STUDENT COMPLAINT PROCEDURE

Policy Hierarchy link	**Student Code Policy**
Responsible Officer	Pro-Vice-Chancellor (Students) and Registrar
Contact Officer	Student Conduct and Appeals Officer
Superseded Documents	Student Complaint Procedure, v1.2 (2008/4234) *All other inconsistent UNSW documents existing at the effective date*
File Number	2010/02707
Associated Documents	Student Complaint Guidelines Student Misconduct Procedures Student Misconduct Guidelines Special Consideration – Illness and Misadventure Policy Assessment Policy Academic Standing Rules for Undergraduate Students Academic Standing Rules for Postgraduate Students

Version	Authorised by	Approval Date	Effective Date
2.0	Vice-President and Deputy Vice-Chancellor (Academic)	30 November 2012	30 November 2012

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1. Principles

1.1 The University is committed to providing a fulfilling and rewarding learning and research experience that enables students to achieve their full academic potential. Feedback is welcomed as a mechanism for continuous improvement and for ensuring quality provision is consistently delivered.

1.2 Wherever possible complaints will be resolved by a process of discussion, cooperation and mediation, as soon as possible after an incident or situation has occurred. Complaints will be acknowledged and handled promptly. Complaints will be treated sensitively having due regard to procedural fairness and confidentiality. Complainants will not suffer detriment or disadvantage as a direct result of making a complaint.

Need Help?

1.3 A step by step guide for students about how to make a complaint is available on the UNSW Student Life and Learning Website.

1.4 Information about the range of free, University provided support and guidance services can be found on the UNSW Student Life and Learning Website.

1.5 Staff members can also find information about how to resolve complaints on the UNSW Student Life and Learning Website.

2. Purpose and Scope

2.1 These procedures apply to:

- All enrolled students of UNSW on all campuses both domestic and international

- Students previously enrolled, not currently enrolled and students on program leave, where the event forming the basis of the complaint occurred while they were enrolled or is directly related to their enrolment
- Higher Degree Research Students including those awaiting examination of submitted theses
- Students on exchange from other universities where the matter relates the student's experience at UNSW
- The University and its staff

In the context of:

- All aspects of a student's experience at the University
- All activities on UNSW premises and all external activities related to study and research, including workplace or clinical placements, fieldwork or other practicums
- Activities in relation to online examinations and online academic work, and to examinations and academic work in remote locations
- Actions taken by students representing the University (such as at conferences or sporting and cultural activities or on a University facilitated international exchange)
- University owned or managed accommodation, affiliated colleges or home stays managed by UNSW
- The activities of the University and its staff in relation to students
- Complaints made no later than twelve months after the event giving rise to the complaint

2.2 The procedures do not apply to:

- Complaints about any separate legal entity controlled by the University (which should be referred to that organisation)
- Complaints about an Arc @ UNSW employee or representative (which should be referred to Arc)
- Complaints about UNSW Village and its operation (which should be referred to the Manager of UNSW Village)
- Complaints about research activities and outputs, including authorship, intellectual property and research misconduct (please refer to the UNSW Code of Conduct for the Responsible Practice of Research)
- Reviews of academic decisions related to the thesis examination or other academic decisions for postgraduate research candidates (Students should seek advice from the Graduate Research School)

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3. Definitions

Please see appendix A for a list of definitions which apply to these procedures.

4. Types of Complaint

There are three types of complaint within the scope of these procedures.

4.1 Complaints about academic decisions and matters

Complaints about academic decisions and matters may be resolved under these procedures where any of the following apply:

- The matter has not been able to be resolved under the relevant University policy

- The complaint relates to procedural fairness or inconsistent application of University policy
- There is no other route of appeal

Examples of complaints under this category may include: assessment, academic standing and decisions of the Re-enrolment Committee, exclusion from academic programs, confirmation and review of progress of Higher Degree Research Candidatures.

4.2 Complaints about a person

Students may make a complaint relating to the behaviour of:

- other students of the University
- academic staff (including contract staff, visiting appointments, conjoint appointments and guest lecturers)
- professional and technical staff (including casual and contract staff)
- 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 or other practicums

Complaints under this category may include but are not limited to: ethical and integrity issues, conflict of interest, fraud, bribery, dishonesty, favouritism, discrimination, victimisation, vilification, bullying and harassment.

4.3 Complaints about administration or process

Students may make a complaint relating to, but not limited to: mismanagement, unreasonable decisions, inconsistent application of University policy or procedure, denial of procedural fairness, failure to provide rights, incorrect advice leading to detriment, negligence.

5. How complaints are handled

5.1 The University follows a three stage complaints handling model:

Stage 1: Informal: To be used first in most cases, resolving complaints through an informal process which aims to sort out grievances as quickly and as close to the source as possible. Suitable for expressions of dissatisfaction, straight forward issues or urgent matters.

Stage 2: Formal: To be used where the informal process does not resolve the complaint, where the complaint is of a serious nature (see section 7.9) or where the route is chosen by the student. A preliminary investigation will resolve the complaint or determine if a formal investigation is required.

Stage 3: Appeal or external review. A complainant may appeal a decision taken in the formal investigation on the grounds of procedural unfairness. A complainant may also refer the matter to an external body for review (see section 12 for more information)

6. Stage 1: Informal Procedures

6.1 The concern is raised directly with the person/s involved and, or with the University staff member/s most directly involved with, or responsible for, the basis of complaint. This can be done by letter, email, over the phone or in person.

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6.2 Where a student is uncomfortable with raising the concern directly, a complaint can be made through another member of University staff at the local level. This may be the School Grievance Officer, Head of School, staff at the Graduate Research School or a Student Participation Adviser at the Hub.

6.3 The staff member will aim to resolve the complaint as quickly as possible. To help reach a mutually acceptable outcome a meeting may be held to discuss the complaint. A support person may be brought to the meeting. A neutral third party or mediator may be used where both parties agree and where advice is sought from the SCAO.

6.4 Indicative time Frame

Urgent matters should be resolved or referred as soon as possible. The University will aim to resolve non urgent matters within 10 working days. If this is not possible reasons will be given for the delay and a new time frame agreed.

6.5 Higher Degree Research Students

Higher Degree Research Students who wish to raise concerns relating to their candidature should begin with their Supervisor. If the matter is not resolved by the Supervisor or the complainant is not comfortable raising the issue directly, the concerns should be raised with the School Postgraduate Coordinator or the Head of School. Matters may also be referred to the Associate Dean Research or Director of Postgraduate Research in the Faculty. Where it is not possible to resolve the matter faculty level, the complaint may be referred to the Dean of Graduate Research.

6.6 UNSW Canberra

Students who are also Australian Defence Force personnel may raise complaints under these procedures but may also wish to raise their concerns with the Australian Defence Force Academy (ADFA).

6.7 Residencies and Colleges

Students with a concern which relates to an aspect of their accommodation at a UNSW managed residency or College should in the first instance raise the concern with the College or Residence Manager.

7. Stage 2: Formal Procedures

7.1 Lodging a complaint

A complaint can be lodged under the formal process where:

- Resolution through the stage 1 informal process has not occurred
- The matter is complex
- The complaint is deemed serious (see also section 7.9)
- The student chooses this process

7.2 A formal complaint must be lodged in writing (letter or email) with the SCAO. The written complaint must contain sufficient information for the complaint to be investigated and to substantiate the complaint. All available relevant information should be lodged at the outset.

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7.3 Preliminary enquiries

7.4 The SCAO will first make preliminary enquiries to determine whether the complaint should be investigated under the formal procedure. At the conclusion of these enquiries the SCAO will determine to:

a) Refer the complaint to the appropriate University staff member to undertake the stage 1 informal procedure
b) Refer to an external agency or organisation
c) Refer for consideration under another University Policy or Procedure
d) Take no further action on the basis that the complaint is frivolous or vexatious, or
e) Commence a formal investigation

7.5 Where the SCAO determines that the complaint does not require investigation under the formal process, the complainant will be notified, giving reasons, details of any referral and/or advice on how the matter is likely to be handled.

7.6 Where the SCAO determines that the formal procedures apply either:

a) The SCAO will investigate the complaint, or
b) The matter will be referred to the Registrar who will consider the appointment of an Investigating Officer (IO).

Where an IO is appointed the student will be informed.

7.7 Investigation

In investigating a complaint the SCAO or IO:

a) Will provide both the complainant and respondent with the opportunity to present their cases in writing
b) Will examine relevant documentation and policy, consult appropriate University staff and seek clarification on information supplied
c) May seek advice from external organisations on matters of procedure
d) May invite the complainant and respondent to meet the SCAO or IO. Students may bring, with the agreement of the SCAO or IO, a support person to any interviews or meetings conducted during the formal process

At the conclusion of the investigation:

a) The SCAO will make a determination and confirm the outcome in writing, giving reasons, to the complainant and respondent, or
b) The IO will provide the Registrar with a recommendation and the decision of the Registrar will be confirmed in writing, giving reasons, to the complainant and respondent

The outcome of an investigation may be:

a) That the complaint has been upheld or partly upheld. Recommendations for actions required may also be made, or
b) That the complaint has not been substantiated. In most unsubstantiated cases no recommendations for action are required.

7.8 Indicative time frame

- Formal Complaints will typically be acknowledged within 5 working days
- Preliminary enquiries will normally be completed within 10 working days

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- Referral or appointment of IO will typically be communicated within 5 working days of the preliminary enquiry conclusion
- Formal investigations will typically be completed within 20 to 30 working days
- The outcome will be confirmed in writing within a further 5 working days of the conclusion of the investigation
- Regular updates will be provided to the complainant by the SCAO or IO
- The complainant will be informed of any delays and advised of new time frames

7.9 Serious matters

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 from the SCAO (see also appendix A, Definitions). On receipt of a serious complaint the SCAO may determine to investigate under the formal procedures, refer the matter to the Registrar or refer to an external body.

Where the SCAO has been made aware of a matter of a serious nature, but the complainant wishes to remain anonymous, withdraws their complaint or there is no complainant the SCAO may decide to initiate the formal process or refer the matter under another University policy or procedure.

7.10 UNSW Canberra

Students who are also Australian Defence Force personnel may raise a formal complaint under these procedures but may also wish to raise their concerns with the Australian Defence Force Academy (ADFA).

Where simultaneous complaints are lodged, the University will liaise with AFDA to determine an appropriate investigation process.

7.11 Residencies and Colleges

Students making a complaint relating to UNSW managed accommodation may do so using these procedures. The investigation may refer any tenancy agreement issues or matters falling under the Housing Act to the UNSW Legal Office.

8. Stage 3: Appeals

8.1 Lodging an appeal

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

8.2 Appeals are to be made in writing to the Registrar within 15 working days of the date of notification of an outcome under the stage 2 formal procedure and must state the grounds for appeal.

8.3 On receipt of the appeal the Registrar may refer the appeal to the President of the Academic Board.

8.4 The Registrar or President of the Academic Board may determine, that on its face, the appeal should not proceed on the grounds that it is frivolous, vexatious or is not on the grounds of lack of procedural fairness in the investigating process. In making this determination the Registrar or President of the Academic

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Board may, but is not required to, review the record of the complaint and/or obtain further information from the appellant.

8.5 If the Registrar or President of the Academic Board determines that the appeal should not proceed then the Registrar will notify the appellant of the decision and all avenues of appeal within the University will then be exhausted.

8.6 If the Registrar or President of the Academic Board determines that the appeal should proceed then the Registrar will refer to the President of the Academic Board to convene a Complaints Appeals Committee to hear the appeal.

8.7 Complaints Appeals Committee

The Complaints Appeals Committee will consist of two Academic Members of the Academic Board (one of which will be appointed Chair) and one elected student Member of the Council, Academic Board or Faculty. The Committee and Chair will be appointed by the President of the Academic Board or nominee.

The nominee of the President of the Academic Board may be a Presiding Member, a member of the Undergraduate Studies Committee, the Postgraduate Studies Committee or the Higher Degree Research Committee.

No person is eligible to sit on the Committee who has a conflict of interest, or potential conflict of interest, in the matter.

The Committee may appoint one or more persons to assist on any matters of law, procedure or technical expertise.

8.8 Appeals process

All parties will be invited to attend a hearing to state their case.

Prior to the hearing parties should inform the Chair:

a) Whether they intend to attend the hearing
b) Whether they intend to attend with a support person or advocate
c) Whether they intend to present any material not in the written submission.

At the hearing:

a) The Committee shall sit in private
b) Only material relevant to the grounds of the appeal may be presented

In determining the outcome of the appeal the Committee may:

a) Dismiss the appeal; or
b) Allow, or partly allow the appeal and make a fresh determination based on the evidence presented.

Following the determination of the appeal, all avenues of complaint and appeal within the University will have been exhausted. An Appellant dissatisfied with the outcome will be advised of their right to request an external review of the matter by an agency such as the NSW Ombudsman.

8.9 Indicative time frame

- Appeals will be usually acknowledged within 5 working days
- A determination whether to proceed to hearing will typically be notified within 10 working days

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- Appeal Committees aim to convene within 30 working days of the decision to proceed.
- At least 10 working days notice of the appeal hearing will be given to the parties
- The parties should inform the Chair of any support person or advocate arrangements at least 5 working days before the hearing
- Supporting papers will usually be circulated 5 working days before hearing.
- The outcome will be confirmed to all parties in writing, giving reasons, within 10 working days of the hearing

9. Withdrawal of Complaints

At any stage a student may decide to withdraw a 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.

10. Recordkeeping

Notes and documentation must be kept at all stages of the resolution of a complaint including records of meetings, discussions, appeal hearings and actions proposed or taken. All records and notes produced and documents considered in handling a complaint under the formal or appeals process must be stored on a confidential University file. The file must be created and stored in line with University policy.

The SCAO will be responsible for recording and tracking all formal complaints on a central complaints database. Reports will be provided on a regular basis to the Registrar detailing the outcomes arising from complaints.

11. Confidentiality

All parties involved in a complaint including the complainant, respondent and investigators are to maintain confidentiality. Information and records about a complaint are divulged to those with direct involvement in the case with the following exceptions:

- Where there is risk of harm to a person or persons, it may be necessary to breach confidentiality
- Where the matter is subject to legal proceedings or other action which require the presentation of UNSW held records by way of subpoena or similar
- Where a student lodges a complaint or appeal regarding a decision under these procedures
- Where there is a clear public interest or obligation to share information (such as a duty to disclose information to a professional accreditation board, the Australian Defence Force Academy or a duty to report under legislation)

12. External review or referral

A student may take their complaint to an external agency. Where this occurs the University may decide to cease any internal process pending external investigation. External bodies may require a complainant to have lodged an internal complaint first before they will become involved. The complainant should contact the external body directly for advice.

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External agencies include:

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

13. Review & History

This document supersedes earlier Student Complaint Procedures and is reviewed as a minimum every 3 years.

14. Acknowledgements and resources

Additional resources:

Student Life and Learning www.studentlifelearning.unsw.edu.au

Policies, procedures and guidelines for students:
www.my.unsw.edu.au/student/resources/Policies.html

Arc@UNSW www.arc.unsw.edu.au

NSW Ombudsman fact sheets: www.ombo.nsw.gov.au

Anti Discrimination Board: www.lawlink.nsw.gov.au

Australian Human Rights Commission: www.humanrights.gov.au

A range of documents were reviewed in developing these procedures and are gratefully acknowledged:

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.

Anti Discrimination Commission Queensland: Complaints Procedures

Complaints Procedures from the following Universities: 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, Monash University, University of Adelaide.

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APPENDIX A: Definitions

Advocate: An independent person who can provide support and guidance to a student or help in presenting a case. The student association Arc at UNSW provides free legal advice and advocacy to UNSW students for issues both on and off campus.

Anonymous: Where the complainant withholds their name and does not wish to be identified in any way. Anonymous complaints will only be investigated at the discretion of the University, where the conduct they raise is of a serious nature.

Appeal: A request for a decision to be reconsidered on the grounds of procedural unfairness.

Appellant: A person who lodges an appeal.

Bullying: Repeated unreasonable or less favourable treatment of a person by another in order to intentionally hurt, offend, intimidate, threaten or gain power over another person. Bullying behaviour may be physical or psychological. Bullying can carried out by one person or a group and may be done privately, openly or via social media. Any staff member or student who is found to have been bullying a person will be subject to misconduct proceedings under appropriate University policies and procedures. If you are concerned about any form of bullying, information about services which offer advice and support is available at www.studentlifelearning.unsw.edu.au

Conflict of interest: Interest, involvement or information which may influence or be perceived to influence a person's ability to make objective recommendations or decisions in investigating a complaint, or serving on a Complaint Appeals Committee.

Complaint: 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.

Complainant(s): An individual or group who lodges a complaint.

Dispute: Matters in which the complainant has some ownership but which do not raise serious issues about the University's management or administration.

Frivolous: Complaints made without substance which the University will not proceed beyond preliminary investigation.

Grievance: An expression of dissatisfaction or concern that may require informal resolution, mediation or may lead to a formal complaint.

Harassment: Unwelcome behaviour that is offensive, belittling or abusive to another person or group of people. Any staff member or student who is found to have been harassing a person will be subject to misconduct proceedings under appropriate University policies and procedures. If you are concerned about any form of harassment information about services which offer advice and support is available at www.studentlifelearning.unsw.edu.au

Investigating Officer (IO): A person appointed by the Pro-Vice-Chancellor (Students) and Registrar to investigate a complaint and make recommendations based on the outcome. The IO will have no conflict of interest in the matter and may be a member of the University staff or a person external to the University (including former members of the University).

Mediation: a voluntary and confidential process where a neutral third party, the mediator, provides assistance to the parties in dispute to find some common ground and reach a settlement. A mediator may be an employee of the University who has no conflict of interest in the issue under discussion or an external mediator.

Procedural Fairness: For procedures to support the Principles of Natural Justice. Decision makers are without conflict of interest or prior involvement. Proceedings are carried out and determinations made without bias.

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Respondent: A University staff member or student who is the subject of a complaint or who is nominated by the Faculty or Department to respond to a complaint.

Serious matters: Complaints are considered serious where:

a) There is reason to believe that there is a significant risk to the University and its staff and/or students
b) A serious criminal offence may have been committed
c) There are a number of complaints of a similar nature received against a respondent

Student Conduct and Appeals Officer (SCAO): Responsible for the oversight of the Student Complaints Procedures for the University. Undertakes and co-ordinates investigations, makes complaint outcome recommendations and provides advice and guidance to students and staff.

Student Participation Advisor Team: A team of advisers available at the Hub on Kensington Campus who can provide guidance, support and advice on a range issues including student complaints.

Support person: A person who may help a student make a complaint, provide support or give advice on the procedures. A support person may be a friend, student, staff member or family member. A support person does not speak on behalf of the student and is not an advocate. Student Participation Advisers are available to provide free advice and guidance to students about resolving a complaint or the Complaints process. www.studentlifelearning.unsw.edu.au

Vexatious: Complaints that are deliberately harmful, intended to cause damage to a person's reputation or career, are spiteful or are made persistently without justification. Vexatious complaints will not proceed beyond preliminary investigation. Students who are found to have made vexatious complaints may be subject to investigation under the Student Misconduct Procedures.

Victimisation: To be treated badly because you have made, intend to make or have helped someone else make a complaint. Any staff member or student who is found to have victimised 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.

Vilification: A public act which incites others to treat a person badly, with contempt or to severely ridicule. In relation to complaints, because you have made, intend to make or have helped someone else make a complaint. Any staff member or student who is found to have vilifies 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 vilification should immediately discuss the matter with the SCAO.

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Appendix B: History

Version	Authorised by	Approval Date	Effective Date	Sections modified
1.0	Vice-Chancellor	9 January 2009	2 March 2009	These are new procedures
1.1	Pro-Vice-Chancellor (Students) & Registrar	24 April 2009	24 April 2009	*2.2.5 (a)*
1.2	Acting Deputy Vice-Chancellor (Academic)	16 May 2012	18 May 2012	2.8 Introduction 2.8.2, D, i
2.0	Vice-President and Deputy Vice-Chancellor (Academic)	30 November 2012	30 November 2012 to 15 August 2013	Full review