

# Complaint and Grievance Policy

## Section 1 - Audience

(1) This Policy applies to any individual who raises a formal complaint or grievance, or is involved in the complaint management process of the University of Newcastle (the University).

## Section 2 - Executive Summary

(2) The University recognises an individual's right to raise an issue or concern regarding the conduct of the University operations, services, staff, students and facilities.

(3) This Policy:

- a. applies to all formal complaints and grievances;
- b. establishes a standard for the University complaint management processes; and
- c. details the process and grounds under which a Complainant may appeal a formal complaint or grievance process.

(4) The objective of the formal complaint and grievance processes is to ensure a fair process, but not necessarily a specific outcome.

(5) It is expected that Complainants and Respondents involved in a formal complaint or grievance will cooperate in good faith and in accordance with the University [Code of Conduct](#). The effectiveness of this policy relies upon the cooperation of all parties.

(6) Matters dealing with staff will be considered in conjunction with the relevant [Enterprise Agreements](#).

## Section 3 - Purpose

(7) This Policy establishes how the University will manage and assess formal complaints and grievances.

(8) The University will:

- a. provide an effective process to express formal complaints and grievances;
- b. ensure formal complaints and grievances are considered in a timely, impartial, fair and confidential process;
- c. promote honest and transparent processes and outcomes; and
- d. outline the responsibilities and rights of individuals involved in the process.

(9) This policy should be read in conjunction with the [Complaint and Grievance Resolution Procedure](#).

## Section 4 - Complainant Responsibilities

(10) Complainants are required to review all information, resources and forms available on the University Complaint and Grievance webpage prior to lodging a formal complaint or grievance.

(11) Complainants, in the first instance, are encouraged to resolve minor issues or concerns informally and directly with the person or persons involved before lodging a formal complaint or grievance. This is appropriate in matters where the Complainant feels comfortable with making a direct approach, or where the issue or concern does not relate to allegations of misconduct or unlawful behavior.

(12) Complainants may seek independent advice and support regarding a formal complaint or grievance from:

- a. the Office of Student Advocacy for University students;
- b. a Human Resource Business Partner for University staff; or
- c. Legal & Compliance unit for members of the University community who are not current students or staff.

(13) University staff involved in the management of a formal complaint or grievance are to be treated with respect and courtesy by the Complainant.

(14) Complainants may withdraw formal complaints and grievances at any time during the process. The University reserves the right to continue managing a grievance if required to satisfy legal or regulatory obligations.

## Section 5 - Formal Complaint and Grievance Policy Exclusions

(15) The following matters will not be managed under this Policy and should be referred as outlined below:

- a. academic and non-academic misconduct matters will be referred to the [Student Conduct Rule](#);
- b. research misconduct matters will be referred to the [Responsible Conduct of Research Policy](#);
- c. sexually based assault and harassment reports will be referred to the [Sexually Based Assault or Harassment Response Policy](#);
- d. academic progression matters will be referred to the [Course Management and Assessment Procedure Manual](#); and
- e. any issue or concern that is being considered or relates to an existing University policy as determined by the Complaints and Compliance Officer.

(16) In the above cases the Complaint and Grievance Policy will only apply where the complaint is that the applicable policy or procedure has not been properly followed, or a concern has arisen as a direct and demonstrable result of an interpersonal conflict or prejudicial relationship.

### **Formal Complaints, Grievances and Appeals Which May be Declined or Dismissed**

(17) The University may decline to consider a formal complaint, grievance or appeal that:

- a. is lodged more than 12 months from the date the matter occurred;
- b. is lodged anonymously;
- c. is being factually assessed concurrently under another University process;
- d. has been assessed previously under a University process;

- e. is or may become subject to legal proceedings; or
- f. is subject to an external review process.

(18) The University may dismiss a formal complaint, grievance or appeal that is considered to be:

- a. vexatious;
- b. frivolous or lacking in substance;
- c. not made in good faith; or
- d. a misconceived fact.

(19) The University may dismiss a formal complaint, grievance or appeal where the:

- a. complainant is deemed to be unreasonable; or
- b. complainant behaves in a rude, threatening or harassing manner.

(20) An unreasonable Complainant is defined by their behaviour which, because of the nature or frequency, may raise substantial health, safety, resource or equity issues for the parties to a formal complaint or grievance.

(21) Persistent, unreasonable or arbitrary Complainants or Respondents as described in Clauses 18 – 20, may be referred for disciplinary action as defined in the:

- a. [Student Conduct Rule](#) for students; or
- b. the relevant [Enterprise Agreements](#) and policies for University Staff.

## Section 6 - Confidentiality and Record Keeping

(22) University staff receiving and managing formal complaints or grievances will keep appropriate, confidential records of the assessments of fact and outcome. These records are to be kept in accordance with the [Records and Information Management Policy](#).

(23) The privacy and confidentiality of parties to a formal complaint or grievance will be respected to the extent that is practical and appropriate. However, disclosure of the information may be required to satisfy regulatory and/or legal obligations.

(24) University staff or student engaged in a formal complaint or grievance process will not improperly disclose any information obtained during the process.

(25) The expectation of confidentiality extends to the correspondence and outcome of a formal complaint or grievance process. This information provided to Complainants and/or Respondents by the University is to be kept in the strictest of confidence.

## Section 7 - Managing a Formal Complaint or Grievance

(26) The University will apply a tiered approach to the escalation and resolution of complaints and grievances, as outlined in this Policy.

(27) Through the application of this Policy and the associated [Complaint and Grievance Resolution Procedure](#), the University will ensure that formal complaints and grievances are assessed and managed in a process:

- a. that supports procedural fairness and natural justice;
- b. that is transparent and provides all involved the opportunity to respond;
- c. that is timely and consistently communicated; and
- d. where outcomes are based on a fair and factual consideration.

(28) Timeframes for the assessment of a formal complaint, grievance or appeal outlined in the Procedure will be:

- a. extended on agreement between the Complaint Officer and the Complainant; and
- b. paused when additional information is requested by the Complaint Officer.

(29) The University will ensure that any potential, actual or perceived conflict of interest is addressed in the complaint management process.

(30) Formal complaints or grievances will not be dealt with under more than one internal process at the same time. Wherever possible, the issue(s) of the complaint will be dealt with in totality by the [Complaint and Grievance Resolution Procedure](#).

(31) If more than one formal complaint or grievance is received regarding the same issue or concern, the Complaints and Compliance Officer may choose to manage or assess the matters collectively or individually dependent on the nature of the issue or concern. If managed collectively outcomes may still vary.

(32) To the extent possible the University will take appropriate measures to ensure Complainants and Respondents do not suffer any victimisation or discrimination from raising a formal complaint or grievance.

(33) The University will maintain the enrolment of any student who is subject to a formal complaint, grievance or appeal process until the matter is resolved. In the case of international students, the University will not notify the Commonwealth Government of any change to the student's enrolment status through the Provider Registration and International Student Management System (PRISMS) until the process is concluded.

## **Formal complaint**

(34) A formal complaint is a moderate problem or concern raised by an individual who considers themselves wronged because of an action, decision or omission that relates to an aspect of the University experience.

(35) Complainants must complete a complaint form and lodge their complaint with the relevant College or Business Unit that have direct responsibility for the subject matter of the complaint.

(36) A formal complaint under this Policy may relate to, but is not limited to:

- a. the provision of inaccurate or misleading advice effecting academic progression;
- b. the improper application of University policy, process or procedure; or
- c. a negative impact from a University service provider.

(37) An assessment of fact will be undertaken for each formal complaint and will:

- a. address all relevant issues raised in the formal complaint or grievance;
- b. invite complainants, respondents and relevant stakeholders to respond;
- c. consider relevant documents;
- d. present a fair and balanced outcome and report; and
- e. ensure the outcome is evidence-based and defensible.

(38) A formal complaint can be escalated to a grievance if:

- a. there is a conflict of interest with the Complaints Officer; or
- b. the Complaints Officer believes the complaint is of a serious nature, warranting the grievance process to be implemented.

## **Grievance**

(39) A grievance is a serious matter of dispute or concern. This may include, but is not limited to:

- a. the improper use of University resources;
- b. the discriminatory or negligent application of a University policy, process or procedure; or
- c. incidents or behaviour that may be considered a breach of University policy, process or procedure, or a criminal offence.

(40) A Complainant is to lodge their grievance with Complaints (complaints@newcastle.edu.au) for evaluation and management by submitting a complaint form available on the University Complaint and Grievance webpage.

(41) All grievances under this policy will be managed by the Complaints and Compliance Officer.

(42) An assessment of fact undertaken to manage a grievance will be actioned in accordance with Clause 37 of this Policy.

## **Appeals**

(43) A Complainant may appeal a formal complaint or grievance process in which they were involved.

(44) An appeal will only be considered if the initial assessment of fact has been completed and an outcome advised.

(45) The University may consider appeals, within the appeal period, on the following grounds:

- a. inaccurate or incomplete application of a University policy or process;
- b. denial of procedural fairness; or
- c. additional information becomes available to the Complainant.

(46) The University will not consider an appeal if the reason for the appeal is solely based on dissatisfaction with the advised outcome.

### **Appeal (Formal Complaint)**

(47) A Complainant has the right to appeal the formal complaint process. A Complainant is to lodge their appeal by submitting an appeal form, available on the University Complaint and Grievance webpage. This will be reviewed by the Senior Legal Counsel.

(48) The Senior Legal Counsel may at their discretion assign a Complaints Officer from within Legal & Compliance unit, another relevant business unit or an external party to conduct a review of the formal complaint process.

### **Appeal (Grievance)**

(49) A Complainant has the right to appeal the grievance process conducted under this policy. A Complainant is to lodge their appeal by submitting a complaint form, available on the University Complaint and Grievance webpage. This will be reviewed by the Vice-Chancellor.

(50) The Vice-Chancellor may at their discretion assign an appropriate officer to conduct a review of the grievance process undertaken.

### **External Review**

(51) If a Complainant is not satisfied with the outcome of a formal complaint, grievance and or appeal managed under the [Complaint and Grievance Resolution Procedure](#), the individual may seek an external review by the [NSW Ombudsman](#) or other relevant review body.

(52) In the event an external review is sought, the University will cease any process relating to the subject matter of the external review including communication with the Complainant.

## **Section 8 - University Regulatory and Compliance Requirements**

(53) This Complaint and Grievance Policy and the [Complaint and Grievance Resolution Procedure](#) have been developed in accordance with the [University of Newcastle Act 1989 \(NSW\)](#) and supports compliance with the:

- a. [Educational Services for Overseas Students Act 2000 \(Cth\)](#);
- b. [National Code of Practice for Providers of Educations and Training to Overseas Students 2018](#); and
- c. [High Education Support Act 2003 \(Cth\)](#).

## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	29th May 2019
<b>Review Date</b>	29th May 2022
<b>Approval Authority</b>	Vice-Chancellor
<b>Approval Date</b>	25th February 2019
<b>Expiry Date</b>	19th June 2022
<b>Responsible Executive</b>	Daniel Bell General Counsel
<b>Enquiries Contact</b>	Legal and Compliance

## Glossary Terms and Definitions

**"University"** - The University of Newcastle, a body corporate established under sections 4 and 5 of the University of Newcastle Act 1989.

**"Student"** - A person formally enrolled in a course or active in a program offered by the University or affiliated entity.

**"Staff"** - Means a person who was at the relevant time employed by the University and includes professional and academic staff of the University, by contract or ongoing, as well as conjoint staff but does not include visitors to the University.

**"College"** - An organisational unit established within the University by the Council.