

Complaints Procedure - Workplace

Section 1 - Purpose

(1) This procedure establishes informal and formal procedures for handling concerns and complaints made by staff about workplace issues at Charles Sturt University (the University).

Scope

(2) This procedure applies to grievances and complaints (both formal and informal) made by University employees in relation to employment-related matters, as well as complaints raised against University employees.

Section 2 - Policy

(3) This procedure supports the [Complaints Management Policy](#).

Section 3 - Procedures

Part A - Workplace concerns and complaints

(4) A workplace concern or complaint is a clear communication by a member of staff of a work-related issue, concern, dispute or grievance, including those involving:

- a. the interpretation and application of any policies or procedures governing human resources, including the allocation of work, job design, performance management and matters related to flexible work practices where the specific dispute resolution process within the [Enterprise Agreement \(EA\)](#) is not applicable
- b. a workplace communication or interpersonal conflict
- c. a work health and safety issue
- d. an allegation of bullying, discrimination, harassment, or vilification - a complaint of this type may represent an allegation of serious misconduct and will be managed under the appropriate [EA](#) clause, relevant policies or employment contract, and/or
- e. a question, dispute or difficulty concerning the interpretation, application or operation of policies or agreements where the specific dispute resolution process within the [EA](#) is not applicable.

(5) This procedure will not apply to workplace concerns:

- a. arising from an application for promotion through a University promotion committee made under procedure, which are addressed under the [Academic Promotion Policy](#) and [Academic Promotion Procedure](#)
- b. for which an application to resolve a dispute is being dealt with under the provisions of the Workers Compensation Commission
- c. arising from a decision by the University with respect to an access to information application, which are addressed under the provisions of the [Government Information \(Public Access\) Act 2009](#)
- d. regarding corruption, maladministration, fraud or serious waste, which are addressed under the [Public Interest](#)

[Disclosure \(Whistleblowing\) Policy](#)

- e. arising from the commencement of procedures under the unsatisfactory performance provisions of the [EA](#) or employment contract
- f. arising from a decision that is subject to review or appeal under another rule, policy or procedure of the University
- g. falling under a rule, policy or procedure for which a complaints procedure is prescribed, or
- h. arising from decisions of the University Council or Academic Senate.

(6) Feedback from staff about the administrative and academic programs and services offered by the University, given in the spirit of continuous quality improvement, will not be viewed as a complaint.

(7) The University recognises that participation in a complaints process can be uncomfortable. The health, safety and wellbeing of all participants are important in this process and the University will apply this process in a manner which reduces health, safety and wellbeing risks.

Part B - Complaints management process

Informal resolutions

(8) Staff are encouraged to try to resolve their workplace concern(s) informally unless they believe serious misconduct or a breach of the law has occurred.

(9) Informal resolution of concerns at the local level can often be the most effective way of dealing with many issues.

(10) While the approach outlined below is informal, concerns raised in this manner will be taken seriously and appropriate action taken.

(11) The informal procedures involve the following steps.

Step 1. Try to sort it out directly with the person involved.

(12) If possible, explain to the person(s) the substance of your concern. For example, where the matter relates to interpersonal issues, explain to the person that you find their behaviour unacceptable or offensive. Often, people do not mean to do things that hurt or offend others; however, this does not mean their behaviour is acceptable. Explaining this can give them a chance to stop or to change what they are doing.

Step 2. Seek assistance

(13) Ask for help if you feel that you cannot approach the person yourself, or if this approach doesn't work. You can seek assistance from your supervisor or, if this is not appropriate, other senior staff in your organisational unit, the Division of People and Culture (e.g. Business Partnering or Equity, Diversity and Inclusion), or Division of Safety, Security and Wellbeing (e.g. Associate Director, Health, Safety and Wellbeing), who can offer information on the process. Alternatively, approach any other supervisor or manager to attempt to identify and explore available options.

Step 3. Facilitating a mutual understanding

(14) If the workplace concern is not resolved by this stage, those involved may agree to either participate in a facilitative conversation and/or mediation, or proceed to the formal procedure in order to reach a mutual understanding or resolution of the issues.

(15) If mediation is unsuccessful, formal procedures can be followed to achieve resolution.

(16) As a guide, every effort should be made to resolve the workplace concern raised through the informal procedures

within two weeks.

Formal procedures

(17) Commencement of the formal procedure should only take place if the workplace concern could not be resolved using the informal procedure, the matter involves serious misconduct or a breach of the law, or the Division of People and Culture (DPC) considers it appropriate to do so.

(18) The formal procedures involve the following steps.

Step 1: Lodge a formal complaint

(19) The staff member raising the complaint (complainant) should notify either:

- a. their immediate supervisor or, if the concern is about the immediate supervisor, that officer's immediate supervisor
- b. another leader in the organisational unit or work area
- c. a DPC staff member (such as Business Partnering, Equity, Diversity and Inclusion), or
- d. as otherwise set out on the [DPC Complaints website](#).

(20) A formal complaint must be in writing and include the substance of the workplace concern. For example:

- a. the alleged specific conduct which the complaint relates to
- b. when the alleged specific conduct is said to have occurred (or an approximation)
- c. why, in the opinion of the complainant, the alleged conduct is inappropriate
- d. the outcome the complainant is seeking, and
- e. where the concern relates to a named person or persons, for reasons of procedural fairness, the subject(s) of the complaint must be identified by name.

(21) The person to whom the complaint has been made (complaint recipient) must notify DPC of the receipt of the complaint. DPC will advise whether the complaint should be managed by DPC, the complaint recipient or other appropriate person. Where the concern affects the health, safety or wellbeing of an individual, Division of Safety, Security and Wellbeing (DSSW) must also be notified either directly or via the Safety Reporting system.

(22) If an informal attempt to resolve the matter has not been made, such an approach may be suggested at this stage.

Anonymous complaints

(23) The University will generally not act on anonymous complaints unless the issues raised are serious and sufficient information is provided to warrant further inquiry into the allegations. Where an anonymous complaint involves:

- a. allegations of corruption, maladministration or serious waste of public money, the complaint recipient should immediately refer the matter to an authorised disclosure officer under the University's [Public Interest Disclosure \(Whistleblowing\) Policy](#), or
- b. alleged child abuse or other serious criminal conduct, the complaint recipient must immediately refer the matter to the Director, Security and Resilience (CSO) to be dealt with in accordance with the general legal obligations of the University.

(24) A complainant who agrees to waive anonymity in their complaint agrees and acknowledges the University will manage the complaint under the [Complaints Management Policy](#) and this procedure. This means the complaint will be managed in accordance with the rules of procedural fairness. The identity of the complainant and the substance of the

complaint may be disclosed to the subject(s) of the complaint for the purpose of the University managing the complaint.

(25) Where a complainant does not identify themselves or agree to waive their anonymity, the University may not be able to investigate or comply with its obligations for procedural fairness.

Step 2: Investigation

(26) The complaint manager (as agreed with DPC, see clause 21) will commence an investigation of the matter and, where appropriate, make determinations or recommendations to those involved in the matter for its resolution.

(27) The investigation will ordinarily involve:

- a. formally interviewing the complainant to ascertain or clarify relevant details of the complaint as well as obtain relevant evidence
- b. providing the named subject(s) of the complaint (the respondent(s)) with a copy of the complaint or precis and any relevant documentation or evidence submitted by the complainant
- c. providing the complainant and respondent(s) with information about how the complaint will be investigated and the support services available to them (such as the [Employee Assistance Program](#))
- d. requesting the respondent(s) to provide a formal written response
- e. formally interviewing or obtaining statements from people (witnesses) who can help ascertain the facts (including from people with technical skills relevant to the complaint)
- f. obtaining documentation or other forms of evidence that are considered necessary, and
- g. identifying options for the resolution of the matter and, where appropriate, discussing these with those involved.

(28) If the complaint concerns a policy or procedure, for example, the investigation may consist of the complaint manager writing to the officer responsible for the policy or procedure, setting out the concerns and seeking a response.

(29) The University may formally direct a staff member to participate in a University investigation or to provide documentation or other evidence considered relevant to the investigation.

(30) Any staff member or individual who formally participates in a University investigation or is directed to participate in a University investigation must:

- a. answer all questions honestly
- b. provide complete answers, that is, not intentionally leave out information or fail to provide documents or evidence
- c. provide relevant documents or evidence as requested
- d. make themselves available to participate in the University investigation, and
- e. maintain confidentiality of the existence of the University investigation and the nature and details of their discussions with the University about the investigation. The confidentiality obligation extends to the staff member or individual involved in the University investigation not discussing the investigation or any parts thereof with other individuals.

(31) Staff who participate in an investigation may request to have a support person during any formal process. DPC may deny this request if the requested support person is involved or otherwise conflicted with the process.

(32) Any conduct of a staff member that is inconsistent with this procedure or the [Complaints Management Policy](#) may be regarded as misconduct or serious misconduct and may be managed under those processes.

Step 3: Making recommendations and determinations

(33) The complaint manager will consider the findings of the investigation and, as appropriate, make recommendations or determinations about appropriate outcomes.

(34) Outcomes will vary depending on the circumstances, the seriousness of the matter, and relevant compliance obligations. Although the complaint manager may consider any specific outcomes sought by the complainant, the University cannot guarantee these.

(35) Possible outcomes include, but are not limited to:

- a. parties to the complaint gaining a better understanding of the situation
- b. one or more of the parties being directed to take action(s) that the complaint manager views as appropriate for resolution of the concerns
- c. an apology from the respondent(s) to the complainant and a commitment to avoid similar conduct in the future
- d. recommendations to organisational units, policy owners or other relevant parties on changes to work practices, etc. that the complaint manager views as appropriate for resolution of the concerns
- e. where an investigation has occurred and no findings of fact has been made, the complainant may be counselled with regard to the [Complaints Management Policy](#) and relevant procedures. If applicable or necessary, this may also be managed under the [Complaints Management Procedure - Unreasonable Complainant Conduct](#), and/or
- f. recommendations for disciplinary action and/or escalation as serious misconduct under the [Enterprise Agreement](#) or other employment contracts.

(36) Except for matters referred for disciplinary action or as serious misconduct, proposed recommendations and directives may be discussed with the complainant, respondents and other involved parties, to allow them to provide comments or objections. Where this occurs, comments and objections will generally be required in writing and within five working days.

Step 4: Final decision

(37) After considering any comments or objections raised by those involved, the complaint manager will make a decision on the workplace concern, the outcomes and any actions that may be taken by those involved.

(38) The decision will be communicated in writing to those involved.

(39) A decision by a complaint manager constitutes a management direction. A failure to follow a management direction may constitute misconduct.

Step 5: Monitoring and evaluation

(40) Parties to the complaint will continue to monitor the environment under which the concern or dispute occurred until directives and/or any accepted recommendations have been implemented and evaluated.

(41) Feedback on the process may be sought from the parties to identify where any improvements can be made to the complaints management process.

Part C - Specific complaint advice and alternate processes

Serious misconduct

(42) Where, at any time during the handling of a workplace concern, it appears that the matter may involve serious misconduct, the matter must be referred to the Executive Director, People and Culture who will determine if the definition of serious misconduct is applicable and the management of the issue is transferred to the Division of People

and Culture.

Corruption, maladministration or waste

(43) If the matter involves any form of corrupt conduct, maladministration or serious waste, the officer handling the matter must seek advice from the disclosure coordinator (see the [Public Interest Disclosure \(Whistleblowing\) Procedure](#)). If the concerns appear to raise substantive issues, the complaint must be dealt with under the [Public Interest Disclosure \(Whistleblowing\) Procedure](#).

Criminal conduct

(44) If a matter involves evidence of criminal conduct, the University may refer the matter to the police or an appropriate agency. Where the University receives evidence of matters that must be reported under child protection laws, the manager or supervisor receiving the complaint will immediately report such matters in accordance with the University's legal obligations. Staff should consult with the Director, Security and Resilience (CSO) on allegations of this type.

Victimisation

(45) Any person handling a complaint should be aware that fear of victimisation prevents many people from either lodging a complaint in the first instance or participating in a University investigation as a witness. All efforts should be taken to ensure that victimisation does not occur for individuals formally involved in a University investigation. Victimisation may be dealt with under the [Enterprise Agreement](#), employment contract or [Student Misconduct Rule 2020](#) processes.

Counter-claims

(46) A complaint may lead to counter-allegations from the responding party. It is important that the initial complaint be considered and resolution sought on the matter in its own right. This does not preclude both the original complaint and the subsequent complaint from the respondent(s) being considered together.

(47) Where there are counter-complaints, relevant information provided or available with respect to one complaint may be used in managing or investigating the associated counter-complaint.

Workplace concerns involving staff from two different areas

(48) Where a workplace concern involves staff from two different areas, the managers or supervisors of the staff will consult together on the handling of the complaint and address appropriately.

Equity-related complaints

(49) An equity-related complaint is when a staff member believes they are being discriminated against or harassed in university life because of a trait that is subject to applicable anti-discrimination legislation. Applicable legislation varies across different jurisdictions, and may include discrimination based on gender (including pregnancy), sexual orientation, gender identity, race, ethnic or ethno-religious background, descent or national identity, marital status, family responsibilities, disability, age, political conviction or religious beliefs.

(50) Because of the complex issues sometimes involved in identifying some forms of indirect discrimination and harassment, managers handling equity-related complaints or complaints with a significant equity dimension are strongly advised to consult the Manager, Equity Diversity and Inclusion and seek advice and assistance on legislation and policy requirements. In general, complaint managers will continue to handle the complaint with advice and assistance from the Manager, Equity Diversity and Inclusion. Because of the sensitive nature of some equity-related complaints, managers should be aware that some complaint resolution options may not be appropriate, e.g. mediation of discrimination/harassment complaints. An equity related complaint may also be managed as a health and safety

matter.

Health and safety complaints

(51) Health and safety concerns should be raised directly with the manager of the area concerned in the first instance. All hazards, accidents and incidents must be formally reported to the University using the forms provided under the University's [Health, Safety and Wellbeing Policy](#) and associate procedures. A complaint may be lodged under this procedure with the Executive Director, Safety, Security and Wellbeing where the person believes that the University has not adequately or appropriately addressed a work health and safety issue in accordance with the University's legal obligations or policies.

(52) A matter that is required to be reported as a hazard, accident or incident will not be treated as a complaint under the [Complaints Management Policy](#) and this procedure and will be referred to DSSW immediately.

(53) On certain matters (e.g. where the health and safety concern rises from an equity related issue) there will be consultation between DSSW, the complaint manager and/or DPC on how the matter will be managed.

Workers compensation issues

(54) Issues about workers compensation and/or injury management that concern the University's participation and management of an injury or illness (either compensable or non-compensable) should, in the first instance, be raised directly with the Adviser, Injury Management. Where the person believes that the University has not adequately or appropriately addressed a concern about the University's participation in and management of an illness or injury, then a complaint may be raised under the [Complaints Management Policy](#) and this procedure. An issue that is required to be addressed by the University's workers compensation insurer or the NSW Independent Review Office will not be treated as a complaint under the [Complaints Management Policy](#).

Section 4 - Guidelines

(55) Nil.

Section 5 - Glossary

(56) This procedure uses terms defined in the [Complaints Management Policy](#), as well as the following:

- a. Enterprise Agreement - means the [Charles Sturt University Enterprise Agreement](#).
- b. Misconduct - has the same meaning as set out in the Enterprise Agreement, that is, conduct which is not serious misconduct, as defined, but which is nonetheless conduct that is unsatisfactory.
- c. Serious misconduct - has the same meaning as set out in the [Enterprise Agreement](#), that is:
 - i. serious misbehaviour or improper conduct of a kind that constitutes a serious impediment to the carrying out of a staff member's duties or to a staff member's colleagues carrying out their duties
 - ii. serious dereliction of the duties required of the academic office or position held by an employee
 - iii. conviction by a Court of an offence that constitutes a serious impediment to the carrying out of a staff member's duties or to a staff member's colleagues carrying out their duties
 - iv. theft, bullying, serious assault or sexual harassment, and/or
 - v. repeated and/or persistent misconduct of a more serious nature.
- d. Workplace complaint - (as defined in the [Complaints Management Policy](#) and Part A of this procedure) means a complaint by a member of staff of a work related issue, concern, dispute or grievance, including those involving:

- i. the interpretation and application of any policies or procedures governing human resources, including the allocation of work, job design, performance management and matters related to flexible work practices where the specific dispute resolution process within the [Enterprise Agreement](#) is not applicable
- ii. a workplace communication or interpersonal conflict
- iii. an occupational health and safety issue
- iv. an allegation of discrimination, harassment, bullying or vilification - a complaint of this type may represent an allegation of serious misconduct and will be managed under the appropriate [Enterprise Agreement](#) clause and the [Bullying, Discrimination and Harassment Prevention Policy](#)
- v. a question, dispute or difficulty concerning the interpretation, application or operation of policies or agreements where the specific dispute resolution process within the Enterprise Agreement is not applicable.

Status and Details

Status	Current
Effective Date	25th September 2023
Review Date	25th September 2026
Approval Authority	Chief Operating Officer
Approval Date	25th September 2023
Expiry Date	Not Applicable
Unit Head	Maria Crisante Executive Director, People and Culture
Author	Andrew Crawl Manager, Employee Relations and Policy
Enquiries Contact	Division of People and Culture +61 2 63384884