

Complaints Policy - Students and Members of the Public

Section 1 - Definitions

(1) For the purpose of this Policy:

- a. Complainant: The student(s) or member(s) of the public notifying a complaint.
- b. Complaint: A complaint is an expression of dissatisfaction about the University; services offered by the University or its staff; or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required.
- c. Complaints Assistance Officer: The Complaints Assistance Officer, or CAO, is the nominated member of staff responsible for the administration of complaints under this Policy. All formal complaints made under this Policy must be lodged with the CAO who will determine who the complaint is to be referred to under the formal procedure. The CAO does not decide complaints. The CAO will be responsible for recording and tracking formal complaints under this Policy on a confidential and securely stored University file or central database. The CAO is also a source of advice available for all parties involved in an investigation of a complaint and can be contacted at any stage during the complaints process for advice or assistance.
- d. Nominated Complaints Officer: A Nominated Complaints Officer, or NCO, is a member of staff appointed by the delegated University Officer to investigate a formal complaint made under this policy. The NCO does not have the delegated authority to decide to investigate a particular complaint or to make a final determination in regard to a particular complaint such as whether the complaint is dismissed or upheld. Instead, the NCO must refer those aspects of the complaint to the relevant delegated University Officer for the determination.
- e. Respondent: The University or its nominated representative.
- f. Student: a student is any person who is currently enrolled as a student of the University, or who was enrolled as a student of the University within the 12 month period prior to the date the complaint was made.
- g. University Officer: The University Officer is the relevant member of staff responsible for having the ultimate decision making power in the complaints handling process including the final determination in relation to a particular complaint. The normal practice will be for an Executive member of the University to be deemed the delegated University Officer for a particular complaint.

Section 2 - Policy Statement

Part A - Policy Declaration

(2) It is critical to the interests of the University that the substance of any complaint is dealt with in a timely and appropriate manner in accordance with this Policy.

(3) Students and members of the public may lodge a complaint at no cost. Any representations by an appellant will also not incur any costs.

Part B - Policy Description

Objectives

(4) The purpose of this Policy is to detail a process to be followed that promotes the timely and fair resolution of concerns or complaints raised by students or members of the public about the University or any services offered by the University or its staff.

Scope

(5) This Policy applies to all students of the University and members of the public who have a concern or complaint about the University, or any services offered by the University or its staff that is not addressed in another rule, policy or procedure of the University.

(6) This Policy does not deal with complaints relating to harassment, bullying or discrimination by an employee of the University. These are to be managed in accordance with the Complaint Policy - Staff.

(7) For assistance in determining where to direct your complaint, refer to the Complaints Framework or contact the Complaints Assistance Officer.

Part C - Content and Implementation

(8) The University recognises the important role of feedback from students and members of the public to promote a healthy, safe and productive environment which engages with the local community. Complaints are an important part of that feedback, and help the University to identify and implement preventative strategies to minimise recurrent or systemic problems.

(9) To that end, the University will make relevant inquiries and try to resolve all complaints in a fair, impartial and timely fashion. The University takes all complaints seriously, and will ensure that complainants do not suffer any disadvantage or recrimination because they make a complaint.

(10) Anyone who makes a complaint is expected to observe the processes in place for their complaint (including those about confidentiality) and to behave in a courteous and reasonable manner towards University staff who investigate or decide those complaints.

Section 3 - Procedures

Part D - Informal Complaints

(11) An informal complaint can be made to any member of University staff either verbally or in writing. It is not dealt with through the formal process. Informal complaints involve discussion between relevant parties towards an outcome focused resolution.

(12) Any student or member of the public may make an informal complaint at any time within 12 months from the date of the event leading to the complaint. Many problems can be resolved informally and complainants are encouraged to try to resolve the issue directly with the person concerned. Alternatively, an informal complaint can be made through the appropriate member of University staff at the local level such as a Supervisor, Executive Dean or College Dean. Advice can also be sought from the Complaints Assistance Officer (CAO) on the most appropriate contact.

(13) The University expects any staff member contacted about a complaint to provide the complainant with information about how to pursue the complaint, including referral to an appropriate contact or information on the

University's web page about pursuing their complaint.

(14) Staff members who receive a complaint are encouraged to resolve complaints as quickly and informally as possible, normally within 20 working days of the complaint being raised. Where the complaint cannot be resolved in this timeframe, the CAO must be informed and the complaint may be referred to the formal process.

Part E - Formal Complaints

(15) A formal complaint is a written complaint lodged with the CAO, which is dealt with through a formal process of the University as described at Part I.

(16) Any student or member of the public can make a formal complaint at any time including if they are dissatisfied with the outcome of any informal complaint already made, provided the complaint is lodged within 12 months from the date of the event leading to the complaint or within a reasonable timeframe after receiving notification of the outcome of an informal complaint.

(17) A formal complaint must be lodged in writing (letter or email) with the CAO. The written complaint must contain sufficient information necessary for the complaint to be assessed. All available information including a brief description of what the complaint is about, how it arose, who is involved, what (if any) steps have been taken to resolve the complaint and what outcome the complainant is seeking, should be lodged at the outset, along with any supporting documentation. In cases where no formal complaint has been received, the delegated University Officer may decide that an investigation is warranted, in which case the CAO will initiate the formal complaints process.

(18) Complaints may be referred by the University Officer to be dealt with under alternative University rules, policies or procedures, or by an external party appointed by the University to investigate. The decision to investigate will be at the discretion of the delegated University Officer under the respective rule, policy or procedure. Where appropriate, mediation or conciliation may be offered as a means of resolving the dispute.

Part F - Anonymous Complaints

(19) The University does not generally respond to anonymous complaints unless they involve allegations of a serious nature, such as corruption or criminal behaviour. Where appropriate, the delegated University Officer may decide that an investigation is warranted.

Part G - Frivolous or Vexatious Complaints

(20) Frivolous or vexatious complaints or complaints without substance will not proceed beyond preliminary investigation. Students making vexatious complaints may be subject to an action under the Student Academic and Non-Academic Misconduct Rules.

Part H - Withdrawal of a Complaint

(21) Any student or member of the public may withdraw their complaint at any stage of the informal or formal process. If the formal process is underway, any withdrawal must be in writing. In most instances, the University will then deem the complaint resolved. However, in certain circumstances the University may deem the complaint serious enough for an internal investigation to continue or for referral to an external agency.

Part I - Determination Process

(22) On receipt of the formal complaint the CAO will:

- a. record the complaint on a confidential and securely stored University file or central database;

- b. send an acknowledgement of receipt of the complaint to the complainant within 5 working days; and
- c. determine which University Officer the complaint is to be referred to under the formal procedure.

(23) Where the delegated University Officer determines that the complaint will not be investigated, he/she will notify the complainant of this decision and provide reasons in writing to the complainant, normally within 10 working days of receipt of the complaint. The delegated University Officer must also notify the CAO of this decision for recordkeeping purposes.

(24) Where the delegated University Officer determines to refer the complaint to be dealt with under another rule, policy or procedure of the University, he/she will notify the CAO who will advise the complainant in writing, normally within 10 working days of receipt of the complaint.

(25) Where it is determined that the complaint will be investigated under this Policy, the delegated University Officer will refer the complaint to a Nominated Complaints Officer (NCO) to investigate the complaint. The NCO will normally be a University staff member who is at an appropriate senior level. Where an NCO has been designated, the CAO will advise the complainant in writing, normally within 10 working days of receipt of the complaint.

(26) Where appropriate, complaints may also be referred to an external party for investigation at the discretion of the delegated University Officer.

Part J - Role of the Nominated Complaints Officer

(27) On receipt of the formal complaint from the CAO the NCO will:

- a. initiate the investigation, normally within 5 working days;
- b. provide both the complainant and respondent with the opportunity to present their cases in writing. This process will include ensuring all parties are in receipt of these Procedures and providing the respondent with written details of the complaint. Where practicable, the NCO must seek the complainant's permission prior to releasing details of the complaint to the respondent;
- c. examine relevant documentation, interview relevant parties where necessary and seek clarification on information supplied from the relevant parties where required; and
- d. conclude the investigation, normally within 20 working days of the receipt of the complaint. Where this is not possible, the NCO must keep both the complainant and the CAO informed of the reason and expected finalisation date.

(28) Both the complainant and the respondent are entitled to invite a support person (which may be a student advocate) but not a legal representative to attend any interviews or meetings conducted during the formal process. The support person can be a fellow student, staff member, friend, family member or a representative of a Student Association and may contribute to any discussion where invited to do so by the NCO.

(29) At any stage of the investigation the NCO can seek advice from appropriate areas of the University and from external organisations such as those listed under Part R and Part S. It is the responsibility of the NCO to inform the complainant of the progress of the complaint where appropriate. At a minimum, this should include advice to the complainant when a preliminary investigation has been completed and also when the investigation report has been finalised for consideration by the delegated University Officer.

(30) At the conclusion of the investigation, where required, the NCO will provide the delegated University Officer with one of the following written recommendations:

- a. that the complaint has been substantiated and recommendations on any action required;
- b. that the complaint has not been substantiated. In most cases no further action will be required, however the

NCO may recommend, for example, that parties be reminded of the University's expectations of behaviour.

- c. make recommendations about the development of and /or refinement of University systems and practices, whether or not the complaint has been substantiated.

(31) The delegated University Officer may choose, at his or her discretion, not to accept the findings of the NCO and may take another course of action. This may include dismissing or upholding the complaint. The CAO must be advised of the decision for recordkeeping purposes.

(32) The NCO or delegated University Officer where appropriate, will advise both the complainant and the respondent of the outcome of the investigation in writing, including the reasons for the decision, and will inform the complainant of appeal mechanisms where applicable.

Part K - Review of Decision

Members of the Public

(33) If a member of the public believes that a formal complaint has not been resolved within a reasonable time frame, or is dissatisfied with the outcome of a formal complaint, then he or she may make a written request to the Vice Chancellor for internal review.

Student Complaints

(34) If a student is dissatisfied with the outcome of a formal complaint, and further resolution is sought, the student may refer their complaint to an external agency, such as the NSW Ombudsman to investigate.

External review of complaints and appeals made by international students:

(35) Standard 10 of the National Code of Practice for Providers of Education and Training to Overseas Students 2018 made under the Education Services for Overseas Students Act 2000 requires Australian universities to have in place arrangements for independent, external review of complaints and appeals made by international students. The University has made arrangements with the NSW Ombudsman to conduct independent, external reviews of complaints and appeals made by its international students.

(36) International students should be aware that the NSW Ombudsman will only review whether the University has followed its policies and procedures. The NSW Ombudsman does not have power to make a decision in place of the University's original decision.

(37) As per Standards 9 of the National Code of Practice for Providers of Education and Training to Overseas Students 2018 , the University will not suspend or cancel an international student's enrolment until the internal appeals process is completed, unless the international student's health or wellbeing, or the wellbeing of others, is likely to be at risk.

(38) As per Standard 10 of the National Code of Practice for Providers of Education and Training to Overseas Students 2018, the University will immediately implement the decision or recommendation and/or take the preventive or corrective required by the decision, and advise the international student of the action.

Part L - Record Keeping

(39) Each staff member responsible for managing a complaint must keep accurate and complete records in accordance with the University's Records Management Policy.

(40) The CAO will be responsible for recording and tracking formal complaints under this Policy on a confidential and securely stored University file or central database.

Part M - Conflict of Interest

(41) A participant may disqualify themselves from participating in these complaint procedures should they consider that their involvement would create a conflict of interest. The convenor of any meeting is required to ensure that any participant in the processes specified by this Policy has the opportunity to declare whether or not they have a conflict of interest. Any participant who perceives a possible conflict of interest should report the matter to the CAO who shall refer the matter to the delegated University Officer for a determination on what action is appropriate, and may disqualify a person from participating.

Part N - Defamation

(42) Persons making a complaint in good faith, giving evidence as a witness to a complaint, or involved in the mediation or investigation of a complaint would have a defence of qualified privilege in the event of a defamation action.

(43) Qualified privilege means that the person is not liable for a false and defamatory publication if it is made by a person in the discharge of some public or private duty, whether legal or moral in the conduct of his or her own affairs in matters where his or her interests are concerned. Such defence or qualified privilege is lost if it is found that the person making the statement showed malice. Malice can be shown if the person knew the statement was false or was reckless as to its truth or falsity, that the person was actuated predominantly by spite or ill will or that the person introduced extraneous and irrelevant matter into the statement.

(44) A complainant who raises a complaint in good faith is protected against any action for defamation by the defence of qualified privilege, provided the complainant raises the complaint in accordance with established procedures and does not intentionally make a malicious or substantially frivolous complaint.

Part O - Victimisation

(45) Any victimisation of a complainant will be regarded seriously, and should be referred to the CAO for appropriate action. Any student who victimises a person in relation to these complaint procedures may be subject to an action under the Student Academic and Non-Academic Misconduct Rules. A staff member who victimises a student in relation to these complaint procedures may be subject to an action under the Complaint Policy - Staff.

Part P - Confidentiality

(46) There should be limited disclosure of information relating to a complaint to as few people as possible, and only to those who are legitimately involved in the process of resolving the complaint.

(47) All parties involved in an investigation of a complaint including the complainant, respondent and investigators are to maintain confidentiality. Any breaches of confidentiality, careless or otherwise, on the part of any of the parties involved in the resolution of the complaint will be regarded seriously, and should be referred to the CAO for appropriate action.

Part Q - Training

(48) All University staff members who are or may be involved in complaints handling under this Policy are to participate in appropriate training for handling complaints.

Part R - Sources of Advice

(49) Several internal sources of confidential advice are available for parties to a complaint, including:

- a. Equity and Diversity Office
- b. HR Services
- c. SCU International
- d. Privacy Contact Officer
- e. Student Associations
- f. University Legal Office
- g. Student Health and Support Services

Part S - Alternative Avenues for Lodging Complaints

(50) Complainants are encouraged to follow the procedures in this Policy and to act in good faith to try and resolve any actual or potential complaint.

(51) The complainant may, at any stage, refer their complaint to an external agency. Where this occurs, the University may cease any internal process. Where the University is aware that a complaint has been lodged externally, the complaint will be recorded by the CAO. External agencies include:

- a. Anti-Discrimination Board
- b. Australian Human Rights Commission
- c. Commonwealth Ombudsman
- d. NSW Auditor General
- e. NSW Independent Commission Against Corruption
- f. NSW Ombudsman
- g. NSW Police
- h. QLD Police
- i. NSW Privacy Commissioner

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