Information Sheet – Staff Complaints

Purpose
The purpose of this information sheet is to provide guidance on the staff complaints process.
This information should be read in conjunction with the Behaviour and Conduct Policy and the Staff Complaints Procedure.

1 COMPLAINT RESOLUTION
Advice and support is available at any stage of the process for complainants, respondents and supervisors in the first instance, through Human Resources (HR). Refer Key HR Contacts. 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 supervisor may consult HR to access mediation. The cost of this service will be borne by the area/s.

Staff can use the Flow Chart (Appendix A) to follow the Informal, Formal and Review stages of the complaints resolution process.

2 INFORMAL RESOLUTION
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.

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.

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, judgemental or intimidating.
- Assess whether the behaviour being referred to should be addressed under another University policy or procedure (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.

Continued
2 INFORMAL RESOLUTION (Continued)

- 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 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.

The supervisor should record the actions taken to resolve the complaint and the agreed resolution to enable the area to monitor recurrences of this behaviour. This may be done by email and kept in confidence at the local level.

Examples of 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 according to the relevant University disciplinary procedures;
- other actions that might be appropriate.

3 FORMAL RESOLUTION

If the nature of the complaint is such that the complaint cannot be raised informally, speak to your Supervisor and if requested, lodge a written complaint with the Supervisor.

That supervisor with assistance from HR may determine a resolution to the situation, or an investigator from another section of the University or from an outside organisation may be engaged.

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.

Acknowledging Complaints

A supervisor who receives a formal complaint should contact HR who will assist in formally acknowledging receipt of the complaint.

The acknowledgement should include the following information:

- that the University takes the complaint seriously;
- contact details of the investigator handling the complaint;
- a copy of the Behaviour and Conduct Policy and the Staff Complaints Procedure;
- 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 support person is not a witness to the issues under investigation); and
- assurance that all parties involved in the investigation are bound by confidentiality.

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Investigating a Complaint
Investigation of a complaint should be conducted in accordance with the principles of natural justice, the Behaviour and Conduct Policy and the Staff Complaints Procedure.

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 Procedure is the appropriate procedure under which the situation should be addressed.
- The Investigator may provide an interim report to the Supervisor and HR so they may determine the next steps.
- If the Supervisor deems that the complaint is substantiated, correspondence will be sent to the respondent notifying them of the precise nature and origin of the allegations. The information should include: the identity of the complainant, and when and where the alleged incident(s) took place. The complainant will also be advised that this correspondence has been sent to the respondent.
- The respondent will have a reasonable opportunity (typically within 10 working days) to respond to the allegations.
- The Supervisor in consultation with HR and the Investigator assesses the respondent’s response and determines the next steps.
- If necessary interviews will be conducted with other parties relevant to the allegations.

Withdrawing a Complaint
If the complainant does not wish to pursue the complaint then it should be formally withdrawn in writing to the Supervisor, who will in turn notify the relevant parties in writing that the complaint has been withdrawn.

Ill-Founded Complaints
If an investigator concludes a complaint is ill-founded, they should provide all documents and an explanatory statement to the complainant’s supervisor and HR. If it is found to be well-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.

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 the possible resolutions listed 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; and/or
- the issue should be addressed under another University policy or procedure instead of the Staff Complaints Procedure.

Notification of the Proposed Resolution
The supervisor who received the complaint, in consultation with HR will determine the resolution, based on the results of the investigation and the responses of the parties to the proposal. They will also inform the complainant and respondent of the resolution and provide the supporting reasons in writing as soon as possible.

The complainant may seek a review of the complaint resolution by writing to the Deputy Vice-Chancellor and Vice-President/Vice-President. It must be lodged within 10 working days from receipt of the notification of the resolution and outlining the reasons for seeking a review and providing any appropriate supporting documentation.
Acceptance of the Resolution
If no response is received from the complainant after 10 working days, the respondent will be notified in writing that the complaint has been resolved. The complaint will be considered concluded.

Monitoring of the 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 should ensure their notes are kept confidential.

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. The documents will be kept in a secure HR file. Refer to the Records Management Office for information on record keeping. 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 REVIEW OF RESOLUTION
The complainant may seek a review of the complaint resolution by writing to the Deputy Vice-Chancellor and Vice-President/Vice-President. It must be lodged within 10 working days from receipt of the notification of the resolution and outlining the reasons for seeking a review and providing any appropriate supporting documentation. No review will be accepted outside this period.

Responsibility for the Review
The Deputy Vice-Chancellor and Vice-President/Vice-President will establish a Review Committee in accordance with Clause 8.3 of the University of Adelaide Enterprise Agreement.

5 OUTCOME OF REVIEW
The Committee will provide a report of their findings to the Vice-Chancellor and President, within 5 working days of their final meeting.

The Committee does not have any decision-making authority. The Vice-Chancellor and President will make all final decisions.

Upon receipt of the Review and Appeals Committee’s report, the Vice-Chancellor will:

i. Uphold or dismiss the findings and/or recommendations of the Review and Appeals Committee; and/or
ii. Where appropriate, determine the process for reconsidering the matter, which is the subject of the review/appeal; and/or
iii. Take any appropriate disciplinary action in accordance with this Agreement.

All actions of the Vice-Chancellor and President will be final, except that nothing in the Clause will be construed as excluding the jurisdiction of any external court or tribunal.

Further Information
If you require further information, please contact Human Resources.
Appendix A

FLOWCHART OF STAFF COMPLAINTS PROCESS – FOR GUIDANCE

Informal Resolution

Complainant approaches respondent to resolve the issue in the first instance

Complainant requests Supervisor or other support person to help resolve the issue

Supervisor/support person attempts to resolve complaint as soon as possible.

Supervisor/support person identifies resolution with the parties

Resolution process and outcome is noted and retained

Complainant approaches respondent to resolve the issue in the first instance

No further action required

Yes

Complainant resolved

No

Ember

No further action required

Yes

Complainant resolves

Formal Resolution

Complainant lodges formal complaint with the relevant Supervisor

Supervisor acknowledges in writing the receipt of complaint and outlines the process to be followed.

Complaint investigated in a timely manner

Supervisor determines if there are grounds for the complaint and determines the resolution based on results of investigation & informs complainant & respondent

Complainant resolved

No further action required

Yes

Supervisor monitors outcome of resolution

Review of Resolution

The DVC(A) or nominee establishes a Review and Appeals Committee

Committee provides a report to the VC

VC determines the outcome of the review

Complainant and respondent advised in writing of the outcome of the review

Complainant and respondent advised in writing of the outcome of the review

Complaint finalised

The outcome of the review will not be subject to further review or appeal within the University

The report is filed

Withdrawal of complaint can be made at any time during the complaint resolution process