

# Staff Grievance Procedure

**Policy Code: HR1089**

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## Purpose

To state a clear and fair process for staff to raise and settle a grievance which arises against another staff member or members.

## Scope

The procedure described in this document applies to staff of the University and is designed for the settlement of grievances.

This procedure does not apply if the subject of the grievance relates to:

1. a matter covered by alternative internal formal review, appeal, grievance or other dispute settling procedures, nor to the outcome of a merit-based selection process;
2. a decision of the University Council;
3. the content of approved policies of the University;
4. decisions of the Vice-Chancellor or any review or Appeal Committee which are stipulated as final in University policy or Workplace Agreement clauses;
5. improper conduct by staff as defined in the Protected Disclosures Act 2012.

## Definitions

Term	Definition
<b>Complainant:</b>	The staff member lodging the grievance.

Term	Definition
<b>Grievance:</b>	Behaviour or action of another member or members of staff, which has or is likely to have an unreasonable negative impact on the ability of a staff member to undertake their duties.
<b>Investigator:</b>	An impartial person appointed by the Vice-Chancellor to conduct an investigation into the substance of the grievance who may be external or internal to the University and shall not have any prior involvement in the subject matter of the grievance, and if internal, shall be a senior officer not employed in the same School or Directorate of either the complainant or respondent.
<b>Party:</b>	Means the complainant and/or respondent.
<b>Principles of Natural Justice:</b>	Procedural fairness in the handling of a grievance that involves all of the following elements: <ol style="list-style-type: none"> <li>1. the opportunity for all parties involved to be heard and the right to a fair hearing;</li> <li>2. the right to attend hearings or interviews with a friend or support person, if required;</li> <li>3. the respondent having full knowledge of the nature and substance of the grievance;</li> <li>4. the opportunity for all parties to respond to allegations made against them during the course of an investigation;</li> <li>5. the right to an independent, unbiased decision-maker; and</li> <li>6. a final decision based solely on the relevant evidence.</li> </ol>
<b>Respondent:</b>	The staff member or members against whom the grievance has been lodged.
<b>Senior Management:</b>	The Vice-Chancellor, Senior Deputy Vice-Chancellors and Deputy Vice-Chancellor.
<b>Senior Officer:</b>	Senior management, a Dean, a Dean of School, a Head of Campus, a Director, the Chair of Academic Board, an Associate Professor or a Professor.
<b>Staff Grievance Contact Officer(s):</b>	One or more Human Resources' department staff members, appointed by the Director, Human Resources to provide guidance to the parties, the supervisor and the Vice-Chancellor as to the steps to be followed under this Procedure.
<b>Supervisor:</b>	Normally the management position to which the staff member reports. However, this position must be no less than a Dean, Dean of School, Deputy Dean, a Head of Campus, a Director, Manager of a Section or a Program Coordinator (where they have supervisory responsibilities). The Director, Human Resources may also act in place of a staff member's Supervisor.

## Actions

### Preliminary Action

STEPS	RESPONSIBILITY	COMMENTS
1. Before initiating the following procedures, complainants are encouraged to try to settle any grievance directly with the person(s) concerned.	Complainant	
2. A complainant should raise their grievance with the respondent as early as possible.	Complainant	
3. At any time while trying to settle the grievance, a complainant or respondent may consult confidentially with anyone they	Complainant and Respondent	

STEPS	RESPONSIBILITY	COMMENTS
choose, including their Union representative, and may seek advice from the Staff Grievance Contact Officer(s) or the Director, Human Resources.		

## Local Procedure

	STEPS	RESPONSIBILITY	COMMENTS
1.	Unless extenuating circumstances exist, the Local Procedure for the settlement of grievances should not normally be invoked unless the complainant has attempted to settle the grievance directly with the respondent as outlined in the Preliminary Action above.		
2.	A complainant may refer the grievance to their supervisor for settlement of the grievance. This should occur as soon as reasonably possible after the complainant has unsuccessfully attempted to settle the grievance in accordance with the Preliminary Action. When a complainant has a grievance against their supervisor the complainant may refer the grievance to their supervisor's supervisor.	Complainant	
3.	To commence the Local Procedure the complainant must provide in writing to their supervisor: <ul style="list-style-type: none"> <li>• a clear statement of the grievance, including the parties to the grievance;</li> <li>• a process for trying to settle the grievance, which will be considered by the supervisor; and</li> <li>• a suggested solution which the complainant believes would settle the grievance. An appropriate solution will focus on achieving a productive working environment or relationship, rather than apportioning blame.</li> </ul>	Complainant	
4.	Within ten (10) working days of receiving the notification of the grievance the supervisor will determine	Supervisor	Supervisor may seek advice from a Staff Grievance Contact Officer.  Evidence gathering will include any statements, documents,

	STEPS	RESPONSIBILITY	COMMENTS
	<p>whether the subject matter, prima facie, falls within the definition of a grievance.</p> <p>Where it is determined that the subject matter falls within the definition, the supervisor will:</p> <ul style="list-style-type: none"> <li>gather such other information as required to assist with the settlement of the grievance, including providing the respondent with the statement of the grievance and the opportunity to respond in writing; and</li> <li>attempt to settle the grievance by using the process outlined by the complainant for settlement (if appropriate) or through discussion between the parties and the supervisor; or by arranging counselling, or informal mediation and/or conciliation or through facilitated discussion.</li> </ul> <p>Where it is determined that the subject matter of the grievance falls outside the definition of a grievance, the supervisor will advise the complainant in writing.</p> <p>The supervisor may dismiss a grievance if in the supervisor's view the grievance is ill-advised, misguided, frivolous, malicious or vexatious.</p>		<p>emails etc that are relevant to the grievance.</p> <p>Supervisor should provide the Respondent with formal written notification of the grievance issues and provide them an opportunity to respond in writing in a timely manner.</p> <p>Settlement options can be at the Supervisors discretion but agreement should be sought with all parties to the grievance.</p> <p>If the subject of the grievance falls outside out the grievance definition, the Supervisor may direct the complainant to the most relevant policy and procedure that covers the circumstances.</p>
5.	<p>If the complainant's supervisor does not supervise the respondent, the complainant's supervisor will determine the appropriateness of including the respondent's supervisor in seeking to settle the grievance, recognising the importance of keeping the grievance as close to the source as possible.</p>	Complainant's supervisor	
6.	<p>After the conclusion of the Local Procedure, the supervisor will write to both the complainant and respondent indicating the outcome of the process and specifying any action that has been agreed by the parties as part of that process.</p>	Supervisor	<p>Supervisor to formally write to all parties to advise of the outcome of the Local Process.</p> <p>The supervisor should provide the Staff Grievance Contact Officer(s) with a brief written summary of the grievance, the outcome and any action taken, for record keeping purposes.</p>

## Formal Procedure

Unless extenuating circumstances exist, the formal procedure for the settlement of grievances will not normally be invoked unless the matter has been first referred for settlement under the Local Procedure.

	STEPS	RESPONSIBILITY?	COMMENTS
1.	<p>If settlement of the grievance has not been achieved for any reason, including as a result of a determination by the supervisor that the subject matter falls outside the definition of a grievance or as a result of the grievance being dismissed under the Local Procedure, a party may seek settlement of the grievance through the Formal Procedure.</p> <p>The Formal Procedure should be invoked within five (5) working days of the supervisor notifying the parties of the outcome of the Local Procedure or from the date of the conclusion of the unsuccessful mediation, facilitated discussion and/or conciliation.</p> <p>This timeframe may be extended at the discretion of the Director, Human Resources.</p>	Complainant or Respondent	Application for an extension must be made in writing to the Director, Human Resources and include reasons why a party requires the extension.
2.	A formal grievance may only be commenced by lodging a Grievance Lodgement Form, with the Director, Human Resources.	Complainant or Respondent	Grievance Lodgement Form can be found as an attachment to this procedure.
3.	Within twenty (20) working days of receipt of the Grievance Lodgement Form the Vice-Chancellor (or nominated representative) must appoint an Investigator to hear the grievance.	Vice-Chancellor	A nominated representative can be no less that a member of Senior Management or the Director, Human Resources.
5.	The Investigator will, within twenty (20) working days of appointment:		
	<p>(a) interview both the complainant and respondent and such other persons or seek any further information the</p> <p>Investigator considers necessary and will conduct any investigation in accordance with Principles of Natural</p>	Investigator	

	STEPS	RESPONSIBILITY?	COMMENTS
	<p>Justice;</p> <p>(b) determine whether the grievance is justified; and</p> <p>(c) recommend to the Vice-Chancellor appropriate action which may include: counselling for either or both</p> <p>parties; arranging for conciliation of the grievance; recommending disciplinary action; or that no further action</p> <p>be taken.</p>		
	<p>If in the Investigator's view, the grievance is ill-advised, misguided, frivolous, malicious or vexatious, the Vice-Chancellor will advise the complainant, and where appropriate other parties, in writing of this finding and the reasons for the finding and where appropriate the Vice-Chancellor will take action in accordance with relevant staff provisions against the complainant.</p>		<p>Investigator will provide the Vice-Chancellor with a written report outlining the nature of the grievance, the parties involved, and provide recommendations for appropriate action if required. If the grievance is found to be unsubstantiated the report must include the reasons for this conclusion.</p>
8.	<p>On receipt of the Investigator's report, the Vice-Chancellor will:</p>		
	<p>(a) take such action as the Vice-Chancellor deems appropriate; and</p> <p>(b) notify in writing both the complainant and respondent of the outcome of the process, the reasons for the decision and specify any action to be taken.</p>	Vice-Chancellor	<p>A formal written response will be provided to the parties.</p>
9.	<p>The decision of the Vice-Chancellor is the final step in the grievance process and is not open to challenge via any other dispute settling procedures of the University.</p>		
10.	<p>A copy of the grievance along with an account of the Local and Formal process (if any) and the settlement shall be recorded by the Staff Grievance Contact Officer in a confidential file to be</p>	Staff Grievance Contact Officer	

	<b>STEPS</b>	<b>RESPONSIBILITY?</b>	<b>COMMENTS</b>
	held by the University's Human Resources Department.		

## Senior Management

If a grievance is between a staff member and a member of the University's Senior Management, the matter will be taken directly to the Director, Human Resources who will refer the matter to the Chancellor.

The Chancellor, after consultation with one Deputy Chancellor, will have discretion as to the appropriate procedure to be used in determining whether a grievance has substance and the appropriate process within the spirit of this Procedure for settling the complaint.

## Confidentiality

All persons associated with the Local and Formal Procedures should maintain confidentiality and only discuss the grievance with those who have responsibility for dealing with the grievance.

## External Agencies

Complaints about administrative actions and decisions of the University can be made to the Victorian Ombudsman [<http://www.ombudsman.vic.gov.au>]. The Ombudsman is, generally, the office of last resort. If you have not followed the steps laid down in the relevant University procedures, the Ombudsman may ask you to do so before accepting your complaint.

## Responsibilities

**All staff** are expected to conduct themselves in a manner which respects the rights and welfare of other members of the University and to show competence, care, good faith and compliance with instructions, policies and procedures in the performance of their duties.

**Supervisors** are responsible for trying to prevent problems and settling grievances in the workplace and for notifying the Staff Grievance Contact Officer(s), in writing, of the existence and outcome of any grievance under the Local Procedure

It is the **complainant's** responsibility to raise the issue(s) of the grievance as soon as possible with the other party/parties and agree to be involved in settling the issue(s) by acting in good faith and using both the Preliminary Action and Local Procedure prior to invoking the Formal Procedure.

The **Staff Grievance Contact Officer(s)** is responsible for providing procedural guidance to the parties and supervisor (if requested) at the Preliminary and Local stages of the Procedure and should provide procedural guidance to the parties, supervisor and the Vice-Chancellor regarding the Formal Procedure.

The **Director, Human Resources** is responsible for promulgation of this Procedure; for notifying the Vice-Chancellor and the Staff Grievance Contact Officer(s) (for procedural advice and record keeping purposes) of the lodgement of a grievance under the Formal Procedure.

The **Vice-Chancellor** has overall responsibility for the implementation and review of this Procedure.

## Policy Base

- [Staff Grievance Policy](#).

## Associated Documents

- [University Collective Agreement](#), Academic and General Staff Employees.
- [Victorian TAFE Teaching Staff Multi-Business Agreement \(MBA\) 2009](#).
- [Bullying Prevention and Management Policy](#).
- [Bullying Prevention and Management Procedure](#).
- [Discriminatory and Sexual Harassment Complaint Procedure](#).
- [Staff Grievance Procedure](#).
- Staff Code of Conduct
- [Equal Opportunity and Valuing Diversity Policy](#).
- [Protected Disclosures Procedure](#) .
- [Fair and Transparent Decision Making Guidelines](#).

### Forms.

- [Staff Grievance Lodgement Form](#) (DOCX 84.2kb)

## Forms/Record Keeping

Title	Location	Responsible Officer	Minimum Retention Period
Completed Grievance Lodgement Form	Human Resources	Staff Grievance Contact Officer.	7 years

## Implementation

The [Staff Grievance Procedure](#) will be implemented throughout the University via:

1. an Announcement Notice under 'FedNews' on the website and through the University's 'Recently Approved Documents' webpage to alert the University-wide community of the approved Procedure; and
2. inclusion on the University's Policy, Procedure and Forms website; and/or
3. distribution of e-mails to Deans of School / University staff; and/or
4. information Sessions; and/or
5. training Sessions; and/or
6. documentation distribution, eg. posters, brochures.