



Staff Conduct Policy – Guidelines Addressing Alleged Misconduct

How to Make a Complaint
Informal Process
Formal Process
Tikanga Māori Process

1. How to Make a Complaint

1.1 Process

- (a) Any person can make a complaint where they consider that the alleged misconduct of a person (covered by the Staff Conduct Policy) warrants further action. The complainant may wish to seek advice before deciding whether to make a complaint – please see paragraph 1.4 below ('Advice and Support').
- (b) Any person who wishes to make a complaint on behalf of a Student or Staff Member must first obtain the explicit permission and consent of the Student or Staff Member concerned to do so, and must make it clear when lodging the complaint on whose behalf the complaint is being made. Where a person has made a complaint with the permission and consent of the Student or Staff Member concerned, the complainant will be contacted and may be required to engage in any process under these Guidelines.

Informal complaint/complaint requesting an Informal Process

- (c) Concerns may be raised orally or in writing for an informal process. If the person raising the concerns wishes to make a request for their complaint to be addressed through an informal process, they may do so. The concerns should provide sufficient information about the concerns and who is reported to be involved to enable the relevant Manager¹ to understand the issue(s) and how the complainant is seeking to have them addressed.

Formal complaint

- (d) The complaint should be in writing and include:
 - The name of the complainant and the respondent²;
 - Details of the alleged misconduct (e.g. breach of policy, unacceptable behaviour, etc.), including dates, time and places (where applicable);
 - The names of any witnesses to the alleged misconduct;
 - The name of the person to whom the complaint was first formally reported (where applicable);
 - Where the complaint is made on behalf of someone else, confirmation that permission has been obtained from that person to make the complaint;
 - The complainant's signature (including electronically) and the date of the complaint.
- (e) The University will not act on anonymous complaints unless:
 - (i) it is not necessary for the person complained about to be aware of the identity of the complainant in order to fully understand the allegations in the complaint and to properly respond to the complaint; or
 - (ii) there is independent evidence supporting the complaint and the allegation can be tested fairly.
- (f) The University is unable to act on complaints from complainants who decline to provide information about the person complained about.
- (g) Under the formal process a copy of the complaint will be provided to the person whose alleged conduct is the subject of the complaint.
- (h) Depending on the nature of the alleged misconduct (or other workplace dispute) and the relationship between the complainant and the respondent, the complaint may be referred to:

¹ The relevant Manager is normally the line manager but, in some circumstances, may be a more senior manager, or another manager.

² Natural justice requires that complainants must be identified (other than in exceptional circumstances) so that respondents are provided with all relevant information and a proper opportunity to respond to the complaint.

- the complainant's Manager;
- the respondent's Manager;
- a senior manager;
- Human Resources.

1.2 Retaliatory Action

- (a) Retaliatory action against a complainant for making a complaint will be viewed seriously by the University and may constitute a breach of the Staff Conduct Policy.

1.3 Types of Process Available

- (a) There are three types of process available for resolving complaints:

- Informal Process;
- Formal Process;
- Tikanga Māori Process.

Further information about each of these processes is set out below.

1.4 Advice and Support

- (a) People who Staff Members may approach for advice and support include:

- The complainant's manager, the manager of the person complained about, or a senior manager
 - Human Resources
 - Manager, Staff Wellness
For advice about medical and general wellbeing issues. Where appropriate, the Manager, Staff Wellness can refer the matter to an appropriate counselling, facilitation or similar service provider.
The contact details of the Manager, Staff Wellness can be found on the [staff intranet](#).
 - Union or other representative (e.g. a lawyer)
For advice and advocacy, Staff Members may contact their union organiser if they are a union member.
 - Employee Advisory and Resolution Service (EARS—Te Rauawa)
EARS—Te Rauawa is a confidential, impartial and informal service that is independent of Human Resources at the University. This service provides Staff Members with the opportunity to discuss their workplace concerns with an independent party to obtain advice and support on a confidential and off-the-record basis.
University Staff Members can contact EARS—Te Rauawa anonymously through the EARS—Te Rauawa Staff Intranet page or by email to ears@vuw.ac.nz.
 - TELUS Health (formerly Benestar)
TELUS Health does not normally participate in informal or formal processes per se. However, it provides counselling and support to the University's Staff Members. TELUS Health are a global wellbeing company that provide Employee Assistance Programmes (EAP) to support staff whose work is being affected by personal or work-related issues.
Telephone: 0800 360 364
Website: <https://www.benestar.com/>
- (b) People who Students may approach for advice and support are:
- Student Interest and Conflict Resolution Team

Students who wish to seek advice or raise an issue against a Staff Member may contact the Student Interest and Conflict Resolution Team. Where appropriate, the Student Interest and Conflict Resolution Team may assist the Student to gain a resolution or refer the matter as appropriate.

The Student Interest and Conflict Resolution Team can be contacted at studentinterest@vuw.ac.nz or 04 463 5023 (business hours only).

- [VUWSA Advocate](#)
For independent advice and advocacy, Students may contact the VUWSA Advocate – advocate@vuwsa.org.nz.
- [The Tumuaki of Ngāi Taurira \(or their nominee\)](#) – tumuaki@nt.org.nz.

ADDITIONAL RESOURCES

The University's [Building Respect](#) programme has information and resources to support staff in addressing various workplace issues.

2. Guidelines for an Informal Process

2.1 Introduction

- (a) The University encourages the use of informal, adaptable processes that are based on restorative principles and practices (where appropriate), or other processes of informal intervention, for addressing some alleged misconduct or other workplace disputes.
- (b) An informal process could involve a Staff Member being notified of issues of concern that have been brought to the University's attention, and provided with advice and support to model workplace behaviour in the future which is consistent with the Staff Conduct Policy (without a disciplinary sanction being imposed). An informal process could also provide an opportunity for relevant parties to resolve concerns by mutual agreement and without either one having the authority to impose a resolution over the other.
- (c) The relevant Manager, once aware of an allegation of misconduct or other workplace dispute or concern, will explain the available processes to the person making the allegation and determine the appropriate process to be followed. In doing so, they will consider the views of the person making the allegation, weighing the seriousness of the allegation, and assessing whether an informal process is appropriate. The relevant Manager will seek the advice of Human Resources prior to determining the process to be followed and, in particular, whether an informal process might be appropriate.
- (d) It should be noted that if a person covered by the Staff Conduct Policy refuses to participate in an informal process, the matter may be dealt with under a formal process (set out below).
- (e) Advantages of an informal process include:
 - Speedy resolution
 - An opportunity for a Staff Member to be made aware of possible concerns about something they may have said or done so they have the opportunity to correct or modify their behaviour at an early stage
 - Resolution by the parties
 - Resolution by agreement
 - Greater likelihood of maintaining the relationship between the parties

2.2 When an Informal Process may be appropriate

- (a) There are many circumstances in which an informal process may be appropriate. An informal process is reliant on the co-operation of all parties, good faith and a commitment to resolving the issues. Some examples where an informal process may be appropriate and encouraged are:
 - (i) In a one-off situation which has arisen unexpectedly, such as a dispute between two colleagues who normally have a good working relationship.
 - (ii) Where the appropriate remedy may be an apology and/or an agreement about how the parties will interact in future.

- (iii) Where a person may be genuinely unaware that they have acted inappropriately and, once made aware, is willing to correct or modify their behaviour in the future.
- (iv) After a formal disciplinary process, as part of efforts to work to repair and restore the relationship between the parties or within the wider workplace.

2.3 Process

- (a) If the relevant Manager has determined that an informal process is appropriate, the matter should be dealt with as soon as practicable.
- (b) Methods of seeking an informal resolution include but are not limited to:
 - (i) The relevant Manager talking separately to both parties to get a full understanding of the issues and assisting the parties in gaining a resolution.
 - (ii) Direct discussions between the parties, if appropriate, in a safe environment and ensuring the parties are aware of their options for accessing support (including EARS—Te Rauawa).
 - (iii) The relevant Manager agreeing to inform the Staff Member of the concerns that have been raised, with a view to providing advice and support to model workplace behaviour in the future which is consistent with the Staff Conduct Policy (but without necessarily resulting in direct discussions between the parties).
 - (iv) Facilitated discussions or a restorative process between the parties which may be facilitated by an independent third party (but without the third party having the authority to impose a resolution). The parties must deal with each other in good faith which includes providing the opportunity for each to consider and respond to the other. Where a third party is involved the role of the third party may include to:
 - a. assist the parties to find constructive solutions using a co-operative problem solving process;
 - b. be even-handed to all parties and allow each party equal opportunity to participate;
 - c. promote respectful dialogue between the parties;
 - d. respect the confidentiality and privacy of all parties and deal with any issues sensitively to maintain the dignity and respect of the individuals involved, and to encourage them to accord each other the same respect;
 - e. assist the parties to find solutions that will address the issues and promote repair of the parties' working relationship; and
 - f. allow the parties to make their own decisions, including who will be informed of the outcome.

2.4 Agreed Outcomes

- (a) Some examples of agreed outcomes of an informal process are:
 - (i) Where the alleged misconduct relates to a dispute between Staff Members or a complaint made by a person against a Staff Member, an apology (written or verbal) and/or an agreement on how the parties will interact in the future. For example, this may include treating each other with respect, listening, ensuring that requests or instructions are clear, etc.
 - (ii) Where the matter relates to a dispute involving work activities, an agreed outcome could involve roles being clarified, how the parties will work with each other in future, including how they will raise and respond to difficulties or disagreements that they may have in their working relationship, and an agreement reached on the responsibilities that will be assumed by each party in the future.

ADDITIONAL RESOURCES

The University's [Building Respect](#) programme has information and resources to support staff in addressing various workplace issues.

3. Guidelines for a Formal Process

3.1 Introduction

- (a) These Guidelines provide guidance on the steps that can be involved in a formal process under the Staff Conduct Policy, where a matter of concern about a Staff Member's alleged conduct arises and a Manager (after consulting with Human Resources) determines that it is appropriate for the University's formal process to be followed.
- (b) Guidance for a formal process relating to ongoing poor performance by a Staff Member is contained in the [Guidelines for Managing Performance Issues](#).
- (c) For many Staff Members, there are Discipline and Dismissal Procedures set out in their employment agreement that should be considered. If there is an inconsistency between the processes set out in this document and the procedures set out in an employee's employment agreement, the employment agreement procedures must be applied.
- (d) For all persons covered by the Staff Conduct Policy who are not Staff Members, the procedure for investigating and/or dealing with alleged misconduct will be determined by the relevant Manager in consultation with Human Resources. The procedure will take into account the particular relationship between the individual concerned (e.g. contractor, adjunct, etc) and the University, and the circumstances of the situation.
- (e) It should be noted that a formal process is not intended to preclude normal staff management practices. Managers are entitled and expected to raise matters of concern with their staff, and Staff Members are expected to engage in good faith to address and resolve such concerns.
- (f) It is recognised that every situation is unique and each process should reflect the particular needs of the situation, but the relevant Manager should ensure:
 - any process is conducted in a non-threatening and culturally appropriate manner;
 - that the Staff Member is advised of their entitlement to seek independent advice and to have representation/support at any meetings where they may be asked to give a response which could be taken into account in making any subsequent decision about disciplinary action; and
 - all parties are advised of the requirement to maintain appropriate confidentiality to the extent that they are able to.

3.2 Consideration of Formal Process

- (a) Instances of alleged misconduct/serious misconduct by a person covered by the Staff Conduct Policy may come to the attention of a relevant Manager in a number of ways, such as where:
 - A person makes a formal complaint against another person (see section above 'How to Make a Complaint');
 - A Manager otherwise becomes aware of other alleged misconduct that may warrant further enquiry and/or action under the University's Staff Conduct Policy and these Guidelines.
- (b) Once a relevant Manager is aware of a formal complaint alleging misconduct against a Staff Member, or other matter of alleged misconduct, they must consult with Human Resources to help them determine the process to be followed in the circumstances. This will include consideration of whether the alleged misconduct could constitute a possible breach of the Staff Conduct Policy and, if established, whether it could be misconduct or serious misconduct.
- (c) If a formal complaint requires any clarification, further information may be sought from the complainant at this stage.

3.3 Consideration of whether suspension may be necessary

- (a) If it is considered that the alleged misconduct may constitute a possible breach of the Staff Conduct Policy, and that a formal process is the appropriate way to deal with it, the relevant Manager should also consider whether it is necessary to suspend the respondent Staff Member pending the outcome of any process. Prior to any suspension, the Staff Member will normally be informed of the alleged misconduct and given the opportunity to comment on whether they should be suspended.
- (b) The relevant Manager must consult with Human Resources about any potential consideration of suspension and the process to follow.

3.4 Consideration of whether an investigation may be necessary

- (a) Before commencing any process, the relevant Manager will consider (in consultation with Human Resources) whether an investigation or a disciplinary process may be necessary.

If an investigation is not needed

- (b) An investigation may not be necessary where the allegations are not complex and further inquiry is not needed for the relevant Manager or the Staff Member to understand the allegations and for the relevant Manager to determine if they can be substantiated (e.g. there may be clear documentary evidence or the subject of the complaint may have admitted the alleged behaviour).
- (c) If the relevant Manager decides (in consultation with Human Resources) that an investigation is not necessary, the Manager should follow the disciplinary process (see paragraph 3.5 below for more guidance on the disciplinary process).

If an investigation is needed

- (d) If the relevant Manager decides (in consultation with Human Resources) that an investigation is necessary, then they will usually consider:
 - Which allegations, if any, will be investigated;
 - How the investigation will be conducted, including whether an internal or external investigator will be appointed;
 - Whether terms of reference should be produced for an investigation and, if so, what those should be;
 - Whether there are witnesses who may need to be interviewed;
 - Who the decision-maker will be.
- (e) The relevant Manager will notify the Staff Member of the allegations that have been raised (and provide any supporting documentation, such as a copy of the complaint where applicable), and invite the Staff Member to a meeting to advise them that an investigation will be conducted.
- (f) Where an investigator is to be appointed, the relevant Manager will (with support from Human Resources) refer the complaint to an investigator for an investigation to be undertaken.
- (g) At the completion of the investigation the relevant Manager will receive a copy of the investigator's report and provide this to the Staff Member.
- (h) After considering the Staff Member's response to the investigator's report, the relevant Manager, in consultation with HR, will determine the appropriate next steps, which, if applicable, may include a disciplinary process.

Note: Any investigation conducted by the University will comply with natural justice principles.

3.5 The Disciplinary Process

As a general summary, if the relevant Manager (in consultation with Human Resources) decides that a disciplinary process is necessary, the process usually includes the following steps:

- (a) The relevant Manager will:
 - (i) advise the Staff Member (in writing):
 - That a meeting will be held and provide details of the specific alleged misconduct.
 - Set out the purpose of the meeting. The purpose of the meeting is to seek the Staff Member's response to the allegations before making a further decision on what action, if any, should be taken.
 - Include any supporting documentation. This will usually include copies of the complaint (where applicable), the Staff Conduct Policy and/or the Discipline and Dismissal Procedures and any other relevant documentation (e.g. further comments and clarifications from the complainant, the investigation report if applicable).
 - Advise the Staff Member of their right to have representation/support at the meeting. The relevant Manager is usually supported by Human Resources at the meeting.
 - (ii) Provide the Staff Member with a real opportunity to be heard and offer explanations.
 - (iii) Give full consideration to the Staff Member's explanation and any mitigating circumstances before making a decision. Where appropriate, give time for adjournment during or following the meeting so that both parties have time to consider the response(s) to the allegations and explanations.
 - (iv) Make a decision and advise the Staff Member. This could involve a disciplinary penalty or other action.
- (b) Attendees at the meeting(s) will receive a record of the meeting(s). If any party disputes the record, their objection must be attached to the record.
- (c) The relevant Manager will advise the complainant (where applicable) whether or not their complaint (or aspects of it) have been upheld.

3.6 Disciplinary Penalties

- (a) Where misconduct is established, the following penalties are available:
 - (i) Formal verbal warning (oral warning in writing)
 - (ii) Formal written warning
 - (iii) Final written warning
 - (iv) Dismissal
- (b) The level of the penalty imposed can be at any step, depending on the seriousness of the misconduct. Where serious misconduct is established, it may result in dismissal without notice.

3.7 Other Steps following a Formal Process

- (a) Where appropriate, the relevant Manager may direct other remedial actions to be taken or suggest to the parties that they undertake a restorative process with those who have been affected by the conduct (e.g. where applicable, others within the work area) as part of efforts to work to repair and restore the relationship between the parties or within the wider workplace.

ADDITIONAL RESOURCES

The University's [Building Respect](#) programme has information and resources to support staff in addressing various workplace issues.

4 Guidelines for a Tikanga Māori Process

4.1 Introduction

- (a) The University is committed to acknowledging Te Tiriti o Waitangi by working in partnership with Māori. The spirit of tikanga is to seek resolutions to alleged misconduct, disputes and complaints in a manner that encourages a facilitated open exchange of views with a view to seeking consensus and acceptance from all parties as to the resolution.
- (b) The Tikanga Māori Process is an alternative process to the Formal Process outlined in these Guidelines. Parties who agree to and participate in a Tikanga Māori Process cannot then revert to the Formal Process. Conversely, matters dealt with through a Formal Process cannot then be formally addressed through a Tikanga Māori Process.
- (c) Alleged misconduct (but not ongoing poor performance) may be addressed by applying tikanga Māori if the complainant, respondent, relevant Manager, and the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee) agree to such a process, including the participants in that process and the procedure to be followed. The Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee) will have the responsibility of ensuring that all the other parties are sufficiently aware of tikanga before agreeing to the process.
- (d) For the purposes of the Staff Conduct Policy, tikanga comprises at least the following elements:
 - (i) Resolution of the matter will take place within Te Tumu Herenga Waka (or approved alternative venue if required).
 - (ii) Te reo Māori will be used and statements will also be repeated in English or an interpreter will be provided if this is necessary to ensure that all the parties have a clear understanding of what is being communicated.
 - (iii) The process will be facilitated by the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee).
 - (iv) All parties have the right at their discretion to be supported by whānau.
 - (v) Where possible, decisions in respect of a matter will be negotiated by the parties.
 - (vi) Where consensus is unable to be reached, the decision shall be made by the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee). The decision may include, but is not limited to, any of the remedies provided for in the applicable Discipline and Dismissal Procedures/as set out above in these Guidelines.
 - (vii) Other remedies or outcomes may include:
 - Undertaking to the respondent's whānau and Te Whānau o Te Herenga Waka that the misconduct will not recur.
 - Reparation as agreed between the parties.
 - Undertaking to participate in further hui to heal relationships.
 - The respondent undertaking to attend coaching or training sessions.

Note: Parties who are not familiar with tikanga may find that the concept of confidentiality is treated differently from other processes such as the Discipline and Dismissal Procedures or the Formal Process, in that more people are usually involved in working together to reach a resolution. In addition, the discussion is not limited to the matter of the alleged misconduct, complaint or dispute. Other matters, past and present, may be raised and discussed.

4.2 How to Make a Complaint

- (a) Under the Tikanga Māori Process, the procedure for making a complaint is the same as the procedure for making a formal complaint as set out above - see section 1 of these

Guidelines – ‘How to Make a Complaint’. The complaint must be made in writing in accordance with that section for a Tikanga Māori Process to be considered.

- (b) The relevant Manager, once aware of an allegation of misconduct, will consider the complainant's wishes in relation to process. However, all parties must agree if a matter is to be dealt with under the Tikanga Māori Process. The relevant Manager will follow the procedure below prior to determining the process to be followed.

4.3 Procedure Following Request for Tikanga Māori Process

- (a) If a complainant has requested the Tikanga Māori Process, the relevant Manager will:

- (i) Meet with the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee) to discuss the appropriateness of applying the Tikanga Māori Process to the matter and, if considered appropriate, agree on the process, including the participants in that process, speaking rights and the procedure to be followed. A member of Human Resources will also attend this meeting.
- (ii) Advise the respondent, in writing, that a complaint has been received, the details of the specific alleged misconduct, and that the Tikanga Māori Process has been requested by the complainant as the resolution process. Supporting documentation will include copies of the complaint, any other relevant documentation (e.g. witness statements) and information about the Tikanga Māori Process.
- (iii) Seek the respondent's agreement to the application of the Tikanga Māori Process. If necessary, arrange to meet with the respondent and their representative or support person to discuss. A member of Human Resources will attend this meeting and the relevant Manager may request that the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee) also attend.

- (b) If a respondent has requested the Tikanga Māori Process, the relevant Manager will:

- (i) Meet with the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee) as in 4.3(a)(i) above to consider the respondent's request.
- (ii) Where there is a complainant, advise the complainant of the respondent's request and seek the complainant's agreement. If necessary, arrange to meet with the complainant and their representative or support person to discuss. A member of Human Resources will attend this meeting and the relevant Manager may request that the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee) also attend.

- (c) The relevant Manager will then:

- (i) Advise the complainant, respondent and the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee) of the agreement or non-agreement of the relevant parties.

Where there is agreement, the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee) must be satisfied that all parties are sufficiently aware of tikanga before finally agreeing that the process will proceed.

Where there is not agreement, the Guidelines for Addressing Alleged Misconduct will apply to the matter.

- (ii) Notify key participants (other than the complainant and respondent) of the process and procedure to be followed and advise them of their right to have whānau present.
- (iii) In conjunction with the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee), arrange a suitable time for the resolution process.

Note: This may be outside normal working hours to accommodate all parties and their whānau. The time commitment will vary.

4.4 Outcome of Tikanga Māori Process

- (a) Once a decision is made, either by consensus or by the Tumu Ahurei—Deputy Vice-Chancellor Māori (or nominee), the relevant Manager will confirm this decision, in writing, to the respondent.

ADDITIONAL RESOURCES

The University's [Building Respect](#) programme has information and resources to support staff in addressing various workplace issues.