Complaints and Grievance Policy and Procedure - Employees

Section 1 - Preamble

(1) Charles Darwin University ('the University', 'CDU') recognises the importance of an accessible, consistent, and fair approach to the resolution of workplace grievances and complaints.

(2) Employees must be supported by having access to a University-wide process to raise complaints without fear of reprisal.

Section 2 - Purpose

(3) This policy and procedure outlines the process for managing employee grievances, complaints and resolving conflict in the workplace.

Section 3 - Scope

(4) This policy and procedure applies to all employees of the University.

Section 4 - Policy

(5) CDU recognise the following pathways to resolution:

a. Complaint – can be lodged in an informal manner and can relate to any allegation, accusation or charge.
b. Grievance – a formal written complaint where there may be alleged or suspected breach of legalities such as terms and conditions of employment, compensation, discrimination, bullying and harassment etc.

(6) The University is committed to the following principles of grievance and complaint management:

a. Accessible – information about the process must be published and easily accessible. Lodging a grievance or complaint must be simple and transparent. When the University acknowledges receipt of a complaint, it will provide the employee with an outline of the complaints process.
b. Timely – once lodged, grievances and complaints are to be managed efficiently. Receipt must be acknowledged in writing and the investigation into the matter must commence within ten (10) working days of being lodged. Outcomes must be finalised as soon as practicable, taking into account complexities may require longer timeframes, although still must remain reasonable.
c. Objective – all grievance and complaint reviews must be considered and managed free of bias.
d. Fair – procedural fairness must be afforded to all, and all employees involved are to be afforded opportunities to present their case and be accompanied by a support person at any relevant meetings.
e. Transparent – complainants must receive final outcomes to their grievance or complaint in writing. This must include reasons for the outcome and potential avenues for review, where relevant and appropriate.

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f. Confidentiality – information must be kept confidential, where and as appropriate. All aspects of employee grievances and complaints must be kept confidential and never disclosed to a party that is not directly involved.

g. Record keeping – written record of the grievance or complaint must be kept in a secure and central location by the University. This must also include all case file notes, records of meetings, investigation reports and letters of correspondence.
h. Informative – the management and resolution of grievances and complaints should inform future conduct at the University. Recommendations arising from the grievance and complaint resolution process should be, where reasonable, enacted. Data relating to the complaint process is to be recorded in a way that will enable analysis and inform areas for improvement within the University.
i. Supportive – all participants of the process must be made aware of support services available to them, including their right to have a support person present, translation services where required, and external counselling services when participating in the process. Any participant can make a request for reasonable additional support or adjustment at any time during or after the process.

(7) Employees should note that grievances and complaints of a serious nature are the responsibility of everyone to report.

Confidentiality

(8) All employees are expected to treat these matters with the highest level of confidentiality, sensitivity and impartiality. Failure to maintain confidentiality may result in disciplinary action. Confidentiality is not guaranteed where it is required to disclose details of a grievance to other parties to assist with grievance resolution or if required by law.

(9) The supervisor, or person receiving the employee grievance, may be obliged to report the matter to their relevant Senior Executive Team member and People and Culture, or the police. If this is the case, the employee must be advised of this and the reasons for doing so. Examples may include, but are not limited to:

a. Sexual harassment may be reported directly to an employee's Senior Executive Team member and People and Culture due to the serious nature of the offence, and the potential breach of the relevant Anti-Discrimination Act, or similar legislation depending on the State or Territory where the complaint is made.
b. If the victim is under the age of 18, sexual assault must be reported to the police and/or an employee's senior manager due to an offence being a criminal act. If the victim is over the age of 18, the decision to report to police is theirs. It is always mandatory that they are provided with access to high level counselling.
c. If the alleged behaviours or actions being reported could be deemed as fraud or theft, they will need to be reported to both police and the Office of the Independent Commissioner Against Corruption (ICAC).

Section 5 - Procedure

(10) There are four options available to employees to assist them in resolving grievances and complaints:

a. self-management;
b. local resolution;
c. formal resolution; and
d. referral to an external agency or agencies.

(11) Employees seeking advice about their options or how best to approach a grievance or complaint may speak with their supervisor or relevant People Partner.

(12) Supervisors, People Partners, and others involved in such conversations must handle them privately and sensitively.

(13) If the issue is related to allegations or complaints of research misconduct, it is to be dealt with in accordance with the Responsible Conduct of Research procedure.

(14) Employees may initiate multiple resolution options, for example, where it has not been possible to resolve the grievance or where the seriousness of the matter escalates.

(15) The University reserves the right to act, as it deems necessary where it considers that:

a. the matter warrants formal resolution methods;
b. an employee's or student's health, safety or well-being is at risk;
c. misconduct or serious misconduct may have occurred; or
d. criminal conduct, fraud, bribery or corrupt conduct may have occurred.

Self-management

(16) Matters leading to a grievance or complaint are often accidental or unintentional. Employees are encouraged to resolve a matter directly with the people concerned, if they are comfortable to do so.

(17) Employees working to resolve complaints or grievances may have a confidential discussion with their People Partners and should ensure they:

a. discuss the matter privately;
b. identify the specific behaviour and/or actions that have caused offence;
c. explain the impact the behaviour has on them; and
d. request that the behaviour and/or actions stop.

(18) Employees should keep diary notes of any attempts to address the issues.

(19) If an employee is not comfortable attempting to resolve the matter directly, or if self-management is not successful, local and formal resolution methods are available.

Local resolution

(20) The local resolution process emphasises resolution rather than factual proof of a complaint. It is suited to issues such as interpersonal conflict and disagreements.

(21) Local resolution focuses on flexibility and aims to reach an outcome where parties can continue to work together in a professional and courteous manner. The length of the process may vary depending upon the nature of the complaint and the parties involved.

(22) Employees should initially contact their immediate supervisor to commence local resolution. If the issue involves their immediate supervisor, the employee should contact the next senior manager in their reporting structure. If an employee is unsure who to contact, they should speak with their People Partner.

(23) Possible outcomes of local resolution may include, but are not limited to:

a. parties openly discussing and understanding each other's point of view, and obtaining a clearer understanding of the issue;
b. establishment of agreed standards of behaviour;
c. acknowledgment and/or an apology;

d. reasonable management direction to adhere to behavioural and/or performance standards, which may include attending training; or
e. escalation to a formal resolution.

(24) The supervisor or senior manager is responsible for determining the appropriate action and recommendations required to resolve the matter. The relevant People Partner must be consulted when considering these options. Any agreed actions and associated timelines must be documented and securely stored by the supervisor and followed up with the parties involved. This will identify if further action is required.

(25) If the employee is concerned that their complaint is not being adequately resolved or addressed, they may escalate the matter to a formal resolution process at any time.

a. Once a formal process commences, the local resolution process will cease.
b. If action items identified during the local resolution process are still considered appropriate e.g. training, mentoring, these may still proceed.

(26) Information collected during the local resolution process may be provided to the case manager handling a formal resolution process.

(27) It is essential that during the local resolution process, the People Partner is kept informed of progress, to provide assistance or intervention if required. This is to also mitigate risk and ensure there is no breach in University practice.

Formal resolution

(28) Where the issue is not resolved at a local level or is of a more serious nature, such as sexual harassment, a formal resolution may be undertaken.

(29) Employees should make their complaint in writing to employeerelations@cdu.edu.au or approach the relevant People Partner, who will discuss with the employee and assist them to produce a signed statement of complaint. However, a complaint does not need to be in writing for it to be investigated.

(30) Once a formal complaint is made, whether written or verbal, the complaint must be addressed. It is the University's duty of care to investigate or take action, particularly where there is a potential breach of any legislation, or there is potential harm to a person occurring.

(31) Upon receipt of a formal employee grievance, the Deputy Director HR Partnerships and Employee Relations will appoint a case manager to undertake an initial review and assessment in accordance with the provisions of this procedure.

(32) The case manager may arrange to meet separately with the employee and/or respondent to undertake a formal interview or discuss the grievance in detail to ascertain specific issues and desired outcomes. Employees should be aware that information and allegations they disclose will be put to the respondent.

(33) The case manager may make the following recommendations:

a. that no further action be taken;
b. the complaint is referred to local management action to address the grievance; or
c. that a formal investigation take place.

(34) Should a formal investigation be recommended, an investigating officer will be appointed, and the investigation will be undertaken following the Conduct in the Workplace procedures as set out in the Charles Darwin University and Union Enterprise Agreement 2022 (the Agreement). The case manager may also act as the investigating officer.

(35) Where appropriate, the University may opt to appoint an external investigator. The investigator will adhere to all University policy and procedures.

(36) The Director People and Culture is responsible for determining if it is appropriate to engage an external investigator, and ensuring the person holds no conflicts of interest. If the Director People and Culture is party to the grievance, this responsibility will fall to the Vice-President Governance and University Secretary.

(37) The investigating officer may interview and collect statements from parties associated with the grievance, witnesses and any others who may have information relevant to the investigation. As part of the formal investigation process, it may be necessary to disclose details of the grievance to other parties including but not limited to:

a. the respondent;
b. identified witnesses; or
c. third parties where matters are subject to court or Fair Work Commission information requests.

(38) The employee and respondent will have an opportunity to contribute information during the investigation process.

(39) Employees must participate in formal investigation processes as required and answer all questions truthfully to the best of their knowledge. If an employee is found to have deliberately withheld or provided false or misleading information, appropriate disciplinary action may be taken.

(40) As appropriate, risks or issues identified may be communicated to the decision makers along with options to consider. This may include consideration of training activities, team building, coaching, formal instructions, performance management, investigations or other formal intervention.

(41) Possible outcomes of a formal investigation may include, but are not limited to:

a. Referral to formal intervention such as performance management, or disciplinary processes in accordance with the Agreement.
b. Referral to external agencies. While the University aims to resolve grievances internally, employees may seek the assistance of an outside agency at any time. Before doing so, employees are advised to check the jurisdiction and requirements of the agency.

Timeframes and maintaining contact

(42) When an employee lodges a formal grievance or complaint, People and Culture will acknowledge receipt within three (3) working days.

(43) Employee grievances are often complex and multifaceted, therefore timeframes surrounding management of the complaint may vary from case to case. However, timely responses by all parties involved are important during the grievance process.

(44) Throughout a formal resolution process, the case manager or investigating officer must maintain regular contact with the employee, respondent and any other involved parties.

(45) Any party to the complaint or investigation can contact People and Culture at any time for an update on status of the complaint or investigation.

Anonymity

(46) Employees should be aware that, to address a grievance or complaint and adhere to the principles of natural justice, it may be necessary to disclose the identity of the employee making a complaint to the respondent. As part of the initial assessment, the case manager will discuss any requests for anonymity and explore whether they are

feasible.

Malicious or Vexatious grievances and complaints

(47) All grievances will be assumed to have been raised in good faith. If following initial assessment or further investigation, it is found that a grievance or complaint has been raised with malicious or vexatious intent, it may be considered misconduct and referred for further action under the Agreement.

Withdrawal of Grievance

(48) An employee may withdraw or cease their grievance at any stage of a local or formal resolution process. To do so, the employee must notify their supervisor, relevant Senior Executive Team where appropriate, and People and Culture in writing.

(49) Following receipt of a written request to withdraw or cease, the appropriate manager in consultation with the case manager will consider whether the University cease or continue the process to address the matters raised in the grievance. This may include circumstances where an employee has ceased to be employed by the University.

(50) If the appropriate manager and case manager recommend the grievance should continue to be investigated the case manager will notify the Director People and Culture whose responsibility it is to make the determination.

Requests for appeal/review of outcome

(51) An employee can request to appeal a decision, or for a review of the final outcome. This request must be lodged in writing to the Director People and Culture within five (5) working days of the decision.

(52) Each request for review will be considered on a case by case basis by the Director People and Culture or delegate. The Director People and Culture will inform the employee in writing within five (5) days of the reviewer being selected.

(53) Where reasonably practical, the Director People and Culture shall provide final written response of review outcome to the employee within fifteen (15) working days of being appointed. This timeframe may be extended if deemed necessary.

(54) If the employee is not satisfied with the review outcome, they may consider seeking information from an external body including, but not limited to:

a. Ombudsman of the Northern Territory.
b. Office of the Independent Commissioner Against Corruption.
c. Northern Territory Anti-Discrimination Commission.
d. Northern Territory Police.
e. Fair Work Ombudsman.
f. The relevant equivalent of the above depending on the State or Territory where the complaint is made.

Section 6 - Non-Compliance

(55) Non-compliance with Governance Documents is considered a breach of the Code of Conduct - Employees or the Code of Conduct – Students, as applicable, and is treated seriously by the University. Reports of concerns about non-compliance will be managed in accordance with the applicable disciplinary procedures outlined in the Charles Darwin University and Union Enterprise Agreement 2022 and the Code of Conduct – Students.

(56) Complaints may be raised in accordance with the Code of Conduct - Students and Code of Conduct - Employees.

(57) All staff members have an individual responsibility to raise any suspicion, allegation or report of fraud or corruption in accordance with the Fraud and Corruption Control Policy and Whistleblower Reporting (Improper Conduct) Procedure.

Status and Details

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Responsible Executive	Fiona Coulson Vice-Chancellor
Implementation Officer	Peta Preo Director People and Culture
Enquiries Contact	Peta Preo Director People and Culture