

Employee Grievance Procedure

INTRODUCTION

The University recognises the importance of employees having access to processes that provide a consistent approach to the resolution of workplace complaints and grievances within a supportive environment.

Grievances should be raised promptly without the fear of reprisal or victimisation. Employees are encouraged to resolve their concerns and address conflicts as early as possible to achieve a positive and professional workplace culture.

COMPLIANCE

This is a compliance requirement under the [Charles Darwin University Act 2003](#) part 3 Section 15.

INTENT

This document outlines the University's process for managing employee grievances and resolving conflict in the workplace, including conduct that may constitute a breach of the University's workplace policies, including, but not limited to the University's Code of Conduct and [Charles Darwin University and Union Enterprise Agreement 2018](#) (Enterprise Agreement).

RELEVANT DEFINITIONS

In the context of this document:

Case manager means an employee who is authorised to facilitating the employee grievance process including coordination of communication between the aggrieved employee, management and respondent. They are the central point of contact for the parties;

HR Business Partnering Unit means the human resources advisory team within People and Capability;

Confidentiality means the principle of protecting information and preventing its disclosure to anybody other than those who have a right to access it and need to know;

Disciplinary action means action taken in respect of a formal disciplinary process conducted in accordance with the [Enterprise Agreement](#) and may include formal warnings, up to and including termination of employment;

Grievance means a complaint from an employee concerning behaviour or action of another employee/s, that has or is likely to have an unreasonable negative impact on the ability of an employee to undertake their duties;

Investigating Officer means the person appointed by the University, who may be either an official of the University or a person external to the University, who will conduct a review, enquiry or formal investigation;

Malicious means intending or intended to do harm;

Respondent means the employee who is the subject of the grievance and, should there be a claim to answer, will be asked to respond to any allegations;

Senior Manager means an employee of the University holding the position of Director, College Dean, Head of School or equivalent;

Sexual harassment means any unwanted, unwelcome or uninvited behaviour or conduct of a sexual nature, which makes a person feel offended, humiliated and/or intimidated, where that reaction is reasonable in the circumstances;

Employee means anyone engaged by the University and includes all continuing, fixed-term, casual, adjunct or honorary employees, staff members or those holding University offices, or who is a member of a University committee;

Supervisor means an employee who oversees the day-to-day work of a person or group of people; including the Chair of a University committee;

Vexatious refers to an action, such as the lodgement of a grievance, that lacks substance and/or on consideration of the available evidence is deemed to have been intentionally fabricated;

Victimisation means unfair treatment of a person/s or an associate of a person/s, including subjecting or threatening to subject the person/s or an associate/s to any detriment due to their participation in making, supporting or resolving a grievance, or proposing to do so; and

Witnesses means employees, or other parties, who may have directly witnessed or observed the alleged incidents or behaviour.

PROCEDURES

There are four options available to employees to assist them in resolving grievances, these are:

- Self-management;
- Local resolution;
- Formal resolution; and
- Referral to an external agency or agencies.

If at any time an employee would like to understand their options or consider how best to approach a grievance, they should speak with their supervisor or the HR Business Partnering Unit.

While an employee may choose to follow a given option to resolve their grievance, this does not mean they are unable to pursue resolution of their grievance through other options. For example, where it has not been possible to resolve the grievance or where the seriousness of the matter escalates.

Note: The University reserves the right to act, as it deems necessary where:

- The matter warrants formal resolution methods;
- The University considers an employee's or student's health, safety or well-being is at risk;
- The University considers that misconduct or serious misconduct may have occurred; and/or
- Criminal conduct, fraud, bribery or corrupt conduct may have occurred.

Self-Management

If an employee is comfortable doing so, they should try to resolve their grievance directly with the person/s concerned as soon as possible. Grievances should be addressed, making sure to:

- Discuss the matter privately;
- Identify the specific behaviour and/or action/s that has caused offence;
- Explain the impact the behaviour has on them; and
- Request that the behaviour and/or action/s stop.

It may be that the person was unaware of the effect of their behaviour or actions. If an employee is not sure how to resolve their grievance, they may approach a member of the HR Business Partnering Unit for a confidential discussion. Diary notes of any attempts to address the grievance are recommended.

If an employee is not comfortable attempting to resolve the grievance directly with the person/s concerned, or if self-management is not successful, local and formal resolution methods are available.

Local Resolution

The local resolution process emphasises resolution rather than factual proof of a grievance. It is suited to assisting employees to resolve grievances such as interpersonal conflict and disagreements.

This process focuses on flexibility and aims to reach an outcome where parties can continue to work together in a professional and courteous manner. The length of the process may vary depending upon the nature of the grievance and the parties involved.

Employees wanting to start a local resolution process should contact their immediate supervisor. If an employee is seeking to resolve a grievance that involves their immediate supervisor, the employee should contact the next senior manager in their reporting structure. If an employee is unsure who to contact, they should speak with a member of the HR Business Partnering Unit.

Possible outcomes of local resolution may include, but are not limited to:

- The parties openly discussing the grievance and understanding each other's point of view, and obtaining a clearer understanding of the grievance;
- The establishment of agreed standards of behaviour;
- An acknowledgement and/or an apology;
- Reasonable management direction to adhere to behavioural and/or performance standards, which may include attending training; or
- Escalation to a formal resolution, which could include disciplinary action.

The supervisor handling the grievance is responsible for determining the appropriate action required to resolve the matter. Any agreed actions and associated timelines must be documented and securely stored by the supervisor and followed up with the parties involved. This will identify if further action is required.

If the employee feels that their complaint is not being adequately resolved or addressed, they may elevate the matter to a formal resolution process at any time. Once a formal process commences, the local resolution process will stop. If action items identified during the local resolution process are still considered appropriate e.g. training, mentoring, these may still proceed.

Information collected during the local resolution process may be provided to the case manager handling the formal resolution process.

Formal Resolution

Where the grievance is not resolved at a local level or is of a more serious nature, such as sexual harassment, a formal resolution may be undertaken. Employees should note that grievances of a serious nature are the responsibility of everyone to report.

Employees should make their complaint in writing or approach the HR Business Partnering Unit, who will discuss the grievance with the employee and assist them to produce a signed statement of complaint. However, a complaint does not need to be in writing for it to be investigated. Once a formal complaint is made whether written or verbal, the complaint must be addressed. It is the University's duty of care to investigate or take action particularly where there is a potential breach of any legislation, or there is potential harm to a person occurring.

Upon receipt of a formal employee grievance, a case manager will be appointed to undertake an initial review and assessment in accordance with the provision of this procedure.

The case manager may arrange to meet with the employee to undertake a formal interview and/or discuss the grievance in detail to understand the specific issues and desired outcomes. Employees should be aware that information and allegations they disclose as part of their grievance may be put to the respondent. The case manager may make the following recommendations:

- That no further action be taken as the grievance is unproven;
- The complaint is referred to local management action to address the grievance; or
- That a formal investigation take place.

Should a formal investigation be recommended, an investigating officer will be appointed. The case manager may also act as the investigating officer. The investigating officer may interview and collect statements from parties associated with the grievance, witnesses and any others who may have information relevant to the investigation. As part of the formal investigation process, it may be necessary to disclose details of the grievance to other parties including but not limited to: the respondent, identified witnesses or third parties where matters are subject to court or Fair Work Commission information requests.

The employee and the respondent will have an opportunity to contribute information during the investigation process.

It is an expectation of the University that employees participate in formal investigation processes as required and answer all questions truthfully to the best of their knowledge. If an employee is found to have deliberately withheld or provided false or misleading information appropriate disciplinary action may be taken.

Where appropriate the University may opt to appoint an external investigator, the investigator will adhere to all University policy and procedures. The Director, People and Capability is responsible for determining if it is appropriate to engage an external investigator, and for the identification and engagement of an appropriate person who holds no conflicts of interest. If the Director, People and Capability is party to the grievance, this responsibility will fall to the Director, Strategic Services and Governance.

As appropriate, risks or issues identified may be communicated to the decision maker/s along with options to consider. This may include consideration of training activities, team building, coaching, formal instructions, performance management, investigations or other formal intervention.

Possible outcomes of a formal investigation may include, but are not limited to:

- Referral to formal intervention such as performance management, or disciplinary processes in accordance with the [Enterprise Agreement](#).
- Referral to external agencies. While the University aims to resolve grievances internally, employees may seek the assistance of an outside agency at any time. Before doing so, employees are advised to check the jurisdiction and requirements of the agency.

Timeframes and Maintaining Contact

An employee wanting to make or who is lodging a formal complaint will have their request or complaint acknowledged within three (3) working days of receipt by People and Capability.

Employee grievances are often complex and multifaceted, and therefore timeframes surrounding management of the complaint may vary from case to case. However, timely responses by all parties involved are important during the grievance process.

Throughout the formal resolution process, the case manager or investigating officer will maintain regular contact with the employee, respondent and any other involved parties.

Confidentiality

At all times, all employees party to the employee grievance process including parties to the grievance, witnesses, supervisors, and People and Capability are expected to treat these matters with confidentiality, sensitivity and impartiality. Failure to do so may result in disciplinary action. Confidentiality is not guaranteed where it is required to disclose details of a grievance to other parties to assist with grievance resolution or if required by law.

The supervisor, or person receiving the staff grievance, may be obliged to report the matter to their senior manager and/or People and Capability, or the Police. If this is the case, the employee must be advised of this and the reasons for doing so. Examples may include, but are not limited to:

- Sexual harassment may be reported directly to an employee's senior manager and/or People and Capability due to the serious nature of the offence, and the potential breach of the relevant Anti-Discrimination Act, or similar legislation depending on the State or Territory where the complaint is made; and
- Sexual assault may be reported to the Police and/or an employee's senior manager due to an offence being a criminal act.

Anonymity

An employee should be aware that to address a grievance it may be necessary to disclose the identity of the employee to the respondent to ensure adherence to the principles of natural justice. As part of the initial assessment, the case manager will discuss any requests for anonymity and explore whether they are feasible.

Malicious and/or Vexatious Grievances

All grievances will be assumed to have been raised in good faith. If following initial assessment or further investigation, it is found that a grievance has been raised with malicious or vexatious intent, it may be considered misconduct and referred for further action under the [Enterprise Agreement](#).

Withdrawal of Grievance

An employee may withdraw or cease their grievance at any stage of a local or formal resolution process. To do so, the employee must notify their supervisor, or senior manager where appropriate, and People and Capability in writing.

Following receipt of a written request to withdraw or cease, the appropriate manager in consultation with the case manager will consider whether the University cease or continue the process to address the matters raised in the grievance. This may include circumstances where an employee has ceased to be employed by the University.

If the appropriate manager and case manager recommend the grievance should continue to be investigated the case manager will notify the Director, People and Capability whose responsibility it is to make the determination.

Excluded Complaints

The University has separate procedures for handling allegations of unsatisfactory performance, student and research misconduct, disciplinary processes and resolution of disputes arising out of the [Enterprise Agreement](#) or National Employment Standards. If the case manager determines the matters raised in the grievance falls into one of the above categories, the employee will be advised to forward the grievance to the person responsible for managing the matter under the relevant procedure.

ESSENTIAL SUPPORTING INFORMATION

Internal

[Charles Darwin University and Union Enterprise Agreement](#)

[Code of Conduct](#)

[Conflicts of Interest Policy](#)

[Equal Opportunity Policy](#)

[Sexual Harassment Prevention Policy](#)

External

[Age Discrimination Act 2004](#) (Commonwealth)

[Anti-Discrimination Act 1991](#) (Qld)

[Anti-Discrimination Act 1977](#) (NSW)

[Anti-Discrimination Act 1992](#) (NT)

[Anti-Discrimination Act 1998](#) (Tas)

[Australian Human Rights Commission Act 1986](#) (Commonwealth)

[Disability Discrimination Act 1992](#) (Commonwealth)

[Discrimination Act 1991 \(ACT\)](#)

[Equal Opportunity Act 1984 \(SA\)](#)

[Equal Opportunity Act 2010 \(Vic\)](#)

[Equal Opportunity Act 1984 \(WA\)](#)

[Fair Work Act \(Commonwealth\)](#)

[Information Act \(Northern Territory\)](#)

[Occupational Health and Safety Act 2004 \(Vic\)](#)

[Occupational Safety and Health Act 1984 \(WA\)](#)

[Racial Discrimination Act 1975 \(Commonwealth\)](#)

[Sex Discrimination Act 1984 \(Commonwealth\)](#)

[Work Health and Safety Act 2011 \(ACT\)](#)

[Work Health and Safety Act 2011 \(NSW\)](#)

[Work Health and Safety Act 2011 \(Qld\)](#)

[Work Health and Safety Act 2012 \(SA\)](#)

[Work Health and Safety Act 2012 \(Tas\)](#)

[Work Health and Safety \(National Uniform Legislation\) Act 2011 \(NT\)](#)

Document History and Version Control

Last amendment:	Aug 2019	Next Review:	Aug 2021
Sponsor:	Deputy Vice-Chancellor, Operations		
Contact Officer:	Director, People and Capability		

Version	Date Approved	Approved by	Brief Description
1.00	16 Nov 2005	Vice-Chancellor	Creation of original document and upload to CDU website.
1.01	12 Mar 2007	Executive Director, Corporate Services	Insert Page 7 – Grievance Panel dot point: (iii) whether the grievance is proven and make a determination based on the evidence.
1.02	08 Aug 2007	Manager, Governance	Page 1 – Under attributes insert link to Guidelines to Workplace Bullying document.
2.00	08 Jun 2011	Vice-Chancellor	Major review including changing document from Staff Grievance Process to Staff Grievance Procedures and changing appropriate template accordingly.
2.01	21 Sep 2012	Governance	<ul style="list-style-type: none"> • Conversion to current template • Inclusion of Principles for Addressing Grievance • Minor spelling and grammatical changes • Inclusion of Senior Manager • Changes Senior Deputy Vice-Chancellor to Deputy Vice-Chancellor in line with current position titles • Updated hyperlinks
2.02	24 Jul 2013	Governance	<ul style="list-style-type: none"> • Assigned document number • Updated and added hyperlinks • Minor changes to wording, grammar and formatting
3.00	07 Aug 2019	Vice-Chancellor	<p>Complete revision of document recognising role of People and Capability and following a revised four stage framework for grievance resolution.</p> <p>Title change from Staff Grievances Procedure to Employee</p>