

MISLEADING OR DECEPTIVE CONDUCT POLICY

Policy number	COR 4.02
Policy name	Misleading or Deceptive Conduct Policy (Issue Two)
Applicability	All Bond University Students and Staff
Policy owner	Company Secretary
Contact person	Company Secretary
Policy status	Approved Policy
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Related policies	Compliance Policy (COR 1.09) Privacy Policy (COR 1.01) Compulsory Training Policy (HRP 4.04)

1. OVERVIEW

The purpose of this Policy is to assist Bond University employees in understanding their compliance obligations under the Proportionate Liability for Misleading and Deceptive Conduct provision within the [Competition and Consumer Act 2010](#) (the Act). The Act imposes an obligation on organisations and individuals to deal honestly and fairly with consumers. The Act prohibits conduct which is misleading and deceptive, or if viewed objectively, is likely to mislead or deceive.

2. THE POLICY

2.1. Background

All employees (including academic, management and administrative staff) should be aware of the Act and the way it applies to the tertiary education sector. The Act applies to universities to the extent that they engage in commercial activities. The Act is relevant to many of the University's activities, as many of the activities engaged in by universities are in relation to providing goods or services in exchange for financial reward.

University activities include dealing with a number of different consumers, as contemplated in the Act.

Although statements or representations made by academic staff in the course of providing lectures to students are not included in the misleading and deceptive conduct provisions, there are some important situations where the University may be engaged in 'trade or commerce' and the misleading or deceptive conduct provisions will apply. Important areas of potential risk include where advice is provided by staff in the context of recruiting students and representations made by academic or other staff.

2.2. Penalties and Consequences

The Australian Competition and Consumer Commission (ACCC) may take action to stop misleading or deceptive conduct, and injunctions to restrain breaches may be sought and damages awarded to an individual who suffers loss or damage. The ACCC may seek rectification, which may be costly, involving corrective advertising and training.

There are, however, other provisions of the Act which prohibit false representations in specific areas such as price and, if in breach, will result in a fine. The Act prohibits false or misleading representations in relation to goods and services. Some false or misleading representations are deemed to be criminal offences, resulting in a fine by the courts, and sanctions by the ACCC if proceedings take place. For example, criminal offences include: to falsely represent that services are of a particular standard, quality or value; or represent that goods or services or the University have sponsorship, approval or affiliation which it does not have; or to make false or misleading representations about the price of goods or services.

Further consequences may include considerable time being invested in defending an alleged breach of the Act; and the University and individual employees suffering adverse publicity.

2.3. Guidance and Methods to Assist with Compliance

Conduct does not have to be intentionally misleading or deceptive to breach the Act. Silence or omission may be misleading or deceptive if a false impression is created and not corrected, or if there is an obligation to say something.

When promoting the University and or its services:

- Ensure that all claims which are made are truthful and can be substantiated;
- Ensure that all marketing and promotional material is accurate and not misleading;
- Ensure a regular review of marketing material is conducted to ensure its accuracy;
- Specific claims about courses must be able to be factually substantiated;
- If marketing material has a time limit; this must be clearly stated;
- Students must be provided with all of the information they require to make an informed decision about enrolling at Bond University;
- Do not use terms which are likely to confuse your audience;
- A prediction about the future must have reasonable grounds for making the prediction;
- Advertised prices must include all components of the price (e.g. GST and other charges);
- Take care and seek legal advice if using comparative advertising. Comparisons with another institution must only be made if there is confidence with the accuracy of the information;
- Qualifications, corrections, or disclaimers must be prominent;
- Promises relating to employment prospects (outside of official offers of employment) must not be made.
- Comments or advice in respect of tuition payable and financing arrangements ought not be made.
- The Company Secretary should be consulted if there is any doubt about how the Act may apply to University activities.

2.4. Responsibilities

Bond University must comply with the requirements of legislation, and is committed to working responsibly within the regulatory environment. Individuals can also be fined under the Act, and ignorance of the law is not an excuse. Individuals are responsible for their own actions, and must be familiar with their personal obligations under the Act. All staff responsible for providing advice and information to students, including marketing, recruitment, and academic staff must be aware of the misleading and deceptive conduct provisions.

The University's professional indemnity insurance policy does not cover staff for damages awarded against them as a result of reckless or knowing breaches of the Act.

If an individual discovers that statements made or about to be made in the course of their work are possibly misleading or incorrect, the Company Secretary must be notified immediately.

2.5. Dealing with the ACCC

Enquiries from the ACCC should be directed immediately to the Company Secretary, who is responsible for providing documentation and information to the ACCC. If you are unsure if a particular procedure applies, please consult the Company Secretary.

3. TRAINING

The University provides training opportunities for all staff to assist them in understanding their obligations under the Act.

All staff are welcome to attend any training session. Training is compulsory for the following staff:

- Senior management;
- Senior staff;
- All staff, including Academics, engaged in student recruitment activities.
- All Faculty student advisors;
- Student advisors from Student Business Centre;

No University funded, including Faculty funded, recruitment trips will be approved for any staff member unless this training has been completed **before** the trip commences.

4. DEFINITIONS

Bond University	A reference to Bond University, includes Bond University College.
Misleading or Deceptive Conduct	Misleading or deceptive conduct is behaviour which leads its target audience into error. Misleading or deceptive conduct is a provision within the Act aimed at protecting consumers and improving their position in the marketplace. The Act imposes an obligation on organisations and individuals to deal truthfully and fairly with consumers.
Competition and Consumer Act	The <i>Competition and Consumer Act 2010</i> (the Act) is intended to promote competition and protect consumers.
Australian Competition and Consumer Commission (ACCC)	The Australian Competition and Consumer Commission (ACCC) is the independent statutory authority responsible for ensuring compliance with the Act.

5. RELATED PROCEDURES, GUIDELINES, FORMS, AND REFERENCES

ACCC website: <http://www.accc.gov.au/>