

Handling Student Complaints — Procedures for Managers

Note: These procedures have been reviewed and new procedures will take effect in 2019.

1 INTRODUCTION

A great variety of individual complaints can arise. Every complaint is unique, and should be handled as appropriate to the circumstances and consistent with the University's [Handling Student Complaints Policy](#).

Managers are accountable for responding appropriately to and managing the resolution of student complaints in keeping with the University's complaint handling principles, policies and procedures. As the legal and procedural requirements in this area are subject to change, managers are strongly encouraged to consult with the appropriate specialist units which can advise them on handling complaints — see 3(j) below for details.

2 PRINCIPLES FOR HANDLING STUDENT COMPLAINTS

The complaint-handling principles are detailed in the Handling Student Complaints Policy and include procedural fairness, confidentiality, timeliness, conflict of interest, etc. These principles should always be observed when handling complaints.

Staff members should always respond seriously to a student complaint, and in a manner which respects the confidentiality of all parties. The staff member handling the complaint should endeavour to resolve it promptly, with a minimum of stress to all parties, and be guided by the principles of procedural fairness. It is important that the parties to the complaint are clear about the process and the role of the person handling the complaint, ie the person handling the complaint will not 'side' with one or the other party to the complaint or undertake an advocacy role.

Wherever possible, the complainant's wishes about preferred resolution options should be sought and considered. However, there may be instances where a complaint is of such a serious nature that formal action is required regardless of the complainant's wishes, for example when a complaint raises or relates to allegations of criminal conduct or corruption or when the University's duty of care to staff or students may be compromised if no action is taken, for example complaints alleging unlawful behaviour, complaints relating to the abuse of children or young persons.

3 PROCEDURES FOR HANDLING STUDENT COMPLAINTS

3.1 What do I do when a student makes a complaint to me?

Any staff member, manager or grievance specialist consulted by a student with a complaint (the complainant) should:

- listen and respond sensitively to any distress exhibited by the complainant. A referral to a counsellor in the Student Services Unit may be appropriate if the complainant is distressed, threatens themselves or others, or is behaving irrationally. The role of the counselling service in this instance is to assist the complainant to cope with any personal or emotional difficulties and provide practical assistance and advice on avenues of

resolution, advocacy and mediation, and not to take over the overall handling of the complaint or investigation.

- encourage the student to raise the issue directly with the person concerned, if appropriate.
- ask the student what other advice or resolution avenue/s they have already explored. When a number of areas are involved in the resolution process, ensure effective communication between all stakeholders.
- clarify what if any actions the complainant is requesting, and outline the likely process if the complaint proceeds.
- be aware of the limits of their own authority, and refer the complaint to a more senior manager if appropriate; inform their supervisor of the complaint and proposed course of action where appropriate.
- refer the complainant to other specialist areas within the University or to the Students' Association for assistance/support as appropriate. However, details of the complaint should not be discussed with other areas or staff of the University without the permission of the complainant.
- seek advice from one of the University's specialist units where the complaint relates to their area/s of expertise to ensure that legislative and policy requirements are being met.
- be aware of the complainant's fears as to the possible repercussions of lodging a complaint; take all possible steps to ensure that no victimisation occurs as a result of the complaint being lodged.

3.2 When should a complaint be in writing?

Where a complaint relates to unlawful behaviour, for example illegal discrimination or harassment, or may result in disciplinary action/misconduct proceedings against another party, or where the initial investigation has indicated that the facts of the matter are disputed, the student should be requested to make a written statement of complaint. The specialist units outlined below can advise/assist students in making a written complaint relating to their areas of responsibility, or students can be referred to the Students' Association.

It is preferable that any complaint about corruption, maladministration, serious waste be made in writing. However, if a manager receives an oral complaint about such a matter, it should be referred to the Deputy Vice-Chancellor (Corporate Services) for advice and assessment. Likewise managers should immediately refer oral complaints about abuse of children or young people to the Director, Human Resources for advice and assessment.

3.3 What is the appropriate timeframe to respond to student complaints?

Undue delay in responding to a complaint may provide grounds for further complaint. Unless a complaint is complex or involves formal misconduct, a manager should attempt to achieve resolution of a complaint within four weeks of the complaint being lodged with them. Less complex matters should be resolved as quickly as possible. It is important that the complainant and respondent are kept informed about the progress of the complaint at regular intervals, and advised if resolution of the matter is likely to extend beyond the four week timeframe.

3.4 How do I ensure that the complaint is handled fairly for all parties?

3.4.1 Procedural fairness

Procedural fairness must be observed in all aspects of the complaint handling process. No conclusions should be reached without each party to the complaint having an opportunity to be heard. If in doubt about the requirements of procedural fairness, advice should be sought

from the Equity and Diversity Unit or Human Resources Unit (HRU). A good guide is to consider how, in the circumstances, one would wish to be treated oneself.

On any occasion when the complaint is to be discussed, a student may choose to be accompanied by another person — for example, a friend, student counsellor, representative of the Students' Association. Similarly, a staff member may choose to be accompanied by a representative of their choice who is not a solicitor or barrister in private practice. Managers handling a complaint should offer parties the option of being accompanied when the complaint is being discussed.

3.4.2 Confidentiality

Students should usually be able to raise a matter, and receive initial advice, in confidence. It is not usually appropriate to disclose the identity of a complainant without first obtaining the complainant's consent. Procedural fairness will in most instances require that the complainant must be identified. One possible exception may be where the facts of the matter are not in dispute, for example if a student complains about a comment made in a lecture, and the staff member admits the comment. Another exception is disclosures by students about corruption, maladministration and serious waste. In such cases, information that identifies the complainant should not be released unless:

- the complainant consents in writing to the disclosure of that information
- it is in the interests of natural justice to do so, or
- it is in the public interest to do so, for example, to effectively investigate the matter.

Another exception is complaints about abuse of children and young people. Such matters should be kept strictly confidential and only disclosed to Director, Human Resources.

3.4.3 Anonymous Complaints

Generally the University will not act on anonymous complaints. Staff members or students should not be required to respond to allegations made in unsigned letters/anonymous emails, etc.

Possible exceptions include where the matter involves allegations of corruption, maladministration or serious waste of public money. Managers should refer all such anonymous complaints to the Deputy Vice-Chancellor (Corporate Services) for initial advice and assessment. Further action may be taken by the University if the anonymous complaint contains sufficient information to make out a *prima facie* case or to carry out an investigation. Managers must refer all complaints, anonymous or otherwise, about abuse of children or young people to Director, Human Resources.

3.4.4 Victimisation

Any person handling a complaint should be aware of the possibility of subsequent victimisation of any of the parties. Fear of victimisation prevents many people, and particularly students, from lodging a complaint in the first instance. All efforts should be taken to ensure that victimisation does not occur.

3.4.5 Vexatious complaints

While the great majority of student complaints are motivated by students' genuine sense of concern about their perceptions of inappropriate or unfair behaviour or actions, on some occasions a complaint may be vexatious or malicious. It is in the interests of all parties to be clear to a complainant that no further action will be taken when a complaint has been investigated to its full extent and cannot be substantiated. The complainant may then exercise the option of referring their complaint to a more senior person or an external body.

Staff and students who believe they are the subject of a vexatious or malicious complaint can seek advice on their options. Such advice may be sought from a person in authority in the area in which the complaint has been lodged; one of the specialist complaint handling units; the Students' Association (for students); or their supervisor or HRU (for staff).

3.4.6 Counter complaints

In some circumstances, a complaint may lead to other, or counter, allegations. It is important that the initial complaint should be considered and resolution sought on the matter in its own right, and that the resolution process should not be confused with counter-accusations.

3.5 When should I refer a complaint on?

3.5.1 Appropriate referral

If the complaint does not relate to the area of responsibility of the staff member receiving it, the staff member may advise the student where the complaint might preferably be directed. However, a staff member should not ask another person to take over the handling of a complaint without first obtaining the complainant's consent.

If the complaint has been lodged initially at an inappropriate level of authority within a faculty or unit, the student should be referred to a person at the appropriate level. For example, a Dean may refer a complaint in the first instance to a Director of Program, Course or Subject Coordinator or Head of School or Department as appropriate.

3.5.2 Equity-related complaints

An equity-related complaint is when a student believes they are being discriminated against or harassed in university life because of their sex (including pregnancy), sexual preference, transgender status, race, colour, ethnic or ethno-religious background, descent or national identity, marital status, family responsibilities, disability, age, political conviction or religious belief. Because of the specialist nature involved in identifying some forms of indirect discrimination and harassment, managers handling equity-related complaints or complaints with a significant equity dimension are strongly advised to inform an officer of the Equity and Diversity Unit about the complaint and to request advice and assistance on legislation and policy requirements. In general, managers will continue to handle the complaint with advice and assistance from the Equity and Diversity Unit. Because of the sensitive nature of some equity-related complaints, managers should be aware that some complaint resolution options may not be appropriate, for example mediation of discrimination/harassment complaints.

3.5.3 Complaints involving alleged abuse of children or young persons

Managers need to be aware that the University has specific obligations in relation to complaints involving alleged abuse of children or young persons (anyone under the age of 18 years). The university is required to investigate such complaints and notify the Office of the State Ombudsman, even if the complainant does not wish further action to be taken or if the complaint is anonymous. Abuse is defined in the Child Protection Act as:

- assault (including sexual assault) of a child/young person, or
- ill treatment or neglect of a child/young person, or
- exposing or subjecting a child/young person to behaviour that psychologically harms the child, whether or not with the consent of the child.

The definition of child abuse also includes allegations of misconduct that may involve child abuse, for example allegations involving the possession of child pornography.

Managers who receive complaints alleging abuse of children or young persons should immediately notify the Human Resources Unit.

3.6 When and how do I investigate a complaint?

Managers must take steps to investigate the allegations made by the complainant, unless the respondent admits the behaviour. Steps in the investigation process should include:

- clarifying and documenting the details of the complaint with the complainant, including exact times and dates of any incidents involved if possible, and asking them to produce any relevant documentation or advise if there were any witnesses to the incident they are complaining about. The complainant should be asked what their preferred resolution option would be, although it is important to make it clear that their preferred option may not be a possible outcome. If a complainant raises an issue but is not willing to proceed with the complaint then they should be advised that because of the requirements of procedural fairness, in most circumstances no further action can be taken by the University.
- interviewing any witnesses and asking for a full account of the incident they observed. In order not to breach confidentiality, do not tell a witness any more than they know already, and make sure they are aware that the matter is confidential and should not be discussed with others.
- interviewing the respondent to the complaint, outlining the specific allegations that have been made about them, and giving them the opportunity to make a full response.

Considering all relevant evidence (and no irrelevant information) in the investigation process. In some cases the manager may determine that there is insufficient evidence to further pursue the matter at this stage.

Maintaining documentation of all steps taken to resolve the complaint.

Having spoken to all parties to the complaint and having reviewed any relevant documentation, the manager investigating the complaint may need to make a judgement about whether, on the balance of probability, the behaviour which is the basis of the complaint did or didn't happen.

In the course of undertaking the investigation, managers may also need to consider the notion of 'reasonableness' — would a reasonable person have found the behaviour inappropriate or offensive in the circumstances?

If the respondent admits to the behaviour which was the basis of the complaint, and the behaviour is deemed to be inappropriate in the circumstances, the respondent should be asked to identify any mitigating circumstances that might have affected their behaviour.

3.7 What are the possible outcomes of the complaint resolution process?

The outcome of the complaint should be in keeping with the seriousness of the incident which was the basis of the complaint, and should be fairly and consistently applied across the University. Some of the possible outcomes of a student complaint include:

- After receiving advice and support the student addresses the matter directly with the person concerned.
- The student receives an apology, or the issue or behaviour that was the basis of their complaint is modified.
- A mutually acceptable resolution is reached through conciliation or mediation. It should be noted that alternative dispute resolution (ADR) processes should only be considered if all parties are willing to proceed with them, and if there is sufficient common ground between the parties to ensure that there is some prospect of a positive outcome. ADR processes are not appropriate for complaints relating to unlawful behaviour, complaints where disciplinary action may result, or for equity-related complaints.

In some cases, the complaint cannot be substantiated and no further action results. Both the complainant and respondent should be advised in writing that no further action will be taken in relation to the complaint. When an allegation is not substantiated, the resolution process should be sensitive to the preferences of the respondent (for example, they may request other parties be advised that the complaint has not been substantiated).

If the student is unsatisfied with the outcome the manager should advise them that they can pursue their complaint through other appropriate internal or external processes. Internally the options may be the next level of management, or if all internal avenues have been pursued the complaint may be taken to the Student Ombuds (which may investigate all administrative and some academic decisions). Externally the options include the NSW Anti-Discrimination Board, the Australian Human Rights Commission (for discrimination/harassment complaints) or the NSW Ombudsman (for complaints relating to administrative decisions).

In more serious cases, the university's formal disciplinary processes will be invoked. Any disciplinary action will be undertaken in accordance with the processes prescribed in relevant industrial agreements (for staff) or the University's Rules (for students). Consideration must be given to any mitigating circumstances before disciplinary action is taken. Formal warnings about inappropriate behaviour are a common outcome in the first instance, unless the behaviour is of a very serious nature (for example, involving repeated incidents of inappropriate behaviour or serious breaches of the code of conduct). The most serious breaches may result in expulsion (for students) or dismissal (for staff).

3.8 Who is responsible for advising the student of the outcome of their complaint?

Managers should monitor the outcome and ensure the complainant receives written advice of the outcome of their complaint and any action taken in response to the issues or concerns they have identified. The University's response to a student complaint should be comprehensive, and should address all aspects of the complaint. It is not always possible to achieve a satisfactory outcome from the complainant's perspective, but it should be clear that all aspects of the student's complaint have been investigated and responded to.

3.9 What documentation should be kept in relation to a complaint?

Written material should be kept strictly confidential and should not be shown to anyone who is not directly involved in handling the complaint. Additional copies of complaints documentation should be kept to the essential minimum.

Care should be taken in the wording of written material, as absolute confidentiality cannot be guaranteed; disclosure can sometimes be compelled under Freedom of Information processes.

When the complaint relates to an allegation of unlawful behaviour such as discrimination or harassment, files and case notes must be detailed and should be retained in the event of subsequent proceedings under anti-discrimination law. Such records may form the basis for a defence against a vicarious liability claim on the grounds that the University took 'all reasonable steps' to deal with the problem.

If a student raises a complaint informally or verbally that includes allegations against a particular individual or group, and then withdraws the complaint or cannot be persuaded to proceed with the complaint because of concern about victimisation, particular care must be taken in record keeping in such instances to ensure procedural fairness. It is inappropriate for managers or specialist units to keep potentially damaging records containing unsubstantiated allegations against an individual, particularly if the individual has no knowledge that the record exists and has not had the opportunity to refute it. In such cases, the name of the person/s against whom the complaint is made should not be recorded, but the particular department or area where the incident occurred should be noted for monitoring purposes.

Formal outcomes, for example disciplinary matters, should be documented on the relevant student/personnel files. Any material lodged on student/personnel files must comply with the requirements of the [Staff Records — Guidelines](#) (Staff Connect) and the [Privacy Vice-Chancellor's Directive](#).

3.10 What other avenues are available for dealing with student complaints?

Students may seek advice/advocacy from the Students' Association, the official elected representative body of students at UTS, which advocates on behalf of students' rights and assists students with appeals, allegations of academic misconduct and complaints. Managers can refer students to the Students' Association for assistance in preparing and lodging a complaint and advice and support in the resolution process.

Some units in the University have specialist roles in assisting students to lodge a complaint, and in advising managers who are handling student complaints. These include:

- the Equity and Diversity Unit, which provides confidential advice and assistance in relation to equity-related complaints. An equity-related complaint is when a student believes they are being discriminated against or harassed because of their sex (including pregnancy), sexual preference, transgender status, race, colour, ethnic or ethno-religious background, descent or national identity, marital status, disability, age, political conviction or religious belief. The Equity and Diversity Unit advises managers who are handling equity-related complaints about processes and legislative and EO policy requirements. In addition, the Equity and Diversity Unit may undertake an initial investigation of equity complaints that are lodged directly with them, and advise a person in authority in the area in which the complaint occurred or the Deputy Vice-Chancellor (Academic), who is Director of Equal Opportunity and Affirmative Action at UTS, if further action is required.
- the Student Services Unit, which provides professional counselling and assistance for students relating to most areas of university life. Counsellors and Accessibility Service Staff assist students with individual concerns to identify the factors contributing to their situation, including the behaviour of other students, the attitudes or behaviour of University staff, the impact of University rules or systems, or factors outside University life. Student Services staff provide practical assistance, advice on avenues of resolution, advocacy and mediation. They facilitate group processes, involve University staff, and refer to government and non-government agencies including the Health and Police Departments.

Managers who receive complaints alleging corruption, maladministration, or serious waste should contact the Deputy Vice-Chancellor (Corporate Services) to discuss an appropriate course of action.

Students and staff handling complaints may seek assistance from these Units where appropriate at any stage of the complaints process. These units will often refer staff or students to other specialist units if the complaint falls outside their specific areas of responsibility.

3.11 Role of the Student Ombud Office

If a student has exhausted all other avenues for a solution to their problem they can put their complaint in writing to the Student Ombud Office. On receiving a written complaint, the Student Ombud will decide whether or not it falls within the role and functions of the Student Ombud. The Student Ombud Office deals with complaints from students who have a complaint related to all administrative and some academic decisions and attempts to resolve differences objectively in order to reach a reasonable solution. When a complaint is settled or it warrants no further action the Student Ombud will take no further action. If it is not settled the Student Ombud may make a written report (including recommendations) to the Provost and to other persons involved. The Student Ombud Office may bring any matter arising from an inquiry to the attention of the Provost.

4 AUTHORITIES AND ACCOUNTABILITIES

Refer to Handling Student Complaints Policy.

5 SPECIFICATION OF RELATED UTS AND OTHER RELEVANT DOCUMENTATION

The following may also need to be considered where relevant:

[Handling Students Complaints Policy](#)

[Code of Conduct](#)

[Handling Staff Grievances Vice-Chancellor's Directive](#)

[Staff Agreements — Discipline](#)

[UTS Rules](#)

[Policy on the Prevention of Harassment](#)

[Fraud and Corruption Prevention and Public Interest Disclosures Policy and Guidelines](#)

[Assessment of Coursework Subjects Policy and Procedures](#)

[Equal Opportunity and Diversity Policy](#)

[Staff Records — Guidelines](#) (Staff Connect)

[Privacy Vice-Chancellor's Directive](#)

[Publishing on the UTSWEB Policy](#)

6 APPROVAL AND REVISIONS TABLES

6.1 Approvals

Effective date: 16 August 2004
Accountable Officer: Director, Equity and Diversity Unit
Implementation Officer: Director, Equity and Diversity Unit

6.2 Revision/modification history

Date	Version	Summary of changes	Approved/ rejected	Approval authority (date)	Resolution or file number
30/08/2007	2	Update, reformat and HEWRR compliance	Approved	Director, Equity and Diversity Unit	UR07/633
13/08/2015 (effective date)	2.1	Changes (approved under Delegation 3.17) to implement 2014 Senior Executive restructure.	Approved	Director, Governance Support Unit (GSU) (11/12/2014)	
30/05/2017 (effective date)	2.2	Changes approved under Delegation 3.17 to implement 2017 change of name from	Approved	Director, Governance Support Unit	

		Special Needs Service to Accessibility Service.		(GSU) (30/05/2017)	
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