



Employment Equity and Diversity Unit

GRIEVANCE POLICY

Date approved:	17 August 2007	Date Policy will take effect:	17 August 2007	Date of Next Review:	December 2010
Approved by	University Council				
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Author	Director, Employment, Equity and Diversity Unit				
Responsible Faculty/ Division & Unit	Employment, Equity and Diversity Unit				
Supporting documents, procedures & forms of this policy	Procedures for Investigating Grievances Records Management Policy Privacy Policy				
References & Legislation	Anti-Discrimination Act, 1977 (NSW) Human Rights and Equal Opportunity Commission Act, 1986 (Commonwealth) Disability Discrimination Act, 1992 (Commonwealth) University Code of Conduct Conflict of Interest Policy				
Audience	Public – available to anyone				
Expiry date of Policy	Not Applicable				



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1 Purpose of Policy

1. The purpose of this document is to set out the University of Wollongong's (UOW's) policy on resolving grievances. This policy is to be used in conjunction with the Procedures for Investigating Grievances.
2. UOW is committed to providing a safe, harmonious, supportive and productive environment for its students and staff – free from unfair treatment, discrimination, harassment, vilification, bullying and conflict.
3. The emphasis is on resolving problems as close as possible to the source, and directing complaints to the most appropriate resolution mechanism for a specific grievance.
4. 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”.

2 Definitions

1. The following definitions apply each time the listed word appears in this document.

Word/Term	Definition
Bullying	Any unfair or unreasonable behaviour by an individual or group that belittles, scares, intimidates or offends to the extent that it could put someone's health, safety or welfare at risk, including their psychological or emotional health, noting that ALL violent behaviour which is not self-defence is regarded as unacceptable.
Complainant	A student or staff member who has lodged, or is considering lodging, a grievance or complaint.
Discrimination	Treating someone unfairly or differently because of – their sex, pregnancy, race (including colour, ethnicity and descent), disability, sexual preference, religion, transgender, carer's responsibilities, marital status, social origin, political belief, employee association activity, irrelevant criminal record or age. Discrimination also includes treating someone the same as someone else, but where the result of doing this unreasonably disadvantages substantially more people of that person's sex, race, disability, etc.
Discrimination - Direct	When someone is treated unfairly compared to someone else in the same or similar circumstances, and this is because of their sex, pregnancy, race, age, marital status, homosexuality, disability, transgender status or carers' responsibilities. For example, if an employer won't hire someone just because they are a woman this is likely to be direct sex discrimination.
Discrimination - Indirect	When a requirement (or rule) that is the same for everyone but has an effect or result that is unequal and unreasonable having regard to the circumstances. For example, an employer who says that they need a person over 180 cm tall to do a certain job could be indirectly discriminating against women and some ethnic groups, who are less likely to be this height than men or people from other ethnic groups. Where there is a genuine occupational requirement, discrimination does not apply.



Grievance	Concerns or complaints about unfair treatment, discrimination, harassment, vilification and/or bullying which are not otherwise managed under a separate review, appeal, resolution or complaint procedure.
Grievance: less serious	Matters which are considered less serious are those which are not unlawful but should be addressed and resolved to avoid escalation.
Grievance: serious	Matters which are considered serious include sexual harassment, assault, unlawful behaviour and those contrary to the University's codes and rules.
Harassment	Unwelcome behaviour that makes a person feel belittled, intimidated, offended or apprehensive, and that a reasonable person, taking into account all the circumstances, would expect to cause offence, intimidation or apprehension.
Investigator	A person with the delegated authority to investigate grievances.
Mediation	A process that facilitates dispute resolution in which someone who has professional mediation skills (usually called a mediator) helps the aggrieved parties reach a joint agreement that suits everyone concerned. He/she is neutral, does not influence the outcome, and helps parties to consider all possible solutions.
Misconduct	A grievance potentially regarded as falling under the scope of disciplinary procedures under the student misconduct policy, the relevant staff misconduct procedures or the staff member's employment agreement.
Respondent	A staff member whose action or behaviour is complained about in a grievance.
Specialist units	Professional Units within the University which have defined responsibilities in relation to grievances: Employment Equity and Diversity, Human Resources Division, Occupational Health & Safety Unit, Dean of Students, Academic Registrar's Division, PVC (Research), Research and Innovation Division, Vice-Principal (Administration), Security.
Staff	An employee, honorary or visiting appointee or the holder of a University office or a member of a University committee
Student	A person registered for a course
University grievance advisor	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. 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.
Unlawful	An action in relation to matters prohibited by law



Vexatious	An action or the action of a person that is brought forward without sufficient grounds purely to cause annoyance or harm to another person or persons
Victimisation	Any retaliatory action towards a complainant, witness or any other person involved in the resolution of a complaint or grievance
Vilification	Anything that happens publicly that could encourage hatred, serious contempt or severe ridicule of a person or group of people, because of their race, ethno-religion, homosexuality, transgender or HIV or AIDS status

3 Application, Scope & Exclusions

1. This policy applies to staff and students who have a grievance about unfair treatment, discrimination, harassment, victimisation, vilification and/or bullying.
2. Matters excluded from being dealt with under this policy are:
 - a. all student matters outside those listed in 3.1;
 - b. staff misconduct and unsatisfactory performance;
 - c. privacy;
 - d. protected disclosure;
 - e. Freedom of Information;
 - f. corrupt conduct and maladministration;
 - g. staff recruitment, appointment, conversion, reclassification, probation, promotion and conditions of employment for staff;
 - h. application, implementation or interpretation of the [University's Enterprise Agreement](#), Australian Workplace Agreement, and other conditions of employment;
 - i. occupational health and safety, workers compensation; or
 - j. IT use
3. This policy cannot be used for a concern or complaint where there already exists a separate University review, appeal or complaint procedure in one of the areas listed in clause 3.2.
4. If a concern or complaint has already been reviewed under another University procedure as outlined in clause 3.3, it will not normally be reviewed under this policy.
5. Where a matter has been reported to the Police or ICAC or other external agencies the University will not commence or will cease actions under this policy.
6. Where a student or staff member has lodged a complaint with an external agency such as NSW Anti-Discrimination Board, Privacy NSW, Human Rights Equal Opportunity Commission or the NSW Ombudsman, the University will not commence or will cease actions under this policy.

4 Policy Principles

General Principles of Grievance Resolution

1. The prime objective of the University's Grievance Policy is to achieve a resolution of a grievance in the context of the following principles:



- 1.1. Grievances shall be handled within an appropriate time frame (see Section 6 Procedures for Investigating Grievances) and will be treated sensitively and impartially, having due regard to procedural fairness;
- 1.2. Resolution of the grievance shall be as close as possible to the source, unless it is serious, unlawful or not practical;
- 1.3. It is expected that all parties involved will approach proceedings with a desire to resolve the grievance cooperatively and in good faith;
- 1.4. Individuals shall not victimise or harass other parties involved in the matter;
- 1.5. Confidentiality shall be strictly observed by all participants and at all stages of the grievance procedure; and
- 1.6. Complainants and respondents will be informed of the outcomes.

Principles of Procedural Fairness and Natural Justice

2. UOW recognises that all those who study or work at the University have the legal and ethical right to:
 - a. raise any concern or complaint related to unfair treatment, discrimination, harassment, vilification, bullying and other such issues;
 - b. have that concern, problem, complaint or grievance dealt with confidentially, fairly, effectively and within an appropriate timeframe (see Procedures for Investigating Grievances);
 - c. have the support of another person throughout the grievance process:
 - i. for students: a family member, another student or a staff member, student representative, or
 - ii. for staff: a family member, a staff member or staff representative; and
 - d. make a request as to the gender of the investigator where appropriate.
3. Grievance investigators shall observe the rules of natural justice in any action taken in relation to a complaint. This includes:
 - a. informing all parties of the procedure being followed and providing them with copies of relevant policies and guidelines;
 - b. explaining to the complainant that the requirements of procedural fairness mean that their identity must be disclosed to the respondent;
 - c. informing the respondent of any allegation made against them, and allowing time for a response;
 - d. providing the respondent with the opportunity to state their case, providing an explanation or putting forward a defence;
 - e. conducting a factual investigation of the allegation, interviewing all parties and considering all relevant information; and
 - f. acting fairly, impartially and without bias by considering all relevant information and any mitigating factors.

Conflict of Interest

4. Where it can be demonstrated that there is a conflict of interest or the potential for a perceived conflict of interest:
 - a. a grievance investigator should refer the matter immediately to an alternative investigator or the next level of management; and



- b. a complainant or respondent may request an alternate investigator.

Consult the University's Conflict of Interest Policy for more information.

5 Policy Statement

1. The University has a duty of care to staff and students to resolve grievances promptly and with the minimum of distress. The University has a legal responsibility for resolving equity related grievances alleging unlawful behaviour.
2. For the purpose of managing grievances, complaints are distinguished by their level of seriousness. Where there is doubt as to the level of seriousness advice should be sought from the manager of the most appropriate specialist unit (see Section 7) or the nominated University grievance advisor.

Less Serious Grievances

3. Matters which are considered less serious are those which are not unlawful but should be addressed and resolved to avoid repetition or escalation.
4. Wherever possible and practical the grievance should be handled as close as possible to the source.
5. For students, the lowest appropriate level to deal with the complaint about a staff member is the Head of the Unit or Department, Associate Dean or Sub-Dean.
6. Strategies for staff to resolve less serious grievances without escalating the matter to a supervisor or manager:
 - 6.1. It may be appropriate for the complainant and respondent to deal with the matter themselves;
 - 6.2. The complainant and respondent may seek advice and/or mediation from a nominated University grievance advisor;
 - 6.3. The complainant and respondent may request access to an external mediator via the EED Unit.
7. If the staff member is not comfortable dealing with the complaint themselves then it is usually referred to the supervisor, or if the grievance concerns them, the supervisor's manager.
8. Students and staff may raise matters directly with the relevant specialist unit at any time. (See Section 7)

Serious Grievances including Unlawful Behaviour

9. Matters which are considered serious or unlawful, may include but are not limited to, sexual harassment, all matters covered by the grounds of anti-discrimination laws, assault and those contrary to the University's codes and rules.
10. Grievances of a serious nature or those that allege unlawful behaviour must be referred directly to the appropriate specialist unit. (see Section 7)
11. Repetition of a less serious behaviour, dealt with by one or more investigators or specialist units, may lead to the matter being dealt with as a serious grievance.
12. The specialist unit may report apparent or suspected unlawful behaviour to the Police.
13. The specialist unit will advise the complainant about internal and external options.
14. Grievances of a serious nature would normally be submitted in writing by the complainant.
15. If warranted the specialist unit will liaise with the most appropriate senior executive to decide a course of action and where necessary make recommendations to the appropriate senior executive or Vice-Chancellor about how the matter should be handled.



16. The Senior Executive or Vice-Chancellor will determine the most appropriate process in the specific circumstances, and may appoint one or more investigators to conduct a formal investigation and submit a report to the Vice-Chancellor.
17. During the course of the investigation if the investigator is of the view that the grievance has substance, and circumstances warrant, they may refer the matter to the Vice-Chancellor. The Vice-Chancellor may invoke the University's disciplinary procedures. This may result in disciplinary action against the respondent such as formal warnings or, in the most serious cases dismissal.

6 Roles & Responsibilities

1. The management of serious grievances has been delegated to the Dean of Students for student matters and the Director, Employment Equity and Diversity for staff matters.

Student Grievances within the Scope of this Policy

2. Faculty Officers, Lecturers, Subject and Course Co-ordinators, Heads of Professional Units, (Library, Student Services, ITS, Accommodation Services, Facilities Management Division) Deans, Associate Deans and Sub-Deans, Heads of Department and Student Residence Managers are responsible for:
 - a. resolving those grievances from students that fall into their area of responsibility and decision making authority;
 - b. referring grievances to the next level of management or to a specialist unit if they have insufficient authority to implement a resolution; and
 - c. assisting complainants to identify the most appropriate resolution mechanism and referring the grievance to that person or process.
3. Casual academic employees should direct students to the next level of authority when a grievance is brought to their attention.

Staff Grievances

4. Staff with supervisory responsibility are responsible for:
 - a. attempting to resolve grievances from their staff that fall into their area of responsibility and decision making authority;
 - b. referring grievances to the next level of management if they have insufficient authority to implement a resolution; and
 - c. identifying the appropriate resolution mechanism and, where necessary, referring grievances to that process.

7 Specific Responsibilities of Specialist Units

1. Specialist Units can be contacted for advice on how to manage a grievance at a local level. Serious grievances may need to be handled by the Specialist Unit. Unlawful behaviour should always be referred to the Specialist Unit.
 - 1.1. The Employment Equity and Diversity Unit is responsible for matters related to discrimination, unfair victimisation, bullying and harassment.
 - 1.2. Human Resources Division manages: University staffing policies and procedures and employee entitlements; staff consultations and resolutions of disputes relating to employment; reportable conduct involving children or young people under 18.
 - 1.3. The Occupational Health and Safety Unit is responsible for workers compensation claims including those for psychological injury arising from allegations of discrimination,



harassment, performance management and interpersonal conflict, and grievances regarding safety of work conditions.

- 1.4. The Dean of Students is the students' ombudsman and will deal with grievances unresolved by the Faculty, Professional Units, including Accommodation Services.
- 1.5. The Academic Registrar's Division is responsible for student discipline.
- 1.6. The Pro Vice-Chancellor (Research) is responsible for investigating research misconduct.
- 1.7. The Research and Innovation Division manages acts and omissions of UOW staff or committees which affect the academic experience of higher degree students.
- 1.8. The Vice-Principal (Administration) is responsible for matters relating to maladministration, corruption, criminal offence and serious waste.
- 1.9. The Manager Security and Security Supervisor provide support to complainants, and where appropriate respondents, and witnesses on campus where a grievance investigator identifies a risk to personal safety, or a complainant respondent or witness perceives a potential risk to their personal safety arising from or connected with the complaint or involvement in a complaint.

8 Requirements of Confidentiality

1. Maintaining strict confidentiality gives all parties confidence in the procedure, minimises the disruption caused by gossip and rumour, can prevent escalation of the situation and/or possible victimisation, and can minimise the risk of defamation claims.
2. It is important that the investigators of a grievance comply with the University's Privacy Policy and inform all parties of their responsibilities in relation to confidentiality:
 - 2.1. Complainants - grievances should be discussed only with grievance investigators, support person, and with medical practitioners or counsellors who are bound by confidentiality codes. Complainants should be advised that, after lodgement of a grievance, discussion of the matter with any other person is inappropriate and not in their best interests because it may leave them open to defamation actions as well as unduly complicating the matter.
 - 2.2. Respondents – grievances should be discussed only with grievance investigators, with their support person, and with medical practitioners or counsellors who are bound by confidentiality codes.
 - 2.3. Investigators - should obtain the consent of the complainant before disclosing their identity to others, with the exception of the respondent, unless UOW's duty of care or other obligations may be compromised if action is not taken. Investigators may discuss the matter in the context of getting advice from specialist staff.
 - 2.4. Staff with supervisory responsibility - should take steps to manage situations where confidentiality has been breached. For example, where a whole workgroup or class is aware of the existence of a grievance between two colleagues, and/or where there is gossip and innuendo circulating in the group in relation to the matter, the senior manager should immediately intervene in an attempt to ensure that all discussion of the matter ceases.

9 Keeping Records

1. Records and documents created in the course of investigating the grievance should be stored in accordance with the Records Management Policy.
2. Records pertaining to less serious grievances should be stored locally at the level at which they were handled, for example, faculty or unit level.



3. Records pertaining to serious grievances and those alleging unlawful behaviour will be kept in accordance with relevant legislation, agreements and policies.

10 Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	17 August 2007	University Council	New policy developed to supersede Grievance Resolution Procedures.
2	6 May 2009	Vice-Principal (Administration)	Migrated to UOW Policy Template as per Policy Directory Refresh
3	9 March 2010	Vice-Principal (Administration)	Future review date identified in accordance with Standard on UOW Policy
4	26 August 2010	Vice-Principal (Administration)	Updated to reflect divisional name change from Personnel Services to Human Resources Division
5	28 February 2011	University Council	References updated to reflect the rescission of the Code of Practice - Students
6	16 January 2012	Vice-Principal (Administration)	Updated to reflect divisional name change from Buildings and Grounds to Facilities Management Division