

## Staff Complaints Procedure

### IMPLEMENTATION

#### Aim

This procedure prescribes the process and responsibilities for the effective handling of complaints, consistent with the [Behaviour and Conduct Policy](#) and clause 8.4 of the [University of Adelaide Enterprise Agreement](#).

#### 1 Objectives

- 1.1 To ensure that all staff complaints are handled in accordance with this procedure.

#### 2 Scope and application

##### 2.1 Inclusions

This procedure applies to University of Adelaide staff members with a complaint relating to:

- 2.1.1 Decisions made, processes followed or actions taken by another University staff member(s). This might include issues related to workload or allocation of tasks or breaches of other University policies and procedures.
- 2.1.2 Interpersonal conflict with another University staff member(s).
- 2.1.3 Behaviour by another University staff member(s) which constitutes unlawful unfair treatment.

##### 2.2 Exclusions

This procedure does not apply to:

- 2.2.1 Misconduct or serious misconduct as referred to in clause 8.2 of the [University of Adelaide Enterprise Agreement \(as amended\)](#).
- 2.2.2 Complaints that arise under a University policy or procedure that incorporates a specific appeals process including academic promotion, job classification and tenure.
- 2.2.3 Students who complain about staff members, titleholders or other students. Refer to the [Student Grievance Resolution Process](#).
- 2.2.4 Complaints of misconduct against a student. Refer to the [Student Misconduct Rules](#).

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## 2.2 Exclusions (Continued)

2.2.5 Complaints of research misconduct, serious research misconduct or breaches of the [Australian Code for the Responsible Conduct of Research](#). Refer to the [Procedure for Managing Complaints of Research Misconduct/Serious Research Misconduct and Breaches of the Australian Code for the Responsible Conduct of Research](#).

2.2.6 Complaints that are made anonymously.

## 2.3 Application

This procedure applies to complaints concerning workplace bullying on University premises and/or during University related activities in conjunction with the [HSW Handbook Chapter 3.35 Preventing and Responding to Workplace Bullying](#).

This procedure does not reduce the rights of an individual under State and Federal law to pursue a complaint through an external agency. However, once an external agency has been engaged the external agency's process will take precedence.

Unlawful discrimination, harassment, victimisation or bullying can lead to disciplinary action on the grounds of misconduct or serious misconduct. Complaints that are malicious, or intended to intimidate or harass the respondent can lead to disciplinary action against the complainant on the grounds of misconduct, or serious misconduct.

### **Ill-founded complaints**

Ill-founded complaints that are misconceived, or lack substance, will not be pursued by the University.

If an investigator concludes a complaint is ill-founded, they will provide all documents and an explanatory statement to the Director Human Resources or nominee who will determine whether the complaint is ill-founded.

## 3 Process: Raising a complaint

Person Responsible		Actions
3.1	Staff Member (Complainant)	<ul style="list-style-type: none"> <li>a) In the first instance, approach the staff member involved (respondent) and attempt to resolve the issue directly with them informally, by mutual agreement.</li> <li>b) If it is not appropriate to approach the respondent directly, request the support of your Supervisor, your Supervisor's line Manager or a <a href="#">Human Resources (HR) Advisor</a>. (See key HR contacts.)</li> <li>c) 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, containing sufficient detail to enable the nature of the complaint to be clearly identified.</li> <li>d) If the complaint is against your Supervisor, approach your Supervisor's line manager.</li> <li>e) Explore reasonable and practical options to resolve the complaint.</li> <li>f) Propose a resolution to your complaint.</li> <li>g) Maintain confidentiality.</li> </ul>

## 3 Process: Raising a complaint (Continued)

Person Responsible		Actions
3.2	Staff Member (Respondent)	<ul style="list-style-type: none"> <li>a) Participate in attempts to resolve a complaint informally.</li> <li>b) Explore reasonable and practical options to resolve the complaint.</li> <li>c) Maintain confidentiality.</li> <li>d) Contact your supervisor for support and advice, if required.</li> </ul>
3.3	Supervisor	<p><b><u>If approached by a staff member:</u></b></p> <ul style="list-style-type: none"> <li>a) Contact your <a href="#">HR Advisor</a> for advice as soon as practicable.</li> <li>b) Refer to the <a href="#">Staff Complaints Information Sheet</a> and <a href="#">Flowchart</a> of the Staff Complaints Process as a guide for steps to resolve complaints both informally and formally.</li> <li>c) Maintain confidentiality.</li> <li>d) Maintain a record of meetings, actions and decisions.</li> <li>e) Advise the complainant and respondent that they may have a support person involved at any stage of the complaints process, but may not have a representative make or pursue a complaint on their behalf.</li> </ul>

## 4 Process: Investigate and resolve the complaint

Person Responsible		Actions
4.1	Supervisor	<ul style="list-style-type: none"> <li>a) Consult your HR Advisor for advice on the issues related to management of the conflict, possible approaches and the implications of courses of action.</li> <li>b) On receipt of a written or formal complaint, contact your HR Advisor as soon as possible and before taking further action.</li> <li>c) Refer to the <a href="#">Staff Complaints Information Sheet</a> and <a href="#">Flowchart</a> of the Staff Complaints Process as a guide for steps to resolve complaints both informally and formally.</li> <li>d) Treat the complaint promptly, confidentially and according to the principles of <a href="#">natural justice and procedural fairness</a>.</li> <li>e) Resolve the complaint locally wherever possible, informally and with the fewest people possible involved, to protect the reputation of the individual involved, minimise the possibility of defamation litigation and assist the return to a productive working relationship.</li> <li>f) Consider what method of resolution is appropriate, in consultation with your HR Advisor e.g. through discussion, raising awareness, and mediation wherever possible.</li> <li>g) In consultation with your HR Advisor, engage a mediator (agreed between the parties), to assist to resolve the complaint if necessary. A mediator may be a University staff member or from an external organisation. Payment of the mediator is the responsibility of the <a href="#">Area Manager</a>.</li> <li>h) If the nature of the complaint is serious so that it warrants formal investigation, contact your Area Manager to initiate the investigation through HR.</li> </ul> <p style="text-align: right;">Continued</p>

## 4 Process: Investigate and resolve the complaint (Continued)

Person Responsible		Actions
4.1	Supervisor (Continued)	<ul style="list-style-type: none"> <li>i) Advise the complainant and respondent that they may have a support person involved at every stage of the complaints resolution process, but may not have a representative make or pursue a complaint on their behalf.</li> <li>j) Maintain a record of meetings, actions and decisions.</li> <li>k) Take reasonable steps to prevent the problem occurring again through appropriate management practices.</li> </ul>
4.2	Area Manager	<p><b>On receipt of a formal complaint</b></p> <ul style="list-style-type: none"> <li>a) Contact your HR Advisor for assistance to acknowledge receipt of the complaint and to initiate an investigation.</li> <li>b) In consultation with your HR Advisor, advise the complainant that they may be accompanied by a support person.</li> <li>c) Determine the resolution, based on the results of the investigation and the responses of the parties to the proposed resolution.</li> <li>d) At the conclusion of the investigation, inform the parties of the resolution and provide the supporting reasons in writing as soon as possible.</li> </ul>
4.3	HR Advisor and Case Managers in consultation with the Supervisor and Area Manager	<ul style="list-style-type: none"> <li>a) Provide advice about the resolution process to the Supervisor and Area Manager to be able to advise the complainant and the respondent of the process.</li> <li>b) Refer to the <a href="#">Staff Complaints Information Sheet</a> and <a href="#">Flowchart</a> of the Staff Complaints Process as a guide for steps to resolve complaints both informally and formally.</li> <li>c) On receipt of a formal complaint, assist the Supervisor or Area Manager to acknowledge the complaint and initiate an investigation of the complaint by an independent investigator (who may be from within or outside the University).</li> <li>d) Maintain a record of meetings, actions and decisions.</li> </ul>

## 5 Process: Review the resolution of the complaint (if applicable)

Person Responsible		Actions
5.1	Complainant	<p>To seek a review by a Review and Appeals Committee (with reference to Clause 8.3.7(h) of the <a href="#">University of Adelaide Enterprise Agreement</a>)</p> <ul style="list-style-type: none"> <li>a) Submit a written request to the Deputy Vice-Chancellor and President outlining the reasons for seeking a review and any relevant supporting documentation, within 10 working days from the date of receiving a proposed resolution to the grievance.</li> </ul> <p>No review will be accepted outside this period.</p>

## 6 Process: Withdrawal of complaint (at any time during the complaint resolution process)

Person Responsible	Actions
6.1 Complainant	<p><b>If at any stage you choose not to proceed with your complaint</b></p> <p>a) Write to your supervisor advising them that the complaint is withdrawn.</p>
6.2 Supervisor	<p><b>On receipt of written notice that the complaint is withdrawn</b></p> <p>a) Consider any reasons given by the complainant for the withdrawal and follow up if you are concerned that the complainant may have been pressured or coerced into withdrawing the complaint.</p> <p>b) Seek further advice from your <a href="#">Human Resources (HR) Advisor</a>. (See key HR contacts) if appropriate.</p> <p>c) Advise the respondent and any other relevant parties in writing that the complaint has been withdrawn.</p>

## 7 Definitions

### Area Manager

Means Deputy Vice-Chancellors, Vice-Presidents, Pro Vice-Chancellors, Executive Deans, Director Human Resources (and a person acting in these positions) and Institute Directors as defined in the Enterprise Agreement.

### Behaviour

Means actions or comments by a University employee that occur in the course of or connected with their employment, whether on University premises or during University-related activities, either personally, by phone, electronically or in writing. This includes comments or photographs posted on social networking internet sites or similar, even if these are posted outside of University premises or outside the ordinary span of hours.

### Bullying

Includes threats, verbal abuse, sarcasm, coercion and ostracism that humiliates or intimidates individuals or groups of workers. See also [Fair Treatment Procedure](#) and [HSW Handbook Chapter 3.35 Preventing and Responding to Workplace Bullying](#).

### Complaint

Is where a person, covered by the scope of this procedure, believes that an occurrence of behaviour or other action described by this Procedure adversely affects their ability to work productively in a positive environment. This includes occurrences which happen in the course of or connected with their employment.

### Complainant

Is the aggrieved person who has made a complaint.

### Harassment

Is unwelcome and offensive or intimidating behaviour or comments. Harassment can include being subjected to unwelcome and offensive images. See also [Fair Treatment Procedure](#) and [Fair Treatment Information Sheet](#).

### Ill-founded complaints

Are those deemed to be mischievous, frivolous, malicious, misconceived, lacking in substance, or containing spurious information.

### Investigator

Is a person nominated by the supervisor to investigate the facts of the complaint and make a recommendation for action.

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## 7 Definitions (Continued)

### Mediation

Is a process in which a third party (the mediator) acts as an intermediary between the opposing parties and intercedes on behalf of the other party in order to assist all parties reach a resolution.

### Natural justice and Procedural Fairness

Means handling a complaint made under this Policy in a way that is procedurally fair. This means that:

- the person who is the subject of a complaint has the right to be informed of the particulars of the complaint against them,
- the parties have the right to be accompanied by a support person if required,
- the parties have a reasonable opportunity to openly present their case,
- the person making a complaint will not decide or determine the complaint or appeal,
- the decision-maker will be unbiased, and
- the final decision will be based solely on the relevant evidence.

### Resolution

Means an outcome to which all parties are able to agree and the resources are available to implement.

### Respondent

Means the person against who the complaint has been made.

### Staff member

Means a person employed by the University of Adelaide.

### Supervisor

Means the person who is responsible for the day-to-day supervision of a staff member as nominated by the University.

**Unlawful unfair treatment** is prohibited by law and includes harassment, bullying, racial vilification and racist behaviour, sexual harassment, and discrimination on the basis of a person's age, sex or gender, marital or relationship status, family responsibilities, pregnancy or potential pregnancy, race, or disability. Refer to the [Fair Treatment Procedure](#) and the [Fair Treatment Information Sheet](#).

### Victimisation

Means treating someone unfairly because they have acted on the rights given them by law, or because they have supported someone else who acted on those rights. See also [Fair Treatment Procedure](#).

## 8 Useful information and resources

8.1	<b>University related documents and Policies</b> <a href="#">Behaviour and Conduct Policy</a> <a href="#">University of Adelaide Enterprise Agreement</a> <a href="#">Preventing and responding to workplace bullying</a> <a href="#">Code of Conduct</a>
8.2	<b>Related Legislation</b> <a href="#">Age Discrimination Act 2004 (Cth)</a> <a href="#">Australian Human Rights Commission Act 1986 (Cth)</a> <a href="#">Disability Discrimination Act 1992 (Cth)</a> <a href="#">Equal Opportunity Act 1984 (SA)</a> <a href="#">Fair Work Act 2009 (Cth)</a> <a href="#">Racial Discrimination Act 1975 (Cth)</a> <a href="#">Racial Vilification Act 1996 (SA)</a> <a href="#">Sex Discrimination Act 1984 (Cth)</a> <a href="#">Work Health and Safety Act 2012 (SA)</a> <a href="#">Work Health and Safety Regulations 2012 (SA)</a>

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