Procedure: Staff grievance resolution

Purpose
This document provides support to the staff grievance resolution policy and outlines university and individual responsibilities in relation to the management and resolution of staff grievances.

Definitions
Grievance occurs when a staff member feels aggrieved about a matter associated with their employment conditions, or when a staff member disagrees with a decision, action or behaviour in the workplace by a fellow staff member, supervisor or manager that may affect the working relationship or work environment.

Grievance Handler is normally the supervisor or local manager of the staff member lodging a grievance; this person is responsible for reviewing the grievance in accordance with the provisions of this procedure. Where the supervisor/local manager is the focus of the grievance, an alternative Grievance Handler may be appointed from another area of the University.

Reviewer is normally the Dean of a College; Director of a Division; Head of Hall (or equivalent office holder) responsible for reviewing a grievance outcome or process in accordance with the provisions of the procedure.

Procedure
ANU approach to grievance resolution
1. A staff member who feels aggrieved about a matter associated with his or her employment conditions is expected to raise the issue(s) with his or her supervisor, or the supervisor's supervisor, as soon as practicable. The supervisor must initiate discussions with the staff member within two working days of receiving the grievance. The aims of such discussions are to determine whether a genuine grievance exists; gather information as required to assist with the resolution of the grievance; and resolve the grievance or arrange mediation or conciliation to attempt to resolve the grievance.
2. A staff member who feels that the matter has not been resolved may initiate
a formal grievance in accordance with this procedure.

Early resolution

3. It is acknowledged that from time to time, staff will have concerns about the behaviour or decisions taken by others within the workplace. Normally, these matters will be resolved directly or locally by staff discussing these matters in an open, candid and constructive manner. Where this local approach does not resolve the concerns and a staff member speaks to a supervisor, manager or lodges a formal grievance, then it is expected that any person lodging a grievance in good faith will not be disadvantaged or victimised in raising the grievance.

4. The underlying premise of this procedure is that in most cases it is more effective and relevant to clarify and resolve grievances as close to their source as possible, i.e. at the college, school or administrative unit level.

5. Supervisors' and managers' general responsibilities include identifying, preventing and responding to inappropriate situations in the workplace so as to create productive work environments. The University may decline a staff member's grievance if it is satisfied that the submission is vexatious, frivolous, misconceived, lacking in substance or that another University procedure should be pursued.

6. Where a staff member brings an issue to the notice of a supervisor or manager, even if not lodging a formal grievance, the supervisor or manager is required to clarify the issue and follow up to resolve the matter effectively. It is not necessary for a staff member to formally lodge a grievance to prompt a supervisor or manager to act, where he or she considers that a serious concern warrants intervention.

7. Supervisors and managers are advised to seek advice from Human Resources staff or the Legal Office where there are allegations of sexual harassment, discrimination, workplace bullying as these issues may have technical components under particular employment equity, OH&S and/or industrial legislation. Supervisors and managers are to be aware of potential inequalities arising from positional power, cultural and gender sensitivities and their overall need to maintain confidentiality and discretion in resolving grievances. The Complaints and Grievances webpage and Student appeals and grievances webpage are also useful online resources.

8. Staff members may also seek advice from their local management (including College General Manager or School Executive Officers/School Managers), local or central HR practitioners or the Adviser to Staff, if appropriate. These people will assist but not advocate staff grievances. The University also retains the services of
a confidential Employee Assistance Program Provider which can be contacted by phone or email.

9. Where a staff member is also an enrolled student, and a grievance may be dealt with under either the staff grievance resolution procedure or student complaint resolution procedure, the University will determine which procedure to apply, in consultation with the staff member. It is not intended that both policies be used in regard to the one grievance. In addition, this procedure is not to be used where a complaint has an existing separate appeal mechanism.

10. It is anticipated that effective local action focussed around conciliation will prevent the need for more formal processes to resolve grievances. It is acknowledged that in some cases the lack of effective conciliation may itself be the prompt for a formal review rather than the original grievance and this circumstance should be avoided.

Managing grievances

11. It is expected that grievances will be managed sensitively and as quickly as possible by the University’s responsible officers. Unless otherwise stated, general timeframes are provided in this procedure as a guide only – matters will vary due to complexity and availability of parties. Similarly, it is expected that grievances will be lodged promptly and not after a lengthy delay or in relation to matters that would reasonably be seen as historical.

12. In some instances, due to the seriousness of a grievance or some technicalities, it may be appropriate to have two people reviewing a grievance collaboratively. One is likely to be the supervisor or manager of the area – effectively authoritative on the norms and standards of a discipline or division, while a second person from HR Division, the Legal Office or elsewhere likely to be knowledgeable about administrative issues, including processes of procedural fairness. Where two people are reviewing, where possible, there will be a gender balance.

13. Again, in some circumstances, where the grievance is likely to be raised against a supervisor or manager, the Dean or Director will appoint someone outside the reporting line to undertake either conciliation or review the grievance matter. The Director Human Resources is available to provide advice about the options and probity of these matters, when appropriate, and may intervene to appoint a person for this role.

14. The parties involved in grievances are expected to participate in good faith, have regard to facts, policies, procedures, and the particulars of the circumstances. Grievances will be reviewed in the spirit of achieving resolution,
procedural fairness, sensitivity to the parties and confidentiality.

15. Action will not be taken in regard to anonymous grievances unless it meets the provisions of the public interest disclosure procedure.

16. Any party to a grievance may request assistance of a person, especially an observer or interpreter to attend with them if being interviewed. This person may not be a practicing barrister or solicitor.

General exclusions

17. It is important to note that grievances will not be reviewed where the grounds for the grievance appear to be vexatious, frivolous, or malicious or where it is considered that they are lodged to avoid performance management, misconduct or other serious workplace matters. In addition, grievances may not be reviewed if an external review process has been lodged and is underway.

18. Personal disappointment with the determination and recommendations of a Grievance Handler will not normally be sufficient reason to warrant a further review.

19. Where a matter arises that is more appropriately dealt with under the Enterprise Agreement or via criminal investigations, it may be referred elsewhere rather than be managed as a grievance.

Record keeping

20. Notes should be taken at all stages of the grievance resolution process, including where a staff member raises a grievance and the supervisor intervenes to resolve it without otherwise receiving a formal grievance document. Records or notes of the supervisor, local manager, Grievance Handler, Reviewer, Deputy Vice Chancellor (DVC) or Director – Human Resources (DHR) and copies of relevant communication during the grievance resolution process should be stored on a confidential University file.

21. For statistical purposes and trend analysis, persons facilitating grievance resolution should keep data on the number and type of grievances and report on this, as and when required to the Director Human Resources.

Training for effective grievance resolution

22. It is expected that Grievance Handlers and Reviewers will undertake appropriate training provided by ANU. All human resources staff, supervisors and managers are also encouraged to undertake this training, and to acquire a good working knowledge of the issues in relation to workplace bullying, sexual harassment and related issues of cultural and gender sensitivity.
23. All staff members are encouraged to access appropriate training so that they may participate in, encourage and respect the diversity of colleagues and students at ANU.

Stages of formal grievance resolution

**Stage One – Formal grievance**

24. Usually, a staff member will attempt to resolve a grievance directly, but where a satisfactory resolution has not been achieved, the staff member may formally request that the supervisor or local manager (hereafter called the Grievance Handler) take action to review and resolve the grievance, often through conciliation.

25. In cases where the supervisor or manager is the focus of the concern, the staff member may seek advice from the Executive Officer or Manager of the School, General Manager of the College/Division, or the local HR Manager on how best to proceed. In some cases, for the sake of perceived fairness and impartiality, it may be necessary for a Grievance Handler to be appointed from another area of the University to resolve a grievance.

26. The staff member must state in writing what the grievance is, identifying the facts and issues together with an indication of what resolution is being sought e.g. discontinuing certain behaviour, review of decision, apology from a staff member.

27. Within two working days, the Grievance Handler will have clarified the details of the grievance with the staff member and subsequently advised any other persons of the particulars of the grievance.

28. In some circumstances, where a supervisor or manager is untrained, inexperienced or where the matter is technical, difficult or sensitive(particularly in the areas of bullying, discrimination or harassment), the supervisors, managers and Grievance Handlers are to seek advice or guidance from local or central Human Resources staff.

29. Within a further ten working days, the Grievance Handler will ascertain the nature and merits of the grievance, providing all relevant parties with information and the opportunity for input, maintaining an open mind in an effort to understand the issues as seen by the various parties. The Grievance Handler will gather any documentation or supporting material and take such notes as necessary to fairly represent the issues.

30. The Grievance Handler will attempt grievance resolution, often through conciliation, at which time if successful the matter will be deemed resolved. Where conciliation does not provide grievance resolution, the Grievance Handler is likely
to make a determination in relation to the grievance.

31. The Grievance Handler will make a determination based upon the material gathered as to the merits of the grievance and make recommendations on options to resolve the grievance. Options can include:
   - affirming the decisions and actions that prompted a grievance (effectively dismissing the grievance);
   - recommending one or more parties apologise;
   - requesting parties seek mediation;
   - recommending performance discussions occur; and
   - initiating training in certain issues or behaviours.

32. In some cases discipline action or criminal investigations may be warranted and the grievance referred for further action.

33. The decision and recommendations of the Grievance Handler are to be communicated in writing to the staff member who lodged a grievance and other parties, if appropriate.

**Stage Two – Review of formal grievance resolution**

34. Subject to Stage One being completed, and where a staff member is not satisfied with the determination of the grievance made by the Grievance Handler, the staff member may seek a review of the grievance outcome or process with the Dean of a College, Director of a Division or Head of Hall (hereafter called the Reviewer). Such a request for review must be lodged within five working days of the written advice provided by the Grievance Handler.

35. The staff member must lodge the request for a review in writing, stating how or why the process at Stage One did not resolve the grievance and what remedy the staff member seeks.

36. Within two working days, the Reviewer will have clarified the details of the dissatisfaction with the initial grievance determination and subsequently advise any other persons of the particulars of the review.

37. In some circumstances, where a Reviewer may be untrained, inexperienced or where the matter is technical, difficult or sensitive, particularly in the areas of discrimination or harassment, the Reviewer are to seek advice or guidance from local or central Human Resources staff.

38. Within ten working days, the Reviewer will assess the process that occurred to determine the merits of the initial (Stage One) grievance, providing the opportunity for any additional input, and maintaining an open mind. The Reviewer
will re-assess any documentation or supporting material and seek further material, as required.

39. Having regard to the original facts, issues and any additional information discovered, the Reviewer will decide if the initial determination of grievance was valid or should be set aside. It is not intended, however, that the Reviewer intervene to overturn a finding of the Grievance Handler unless the Reviewer has found that there has been a flaw in process or other serious error at Stage One. In some cases, the Reviewer may require the Grievance Handler to conduct the process at Stage One again, giving guidance on the process. Alternatively, the Reviewer may request that someone else conduct the process again at Stage One for the sake of inspiring confidence in the grievance resolution process.

40. The Reviewer will write to the staff member to advise the determination and the outcomes of the review of the grievance.

**Stage Three – Final review**

41. In cases where a grievance is against a senior member of the University's staff or where a staff member remains dissatisfied with the process after Stage Two, a grievance may be lodged with the Director – Human Resources.

42. Stage Three grievances must be lodged in writing stating the facts and issues, outlining the remedy sought. In the case of review of previous stages, this document must state how and why the previous Stages have failed to address the grievance and be lodged within five working days of the Reviewer's written advice of the outcomes of their review.

43. Within two working days, the Director – Human Resources will clarify the details of the grievance against a senior staff member or the dissatisfaction with the earlier stages and subsequently advise any other persons of the particulars of the Stage Three grievance.

44. Within ten working days, the Director – Human Resources will assess the details or process that occurred to determine the merits of the grievance, providing the opportunity for any additional input, and maintaining an open mind. The Director – Human Resources (or nominee) will assess/re-assess any documentation or supporting material and seek further material, as required.

45. Having regard to the facts, issues and any additional information discovered, the Director – Human Resources will make a determination on the grievance or review of the earlier stages. Although the Director – Human Resources can determine an original grievance involving a senior member of staff, it is not intended that the Director – Human Resources will overturn a finding from Stage One or Stage Two unless a flaw in process or other serious error has been
identified. In some cases, the Director – Human Resources may require a Grievance Handler, or Reviewer to conduct their part of the grievance resolution process again, giving guidance if appropriate. Alternatively, the Director – Human Resources may request that someone else conduct the process and this may include referring the matter to an external mediator or consultant. The Director – Human Resources will write to the staff member to advise the determination of the outcomes of the final review of the grievance.