to try to resolve the complaint. If the complaint can be resolved following this meeting, the matter will not proceed. If the conduct is admitted in the meeting, the complaint will be considered substantiated, and the Complaint Handler will document this as well as the basis upon which it is agreed to resolve the complaint; or



- (c) where the complaint cannot be resolved during the meeting with all parties the Complaint Handler will usually proceed to deal with the complaint as follows:
  - (i) inform the Respondent of the allegations (in writing) and provide the Respondent with an opportunity to respond;
  - (ii) undertake such investigations as the Complaint Handler considers necessary, such as interviewing any witnesses and, potentially, speaking with the complainant and Respondent again;
  - (iii) once the investigation is completed, the Complaint Handler will make a determination as to whether the allegation(s) contained in the complaint are substantiated, not substantiated or unable to be determined. Where the complaint is substantiated, the Complaint Handler may recommend disciplinary action be taken; and
  - (iv) notify the complainant and Respondent of the outcome of the investigation.
- (d) The Complaint Handler must conduct the formal complaint process confidentially and must not disclose the investigation or the outcome of the investigation to any employees or the Board of USANZ unless such disclosure is required (such as by law) or where there is an express need to elevate the complaint process to the USANZ Board.
- (e) Where a complaint has been substantiated, USANZ may take disciplinary action against the employee who has been found to have acted in breach of this policy. USANZ has the sole discretion to determine what, if any, disciplinary action to take. The disciplinary action will be commensurate with the seriousness of the conduct, and may include one or more of the following:
  - (i) transfer, suspension, probation or dismissal;
  - (ii) counselling;
  - (iii) an official warning being issued that any further inappropriate conduct may result in dismissal. An official warning will be noted on the employee's personnel file; or
  - (iv) requesting the employee provide a formal private or public apology, either verbally or in writing.

### ***Unsubstantiated complaints***

- 17.19 If the Complaint Handler finds that the inappropriate conduct has not occurred or that the evidence does not prove that the inappropriate conduct has occurred, the reasons for this conclusion will usually be explained to the complainant.
- 17.20 If there is strong evidence that the complaint was made vexatiously or maliciously, the complainant may be subjected to disciplinary action. The purpose of this is not to prevent legitimate complaints from being made, but rather to prevent employees making complaints in order to create trouble for another employee.



### ***Protection against retaliation***

17.21 As set out in clause 13 above, retaliation or victimisation of any employee who has or may make a complaint, provided information relevant to a complaint, or objected to prohibited harassment or conduct, is against the law and will not be tolerated by USANZ.

17.22 Any employee who engages in victimisation may be subject to disciplinary action.

Last updated: 3 March 2021