

COMPLAINTS BY STAFF GUIDELINES

Authorised By: as part of the University of Adelaide
Enterprise Certified Agreement 2005-2006

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Related Documents: [Complaints by Staff Policy](#)
[Complaints by Staff Toolkit](#)
[Close Personal Relationships Policy](#)
[Fair Treatment Policy](#)
[Fair Treatment Guidelines](#)
[Code of Conduct](#)
[The University of Adelaide Enterprise Certified Agreement 2005-2006](#), including:

- Definitions of Termination Of Employment
- Notice of Termination of Employment
- Unsatisfactory Performance
- Misconduct/Serious Misconduct

Disability Discrimination Act 1992 (Cth)
Equal Opportunity Act 1984 (SA)

Implementation & Review: Human Resources

Superseded Documents: Individual Staff Grievance Procedures
Sexual Harassment Complaint Resolution Procedures

Any person who requires assistance in understanding any aspect of this document should contact Human Resources on ext 35666.

1 PURPOSE OF GUIDELINES

These Guidelines are designed to provide a clear and straightforward process for the effective handling of complaints. Other approaches that comply with the policy may be implemented if all parties agree to them. Staff responsible for handling a complaint are encouraged to seek advice from Human Resources (HR) before varying the approach used.

2 COMPLAINT RESOLUTION

Advice and support is available at any stage of the process for complainants, respondents and supervisors in the first instance, through HR. Where issues are

sensitive and potentially litigious, local areas are advised to consult HR as soon as possible.

When attempts at local complaint resolution fail or stall, and if both parties agree, the investigator or supervisor may apply to the General Manager, HR, for access to mediation. If approved, the General Manager, HR, or nominee will engage the University approved mediator. However, the cost of this service will be borne by the area/s.

A staff member, who attempts to victimise or harass any party to a complaint during, before or after the complaint resolution process, may be subject to disciplinary procedures. Such behaviour should be reported immediately to the General Manager, HR.

A flowchart is provided as an easy guide through the Informal, Formal and Review stages of the complaints resolution process ([link](#)).

2.1 INFORMAL RESOLUTION

2.1.1 A complaint is often best resolved by an approach by the aggrieved employee (the complainant) to the person with whom their complaint rests (the respondent). Every reasonable and practical option should be explored to attempt to resolve the complaint in this way.

2.1.2 If the complaint cannot be resolved through a direct approach to the other party or if the complainant does not feel able to approach the respondent, the complainant may seek assistance, which will normally be provided by the supervisor to facilitate resolution. Where the complaint is with the supervisor the complainant may approach the supervisor's line manager to assist in resolution, or approach Human Resources to identify an appropriate person to facilitate ([link to descriptions in the Toolkit](#)) or mediate a resolution.

2.1.3 Attempting to resolve a complaint:

- Listen and attempt to understand the nature, extent and implications of the issues raised.
- Avoid behaviour and language that might reasonably be interpreted as confrontational, judgmental or intimidating.
- Assess whether the behavior being referred should be addressed under another University policy (e.g. Disciplinary Action for Misconduct/Serious Misconduct).
- In the first instance, if the complainant hasn't already done so and if the issue can be appropriately resolved in this way, encourage them to raise the issue directly with the respondent, with support if necessary.
- Explore the complainant's desired outcomes and provide them with suitable options and possible implications to assist them in making an informed choice on how they wish to proceed. Choosing not to proceed is a valid option.
- Where appropriate gather further evidence. This may involve interviewing other parties to the complaint.
- Attempt to clarify issues and establish the common ground on which a resolution may be based. If this is not possible the third party ([link to 2.1.2](#)) may need to make a written suggestion on the best way forward on behalf of the parties concerned.

- Refer the complaint to another appropriate staff member if, during discussion, a conflict of interest arises.
- Monitor the outcome reached for an agreed period of time to make sure that the problem has been resolved.

2.1.4 The supervisor should note the actions taken to resolve the complaint and the agreed resolution and ask all parties to sign it to indicate their acceptance of the record. It will be kept in confidence at the local level and destroyed after 2 years if the complaint is resolved. For complaints involving Sexual Harassment the General Manager, HR should maintain a confidential record of the complaint for 2 years to enable the University to monitor recurrences of this behavior.

2.1.5 Possible Resolutions

A resolution may include:

- providing more information on why an original decision was made or process was used,
- remedying an identified mistake or providing further clarification to an issue,
- revoking an initial decision,
- changing a policy or procedure or reinforcing existing policy or procedure,
- reconsidering an application or request,
- providing all or individual staff with appropriate training, counselling, or information,
- taking action against an employee or student according to the relevant University disciplinary procedures,
- other actions that might be appropriate.

Further action will cease if the complaint is deemed to be ill-founded.

2.2 FORMAL RESOLUTION

A complainant may lodge a formal written complaint with the relevant supervisor if the issue has not been resolved informally, or it is of such a serious nature that it should be addressed in writing. The supervisor to whom this is referred will not usually have been involved in the informal complaint resolution process. Usually this person will be the designated senior manager who has responsibility for the work of the complainant and respondent.

That supervisor may determine the resolution to the situation, or nominate an investigator to explore the issues and seek a mutually acceptable outcome. An investigator may be from another section of the University or from an outside organisation.

The formal process may be suspended and the informal process adopted at any time, if there is a reasonable chance that the parties can be assisted to arrive at a mutually acceptable solution.

2.2.1 Acknowledging Complaints

A supervisor who receives a formal complaint should acknowledge receipt of the complaint in writing to the complainant within 5 working days. The acknowledgment should include the following information:

- that the University takes the complaint seriously,
- contact details of the investigator handling the complaint if that is not the recipient of the formal complaint
- a copy of the Staff Complaints Policy and Guidelines,
- an outline of the approach that the investigator intends to use and the anticipated timeframe
- an offer to the complainant that they can be accompanied to any interview by a support person of their choice (providing that the support person is not a witness to the issues under investigation),
- assurance that all parties involved in the investigation are bound by confidentiality.

2.2.2 Investigating a Complaint

Investigations of a complaint should be conducted in accordance with the principles of natural justice and the Staff Complaints Policy.

The following steps are provided as a guide to the conduct of an investigation:

- Interview the complainant to clarify the allegations and details, confirm facts, ascertain the desired outcome and advise of the process to be followed. It may be necessary to re-interview the complainant at a later stage.
- Assess the allegations in the context of the University's policies; identify whether there is a legitimate complaint, and whether the Staff Complaints Policy is the appropriate policy under which the situation should be addressed.
- Inform the respondent of the precise nature and origin of the allegations as soon as possible and ensure they have an adequate opportunity to respond to the allegations (e.g. within 10 working days). The information should include: the identity of the complainant, and when and where the alleged incident(s) took place.
- Document the allegations and the respondent's response for future reference.
- If necessary interview other parties relevant to the allegations. Ensure that the conduct of the interview is relevant to the allegations made and assess whether there may be any conflict of interest or bias.

2.2.3 Withdrawing a complaint

If the complainant does not wish to pursue the complaint then it must be formally withdrawn in writing to the person handling the complaint, who will in turn notify the relevant parties in writing that the complaint has been withdrawn.

2.2.4 Ill-Founded Complaints

If an investigator concludes a complaint is ill-founded, they will provide all documents and an explanatory statement to the General Manager, HR within **10 University working days** of its receipt.

The General Manager, HR or nominee will determine whether the complaint is ill-founded. If it is found to be not ill-founded, complaint procedures will be resumed. If it is found to be malicious, intimidating or harassing, complaint procedures will be terminated and the complainant may be subject to disciplinary procedures.

2.2.5 Proposing a Resolution

The investigator may propose a resolution and provide the complainant and the respondent with the opportunity to comment. A resolution may include one of those mentioned in 2.1.5 above and will depend on the circumstances of the case.

A resolution will not be offered where:

- the resolution sought is not practicable and/or reasonable,
- the issue should be addressed under another University policy instead of the Staff Complaints Policy.

2.2.6 Notification of the Proposed Resolution

The supervisor who received the complaint, will determine the resolution, based on the results of the investigation and the responses of the parties to the proposal.

The supervisor will inform the complainant and respondent of the resolution and provide the supporting reasons in writing as soon as possible.

The acknowledgment of the complaint and resolution may be provided at the same time if the complaint is resolved within 5 working days.

The complainant may seek a review of the complaint resolution by writing to the Vice-Chancellor. It must be lodged within 20 working days of notification of the resolution.

2.2.7 Acceptance of the Resolution

If no response is received from the complainant after 20 working days, the respondent will be notified in writing that the complaint has been resolved. The complaint will formally be considered concluded.

2.2.8 Monitoring of Resolution

Where appropriate, the supervisor should arrange for actions arising from the resolution to be monitored in writing. For example, requesting evidence of attendance at a training workshop or setting a meeting to review progress.

The supervisor and investigator should ensure their notes are kept confidential. They should be destroyed after 2 years if there is no recurrence of the problem.

2.3 REVIEW OF RESOLUTION

A complainant who is dissatisfied with the resolution proposed may request in writing a review of the proposed resolution. The request should be made to the Vice-Chancellor or nominee within 20 working days of receipt of the proposal.

2.3.1 Responsibility for the review

The Vice-Chancellor will establish a Complaints Review Committee, which will be convened no later than 10 working days from the date of receipt of the review application, unless an alternate timeframe is mutually agreed by the parties.

No person who has been directly involved in the decision or matter that is the subject of the complaint will serve on the Review Committee. The complainant will be given the opportunity to indicate if a nominated member of the committee is likely to have a conflict of interest in considering their application.

2.3.2 Objection to the person nominated to conduct the review

The complainant should inform the Vice-Chancellor if they object to any member of the Review Committee and provide reasons. They should also name any other staff member to whose involvement they may object. The complainant may not object at a later date, unless the Committee membership changes. In that case the complainant should immediately provide their reasons for objection in writing to the General Manager, HR, who will appoint a suitable replacement if the objection is reasonable, and notify the complainant in writing.

The terms of reference of the Committee will be to:

- (i) report on whether the policy was followed;
- (ii) support the proposed resolution;
- (iii) offer an alternative resolution;
- (iv) indicate if the matter should be addressed under the relevant University disciplinary procedures or other University policy.

The Committee will provide a report to the Vice-Chancellor, the staff member and their representative as soon as is practicable.

2.3.3 Outcome of review

The Vice-Chancellor will take into account the Committee's findings and may make any of the following decisions:

- (i) the resolution to be adopted
- (ii) that the complaint was not substantiated and take no further action and advise the staff member in writing
- (iii) refer the matter back to the supervisor to ensure that the policy is complied with in substance and in a manner appropriate to the circumstances;

(iv) take disciplinary action, as defined by The University of Adelaide Enterprise Certified Agreement.

The resolution determined through the review will be the final stage in the University's handling of the complaint, and will not be subject to further review or appeal within the University.

3 RECORD OF COMPLAINT RESOLUTION

The final documents relating to a formal complaint should include the actions taken to resolve the complaint and the agreed resolution, and be signed by the parties to the complaint to indicate their acceptance of the record. The documents will be kept in a secure Human Resources file for 2 years. Disciplinary action may be taken where any unnecessary disclosure of information occurs.

The documents, which will be kept on file, can be used if the situation causing the complaint reoccurs.

4 RESPONSIBILITIES

<i>Role</i>	<i>Accountability</i>
Supervisors	Resolve complaints of their staff through appropriate management practices. Maintain a record of actions and decisions. Take all reasonable steps to prevent unlawful discrimination and harassment, victimisation and bullying.
Support person	Provide advice and support to the staff member involved.
Respondents	Participate actively in attempts to resolve complaints. Refrain from victimising or harassing any complainant, or others involved in resolving the complaint.
Human Resources	Promote, administer, monitor, evaluate and report on the Policy. Provide appropriate management training for University staff. Provide professional advice on the issues related to management of the conflict, possible approaches and the implications of courses of action.
Vice-Chancellor or nominee	Receive requests for and authorise the review of the proposed resolution of a complaint.