

## Handling Staff Grievances Vice-Chancellor's Directive

### Abstract

This Directive defines work-related grievances and describes how they are to be handled at UTS. It advises on the responsibilities of supervisors, managers and staff, how to raise a grievance, the expected outcomes of the process and documentation.

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	Directive takes effect	09/2008
	Directive is due for review (up to 5 years)	05/2021
	Amendment approved	28/04/2016
	Amendment takes effect	20/06/2016
Approved by	Vice-Chancellor	
	Latest amendment: Vice-Chancellor ( <a href="#">see change history</a> for details)	
Implementation Officer	Director, Human Resources Unit Director, Equity and Diversity Unit	
Relevant to	All staff	
Related documents	<a href="#">Child Protection Policy</a> <a href="#">Equal Opportunity and Diversity Policy</a> <a href="#">Fraud and Corruption Prevention and Public Interest Disclosures Policy and Guidelines</a> <a href="#">Resolving Staff Grievances — Guidelines for Supervisors</a> (restricted access: Staff Connect) <a href="#">Staff Grievances</a> (restricted access: Staff Connect)	
Legislation	<a href="#">Age Discrimination Act 2004 (Cwlth)</a> <a href="#">Anti-Discrimination Act 1977 (NSW)</a> <a href="#">Australian Human Rights Commission Act 1986 (Cwlth)</a> <a href="#">Disability Discrimination Act 1992 (Cwlth)</a> <a href="#">Disability Standards for Education 2005 (Cwlth)</a> <a href="#">Fair Work Act 2009 (Cwlth)</a> <a href="#">Ombudsman Act 1974 (NSW)</a> <a href="#">Racial Discrimination Act 1975 (Cwlth)</a> <a href="#">Sex Discrimination Act 1984 (Cwlth)</a> <a href="#">Work Health and Safety Act 2011 (NSW)</a> <a href="#">Workplace Gender Equality Act 2012 (Cwlth)</a>	
File number	UR16/877	
Superseded documents	Handling Staff Grievances Policy	

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### **1. Purpose**

UTS is committed to providing a productive and harmonious work environment. This Directive aims to maintain effective working relationships by ensuring that grievances are handled quickly, with minimum distress and maximum protection to all parties, thereby preventing the escalation of minor problems or grievances.

This directive establishes the principles by which work-related grievances are handled and a framework for the management of grievances according to equity principles and legislative requirements.

### **2. Scope**

This Directive sets out the processes for handling of work-related grievances at UTS. In certain instances, where unlawful behaviour may be involved or where administrative mechanisms for appealing decisions may exist, other processes are followed as described in this section.

Disputes in relation to the interpretation, application or operation of a provision of an industrial agreement (eg collective agreement) are handled in accordance with the dispute resolution procedure of the relevant agreement.

Allegations of corruption, maladministration and serious waste, and those concerned with reportable conduct involving children or young persons (those under 18 years of age), are required to be investigated under law and, consequently are not covered by this Directive. These allegations are covered under the [Fraud and Corruption Prevention and Public Interest Disclosures Policy and Guidelines](#) and the [Child Protection Policy](#).

### **3. Definitions**

This Directive covers work-related grievances. A work-related grievance is any type of problem, concern or complaint where a staff member believes that he/she has received unreasonable treatment from the University, other staff member/s or student/s, and wishes to bring the grievance to the University's attention and requires an action or response.

There are primarily two types of work-related grievances, as shown in the table below.

<b>Interpersonal conflicts, personal issues or work practices</b>	<b>Potentially unlawful behaviour that may be covered by legislation</b>
<p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>• dispute with a staff member</li> <li>• rude and hostile behaviour</li> <li>• unsafe ways of working</li> <li>• conflict of interest</li> <li>• unreasonable treatment in a UTS process such as               <ul style="list-style-type: none"> <li>○ promotion</li> <li>○ leave</li> <li>○ development</li> <li>○ workload allocation</li> </ul> </li> <li>• misuse of technology</li> </ul>	<p><b>Examples:</b></p> <ul style="list-style-type: none"> <li>• physical, verbal or written abuse</li> <li>• bullying</li> <li>• discrimination</li> <li>• harassment, including racial/sexual harassment</li> <li>• breach of confidentiality</li> <li>• dishonesty</li> <li>• breach of a collective agreement</li> </ul>

This distinction is important because it determines how to deal with particular grievances and the extent and type of documentation required. However, as the grievance process progresses the issue may shift from one category to another. The Human Resources Unit can provide advice on the category in which the grievance should be placed.

Equity-related grievances, for example, may involve discrimination and/or harassment on grounds prohibited by anti-discrimination legislation\*. Such grievances are handled either under this Directive or the dispute resolution procedures of the relevant industrial agreement, but specialist assistance must be sought from the Equity and Diversity Unit to ensure that the University conforms to the NSW Anti-Discrimination Board's Grievance Procedure Guidelines. Grievances of this type require formal investigation and documentation.

Grievances involving allegations of corruption, maladministration and serious waste, and those concerned with reportable conduct involving children or young persons (those under 18 years of age) are required to be investigated under law and consequently **are not covered under this Directive** (please refer to the [Fraud and Corruption Prevention and Public Interest Disclosures Policy and Guidelines](#) and the [Child Protection Policy](#)).

\* Including sex, pregnancy (and potential pregnancy), race, colour, ethnicity, ethno-religious belief, descent or national identity, marital status, family or carer responsibilities, age, disability, transgender status, sexual preference, or political conviction.

#### 4. Directive principles

Grievance resolution is an integral part of management responsibility at UTS. Managers and supervisors have the responsibility to take all reasonable steps to identify and attempt to prevent and resolve problems in the workplace including legal responsibility for resolving equity-related grievances alleging unlawful behaviour.

Resolution of grievances is encouraged at the point as close as possible to the source of the problem and at the lowest level of management.

Staff grievances are handled in an unbiased and fair manner, taking into account the principles of procedural fairness (refer to [Resolving Staff Grievances — Guidelines for Supervisors](#) (restricted access: Staff Connect) for details on what constitutes procedural fairness).

Staff raising a grievance, as well as respondents, have the right to choose to be accompanied by a representative of their choice, during all discussions related to the grievance. Such a representative will not be a barrister or solicitor in private practice. A representative of the Human Resources Unit or other specialist grievance handling area may also be invited by a staff member or supervisor/manager to attend discussions related to the grievance.

Confidentiality is respected at all times within the constraints of the need to fully investigate the grievance.

Staff who raise a genuine grievance or a grievance in good faith are protected from victimisation or unfair treatment.

Grievances are dealt with promptly and take into account the interests of all concerned. Supervisors must respond to the staff member raising the grievance (either by discussing the matter with the staff member or arranging a meeting) within ten working days of being notified of the grievance. If a matter remains unresolved after such a discussion/meeting or no arrangements are made for a discussion/meeting within the timeframe, then the staff member may refer the matter to the Dean or Director of his/her unit.

Whenever possible, the wishes of the staff member raising the grievance in relation to the resolution process are taken into account. However, this may not be possible in some circumstances where the grievance is of such a serious nature that formal action is required beyond the wishes of the staff member, as for example when a grievance involves allegedly unlawful behaviour or when UTS's duty of care may be compromised if no action is taken.

## **5. Directive statements**

### **5.1 How to raise a grievance**

In the first instance, the grievance should be raised at the lowest appropriate level of management. This is usually with the staff member's immediate supervisor, or if the grievance involves the supervisor, with the supervisor's manager.

Staff should be aware that if the grievance is of a serious nature or involves allegedly unlawful behaviour it would usually be referred elsewhere for advice and the resolution process might be pre-determined. If this occurs, the staff member will be informed of the referral and the process for resolution. In such instances, a formal investigation is required, which must be documented. The staff member who raised the grievance will be informed about where and when the matter is to be referred, and be kept informed about the matter as it is being pursued.

Grievances may be raised verbally in the first instance, although they may have to be formalised in writing later, dependent upon the circumstances and outcome. For example, grievances requiring formal investigation must be raised in writing.

In the interest of procedural fairness, the staff member raising the grievance may have to be identified when allegations are put to the person who is the alleged perpetrator of the unreasonable treatment.

Grievances that involve potentially unlawful behaviour (see the examples provided in section 3) may be made directly to the specialist units listed in section 6.

A staff member may withdraw their grievance. If a grievance is withdrawn, no further action should be taken in relation to the grievance unless the grievance is related to possible physical danger, criminal investigation, disciplinary action or employer liability.

## **5.2 Outcomes of the grievance resolution process**

Staff will receive written advice of the outcome of their grievance. The outcome will be in keeping with the seriousness of the incident/s that formed the basis of the grievance.

Possible outcomes of a staff grievance include:

- (a) the staff member gains a better understanding of the situation so that his/her concerns are addressed
- (b) a mutually acceptable resolution is achieved through conciliation or mediation
- (c) the staff member receives an apology, and/or the issue or behaviour that was the basis of the grievance is modified
- (d) in instances where the facts surrounding a grievance cannot be substantiated no further action will result
- (e) in cases where the facts are substantiated and circumstances warrant, the University's formal disciplinary processes as prescribed in the senior staff, professional and academic staff industrial agreements are invoked. This may result in formal warnings about inappropriate behaviour and in the most serious cases, the dismissal of the staff member concerned.

## **5.3 Further action**

Staff unsatisfied with the outcome of a grievance can pursue the grievance through other appropriate internal or external processes. Internally, the options may be the next level of management up to the Vice-Chancellor.

Externally, the options include the NSW Anti-Discrimination Board (see the [Board's website](#)) the Australian Human Rights Commission for discrimination/harassment complaints (see the [Commission's website](#)), or the NSW Ombudsman for complaints relating to administrative decisions (see [NSW Ombudsman's website](#)).

## **5.4 Documentation**

Documentation relating to the grievance is placed on the staff member's personal file in the Human Resources Unit only and is subject to the guidelines on staff records. Additional files should not be maintained. If the documentation includes material of a particularly sensitive nature, it is retained on a separate confidential file within the Human Resources Unit as per guidelines on staff records.

## 6. Roles and responsibilities

All supervisors, managers and staff have a responsibility to contribute to the achievement of a productive, safe and equitable work environment at UTS. They also have particular responsibilities as detailed below.

### Supervisors, managers and other designated staff are responsible for:

- (a) responding appropriately to grievances and managing the process according to UTS policies, principles, industrial agreements and guidelines
- (b) informing the staff member of their right to procedural fairness and their right to have a support person attend meetings with them throughout the grievance process
- (c) responding appropriately to equity-related grievances to eliminate and prevent discrimination and harassment in the workplace, and
- (d) referring certain grievances to specialist units for advice as follows:

Grievance	UTS specialist unit	Contact
<b>Discrimination/ harassment</b>	Equity and Diversity Unit	Email: <a href="#">Equity and Diversity</a>
<b>Employment conditions</b>	Human Resources Unit	Email: <a href="#">Client Services</a>
<b>Interpersonal issues</b> eg abuse/hostility	Human Resources Unit	Email: <a href="#">Client Services</a>
<b>Misuse of technology</b>	Human Resources Unit Equity and Diversity Unit (harassment)	Email: <a href="#">Client Services</a> Email: <a href="#">Equity and Diversity</a>
<b>Research ethics</b>	Research and Innovation Office	Email: <a href="#">Research and Innovation</a>
<b>Security</b>	Security Services	Telephone: +61 2 9514 1192
<b>Safety</b>	Human Resources Unit (workplace health and safety)	Email: <a href="#">Client Services</a>
<b>Unfair treatment</b> eg relating to promotion/leave/staff misconduct	Human Resources Unit	Email: <a href="#">Client Services</a>
<b>Unprofessional behaviour</b> eg dishonesty / breach of confidentiality	Human Resources Unit	Email: <a href="#">Client Services</a>

### Staff raising a grievance are responsible for:

- (a) participating in the grievance resolution process in good faith
- (b) cooperating fully in the investigative process

- (c) avoiding making vexatious complaints or raising grievances with malicious intent, and
- (d) avoiding reporting a grievance to several different units or individuals at the same time.

## 7. Version control and change history

Effective date	Version	Approved by, resolution no. (date)	Amendment
17/12/1992	1	Council 92/167	Grievance Resolution Policy accepted
21/06/2001	2	Council 01/4	Handling Staff Grievances Policy - changes to process and industrial instruments
16/08/2004	3	Council 04/6	Change to references to external bodies
19/09/2005	4	Council 05/4	Compliance with new industrial instruments and legislation
2/08/2006 (effective 17/08/2006)	5	Council COU/06/082	Process for dealing with grievances removed from collective agreement so described within the policy.
18/06/2008	5	Council COU/08-3/51	Rescinded by Council effective from the date of issue of a Vice-Chancellor's operational directive.
01/09/2008	6	Vice-Chancellor	Renamed as a directive, title changes and reformatting.
16/02/2009	6.1	Deputy Vice-Chancellor (Corporate Services)	Removal of references to Director Internal Audit (position no longer exists) and replacement with Deputy Vice-Chancellor (Corporate Services).
20/06/2016 (effective date)	7	Vice-Chancellor (approved 28/04/2016)	Changes made during the scheduled review to: <ul style="list-style-type: none"> <li>• remove references to allegations of breach of child protection legislation and corruption, maladministration and serious waste as workplace grievances (dealt with under separate governance instruments)</li> <li>• provide examples of various types of work-related grievances</li> <li>• provide further detail on units to which certain types of grievances should be referred.</li> </ul>