

GRIEVANCE POLICY

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First Approved by:	UOW Pulse Management Team		
Custodian title	Head of People and Culture		
Author:	Head of People and Culture		
Responsible Division & Unit:	People and Culture		
Supporting documents, procedures & forms:	Procedures for Investigating Grievances Privacy / Confidentiality Policy Grievance Policy Performance Management Policy Sexual Harassment Prevention Policy EEO Anti-Discrimination Policy Bullying Prevention Policy Code of Conduct Personal Use of Social Media		
Relevant Legislation & External Documents:	Anti-Discrimination Act, 1977 (NSW) Australian Human Rights Commission Act 1986 Disability Discrimination Act, 1992 (Commonwealth) University Code of Conduct Higher Education Support Act 2003 University Of Wollongong (Academic Staff) Enterprise Agreement 2005 University Of Wollongong (General Staff) Enterprise Agreement 2005 Code of Practice – Student Professional Experience Teaching and Assessment Code of Practice - Teaching		
Audience:	Public		

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1 Purpose of Policy

1. The purpose of this document is to set out the UOW Pulse policy on resolving grievances. This policy is to be used in conjunction with the Procedures for Investigating Grievances.
2. UOW Pulse is committed to providing a safe, harmonious, supportive and productive environment for its employees, customers and visitors – 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

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

Word/Term	Definition (with examples if required)
Bullying	When an individual or group of individuals repeatedly behaves unreasonably towards a person or group of people and that behaviour creates a risk to health and safety.
Complainant	An employee, customer or visitor who has lodged, or is considering lodging a grievance or complaint.
Discrimination	<p>When someone is treated unfairly because they belong to a particular group of people or have a particular characteristic.</p> <p>For example 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.</p> <p>Indirect discrimination occurs when there is a requirement or rule that is the same for everyone but in effect disadvantages people from a particular group more than people from other groups - unless the requirement is reasonable in the circumstances.</p>
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 including (but not limited to; sexual harassment, assault, unlawful behaviour and those contrary to UOW Pulse Policies including Code of Conduct).



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 relevant policy and procedures or the employee's employment agreement or award.
Respondent	An employee, customer or visitor whose action or behaviour is complained about in a grievance.
Employee	All persons employed by UOW Pulse of any seniority and including those in continuing, part-time, permanent, fixed or maximum term, casual, trainee or contract roles.
Line Manager	An employee of UOW Pulse who acts in a supervisory or leadership capacity (whether acting or permanent) to other team members of UOW Pulse.
Customer	A member of the public who visits the campus and either purchases products or utilises the services or facilities of UOW Pulse.
Visitor	An external person or business representative visiting the campus but not necessarily to purchase or utilise services, including but not limited to contractors, franchisees, members of the community and volunteers.
Student	A person registered for a course at the University of Wollongong.
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.

3 Application, Scope & Exclusions

1. This policy applies to all UOW Pulse employees, customers, students and visitors of all campuses of the UOW Pulse located within Australia and to all employees of UOW Pulse undertaking University activities overseas who have a grievance about unfair treatment, discrimination, harassment, victimisation, vilification and/or bullying.
2. This policy applies to all employees, customers and visitors:
 - 2.1. in attendance at a UOW Pulse place of work;

- 2.2. utilising UOW Pulse businesses or facilities;
- 2.3. participating in any activity as a representative of UOW Pulse (e.g. field trips, conferences, clubs and sporting activities etc.);
- 2.4. carrying out functions or participating in events in connection with UOW Pulse, including at places external to University premises.
3. This policy applies to any form of contact or communication that is relevant to UOW Pulse activities whether initiated in person, by email, phone, fax or through online social media and other applications or any other means.
4. Where a student is also an employee, or an employee is also a student, the alleged offender will be dealt with according to the capacity in which they were acting at the time of the alleged offence.
5. This policy cannot be used for a concern or complaint where there already exists a separate UOW Pulse review, appeal or complaint procedure under consideration.
6. Matters specifically excluded from being dealt with under this policy are:
 - a. all matters outside those listed in 3.1;
 - b. employee misconduct and unsatisfactory performance;
 - c. privacy
 - d. protected disclosure;
 - e. formal access to information requests;
 - f. corrupt conduct and maladministration;
 - g. employee recruitment, appointment, probation, promotion and conditions of employment;
 - h. application, implementation or interpretation of UOW Pulse Enterprise Agreements or other contracts and conditions of employment;
 - i. workplace health and safety, workers compensation; or
 - j. IT use
7. Where a matter is under investigation by the Police or other external agencies such as NSW Anti-Discrimination Board, Australian Human Rights Commission or the NSW Ombudsman, UOW Pulse may cease or not commence action under this policy until those external investigations have concluded.

4 Policy Principles

General Principles of Grievance Resolution

1. The prime objective of the UOW Pulse Grievance Policy is to achieve a resolution of a grievance in the context of the following principles:
 - a. Grievances shall be handled within an appropriate time frame (see Procedures for Investigating Grievances) and will be treated sensitively and impartially, having due regard to procedural fairness;
 - b. Resolution of the grievance shall be as close as possible to the source, unless it is serious, unlawful or not practical;

- c. It is expected that all parties involved will approach proceedings with a desire to resolve the grievance cooperatively and in good faith;
- d. Individuals shall not victimise or harass other parties involved in the matter;
- e. Confidentiality shall be strictly observed by all participants and at all stages of the grievance procedure; and
- f. Complainants and respondents will be informed of the outcomes where appropriate.

Principles of Procedural Fairness and Natural Justice

2. UOW Pulse recognises that employees, customers and visitors 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 employees: a family member, friend, colleague or employee representative; and
 - ii. for customers and visitors: a family member, friend or other mutually agreed support person.
 - d. make a request as to the gender of the investigator where appropriate.
3. 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 may 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 there may be a potential perceived conflict of interest:
 - a. an 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 UOW Pulse Conflict of Interest Policy for more information.

5 Policy Statement

1. UOW Pulse has a duty of care to employees, customers and visitors to resolve grievances promptly and with the minimum of distress. UOW Pulse 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.

Less Serious Grievances

1. Matters which are considered less serious are those which are not unlawful but should be addressed and resolved to avoid repetition or escalation.
2. Wherever possible and practical this kind of grievance should be handled as close as possible to the source.
3. Employees are encouraged to report the matter to their immediate line manager if they feel comfortable to do so.
4. If employees are not comfortable in speaking with their line manager then they may discuss the matter with either the line manager's manager or a member of the People and Culture team. Any such discussions will be treated with the strictest confidence and handled sensitively.
5. Customers and visitors are encouraged to have a confidential conversation with the Head of People and Culture by phoning 42218000 and asking to be directed through. Alternatively email correspondence can be initiated via uow-pulse@uow.edu.au

Serious Grievances including Unlawful Behaviour

1. 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 UOW Pulse codes and rules.
2. Grievances of a serious nature or those that allege unlawful behaviour must be referred directly to the Head of People and Culture.
3. Repetition of a less serious behaviour, that has been previously investigated or dealt with may lead to the matter being dealt with as a serious grievance in the next instance.
4. The Head of People and Culture may report apparent or suspected unlawful behaviour to the Police.
5. The Head of People and Culture will advise the complainant about internal and external options.
6. Grievances of a serious nature would normally be submitted in writing by the complainant.
7. If warranted the Head of People and Culture will liaise with the CEO to decide a course of action and where necessary make recommendations to the CEO about how the matter should be handled.
8. The CEO 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 on findings.
9. During the course of or at the completion of an investigation if the investigator is of the view that the grievance has substance, and circumstances warrant, they may refer the matter to the CEO to invoke UOW Pulse's disciplinary procedures. This may result in disciplinary action against the

respondent such as formal warnings or, in the most serious cases termination of employment. In this instance where a grievance is lodged against a Customer or visitor the outcome may be partial or full bans from visiting UOW Pulse facilities, services or UOW campus. Roles & Responsibilities

Employee Grievances within the Scope of this Policy

1. Line Managers are responsible for:
 - a. attempting to resolve grievances from their employees 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.

6 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 UOW Pulse's Privacy Policy and inform all parties of their responsibilities in relation to confidentiality:
 - 2.1. Complainants - grievances should be discussed only with 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 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 Pulse'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.
 - 2.4. Line Managers - should take steps to manage situations where confidentiality has been breached. For example, where a whole team is aware of the existence of a grievance between two colleagues, and/or where there is gossip and innuendo circulating in the work area in relation to the matter, the line manager should immediately intervene in an attempt to ensure that all discussion of the matter ceases.

7 Record Keeping

1. Records and documents created in the course of investigating the grievance should be stored and retained in accordance with UOW Pulse's Records Management Policy. All parties involved in the grievance are obliged to keep records and documents in-line with preserving confidentiality and respecting privacy in accordance with the UOW Pulse Code of Conduct, Privacy Policy and other relevant privacy legislation.

8 Version Control and Change History

Version Control	Date Effective	Approved By	Amendment
1	Pre 2004		Alternate Grievance Resolution Policy Created
2	Dec 2012	Wayne Clark, Assistant General Manager	New policy developed to supersede alternate grievance resolution policy. Migrated into new QA format. Links and legislation updated.
3	Jan 2014	Wayne Clark, Assistant General Manager	Updated WHS from OHS; section 4.3 change 'natural justice' to 'procedural fairness' consistent with UniCentre policies; sec 5.7 added 'at their choosing'
4	Jul 2017	Kelly Stehr, Head of People and Culture	Policy reviewed and updated to align with the UOW Grievance Policy, which had minor amendments to definitions, responsibilities and record keeping requirements.