

Students – Grievances with Staff or Other Students Procedures

INTRODUCTION

The University is committed to providing a fair, safe and productive work and study environment where grievances are dealt with in a timely, impartial and confidential manner that adheres to the principles of procedural fairness and protects against victimisation.

Subject to the exclusions set out below this procedure applies to all Charles Darwin University students with a grievance concerning:

- **Negligent or improper conduct** by University staff member/s or other University student/s;
- **Interpersonal conflict** within or related to the study environment and study activities;
- **Unlawful discrimination, harassment, sexual harassment, victimisation and bullying** by University staff member/s or University student/s;

- **Grievances related to the welfare of animals** whether for teaching or research or more generally for animals under the care of the University should be referred to the University Animal Welfare Officer and to the Executive Officer of the Animal Ethics Committee. All other grievances related to the ethical conduct of research or teaching involving animals should be referred to the Executive Officer of the Animal Ethics Committee.
- **Grievances related to the ethical conduct of research involving humans** should be referred to the Executive Officer of the Human Research Ethics Committee.
- **Student complaints concerning academic matters** are covered by the *Students - Academic Grievance Procedures*
- **Student complaints concerning administrative matters** are covered by the *Students - Administrative Complaints Procedures*
- **Complaints concerning student academic misconduct** are covered by the *Students - Breach of Academic Integrity Procedures*

These procedures exclude and do not apply to student grievances concerning:

- A decision or action of the University Council;
- A decision or action stipulated as final in any relevant University governing document made by the Vice-Chancellor or any Review or Appeal Committee; and
- Any other decision or action taken under a University governing document that, either by itself or by way of another University governing document, provides a means whereby the student can take issue with the decision or action or the means of arriving at the decision or action through another channel.

COMPLIANCE

This is a compliance requirement under the:

- [Higher Education Standards Framework \(Threshold Standards\)](#);
- [Standards for Registered Training Organisations \(RTOs\)](#); and

- [National Code of Practice for Providers of Education and Training to Overseas Students](#)

INTENT

The intention of this document is to ensure that:

- Grievances are addressed in a timely, confidential and sensitive manner, in accordance with relevant University governing documents and principles of procedural fairness;
- Grievances are resolved wherever possible by discussion, mediation and/or conciliation and at the local level in the first instance;
- Procedures are clear, consistent and transparent;
- All reasonable steps are taken to ensure confidentiality for all parties; and
- Appropriate records are maintained throughout the grievance process.

RELEVANT DEFINITIONS

In the context of this document

Bullying has the meaning ascribed to it by the [Charles Darwin University and Union Enterprise Agreement](#). For better understanding, bullying refers to persistent or ongoing behaviours directed towards an individual or group that a reasonable person, having regard to the circumstances, would find offensive, intimidating, humiliating or threatening and that potentially or actually affects health and wellbeing;

Complainant means the aggrieved student lodging the grievance;

Complaints Management System means the database maintained by the University for the recording and tracking of complaints;

Complaints Officer means a member of staff of the Office of Leadership and Organisational Culture responsible for providing information on grievances and grievance management, and for investigating and managing individual grievances as necessary;

Concern means a problem or issue that may in the first instance be resolved by discussion with the person/s most directly involved;

Conciliation means a process similar to mediation but in which the conciliator acts to recommend solutions which are presented to the parties in an attempt to achieve agreement between them to resolve the grievance;

Confidentiality means that information will only be released to those who have a legitimate ‘need to know’;

Deputy Vice-Chancellor means the member of the Senior Executive of the University who is appointed to the position of Deputy Vice-Chancellor or, in the absence of such position, the member of the Senior Executive within whose portfolio the Office of Leadership and Organisational Culture is located;

Discrimination has the meaning given to it under the [Anti-Discrimination Act 1992](#);

Frivolous refers to an issue that is determined to be so minor, trifling or of such slight importance that it does not warrant the lodging of a grievance;

Governance document means a formally approved document that outlines non-discretionary governing principles and intentions, in order to guide University practice. Governance documents are formal

statements of intent that mandate principles or standards that apply to the University's governance or operations or to the practice and conduct of its staff members and students they include the Charles Darwin University Act (2003), by-laws, policies, procedures, guidelines, rules, codes and the Enterprise Agreement;

Investigator means an impartial person appointed by the Office of Leadership and Organisational Culture who will be directed to investigate a formal grievance;

Mediation means a process through which a neutral third party (the mediator) provides procedural assistance to help individuals or groups to identify the grievance, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of the resolution. A mediator may be a University staff member or a person from an external organisation;

Procedural Fairness (also called "natural justice") means the basic principles considered central to fair decision making and which can be summarised as follows:

- The opportunity for all parties to be heard;
- The respondent having full knowledge of the nature and substance of the grievance;
- The right to an independent, unbiased decision maker; and
- A decision based solely on the evidence provided;

Respondent means the individual, group of individuals or organisational unit of the University against whom the grievance has been lodged;

Serious Nature means any grievance alleging unlawful discrimination, harassment, sexual harassment, victimisation and/or bullying or, any acts of a criminal nature;

Sexual Harassment has the meaning ascribed to it under the [Anti-Discrimination Act 1992](#). For a better understanding, sexual harassment is a particular form of discrimination. It involves sexual solicitation, physical advances, or verbal or non-verbal conduct that is sexual in nature, occurring in connection with professional activities or roles that are either unwelcome, offensive, create a hostile workplace or learning environment, or are sufficiently severe or intense to be perceived as harassment to a reasonable person in the context. Sexual harassment can consist of a single intense or severe act or multiple persistent or pervasive acts;

Staff member means anyone employed by the University and includes all continuing, fixed-term, casual, adjunct or honorary staff or those holding University offices or who are a member of a University committee;

Support Person means a person asked by the complainant or respondent to attend any resolution sessions (such as discussion, mediation, conciliation) to offer encouragement and aid. The support person may not be a practising solicitor or barrister. In the case of mediation or conciliation, the support person will take no active role in the session. The other party must be made aware, prior to the session, that a support person will be attending;

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; and

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, as a consequence of their participation in making, supporting or resolving a grievance, or proposing to do so.

PROCEDURES

External Organisations

Grievances may also be lodged with external agencies at any time, subject to the procedures of the particular organisation. It should be noted that students may be required to follow the relevant University policy or procedures before the external agency will accept the complaint. Examples of external organisations include:

- [Office of the Northern Territory Ombudsman](#);
- [Commonwealth Ombudsman](#) (for International Students only);
- [Northern Territory Anti Discrimination Commission](#) ;
- [Office of the Commissioner for Public Interest Disclosures](#) (Whistleblowers Protection); and
- [Australian Human Rights Commission](#).

When a matter is referred to an external agency for investigation any action initiated under this Procedure will be suspended until the external agency's investigation is complete. Such internal action may not be re-activated if the recourse to the external agency is unsuccessful.

Where a matter is potentially of a criminal nature, it should be referred to the relevant law enforcement agency and the Director, Office of Human Resource Services or the Executive Director, Corporate Services should be notified.

Misuse of the Grievance Procedures

Lodging a grievance under these procedures is a serious matter with potentially serious consequences for those involved. Students who use this procedure to make frivolous or vexatious complaints, or who lie or deliberately mislead in connection with a grievance, may be considered to have committed misconduct and may be subject to disciplinary procedures in accordance with the University's [Charles Darwin University \(Student Conduct By-laws\)](#).

Victimisation

Victimisation of the complainant, the respondent or any other person with a legitimate involvement in the grievance procedure is not acceptable and any person/s who participates in or aids victimisation may be considered to have committed misconduct or serious misconduct and may be subject to disciplinary procedures.

Retention of Documentation

Confidential records relating to student grievances will be maintained by the Complaints Management Unit and be kept separate from student academic records. Files will be disposed of according to the University's Records Disposal Schedule.

Three Step Process

These Procedures consist of 3 steps, as outlined below:

- Step 1 - Concern: where the complainant, in conjunction (if desired) with a support person, attempts to address the grievance directly with the respondent and/or a relevant Head of School;
- Step 2 – Complaint: where the grievance is lodged with and investigated by the University; and

- Step 3– Appeal: where, upon request and within certain guidelines, the grievance decision is reviewed by the Student Grievance Appeals Committee.

All parties may seek guidance at any time from the Complaints Officer, Complaints Management Unit.

Step 1 Concern

Discussion

Wherever possible, the University encourages grievances to be resolved informally, locally, and in a timely manner. Delay may adversely affect the capacity of the grievance to be satisfactorily resolved. The complainant is encouraged to discuss the grievance with a support person at the earliest possible time with a view to:

- Assessing whether a genuine grievance exists;
- Gathering relevant information and evidence available and preparing a clear statement of the nature of the grievance;
- Assessing the most appropriate means of resolution, which may be via discussion, or arranging mediation or conciliation; and
- Canvassing mutually agreeable outcomes.

Subject to the clause below, the complainant is expected, initially, to seek to resolve the grievance directly with the respondent or by approach to the relevant Head of School. If the complainant wishes, he or she can involve his or her support person in this process.

Notwithstanding the above, if the grievance is of a “serious nature” as defined in this document, the complainant, whether with or without a support person, is not required to seek to resolve the grievance directly with the respondent personally, although he or she may choose to do so.

The complainant is nevertheless encouraged to seek to resolve the grievance informally by approach to the relevant Head of School. If the complainant is not comfortable approaching the Head of School in respect of a grievance of a “serious nature”, he or she may proceed to Step 2 and lodge a Complaint.

In contacting the respondent (and/or the Head of School), the complainant (and/or the complainant’s support person) will seek to explain the nature of the grievance and the desire to resolve it informally in a mutually satisfactory way, which may include discussion, mediation or conciliation. If practicable, the parties will proceed with such informal means resolving the grievance to their mutual satisfaction.

REMINDER: The Complaints Officer from the Complaints Management Unit is available for guidance during any stage of this grievance procedure.

Identification of the complainant to the respondent will usually facilitate informal resolution of grievances. However, there may be cases where the complainant declines to disclose his or her identity or, a support person or Head of School may form the view that identification of the complainant may adversely affect the complainant.

In these circumstances, attempts to resolve the grievance informally without disclosing the identity of the complainant will proceed to a point at which the support person or the Head of School concludes that it is no longer possible to proceed towards an informal resolution without divulging the complainant’s identity. The support person or the Head of School will inform the complainant of this view and the reasons for holding it. If the complainant agrees for his or her identity to be disclosed, then attempts to reach an informal resolution will continue. If the complainant does not agree to the disclosure of their identity to the respondent, then attempts to reach an informal resolution will immediately cease.

If it appears that a resolution of the grievance has been reached informally and to the mutual satisfaction of the parties, and if this has occurred with the involvement of a person other than just the complainant and respondent themselves (e.g. Head of School, mediator, conciliator, support person/s), then that additional person must contact each of the complainant and respondent in writing (which may be by email), summarising the grievance, discussion and mutually agreed resolution; inviting each party to confirm in writing their understanding that the grievance has been resolved as indicated; and informing each party that if they do not agree that the grievance has been resolved, then the complainant will be entitled to proceed with the grievance in a formal manner by lodging it with Complaints Management Unit in accordance with

Complaint.

The additional person will ensure that copies of this correspondence, including the responses, if any, from the parties are provided to Complaints Management Unit for entry into the Complaints Management System.

Where a grievance has been resolved through informal means as part of Step 1 - Concern, limited information, (which does not include names or personal details), including the general nature of the concern, involvement of, if applicable, any external parties, and the general outcome, will be entered into in the Complaints Management System for statistical purposes and to assist the University in its ongoing efforts to improve services.

Where a grievance is not able to be resolved through informal means as part of Step 1 - Concern, in particular if the complainant is of the view that his or her grievance has not been satisfactorily resolved, he or she may seek resolution of the grievance through Step 2 – Complaint. Documentation as per these procedures will be entered into the Complaints Management System along with the notation that the grievance has been escalated to a complaint.

STEP 2 – Complaint

Except in the case of a grievance of a “serious nature”, the option of pursuing a complaint will not normally arise until resolution of the grievance under Step 1 - Concern has been attempted without success.

A complaint commences by the complainant lodging it with Complaints Management Unit, normally via the electronic Complaints Management System. The complaint should be lodged in a timely fashion having regard to the conduct or incident complained of and the progress of the process that occurred under Step 1 - Concern. Delay in lodging a complaint may adversely affect the capacity of the grievance to be proceeded with and/or satisfactorily resolved.

Once the complaint is lodged, Complaints Management Unit will promptly acknowledge lodgement via an email to the complainant, and action to investigate the complaint should normally commence within five (5) working days.

Thereafter, the grievance will be progressed in a timely manner having regard to the need to observe the principles of procedural fairness, to obtain and take account of all relevant evidence and documentation, and to keep accurate and reliable records. Complaints Management Unit will, initially within 20 working days and thereafter at least fortnightly, ensure that the complainant is kept informed of the status of the investigation. Acknowledgment and status reports may be provided by way of the electronic Complaints Management System and the access available to the complainant under it.

If a complaint is lodged anonymously, or if the complainant declines to have his or her identity disclosed to the respondent, the complainant will, if practicable, be informed that the requirement for the principles of

procedural fairness to be observed will prevent any adverse finding or inference from being made against the respondent, and the capacity for the grievance to be investigated and/or effectively resolved is likely to be severely curtailed.

If at any point it is determined that a grievance investigation cannot proceed due to anonymity or the complainant declining to have his or her identity disclosed, the complainant will, if practicable, be informed that the investigation will cease. If the complainant does not consent to having his or her identity disclosed, no further action will be taken on the grievance.

Complaints Management Unit will assign an investigator to investigate the complaint. Where it appears necessary or desirable, for example in the case of an actual or perceived conflict of interest, Complaints Management Unit may appoint an investigator from outside Complaints Management Unit or, in exceptional circumstances, from outside the University.

The investigator will investigate the complaint, and in doing so will comply with the principles of procedural fairness. The investigator will:

- Inform the respondent of the allegations being made in relation to his or her behaviour, including specifying the exact behaviour that constitutes the cause of the grievance;
- Give both complainant and respondent the opportunity to be heard in the way that each wishes, either by interview or by written submission; and
- Gather, including where appropriate by interview, such information, documentation or other evidence, from any relevant source that has direct bearing upon the grievance and will assist in conducting a thorough and fair investigation of the complaint.

The investigator will compile a report containing the following:

- A summary of the grievance and the investigation, including the allegations, responses and other relevant evidence;
- The investigator's view as to whether or not the grievance is justified;
- The investigator's recommendations as to how the grievance might best be resolved, which may include:
 - Dismissing the grievance if it is unjustified;
 - Counselling one or both parties;
 - Arranging for mediation or conciliation of the grievance;
 - That one or both parties take specified action, for example, issue and accept an apology, or undertake a training or development program; or
 - That no further action be taken.
- The investigator's view as to whether the grievance was frivolous or vexatious, or whether the complainant lied or deliberately misled in connection with a grievance; and
- The investigator's view as to whether there is sufficient reason to recommend that the procedures in the [Charles Darwin University and Union Enterprise Agreement](#) (If involving staff) governing misconduct or serious misconduct or the Student Conduct By-laws governing misconduct or serious misconduct ought to be invoked in respect of the original or subsequent behaviour of either the complainant or the respondent.

The investigator will provide his or her report to the complainant, the respondent and the Deputy Vice-Chancellor.

Following receipt of the report, the Deputy Vice-Chancellor will:

- Take appropriate action;

- Notify in writing both the complainant and the respondent, providing reasons for the action taken or proposed to be taken; and
- Inform both parties of the opportunity to appeal in accordance with the provisions of Step 3 - Appeal of these procedures.

If, as a result of the action taken by the Deputy Vice-Chancellor, a process of mediation or conciliation of the grievance is subsequently undertaken, and if it appears that a resolution of the grievance has been reached as a result, then the mediator or conciliator must contact the complainant and respondent in writing (which may be by email), summarising the grievance, discussion and mutually agreed resolution; inviting each party to confirm in writing their understanding that the grievance has been resolved as indicated; and if either party advises that they do not agree that the grievance has been resolved, then the matter will be referred back to the Deputy Vice-Chancellor for further action.

The mediator or conciliator will ensure that copies of the correspondence, including the responses, if any, from the parties are provided to Complaints Management Unit.

If the matter is referred back to the Deputy Vice-Chancellor, he or she will take such further appropriate action as deemed fit; notify in writing the complainant and respondent, including reasons; and again inform both parties of the opportunity to appeal in accordance with the provisions of Step 3 – Appeal, of these procedures.

A copy of all relevant documentation will be submitted to Complaints Management Unit for entry into the Complaints Management System.

STEP 3 – Appeal

Either the complainant or respondent may appeal the action taken by the Deputy Vice-Chancellor, such appeal to be lodged within twenty (20) working days of formal notice of the outcome. The only grounds of appeal that may be asserted are:

- Procedural fairness was not followed; and/or
- There was substantial departure from the these procedures; and/or
- New information and/or evidence has become available that was not reasonably available prior to the provision of the investigator’s report to the Deputy Vice-Chancellor.

Complaints Management Unit will organise a meeting of the University Student Grievance Appeals Committee within twenty (20) working days of a valid appeal being lodged. The committee will be appointed by the Vice-Chancellor and will consist of:

- A person nominated by the complainant;
- A person nominated by the respondent; and
- An independent Chair selected by the Vice-Chancellor.

No person who has been directly involved in any part of the grievance or who has any conflict of interest or other interest in the outcome of the appeal will be eligible to serve on the Student Grievance Appeals Committee.

The Student Grievance Appeals Committee will:

- Interview or seek submissions from any person that it believes appropriate;
- Review new information and/or evidence that has been properly provided;
- Review all existing documentation and seek any necessary clarification; and

- Request any further information it may find helpful to support its deliberations.

The Student Grievance Appeals Committee may;

- Uphold the original action; or
- Take such other action as it deems appropriate, including substituting different action for that originally taken by the Deputy Vice-Chancellor; referring the matter back to the Deputy Vice-Chancellor for re-consideration; or referring the matter back to Complaints Management Unit for new or further investigation;

The complainant and the respondent will be notified in writing of the outcome of the appeal, including reasons.

The decision of the Student Grievance Appeals Committee is the final step in the Student Grievance with Staff or other Students Procedures.

A copy of all relevant documentation will be submitted to Complaints Management Unit for entry into the Complaints Management System.

ESSENTIAL SUPPORTING INFORMATION

Internal

[CDU and Union Enterprise Agreement](#)

[Code of Conduct](#)

[Equal Opportunity Policy](#)

Executive Officer of the Animal Ethics Committee. (CDU)

Executive Officer of the Human Research Ethics Committee. (CDU)

[Students - Academic Grievance Procedures](#)

[Students - Administrative Complaints Procedures](#)

[Students - Breach of Academic Integrity Procedures](#)

[Student Conduct By-laws.](#)

External

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

[Australian Human Rights Commission](#)

[Commonwealth Ombudsman](#) (for International Students only)

[Northern Territory Anti-Discrimination Commission](#)

[Office of the Commissioner for Public Interest Disclosures](#) (Whistleblowers Protection)

Document History and Version Control

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Contact Officer:	Director, Strategic Services and Governance		

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1.00	20 Sep 2008	Vice-Chancellor	Creation of original document and upload to CDU website.
2.00	8 Jun 2011	Vice-Chancellor	Major review of document including converting from process to new procedure template. Previous titled Student Grievances with Staff Process.
2.01	14 May 2013	Governance	<ul style="list-style-type: none"> • Addition of definition for staff • Updated and added hyperlinks • Removed references to NT Manager and Senior Deputy Vice-Chancellor
2.02	5 Aug 2013	Governance	<ul style="list-style-type: none"> • Assigned document number • Added definition for governing documents • Converted to current template • Updated and add hyperlinks • Minor changes to wording, grammar and formatting
2.03	15 Dec 2017	Governance	<ul style="list-style-type: none"> • Conversion to new template due to new University branding • Updated definitions • Updated hyperlinks • Updated Contact Officer to Director, Strategic Service and Governance • Amended OLOC to Complaints Management Unit