MBS Grievance Procedure

1. Purpose

The MBS Grievance Procedure aims to provide guidance for the informal and formal resolution of grievances within MBS.

This procedure applies to all:

- Employees
- Contractors engaged in activities reasonably connected with MBS including adjunct academics, associates, consultants, facilities and other service providers
- Other members of the MBS community (including volunteers)
- Students, where the matter concerns unlawful discrimination, sexual harassment, bullying or victimisation by staff of MBS.

Melbourne Business School Students with grievances outside the scope of this procedure should refer to the University of Melbourne Students Complaints and Grievances Guideline, Policy & Procedure. Complaints concerning unsatisfactory progress and academic judgment in assessment are also outside this procedure, and are covered by the University of Melbourne Academic Progress Policy and Assessment policies.

A ‘grievance’ can occur where a employees perceive that they have been treated unfairly in the workplace or that discrimination, discriminatory harassment, sexual harassment, bullying, or other inappropriate conduct has occurred. This Grievance Procedure provides a process where employees can raise and address complaints in response to a grievance in a confidential and supportive environment without intimidation or fear of reprisal. Employees with a concern about matters addressed in this Procedure may seek advice from a member of Human Resources or designated Contact Officers (where appropriate).

Contact Officers are employees who are trained to provide other employees with confidential information and support to address discrimination, harassment and/or bullying in the workplace. Contact Officers are an important point of contact as an impartial third party for employees who believe
they have a grievance in the workplace and wish to speak to someone other than their Line Manager or Human Resources.

Often, individuals will initially raise the concern with a manager, colleague or other employees. This initial contact is encouraged to refer the employees to a Contact Officer or to Human Resources (for all serious complaints), who can provide initial advice and guidance.

As a consequence of raising a grievance, if the person or MBS decides that some responsive action is required, the grievance becomes a complaint to be resolved using this Grievance Procedure

2. Application of the Grievance Procedure

The objective of this procedure is to provide a process which is impartial and equitable and follows the principles of procedural fairness and natural justice. This procedure will facilitate the resolution of a complaint in a fair manner using a resolution pathway most suited to the situation. Where possible, this procedure will enable employees involved to resume or continue a professional and effective working relationship at MBS.

MBS aims to deal with complaints as quickly as practicable in order to achieve early resolution.

In order to ensure procedural fairness:

- MBS will not make a decision that could adversely affect an employee unless it has given that employee an opportunity to present their case and respond;
- MBS representatives involved in resolving a complaint will not be biased towards the employees involved
- MBS will ensure that there is no conflict of interest between any of the parties involved in resolving the complaint

MBS may decline to entertain a grievance that took place more than 12 months before the complaint was lodged. In doing so, MBS will consider the particular circumstances of the employees making the complaint and the nature of the complaint.

MBS will maintain the confidentiality of all employees involved in the resolution of a complaint except where employees have given their written consent or where MBS is liable by law to disclose matters to a third party. Only those employees involved in advising on, conciliating, investigating or resolving the grievance will have access to material relating to the grievance in so far as is practical and possible.

Any employee who lodges a complaint under this procedure should not be victimised and MBS will take all reasonable steps to protect employees who make a complaint under this procedure.
It will also afford natural justice (application of no bias and the right to a fair hearing) to all parties including the person who is the subject of the complaint. At any stage of the Grievance Procedure, or when a complaint cannot be addressed using this Procedure, MBS may consider and implement actions as necessary to address concerns regarding employee’s safety, well-being, or participation in work.

3. Stages in resolving a grievance

There are three general stages to resolving a grievance. It is important to note that the three stages will not always apply to each grievance, nor do they need to be undertaken consecutively.

- The process for each grievance including any potential gross or unlawful misconduct will be determined by MBS and the employees involved and will be dependent on the nature and seriousness of the complaint Stage 1 (Advice, Direct or Informal Resolution or Intervention);
- Stage 2 (Conciliation/Mediation);
- Stage 3 (Investigation and Determination).

3.1 Stage 1 (Advice, Direct or Informal Resolution, or Intervention)

The first stage aims to clarify the concern as perceived by the employees with the grievance and to assist in an informal resolution.

3.1.1 Advice

Managers can assist employees by:

- Listening to the complaint with sensitivity
- Maintaining confidentiality
- Ensuring the employees understands this policy
- Ascertaining the nature of the complaint
- Explaining the grievance procedure and checking employees’ understanding of this
- Referring the matter to Human Resources where appropriate

Human Resources can assist employees by:

- Listening to a complaint with sensitivity
- Maintaining confidentiality
- Providing information about this policy and options for issue resolution
- Ascertaining the nature of the complaint
- Clarifying whether the alleged behaviour may constitute unlawful discrimination, sexual harassment, discriminatory harassment, bullying, or victimisation;
- Advising employees of their rights under relevant legislation;
• Advising of all options available, including making a complaint to an external body;
• Encouraging the person to seek the type of support that they need and provide referrals as appropriate;
• Exploring strategies to resolve the matter.

Contact Officers can assist employees by:

• Acting as an impartial, third party
• Listening to a complaint with sensitivity
• Maintaining confidentiality
• Acting as a support person
• Explaining and providing information about what constitutes discrimination, harassment and bullying.
• Providing information about the options available to deal with the individuals concerns and the likely results of these
• Referring the individual to counseling and other support services if necessary
• Referring any serious issues to Human Resources

3.1.2 Direct or Informal Resolution

One of the first options involved with direct resolution is for the employees to approach the person to whom the complaint is directed as people are often not aware that their behaviour is causing offence or distress. When they receive feedback, they will often cease or change their behaviour. Human Resources can assist in preparing for this conversation.

Where the complaint may be serious, a direct approach may not be appropriate. These matters should be referred to a member of Human Resources.

3.1.3 Intervention

An employee can request a Manager or a member of the Human Resources team to directly approach the person(s) with whom the complaint is directed on their behalf to communicate their concern if:

• The employees feels uncomfortable approaching the other person
• After directly approaching the other person(s), the behaviour has not stopped

The objective is to resolve the complaint with as little conflict as possible, so the discussion will focus on agreed actions to resolve the issue. At this point, the employee making the complaint must be willing to be identified and place their complaint in writing along with any documentary evidence to their Manager and a member of the Human Resource Team.
In order to ensure a fair and transparent process, employees will be approached for an intervention before all details regarding the complaint have been collected and the desired outcome from the employee making the complaint has been confirmed.

The Manager or of the Human Resources team should privately convey the individual’s concerns directly to the person to whom the complaint is directed and seek their response without assessing the merits of the case. Practical steps in line with MBS's Equal Opportunity Policy can then be agreed to ensure, as far as possible, that the behaviour that allegedly occurred ceases.

The complaint may end at this point, either because it is resolved or because the employees or MBS do not progress it any further.

3.2 Stage 2 (Conciliation or Mediation)

If the matter cannot be resolved in Stage 1, then conciliation or mediation may need to be explored by all parties. Conciliation is a process in which a neutral third party attempts to assist the parties to resolve the complaint through a facilitated discussion. Conciliation only occurs if both parties agree to it willingly and voluntarily.

Conciliation or Mediation can assist by:

- Providing a structure to discuss the complaint
- Presenting or considering alternative solutions
- Focusing on achieving a resolution by mutual agreement

For a conciliation to occur, the employee making the complaint must be willing to be identified if this has not already occurred through Stage 1. The employee making the complaint will be asked to place their complaint in writing to the Chief Operating Officer or Human Resources Manager, in the form of a brief summary of the particular incident(s) and attach any documentary evidence (if this has not occurred through Stage 1).

The complaint may end at Stage 2, either because the complaint was resolved through conciliation or because neither the employee making the complaint nor MBS progresses the complaint to Stage 3. Alternatively, the complaint may progress to Stage 3 at the request of the employee making the complaint or MBS.

3.3 Stage 3 (Investigation and Determination)

An investigation may be required if the complaint has not been resolved through Stage 1 or 2. Stage 3 is about formally investigating the complaint and making determinations based on the details presented/collected.
If an employee or MBS wishes to refer the complaint for further investigation, they must make a written request for an investigation to the Chief Operating Officer or Human Resources Manager (in relation to a complaint against an employee). Upon receipt of a request for an investigation, the Chief Operating Officer or Human Resources Manager may do one or more of the following:

(a) Seek advice from external specialists, the Dean or consult with any other person they determine appropriate

(b) If appropriate, refer the complaint to conciliation or mediation

(c) Refer the matter for further investigation by MBS under this procedure

(d) Refer the matter to an external agency

(e) Refer the matter to alternative complaints resolution processes within or external to MBS

(f) Decline to investigate a complaint if it is frivolous, vexatious, misconceived, or lacking in substance

(g) Decline to investigate a grievance if more than 12 months has elapsed between the event and the complaint notification and there is no good cause to address the complaint after this delay

(h) Recommend actions as necessary to address any immediate concerns regarding individuals’ safety, well-being, or participation in work or study.

In the event of the matter being referred for investigation, the Chief Operating Officer or Human Resources Manager will appoint an individual investigator or panel of investigators to conduct the investigation. The general responsibilities of the investigator/s are to determine whether the allegations are proven according to the weight of evidence and on the balance of probabilities and to ensure a fair and neutral process.

Any investigation undertaken under this procedure will be conducted in a manner that MBS considers appropriate in the circumstances, with regard for, timeliness, privacy, individuals’ safety and wellbeing and procedural fairness – ‘confidentiality; impartiality; the right to a support person for both complainant and respondent; the right of reply; the right of appeal.

Outcomes from an investigation can include any one or more of the following:

- A finding that the complaint was not substantiated;
- A finding that the complaint was substantiated or substantiated in part;
- Determine steps to restore the employees to the position that the employees was in prior to the incident(s) that led to the complaint;
- Training in this Policy and related matters;
• Referral to other support services or strategies (for example, a recommendation to participate in counselling);
• Further monitoring of the situation;
• Statement of regret or apology, where appropriate;
• Requirement to change processes or procedures;
• Disciplinary action:

In relation to findings against an employee, the Chief Financial Officer may advise that it is appropriate that disciplinary action be taken against the employee, up to and including dismissal. The parties will be informed, where appropriate, of the findings and relevant outcomes of the investigation.

3.4 False or misleading allegations

MBS takes grievances very seriously. For this reason, all employees should be aware that where MBS is satisfied that a complaint is malicious, frivolous or vexatious, the employee making the complaint will be advised of this decision before any further action is taken and may face disciplinary action, up to and including dismissal.

3.5 Appeals Process

An employee who is not satisfied with an outcome based on this procedure may submit an appeal in writing to the Dean.

3.6 Grievance to External Bodies

While employees are encouraged to use the MBS Grievance Procedure, they have a right to seek advice from and/or lodge a complaint with external bodies including the Police, the relevant State’s Equal Opportunity and Human Rights Commission, the Australian Human Rights Commission, the Fair Work Ombudsman, or your State based workers compensation organisation (i.e. Work Safe Victoria) at any time.

If an employee pursues a complaint with an external body MBS will suspend or terminate its actions in line with this Grievance Procedure. In these circumstances, MBS may consider and implement other actions as necessary to address concerns regarding individuals’ safety, well-being, and participation in work or study.

4. Confidentiality

All grievances will be handled with the strictest confidentiality and third parties will not be contacted without prior approval of the employee making the complaint.
5. **General Information**

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6. **Review Date**

*Melbourne Business School Commits to Review this Policy in*

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