

# Complaints Management Policy

## Section 1 - Purpose

(1) This policy explains how Charles Sturt University (the University) manages complaints from students, staff and members of the public and ensures that complaints management processes are compliant with the relevant standards and best practice guidelines.

### Scope

(2) This policy applies to all persons, whether or not they are current, prospective or former students or staff of the University, whenever they are:

- a. in attendance at a University campus or facility, be it owned or leased and including facilities operated by a University partner;
- b. using University or University partner's equipment, be it owned or leased (e.g. communications technologies, vehicles, facilities);
- c. in attendance at a University or University partner event, function or activity;
- d. participating in any activity as a representative or student of the University (e.g. field trips, inter-university events, conferences, workplace learning, etc); and/or
- e. acting as an agent engaged by, or a party related to, the University in the delivery of services.

(3) 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 Misconduct Rule](#); and
- b. research misconduct matters will be referred to the [Research Misconduct Procedure](#).

## Section 2 - Glossary

(4) For the purposes of this policy, the following terms have the meanings stated:

- a. Complainant - means the person/persons who have lodged a complaint.
- b. Complaint - means a notification expressing dissatisfaction about conduct or services, including quality of service/product, failure to provide information and competence or conduct of staff and does not include an Informal Complaint.
- c. Complaints management process - means a mechanism through which complaints can be lodged, investigated and resolved. The procedures that support this policy are the [Complaints Management Procedure](#) and the [Complaints Procedure - Workplace](#).
- d. Complaints manager - means an objective staff member who has been appointed to coordinate/manage any complaint lodged through the complaints management process and who may therefore take decisions in relation to the complaint in accordance with this policy and its supporting procedures.
- e. Confidential - means that information will only be released to those who have a legitimate 'need to know' and not for general consumption.

- f. Informal complaint – means an issue, concern, dispute or grievance that is to be, or has been addressed at the point of origin and has not been addressed as a complaint under this policy.
- g. Merit review - means the process by which someone other than the original decision maker reconsiders the facts and policy aspects of the original decision and makes a new decision. A merit review may affirm or vary the earlier decision.
- h. Point of origin – means the level of the University where the initial concern arose.
- i. Respondent – means the person/persons who are the subject of a complaint.
- j. Serious complaint – means a complaint that:
  - i. if proven, could be described as a criminal act;
  - ii. be of a serious nature that includes sexual harassment, harassment, victimisation; or
  - iii. may otherwise present a significant risk to the safety and welfare of a person or to the reputation of the University.
- k. Staff – means employees, contractors, adjunct staff and agents of, or acting on behalf of, the University. For the purpose of this policy, agents include providers of services on behalf of the University including staff employed by a University Partner.
- l. Working days – means Mondays to Fridays inclusive, other than:
  - i. public holidays in New South Wales or, where relevant, in another state or territory where a hearing or decision on a misconduct allegation requires work to take place at a campus in that state or territory; and
  - ii. any other day when the University is closed for business as published on the University’s website.
- m. Workplace complaint – means a complaint by a member of staff of a work related issue, concern, dispute or grievance, including those involving:
  - i. the interpretation and application of any policies or procedures governing human resources, including the allocation of work, job design, performance management and matters related to flexible work practices where the specific dispute resolution process within the [Enterprise Agreement](#) is not applicable;
  - ii. a workplace communication or interpersonal conflict;
  - iii. an occupational health and safety issue;
  - iv. an allegation of discrimination, harassment, bullying or vilification - a complaint of this type may represent an allegation of serious misconduct and will be managed under the appropriate [Enterprise Agreement](#) clause and the [Bullying, Discrimination and Harassment Prevention Policy](#);
  - v. a question, dispute or difficulty concerning the interpretation, application or operation of policies or agreements where the specific dispute resolution process within the [Enterprise Agreement](#) is not applicable.

## Section 3 - Policy

### Complaint management principles

(5) The University encourages its students and staff to be independent and effective problem solvers. With the exception of serious complaints, students and staff must attempt to resolve their concerns at the point of origin before lodging a complaint.

(6) Complaint management by the University must be:

- a. Accessible – information about the complaint management process must be published and advice freely available. [Lodging a complaint](#) must be simple and free of charge.
- b. Timely – complaints are to be managed efficiently. Receipt of complaints must be acknowledged and

assessment of the complaint must commence within 10 working days of the complaint being lodged. Outcomes are to be finalised as soon as practicable.

- c. Objective – complaints are to be considered and managed free of bias.
- d. Fair – procedural fairness must be afforded to all, and all complainants are to be given the opportunity to formally present their case at minimal or no costs and be accompanied by a support person at any relevant meetings.
- e. Transparent – complainants are entitled to a written statement of the outcome of their complaint or appeal, including reasons for the outcome and advice on their right to have the outcome of their complaint reviewed, including by an external handling body such as the NSW Ombudsman.
- f. Confidential – information is kept confidential, where and as appropriate.
- g. Recorded – a written record of the complaint, including a statement of the outcome and reasons for the outcome must be kept by the University.
- h. Informative – the management and resolution of complaints should inform future conduct of the University. Recommendations arising from the complaints resolution process are to be, where reasonable, enacted. Complaint data is to be recorded in a manner to enable analysis which can inform areas for improvement within the University.
- i. Supportive – all participants must be made aware of the support services available to them, including their right to have a support person present when participating in the complaints process.

### **Requirement to participate in the University's policies and procedures before making a complaint**

(7) Where they exist, all University policies, rules and/or procedures relevant to the circumstances surrounding a concern (including appeals procedures) must be pursued to conclusion before submitting a complaint under this policy. The complaint process shall only be utilised to ensure that University policies have been complied with and that due process has been afforded to the complainant.

(8) The complaints management process shall not be used to review decisions of the University made under a policy or procedure that has a mechanism for a review or appeal on the grounds of a failure to afford due process.

### **Variation of complaints management procedure**

(9) The University Ombudsman, complaints manager, manager or supervisor handling an informal complaint may vary the complaint handling process only under the following conditions:

- a. to ensure the process is not inconsistent with the principles of procedural fairness; and
- b. where a variation to the process would reasonably be expected to lead to a more timely and efficient resolution of a complaint.

(10) A decision to vary the complaints management process will be discussed with the University Ombudsman as soon as practicable and preferably before implementation and communicated to those involved in the complaint management, including the reasons for the decision to vary the procedure.

### **Where complaints may be declined**

(11) A complaint may not be accepted if:

- a. it fails to clearly state:
  - i. what occurred that should not have;
  - ii. what the complainant seeks as an outcome; and

- iii. what action the complainant took at the point of origin to try to resolve it;
- b. it is not accompanied by relevant evidence and/or fails to indicate the existence of relevant evidence in the University's possession that is accessible through reasonable inquiry;
- c. where reasonable, attempts to resolve the issue at the point of origin have not been taken (complainants are not expected to attempt to resolve serious complaints at the point of origin);
- d. it does not relate to matters within the University's control;
- e. it is solely seeking a merit review of a decision of the University;
- f. it is characterised as frivolous or trivial by the University Ombudsman;
- g. the substance of the complaint has previously been addressed within the complaints management processes;
- h. the conduct complained about amounts to serious misconduct or a serious risk to the health or safety of staff or students, to a criminal offence, or where mandatory reporting is legislated; and/or the University has an obligation to deal with the matter under the relevant rules and to refer the matter to the police or other appropriate external agency for investigation;
- i. a legal action has been commenced or threatened to be commenced (either by the complainant or the University) in a court or before another judicial authority, or the University forms the view that legal action may be commenced by another party at a future time and in the circumstances is of the view that resolution of the matter through this policy is not appropriate;
- j. the subject matter of the complaint has been lodged with an external agency or the University is of the view that subject matter of the complaint is more appropriately dealt with by an external agency;
- k. the subject matter arises under, or in relation to, a contract between the University and a third party (not including an employment contract) where there is an agreed dispute resolution process under the contract;
- l. it relates to a decision of the University made under a policy or procedure that has a mechanism for the review or appeal of the decision including on the grounds of a failure to afford due process; or
- m. the complaint is not lodged within six months of the last incident that is subject to the complaint, except for where:
  - i. the complaint relates to a serious matter; and
  - ii. the complainant can demonstrate that circumstances beyond their control prevented them from lodging the complaint within the six-month deadline; and
  - iii. it is still practicable for the University to conduct an investigation of the complaint.

## **Where complaint management may be discontinued**

(12) A complaint may cease to be managed if:

- a. a legal action has been commenced or threatened to be commenced (either by the complainant or the University) in a court or before another judicial authority, or the University forms the view that legal action may be commenced by another party at a future time and in the circumstances is of the view that resolution of the matter through this policy is not appropriate;
- b. the subject matter of the complaint has been lodged with an external agency or the University is of the view that subject matter of the complaint is more appropriately dealt with by an external agency;
- c. the complainant is unwilling to participate in the complaints management process; or
- d. the complainant misuses the complaints management process to threaten, harass, annoy or cause detriment to a person, or cause delay to a University process.

(13) In the event that the complainant misuses the complaints management process to threaten, harass, annoy or cause detriment to a person, or cause delay to a University process, the Vice-Chancellor may initiate proceedings for misconduct against the person under applicable rules or policies of the University or refer the matter to an external agency.

## Confidentiality

(14) The privacy and confidentiality of parties will be respected to the extent practicable and appropriate; with acknowledgment that disclosure may be required by law.

## Anonymous complaints and complaints made on behalf of another person

(15) Complaints made anonymously or by a third party on behalf of another will be considered by the University Ombudsman, who will determine whether they will be accepted. When such complaints are accepted, it does not guarantee the anonymity of complainants. This is partially because the identity of a complainant can often be deduced from the nature of the complaint and also because there are external avenues, such as [Government Information \(Public Access\) Act 2009](#) (GIPA) requests, through which parties may gain access to the identity of the complainant.

(16) Where a complaint is made anonymously or lodged on behalf of someone else, the University Ombudsman will determine, giving regard to privacy issues, whether the person lodging the complaint will be informed of the progress or outcome of any complaint investigation or resolution.

## Misuse of the complaints management process

(17) Making a complaint under this policy and procedure is a serious matter with potentially serious consequences for those involved. Staff or students who use this policy and procedure to make frivolous or vexatious complaints (for example, to harass someone), or who lie or deliberately mislead in connection with a complaint, may be subject to misconduct proceedings.

(18) In addition to the possibility of internal disciplinary proceedings, those who misuse the University's complaints management process should be aware that external remedies might also apply (e.g. civil liability/defamation claims).

## Victimisation

(19) In this policy, victimisation refers to any form of unreasonable detriment directed at a person for their participation in or deemed participation in making, supporting or resolving a complaint.

(20) It is a breach of this policy to victimise anyone for their use of the University's complaints management process.

(21) In the event that a party to a complaint is victimised, appropriate assistance should be sought immediately. This may mean:

- a. notifying the person who is dealing with the complaint or the University Ombudsman; and/or
- b. in the case of an emergency (e.g. threat to health and safety), seeking immediate assistance from Campus Safety and Security or, if necessary, the police.

(22) Any student or staff member who participates in victimisation may be considered to have committed misconduct or serious misconduct and may, where it is not appropriate to reach resolution by other means, be subject to misconduct proceedings.

(23) Enactment of disciplinary proceedings against any person who breaches University policy is not of itself evidence of victimisation. Victimisation, where it does occur in these circumstances, would relate to unfair or unreasonable disciplinary action or inconsistent application of disciplinary proceedings.

## Recordkeeping

(24) Records of complaints received and managed under this policy will be securely maintained in accordance with the [Privacy Management Plan](#) and [Records Management Policy](#).

## Responsibilities

(25) The Vice-Chancellor 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; and
- c. nominating a University staff member to act where the University Ombudsman is unable to fulfil their responsibilities for whatever reason, for the purpose of managing a particular complaint or conducting an internal review.

(26) The University Ombudsman is responsible for:

- a. establishing and publishing a free and easily accessible process for making a complaint;
- b. receiving formal complaints and:
  - i. determining whether the issues raised in the complaint fall within the scope of this policy, including a consideration of those matters set out clause 11 of this policy; and
  - ii. referring the formal complaint to a complaints manager;
- c. appointing an objective employee as complaints manager for the purpose of managing a formal complaint;
- d. providing independent and impartial advice and assistance to staff managing informal complaints and to complaints managers that are managing a formal complaint;
- e. providing independent, impartial and confidential information to complainants and those complained against about the procedure for dealing with complaints including listening to the issues and helping the person clarify the facts;
- f. conducting internal reviews of complaints;
- g. identifying systemic issues arising from complaints and making recommendations to management for the purpose of continuous institutional improvement;
- h. where appropriate, conducting an independent investigation of some or all aspects of the complaint, including workplace complaints; and
- i. keeping a record of the complaint, including a statement of the outcome and reasons for the outcome.

(27) Complaints managers are responsible for:

- a. managing complaints in accordance with [Complaints Management Procedures](#); and
- b. informing the complainant and the respondent of the support services available to them.

(28) All staff are responsible for:

- a. receiving and resolving informal complaints where possible in a timely and fair way;
- b. referring a complainant to another relevant person who may be better situated to address the concerns;
- c. advising people of their right to make a complaint where appropriate and providing information about the University's complaints management process;
- d. providing advice and assistance to people who have a complaint and those who have been complained against; and
- e. documenting each complaint.

(29) Complainants and respondents 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 in the complaints management process, including participating in discussion with other parties to resolve the concerns;
- c. responding to the University's requests for information in a timely manner; and
- d. treating those involved with the management of the complaint with respect and courtesy.

(30) The Executive Director, People and Culture is responsible for:

- a. the management of workplace complaints in accordance with the [Complaints Procedure - Workplace](#); and
- b. management of complaints by persons other than staff where serious misconduct allegations have been made against a staff member.

## Section 4 - Procedure

(31) The [Complaints Management Procedure](#) supports this policy by stating detailed requirements for the receipt, assessment, addressing and determination of complaints and the internal review processes.

(32) The [Complaints Procedure - Workplace](#) supports this policy by stating the detailed processes for workplace complaints.

## Section 5 - Guidelines

(33) Nil.

## Section 6 - Resources and acknowledgements

(34) Various resources were researched to inform the development of this policy, including:

- a. Complaints management policies and procedures (or equivalent) from all Australian universities. Particular acknowledgement is made of Western Sydney University, Complaint Handling and Resolution Policy;
- b. Australian Government, Attorney-General's Department; and
- c. New South Wales Ombudsman.

## Status and Details

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## Glossary Terms and Definitions

**"Student"** - means a person who is or was enrolled in, or seeking admission to, a course or subject offered by the University or a partner institution or organisation, or who is given permission to audit a course or subject offered by the University or a partner institution or organisation; it includes a candidate for a higher degree by research award, as well as students enrolled in online or on-campus study modes. A student remains a student while on approved leave of absence.