



STUDENT COMPLAINT PROCEDURE

UNSW Procedure	
Linked UNSW Policy	This procedure details actions and processes pursuant to the Student Complaint Policy
Responsible Officer	Pro-Vice-Chancellor (Students) and Registrar
Contact Officer	Student Conduct and Appeals Officer
Effective Date	2 March 2009
Authorisation	Vice-Chancellor, 9 January 2009
Superseded Documents	Grievance Resolution Policy for Students (2005/2246) Student Discrimination and Harassment Grievance Policy and Procedures (960671) Grievance Resolution Procedure for Undergraduate and Postgraduate (Coursework Students) Grievance Resolution Procedure for Research Students All other inconsistent UNSW documents existing at the effective date.
File Number	2008/4234
Associated Documents	Student Misconduct Rules Behaviour Required of Students UNSW Code of Conduct Special Consideration – Illness and Misadventure Assessment Policy Academic Standing Rules for Undergraduate Students Academic Standing Rules for Postgraduate Students

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1. Purpose and Scope

The purpose of these procedures is to establish a process which facilitates a safe and fair learning environment for all students of the University. The procedures outline the steps that staff and students of the University must take to resolve student complaints.

The procedures apply to a student's experience at the University. Previously enrolled students may lodge a complaint under the procedures provided that the event resulting in complaint occurred while they were enrolled and the event is no older than twelve months.

Where the respondent to a complaint is not a member of the University, the University may refer the complaint to an external agency.

Where the complaint is about a separate legal entity controlled by the University, the complaint must be pursued through the policies of that entity. Where the complaint is about an Arc @ UNSW employee or representative, the complaint must be pursued through the relevant Arc @ UNSW policies.

A complaint is any type of problem, concern or grievance about the University or the University environment. Students may also make a complaint about a matter relating to their studies and student life at the University, which concerns the University and relates to the operations of the University and where they have had an adverse experience which is not addressed in another rule, policy or procedure of the University. This may include but is not limited to bullying, discrimination, harassment, sexual harassment, victimisation or vilification.

For definitions of bullying, refer to the University's Workplace Bullying Policy. For definitions of harassment, sexual harassment, victimisation or vilification, refer to the University's Equal Opportunity in Education Policy Statement.

Complaints regarding academic coursework results must be made in accordance with the UNSW Assessment Policy.

If the complaint is about a person, students may make a complaint relating to, but not limited to:

- a) other students of the University;
- b) academic staff (including contract staff, visiting appointments and guest lecturers);
- c) professional and technical staff (including casual and contract staff);
- d) visitors to the University;
- e) people external to the University with whom students interact as part of a program of study such as, but not limited to, work experience, industrial or clinical placements.

Higher Degree Research Students

Reviews of academic decisions related to progress of postgraduate research candidatures should be lodged through the relevant UNSW Procedure for Confirmation and Review of Progress of Higher Degree Research Candidatures. Reviews of academic decisions related to the thesis examination or other academic decisions for postgraduate research candidates should be lodged through the relevant UNSW Conditions for the Award of the Degree.

Complaints in relation to authorship, intellectual property and research misconduct related to postgraduate research candidates and their supervisors should be lodged through the UNSW Code of Conduct for the Responsible Practice of Research.

2. Procedure

The following principles will guide these procedures:

- a) any complaint should be made within a reasonable time of the event which is giving rise to the complaint and no later than twelve months after the event;
- b) student complaints will be handled with regard to procedural fairness, confidentiality and privacy, including the use and storage of any information and records related to the complaint;
- c) student complaints will be handled quickly and as close as possible to the source;
- d) where possible the complaint will be resolved by a process of discussion, cooperation and mediation;
- e) all parties involved will participate in the complaint resolution in good faith.

A complaint can be made using three avenues:

1. Informal complaint
2. Formal complaint
3. External complaint

With the exception of serious matters, many complaints can be handled through the informal process. This process should be used in the first instance. The complainant may choose to use any of these avenues and may seek advice at any stage from the Student Conduct and Appeals Officer (SCAO) within the Office of the Pro-Vice-Chancellor (Students) and Registrar.

Note that external bodies such as the NSW Ombudsman may require the complainant to lodge an internal complaint first before they will become involved. The complainant should contact the external body directly for advice on when they will take up a matter.

2.1 Informal Complaint

Through the informal process the complainant raises their concerns directly with the person or persons involved. This can be done in writing (letter or email) or verbally (phone or face to face). The parties involved will then attempt to reach a satisfactory resolution of the matter. Both the complainant and respondent are entitled to invite a support person or a neutral third party to attend any interviews or meetings conducted during the informal process. In this instance they must advise the other party of the attendance of a support person or a neutral third party at the meeting at least 24 hours prior to the meeting. The support person can be a student, staff member, friend, family member or a representative of the student organisation Arc @ UNSW. The support person may not act as an advocate or be a lawyer.

Where a complainant is uncomfortable raising the concern directly, an informal complaint can be made through an appropriate member of the University staff at the local level. This may be the Head of School, Unit Manager or a person with the authority to make necessary decisions ("Staff Member"). Advice can be sought from the SCAO on the most appropriate person.

Where a complaint is equity-related (for example, matters relating to anti-discrimination), advice should be sought from the Student Equity and Disabilities Unit.

The Staff Member will aim to facilitate resolution of the complaint at the local level by:

- a) Clarifying the complaint through discussion with all parties; and
- b) Negotiating a mutually agreed outcome that resolves the complaint.

Resolution at the local level will be undertaken expeditiously and wherever possible within 20 working days and no longer than 30 working days of the complaint being raised. Where a case cannot be resolved in this timeframe the SCAO must be informed and the complaint may be referred to the formal process.

The Staff Member may instigate a process of formal mediation to be undertaken. Both parties must agree in writing to such a process and mediation will be facilitated by a mediator. Advice on a mediator can be sought from the SCAO.

Where appropriate, the Staff Member may refer the complaint in accordance with other relevant rules, policies or procedures of the University (for example, Special Consideration Policy, Student Misconduct Rules).

2.1.1 Complaint of a serious nature

Where the complaint is of serious nature the formal process will apply. A complaint is deemed serious where:

- a) a serious criminal offence may have been committed (for example, sexual assault);
- b) there is reason to believe that due to the nature of the complaint there is a significant risk to the University and its staff and/or students;
- c) there are a number of complaints of a similar nature received against a respondent.

Where a serious criminal offence may have been committed, the SCAO must be notified and the SCAO will, with the knowledge of the complainant, consult with the University Legal Office and the Registrar who may then notify the appropriate authority.

It is the responsibility of the person initially receiving a serious complaint to refer it to the SCAO. Advice on what may constitute a complaint of a serious nature can be sought by any party from the SCAO.

2.2 Formal Complaint

A complaint can be lodged under the formal process where:

- a) resolution through the informal process has not occurred;
- b) the complaint is deemed serious;
- c) the complainant chooses this process.

A formal complaint must be lodged in writing (letter or email) with the SCAO. The written complaint must contain sufficient information necessary for the complaint to be investigated and to substantiate the complaint. All available information should be lodged at the outset. It should be lodged as soon as possible and no later than 12 months after the event leading to the complaint.

Frivolous or vexatious complaints or complaints without substance will not proceed beyond preliminary investigation. Complaints may be referred by the SCAO to be dealt with under alternative University policies and procedures or by an external agency. The decision to investigate will be at the discretion of the SCAO.

In cases where no formal written complaint has been received or the complainant refuses to put their complaint in writing but the University has been made aware of a matter of a serious nature, the SCAO may decide to initiate the formal process.

2.2.1 Anonymous complaints

Complaints lodged anonymously under the formal process will not normally be investigated. However, in exceptional circumstances the SCAO may decide that an investigation is warranted.

2.2.2 Vexatious complaints

Students making vexatious complaints may be subject to action under the Student Misconduct Rules.

2.2.3 Determination process

On receipt of the formal complaint the SCAO will:

- a) record the complaint on a central complaints database;
- b) send an acknowledgement of receipt of the complaint to the complainant within 5 working days and provide information about seeking independent advice and the right to bring a support person or advocate to any meetings or interviews that may be conducted;
- c) determine whether the complaint is to be investigated under the formal procedure. Where it is determined that the complaint will not be investigated, the SCAO will provide reasons in writing to the complainant within 20 working days of receipt of the complaint.

On receipt of the formal complaint the SCAO may also do one or more of the following as applicable:

- d) determine the most appropriate avenue for investigation. Where it is determined to refer the complaint either externally or within the University, the complainant will be advised in writing and provided with a copy of any relevant policy and procedures within 20 working days of receipt of the complaint;
- e) refer the matter to the Registrar who will appoint an Investigating Officer (IO) to investigate. The IO may be a member of the University staff who is at an appropriate senior level with the authority to make necessary decisions and from a work area not involved with the complaint either through the complainant or respondent, or a person external to the University (including former members of the University). Where an IO is appointed, the SCAO will inform the complainant of the fact. It will be the responsibility of the IO to inform the complainant of the progress of the complaint where appropriate.

2.2.4 Role of Investigating Officer

On receipt of the complaint the IO will:

- a) initiate investigation within five working days of its receipt;
- 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 the Student Complaint Procedures and providing the respondent with written details of the complaint;
- c) examine relevant documentation, interview relevant parties where necessary, and seek clarification on information supplied from relevant parties where required; and
- d) conclude the investigation within 20 working days of the receipt of the complaint. Where this is not possible, the SCAO must be kept informed of the reason and an expected finalisation date. The SCAO will in turn keep the complainant informed of delays.

Both the complainant and respondent are entitled to invite a support person or a neutral third party 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 the student organisation Arc @ UNSW. The support person may not act as an advocate, cannot be a lawyer and may not contribute to any discussion unless invited to do so by the IO.

At any stage of the investigation the IO can seek advice from appropriate areas of the University, such as the Student Equity and Disabilities Unit, the University Legal Office and from external organisations such as the Anti-Discrimination Board.

At the conclusion of the investigation the IO will provide the Registrar with one of the following 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 IO may recommend, for example, that parties involved be reminded of University expectations of behaviour.

The Registrar may choose, at his or her discretion, not to accept the findings of the IO and may take another course of action. This may include dismissing the complaint or referring it to the Complaints Appeals Committee.

The Registrar will advise both the complainant and the respondent of the outcome of the investigation in writing, including reasons for the decision, and will inform both parties of the appeal process.

2.2.5 Progress reports during an investigation

Where investigation is required this will generally involve, as a minimum, advice from the IO to the complainant when:

- a) The preliminary investigation has been completed; and

- b) The investigation report has been finalised for consideration by the relevant authority.

2.3 Withdrawal of Complaint

At any stage of the informal or formal process, the complainant may decide to withdraw the complaint. Where 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.

2.4 Recordkeeping

Notes must be kept at all stages of the resolution of a complaint including records of meetings, discussions and actions proposed or taken. All records or notes produced in dealing with the resolution of a complaint under the formal process must be stored on a confidential University file. The file must be registered appropriately and stored securely under the responsibility of the SCAO.

The SCAO will be responsible for recording and tracking all formal complaints on a central complaints database.

2.5 Victimization

Any staff member or student who victimises a person in relation to a complaint will be subject to misconduct proceedings under appropriate University policies and procedures. Any party involved in a complaint fearing or experiencing victimisation should immediately discuss the matter with the SCAO.

2.6 Confidentiality

All parties involved in a complaint including the complainant, respondent and investigators are to maintain confidentiality.

2.7 External Complaint

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 SCAO on the central complaints database.

External agencies include:

Anti-Discrimination Board
Australian Human Rights Commission
Independent Commission against Corruption
NSW Ombudsman
NSW Police

2.8 Appeals

An appeal may only be lodged on the grounds of lack of procedural fairness in the investigating process.

Appeals are to be in writing to the Registrar within 15 working days of the date of notification of outcome and must state the grounds for appeal. On receipt of the appeal the Registrar will convene a Complaints Appeals Committee to hear the appeal.

An appeal may be lodged by the complainant or the respondent.

2.8.1 Complaints Appeals Committee

Members of a Complaints Appeals Committee shall be drawn from the academic members of the Academic Board and the elected student members of Council, the Academic Board or a Faculty.

A Committee shall consist of 3 members, 2 academic staff and 1 student, chosen by the President of the Academic Board or nominee. The Committee Chairperson will also be chosen by the President of the Academic Board or nominee. In cases where the complainant is known to the President, or in any other way the President has a conflict of interest or potential conflict of interest, the Committee shall be chosen by the Presiding Member or nominee of one of the Undergraduate Studies Committee, the Postgraduate Studies Committee or the Committee on Research, as appropriate to the status of the student. No one may serve on a Committee who has a conflict of interest, or potential conflict of interest, in the matter.

The student member shall have attended the University for the equivalent of at least two years full time.

Where possible, at least one member of a Committee shall be of the same sex as the complainant.

More than one Complaints Appeals Committee may be constituted and may sit at the same time if the circumstances so require.

2.8.2 Appeals process

A Complaints Appeals Committee will be convened as soon as is practical but within 21 working days of the lodgement of appeal. All parties will be informed in writing of the meeting.

a) A Committee:

- i) shall sit in camera;
- ii) may appoint one or more appropriately qualified persons to assist it on any matters of law, procedure or technical expertise;
- iii) shall record the evidence given before it;
- iv) shall record the reasons for its determination and for any penalty that it imposes, including its findings upon any material issue of fact.

b) All parties may:

- i) Choose to attend the hearing to state their case, either alone or accompanied by a friend or adviser with whom they may consult. If accompanied by a friend or adviser, the parties must give notice to this effect to the Chairperson of the Committee at least 24 hours before the hearing;
- ii) If attending the hearing, the parties may, if they so wish, be represented at their own expense by an advocate (whether legally qualified or not), provided that they have given notice to this effect to the Chairperson of the Committee at least 8 days before the hearing; or
- iii) Choose not to attend the hearing. Where this occurs the matter will be heard in the absence of any party and any written statements lodged may be taken into consideration.

c) Only material relevant to the grounds of the appeal may be presented.

d) In determining the outcome of the appeal the Committee may:

- i) dismiss the appeal on the grounds that the information provided does not meet the grounds for appeal stated under the procedures; or
- ii) allow the appeal and make a fresh determination based on the evidence presented.

2.8.3 Notification of result

The SCAO will, within 10 working days of the meeting, notify all parties in writing of the outcome of the appeal including reasons.

At this stage, all avenues of appeal within the University will have been exhausted. A complainant dissatisfied with the outcome of a complaint will be advised of their right to

request an external review of the matter by an external agency such as the NSW Ombudsman.

2.8.4 Recordkeeping

All minutes and relevant papers of the Complaints Appeals Committee must be stored on a confidential University file. At the conclusion of an investigation, the file must be stored securely under the responsibility of the SCAO.

3. Review and History

These Procedures are due for review three years from the date of effect.

3.1 Modifications

Version	Date	Approval	Sections modified	Details of amendments
1.0	09/01/2009	Vice-Chancellor	N/A	These are new procedures
1.1	24/04/2009	Pro-Vice-Chancellor (Students) & Registrar	2.2.5 a)	Remove the word 'report' after 'preliminary investigation'

4. Acknowledgements

NSW Ombudsman Complaint Handling at Universities: Best Practice Guidelines 2006

Discussion Paper 21 (1989) – Alternative Dispute Resolution: Training and Accreditation of Mediators, Lawlink NSW, in relation to terminology and definitions.

Discussion Paper 30 (1993) Review of the Anti-Discrimination Act 1977 (NSW), Lawlink NSW, in relation to behaviours that are considered harassing and discriminatory.

Complaints policies and procedures from a range of Australian universities were reviewed as part of the revision of the UNSW Student Grievance Resolution Policy and Procedures. Related policy documents from the following universities are gratefully acknowledged:

Australian National University
Macquarie University
Queensland University of Technology
University of Melbourne
University of Newcastle
University of Technology Sydney
University of Queensland
University of Western Sydney