Resolving Staff Workplace Issues

Procedures

## Purpose

To provide CIT employees with guidance on managing issues that arises in the workplace between members of staff and to ensure that all workplace issues are managed in a fair, equitable and timely manner.

CIT aims to eliminate discrimination, bullying and harassment in the workplace and encourages all staff to report conduct that is discriminatory, coercive, misleading, and/or threatening.

## Scope

These Procedures and the associated Policy apply to all workplace issues identified by CIT employees. Issues raised by students or members of the community are managed in accordance with [*Complaints – Student and Community*](https://staff.cit.edu.au/policies/policies_search?queries_policykeywords_query=student+complaint) *Member Policy*.

## Policy

These Procedures have been developed in conjunction with *Resolving Staff Workplace Issues Policy*.

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## Procedure for raising workplace issues

All workplace issues should be raised as early as possible. As far as practicable, issues that arise in the workplace should be resolved as quickly as possible at the local level through discussions with the relevant people.

If this is not possible, the issue should be discussed with the complainant’s supervisor or supervisor’s manager. Alternatively, issues may be raised through CIT’s Human Resources and Organisational Development team.

All workplace issues raised will be treated respect.

Advice and/or support may be sought by all parties at any point of the process. This may be obtained from a number of different sources including:

* immediate supervisor;
* a CIT supervisor or manager;
* CIT Human Resources and Organisational Development team;
* Senior Manager, Audit, Risk and Corporate Governance;
* a Respect, Equity and Diversity (RED) contact officer;
* Union representative;
* EAP (Employee Assistance Program); and
* EAP Manager Assist (Managers).

## Procedure for responding to workplace issues

On receiving advice of a workplace issue, a supervisor will determine whether they are the appropriate person to manage the issue or if it should be referred elsewhere. Supervisors should be mindful that, as far as practicable, issues that arise in the workplace should be resolved as quickly as possible at the local level through discussions with the relevant people.

In considering who is the best person to deal with a workplace issue, supervisors will consider:

* Determine the allegation(s) and identify all the key issues to be addressed.
* Whether or not the supervisor may have a conflict of interest in dealing with the issue(s). If so, the supervisor will disclose this to their supervisor and/or the Senior Director, Human Resources and Organisational Development. The supervisor’s manager and/or the Senior Director, Human Resources and Organisational Development will determine whether it is appropriate to the supervisor to manage the issue or whether another person should be allocated to this role.
* The risk level of the issue (refer Table 1).
* CIT Human Resources and Organisational Development is available to provide advice and assistance to resolve matters and/or assess the risk level of the workplace issue.

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| Table 1 – Risk Assessment |
| **Risk level** | **Factors for consideration** | **Workplace Issue Manager** | **Consult with and keep informed**  | **Responsibility for Record keeping** |
| **Low** | No breach of policy or procedure has occurred.Low impact on staff morale. | Immediate supervisor | College DirectorSenior Manager in Division | Immediate supervisor via file note or email |
| **Moderate**  | Potential breach of CIT policy or procedure.Some impact on staff morale but can be managed at College/Division level.Low impact on business operations and/or health and well-being of employees | College DirectorSenior Manager in Division | Senior Director Human Resources and Organisational Development Executive Director Corporate Services | College DirectorSenior Manager in DivisionThrough Complaint Handling System and CIT file |
| **High** | Potential breach of legislation.Potential misconduct matter. Significant impact on staff morale.Significant impact on business operations and/or health and well-being of employeesPossibility of workers compensation claims of a Fair Work Australia Complaint.Potential reputational risk to CIT. | Matter to be referred to the Executive Director Corporate Services who will delegate the matter. | Chief Executive OfficerRelevant Executive Director(s)  | Senior Director Human Resources and Organisational Development Through Complaint Handling System and CIT file |

## Preliminary Assessment

The Workplace Issue Manager determines whether a Preliminary Assessment will be undertaken (refer CIT Enterprise Agreements). The Workplace Issue Manager will work with the complainant to undertake a Preliminary Assessment of the matter and may take into consideration any of the following factors:

* Confirm that a workplace issue has been raised;
* Obtain detailed particulars of the issue from the complainant;
* Determine what the complainant’s expectations are in terms of action by CIT and outcomes for themselves and others involved noting that the nature of the issue will influence the mechanism through which the matter is resolved;
* Discuss the workplace issue with the respondent if appropriate. In some circumstances the respondent may not be informed in the first instance. In making the decision when and if to inform the respondent the workplace issues manager will take into consideration the following factors;
* whether the facts of the matter have been sufficiently clarified to articulate a clear description of the issue;
* in the interests of procedural fairness and natural justice;
* where the respondent is on leave or experiencing significant personal stresses;
* Identify support required for all parties involved in the workplace issue. This may include provision of support through EAP or transfer of an employee to another part of CIT.

The Workplace Issue Manager will determine whether:

* No action is required;
* The issue could be resolved through informal counselling, other remedial action or assistance to the employee. If so, the Workplace Issue Manager will implement such action in consultation with CIT Human Resources and Organisational Development;
* The issue may require action under the misconduct and discipline procedures set out in the relevant Enterprise Agreements. If so, the Workplace Issue Manager will refer the matter accordingly;
* The issue may be better resolved through internal review procedures set out in the relevant Enterprise Agreement or an appropriate external mechanism. If so, the Workplace Issue Manager will refer the matter accordingly;
* A referral needs to be managed by an external party; and/or
* The issue may be vexatious or knowingly false. If so, the Workplace Issue Manager will refer the matter accordingly.

 The Workplace Issue Manager will:

* Coordinate and monitor the progress of the resolution process;
* Take action to keep the process on track;
* Make decisions as necessary if the resolution process breaks down;
* Consult with supervisors as required in Table 1 and keep them informed; and
* Inform all parties when the matter is resolved and update the Complaint Handling System accordingly.

## Escalation of Workplace Issues

If the issue is not resolved to the complainant’s satisfaction at the local level or the complainant feels unable to approach their supervisor or supervisor’s manager, the complainant may escalate the workplace issue to the Executive Director, Corporate Services. This can be done by email.

All workplace issues rated as high risk using the Risk Assessment in Table 1, are to be escalated to the Executive Director, Corporate Services by the Workplace Issue Manager.

Where a matter has been escalated to the Executive Director, Corporate Services, the Executive Director will identify a Delegate to oversee the matter and inform the complainant and Workplace Issue Manager.

The Delegate will determine if a Preliminary Assessment (refer Enterprise Agreements) of the issue is warranted. The Delegate may refer the matter to be investigated by an external party to CIT, including the ACT Government’s Professional Standards Unit.

## Appeal

The complainant or respondent may have a right to an internal review of a decision or action taken in relating to a workplace issue. Some exclusions apply as stated in the relevant Enterprise Agreements (Section I General Staff Agreement, Section N Teaching Staff Agreement). Internal reviews of workplace issue management processes should be made by emailing the Chief Executive.

If the complainant or respondent is not satisfied with the outcome of the workplace issue resolution process, there may be grounds for further action or complaint. A list of possible avenues for external review is provided below.

**The ACT Ombudsman**

Street Address: Level 5, Childers Square, 14 Childers Street, Canberra

Postal Address: GPO Box 442 Canberra ACT 2601

Complaints Ph: 1300 362 072
Fax: (02) 6276 0123
Email: ombudsman@ombudsman.gov.au
Web: <http://www.ombudsman.act.gov.au>

**ACT Human Rights Commission**

Street Address: Level 4, 12 Moore St, Canberra
Postal Address: GPO Box 158 Canberra ACT 2601
Ph: (02) 6205 2222
Fax: (02) 6207 1034
Email: human.rights@act.gov.au
Web: <http://www.hrc.act.gov.au>

*(A Complaint form is available on the website)*

**The ACT Civil and Administrative Tribunal (ACAT)**
Postal address: GPO Box 370 Canberra ACT 2601
Ph: (02) 6207 1740

##  Timeframe for workplace issue management

CIT is committed to providing a timely resolution to all workplace issues. Supervisors should ensure workplace issues are handled as quickly as possible. However, where matters require investigation, delays can occur particularly during the information collection phase. The Workplace Issue Manager or Delegate should keep all parties regularly informed of the progress.

##  Record keeping

Written records of outcomes, agreements and actions are to be kept for all workplace issues of medium or high risk. A record should be made of all meetings detailing who was present and the agreed outcomes. The Workplace Issue Manager can utilise a support person to take notes and to assist with this process with the approval of the complainant.

* Records of the handling of a workplace issue and the outcomes will be kept in a secure confidential CIT file by the Senior Director, Human Resources and Organisational Development as required by the *Territory Records Act 2002*.
* An appropriately trained user of the Complaint Handling System in the business unit of the Workplace Issue Manager will maintain an electronic register using Complaint Handling System for all workplace issues of medium or high risk. The register should include:
* The nature and outcome of the workplace issue;
* The risk assessment of the workplace issue; and
* A cross reference to the confidential CIT files where documents and information pertaining to the workplace issue are stored.

## Finalisation of workplace issue

The Workplace Issues Manager will provide written notification to the relevant parties when the workplace issue has been finalised. The Complaint Handling System and CIT file will be updated accordingly. Feedback on the outcome of the workplace issue can only be provided in general terms to the complainant and will not include specifics on sanctions or outcomes of any associated processes.

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| Table 2 - Responsibilities of all parties |
| Complainant | * Workplace issue should be made in a reasonable manner free from threats.
* Act professionally and respectfully in accord with CIT values and signature behaviours.
* Recognise that the respondent has the right to be made aware of the details of the workplace issue and the right to respond in a fair process.
* The workplace issue should only be discussed with the parties involved in its resolution, including those who are assisting.
* Work constructively towards resolution and participate in the resolution process in good faith.
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| Respondent | * Recognise the complainant’s right to raise their concerns.
* Act professionally and respectfully in accordance with CIT values and signature behaviours.
* Work constructively towards resolution and participate in the resolution process in good faith.
* Not victimise, harass or give adverse treatment to the complainant or others involved in resolving the workplace issue or dispute.
* Only discuss the workplace issue or dispute with the parties involved in its resolution, or those who are assisting.
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| Workplace Issue Manager(s) | * Undertake appropriate training in the handling of workplace issues and manage process according to these Procedures.
* Take all workplace issues seriously.
* Treat all parties with sensitivity, respect and courtesy.
* Model behaviour that promotes high standards of behaviour in accordance with CIT values and signature behaviours.
* Workplace issue should be dealt with quickly, courteously, fairly and within the timelines determined. To advise all parties of how long it will take to deal with the issue and keep them informed of the progress.
* Advise all parties of support mechanisms available.
* Assess the workplace issue in consultation with complainant and respondent if appropriate.
* Identify the most appropriate mechanism for workplace issue resolution.
* Allow all parties to have a support person present at interviews or meetings (e.g. health and safety representative, family member, union representative or friend).
* Workplace issue to be handled according to the principles of natural justice.
* Acknowledge any potential bias or conflict of interest.
* Consult with senior managers as required in Table 1 and keep them informed.
* Complete record keeping.
* Inform all parties when the matter is resolved.
* Maintain privacy and confidentiality as per relevant legislation, policies and procedures.
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| Table 3 - Support available to all individuals involved in workplace issues |
| CIT Human Resources and Organisational Development | CIT Human Resources and Organisational Development team can assist by:* providing strategic information and advice on HR matters;
* guiding s and staff through the employment framework – including the EA, PSMA, Fair Work Act and the discipline process;
* informing all parties of the support mechanisms available;
* facilitating links with external agencies.
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| RED contact Officer | Respect, Equity and Diversity (RED) contact officers are trained staff members who can provide guidance on how to address workplace issues. They can also: * advise on what may constitutes bullying and harassment;
* listen sympathetically and without judgement to a complainant;
* find out what outcomes the complainant is seeking and provide available and appropriate options;
* advise staff on the support mechanisms available.
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| A CIT Manager | CIT endorses the “open door protocol” promoted by the ACT Public Service RED Framework. This means that any employee can seek support and guidance from a CIT manager. |
| Employee Assistance Program | The [EAP](https://staff.cit.edu.au/resources/eap) is a confidential, free counselling service available 24/7. |
| EAP - Manager Assist | Manager Assist is an extension of the EAP service for managers and manager specific issues. |
| Union representative  | Contact your relevant Union. |

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| Table 4 - Definitions relating to policy and procedure |
| RED Contact officer | A trained officer available to staff to provide advice on how to raise workplace issues and support mechanisms available. |
| Complainant | A person raising the workplace issue. |
| Workplace Issue Manager | The delegate of the Executive Director, Corporate Services or Senior Director, Human Resources and Organisational Development assigned to manage the resolution of the workplace issue. |
| Complaint Handling System | Complaint Handling System is a secure electronic database to support record keeping processes. |
| Confidentiality | All matters raised are confidential. Information regarding an investigation should only be provided on a ‘need to know’ basis.Employees raising a workplace issue should be advised that in some cases due to legislative requirements no absolute guarantee of confidentiality can be given.  |
| Conflict of Interest | Conflict of interest occurs when actions or decisions that are influenced by, or perceived to be influenced by, personal considerations reflect badly on CIT. * action is required when there is an actual conflict of interest or when there may be a perception of conflict;
* existing and potential conflicts must be declared; and
* procedures must be open, accountable and documented.
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| HSR | Health and Safety Representative |
| Natural Justice /Procedural Fairness | Procedural fairness, also called natural justice, applies to any decision (action or inaction) that can affect the rights, interests or expectations of an individual in a direct or immediate way. It requires:* individuals are given an opportunity to be heard;
* decision makers act without bias or self-interest,
* decision makers base their decisions on evidence that is relevant to the facts in issue. i.e.
	+ All relevant matters are considered when reaching a recommendation/decision
	+ Irrelevant matters are not given weight in reaching a decision

These principles are known as the hearing rule, the bias rule and the evidence rule (see definitions below).  |
|  Parties | The complainant, respondent and those involved in managing the workplace issue. |
| Open Door Protocol | A work practice in which a supervisor, manager, executive or chief executive leaves their door "open" (figuratively speaking) in order to encourage productive communication among workers of the department, agency and at times between agencies. |
| Respondent | CIT or person(s) about whom the workplace issue or grievance is lodged |
| The right to a fair hearing  | This requires a decision-maker, where possible, to allow a person, whose interests may be adversely affected by a decision, to present his or her case before a decision is made.* The individual against whom an adverse decision may be made is informed of any allegation made against them in as much detail as possible and provided with an opportunity to respond to any allegations.
* The individual is given reasonable notice prior to any counselling/interview session and is advised and encouraged to bring a support person.
* Reasonable inquiries are made into the allegation including hearing any party with information relevant to the allegations.
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| The rule against bias | This requires a decision maker to be unbiased in relation to the matter to be decided.The decision maker does not hold, or can be perceived to hold, a vested interest in the outcome of the process.  |
| The evidence rule | This requires that the decision be based upon evidence that is credible, relevant and significant |
| Workplace Issue | Any matter raised as a concern by a staff member or an expression of dissatisfaction with an aspect of employment. |