

# RESOLUTION OF COMPLAINTS POLICY 2015

The Vice-Chancellor as delegate of the Senate of the University of Sydney, adopts the following policy.

Dated: 10 December 2015

Last amended: 1 August 2018

24 March 2019 (administrative amendments only)

25 September 2020 (commencing 6 October 2020)

Position: Vice-Chancellor

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### 1 Name of policy

This is the Resolution of Complaints Policy 2015.

### 2 Commencement

This policy commences on 1 January 2016.

### 3 Policy is binding

Except to the extent that a contrary intention is expressed, this policy binds the University, staff, students, workers and affiliates.

### 4 Statement of intent

- (1) This policy:
  - (a) supports the University's commitment to enriching the experience of university life for all its staff, students, workers and affiliates;
  - (b) sets out the general principles applicable to complaints or appeals made under other University policies and procedures;
  - (c) reflects the University's values of:
    - (i) respect and integrity; and
    - (ii) inclusion and diversity;and
  - (d) supports the University's strategic goal of a culture built on our values

**Note:** See the University's [Strategic Plan 2016 -2020](#).
- (2) For the avoidance of doubt, this policy does not confer any entitlement to make a complaint or lodge an appeal in addition to those already existing under other University policies or procedures.

### 5 Application

- (1) This policy applies, in relation to University related conduct, to:
  - (a) University staff, students, workers and affiliates; and
  - (b) applicants for admission to the University, in regard to complaints about non-academic matters.
- (2) This policy does not apply to complaints made under the:
  - (a) [University of Sydney \(Student Appeals Against Academic Decisions\) Rule 2006](#);
  - (b) [Intellectual Property Policy 2016](#);
  - (c) [Reporting Wrongdoing Policy 2012](#); or
  - (d) [Faculty of Medicine and Health – Professionalism Provisions 2019](#).
- (3) If there is any inconsistency between this policy and:
  - (a) the *Student Sexual Misconduct Policy 2018*; or
  - (b) the *Staff Sexual Misconduct Policy 2020*;those policies will apply, to the extent of the inconsistency.

## 6 Definitions

<b>affiliate</b>	has the meaning given in the <a href="#">Code of Conduct – Staff and Affiliates</a>  At the date of this policy this is:  Clinical title holders; adjunct, conjoint and honorary appointees; consultants and contractors to the University; holders of offices in University entities; members of Boards of University Foundations; members of University Committees; and any other persons appointed or engaged by the University to perform duties or functions on its behalf.
<b>Agreement</b>	means the <a href="#">University of Sydney Enterprise Agreement 2018-2021</a> or any successor or replacement Agreement.
<b>Appeal</b>	means a request by an individual for review of a decision about a complaint (however described).
<b>Applicant</b>	means an applicant for admission to an award course of the University.
<b>Award course</b>	means a course approved by the Senate, on the recommendation of the Academic Board, that leads to the award of a degree, diploma or certificate.
<b>Workplace relations advisor</b>	the person within Workplace Relations or Student Affairs Unit nominated as the workplace relations advisor or manager for a particular case.
<b>Workplace Relations</b>	means the specialist staff within Human Resources who assist managers to resolve workplace issues in accordance with the Agreement (where applicable) and University policies and procedures.
<b>complainant</b>	means the person who made the complaint, or in the case of complaints made on behalf of another person, the person who is alleged to have been the subject of the conduct complained of.

**Complaint** includes all of the ways in which problems and concerns (however described) that require the involvement of University staff to facilitate resolution might be raised by workers, by affiliates, by students about academic or non-academic matters, by applicants about non-academic matters, or by the general public, including orally and in writing (including email).

General inquiries, feedback and comments (including on social media sites) will not normally be considered a complaint, unless the relevant manager, delegate, Student Affairs Unit or Workplace Relations deem otherwise.

If in doubt, the complainant should be asked to confirm whether they wish to categorise their inquiry, feedback or comment as a complaint.

**Delegate** **in respect of individuals covered by the [Agreement](#):** has the meaning set out in clause 3 of the [Agreement](#), which at the date of this policy is:

the holder of an office to which authority has been:

- delegated by the University Senate in relation to the management of matters pertaining to staff employment, performance and/or conduct; or
- delegated under a University policy or Code of Conduct, including the University's Reports of Wrongdoing Investigation Procedures and the Research Code of Conduct.

**In respect of individuals not covered by the [Agreement](#):** means the person with appropriate delegated authority under the [University of Sydney \(Delegations of Authority- Administrative Functions\) Rule 2016](#) and the [University of Sydney \(Delegations of Authority – Academic Functions\) Rule 2016](#).

**In respect of students or applicants or in situations where Senate has made no formal delegation of authority,** the Head of the Student Affairs Unit.

**Exchange student** means a person who is:

- not admitted to an award course at the University;
- admitted to a formally approved program of study at an overseas institution with which the University has an exchange arrangement; and
- enrolled in one or more units of study at the University.

<b>Investigator</b>	<p><b>in respect of individuals who are covered by the <a href="#">Agreement</a>,</b> has the meaning provided in the <a href="#">Agreement</a>, which at the date of these procedures is:</p> <p>a person (who may, but need not be a University staff member) appointed by the University to conduct investigations in relation to matters pertaining to staff performance or conduct and applications for review of actions or decisions or disputes.</p> <p><b>In respect of individuals who are not covered by the <a href="#">Agreement</a>,</b> means a person appointed by the University to conduct an investigation in accordance with relevant University policy or procedures.</p>
<b>manager</b>	<p>means:</p> <ul style="list-style-type: none"><li>• <b>in the case of a staff member:</b> the person nominated by the University from time to time as the staff member's supervisor or such other person nominated by the University to act as the manager for a particular matter;</li><li>• <b>in the case of a clinical title holder or an adjunct, conjoint or honorary appointee:</b> the Dean of the relevant faculty;</li><li>• <b>in the case of a contractor to the University:</b> the University officer nominated as responsible for their engagement;</li><li>• <b>in the case of an office holder in a University entity or a member of a University committee:</b> the Chair of the relevant entity or committee;</li><li>• <b>in the case of any other affiliate:</b> the University officer nominated as responsible for their engagement.</li></ul>
<b>Non-award student</b>	<p>means a person who is not admitted to an award course and is not an exchange student or study abroad student, but is enrolled in a unit of study at the University.</p>
<b>Residential College</b>	<p>means one or more of:</p> <ul style="list-style-type: none"><li>• Mandelbaum House;</li><li>• Sancta Sophia;</li><li>• St Andrew's College;</li><li>• St John's College;</li><li>• St Paul's College;</li><li>• Wesley College;</li><li>• Women's College.</li></ul>
<b>Respondent</b>	<p>means a person whose decision or conduct is the subject of a complaint.</p>
<b>Staff or staff member</b>	<p>means an employee of the University, including a casual employee.</p>

<b>Student</b>	means a person who: <ul style="list-style-type: none"><li>• is currently admitted to candidature in an award course at the University; or</li><li>• is a non-award student, exchange student or study abroad student enrolled in a unit of study at the University; or</li><li>• is currently enrolled in a course offered by the Centre for English Teaching.</li></ul> <p>For the purpose of commencing a complaint under the <a href="#">Student Complaints Procedures 2015</a> only, a person who is not currently admitted to candidature or enrolled will be considered a student if:</p> <ul style="list-style-type: none"><li>• they were admitted or enrolled within the two years prior to complaint being made; and</li><li>• the respondent is a current staff member, student, affiliate or worker of the University.</li></ul>
<b>Student Affairs Unit</b>	means the specialist staff within the office of the Deputy Vice-Chancellor (Education) who assist with the resolution of student complaints and reports of misconduct in accordance with University policies and procedures.
<b>study abroad student</b>	means a person who is: <ul style="list-style-type: none"><li>• not admitted to an award course at the University;</li><li>• admitted to a formally approved program of study at an overseas institution with which the University does not have an exchange arrangement; and</li><li>• enrolled in one or more units of study at the University.</li></ul>
<b>support person</b>	means a friend, colleague, union official, student representative or any other person chosen by a person to support them.
<b>Unit of study</b>	means the smallest stand-alone component of an award course that is recordable on a student's transcript.
<b>University entity</b>	means any entity established by or with the authority of the Senate.
<b>University lands</b>	includes any land or roads occupied or used in connection with the University, including the whole or part of any building or structure and any land or roads occupied or used in connection with the whole or part of any building or structure.

**University related conduct** means any conduct that is connected to the University, including conduct that:

- refers or relates to the University, its activities, or its workers or affiliates or students in their status as a worker, affiliate or student of the University;
- occurs on, or in connection with, University lands or other property owned by the University;
- occurs at, or in connection with, a Residential College;
- occurs at, or in connection with, University owned or affiliated student accommodation;
- occurs using, or is facilitated by, University ICT resources or other University equipment;
- occurs during, or relates to, the performance of duties for the University;
- occurs during or in connection to any University related function or event (whether sanctioned or organised by the University or not) or when representing the University in any capacity.

**worker** means a person who carries out work in any capacity for the University including work as:

- a staff member;
- a contractor or subcontractor;
- an employee of a contractor or subcontractor;
- an employee of a labour hire company who has been assigned to work in the University or a University entity;
- an outworker
- an apprentice or trainee;
- a student gaining work experience performing work on a voluntary basis; or
- a volunteer.

An affiliate of the University may, in relevant circumstances, be a worker under this policy.

## **7 General principles**

- (1) The University acknowledges that complaints provide an opportunity to identify areas for improvement, and to enhance the quality of its services and the experience of its staff and students.
- (2) This policy sets out minimum standards to be met by all University and faculty processes for handling complaints.

## 8 Opportunity to be heard

- (1) Complaints should be resolved sensitively, fairly, confidentially, and with a minimum of disruption while following the principles of procedural fairness.
- (2) Complainants and respondents must have a reasonable opportunity to state or respond to the complaint orally and in writing, and to provide any documents relevant to the complaint.
- (3) Complainants and respondents may be accompanied to any meeting by a support person, if they wish.

## 9 Co-operation

Participants are expected reasonably to participate and co-operate during any complaint or resolution process.

## 10 Timeliness

- (1) The University must address complaints in a timely manner.
- (2) The University's complaint resolution process should commence within 10 days of a complaint being lodged.
- (3) The University must take reasonable steps to finalise the resolution process as soon as practicable.

## 11 Anonymous complaints

- (1) In most circumstances, complainants will need to provide their name.
- (2) Subject only to the requirements of legislation and to the [Reporting Wrongdoing Policy 2012](#), the University will not act on anonymous complaints unless:
  - (a) the complaint relates to a University policy or procedure generally and not an individual respondent(s);
  - (b) it is not necessary for the respondent to be aware of the identity of the complainant in order to properly respond to the complaint; or
  - (c) there is independent documentary or other evidence supporting the complaint and the allegation can be tested fairly.

## 12 Impartiality

- (1) Any decision maker or investigator must be suitably qualified to make the relevant decision or conduct the investigation.
- (2) Decision makers or investigators must not have an actual or reasonably perceived conflict of interests or bias in regard to any of the parties to the complaint or its subject matter.



- (3) Where a person responsible for making a decision or investigating a complaint would breach the principles set out in subclauses 12(1) or (2), the complaint will be referred to an appropriate alternative decision maker or investigator.
- (4) Any complaint about the personal conduct of the Vice-Chancellor must be referred to an appropriate external person or organisation unless the Chancellor is satisfied that the complaint can be resolved by the Chancellor and that it is appropriate to do so.

### **13 Communication about resolution process**

- (1) The investigator, workplace relations advisor, manager or relevant delegate, as applicable must inform the parties to a complaint of the following:
  - (a) if an investigation is to be conducted;
  - (b) who is conducting the investigation;
  - (c) how the issue will be investigated (e.g. interviews with the parties and any witnesses, viewing documentary evidence);
  - (d) if records of statements or interviews are to be disclosed otherwise than as set out in clause 15, and if so, to whom;;
  - (e) who can be present at interviews;
  - (f) whether parties can refuse to participate;
  - (g) how the parties will be kept informed throughout the investigation or resolution and what information will be provided;
  - (h) that they have an opportunity to seek independent advice and have a support person to support them through the process;
  - (i) the expected timeframes of the investigation or resolution; and
  - (j) what interim measures will be taken to ensure the health and safety of the parties during the investigation or determination.
- (2) The University must give complainants a written statement of the outcome of their complaint or appeal, including:
  - (a) reasons for the outcome; and
  - (b) details of any rights to access an appeals process.

### **14 Confidentiality**

Except as provided in clause 15, the following matters must not be disclosed to any other person, by any form of communication:

- (a) the identity of the person raising the complaint, respondents and participants in a complaint or investigation;
- (b) the information provided or collected during the consideration or investigation of the complaint;
- (c) the fact a complaint has been made;
- (d) any report, outcome or determination of a complaint.

## 15 Disclosure of information

- (1) When used in this clause, the term “information” refers to any information generated or collected in connection with the resolution or outcome of a complaint.
- (2) Information may be disclosed by the investigator, workplace relations advisor, relevant delegate or other University representative in the following circumstances.
  - (a) **To obtain a response.** Information, including information which may identify an individual as its source, may be disclosed to another participant in order to permit them to provide a proper response. Examples may include:
    - (i) identifying a party to a conversation in order to obtain details of that conversation; or
    - (ii) where an individual’s identity is apparent from a document (such as an email) which cannot be appropriately edited without loss of meaning.
  - (b) **To prepare a report or letter.** As part of the resolution of a complaint, the relevant delegate, workplace relations advisor or manager may produce, or cause to be produced, for the University, a confidential report or letter setting out the findings of facts that have been made, or associated outcomes. This report or letter may:
    - (i) be provided orally or in writing; and
    - (ii) summarise or annex information or documents provided by individuals during the resolution of the complaint (including transcripts of interviews or written statements).
  - (c) **To obtain assistance or advice.** Any report or letter, or information may be disclosed by the University to individuals within the University if it is appropriate for the recipient to receive the material in the proper performance of their duties.
    - (i) The University may disclose material to its legal or other advisers or other third parties engaged to assist in the resolution of the complaint.
    - (ii) Participants may disclose such material to their legal or financial advisers, provided the disclosure is made on a confidential basis and the advisers agree to comply with the requirements of this policy.
  - (d) **To ensure the safety and wellbeing of a participant.** Information may be disclosed by the University where the University needs to ensure the safety or wellbeing of a participant.
  - (e) **To support people.** Support people present during an interview will be aware of information disclosed during the interview. Participants may also choose to disclose documents or information to any of the following, provided that the recipients agree to comply with the requirements of this policy:
    - (i) their union or student representative;
    - (ii) immediate family;
    - (iii) qualified counsellor.

- (f) **In response to enquiries.** The University may disclose information in response to enquiries from internal or external parties (including the media), provided that:
  - (i) any disclosure must be approved by the relevant delegate;
  - (ii) disclosure will only be approved where, in the opinion of the delegate, the intended recipient has legitimate grounds to receive such information;
  - (iii) where appropriate, such disclosure is made without naming the individuals concerned in the complaint or disclosing the particular conduct alleged in the complaint or the respondent's response; and
  - (iv) such disclosure is consistent with subclause 17(5)(a) of this policy and comply with the [Privacy Policy 2017](#) and the [Privacy Procedures 2018](#).
- (g) **To a complainant or respondent.** The University may inform a complainant or respondent generally of the outcome of the complaint or any relevant action taken, provided such disclosure is consistent with subclause 17(5)(a) of this policy and complies with the [Privacy Policy 2017](#) and the [Privacy Procedures 2018](#).
- (h) **To other interested parties:** The University may disclose the outcome of a complaint or any relevant action taken, to third parties who are affected by the matter, consistently with the requirements of clause 15(2)(f).
- (i) **Public statement:** In cases which involve conduct or comments by the complainant or respondent of a public nature, the University may disclose the outcome of a complaint or any relevant action taken, in a public statement, consistently with the requirements of clause 15(2)(f).
- (j) **Legal requirements.** The University may disclose information if required to do so under the [Government Information \(Public Access\) Act 2009 \(NSW\)](#) or pursuant to any other legal or regulatory requirements.

## 16 Mediation or conciliation

- (1) Parties to a complaint may agree to participate in a mediation or conciliation in an attempt to resolve the complaint.
- (2) Mediations and conciliations must be conducted by a trained member of the University's staff, or by a suitably qualified mediator or conciliator.
- (3) All parties are entitled to bring a support person to a mediation or conciliation. The mediator or conciliator may, where appropriate, also allow the participants to bring a representative to the mediation or conciliation. The role of such support persons or representatives will be determined by the mediator or conciliator.
- (4) Any such mediation or conciliation will be conducted on a "without prejudice" basis to enable the parties to openly discuss the resolution of the matter. This means that:
  - (a) any information disclosed during the mediation or conciliation must be kept confidential in accordance with clause 14; and

- (b) the participants must not use or rely on information gained during or in connection with the mediation or conciliation (including any admissions, offers, concessions or statements made by parties) in any other forum, including in any legal or regulatory proceedings.

## 17 Matters involving possible criminal conduct

- (1) If the relevant delegate becomes aware that a matter involves possible criminal conduct, the relevant delegate must seek advice from the Office of General Counsel as soon possible, and take no further steps until the advice is received.
- (2) Conduct will be referred to the police if:
  - (a) it could, if proven, amount to a serious indictable offence; or
  - (b) General Counsel determines that referral to the police is required.
- (3) If a matter is being considered by the police, the Office of General Counsel is responsible for liaison with the police, and will determine the extent to which any University resolution process or investigation can proceed.
- (4) The relevant delegate may direct that a person involved in conduct that could, if proven, amount to criminal conduct:
  - (a) not attend University grounds; or
  - (b) be suspended from their employment or studies.

**Note:** Refer to the [Agreement](#), the [University of Sydney \(Campus Access\) Rule 2009](#) and the [University of Sydney \(Student Discipline\) Rule 2016](#).

- (5) If, after discussions with police, the University resolution process or investigation proceeds:
  - (a) any record documenting the outcome of the process must state that the findings have been made on the balance of probabilities and do not constitute findings for the purpose of criminal law; and
  - (b) any communications about the outcome must be approved by the Office of General Counsel, and be consistent with subclause 17(5)(a) of this policy and comply with the [Privacy Policy 2017](#) and the [Privacy Procedures 2018](#).

## 18 No victimisation

A person must not victimise or otherwise subject another person to detrimental action as a consequence of that other person raising, providing information about, or otherwise being involved in the resolution of a complaint.

## 19 Vexatious complaints

- (1) A person must not make a vexatious or malicious complaint.
- (2) A person must not make a complaint without reasonable cause.
- (3) For the purposes of this policy, a complaint will be considered vexatious or malicious if a person makes it:
  - (a) knowing it to be false; and
  - (b) for the primary purposes of damaging the University or the person against whom the complaint is made.

## 20 Breach of this policy

- (a) The University may take disciplinary action against any person who is knowingly involved in a breach of this policy. Where the person is a student, this may include disciplinary action under the *University of Sydney (Student Discipline) Rule 2016*.
- (b) Where the person is a staff member or affiliate, this may include disciplinary action under the *Agreement* and may result in action up to and including termination of employment or affiliation.

## 21 Recordkeeping

The University must keep appropriate records of all complaints and allow parties to the complaint reasonable access to those records.

**Note:** See [Recordkeeping Policy 2017](#) and [Recordkeeping Manual](#).

## 22 Procedures

- (1) The Chief Human Resources Officer is the administrator of this policy as it relates to complaints initiated by or about University staff, workers and affiliates and the Deputy Vice-Chancellor (Education) is the administrator of this policy as it relates to complaints initiated by or about students and complaints made by applicants. Formal policy reviews are the responsibility of, and must be initiated by, both jointly.
- (2) The Chief Human Resources Officer may determine procedures relating to complaints initiated by or about University staff, workers and affiliates.
- (3) The Deputy Vice-Chancellor (Education) may determine procedures relating to complaints initiated by or about students and complaints made by applicants.

## 23 Rescissions and replacements

This document replaces the following, which are rescinded as from the date of commencement of this document:

- (1) *Resolution of Complaints Policy* which commenced on 8 April 2002; and
- (2) *Student Grievances, Appeals and Applications for Review Policy*, which commenced on 30 June 2006.

## NOTES

### Resolution of Complaints Policy 2015

Date adopted: 10 December 2015

Date commenced: 1 January 2016

Date amended: 1 August 2018

24 March 2019

Administrators: Chief Human Resources Officer; Deputy Vice-Chancellor (Education)

Review date: 10 December 2020

Rescinded documents:

*Resolution of Complaints Policy*

*Student Grievances, Appeals and Applications for Review Policy*

Related documents:

*Education Services for Overseas Students Act 2000 (Cth)*

*Higher Education Support Act 2003 (Cth)*

*National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students (Cth)*

*Tertiary Education Quality and Standards Agency Act 2011 (Cth)*

*Privacy and Personal Information Protection Act 1998 (NSW)*

*University of Sydney (Student Appeals against Academic Decisions) Rule 2006*

*University of Sydney (Student Discipline) Rule 2016*

*Harassment and Discrimination Prevention Policy 2015*

*Intellectual Property Policy 2016*

*Privacy Policy 2017*

*Student Sexual Assault and Sexual Harassment Policy 2018*

*Recordkeeping Policy 2017*

*Reporting Wrongdoing Policy 2012*

*Supervision of Higher Degree by Research Students Policy 2013*

*Bullying, Harassment and Discrimination Resolution Procedures 2015*

*Student Complaints Procedures 2015*

*Student Sexual Assault and Sexual Harassment Response Procedures 2018*

*Privacy Procedures 2018*

*Recordkeeping Manual*

## **AMENDMENT HISTORY**

<b>Provision</b>	<b>Amendment</b>	<b>Commencing</b>
4	Amendments and new subclause 4(1)(b) and clause 4(2) to clarify scope of policy	22 September 2017
5	Amendments to limit application to University related conduct and specify other types of complaints not made under this policy	22 September 2017
6	New definition for award course, exchange student, non-award student, Residential College, study abroad student, unit of study, University entity, University lands, University related conduct	22 September 2017
6	Minor amendments to definitions for appeal, complaint and delegate.	22 September 2017

<b>Provision</b>	<b>Amendment</b>	<b>Commencing</b>
13(1) and 13(1)(d)	Minor amendments for clarification	22 September 2017
15(1), 15(1)(b)	References to case co-ordinator changed to workplace relations advisor	22 September 2017
15(1)(g)	New subclause added	22 September 2017
17(4)	References and hyperlinks to other documents amended	22 September 2017
18(2)	Clause deleted	22 September 2017
20	Clauses added	22 September 2017
22	References to Director, Human Resources changed to Chief Human Resources Officer	22 September 2017
Notes	References and links to other documents updated	22 September 2017
6	Updated reference and link to Enterprise Agreement 2018-2021	27 April 2018
15(g), 15(f)(iv), 17(5)(b) and Related documents	Replace Privacy Policy 2013 with Privacy Policy 2017 and restore hyperlinks	12 July 2018
21, Related documents	Replace University Recordkeeping Policy with Recordkeeping Policy 2017	12 July 2018
5(2)	Replace Deputy Vice-Chancellor (Registrar) with Deputy Vice-Chancellor (Education)	24 March 2019
Notes	Replace Deputy Vice-Chancellor (Registrar) as administrator with Deputy Vice-Chancellor (Education)	24 March 2019
5(2); 5(3)	New sub-clauses to include the new Staff Sexual Misconduct Policy 2020 and replace Sydney Medical Program with Faculty of Medicine and Health.	25 September 2020