

Student Ombud Policy

Section 1 - Purpose and Scope

(1) The purpose of this Policy is to:

- a. establish the principles and procedures through which the Student Ombud, and associated staff, shall conduct their activities at the University while performing Student Ombud related roles; and
- b. outline the basis and process upon which students may legitimately engage with the Student Ombud after exhausting the University's internal processes.

(2) As a general principle, the University aims to ensure that the systems to manage complaints are easily understood and accessible for students, including those who require assistance in the complaints process.

Scope

(3) This policy applies to all students at the University, except where indicated at clause (9).

(4) The Student Ombud provides the University's last formal internal review process for student complaints.

(5) This Policy does not apply to:

- a. complaints related to decisions of the University Council or its committees;
- b. appeals against assessment or academic judgement except where a student has queried or appealed assessments or final grades pursuant to the University's [Rules Relating to Awards](#) on the basis that there has been a failure of policy, practice or process surrounding those decisions;
- c. complaints that are vexatious, frivolous or not made in good faith; and
- d. complaints where the student complainant has insufficient personal interest in the matter.

Section 2 - Definitions

(6) Complainant means the student notifying a complaint to be subject to internal review.

(7) Complaint:

- a. A complaint is an expression of dissatisfaction about the University; or any 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.

(8) Complaints Assistance Officer:

- a. The Complaints Assistance Officer, or CAO, is the nominated member of staff responsible for the administration of complaints under the [Complaints Policy - Students and Members of the Public](#).

(9) Student:

- a. For the purposes of this Policy, 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 under the [Complaints Policy - Students and Members of the Public](#).

(10) Student Ombud:

- a. The Student Ombud is the person or persons appointed by the Vice Chancellor to investigate formal complaints under this Policy.

(11) Student Ombud Contact Officer:

- a. The Student Ombud Contact Officer is the nominated member of staff responsible for the administration of complaints under this Policy.

Section 3 - Policy Statement

(12) The Student Ombud shall investigate student complaints that arise out of any concern of the University under its functions, as defined by the [Southern Cross University Act 1993 \(NSW\)](#), By-laws, Rules, Policies, Procedures, Local Provisions, or other documented guidance that the University may authorise from time to time.

(13) The Student Ombud shall not encroach on the academic judgements made within the University (including assessment), but may investigate the processes and policies that surround academic judgements.

(14) In exercising its duties, the Student Ombud shall:

- a. impartially investigate complaints from students once the student has exhausted all the University's internal processes for resolving formal complaints or appeals;
- b. progress investigations conducted pursuant to the Procedures stipulated at Section 4 of this Policy, in a timely manner, keeping the complainant informed of progress as required;
- c. conduct investigations in a fair, accountable and confidential manner, respecting the rights of all parties involved in the investigation;
- d. ensure that all documents provided or generated as part of an investigation are securely stored or returned to the original record-holder after an investigation has been completed; and
- e. during the course of investigation, review whether the University followed its own processes fairly and correctly, and where appropriate, make recommendations to the Vice Chancellor about ways to resolve the complaint and or improve the University's performance.

(15) Students shall not suffer any disadvantage or recrimination at the University because they make a complaint.

(16) The Student Ombud and the Student Ombud Contact Officer are responsible to the Vice Chancellor for the purpose of all activities undertaken pursuant to this Policy.

Section 4 - Procedures

Appointment of Student Ombud

(17) The Vice Chancellor may appoint one or more suitably qualified persons as Student Ombuds at the University.

(18) To ensure compliance under the [Education Services for Overseas Students Act 2000](#) (ESOS Act), if the complainant is an international student, the Vice Chancellor must appoint a person external to the University to

conduct the investigation.

(19) The Vice Chancellor's decision is final as to which person is appointed Student Ombud for the purposes of investigating a particular complaint.

(20) The Student Ombud Contact Officer may discuss the appointment of Student Ombud with the complainant, including whether there are any real or perceived conflicts of interest with the proposed appointment of a Student Ombud, and will advise the Vice Chancellor of any preference expressed and the reasons for this preference.

(21) In appointing a Student Ombud to investigate a particular matter, the Vice Chancellor shall not appoint any person who could reasonably be expected to have an actual or perceived conflict of interest in conducting or participating in the investigation process.

(22) If a Student Ombud considers that they may hold a conflict of interest, or believes that their participation in the investigation could create the perception of a conflict of interest with respect to a particular matter, the Student Ombud shall inform the Vice Chancellor of that potential or actual conflict of interest.

(23) Upon being made aware of a conflict of interest existing under clause (22), the Vice Chancellor shall appoint another person to investigate the matter.

(24) If the Vice Chancellor considers that they may hold a conflict of interest, or believes that their participation at any stages of the complaint could reasonably be expected to give rise to an actual or perceived conflict of interest, the Vice Chancellor will refer the matter onto another person to progress in accordance with this Policy.

Student Ombud's Access to Information

(25) The Student Ombud shall have access, on a confidential basis, to any University records and documents that the Student Ombud considers relevant to the matter.

(26) Staff and students shall, if requested, assist the Student Ombud in the conduct of investigations.

(27) If the Student Ombud wishes to interview a person in the course of an investigation, that person may be accompanied by one other person.

(28) If the additional person is a legal representative, the Student Ombud may seek legal representation for the University before proceeding.

(29) Electronic recording of interviews is not permitted by either the Student Ombud or the person being interviewed, unless the Student Ombud and the person being interviewed have provided their written agreement in advance.

Initiating an Investigation

University Initiated

(30) The Vice Chancellor may refer any matter that affects, or potentially affects a student or a group of students to the Student Ombud for investigation.

Student Initiated

(31) A student who is dissatisfied with the outcome of a formal complaint, or believes that a formal complaint has not been resolved within a reasonable time frame, pursuant to the [Complaints Policy - Students and Members of the Public](#), may seek an internal review by the Student Ombud.

(32) Students seeking to refer a matter to a Student Ombud for internal review should normally lodge their request within six months of the time of the determination of a complaint, including those made pursuant to the [Complaints](#)

(33) Subject to the Vice Chancellor's discretion, complaints lodged after this time will be investigated only if:

- a. the student's personal circumstances prevented them from lodging the complaint within time;
- b. the issue that is the subject of the complaint is recurring or ongoing; or
- c. it involves serious allegations or incidents.

(34) A student seeking an internal review by a Student Ombud shall make a written request to the Student Ombud Contact Officer (ombud@scu.edu.au).

(35) Students may contact the Student Ombud Contact Officer or the Complaints Assistance Officer for informal advice about the internal avenues for addressing a matter.

(36) Subject to clauses (37) and (38), a matter will normally only be formally investigated:

- a. if it is put in writing pursuant to clause (34) of this Policy; and
- b. once the student has exhausted all other internal processes.

(37) The Vice Chancellor has the discretion to appoint a Student Ombud to conduct an internal review without a student having exhausted all other internal processes if the Vice Chancellor considers that the gravity of the allegation or incident warrants such action or if the student raises concerns that the investigation pursuant the [Complaints Policy - Students and Members of the Public](#) is not being progressed in a timely or appropriate manner.

(38) The University will not generally respond to anonymous requests for internal review unless they involve allegations of a serious nature, such as corruption or criminal behaviour. Where appropriate, the Vice Chancellor may decide that an investigation is warranted.

(39) Frivolous or vexatious requests for internal review or requests without substance will not proceed beyond preliminary investigation. Complainants making vexatious requests may be subject to action under the [Student Academic and Non-Academic Misconduct Rules](#).

(40) A complainant may withdraw their request for internal review at any stage of the process, by putting their request in writing to the Student Ombud Contact Officer. In most cases, the matter will be closed. However, in certain circumstances, the Vice Chancellor may deem the matter serious enough for the internal investigation to continue or for referral to an external agency.

Preliminary Investigation of Complaint

(41) On receipt of a request for internal review, the Student Ombud Contact Officer will:

- a. send an acknowledgement of receipt of the request to the complainant within five working days; and
- b. make a preliminary assessment of the matter.

(42) The preliminary assessment shall include consideration of whether:

- a. there are alternative avenues to resolve the matter, including an appeal or review including investigation pursuant to the [Complaints Policy - Students and Members of the Public](#);
- b. additional information from the complainant is required; and
- c. the nature of the complaint needs further clarification.

(43) Where the Student Ombud Contact Officer considers that there are alternative avenues to resolve the matter,

including an appeal or review pursuant to clause (42)a, the complainant shall be advised of this alternative process within ten working days of the receipt of the request for internal review.

(44) For all other requests, the Student Ombud Contact Officer will refer the matter to the Vice Chancellor.

(45) The Vice Chancellor may decide not to appoint a Student Ombud for a particular matter. In making such a determination, the Vice Chancellor may take into account:

- a. if the request is frivolous, vexatious or without substance in line with clause (39);
- b. if the complainant has insufficient personal interest in the matter;
- c. if the matter for which an internal review is sought occurred too long ago to warrant investigation (normally six months from the date of determination of a complaint pursuant to the [Complaints Policy - Students and Members of the Public](#)); or
- d. any other factor the Vice Chancellor deems reasonably relevant.

(46) If the Vice Chancellor declines to refer a request for internal review to a Student Ombud, the Vice Chancellor shall seek to inform the complainant in writing about this decision within ten working days of the original request for review made pursuant to clause (34).

Conduct of the investigation

(47) In conducting the investigation, the Student Ombud shall:

- a. determine how a particular matter shall be investigated, including the steps taken to conduct the investigation;
- b. provide relevant persons with a reasonable opportunity to present their views and actions taken;
- c. where there is the potential for a negative finding of fact against a staff member, ensure that the substance of the complaint is presented to them in writing for response; and
- d. assess and report on whether appropriate and fair processes and procedures have been established and followed by the University in respect to dealing with a complainant.

(48) If, in the course of an investigation, the Student Ombud receives evidence that an allegation against a staff member potentially gives rise to disciplinary action for misconduct pursuant to the University's [Enterprise Agreement](#) or relevant individual agreement/contract, then such evidence shall be referred to the relevant supervisor or HR Services.

Defamation

(49) All persons making a request for internal review in good faith, or giving evidence or providing information during the investigation, would have a defence of qualified privilege in the event of a defamation action.

(50) 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 own affairs in matters where his or her interests are concerned. Such defence of qualified privilege is lost if it 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.

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

Victimisation

(52) Any victimisation of a complainant acting in good faith will be regarded seriously and, in the first instance, should be referred to the Student Ombud Contact Officer for appropriate action. Any student who victimises a person in relation to these complaint procedures may be subject to an action under the [Rules - Student Academic and Non-Academic Misconduct Rules](#). A staff member who victimises a person in relation to these complaint procedures may be subject to an action under the [Complaint Policy - Staff](#).

Confidentiality

(53) There must be limited disclosure of information relating to a matter undergoing internal review by a Student Ombud to as few people as possible, and only to those who are legitimately involved in the process of investigating or resolving the matter. Any breaches of confidentiality, careless or otherwise, on the part of any of the parties involved in an investigation will be regarded seriously, and shall be referred to the Student Ombud Contact Officer for appropriate action.

Sources of advice

(54) Several internal sources of confidential advice are available for the parties involved in an investigation (prior to a complainant lodging a formal request for internal review).

(55) Students may wish to contact:

- a. Student Advocacy Service
- b. Student Associations
- c. Student Health and Disability Support services
- d. Equity and Diversity Contacts
- e. Complaints Assistance Officer
- f. Student Ombud Contact Officer
- g. International Office (for international students)
- h. Staff may wish to contact:
 - i. HR Services
 - ii. Union organisations
 - iii. Complaints Assistance Officer
 - iv. SCU Legal Office
 - v. Student Ombud Contact Officer
 - vi. Equity and Diversity Office

Finalising the Investigation

(56) Following the investigation, the Student Ombud will provide a report to the Vice Chancellor. The report will include, where relevant, the Student Ombud's:

- a. findings;
- b. recommendations for resolution of issues; and
- c. recommendations about possible improvements to the University By-Laws, Rules, Policies, Procedures, Local Provisions, or other, documented guidance that the University may determine from time to time.

(57) If the Student Ombud considers that there may be a conflict of interest, or believes that there could be the perception of a conflict of interest with respect to the recipient of a Student Ombud report, the Student Ombud shall

inform the Chancellor or Vice Chancellor as appropriate, who will designate another person to receive the report and consider the recommendations.

(58) The Student Ombud shall not recommend a change to the final assessment or grade.

(59) Where a matter settles to the satisfaction of the complainant prior to the finalisation of the investigation, the Student Ombud may:

- a. recommend that no further action is required, and finalise the investigation by submitting a short, written report to the Vice Chancellor; or
- b. recommend that possible improvements should be considered by the University, including modifications to Rules, Policies, Procedures or Local Provisions, and finalise the investigation by submitting a report to the Vice Chancellor pursuant to clause (56).

(60) Upon receipt of the Student Ombud report, the Vice Chancellor will consider the report and recommendations and may:

- a. implement, or direct staff of the University to implement, all or any of the report's recommendations where it is within the Vice Chancellor's authority to do so; or
- b. choose not to implement all or any of the report's recommendations.

(61) The Vice Chancellor will formally advise the complainant in writing about his/her determination of the internal review. This will include:

- a. setting out the outcomes of the request for internal review and any actions that were taken;
- b. setting out the reasons for this decision;
- c. any specific actions required to be undertaken by the University following the decision; and
- d. the options for review that may be available, such as external review.

(62) The Vice Chancellor may also inform in writing Executive member the head of the work unit the subject of the investigation, other staff or students involved in the investigation about relevant aspects of the determination, subject to maintaining privacy and confidentiality as appropriate.

(63) Where the Vice Chancellor requires a person to take specific actions as a result of the investigation, the Vice Chancellor shall inform the person in writing of those specific actions and a time frame for implementation.

(64) If in the course of the Student Ombud investigation, it is considered likely that adverse findings about a particular individual may be made, the University will consider any applicable privacy obligations under the [Privacy and Personal Information Protection Act 1998](#) and an applicable exemptions in or made pursuant to that Act, before disclosing relevant details of the determination with the complainant or other parties.

Alternative Avenues for Lodging Complaints

(65) The complainant may, at any stage, refer their matter to an external agency including, but not limited to, the:

- a. Anti-Discrimination Board of NSW
- b. Australian Human Rights Commission
- c. NSW Auditor General
- d. NSW Independent Commission Against Corruption
- e. NSW Ombudsman
- f. NSW Police

- g. Queensland Police
- h. NSW Information and Privacy Commission

(66) Where a student refers their complaint to an external agency, the University may cease its internal review process.

International students

(67) Standard 8 of the National Code of Practice 2007 made under the [Education Services for Overseas Students Act 2000 \(ESOS Act\)](#) requires Australian universities to have in place arrangements for independent, external review of complaints and appeals made by those international students covered by the ESOS Act. Southern Cross University has made arrangements with the NSW Ombudsman to conduct independent, external reviews of complaints and appeals made by these international students. [Note: This includes complaints and appeals made by international students studying in Queensland at the Gold Coast campus.]

(68) 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 the power to make a decision in place of the University's original decision.

(69) For those international students covered by the ESOS Act, the University must maintain a student's enrolment while an appeal is ongoing and immediately implement any corrective and preventative action required.

Record Keeping

(70) The Student Ombud Contact Officer shall:

- a. provide the Complaints Assistance Officer with the outcomes of matters formally referred to a Student Ombud.
- b. prepare an annual report summarising the activities of the year in a de-identified manner and make the report available to students and staff on the University's intranet site.

Section 5 - Guidelines

(71) Nil.

Status and Details

Status	Historic
Effective Date	15th July 2016
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Head of Work Unit	Mark Dixon Director, Governance Services
Enquiries Contact	Governance Services