

Corporate Policies And Procedures Manual Section 2 : Human Resources

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Complaints Involving CPIT Staff (formerly Complaints Procedures)

1 Purpose

The purpose of this policy is to (a) ensure fair, prompt and equitable procedures for dealing with and resolving complaints against Christchurch Polytechnic Institute of Technology staff and (b) protect the rights of all parties, recognising the commitments made in Section 5 of CPIT's Charter.

2 Application

- 2.1 This policy applies to all complaints made against Christchurch Polytechnic Institute of Technology staff, except those noted in section 2.4 below.
- 2.2 To comply with this policy a complaint must:
 - 2.2.1 be in writing
 - 2.2.2 clearly state the nature of the complaint
 - 2.2.3 identify the staff member or members complained about
 - 2.2.4 provide sufficient details of the complaint so that both Christchurch Polytechnic Institute of Technology and the staff member(s) concerned can understand the allegations made.
- 2.3 This policy is of general application. It will apply where Christchurch Polytechnic Institute of Technology (or its Chief Executive Officer, including his or her delegate) wishes to investigate a complaint of non-performance by a staff member, or other breaches of contract including, but not limited to, the refusal of a staff member to take opportunities to improve, or where his or her performance fails to meet criteria or guidelines. Such a complaint will enter the process at Stage 3.
- 2.4 This policy does not apply to the following:
 - 2.4.1 Issues of concern or dissatisfaction arising from a formative appraisal, except where those matters have given rise to a complaint. In this policy a formative appraisal is any staff development, course or advice-seeking initiative by a staff member for his or her **own** learning or career development.
 - 2.4.2 Complaints about the CEO, which go to the Christchurch Polytechnic Institute of Technology Council.
 - 2.4.3 Allegations of harassment, for which a separate policy exists, provided such complaints are resolved at or below Stage 3. Should such a complaint progress to Stage 4, **then** this policy will apply.
 - 2.4.4 Complaints made against the Director, Human Resources. As she or he manages this process, complaints against her or him will go to the CEO.

2.4.5 Complaints that are mainly academic in nature, which are handled by an Appeals Committee unless otherwise directed (refer attachment to this policy or Accountability of Assessment policy).

2.4.6 Complaints under 'protected disclosure' (refer Protected Disclosures policy).

3 Policy Statement

3.1 Christchurch Polytechnic Institute of Technology takes complaints seriously. It is committed to dealing with all complaints promptly and fairly. The objective is to resolve all complaints as expeditiously as it can in the circumstances, and at the appropriate level. To achieve this goal, complaints falling within this policy will be dealt with according to clearly defined procedures, according to the principles of fairness.

4 Definitions

Except where an extended definition is stated or the context requires otherwise, all words or phrases used in this policy will be given their ordinary meaning.

4.1 Fairness

In this Policy the concept of fairness is designed to ensure that any complaint is handled in a manner that is fair to everyone involved, including witnesses. In this Policy the term fairness requires that:

4.1.1 Any staff member has the right to be informed about any written complaint about him or her.

4.1.2 Any staff member complained about has the right to an opportunity to respond to any complaint before any decision as to its merits is made.

4.1.3 Any staff member complained about has the right to advice and representation.

4.1.4 Any staff member has the right to support throughout any investigation.

4.1.5 Any person involved in the complaint has the right to be listened to.

4.2 Disciplinary Offence

A disciplinary offence is one where an employee has committed a breach of his or her employment contract that may include, but is not limited to, the following:

4.2.1 Failure to comply with any relevant Christchurch Polytechnic Institute of Technology policy, procedure or practice.

4.2.2 The wilful neglect or refusal to perform any duty consistent with a staff member's employment contract.

4.2.3 Disobedience of a lawful instruction.

4.2.4 Doing any act that constitutes serious misconduct.

4.2.5 Engaging in conduct (whether within work time or outside of it) which is inappropriate or inconsistent with that person's employment at Christchurch Polytechnic Institute of Technology, or which may adversely affect its reputation.

4.2.6 Where the staff member concerned engages in other employment or activities which might impinge on his or her performance for Christchurch Polytechnic Institute of Technology without its prior written consent.

4.3 Complainant

In this policy complainant means the person who has made the complaint that is the subject of an investigation under this policy, or is to be the subject of one.

4.4 Respondent

Any staff member who is the subject of a complaint.

4.5 Representative

The person appointed by the respondent to advise and/or represent him or her at any stage of the process.

5 Procedures

The following paragraphs set out the procedures which will apply to the resolution of any complaint. There are four stages to the complaints procedure. The first three are intended to allow for the introduction of a complaint and for it to be dealt with relatively informally. The fourth stage is a formal investigation of the complaint by a committee constituted for that purpose.

5.1 Stage One

5.1.1 If a complaint complies with paragraph 4.2 it must be delivered to an appropriate recipient who is:

- (a) Where a complaint is made by a staff member about the conduct of another staff member, the complainant's supervisor or manager.
- (b) Where the complaint is by a student, his or her Tutor/Lecturer, Head of School, Dean or Students' Association representative. The complaint will not be delivered to the person who is the respondent.

5.1.2 Any recipient of a complaint must deal with it promptly in accordance with these procedures. Where the complaint has been wrongly delivered, the person receiving it shall immediately refer it to the appropriate recipient and inform the complainant that this step has been taken, or return it to the complainant for redirection.

5.1.3 Any manager who receives a complaint should seek advice from the Human Resources Manager. If the Human Resources Manager is unavailable for 24 hours advice may be sought from the Senior Human Resources Administrator.

5.2 Stage Two

5.2.1 This stage is designed to allow the supervisor or manager an opportunity to attempt to resolve it informally. In this process the supervisor or manager will, after consulting with the Human Resources Manager

- (a) advise the respondent of the details of the complaint by delivering to him or her a copy of it; and
- (b) provide to the respondent a copy of this Policy; and
- (c) request a formal reply from the respondent.

5.2.2 A respondent will be allowed not less than twenty-four hours or more than five working days to reply. (A respondent may choose to reply in less than twenty-four hours.)

5.2.3 The supervisor or manager may make such enquiries as he or she considers necessary to meet his or her obligations at Stage 2. The supervisor or manager may speak with either, or both of, the complainant and respondent for the purposes of:

- (a) clarifying or explaining either the complaint or reply; and/or
- (b) attempting to negotiate a solution satisfactory to both complainant and respondent.

5.2.4 If a complaint is dismissed at this stage the complainant has the right to appeal to Stage 3, unless the dismissal is on the grounds of the complaint being frivolous or vexatious, in which case the appeal will be to the Director, Human Resources (refer 5.2.6 (d))

- 5.2.5 Stage 2 is not designed for detailed or complex mediation of issues. If quick and informal resolution is not possible then the supervisor or manager must refer the complaint to Stage 3 and inform both the complainant and respondent immediately.
- 5.2.6 Where it appears to the supervisor or manager that:
- (a) The subject matter of the complaint is sufficiently serious to be beyond quick and informal resolution; or
 - (b) That the attitudes of either or both of the complainant and respondent make quick and informal resolution unlikely; or
 - (c) Where, if a complaint is upheld, the respondent might be likely to be disciplined, the supervisor or manager shall immediately refer the complaint to Stage 3. The manager may make this referral to Stage 3 without consulting either the complainant or the respondent.
 - (d) If the supervisor or manager decides that the complaint is frivolous, or vexatious, it may be dismissed; this step should be taken only after consultation with the Human Resources Manager. If a complaint is dismissed at this stage the complainant has a right of appeal to the Director, Human Resources. If such an appeal is upheld, then the Director, Human Resources may either
 - i. direct the completion of Stage 2
 - ii. direct that the complaint proceed at Stage 3
 - (e) Refer 5.9 regarding the disposal of documentation.

5.3 Stage Three

- 5.3.1 Stage 3 is a review by the Human Resources Manager of any complaint referred to him or her from Stage 2 or on successful appeal from the dismissal of a complaint at Stage 2.
- 5.3.2 The Human Resources Manager may delegate responsibility for handling the complaint at Stage 3. References to the Human Resources Manager in this section therefore also refer to any such delegated person.
- 5.3.3 The Human Resources Manager will:
- (a) Advise the complainant and respondent that the complaint has been received at Stage 3.
 - (b) Remind the complainant and the respondent of their rights to representation and support in accordance with this policy.
- 5.3.4 Where necessary, in his or her absolute discretion, the Human Resources Manager may:
- (a) Seek further information from the complainant or respondent, as is appropriate in either case.
 - (b) Where further information is sought and provided send a copy of it to the complainant or respondent (as appropriate).
- 5.3.5 The Human Resources Manager may attempt to resolve the complaint by negotiation on such terms as are considered appropriate.
- 5.3.6 Nothing in this Policy obliges the Human Resources Manager to mediate or negotiate. Where the Human Resources Manager considers any of the following to be the case, he/she may, without reference to either the complainant or the respondent, direct that the complaint proceed to Stage 4:
- (a) The attitudes of either or both the complainant and respondent make resolution by negotiation unlikely; or
 - (b) The subject matter of the complaint is so serious, or of such a type or nature, that negotiation would be inappropriate; or
 - (c) That if the complaint is upheld on investigation at Stage 4, then, where the respondent is an employee, disciplinary action might be taken against him/her.

5.3.7 If a complaint is not resolved at Stage 3 the Human Resources Manager will refer it to Stage 4. At this stage responsibility for handling the complaint will pass to the Director, Human Resources and involvement of the Human Resources Manager will cease, subject to the provisions of 5.4.5.

5.3.8 Refer 5.9 regarding the disposal of documents and notes.

5.4 Stage 4 - Complaints Committee

This stage is the most formal part of dealing with a complaint. The purpose is to investigate allegations made in a complaint where there has been no prior resolution of it, and to determine what action, if any, should be taken. The Committee will be constituted depending on the nature and subject of the complaint.

5.4.1 Constitution of the Committee

- (a) The Complaints Committee will consist of the Director, Human Resources (or in her or his absence a delegate or nominee). and two other senior Managers appointed on an ad hoc basis.
- (b) The Complaints Committee will be chaired by the Director, Human Resources, (or her or his delegate or nominee).

5.4.2 The Chair may liaise with the complainant and/or the respondent in advance of the Committee convening, for the purposes of identifying procedural matters and deciding appropriate methods by which they may be dealt with. The Chair may direct either the complainant, the respondent, or both of them, to supply sufficient particulars of:

- (a) the facts which they say give rise to either the complaint or the reply by the respondent; and
- (b) any other supporting materials or information which might be relevant to the Committee (including providing copies of documents or materials); and
- (c) statements by any person whom they might seek to rely on;

for the Committee prior to it convening.

5.4.3 Where the Chair makes a direction in accordance with paragraph 5.4.2 she or he:

- (a) will stipulate when the material is to be presented to the Committee;
- (b) may direct that such Christchurch Polytechnic Institute of Technology resources as are necessary be made available for the purposes of complying with this direction. By way of explanation, what is anticipated is that if, for example, a complainant is asked to make a written statement then he or she will have assistance in preparing it;
- (c) may direct that such statements and materials provided be distributed to all other parties prior to the Committee convening.

5.4.4 The Committee will appoint a secretary whose responsibilities in relation to the complaint will be:

- (a) to take minutes of the investigation; and
- (b) to provide assistance as directed by the Chair; and
- (c) to receive and distribute, as directed, materials for reference to the Committee.

5.4.5 In undertaking an investigation the Committee will

- (a) through its secretary or its Chair formally acknowledge receipt of the complaint;
- (b) call for and/or formally receive and consider all relevant information;
- (c) formally receive and consider all evidence, explanations, materials or documents submitted by the complainant, respondent or any other person;
- (d) investigate in such manner as it considers appropriate. If required, the Committee will investigate information or other evidence which it considers relevant but which may not have been tendered by either the complainant or the respondent;

- (e) where appropriate, delegate some enquiry or reporting functions to any one or more of its members (subject to such information being made available to the complainant and the respondent);
- (f) interview any person it considers may have information relevant to the outcome of the investigation whether or not that person has been identified by the complainant or respondent as a possible witness;
- (g) carry out any systems appraisal it may consider necessary or appropriate;
- (h) establish the facts of the complaint;
- (i) consider and decide on the nature and seriousness of the complaint;
- (j) advise the complainant and the respondent of the Committee's findings;
- (k) make a decision on the complaint;
- (l) advise all parties of its decision.

5.4.6 The Committee will decide its own procedure, which it may amend or alter as the circumstances require.

5.4.7 The Committee may make any decision that it considers appropriate which includes, but is not limited to:

- (a) dismissing the complaint;
- (b) deferring the complaint for further investigation;
- (c) referring the complaint to some other committee of Christchurch Polytechnic Institute of Technology; or authority
- (d) determining that the complaint has been upheld;
- (e) if the complaint is upheld deciding on suitable disciplinary action.

5.5 If a complaint is upheld no disciplinary action will be taken without first hearing from the respondent.

5.6 The purpose of this Policy and procedure is to provide a fair opportunity for all parties to be heard. If a respondent declines an invitation to participate, or to supply information, or in any other way refuses, neglects or fails to take part in this process then the Committee may consider the complaint in his or her absence.

5.7 Supplementary Provisions

5.7.1 This Policy and procedure has of necessity identified persons to whom complaints must be directed for the Policy to operate efficiently. Christchurch Polytechnic Institute of Technology acknowledges that there may be occasions where the complaint is about an individual identified in this Policy and procedure as having to discharge a duty or function under it. If the complaint is of that type then the following will apply:

- (a) If the complaint is about a Dean or Divisional Director then the direction to deliver the complaint in Stage 1 will be the Human Resources Manager;
- (b) If the complaint is about the Human Resources Manager then the direction to deliver the complaint in Stage 1 will be to the Director, Human Resources;
- (c) If the complaint is about the Director, Human Resources, then the direction to deliver the complaint in Stage 1 to the Chief Executive Officer;
- (d) If the complaint is about the Chief Executive Officer then it will be directed to the Chair of the Council of Christchurch Polytechnic Institute of Technology. The Council will deal with such complaints in such manner as it sees fit.

In all cases, with the exception of complaints about the Chief Executive Officer, a complaint made under this paragraph will be dealt with according to this policy with such modifications to the procedure as are necessary.

5.8 Stale Complaints

5.8.1 In order to invoke this Policy any person wishing to complain must do so not later than one calendar year from the time when the conduct complained of occurs or the substance of the complaint arises. If a complaint is made outside of that time then it may only progress to Stage 1 if, before submitting the complaint, the complainant first obtains the written approval of the Chief Executive Officer to proceed. The Chief Executive Officer has an unfettered discretion to grant or refuse permission.

- 5.8.2 Where a complaint has been made complying with this Policy, but the complainant neglects, fails or refuses to assist in processing it in a timely manner then the Chief Executive Officer (or his or her delegate) may dismiss that complaint without further investigation. Where a complainant is at risk of having his or her complaint dismissed on this basis, he or she will first be advised of this possibility and provided with a further opportunity to complete the process.
- 5.8.3 Where a further opportunity under 5.8.2 is provided the complainant will be given a stipulated date and time within which to act.
- 5.8.4 Notwithstanding paragraph 5.8.2, where a complainant has made a complaint complying with this Policy (or any previous Policy) but the complainant has delayed for a period of not less than one calendar year in either:
- (a) taking steps to progress the complaint; or
 - (b) providing information to Christchurch Polytechnic Institute of Technology to allow it to progress the complaint;

then this Institute is under no obligation to investigate it further, or to take any other step and may dismiss the complaint without further formality.

5.9 Documentation

Up to and including Stage 3 informal notes will be taken to assist the manager making the enquiries. If the complaint reaches Stage 4 these notes will be destroyed. Any documents that have been provided by the complainant or the respondent and disclosed to the other party will be given to the Chairperson of the Complaints Committee. If a complaint is resolved at Stage 1, 2, or 3 a decision will be made at the time of resolution as to disposal of any records and notes.

- 5.9.1 A written record will be made of all discussions, interviews and meetings in considering a complaint at Stage 4. Where there is a written record then the person about whom that record has been made is entitled to have access to it and to comment as to its accuracy (in accordance with information Privacy Principles 6 and 7 and the general obligations contained in the Privacy Act.)
- 5.9.2 Once the complaint has reached a conclusion all documentation will be kept in a sealed envelope.
- 5.9.3 The sealed information referred to in 5.9.2 will be kept for a period nominated by Christchurch Polytechnic Institute of Technology. This period will be not less than 1 year and not more than 2 years. On the expiry of this nominated time all documentation will be destroyed, unless Christchurch Polytechnic Institute of Technology has first received notice of some action which requires that record to be maintained.
- 5.9.4 If the record referred to in paragraphs 5.9.2 and 5.9.3 must be maintained, then Christchurch Polytechnic Institute of Technology will determine what further period of retention is appropriate.
- 5.9.5 While documents referred to in 5.7.2 and 5.7.3 are held by Christchurch Polytechnic Institute of Technology they will fall under the responsibility and control of the Human Resources Division.
- 5.9.6 A record of a resolved complaint will be maintained on the respondent's personal file, except where the complaint is dismissed.

5.10 Mediation

- 5.10.1 Mediation is a process for dispute resolution. It is an option under this policy up to and including Stage 3. There are many different forms of mediation. Some are facilitated by a mediator who is formally appointed, others take the form of a meeting.
- 5.10.2 Formal mediation is a skill. Preparedness to attempt to resolve the differences between the parties to that mediation is required. Not every complaint which may be the subject of this Policy is susceptible to mediation.
- 5.10.3 Before formal mediation at levels 2 or 3 is arranged, the Human Resources Manager and the complainant and respondent (or their representatives) will meet (either together or separately) to determine terms of reference. If an external mediator is nominated then these terms of reference will include identifying the costs associated with mediation and who is responsible for bearing them.
- 5.10.4 If the Committee at Stage 4 directs that mediation takes place, the Committee will define and direct the process.
- 5.10.5 Experience has shown that it is essential for all parties involved in mediation to understand the purpose and parameters of this process. An agenda for any meeting, and the role of each person attending needs to be clearly defined.

5.11 Confidentiality

Throughout the handling of a complaint, Christchurch Polytechnic Institute of Technology and the members of the Committee or Executive Staff who must be involved will maintain confidentiality about the existence of the complaint, and the inquiry, subject to the need to obtain professional advice, or as required by law.

5.12 Alternative Procedures

- 5.12.1 Nothing in this Policy prevents Christchurch Polytechnic Institute of Technology and the complainant and respondent from agreeing to an alternative process for dispute resolution. An alternative process must be fair to the Institute, the complainant and the respondent. An alternative procedure may only be authorized on behalf of Christchurch Polytechnic Institute of Technology by the following persons:
- (a) The Chief Executive Officer; or
 - (b) The Director, Human Resources.
- 5.12.2 Where an alternative procedure is agreed upon, the terms of that procedure and the agreement to deviate from this Policy will be recorded in a memorandum signed by all parties.

5.13 Potential Outcomes

- 5.13.1 The intention of this Policy and these procedures is that complaints will be resolved. A complaint is resolved when:
- (a) There has been agreement between the complainant and respondent as a result of negotiation or mediation; or
 - (b) The Complaints Committee has investigated a complaint and reached a decision; or
 - (c) The complaint has been dismissed as frivolous or vexatious.

5.13.2 In resolving a complaint Christchurch Polytechnic Institute of Technology must be satisfied that:

- (a) The complainant has been heard and the issues raised by him or her considered;
- (b) The respondent has been heard and the issues raised by him or her have been considered;
- (c) All parties involved (including all witnesses) have been treated fairly and given a proper opportunity to comment.

5.14 Formal Response

5.14.1 There are several levels at which Christchurch Polytechnic Institute of Technology may respond to a complaint if it is upheld. Responses by Christchurch Polytechnic Institute of Technology include, but are not limited to:

- (a) An admonition without further penalty;
- (b) A formal warning;
- (c) A formal warning, with or without a direction to undertake remedial action;
- (d) Allocation to other duties;
- (e) Suspension;
- (f) Dismissal.

5.15 Action Plan

5.15.1 Where the respondent is directed to undertake remedial action that task will be in the form of an action plan. An action plan may be the result of

- (a) A negotiated or mediated solution at any stage of this procedure; or
- (b) A direction by the Complaints Committee.

5.15.2 An action plan will be drawn up under the supervision of the respondent's Dean, Divisional Head, supervisor or manager. This plan must identify all of the issues to be addressed, the actions required to address them and to provide a schedule showing when that work is to be undertaken.

5.15.3 As an example only, issues capable of being addressed in an action plan may include:

- (a) Remediation of behaviour which is contrary to the stated goals, values or commitments in Christchurch Polytechnic Institute of Technology's Charter; or
- (b) Competency in the delivery of education; or
- (c) Meeting a staff member's job description and performance requirements.

5.15.4 An action plan must include:

- (a) The details of the behaviour to be addressed;
- (b) The changes in behaviour or conduct required;
- (c) The time in which the plan is to be undertaken;
- (d) The standards by which remedial steps are to be measured;

- (e) The advice, support and/or additional training which will be provided;
- (f) Identification of the person/s who will assess progress towards the required changes;
- (g) The consequences of achieving the objectives, or failing to achieve them.

5.16 Formal Warnings

5.16.1 Any formal warning must include:

- (a) The details of the conduct justifying that warning;
- (b) The changes in behaviour required;
- (c) The period of time allowed for the changes to be undertaken;
- (d) Observable and measurable standards by which change can be addressed;
- (e) A statement of the consequences of failure to improve.

5.16.2 Where a warning is administered the respondent is required to sign an acknowledgement recognizing the existence of that warning and his or her receipt of it.

5.17 Suspension or Allocation to Other Duties

5.17.1 Some complaints may allege behaviour of such gravity, or in such circumstances, that it would be inappropriate for the respondent to continue his or her usual duties while an investigation is being undertaken. Examples of that conduct might include, but are not limited to, allegations of assault on a student or another staff member, misuse of alcohol or drugs on campus, misappropriation of property or finances, or other matters which could amount to a serious dereliction of responsibilities.

5.17.2 The Chief Executive Officer, in his or her absolute discretion, may at any time following the receipt of a complaint and pending its investigation:

- (a) Suspend the respondent on full pay for such time as is considered appropriate; and/or
- (b) Direct the respondent to undertake alternative duties from those normally undertaken by him or her; and/or
- (c) Direct the respondent to work in another location, other than the one normally worked in by him or her.

5.17.3 Because Christchurch Polytechnic Institute of Technology recognizes that suspensions is a serious step, this action is likely to occur only when the allegations involve serious complaints capable of leading to disciplinary action. Only the Chief Executive Officer, or in his or her absence his or her nominee, may suspend a respondent.

5.17.4 Before a staff member is suspended he or she will be advised of that pending action.

5.18 Organisational Actions

5.18.1 Christchurch Polytechnic Institute of Technology is receptive to all feedback, including criticisms and suggestions for improvement, and is committed to responding in a constructive manner. Concerns that are serious enough to lodge a formal complaint, or for some other reason a complaint is not lodged, still deserves attention.

5.18.2 Protocols for responding to such feedback are set out in the policy, Evaluation & Review.

5.18.3 As a 'learning organisation', Christchurch Polytechnic Institute of Technology is committed to learning from its experiences. When there is a relevant message arising from the

complaint, the debriefing sheet, 'What Can We Learn?' (attached) will be completed and distributed to appropriate persons/bodies at CPIT. Confidentiality will be maintained by not including any details that would identify any person/s involved in the complaint.

6 Attachments/Further Documentation

- Academic Appeals Committee
- What Can We Learn from this Concern/Complaint?

7 Related Policies

- Harassment Complaint Procedure
- Evaluation & Review
- Personal Information about Students and Staff - Information Privacy Principles
- Code of Professional Practice
- Student Rights and Responsibilities
- Protected Disclosure Policy