Complaint and Grievance Resolution Procedure

Section 1 - Audience

(1) This Procedure applies to any individual who is involved in the formal complaint and grievance resolution process of the University of Newcastle (the University).

Section 2 - Executive Summary

(2) This procedure:

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

(3) This procedure supports and should be read in conjunction with the Complaint and Grievance Policy.

(4) It is the expectation 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 procedure relies upon the cooperation of all parties.

(5) University staff responsible for managing a formal complaint or grievance should review the Complaint and Grievance webpage for information and resources on how to manage and assess the facts to a formal complaint or grievance.

Section 3 - Prior to Lodging a Formal Complaint or Grievance

(6) Before lodging a formal complaint or grievance, the Complainant is requested to:

a. review the University Complaint and Grievance webpage to ensure they engage in the correct process;
b. understand the process and limitations of the process;
c. clarify the relevant details of the issue or concern;
d. ensure relevant supporting documentation is available; and
e. identify what a reasonable resolution might be.

(7) Complainants should attempt to resolve minor issues or concerns informally and directly with the person or persons involved. This is appropriate in minor matters where the Complainant feels comfortable with making a direct approach, or where the concern does not relate to allegations of serious misconduct or unlawful behaviour.

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(8) If a Complainant requires assistance they are encouraged to seek independent advice and support before lodging a formal complaint or grievance. Support for these processes can be accessed 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.

(9) Contact details for the officers detailed in Clause 8 and additional support contacts are available on the Complaint and Grievance webpage.

Section 4 - Formal Complaint Resolution

(10) The Complaint and Grievance Policy defines what constitutes a formal complaint in Clauses 34-36.

(11) Complainants are required to complete a complaint form, available on the Complaint and Grievance webpage. Once completed the Complainant should submit the form via email to the College or Business Unit Manager that has responsibility for the subject matter of the formal complaint.

(12) If the Complainant is unable to identify the appropriate College or Business Manager they are to contact the appropriate support as detailed in Clause 8 of this procedure.

(13) If upon receipt of the formal complaint, the College or Business Unit Manager identifies:

a. a conflict of interest, they will refer the complaint to a relevant Senior Manager; or
b. that they are not responsible for the subject matter of the formal complaint, they should identify an appropriate Complaints Officer to refer the formal complaint to.

(14) The appropriate College or Business Unit Manager will be the responsible Complaints Officer for this process and is required to acknowledge the formal complaint in writing within 5 working days of the Complainant submitting the formal complaint.

(15) The Complaints Officer will have 20 working days to undertake an assessment of fact. This assessment will either:

a. substantiate the facts of the formal complaint;
b. dismiss the formal complaint based on:
    i. facts that are unsubstantiated; or
    ii. a Complainant that is persistent, unreasonable or arbitrary as defined in Clause 18-20 of the Policy;
c. cease the formal complaint process and refer to the grievance process for serious matters; or
d. refer to an alternative process as detailed in Section 5 of the Policy.

(16) If the Complaints Officer requests additional information from the Complainant then the timeframe for the assessment of fact will be on hold until the Complainant responds with the requested information.

(17) The Complaints Officer, at the conclusion of the formal complaint process, will:

a. respond to the Complainant in writing advising of the formal complaint outcome; and
b. record the formal complaint in the register.

(18) The Complaints Officer should archive all documentation in accordance with the Records and Information Management Policy.

(19) A Complainant can withdraw their formal complaint at any time by contacting the Complaints Officer in writing. At this point, the Complaints Officer will acknowledge the request and cease with progressing the formal complaint.

(20) If the Complainant wishes to appeal, they will have 20 working days after the outcome is communicated to lodge an appeal as detailed in Section 6 of this procedure.

Section 5 - Grievance Resolution

(21) The Complaint and Grievance Policy defines a grievance in Clause 39.

(22) Complainants will complete a complaint form available on the Complaint and Grievance webpage. Once completed the Complainant will submit the form to the Legal & Compliance unit, as detailed on the Complaint and Grievance webpage.

(23) Upon receiving a grievance the Complaints and Compliance Officer may;

a. assign the grievance to a Complaints Officer; or
b. determine that they are not responsible for the subject matter of the grievance. In this instance the Complaints and Compliance Officer will identify an appropriate Complaints Officer to refer the grievance to.

(24) The grievance will be acknowledged by the Complaints Officer via email within 5 working days of receipt.

(25) The Complaints Officer will have 20 working days from the date the grievance is acknowledged to conduct an assessment of fact and:

a. substantiate the grievance; or
b. dismiss the grievance as;
    i. facts unsubstantiated; or
    ii. a persistent, unreasonable or arbitrary complainant as defined in Clause 18-20 of the Policy; or
c. refer to an alternative process as detailed in Section 5 of the Policy.

(26) If the Complaints Officer requests additional information from the Complainant then the timeframe for the assessment of fact will be on hold until the Complainant responds with the requested information.

(27) If the grievance process is taking longer than the 20 working days described, the Complaints Officer is to provide an update to the Complainant. Ongoing communications are to be provided to the Complainant every 10 working days.

(28) The Complaints Officer, at the conclusion of the grievance process, will:

a. respond to the Complainant in writing advising of the grievance outcome; and
b. record the grievance in the register.

(29) The Complaints Officer will record and archive all documentation in accordance with the Records and Information Management Policy.

(30) A Complainant can request to withdraw their grievance at any time by contacting the Complaints Officer in writing. At this point, the Complaints Officer will acknowledge the request and may cease with progressing the grievance. Based on the nature of the matter(s) raised the Complaints Officer may decide to continue with the grievance process under Clause 14 of the Policy. This will be communicated to the Complainant. The University will continue to ensure the confidentiality of the Complainant in the situation where the process continues.

(31) If the Complainant wishes to appeal, they will have 20 working days after the outcome is communicated to lodge an appeal as detailed in Section 6 of this procedure.

Section 6 - Appeal processes

(32) The Complaint and Grievance Policy defines the grounds for an appeal in Clause 43-46.

(33) Outcomes that are unacceptable to a Complainant are not grounds for appeal.

(34) Complainants may lodge an appeal within 20 working days of the outcome of the formal complaint or grievance process being communicated.

(35) Complainants are to complete an appeal form located on the Complaint and Grievance webpage.

(36) If the Complaints Officer for an appeal requests additional information from the Complainant then the timeframe for the assessment of fact will be on hold until the Complainant responds with the requested information.

Appeal (Formal Complaint)

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

(38) The appeal is to be acknowledged within 10 working days of receipt by the Senior Legal Counsel, informing the Complainant if their appeal is to be:

a. reviewed; or
b. dismissed due insufficient grounds for appeal.

(39) The Senior Legal Counsel will review and determine the outcome within 20 working days from the date the appeal was acknowledged, to conclude the review and communicate the outcome.

(40) The outcome of the review will either:

a. dismiss the appeal:
    i. as grounds for the appeal are unsubstantiated; or
    ii. the Complainant is persistent, unreasonable or lacking in substance as defined in Clauses 18-20 of the Policy;
b. uphold the appeal; or
c. uphold the appeal and vary the outcome.

(41) The Complaints and Compliance Officer at the conclusion of the appeal process will to record the grievance and outcome in the complaint register.

(42) The Complaints and Compliance Officer will record and archive all appeal documentation in accordance with the Records and Information Management Policy.

(43) If a Complainant is unsatisfied with the outcome of an appeal managed under a University process, the individual may seek an external review as detailed in Section 7 of this Procedure.

Appeal (Grievance)

(44) Appeals relating to a grievance are to be lodged with the Vice-Chancellor. The Vice-Chancellor may at their discretion assign a Complaints Officer to conduct a review of the grievance process undertaken.

(45) The appeal is to be acknowledged within 10 working days of receipt by the Vice-Chancellor, informing the Complainant if their appeal is to be:

a. reviewed; or
b. dismissed due to insufficient grounds for appeal.

(46) The Vice-Chancellor will review and determine the outcome of an appeal within 20 working days from the date of acknowledgement to, conclude the review and communicate the outcome.

(47) The outcome of the review will either:

a. dismiss the appeal:
    i. as grounds for the appeal are unsubstantiated; or
    ii. the Complainant is as persistent, unreasonable or lacking in substance as defined in Clause 18-20 of the Policy;
b. uphold the appeal; or
c. uphold the appeal and vary the outcome.

(48) The Vice-Chancellor, at the conclusion of the appeal process, will record the appeal and outcome in the complaint register.

(49) The Vice-Chancellor will record and archive all documentation in accordance with the Records and Information Management Policy.

(50) If a Complainant is unsatisfied with the outcome of an appeal managed under a University process, the individual may seek an external review as detailed in Section 7 of this Procedure.

Section 7 - External Review

(51) If a Complainant would like an external review of a formal complaint, grievance or appeal process they should visit the NSW Ombudsman for further information.

(52) If the University is informed by an external agency that an external review has been requested they will cease any process relating to the subject matter of the external review, including communication with the Complainant.

Section 8 - Formal Complaint and Grievance Procedure Exclusions

(53) The University will refer complaints or grievances as outlined in Clause 14 where there is a specific Policy that relates to the subject matter of the Complaint.

(54) If a Complaints Officer receives a formal complaint that relates to Clause 15(a-e) of the Policy they will forward the complaint as detailed in Clause 15(d) of this Procedure.

(55) If the Complaints and Compliance Officer receives a grievance that relates to Clause 15(a-e) of the Policy they will

forward the complaint as detailed in Clause 25(c) of this Procedure.

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

(56) The Complaint Management Policy under Clauses 18-20 define the grounds under which a Complaints Officer can dismiss a formal complaint, grievance or appeal by a persistent, unreasonable or lacking in substance Complainant. Complainants have a right to seek a review of this decision.

Formal Complaint Review

(57) If a formal complaint is dismissed under Clause 15(b)(ii) the Complaint may seek a review of this decision.

(58) To seek a review the Complainant should email the Complaints and Compliance Officer within 20 working days of receipt of the outcome.

(59) The Complaints and Compliance Officer will review the request within 20 working days of receipt and communicate an outcome that will;

a. uphold the dismissal of the formal complaint; or
b. direct an independent Complaints Officer to begin a new formal complaint process.

(60) If a Complainant is unsatisfied with the review managed under this process, the individual may seek an external review as detailed in Section 7 of this Procedure.

Grievance Review

(61) If a grievance is dismissed under Clause 25(b)(ii) the Complaint may seek a review of this outcome.

(62) To seek a review the Complainant should email the Vice-Chancellor within 20 working days of receipt of the outcome.

(63) The Vice-Chancellor will review the request within 20 working days or receipt and communicate an outcome that will;

a. uphold the dismissal of the grievance; or
b. direct an independent Complaints Officer begin a new grievance process.

(64) If a Complainant is unsatisfied with the review managed under this process, the individual may seek an external review as detailed in Section 7 of this Procedure.

Section 9 - Outcomes and Resolutions

(65) Under this Procedure and the Complaint and Grievance Policy only reasonable and practicable outcomes and resolutions should be expected by a Complainant.

(66) For examples of reasonable and practicable outcomes please review the Complaint and Grievance webpage or seek advice as detailed in Clause 8 of this Procedure.

Status and Details

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Responsible Executive	Alex Zelinsky Vice-Chancellor alex.zelinsky@newcastle.edu.au
Enquiries Contact	Legal and Governance Services

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.

"Working day" - Any day other than Saturday, Sunday, or a public holiday in Newcastle, on which business may be conducted.

"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.