

# Staff Complaints Resolution Procedure

## Section 1 - Summary

(1) This Procedure details the methods by which the Victoria University (VU) will address complaints by its staff.

## Section 2 - TEQSA/ASQA/ESOS Alignment

(2) HESF: Standard 2.4 Student Grievances and Complaints

(3) Standards for RTOs: Standard 6

## Section 3 - Scope

(4) This Procedure applies to all complaints made by VU staff, except for those matters excluded at clause (5), or Policies that have their own documented review processes. This includes:

- a. Complaints about the behaviour of any person (for example, but not limited to, bullying, discrimination, harassment and sexual harassment).
- b. Complaints about the administrative practices of VU.
- c. Complaints about the application or misapplication of University policy and procedure.
- d. Any other complaint not excluded at clause (5).

(5) This Procedure does not apply to:

- a. Complaints regarding research and potential research misconduct (see [Research Integrity - Guide to the Management of Potential Breaches of the Australian Code Procedure](#)).
- b. Complaints about Biosafety matters (see [Biosafety Policy](#)).
- c. Complaints about Human Ethics (reported via Human Research Ethics Committee).
- d. Complaints regarding Animal Welfare (see [Animal Welfare Policy](#) and [Animal Welfare Complaints Procedure](#)).
- e. Complaints or allegations of fraud or corruption (see [Fraud and Corruption Control Policy](#)).
- f. Complaints which are Public Interest Disclosures (see [Public Interest Disclosures Policy](#) and [Public Interest Disclosures Procedure](#)).
- g. Complaints regarding OHS matters (see [Health and Safety - OHS Incident Reporting and Investigation Procedure](#)).
- h. Complaints made under an Enterprise Agreement process or relating to a matter covered by the National Employment Standards.
- i. Complaints regarding the Probation process.
- j. Complaints regarding Academic Promotions (see [Higher Education Academic Promotions Policy](#) and [Higher Education Academic Promotions Procedure](#)).

- k. Or any other Policy or Procedure that contains its own review process.

## Section 4 - Definitions

(6) Complaint: When a staff member expresses a concern about a work related issue which may include an act, behaviour, decision, situation, omission or problem that the person perceives to be unfair or unjustified; or dissatisfaction about a work situation or a matter which adversely affects their work or work environment.

(7) Complainant

(8) Frivolous complaints: A frivolous complaint is a complaint that is lacking in any substance or merit. Not all frivolous complaints imply an improper motive on behalf of the complainant.

(9) Respondent

(10) Staff

(11) Vexatious Complaints: A vexatious complaint is a complaint with no merit, which is specifically being pursued to harass, annoy or cause financial cost to VU or another person.

(12) Victimization: In the context of this Procedure, victimisation refers to the unfavourable treatment of a person as a consequence of their involvement in a complaint.

(13) Misconduct: means:

- a. conduct which is not Serious Misconduct; and
- b. is unsatisfactory conduct or behaviour.

(14) Serious Misconduct: means:

- a. serious misbehaviour which 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;
- b. serious dereliction of the duties required of the position;
- c. theft or fraud;
- d. conviction by a court of an offence where that offence constitutes a serious impediment to the carrying out of a staff member's duties or functions or to a staff member's colleagues carrying out their duties or functions;
- e. Examples of conduct which may constitute Serious Misconduct include but are not limited to:
  - i. assault; or
  - ii. repeated incidents of Misconduct; or
  - iii. serious or repeated bullying or harassment, including sexual harassment; or
  - iv. the staff member refusing to carry out a lawful and reasonable instruction that is consistent with the staff member's contract of employment; or
  - v. wilful and/or gross breach of the staff member's contract of employment, or VU's policies or regulations, such that it would be unreasonable to continue the staff member's employment.

## Section 5 - Policy/Regulation

(15) [Staff Complaints Resolution Policy](#)

# Section 6 - Procedures

## Part A - Roles and Responsibilities

| Role                               | Responsibilities  |
|------------------------------------|---|
| Staff                              | Behaving in accordance with the principles of the <a href="#">Appropriate Workplace Behaviour Policy</a> and all other related policies;<br>Participating in the process whilst maintaining confidentiality at all times regarding issues or complaints being resolved; and<br>Complying with any controls put in place.  |
| Managers and Supervisors           | Encouraging and modelling behaviour in accordance with the principles of the <a href="#">Appropriate Workplace Behaviour Policy</a> and all other related policies;<br>Early identification and informal resolution of issues;<br>Where possible, addressing matters before they escalate to formal written complaints;<br>Creating and fostering an environment which promotes dignity, mutual respect, acceptance, cooperation, collaboration and productivity amongst all members;<br>Responding promptly, sensitively in a timely manner and confidentially to all issues and complaints brought to their attention;<br>Liaising with People and Culture to seek advice when required;<br>Ensuring that they remain impartial and maintain confidentiality throughout any resolution process; and<br>Treating all issue and complaints seriously and taking appropriate action in a timely way. |
| People and Culture representatives | Liaising with Managers/Supervisors to provide support for complaint handling;<br>Appointing facilitators where required;<br>Appointing investigators where required; and<br>Providing information and advice to staff as needed.  |
| Chief Human Resources Officer      | Reviewing complaint matters where a party to a complaint has grounds for requesting a review on process grounds.  |

## Part B - General

(16) Staff who wish to make a complaint can do so by following the process detailed in this Procedure.

(17) Not all steps detailed below are appropriate to every matter.

(18) Nothing in this Procedure prevents a staff member from seeking advice from and/or lodging a complaint with relevant external bodies such as the Human Rights Commission, Victoria Police, Fair Work Commission, Fair Work Ombudsman and WorkSafe Australia. In some circumstances arising from such a lodgment, VU at its absolute discretion may cease or suspend action under this Procedure if it considers it is appropriate or prudent to do so.

(19) At VU's discretion, complaints that involve multiple issues may be dealt with together or separately.

## Part C - Local-level / Self-resolution

(20) When an issue arises, staff are encouraged to attempt to resolve the issue through informal resolution at an early stage before the issue escalates. Informal resolution does not require a complaint to be made in writing.

(21) Staff members may seek to resolve the issue, in the first instance, by talking to the people involved directly. Staff can seek assistance from their manager/supervisor or an independent support person as well as seek advice from appropriate specialist areas.

(22) Staff are encouraged to talk to their manager/supervisor in the first instance, if this is appropriate in the

circumstances, to seek information and support in order to resolve the matter through measures such as guidance, coaching and/or professional development.

(23) VU has Discrimination Harassment and Bullying ("DHB") contact officers that are available to speak with. They can assist by:

- a. Listening empathetically and impartially to staff concerns about matters that may constitute discrimination, harassment or bullying;
- b. Clarifying what types of behaviour may be considered discrimination, harassment and bullying;
- c. Providing information and guidance about the policy and procedures for dealing with discrimination, harassment and bullying concerns;
- d. Exploring and encouraging possible strategies and options by which staff can act to resolve the issue/s themselves.

(24) Staff may also seek support from the [Employee Assistance Program \(EAP\)](#). The EAP is a confidential, externally managed program available at no cost to the employee. Qualified professional consultants may provide assistance to staff by working with them to develop strategies to resolve their issue.

(25) Self-resolution is not a prerequisite for referring matters to a formal resolution process.

## **Part D - Formal Resolution Process**

(26) A formal resolution process should be followed where:

- a. an attempt at self-resolution is unsuccessful;
- b. the matter is inappropriate for self-resolution;
- c. the issue escalates in seriousness; or
- d. one or more of the following are evident:
  - i. serious misconduct;
  - ii. a significant risk to health and safety; and/or
  - iii. one or more parties is resisting resolution.

(27) The formal resolution process is generally commenced when a staff member makes a written complaint with their immediate manager/supervisor, or, where this is inappropriate, with their manager/supervisor's supervisor/manager, or via People and Culture, however VU may commence the process without a written complaint where it believes it is required.

(28) Once the matter has come to the attention of VU, the relevant manager/supervisor (or their nominee) should, as soon as is reasonably practical, conduct a preliminary fact-finding inquiry to assess:

- a. whether the matter is a valid complaint, or whether it is frivolous, vexatious or lacking substance; and
- b. if the alleged conduct/behaviour is capable of constituting unlawful discrimination, harassment, sexual harassment or bullying behaviour. The manager/supervisor should seek advice from People and Culture on the characterisation of the alleged conduct/behaviour and the appropriate response (discussed in more detail below), given all the circumstances of the particular case.

(29) Every potential complaint is different and it is therefore important that VU adopts a flexible approach to resolution. Depending on the particular circumstances, the matter may be addressed in one or more of the following ways:

- a. No action where the complaint is found to be frivolous, vexatious or resolved by dialogue;
- b. Intervention by manager/supervisor;
- c. Facilitated discussions;
- d. Investigation;
- e. Disciplinary action.

(30) VU reserves the right to determine the most appropriate method to deal with a complaint. VU is not constrained to follow all steps if the nature or seriousness of the matter means that this would be inadvisable or increase risk to individuals or VU.

(31) Communication: All parties to a complaint will be kept informed of the progress of the matter and will be informed in writing of the decision/s when established.

## **Intervention by Manager/Supervisor**

(32) Intervention by a manager/supervisor will normally be used in the first, early and/or low-impact stages of a complaint and involve the relevant supervisor/manager making all reasonable efforts to make enquiries or address concerns in relation to the complaint through reasonable support, assistance or interventions.

(33) Intervention by the relevant manager/supervisor may involve one or more of the following where considered reasonable:

- a. reorganising work tasks or teams on a temporary or permanent basis;
- b. addressing administrative errors or roadblocks causing issues;
- c. restating to the team/organisational unit that discrimination, harassment or bullying is unacceptable and will not be tolerated. This should be done in a way that does not identify the parties or any particulars of the case;
- d. meeting with any alleged respondent to appropriately communicate that behaviours akin to those being alleged are not acceptable and, if occurring, should be stopped immediately;
- e. organising appropriate training/staff development;
- f. suggesting facilitated discussions to the parties (discussed below).

(34) The manager/supervisor should contact People and Culture for advice and assistance before commencing any intervention. Once intervention has commenced, they should inform the complainant of the action taken to resolve the alleged reported behaviour.

(35) Depending on the circumstances, the manager/supervisor may review the situation after a period of between 1-3 months by speaking to the complainant about whether the situation has improved. If the situation has not improved, other methods of resolution should be explored.

## **Facilitated Discussions**

(36) Facilitated discussions will generally be employed in cases involving interpersonal conflict, where the parties' relationship is ongoing and/or where the parties appear capable of reaching an agreed outcome.

(37) Facilitated discussions are voluntary processes where, with the help of an experienced neutral person, the parties discuss the complaint/issues, try to find possible solutions and ideally resolve the matter to the mutual satisfaction of both parties.

(38) The facilitator will be appointed by People and Culture in conjunction with the relevant manager/supervisor.

(39) The facilitator generally determines the process and may meet with the parties separately, together or a combination of both. The role of the facilitator is not to make formal findings about what did, or did not, occur, but

rather to assist the parties reach an agreed solution.

(40) The content of facilitated discussions is confidential, although the facilitator will report the outcome to People and Culture and the relevant manager/supervisor.

(41) The manager/supervisor should review the situation within a reasonable period of time by speaking to the complainant about whether the situation has improved. If the situation has not improved, other methods of resolution should be explored.

## **Investigation**

(42) VU may initiate a workplace investigation into concerns in relation to the conduct of any staff member where it believes it is required. Generally, investigations may be used for complaints relating to:

- a. Serious behavioural matters or matters relating to discrimination, harassment, sexual harassment, or bullying.
- b. Complex complaints relating to ongoing significant workplace issues.

(43) At an early stage, VU should consider:

- a. whether the alleged conduct, if proven, could constitute Serious Misconduct; and
- b. whether any applicable industrial instrument processes may need to be followed.

(44) Where early intervention or facilitated discussion has not resolved the situation or is inappropriate, the complaint/concern may be investigated by an independent (internally or externally appointed) person or body.

(45) The investigator (internal or external) will be independent and must not have any previous involvement in the matter under investigation and will be appointed by People and Culture.

(46) In the event that the matter is referred for investigation, the investigator will:

- a. Conduct the investigation with due regard to procedural fairness, timeliness, and the individuals safety and well-being;
- b. Notify the parties of the investigation;
- c. Seek sufficient particulars of the alleged conduct to enable the complaint/concern to be factually investigated;
- d. Provide the respondent with a summary of allegations and/or a statement of the alleged conduct;
- e. Provide the respondent with an opportunity to respond to the complaint and/or alleged conduct;
- f. Interview the parties and, where necessary, any witnesses;
- g. Review any relevant documentation; and
- h. Prepare a written report setting out how the investigation was conducted, and the relevant facts and findings.

(47) The investigator's written report will be provided to People and Culture and to the supervisor of the respondent. The supervisor will then make a decision based on the investigation report as to the proposed outcome. Where it is inappropriate for a supervisor to make a decision, for example due to a conflict of interest or where they are a party to a complaint, the written report will instead be provided to an appropriate senior officer for a decision, chosen by People and Culture at its sole discretion.

(48) The outcomes may include, but are not limited to:

- a. Adjustment to work arrangements, teams or task distribution.
- b. Correction of any identified administrative errors.
- c. Training in VU's policies/procedures and/or codes of conduct.

- d. A decision to deal with the matter under the Disciplinary Action process (including where the alleged conduct may constitute Misconduct or Serious Misconduct and any Industrial Instrument applies),
- e. A direction that processes/procedures be altered or systems of work reviewed.
- f. Further monitoring.

(49) The Supervisor may also make a determination that the complaint is frivolous, vexatious, or lacking in substance. Where the complaint is considered vexatious VU may take disciplinary action.

(50) It is expected that the investigation and decision process will be completed in a timely manner. All parties must be kept informed of progress and expected timeframes.

(51) Save for where the outcome is for the Disciplinary Action process to be followed, the decision, along with a summary of reasons for making the decision and a clear statement of what actions will follow as appropriate, will be provided to the complainant, the respondent/s, and People and Culture.

## **Disciplinary Action**

(52) VU may, at any stage, initiate a disciplinary action where the allegations are sufficiently serious and/or where there are reasonable grounds to demonstrate a case to answer.

(53) The disciplinary action taken will vary from case to case and depend on the type and degree of the conduct, as well as other factors relating to the staff member's employment and the particular circumstances of the individual concerned.

(54) The decision to initiate disciplinary action will be made by the delegated officer in conjunction with People and Culture (for employee respondents) or Student Administration (for student respondents), and will be carried out in accordance with the relevant Procedure and/or appropriate industrial instrument.

(55) For the avoidance of doubt, where an industrial instrument applies to an employee respondent, any disciplinary action for Misconduct or Serious Misconduct will be determined and imposed in accordance with the applicable industrial instrument and includes:

- a. Written Warning Notification, formal censure, or counselling;
- b. withholding of an increment;
- c. demotion by one or more classification levels or increments;
- d. transfer to another position in the same or another organisational unit, at the same or another campus or site;  
or
- e. termination of employment only for Serious Misconduct).

(56) Where a disciplinary process has already commenced, this may replace the need for additional investigation of the matter as a complaint under this Procedure.

## **Part E - Review**

(57) Subject to any application industrial instrument, where a complainant wishes to have the complaints process reviewed, they may request a review by lodging a written request for review with People and Culture within 10 working days of being advised of the decision. However this review process will be displaced by any review process under an applicable industrial instrument that provides a right of review.

(58) The Review will be performed by:

- a. the Chief Human Resources Officer or nominee; or

- b. where the Chief Human Resources Officer has had previous involvement in the matter, another member of the Senior Leadership Group nominated by the Vice-Chancellor.

(59) The Review will be conducted in a timely manner and will consider whether the process undertaken was in accordance with the procedure.

(60) The Reviewer may:

- a. uphold the original decision without amendment;
- b. uphold the original decision but amend one or more of the outcomes; or
- c. vacate the original decision and refer it back for a new investigation.

(61) The Reviewer's decision will be communicated in writing to the complainant.

(62) The Review is the final avenue available within VU. However, complainants may be able to appeal the matter to an external body if applicable (e.g. Ombudsman Victoria, Fair Work Australia, Equal Opportunity Commissioner).



## Status and Details

|                            |   |
|----------------------------|---|
| <b>Status</b>              | Current   |
| <b>Effective Date</b>      | 18th June 2021  |
| <b>Review Date</b>         | 18th June 2024  |
| <b>Approval Authority</b>  | Vice-Chancellor   |
| <b>Approval Date</b>       | 18th June 2021  |
| <b>Expiry Date</b>         | Not Applicable  |
| <b>Accountable Officer</b> | Lisa Line<br>Deputy Vice-Chancellor Enterprise and Digital<br>Lisa.Line@vu.edu.au |
| <b>Responsible Officer</b> | Simone Wright<br>Chief Human Resources Officer<br>+61 3 9919 5447                 |
| <b>Enquiries Contact</b>   | Simone Wright<br>Chief Human Resources Officer<br>+61 3 9919 5447                 |

## Glossary Terms and Definitions

**"Staff"** - Staff means: - all employees of the University, on all domestic and offshore locations, including student residences, and while engaged in all work-related activities such as conferences and work-sponsored social occasions; - all contractors and consultants performing work on University sites or on behalf of the University; - visiting academics, honorary, adjunct and exchange staff; - the Council and its committees; and - any volunteer in the workplace and study environment.

**"Complainant"** - A person who makes a complaint.

**"Respondent"** - A person about whom a complaint is made.