

# Complaint Policy - Staff

## Section 1 - Definitions

(1) For the purpose of this policy:

- a. Complaint:
  - i. a complaint is a grievance about any type of work-related problem that is causing distress. The complaint may arise from a decision, act or omission by an employee or employees within the University, which is considered by the complainant to be wrong, mistaken, unjust or discriminatory.
  - ii. for the purposes of this policy and its supporting procedures, a 'grievance' will be referred to as a 'complaint'.
- b. Complainant:
  - i. the employee(s) notifying a complaint; or
  - ii. student(s) notifying a complaint relating to harassment, bullying or discrimination by an employee of the University.
- c. Respondent:
  - i. the employee(s) of the University against whom the complaint is made.
- d. Parties to the Complaint:
  - i. include the complainant, respondent, witnesses, and relevant supervisor or manager.
- e. Informal Complaint:
  - i. an informal complaint is a complaint that is normally dealt with by the work unit and is normally in relation to a complaint arising from minor workplace conflicts or work unit decisions. It may be advised either verbally or in writing. If not resolved in the work unit, an informal complaint may be escalated to the relevant Executive Member (Exec Member). If the complaint remains unresolved, it may be escalated to a formal complaint.
- f. Formal Complaint:
  - i. a formal complaint is a complaint arising from alleged harassment, bullying or discrimination or perceived unfair decisions or treatment, or an unresolved informal complaint. The management of formal complaints is coordinated by HR Services. A formal complaint may be advised verbally or in writing. If advised verbally, a HR Manager (HRM) will assist the complainant to document the complaint. A formal complaint must be submitted in writing before the procedures under this policy are initiated.

## Section 2 - Policy Statement

### Part A - Policy Declaration

(2) This policy sets out the principles and responsibilities of managing employee complaints and some specific student complaints.

## Part B - Policy Description

### Objectives

(3) The purpose of this policy is to facilitate the management of employee complaints, and some specific student complaints, fairly, sensitively and expeditiously.

### Scope

(4) This policy applies to University employees and pertains to complaints against other employees arising from any type of work-related issue including, but not limited to:

- a. decisions, acts or omissions by employees within the University; or
- b. perceived unfair decisions or treatment; or
- c. harassment, bullying and discrimination (which includes sexual harassment, various forms of vilification recognised by law and victimisation).

(5) It is also the policy to be used by students in the event of a complaint directed against a University employee relating to harassment, bullying or discrimination.

(6) This policy does not limit the right of employees or students to seek other forms of assistance to resolve a complaint. Should the complaint be formally referred to an external agency, the internal processes of the University may be suspended pending the outcome of the external process.

(7) The requirements of this policy and the [Complaint Procedure - Staff](#) will not apply where there are other specific policies or procedures in place for dealing with the matter - e.g. misconduct, unsatisfactory performance or public interest disclosures.

(8) For employees covered by the SCU Enterprise Agreement 2010 or any successor Agreement ("The [Enterprise Agreement](#)"), any complaint arising from the application of any provision of that Enterprise Agreement, as current at the time, or the National Employment Standards under the [Fair Work Act 2009 \(Cth\)](#) will be dealt with under the Dispute Resolution Procedures of the SCU Enterprise Agreement and the requirements of this policy and the [Complaint Procedure - Staff](#) will not apply.

(9) For employees not covered by the SCU Enterprise Agreement, this policy will only apply for matters relating to harassment, bullying and discrimination.

## Part C - Content and Implementation

### Principles of Complaint Handling:

#### Procedural fairness

(10) Complainants have the right to have their complaint dealt with fairly, constructively, expeditiously, confidentially and, through the application of the principles of procedural fairness, without reprisal.

(11) Procedural fairness includes:

- a. the respondent(s) being informed of any allegations made in a complaint against them;
- b. parties to the complaint being advised of the procedures that apply to the management of the complaint;
- c. parties to the complaint being informed of those people involved and responsible for handling the complaint;
- d. all parties to the complaint having a right to be heard;

- e. the respondent being provided with an opportunity to respond;
- f. relevant submissions by parties to the complaint being fully considered before a decision is made;
- g. a full and proper investigation of the facts;
- h. the complainant and the respondent being advised of the outcome of any investigation.

### **Confidentiality**

(12) Complaints and information arising from the handling of complaints must be treated confidentially. There should be limited disclosure of information relating to a complaint and only to those who are legitimately involved in the process of resolving the complaint.

(13) Any breaches of confidentiality, careless or otherwise, on the part of any of the parties involved in the management of the complaint may be considered as misconduct or serious misconduct and may be subject to further action by the University.

### **Early notification and expeditious process**

(14) A complaint should be raised as early as possible following the incident giving rise to the complaint. Complaints should be dealt with expeditiously to ensure early resolution of the issue and minimal disruption to the workplace.

### **Good faith participation by all parties**

(15) All parties are required to participate in the complaint management process in good faith. Where an employee refuses to participate in the process, the Director, Human Resources may direct the employee to participate in the process, as necessary.

### **Representation**

(16) At any time during the complaint management process, the complainant or respondent may seek assistance from, or be accompanied by, an employee representative or support person of their choice, excluding a person who is currently a practising solicitor or barrister.

### **University's duty of care**

(17) Whenever possible, the wishes of the complainant in relation to the resolution of the complaint are taken into account. However, this may not be possible in some circumstances, for example, where the complaint is of such a serious nature that formal action is required beyond the wishes of the complainant. For example, a complaint may involve allegedly unlawful behaviour and/or the University's duty of care may be compromised if no action is taken.

(18) In addition, the University may be obliged, for legal reasons, to investigate a complaint which is raised with it that does not result in a formal complaint being made under this policy and procedures.

### **Protection from victimisation**

(19) The University will endeavour to protect employees or students from any victimisation or repercussions for reporting issues in good faith. Parties to the complaint will be advised that victimisation of any individual/s arising from the complaint will not be tolerated and the matter will be referred to the Vice Chancellor if victimisation is demonstrated to have occurred. The matter may be dealt with as misconduct or serious misconduct.

### **Vexatious and malicious complaints**

(20) Most employee complaints are motivated by genuine concern about perceived inappropriate or unfair behaviour or actions. However, on some occasions a complaint may be frivolous, vexatious or malicious, ie designed to harass or annoy, to cause delay or detriment, or for any other wrongful purpose.

(21) Complainants should not instigate complaints that are frivolous, vexatious or malicious. An employee who makes an allegation, which they have reason to believe to be false, or an employee who makes a frivolous allegation, may be subject to employee disciplinary processes, and the matter may be dealt with as misconduct or serious misconduct.

(22) Complaints should not be made in response to or in retaliation for management instituting counselling or disciplinary processes as part of management's duty to manage. Such responses / retaliation may be subject to employee disciplinary processes, and the matter may be dealt with as misconduct or serious misconduct.

(23) Students who make frivolous, vexatious or malicious complaints may be referred to the Student Misconduct Committee.

### **Exposure to defamation actions**

(24) Persons making a complaint in good faith, giving evidence as a witness to a complaint, or involved in the mediation or investigation of a complaint may have available the defence of qualified privilege in the event of a defamation action.

(25) A Complainant who raises a complaint in good faith may be protected against any action for defamation by the available defence of qualified privilege, provided the employee raises the complaint in accordance with this policy and its procedures and does not intentionally make a vexatious, malicious or substantially frivolous complaint.

### **Conflict of interest**

(26) If a participant in the complaint process perceives a possible conflict of interest either in themselves or in another party they have a duty to discuss the matter with the Director, Human Resources who will determine what action is appropriate, and may disqualify a person from participating.

### **Public interest disclosures**

(27) This policy does not apply to public interest disclosures.

(28) The relevant state legislation is designed to deal with disclosures about serious matters such as corruption, maladministration or serious and substantial waste of public money.

(29) Employees wishing to make a public interest disclosure should do so in accordance with the University's [Internal Reporting Policy](#).

### **Anonymous complaints**

(30) The University will not generally act on anonymous complaints unless the issues raised are serious and sufficient information is provided to warrant further enquiry into the allegations.

(31) Depending on the nature of the complaint, the University may refer the details of the complaint to other external agencies for investigation as necessary.

## Status and Details

<b>Status</b>	Historic
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<b>Head of Work Unit</b>	Kath Drew Director, Human Resources
<b>Enquiries Contact</b>	Kath Drew Director, Human Resources