

# Complaints Resolution Guidelines

## Section 1 - Context

(1) These Guidelines support the [Complaint and Grievance Policy](#) and [Complaints Resolution Procedures](#) and must be read in conjunction with those documents.

## Section 2 - Guidance for Participants in the Complaints Process

(2) A student or staff member who is unsure of how to make a complaint can seek advice from a Faculty and Division Complaints Officer, the Complaints Office, or for equity related matters, from the Equity and Diversity Unit. Students can also seek advice from the Dean or Deputy Dean of Students or the appropriate student association.

(3) A person who is the subject of a complaint (the respondent) can seek advice from a Faculty and Division Complaints Officer, the Complaints Office, or for equity related matters, from the Equity and Diversity Unit. Students can also seek advice from the Dean or Deputy Dean of Students or the appropriate student association.

(4) The complaints process does not apply where a complaint which, due to its nature and subject, would otherwise be managed through another prescribed process, such as (but not limited to) the following:

- a. grade appeals, e.g. [Appeal Against Final Result](#) Procedure;
- b. industrial matters, e.g. under the provisions of the appropriate University Workplace Agreement;
- c. student misconduct matters, e.g. referral to a Student Academic Conduct Officer (SACO);
- d. Research misconduct, e.g. [Guidelines for the Investigation of Allegations of Research Misconduct](#). In the above cases the [Complaint and Grievance Policy](#) will only apply where there is a complaint that the applicable policy or procedure in question has not been properly followed or the concern has arisen as the direct and demonstrable result of interpersonal conflict or a prejudicial relationship.

(5) People involved in the complaints processes that are victims of retaliation, or fear that they will be subject to retaliation, should report their concerns to the Complaints, Compliance and Policy Officer.

(6) Complainants and respondents should be aware that the aim of the complaints process is to assure a fair process and not a specific outcome. An individual's objection to or disagreement with a particular University process or decision does not necessarily mean that that process or decision is unreasonable or unfair, and does not by itself constitute sufficient grounds for having it changed, or for appealing against a decision not to change it.

(7) Complaints can be stressful for all participants. However, the rights of all participants, including the right to courtesy and procedural fairness, must be respected at all times.

(8) Where a person involved in a complaint behaves in a threatening, rude or harassing manner toward staff, the Complaints, Compliance and Policy Officer may decline to further consider the complaint and institute proceedings for misconduct against the person under applicable rules or policies of the University or refer the matter to an external agency.

(9) The University may decline to deal with a complaint at any time where the Complaints, Compliance and Policy Officer forms the view that the complaint is frivolous, vexatious, lacking in substance, and/or lacking in currency. The Complaints, Compliance and Policy Officer will discuss with the relevant Deputy Vice-Chancellor the possibility of determining that a person is a vexatious complainant prior to making a decision to cease dealing with the complainant. Staff or students who make vexatious complaints will be subject to the misconduct provision under the appropriate Workplace Agreement, or the [Student Conduct Rule](#), respectively.

(10) The University will not normally act on the basis of an anonymous complaint. However, in some cases, where the information provided is convincing and the issues raised are significant, an anonymous complaint may be pursued. Anonymous complaints should be referred directly to the Complaints, Compliance and Policy Officer.

(11) The University will not normally act on complaints that are greater than 12 months old. However, in some cases, where the issues raised are significant the complaint may be pursued. Complaints greater than 12 months should be referred directly to the Complaints, Compliance and Policy Officer.

(12) In cases where multiple complaints relate to similar circumstances, complaints will be assessed separately on their individual merits, in order to afford procedural fairness to all affected persons. In such circumstances, to safeguard procedural fairness, prospective complainants are urged to avoid collusion.

(13) A person's capacity to make a complaint exists only in relation to issues which affect her or his interests and therefore a person does not have authority to make complaints either jointly with others, or on behalf of others.

(14) To be effective, the process to resolve a complaint can only be reasonably and appropriately conducted on a single footing. Therefore complaints 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.

(15) Complaints can be made about people or organisations that are not part of the University, but have a significant association with the University, for example, contractors, any visitor to the University, or someone at a University organised external work or study placement. If the subject of a complaint is not part of the University, then the complaint will be assessed by the Complaints, Compliance and Policy Officer and a decision will be made on whether or not the complaint should be pursued or referred on to an appropriate external body such as the [NSW Ombudsman](#).

(16) Complaints concerning the process followed by the Complaints, Compliance and Policy Officer should, whenever appropriate, be addressed directly with the Complaints, Compliance and Policy Officer, or otherwise be directed to the Deputy Vice-Chancellor (Academic).

## **Section 3 - Responsibilities of Participants**

(17) The Deputy Vice-Chancellor (Academic) is responsible for:

- a. providing leadership in demonstrating a commitment to the resolution of complaints made to the University;
- b. ensuring there is an effective, timely, impartial, and just system for dealing with complaints;
- c. making final decisions relating to referred complaints within the University process;
- d. providing advice to the Vice-Chancellor on the number, type and nature of complaints received.

(18) The Complaints, Compliance and Policy Officer is responsible for:

- a. overall management and monitoring of complaints handling within the University;
- b. ensuring the prompt resolution of complaints;
- c. providing independent and impartial advice and assistance to managers or supervisors who have received and are handling a complaint;

- d. providing independent, impartial and confidential information to complainants and respondents about the procedure for dealing with complaints including listening to the issues and helping the person clarify the facts;
- e. identifying and investigating systemic issues arising from complaints and recommending organisational improvements;
- f. identifying the training needs of staff handling complaints;
- g. providing advice to the Executive Committee via the Deputy Vice-Chancellor (Academic) on any action the University needs to take to protect or improve the integrity of policies or procedures;
- h. providing regular reports to the Deputy Vice-Chancellor (Academic) on the number, type and nature of complaints received, and through the Deputy Vice-Chancellor (Academic), a bi-annual report to Council, through the University's Risk Committee.

(19) Faculty and Division Complaints Officer are responsible for:

- a. providing advice on and assisting with the resolution of informal complaints;
- b. keeping a record of the nature of the informal complaint and providing statistical information to the Complaints, Compliance and Policy Officer;
- c. receiving formal complaints in writing or documenting the formal complaint;
- d. notifying the formal complaint to the Complaints, Compliance and Policy Officer.

(20) The Dean of Students is responsible for:

- a. monitoring the experiences of students within the academic environment and working to ensure that students receive fair and equitable treatment within the University system, including:
  - i. resolving informal complaints;
  - ii. receiving formal complaints in writing or documenting the formal complaint;
  - iii. notifying the formal complaint to the Complaints, Compliance and Policy Officer.

Further information concerning the Dean of Students is available on the [Dean of Students Website](#).

(21) Managers and supervisors are responsible for:

- a. exercising primary responsibility for resolving minor conflict in their areas in a timely and fair way;
- b. advising people that they can seek advice and assistance with the resolution of informal complaint from a Complaints Officer;
- c. advising people of their right to make a formal complaint where appropriate;
- d. notifying the formal complaint to the Complaints, Compliance and Policy Officer.

(22) Complainants are responsible for:

- a. providing a clear and honest account of their concerns and their expectations for the outcome of their complaint, including providing all relevant information and documents to assist in the investigation and/or resolution of the matter;
- b. engaging openly and in good faith in the complaint handling process, including participating in discussion with other parties to resolve the concerns;
- c. responding to University requests for information within 10 working days;
- d. respecting the rights of those individuals involved in the complaint handling process.

(23) Respondents are responsible for:

- a. providing a clear and honest account of their concerns and their expectations for the outcome of the complaint, including providing all relevant information and documents to assist in the investigation and/or resolution of the matter;
- b. engaging openly and in good faith in the complaint handling process, including participating in discussion with other parties to resolve the concerns;
- c. responding to University requests for information within 10 working days;
- d. respecting the rights of those individuals involved in the complaint handling process.

## Section 4 - How Your Information is Managed

(24) Complaints can be handled in a number of different ways:

- a. informally where they are easy to resolve without the need for further investigation;
- b. formally, where a written record of the complaint is required and further investigation is undertaken, or
- c. in special circumstance, as a protected disclosure which is described in Clauses 27 to 32 below.

(25) In all cases privacy and confidentiality is of the utmost importance.

### Privacy and Confidentiality

(26) The privacy and confidentiality of parties to a complaint will be respected to the extent practicable and appropriate; with acknowledgment that there are some circumstances in which there are legal obligations to disclose complaints. Persons dealing with complaints should not improperly disclose any information obtained in the complaint handling process.

### Public Interest Disclosures

(27) Incidents of corrupt conduct, maladministration, the substantial waste of public money or contravention of the [Government Information \(Public Access\) \(GIPA\) Act 2009](#) by the University or its staff can be reported to the Complaints, Compliance and Policy Officer for investigation.

(28) Alternatively, the University has developed an Ethical and Accountable Conduct - Public Interest Policy in response to the [Public Interest Disclosures Act 1994](#), which allows for the reporting of corrupt conduct, maladministration or substantial waste of public money as a Public Interest Disclosure.

(29) The system enables such internal disclosures to be made to the disclosure coordinator or a nominated disclosure officer as an alternative to other officers, such as the Complaints, Compliance and Policy Officer or the Vice-Chancellor.

(30) The University will take all reasonable steps to protect staff who make disclosures; staff who are witnesses or provide information; and staff who assess, investigate or determine the outcome of the disclosure, from any detrimental action in reprisal for their involvement in the disclosure.

(31) The University also has a responsibility to protect students who make disclosures in good faith from detrimental action including victimisation or unfair treatment.

(32) Members of staff or students who are victims of retaliation or fear that they will be subject to retaliation should report their concerns to the Complaints, Compliance and Policy Officer.

### Record Keeping

(33) Information on complaints received is provided to the University's Records Governance Services so that it can be

recorded. Accurate records will be kept by each staff member dealing with a complaint, including recording of key steps in the handling of complaints and the reasons for all significant decisions. The files relating to complaints are confidential and cannot be accessed by unauthorised people.

(34) Complaint data, which does not identify individuals, is collected, analysed and regularly reported in order to monitor response times and identify trends, indicators of University-wide issues and opportunities for improvement. The information collected is also valuable for regularly reviewing complaint processes to ensure that they are working properly and providing satisfactory outcomes.

(35) Complaint documentation is kept separate from personnel or student administration files. All records will be retained and archived in compliance with the [State Records Act 1998 \(NSW\)](#) and the University's records management policies.

## **Reporting**

(36) The University will seek to maintain the confidentiality of all parties involved in a complaint process. However, in the course of dealing with a complaint, information may be received that must be reported, either internally or to external bodies.

(37) The University has a legal duty to report situations which:

- a. risk the health and safety of staff or students or others in the workplace;
- b. involve allegations of corrupt conduct;
- c. involve allegations of reportable conduct against children; or
- d. involve criminal conduct.

## Status and Details

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|------------------------------|--------------------------------|
| <b>Status</b>                | Historic                       |
| <b>Effective Date</b>        | 14th May 2012                  |
| <b>Review Date</b>           | 31st December 2019             |
| <b>Approval Authority</b>    | Vice-Chancellor                |
| <b>Approval Date</b>         | 14th May 2012                  |
| <b>Expiry Date</b>           | 29th May 2019                  |
| <b>Responsible Executive</b> | Daniel Bell<br>General Counsel |
| <b>Enquiries Contact</b>     | Daniel Bell<br>General Counsel |

## Glossary Terms and Definitions

**"Council"** - The governing authority of the University established under section 8A of the University of Newcastle Act 1989.

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

**"Risk"** - Effect of uncertainty on objectives. Note: An effect is a deviation from the expected, whether it is positive and/or negative.

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

**"Complainant"** - As defined in Australian/New Zealand Standard - Guidelines for complaint management in organisations.

**"Complaint"** - As defined in Australian/New Zealand Standard - Guidelines for complaint management in organisations.

**"Confidential information"** - All information which is disclosed to a party by, or on behalf of, the other party, or which is otherwise acquired by a party from the other party, or any adviser engaged by the other party, which: (a) is by its nature confidential; (b) is designated by the other party as being confidential; or (c) the party knows or ought to know is confidential, but does not include information which: (d) is or becomes public knowledge other than through a breach of confidentiality; (e) was already in the possession of a party and not subject to an obligation of confidentiality; (f) is lawfully received from a third party; or (g) is independently developed by a party.

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

**"Student misconduct"** - Academic misconduct, non-academic misconduct and/or research misconduct.

**"Personnel"** - In relation to a party, any employee, officer, agent, contractor, sub-contractor, student or volunteer of that party.

**"Research misconduct"** - Means conduct by a student that is defined as research misconduct in the Student Conduct Rule.

**"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.

**"Student Academic Conduct Officer (SACO)"** - An academic staff member appointed by the University to receive and manage reports of academic misconduct.

**"Supervisor"** - Staff members with direct supervisory responsibility for other staff within the workplace (a Supervisor may also be member of Senior Management, with duties as an Officer as defined in the Work Health and Safety Act 2011, or any replacing legislation).