



Employment Equity and Diversity Unit

PROCEDURES FOR INVESTIGATING GRIEVANCES

Date approved	17 August 2007	Date Procedure will take effect:	17 August 2007	Date of Next Review:	December 2010
Approved by:	University Council				
Custodian title & e-mail address:	Director, Employment Equity and Diversity lwright@uow.edu.au				
Responsible Division:	EED Unit				
Supporting documents, procedures & forms of this Procedure:	Grievance Policy Student Complaints Website				
References & Legislation:	Anti-Discrimination Act, 1977 (NSW) Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth) Disability Discrimination Act, 1992 (Commonwealth) Conflict of Interest Policy University Of Wollongong (Academic Staff) Enterprise Agreement 2005 University Of Wollongong (General Staff) Enterprise Agreement 2005 University Code of Conduct Client Service and Complaints Handling Policy Code of Practice – Teaching and Assessment				
Audience:	Public – accessible to anyone				
Expiry date:	Not Applicable				



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1 Introduction / Background

1. These procedures supersede Grievance Resolution Procedures and include Guidelines They should be read in conjunction with the Grievance Policy.

2 Scope / Purpose

1. Grievances can vary in the level of seriousness from less serious to serious, including unlawful behaviour. These Procedures provide practical guidance for investigating, referral and where feasible resolution of grievances under the Grievance Policy.
2. It is generally presumed that the investigation of a grievance will lead to some outcome. Once a grievance is established it is not generally acceptable for the outcome to be “do nothing”.

3 Definitions

1. Refer to section 2 of the Grievance Policy for all definitions relating to grievance investigation.

4 Investigating a Less Serious Grievance

1. The method of investigation can vary according to the circumstances of the specific grievance. For less serious matters between a student and staff member or two staff members, investigation strategies might include an informal, verbal investigation by meeting both parties, and documenting only the outcome.
2. The following steps provide a basic outline of the steps to follow to investigate and where feasible resolve a grievance:
 - a. listen to the complainant and provide advice on options available to the complainant, including providing advice on managing the grievance themselves;
 - b. maintain the confidentiality of proceedings;
 - c. consider the wishes of the complainant wherever possible, but this may not include taking no action where duty of care requirements need to be considered;
 - d. respond seriously and impartially and deal with it promptly;
 - e. advise the complainant and respondent of the responsibilities of all parties as outlined in the Grievance Policy;
 - f. seek a response to the allegations from the respondent;
 - g. provide copies of relevant policies and procedures;
 - h. ask the complainant:
 - i. What other avenues they have explored to try and resolve the matter,
 - ii. What action they are requesting,
 - iii. What expectations they have for an outcome.
 - i. examine the grievance and the response;
 - j. pursue any questions and speak to other relevant parties;
 - k. evaluate any relevant documents and information and consider mitigating factors;
 - l. seek advice from a more senior manager of a specialist unit if unsure (see section 7 of the Grievance Policy);
 - m. propose a resolution, where appropriate, with input from the complainant and respondent; and
 - n. implement or facilitate the implementation of the resolution.



3. Where a resolution cannot be agreed, alternate strategies will be discussed in order to bring closure to the matter.

5 Investigating a Serious Grievance, Including Unlawful Behaviour

1. Refer to Section 5 of the Grievance Policy before commencing the investigation of a serious grievance or unlawful behaviour. You may need to refer the matter to the relevant specialist unit. The most appropriate investigator will be assigned to the investigation, particularly where the behaviour may be considered criminal.
2. In addition to the basic steps outlined in clause 4.2, investigators will need to:
 - a. seek and examine all documents and information relevant to the grievance;
 - b. provide the respondent with a copy of any written complaint or list of issues to be answered by the respondent;
 - c. interview parties relevant to the grievance;
 - d. evaluate the persuasiveness of the information and findings;
 - e. apply the correct standard of proof (i.e. The degree to which the contested facts are established in order to be accepted as proved. In civil proceedings - on the balance of probabilities and in criminal trials, beyond reasonable doubt);
 - f. seek relevant documentation; and
 - g. keep accurate notes of meetings.
3. A complaint should not be dismissed solely on the grounds that no one else saw or heard the incident occur.
4. The investigator will provide a detailed report to the Vice-Chancellor setting out evidence, facts and mitigating circumstances.
5. The Vice-Chancellor will make a decision as to the appropriate course of action.
6. The complainant and respondent will be advised of the course of action.

6 Appropriate Timeframe for an Investigation

1. The grievance investigator shall commence the investigation within ten working days of the complainant requesting an investigation.
2. At the outset, the grievance investigator should determine likely timeframes with both the complainant and respondent, and should advise both parties if any variation is necessary during the course of investigating the grievance.
3. As a general rule, grievances should be handled and resolved as quickly as possible. It would normally be realistic to resolve a grievance within eight weeks. Grievances of greater complexity or requiring a more formal approach will take longer.

7 Managing Grievance Outcomes

1. Once the investigation has been conducted, appropriate resolutions to the grievance should be considered.
2. Wherever possible, a resolution should allow work or study to continue productively and harmoniously, and enable essential relationships to be restored, preserved, and enhanced. Appropriate outcomes should be discussed with the parties in the course of an investigation.
3. If any allegations have been made and are substantiated, the wishes of the complainant, and any mitigating circumstances that contributed to the respondent's actions, may be taken into account.
4. Appropriate outcomes might include:
 - a. a requirement that the complainant receives an apology and/or the issue complained of is addressed or the behaviour modified;



- b. a requirement that the respondent undertake training or development;
 - c. measures to address any potential workplace or classroom repercussions;
 - d. where the complainant agrees, seeking resolution through mediation by an agreed, trained professional;
 - e. counselling, with a trained counsellor, including external counsellors, for complainant and/or respondent;
 - f. establishing a monitoring period to assess progress of the strategies undertaken; or
 - g. disciplinary action. In which case the matter would be referred to the appropriate discipline procedure.
5. If the allegations are not substantiated, the wishes of the respondent may be taken into account in determining an appropriate resolution. Appropriate outcomes might include:
 - a. the complainant is provided with feedback to gain a better understanding of the situation so that his/her concerns are addressed; and
 - b. measures to restore the work or study relationship such as facilitation or mediation by an agreed, trained professional.
6. If the allegations cannot be proved or disproved, appropriate outcomes might include:
 - a. advice to both parties that no further action is required;
 - b. training and development for both parties;
 - c. measures to restore the work or study relationship such as facilitation or mediation by an agreed, trained professional;
 - d. negotiation of "behaviour agreements" setting out how the parties will, or will not, behave towards each other in future and what will happen if this does not occur; and
 - e. establish a monitoring period to assess progress of the strategies undertaken.
7. During the investigation, if systemic issues are identified which involve UOW policies, requirements or practices, the grievance outcomes can include recommendations to address those issues. These recommendations should be submitted to the appropriate unit for consideration.
8. Depending on the formality of the investigation, recommendations for appropriate outcomes should be set out in the investigation report, and/or summarised in writing for both parties.
9. If the grievance remains unresolved, in certain circumstances and depending on the nature of the grievance, the matter may be taken to an external agency. (See section 8 for external agencies)

8 Related Documents and Resources

EO Online - discrimination, harassment and grievance handling information

1. Grounds of discrimination and harassment:
 - http://eonline.uow.edu.au/1_aust_grounds.html
2. What is discrimination:
 - http://eonline.uow.edu.au/1_discrim_intro.html
3. Harassment, bullying, inappropriate relationships:
 - http://eonline.uow.edu.au/1_harass_intro.html
4. Information for complainants:
 - http://eonline.uow.edu.au/1_making_intro.html
5. Reasonable adjustment for people with disabilities:



- http://eonline.uow.edu.au/2_reas_intro.html
- 6. Reasonable adjustment for people with carers' responsibilities:
- http://eonline.uow.edu.au/2_reas_carer1_nsw.html
- 7. Grievance handling:
- http://eonline.uow.edu.au/2_griev_intro.html

Direct links to external agencies

- 8. NSW Ombudsman
- <http://www.ombo.nsw.gov.au/>
- 9. Human Rights and Equal Opportunity Commission
- <http://www.hreoc.gov.au/>
- 10. NSW Anti-Discrimination Board
- <http://www.lawlink.nsw.gov.au/adb>
- 11. WorkCover NSW
- <http://www.workcover.nsw.gov.au/default.htm>

9 Roles & Responsibilities

Not Available.

10 Version Control Table

Version Control	Date Released	Approved By	Amendment
1	17 August 2007	University Council	New procedures developed to accompany new Grievance Policy and supersede Grievance Resolution Procedures.
2	10 October 2007	Policy & Governance Unit	Minor typographical correction to section 1, 2 and 3.
3	6 May 2009	Vice Principal (Administration)	Migrated to UOW Procedure Template as per Policy Directory Refresh
4	9 March 2010	Director, Employment Equity and Diversity	Future review date identified in accordance with Standard on UOW Policy



Appendix 1: Guidelines

University Grievance Advisor

1. The University Grievance Advisor (UGA) is defined in the Grievance Policy as a staff member, appointed by the Vice-Chancellor, who is not a line manager, and has the appropriate mediation and conciliation skills to provide initial advice and assistance to staff with a grievance.
2. They may act as a mediator where a matter is referred by another party under this policy and where they determine mediation is an appropriate course of action.

Role of the UGA

3. The UGA may be the first point of contact for staff with a grievance who is seeking advice. The UGA may:
 - provide advice on how to use the Grievance Policy and Procedures
 - provide suggestions on how to manage a grievance
 - facilitate conciliation where requested and if appropriate
 - offer mediation where both parties agree
 - refer serious matters to the most appropriate specialist unit (refer to section 5.9 of the Grievance Policy for serious grievances)

Note: the UGA may not provide legal advice or take on an advocacy role.

Mediation

4. It is appropriate to mediate when:
 - parties agree
 - there is some common ground
 - there is a desire to resolve issues
 - the matter is not considered a serious grievance (refer to section 5.9 of the Grievance Policy for serious grievances)
 - facts are not the overriding issue
 - ongoing relationship is necessary
5. It is not appropriate to mediate when:
 - parties do not agree
 - hostility, fear or anger dominates the process
 - disciplinary action is required/warranted
 - it is inconsistent with procedures for the matter being dealt with.