Equal Opportunity

Preamble

RMIT has adopted this policy to reflect its commitment to equal opportunity and freedom from all forms of discrimination in education and employment. RMIT is committed to ensuring equal opportunity for students and staff and believes that this substantially contributes to the achievement of RMIT’s goal of creating and sustaining a world class university at the forefront of technical and professional education and real world research. Equal opportunity is a key component of attaining high ethical standards and ensuring excellence in all activities.

RMIT is committed to creating an environment where all staff and students are treated with dignity and respect and where diversity is valued. This policy supports RMIT’s objective of preventing discrimination on the grounds of age, impairment, industrial activity, lawful sexual activity, marital status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, including transexuality or transvestism, status as a parent or carer, or personal association with a person who is identified by reference to any of the above attributes. RMIT also has an objective of preventing offensive behaviour that is based on racial hatred and this policy provides support for the achievement of this objective and for the appropriate management of complaints. Sexual harassment is dealt with in the sexual harassment policy.

The promotion of equal opportunity and the prevention of unlawful discrimination are key management responsibilities that enhance the ability of students to reach their full potential in a safe, quality focussed learning environment.

It contributes to the achievement of the quality management principles that are essential to the achievement of the teaching and learning strategy, and for work groups it contributes to productivity and high quality outcomes.

Disciplinary action may be taken against employees and students who breach this policy.

Further, RMIT will do everything possible to ensure that people coming forward with complaints are not victimised and that complaints remain confidential. RMIT will ensure that all people involved in a complaint, including the person making the complaint, the person being complained about and any witnesses providing assistance, are treated fairly.

People seeking assistance in resolving incidents of unlawful discrimination have a number of options. RMIT will ensure that people receive the information that is needed to make a decision about what option or options are pursued and recognises that the choice of options rests with the complainant. At all times, RMIT’s aim in providing assistance to members of its community is to ensure that the offensive behaviour ceases.

RMIT will not tolerate unlawful discrimination or offensive behaviour based on the above grounds under any circumstances. This policy articulates the principles and strategies which RMIT will adopt to deal with such acts as well as to promote equality of opportunity and the recognition of the important contribution made to the RMIT community by diversity.

David Beanland
Vice-Chancellor
Purpose

The purpose of the policy is to set out the framework within which RMIT will work to:

- promote the recognition of the positives provided by a diverse community and of assisting everyone to reach their full potential;
- prevent the occurrence of unlawful discrimination; and
- establish procedures for handling complaints of discrimination or offensive behaviour.

The framework is established by the aims and the guiding principles which will inform strategies which will be developed from time to time to meet the needs of the RMIT community and by the guidelines established for complaint management.

Scope

This policy applies to staff and students employed by or enrolled at RMIT. It also applies to contractors, service providers, clients, customers and visitors. It applies at all RMIT locations whether in Australia or overseas.

Legislative Framework

Discrimination on the basis of age, impairment, industrial activity, lawful sexual activity, marital status, physical features, political belief or activity, pregnancy, race, religious belief or activity, sex, status as a parent or carer or personal association is prohibited by the Victorian Equal Opportunity Act, 1995, the Federal Racial Discrimination Act, 1975, by the Federal Sex Discrimination Act, 1984 and the Federal Disability Discrimination Act, 1992.

Staff and students who unlawfully discriminate on the basis of these attributes may be personally subject to legal action under these acts and may expose RMIT to liability as well.

Transexuality and transvestism are not specific grounds under the legislation; however, RMIT is committed to dealing with complaints on the basis of these attributes using internal processes.

Unlawful Discrimination

Unlawful discrimination involves treating a person with particular attributes less favourably, in the same or similar circumstances, than another person. Direct discrimination occurs when a person is disadvantaged or treated less favourably than someone else because of the attribute. Direct discrimination can occur regardless of the discriminator’s motive and whether or not he or she is aware of the discrimination or considers the treatment less favourable.

Indirect discrimination occurs when a practice or policy appears to be fair because it treats everyone in the same way, but in effect it disadvantages a higher proportion of people possessing the attribute and is not reasonable in the circumstances.

Victimisation

This happens if a person is subjected to less favourable treatment because it is known or suspected that he or she:

- has made or proposes to make a complaint against any person under this policy or has brought or proposes to bring proceedings under any of the anti-discrimination laws;
- has furnished any information or documents; OR
- has attended a conference in relation to a complaint.
This also applies to a person who is associated with another person who has made a complaint.

**RMIT will not tolerate victimisation and may take disciplinary action in response to any victimisation.**

### Guiding Principles

The following principles will guide RMIT in promoting equality of opportunity and dealing with unlawful discrimination:

- **Respect for, and dignified and courteous treatment of all staff, students and all persons who deal with RMIT.**
- **RMIT aims to establish a climate where unlawful discrimination does not occur and thus there will be an emphasis on prevention through training and awareness raising activities. RMIT will ensure that all members of the RMIT community have access to the information and support needed to prevent unlawful discrimination or to deal with it appropriately if it occurs.**
- **RMIT aims to integrate training on equality of opportunity and the promotion of a diverse community into all levels of training, including induction, training for supervisors and management training programs and to integrate information and training into key student activities during Orientation, enrolment and at other times of the academic year.**
- **RMIT acknowledges its responsibility to ensure that all students and staff are aware of what constitutes unacceptable behaviour. Further, it will ensure that all managers and supervisors are aware of their responsibility for ensuring the maintenance of proper standards of conduct within the university context. RMIT will support any staff or student who experiences unlawful discrimination whilst on placement including providing assistance in making use of any internal procedures in place at the site or in accessing external forums.**
- **Complaints will be dealt with in a sensitive, impartial, timely and confidential manner, which ensures that respondents are accorded natural justice through the use of procedures that are impartial and open.**
- **RMIT will ensure complainants are protected against victimisation and reprisals.**
- **RMIT will actively encourage the reporting of behaviour that breaches this policy.**

**Unlawful discrimination will not be tolerated under any circumstances and disciplinary action may be taken against staff or students who breach this policy.**

### Activities to be undertaken in support of this policy

RMIT will develop an equal opportunity plan which will be reviewed and revised each year and which will detail the activities to be undertaken in support of this policy.

The plan will detail for the coming year:

- prevention, training and educational activities to be undertaken, including publication of resource materials. This will include assistance to staff to become more effective in ensuring equality of opportunity in teaching and service situations;
- the resources which will be allocated to the prevention of unlawful discrimination and to the promotion of the benefits of diversity and how the resources will be sourced;
- research activities; and
- evaluation and review activities.
It will also detail:

- the evaluation of the previous year’s activities including complaint management and resolution;
- the environment in which RMIT is operating- considering both internal and external influences;
- proposals for activities to be undertaken in the medium to longer term;
- goals for the short term, medium term and longer term.

RMIT will ensure that the prevention of unlawful discrimination and the promotion of the advantages of diversity are recognised as key organisational goals and prime management responsibilities.

Consequences if this policy is breached

RMIT will treat all allegations of unlawful discrimination seriously and impartially. Should a complaint be upheld, consequences for the respondent will depend on the seriousness of the case, but disciplinary action is a possibility for staff and students. Consequences could include an apology, counselling, or disciplinary action, up to and including dismissal, suspension or expulsion. Disciplinary action may be taken against anyone who victimises or retaliates against a person who has made a complaint. Reference should be made to the separate policy on victimisation.

Responsibilities of management, staff and students

RMIT has a legal responsibility to prevent unlawful discrimination; otherwise it can be held liable for the behaviour of its employees and in some instances, its students. In addition to this legal responsibility, RMIT considers that all forms of unlawful discrimination are incompatible with its desire to become one of the world’s great universities and incompatible with its view that all people should be treated equally with respect, dignity and courtesy.

All staff and students have a responsibility to:

- comply with this policy; and
- maintain complete confidentiality concerning any complaint or investigation.

All staff have an additional responsibility to model appropriate behaviour and promote a climate of mutual respect.

Staff who are managers, supervisors, academics and teachers have the following additional responsibilities:

- monitor the working and studying environment to ensure that acceptable standards of conduct are observed at all times and to take action if they observe unacceptable conduct;
- promote this policy within their sphere of influence and to ensure that all persons have an understanding of the policy and its requirements;
- ensure that students and staff are aware of RMIT’s commitment to assist them should they experience unlawful discrimination on placement; and
- ensure that students and staff on placement are provided with adequate information about the policies and practices in existence at that site.
Managers are accountable for the conduct of staff and students under their management. It is integral to a manager’s responsibilities that he or she should identify, prevent and redress potential problems in the workplace or in the study environment before these become the subject of complaints. Therefore, any manager, academic or teaching staff who observes inappropriate behaviour has a duty to raise it with the person so behaving and to take further action if the behaviour does not cease. This duty exists even in the absence of a complaint.

Complaints

Anyone who believes that they are experiencing unlawful discrimination has a range of options and the key points about RMIT’s approach follow.

1. Initial Advice and Information

Information and confidential advice is available from the following people:

Contact Officers, SUC Student Rights Officers and Women’s Officers, staff unions, the Management Consultancy Services, People Services, which includes the Student Sexual Harassment Complaints Officer, International Student Advisors, the Centre for International Students and Scholars, Student Affairs and the RMIT Health Service.

Information and confidential advice is also available from the Equal Opportunity Commission.

All will assist in the consideration of all options.

Where appropriate, complainants will be informed of their right to inform the police or be advised to seek medical advice.

2. Making a complaint

2.1 Lodging a complaint

Should a person wish to lodge a complaint, the Management Consultancy Services, People Services should be approached.

If the complaint is accepted, the Management Consultancy Services, People Services intake officer assists the complainant (the person making a complaint) to put the complaint in writing if it is not already and discusses options for resolution.

2.2 Conditions under which a complaint may not be accepted

The Management Consultancy Services, People Services intake officer will make an initial assessment of the complaint and, if it is considered that the complaint would not constitute discrimination, that is, if it is misconceived, or if the complaint is considered trivial or vexatious, then the complaint may not be accepted. If the intake officer considers that the nature of the complaint does not constitute discrimination, other options for possible further action will be discussed with the complainant.

2.3 Options available to the complainant

The choice of option rests with the complainant and includes:

- choosing to resolve the matter personally, with or without assistance and support;
• choosing an informal resolution process;
• choosing a formal resolution process;
• choosing to have the matter resolved by complaining to the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission; and
• taking no further action.

If the complaint is not accepted, the complainant will be informed of the reasons for this. Staff complainants may appeal to the Executive Director, People Services for reconsideration and students may appeal to the Pro Vice-Chancellor (Academic Services and Equity) for reconsideration.

2.4 Resolving the complaint through an informal resolution process

This is concerned with reaching an outcome which is acceptable to both parties and which allows the parties to continue in a productive working relationship. With an informal resolution process RMIT does not investigate the complaint and does not form any view about its merits. The officer’s role is to facilitate an agreement between the parties with the key being a mutually acceptable outcome.

2.5 Resolving the complaint through a formal resolution process

Where a formal complaint has been raised with RMIT or where RMIT otherwise becomes aware of circumstances which might be in breach of this policy, an investigation will be undertaken into those matters. The aim of an investigation is to gather evidence and to make findings that can be the basis of recommendations to the Vice-Chancellor for resolving the complaint.

The investigation will:
• be conducted by an officer independent of the informal resolution process or intake officers and all previous attempts at resolution;
• apply the principles of natural justice; (See “Definitions” on page 10);
• result in a finding as to whether discrimination occurred; and
• result in a report being made to the Vice-Chancellor which outlines the investigation, the evidence, the conclusions of the investigation and the recommendations for resolution.

The investigation report will be provided to the parties before presentation to the Vice-Chancellor and parties will have the right to make a written submission to the Vice-Chancellor about the report. Parties must indicate their intention to make such a submission within seven days of the Vice-Chancellor’s receipt of the report and to provide their submission within the timeframe negotiated with the Vice-Chancellor.

3. Support Persons

Parties are permitted to have a support person present at any interviews or meetings. The role of the support person is to assist the party and to act within the bounds of the processes established for the meeting or interview. A support person could include a friend, a family member, an officer of the Student Union, such as a Student Rights Officer or an officer of a trade union. The support person should not be in receipt of specific payment for acting as a support person. In addition to support persons, parties may have an interpreter or other person with specialist skills, or other necessary equipment present.
at all meetings. Industrial officers and student rights officers may act as support persons with the provisos as stated.

4. **Time limit on complaints**

Complaints should be made as soon as possible and generally within 12 months after the incident has occurred. If the incidents occurred more than twelve months earlier, the matter will be referred to the Executive Director, People Services if the complainant is a member of staff, or to the Pro Vice-Chancellor (Academic Services and Equity) if the complainant is a student. They will assess whether the reasons for the delay are such that the complaint should still be accepted and dealt with by RMIT’s internal procedures.

5. **Possible outcomes**

Outcomes can include (but are not restricted to) any, or a combination of any, of the following:

- counselling of the respondent;
- official warnings noted on the respondent’s personal file;
- formal apology by the respondent;
- reimbursement of any costs associated with the discrimination, including, for example for staff, restoration of sick leave or other leave credits, where the leave was taken as a result of the discrimination, or for students, refunding of fees paid;
- amended assessment including special consideration in examinations or in respect of course work;
- any mutually acceptable resolution arising out of the informal resolution process;
- disciplinary action against the respondent;
- disciplinary action against the complainant, if after investigation, a complaint is found to be vexatious or malicious; and
- complaint not upheld.

6. **Rights and Responsibilities of complainants and respondents when a complaint is made**

In order for the discrimination procedures to operate fairly and effectively, it is important that both complainants and respondents act in good faith. Good faith includes acting in a sincere fashion without malice, maintaining confidentiality and being prepared to be truthful.

6.1 **Rights and responsibilities of complainants:**

Complainants have the right to:

- have their complaint treated seriously, impartially, sensitively, promptly and confidentially;
- determine the way in which their complaint is handled (whether by handling it themselves with advice and support, by informal resolution or by the use of formal procedures);
- be fully informed of their options under this policy;
• be protected against victimisation and reprisals;
• have a support person, who complies with the processes established, present at any interviews or meetings;
• withdraw the complaint without prejudice, except where the complaint is found to be malicious or vexatious;
• have reasons for decisions or recommendations fully explained to them; and
• refer the complaint to the Equal Opportunity Commission. If a complainant refers a complaint to the Equal Opportunity Commission it will be taken as an indication from the complainant that he or she does not want RMIT to continue to try to resolve the matter internally.

Complainants’ responsibilities are to:
• raise concerns about inappropriate behaviour at the earliest possible time because this will maximise the likelihood of effective resolution;
• comply with the requirements of RMIT’s procedures;
• act in good faith;
• maintain confidentiality; and
• abide by RMIT’s decisions in respect of the internal resolution of the complaint. This does not preclude a complainant from lodging a complaint with the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission.

6.2 Rights and responsibilities of respondents:

Respondents have the right to:
• be fully informed of the complete nature and extent of allegations made against them;
• be accorded natural justice;
• have the complaint handled sensitively, impartially, promptly and confidentially;
• have a support person, who complies with the processes established, present at any interviews or meetings; and
• have reasons for decisions or recommendations fully explained to them.

Respondents’ responsibilities are to:
• comply with the requirements of RMIT’s procedures;
• act in good faith;
• maintain confidentiality;
• abide by RMIT’s decision in respect of the internal resolution of the complaint. Failure to so comply may render the respondent liable to disciplinary proceedings.
7. Debriefing Service

RMIT recognises the stress involved in being a party to a complaint for all parties. To this end, RMIT has engaged an independent debriefing service which is made available to parties at the conclusion of the internal process. The service is voluntary, confidential, away from RMIT and free to parties. The service is accessed through the Management Consultancy Services, People Services and offers both individual and group debriefing as appropriate.

Reference

Equal Opportunity Policy approved by Council, December 1997 to be effective from 1 January 1998.

Reference should be made to the Sexual Harassment Policy, Victimisation Policy, Student Complaints Policy and Staff Personal Grievance Policy. In addition, reference should be made to the Student Discipline code and to the discipline provisions of Awards covering staff.

For details go to Employee Relations, People Services website

Other Sources of Information and Assistance

1. The Equal Opportunity Commission of Victoria

   The Commission’s address is
   Level 3, 380 Lonsdale Street
   MELBOURNE  3000

   Telephone (03) 9281 7111
   Freecall 1800 134 142 (Victoria only)
   TTY (03) 9281 7110
   Facsimile (03) 9281 7171

   The Equal Opportunity Commission administers state and federal anti-discrimination laws and provides information and confidential advice as well as accepting complaints.

2. National Tertiary Education Union (NTEU)

   RMIT Branch (03) 9925 2498
   Federal Office (03) 9254 1880

3. Australian Education Union

   RMIT Branch (03) 9925 4702
   State Office (03) 9417 2822

4. Student Union Council

   City Campus (03) 9925 2055
   Bundoora West Campus (03) 9925 7226
   Bundoora East Campus (03) 9925 6151

5. RMIT Student Services

   City Campus (03) 9925 2963
Definitions

Complainant
A person who makes a complaint of unlawful discrimination

Intake officer
The person within the Management Consultancy Services, People Services who receives the complaint and assesses whether it should be accepted as a complaint of unlawful discrimination.

Investigator
A person or persons who has not previously been involved in the assessment or management of the complaint whose task is to gather evidence, draw conclusions and come to a finding about the complaint which can form the basis of recommendations to the Vice-Chancellor for resolution of the complaint.

Natural justice
This is the minimum standard of fairness to be applied in the investigation and adjudication of a complaint. It is also referred to as procedural fairness. The requirements of natural justice are:

- fully informing a person of any allegation(s) made against them;
- giving them the opportunity to state their case, provide an explanation or put forward a defence;
- ensuring that proper investigation of the allegations occurs, that all parties are heard and relevant submissions are considered; and
- ensuring that the decision-maker acts fairly and without bias.

Respondent
A person against whom a complaint of unlawful discrimination has been made.

Support Person
A person who assists either party with the process of complaint resolution without receiving any payment for this assistance. A support person could include a friend, a family member, an officer of the Student Union, such as a Student Rights Officer or an officer of a trade union. The support person must act within the processes set down for the meeting.

Victimisation
Subjecting a person to detriment or threat of detriment because they have made or propose to make a complaint of unlawful discrimination either to RMIT, the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission.

Review Date
31 December 2003