

STAFF COMPLAINT RESOLUTION PROCEDURE

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OVERVIEW

The University of Adelaide does not tolerate or condone unlawful and/or unfair treatment. This procedure aims to remove barriers to reporting complaints and encourages open dialogue to resolve complaints. It provides guidance to staff and prescribes methods by which staff are empowered to report unlawful and unfair treatment, act on, seek support for, and resolve complaints that may otherwise impact adversely on interpersonal relationships, staff health and welfare, work environment and productivity.

Complaints can have a significant effect on individual staff and the morale and productivity of the environment in which they work. The University is committed to providing a work environment which is aligned with the [Code of Conduct](#) and our values of Honesty, Respect, Fairness, Discovery and Excellence and is safe, productive, and enables staff to achieve their goals and contribute fully to the achievement of the University's strategic objectives.

This procedure constitutes the Staff Complaints Procedure named in clause 8.4 of the [University of Adelaide Enterprise Agreement](#), and is related to the [Behaviour and Conduct Policy](#).

SCOPE AND APPLICATION

This procedure applies to the conduct of all University of Adelaide staff whilst engaging in [University related conduct](#) both on-site at University facilities and off-site.

It encompasses complaints relating to unfair treatment including unlawful discrimination, harassment, [victimisation](#) and bullying, interpersonal conflict, and matters impacting on the staff member's ability to work effectively or productively, except where those matters are dealt with in accordance with another policy or procedure, or as otherwise set out below.

This procedure does not apply to:

- Any matters relating to sexual misconduct. These matters are dealt with under the [Sexual Misconduct Policy](#) and [Sexual Misconduct Response Procedure](#)
- Reasonable management action and/or management decisions taken in a reasonable manner
- Any complaints that arise under a University policy or procedure where a staff member has the right to request a review under the provisions of clause 8.3 of the Enterprise Agreement

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- Disputes about the interpretation, application, or operation of the Enterprise Agreement to which the dispute settlement procedures detailed in clause 8.5 of the Enterprise Agreement apply
- Complaints by or about students. Student grievances are managed under the [Student Grievance Resolution Process](#), whilst student reports of inappropriate, concerning or threatening behaviour are made via the [Safer Campus Community website](#)
- Complaints raised by or about titleholders, visitors, or contractors, or any other member of the [University community](#)
- Complaints related to the procedure for applying for academic promotion and the promotion of academic staff
- Anonymous complaints can be made to the University. The University may be limited in the action it can take and the support that can be provided to the individual based upon the details provided.
- A serious matter as defined in the next section which must be handled under an alternative process.

Serious matters that are handled under an alternative process

If a complaint is raised that is so serious that it could amount to misconduct, serious misconduct, fraud, corruption, criminal or unlawful conduct, or a breach of the Australian Code for the Responsible Conduct of Research:

- The person to whom the complaint is raised will consult the Integrity Unit or their [HR Advisor](#) who will provide information to them and the complainant about alternative processes which may include reporting the matter to the police
- The matter must be referred for further action by the University, for example under the disciplinary procedures for misconduct and serious misconduct in accordance with clause 8.2 of the Enterprise Agreement or the [Research Misconduct Procedure](#) or the [Fraud and Corruption Control Policy](#)
- The [University](#) must inform the [complainant](#) of the intended course of action. The complainant may be called upon to provide information to an investigation undertaken under an alternative process
- Any University process commenced may be paused whilst an investigation is undertaken by an external agency and may be resumed at the conclusion of the external process.

Where a staff member reasonably suspects a matter to involve corruption or serious or systemic misconduct or maladministration in public administration by a member of the University community, they are obligated under the [Ombudsman Act](#) (1972) to report the matter to the [Office for Public Integrity \(OPI\) or Ombudsman](#).

Staff disclosing wrongdoing including [public interest disclosures](#) may be protected under the [Public Interest Disclosure Act 2018 \(SA\)](#). Protected disclosures will be managed under the University's [Whistleblower Policy](#).

PRINCIPLES

The following principles outline the University's approach to staff complaints:

- The University encourages staff to raise complaints without fear of reprisal and will take appropriate action to protect staff from [victimisation](#) and/or disadvantage.
- A member of the University community must not victimise or subject another person to detrimental action as a consequence of that person making a report, providing information about a report, supporting another person who has made a report, or as a result of them engaging in safe and reasonable bystander intervention.

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- Matters raised under this procedure will be treated sensitively, confidentially (where appropriate), and impartially, and the parties will be afforded the principles of [procedural fairness](#).
- Parties to the complaint are required to maintain confidentiality and should not discuss the complaint with staff or students, except where necessary to:
 - Provide information to their [supervisor](#) or investigator
 - Respond in an investigation
 - Participate in the complaint resolution process.
- If a complaint raised under this procedure is found to be [vexatious, malicious, or frivolous](#) it will be referred to the Executive Director, Human Resources (or delegate). The University may take action against the complainant under clause 8.2 of the **Enterprise Agreement** which could result in disciplinary action, up to and including termination of employment.
- Where possible complaints should be raised as soon as possible.
- The University is committed to effectively managing all complaints and updating the parties to a complaint in a timely manner.
- The University may take [direct action](#) to investigate a matter or report criminal or unlawful conduct.
- Staff are encouraged to seek assistance whether procedural or personal is needed when raising a complaint by contacting the Integrity Unit or their [HR Advisor](#).
- Where both parties agree on a complaint resolution process including [mediation](#), they are expected to actively participate in that process in good faith.
- Parties to a complaint may have a [support person](#) present at any stage of the process.
- Staff may access confidential counselling services through the University's [Employee Assistance Program \(EAP\)](#).
- Staff may seek assistance from and/or lodge a complaint through an external agency at any time. A process under this procedure may pause if an external agency is engaged to resolve the complaint. A complaint process under this procedure may be paused during an external agency investigation by the Police, the Office of Public Integrity (OPI) or other relevant authority and may be resumed at the conclusion of the external process.
- A staff member may withdraw a complaint raised under this procedure at any time by notifying the person to whom they made their complaint initially, whether their supervisor, HR Advisor, or the Integrity Unit.

PROCEDURES

Staff members can resolve their complaints through one of three complaint resolution pathways:

- Self-resolution – Self-resolution allows complainants to bring a complaint to the attention of the respondent directly and attempt to resolve the issue themselves if they feel comfortable to do so.
- Assisted resolution - A supported complaint resolution process through which the complainant seeks the assistance of another party to help resolve their complaint. Assistance in resolving complaints may be provided by the staff member's supervisor, or their supervisor's supervisor (if the complaint is with their supervisor), a HR Advisor and/or external mediator.
- Formal complaint resolution - A formal complaint resolution process may be used to resolve complaints where Self-resolution and/or Assisted resolution is unsuccessful, on the recommendation of the supervisor or HR, or on receipt of a written complaint. It is the supervisor's responsibility to manage a formal complaint, or if the complaint is about the supervisor, the supervisor's supervisor.

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More information on these pathways can be provided by their HR Advisor or the Integrity Unit.

1.1. Self-Resolution

[Self-resolution](#) allows [complainants](#) to bring a complaint to the attention of the [respondent](#) directly and attempt to resolve the issue themselves if they feel comfortable to do so.

[Complainants](#) should keep an open mind and focus on a positive outcome. Prior to attempting [self-resolution](#), [complainants](#) are encouraged to seek support and/or confidential advice from the Integrity Unit or their [HR Advisor](#) to enable them to approach the matter in the best possible way with the [respondent](#).

In attempting to resolve the complaint with the respondent, the [complainant](#) should:

- Explain the conduct/issue that has caused the problem and why they feel aggrieved
- Ask the [respondent](#) to stop the behaviour that has caused the complaint
- Provide the respondent with an opportunity to respond
- Listen to and try to understand the respondent's point of view
- Explore options for resolution with the [respondent](#), and
- Attempt to mutually agree a resolution to the complaint with the [respondent](#).

1.2. Assisted Resolution

[Assisted resolution](#) allows the complainant to seek the assistance of another party to help resolve their complaint. This assistance may be provided by the complainant's supervisor, HR Advisor, and/or an external mediator. If the complaint is against their [supervisor](#), the complainant can approach their [supervisor's supervisor](#).

[Assisted resolution](#) is an appropriate method of resolution if:

- The [complainant](#) is not willing or does not feel able to attempt [self-resolution](#)
- The complainant's attempt to resolve the issue themselves was unsuccessful
- The [respondent](#) was unwilling to participate in the complainant's attempt at [self-resolution](#)

The [complainant](#) should consider what resolution they seek, and tell the [supervisor](#) what they want to happen to resolve their complaint.

The [supervisor](#) will assess the facts and any evidence presented to them by the complainant and discuss the proposed resolution with the complainant to identify the best approach to resolve the complaint.

The [supervisor](#) will then attempt to resolve the complaint by:

- Explaining to the [respondent](#) the conduct or issue that has caused the problem or aggrieved the [complainant](#)
- Providing the [respondent](#) with an opportunity to consider the information and respond to or provide an explanation in reply
- Trying to understand and consider the differing points of view of both the [complainant](#) and [respondent](#).

In attempting to facilitate resolution of a complaint a [supervisor](#) may:

- Present options to resolve the issue with the respondent and complainant either separately or together, and record how the complaint has been resolved
- Recommend to the respondent that they modify or cease the behaviour which has aggrieved the complainant, or direct the respondent to modify or cease the behaviour if it's reasonable to do so
- In conjunction with their HR Advisor, they may determine that the complaint is not appropriate for an informal process and request the complainant to put the complaint in writing so that a [formal complaint resolution process](#) can occur

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- Close the matter if it's deemed to be [ill-founded](#), there is insufficient detail or evidence to proceed, or there is no reasonable expectation of a satisfactory resolution
- Refer the matter to an alternative process as referred to in earlier in this procedure
- When closing a complaint, the supervisor must do so in writing to all relevant parties.

The [supervisor](#) must document the process including the initial complaint, any discussions, agreement between the parties, directions made, or [interventions](#) taken and should monitor the resolution to prevent recurrence. This should be forwarded to their HR Advisor to be stored on file.

1.3. Complaints Which Proceed to a Formal Process

For a complaint to be investigated under a formal process it should be detailed in writing. This can be done via email directly to the complainant's supervisor or HR Advisor or using the Integrity Unit's e-form.

Complainants can seek guidance or support in lodging a complaint from their supervisor, [HR Advisor](#), or the [Integrity Unit](#) prior to lodging a formal complaint or at any point in the process.

The [supervisor](#), [HR Advisor](#), or the [Integrity Unit](#) may recommend and/or the [complainant](#) may request that the complaint be addressed formally where:

- The complaint remains unresolved following either self-resolution, assisted resolution, or both; or there has been an unwillingness to resolve the complaint by either party
- The complaint has not yet been raised as a formal complaint
- The [supervisor](#) decides that the complaint requires further investigation.

1.4. Formal Complaint Lodgment

The lodgement of a formal complaint is required to be in writing and should include:

- Any relevant information and evidence to allow for effective [management](#) of the complaint; and
- Sufficient detail to describe how the complainant wants to resolve the complaint.

On receipt of a formal complaint, the [supervisor or the Integrity Unit](#) will inform their [HR Advisor](#) and forward a copy of the complaint to HR to enable the complaint management process.

The [supervisor](#), [HR Advisor](#), or [Integrity Unit](#) will advise the staff member about:

- Their responsibilities for [confidentiality](#)
- The relevant steps in the formal complaint resolution process
- The timeliness of the process.

1.5. Formal Complaint Initial Assessment

When presented with a complaint that has not yet been assessed, the supervisor (in consultation with their [HR Advisor](#)) will make an [initial assessment](#) of the complaint to determine if the matter warrants further enquiry and to decide if a formal investigation process should be conducted.

After concluding their initial assessment, if the [supervisor \(in consultation with their HR Advisor\)](#) is satisfied that the complaint is well-founded but does not require further investigation, they may seek to resolve the matter with the parties and may:

- Advise the complainant of their recommendation for resolution of the complaint
- Provide the respondent with details of the complaint raised and the proposed resolution
- Provide the respondent with a reasonable opportunity to respond and provide relevant information and/or evidence
- Implement an appropriate intervention which may include [mediation](#) with an external mediator, attending training and/or coaching, or an alternative complaint resolution process.

The complaint will be resolved if the complainant agrees to the proposed resolution in which case the complaint will be closed. The [supervisor](#) will provide a copy of all relevant documentation relating to the complaint to the [HR Advisor](#) for record keeping.

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If the [supervisor](#) identifies serious matters that may amount to an allegation of misconduct, serious misconduct, research misconduct, fraud, or illegal activity during the initial assessment they will:

- Refer the matter for misconduct investigation or to other relevant University processes
- Notify the complainant of the decision to refer the matter for investigation under the University's misconduct or other process
- Close the complaint.

1.6. Formal Complaint Investigation

Following their [initial assessment](#), if the [supervisor](#) decides that the complaint is not capable of resolution without further investigation, with advice from their HR Advisor, they will recommend to the Area Manager via the Head of School/Branch that an [investigator](#) be appointed.

The Area Manager will consider the recommendation with advice from Human Resources, to determine whether an investigator should be appointed, and if so, select and appoint an investigator.

The [investigator](#) will conduct a fact-finding investigation providing [procedural fairness](#) and will pursue all reasonable and relevant lines of inquiry including but not limited to:

- Conducting an interview with the complainant to clarify the facts and identify the complainant's preferred resolution for the complaint
- Collecting relevant evidence and information about the complaint
- Providing the respondent with details of the complaint and a reasonable opportunity to respond to the complaint and/or provide relevant information
- Conducting interviews with witnesses as required

Any person interviewed under this procedure may be accompanied by a [support person](#).

The [investigator](#) will determine the facts pertaining to the complaint and whether on the [balance of probability](#), the complaint is substantiated either in full or in part, basing their assessment on both the information provided by the complainant and evidence gathered in the course of the investigation.

At the conclusion of the investigation, the investigator will provide Human Resources with a written report in accordance with clause 4.7. This will then be provided to the supervisor. The report will not be provided to the complainant or respondent.

1.7. Formal Complaint Determination following Investigation

In determining the outcome of a formal complaint following the investigation, the supervisor will:

- Together with Human Resources consider the report findings and recommendations and determine the preferred approach to resolve the complaint.
- Write to the complainant and respondent detailing the investigation's findings along with their determination and the proposed complaint resolution actions.
- Provide the complainant and respondent with an opportunity to respond and/or to agree to the proposed complaint resolution within a reasonable timeframe.
- Consider the responses of the parties prior to determining the outcome of the complaint and/or implementing any complaint resolution process.

If the parties do not respond within the stated timeframe, the proposed actions to determine or resolve the complaint will proceed.

The [supervisor](#) will then forward a copy of all relevant documentation to the [HR Advisor](#) for record keeping.

If the complaint is not substantiated or is [ill-founded](#), on receipt of the report the [supervisor](#) will:

- Notify the parties of the finding of the investigation
- Close the complaint
- Forward a copy of the relevant documentation to the [HR Advisor](#) for record keeping.

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If the complaint is found to be [vexatious, malicious, or frivolous](#), the [supervisor](#) will provide a copy of the report and relevant documentation to the Executive Director, Human Resources (or delegate) and the complainant may be subject to disciplinary action.

1.8. Formal Complaint Close-Out Actions

At the conclusion of a complaint resolution process the [supervisor](#) will take all reasonable steps to ensure that:

- The proposed complaint resolution action/s have been taken
- There has been no recurrence of the issue that was the subject of the complaint (if relevant)
- The parties have been advised that the matter is closed
- The [HR Advisor](#) is provided with a copy of the correspondence for record keeping.

1.9. Record Keeping

Records of complaints will be maintained confidentially and stored centrally and securely by Human Resources. Where required for external reporting purposes, data will be de-identified to protect the identities of the parties to the complaint unless required by law.

1.10. Review

A review of the resolution of a staff complaint is only available in relation to academic workload allocation complaints under clause 5.4.6.2 of the Enterprise Agreement.

To apply for a review of a complaint resolution about academic workload allocation, the staff member must submit a written application to the Deputy Vice-Chancellor/Vice President which meets the requirements set out in clause 8.3.12 of the Enterprise Agreement.

DEFINITIONS

Area Manager means a Deputy Vice-Chancellor & Vice President, Pro Vice-Chancellor, Executive Dean, the Executive Director, Human Resources, (and a person acting in those positions) and Institute Directors.

Balance of Probability

A civil law standard of proof which requires that, on the weight of evidence, it is more probable than not that the matter/events about which the complaint was raised did occur.

Direct Action

The action that the University takes when it becomes aware of matters that are serious and it is compelled to take direct action. The investigation of serious matters, including criminal or unlawful conduct does not require a complaint to be raised for the University to take direct action.

Frivolous

Frivolous complaints are those that have no basis in fact.

Ill-Founded Complaints

A complaint which lacks substance, or for which there is insufficient detail or evidence to proceed, or where there is no reasonable expectation of a satisfactory resolution. When it is established that a complaint is ill-founded, the complaint will be closed with no further action taken.

Interventions

An intervention is any action taken to resolve a complaint and prevent recurrence and may include mediation, training, coaching and any other complaint resolution process nominated by the supervisor.

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Investigator

A suitably skilled/qualified person who is nominated to conduct an investigation of a complaint. An investigator may be a staff member of the University who works in a different work area to the complainant and respondent who is at least HEO8 or Level D and does not have a personal interest in the complaint. Alternately, on advice from HR the supervisor may nominate a suitably experienced external investigator.

Malicious

A malicious complaint is unfounded and is made with the intent of causing harm to another party/parties.

Mediation

Mediation is an effective dispute resolution method and is a voluntary and confidential process to resolve complaints. A neutral third party (the mediator) assists the parties to the complaint to find common ground and reach an agreement or a way forward to resolve the complaint. Mediation is voluntary, and to be successful, all parties to the mediation must be willing to fully participate.

Procedural Fairness

Procedural fairness is also referred to as natural justice and is the procedural requirement to ensure that a standard of fairness is applied in the investigation and adjudication of a complaint. This involves:

- Fully informing the respondent of the complaint and any allegations made against them
- Giving the parties to the complaint a reasonable opportunity to state their case, provide an explanation, or put forward their viewpoint
- Conducting a proper investigation of the complaint, ensuring all parties are heard and that all relevant submissions are considered, with reasons given for any decision
- Acting fairly, impartially, and without bias.

Public Interest Disclosure

A complaint relating to corrupt conduct, fraud, maladministration or misconduct, which allows a complainant to make a confidential disclosure under the Public Interest Disclosure Act 2018 (SA).

Public Officer

The University is a public authority under the Ombudsman Act (1972) (SA). The Act identifies staff of the University of Adelaide as Public Officers. A public officer is obligated to report corruption and serious or systemic misconduct or maladministration in public administration to the Office of Public Integrity (OPI). Public officers can also be the subject of a complaint or report to the OPI and can be investigated by the Commissioner. The University's Legal team are able to advise on reporting obligations under the Act.

Support Person

A support person means an individual who provides emotional support and can be called upon to attend meetings with a complainant or respondent but may not advocate, act, or speak on behalf of the complainant or respondent. More information can be found [here](#).

University Community

Refers to students, staff, titleholders, volunteers, visitors, and contractors.

University Related Conduct

This means any conduct that occurs:

- i. at or in connection with any University function, activity or event (whether in person, online or otherwise), including conferences, workshops, camps, field trips, inter-university events, and other social functions; or
- ii. when a person is representing the University in any capacity; or
- iii. during, or in connection with, the performance of duties for the University; or

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- iv. using, or is facilitated by, University ICT resources or other equipment referred to in the IT Acceptable Use and Security Policy; or
- v. on, or in connection with any University owned, managed, affiliated or branded student accommodation. This includes Aquinas College, Lincoln College, St Ann's College, St Mark's College, Kathleen Lumley College and Scape; or
- vi. at or in connection with any activity or event organised by the Adelaide University Union (YouX), Adelaide University Sport, or their affiliated organisations or clubs; or
- vii. during or in connection with students' clinical, practicum, internship or work experience placements, or while a student is participating in University approved study at another institution.

Vexatious

A vexatious complaint is one without reasonable or probable cause or excuse; harassing; annoying; instituted maliciously or on the basis of improper motives; intended to harass or annoy.

Victimisation

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.

RELATED DOCUMENTS AND POLICIES

[Complaint Resolution flow-chart](#)

[Complaint Resolution Information](#)

[Sexual Misconduct Policy](#)

[Sexual Misconduct Response Procedure](#)

[Bringing a Representative/ Support Person Information Sheet](#)

WEB LINKS

[HR Advisory](#)

[Legal and Risk website](#)

[Employee Assistance Program \(EAP\)](#)

[Complaints Resolution webpage](#)

[Safer Campus Community website](#)

[Student Grievance Resolution Process website](#)

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