



# Complaints Policy

<b>Version</b>	5.0
<b>File number</b>	07/704
<b>Short description</b>	A policy, supported by Procedures and Guidelines, for the management of concerns, complaints and grievances
<b>Relevant to</b>	All employees and students and members and visitors of, and to, the University
<b>Responsible officer</b>	University Secretary
<b>Responsible office</b>	Office of Corporate Governance
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<b>Related University documents</b>	Protocol for Responding to Letters of Demand Fraud, Corruption and Maladministration Policy and Reporting Procedure Charles Sturt University Enterprise Agreement 2005-2008 Charles Sturt University Handbook Academic Regulations Code of Conduct for Staff Code of Conduct for Users of Electronic Facilities Policy on Prevention of Harassment and Bullying Student General Misconduct Rule
<b>Related legislation</b>	<u>Charles Sturt University Act 1989</u> <u>Charles Sturt University By Laws 1995</u> <u>Education for Overseas Students Act 2001 (Clth)</u> <u>Higher Education (Amalgamations) Act 1989 (NSW)</u> <u>Privacy and Personal Information Protection Act 1998 No 133</u> <u>Protected Disclosures Act 1994 No 92</u> <u>Ombudsman Act 1974 (NSW)</u> <u>Ombudsman Regulations 1999 (NSW)</u> <u>Freedom of Information Act 1989 No 5 (NSW)</u> <u>Occupational Health and Safety Act 2000 (NSW)</u> <u>Occupational Health and Safety Regulation 2001 (NSW)</u> <u>Workplace Relations Act 1996 (Clth)</u> <u>Workplace Relations Regulations 2006 (Clth)</u> <u>Anti-Discrimination Act 1977 No 48 (NSW)</u> <u>Disability Discrimination Act 1992 (Clth)</u> <u>Racial Discrimination Act 1975 (Clth)</u> <u>Sex Discrimination Act 1984 (Clth)</u> <u>Age Discrimination Act 2004 (Clth)</u> <u>Employees Liability Act 1991 No 4 (NSW)</u> <u>Employment Protection Act 1982 No 122 (NSW)</u> <u>Workers Compensation Act 1987 No 70</u> <u>Workplace Injury Management and Workers Compensation Act 1998 No 86</u> <u>Workplace Video Surveillance Act 1998 No 52</u> <u>Workplace Relations Amendment (Workchoices) Act 2005</u>
<b>Key words</b>	Regulations, staff, visitor, policy, procedure, legal, complaints, grievance, mediation, bullying, discrimination, misconduct, victimization, vilification, natural justice

## **1. PURPOSE**

- 1.1 The purpose of this Policy is to:
  - 1.1.1 ensure that the University environment is harmonious and free from intimidation, harassment and other unfair treatment;
  - 1.1.2 promote clear, honest and open communication;
  - 1.1.3 provide a timely and effective mechanism for staff, students and others to express their concerns or make complaints when they occur so that options for a resolution can be identified as soon as possible;
  - 1.1.4 define what complaints can be handled under this Policy;
  - 1.1.5 ensure concerns and complaints are handled impartially, justly, confidentially and with the appropriate sensitivity;
  - 1.1.6 define the responsibilities and rights of staff, students, visitors and managers in resolving concerns and complaints.

## **2. SCOPE**

- 2.1 This Policy applies to all members of the University.
- 2.2 This Policy does not apply to decisions of the University Council or the Academic Senate.

## **3. DEFINITION OF A COMPLAINT**

- 3.1 A complaint is an expression of concern, dissatisfaction or frustration with the quality or delivery of service, a policy or procedure, or the conduct of another person.
- 3.2 The University has set down special procedures for the handling of certain types of complaints, for example these include appeals about academic judgments and concerns raised by members of the public. The procedures for dealing with these complaints are specifically identified in the complaint procedures approved under this Policy.

## **4. RESPONSIBILITIES**

- 4.1 The Vice-Chancellor is responsible for:
  - 4.1.1 providing leadership in demonstrating a commitment to the resolution of complaints made to the University;
  - 4.1.2 ensuring there is an effective, timely, impartial, and just system for dealing with complaints;
  - 4.1.3 making final decisions relating to complaints within the University process.
- 4.2 The University Ombudsman is responsible for:
  - 4.2.1 overall management and monitoring of complaints handling within the University;
  - 4.2.2 providing independent and impartial advice and assistance to managers or supervisors who have received and are handling a complaint;

- 4.2.3 providing independent, impartial and confidential information to complainants about the procedure for dealing with complaints including listening to the issues and helping the person clarify the facts;
  - 4.2.4 conducting internal reviews of complaints in both process and content;
  - 4.2.5 identifying systemic issues arising from complaints and making recommendations to management.
- 4.3 Managers and supervisors are responsible for:
- 4.3.1 exercising primary responsibility for receiving and resolving complaints and any conflict in their areas in a timely and fair way;
  - 4.3.2 advising people of their right to make a complaint where appropriate;
  - 4.3.3 providing advice and assistance to people who have a complaint.
- 4.4 Complainants are responsible for:
- 4.4.1 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;
  - 4.4.2 engaging openly in the complaint handling process, including participating in discussion with other parties to resolve the concerns;
  - 4.4.3 responding to University requests for information in a timely manner;
  - 4.4.4 respecting those individuals involved in the complaint handling process.
- 4.5 Respondents are responsible for:
- 4.5.1 providing a clear and honest account of their concerns and their expectations for the outcome of the complaint, including providing all relevant information and documents to assist in the investigation and/or resolution of the matter;
  - 4.5.2 engaging openly in the complaint handling process, including participating in discussion with other parties to resolve the concerns;
  - 4.5.3 responding to University requests for information in a timely manner;
  - 4.5.4 respecting those individuals involved in the complaint handling process.

## **5. COMPLAINT HANDLING PRINCIPLES**

The following principles underpin the University's complaint handling processes:

- 5.1 Access: this Complaints Policy and its associated procedures should be easily accessible, simple to understand and well-publicised to ensure ease of implementation. All members of the University community should understand how to receive and pass on complaints. The complaint will be handled in a timely manner, taking into account the complexity and seriousness of the issues raised; to ensure that all parties have access to an appropriate resolution and that opportunities for further concerns to arise are minimised. All members of the University community will be supported in trying to resolve complaints at the

lowest level possible (where appropriate) to ensure timely and efficient handling and reduce the potential for unnecessary escalation of concerns. Each local Complaints Procedure shall abide by the Principles espoused in this overarching Policy; (refer clause 10).

- 5.2 Natural Justice and Procedural Fairness: all parties will be afforded natural justice and procedural fairness in the handling of complaints by the University including:
- 5.2.1 ensuring that all parties to a complaint know what to expect during the complaint handling process;
  - 5.2.2. carrying out the complaint handling process in a transparent manner;
  - 5.2.3. providing all parties with equal opportunity to participate in the process;
  - 5.2.4 treating all parties in a respectful manner; and
  - 5.2.5 providing reasons for decisions made.
- 5.3 Equity: actions and decisions in relation to complaints will be made having regard to the age, culture, disability, language, religion, gender and sexuality of the parties. The University will always endeavour to investigate concerns raised with it regardless of the manner in which they are expressed, having regard for clause 6.2 of this Policy. A complainant will not be disadvantaged through lodging a complaint in good faith, regardless of the outcome. Complainants and respondents will be entitled to be assisted by a support person which may be a member of the person's family, a friend, carer or other person (not being a solicitor, barrister or other legally trained person);
- 5.4 Confidentiality and Recording: the privacy and confidentiality of parties will be respected to the extent practicable and appropriate; with acknowledgment that matters may be subject to production under the Freedom of Information Act or may be subject to subpoena. Accurate records will be kept by each staff member dealing with the complaint, including recording of reasons for all significant decisions; (refer clause 9.3)
- 5.5 Resolution: where it is within the University's responsibility, fair and reasonable remedies will be offered where appropriate. There will be regular monitoring, review and reporting of complaints received, actions taken. The operation of the complaints handling process and findings will be reported to management and the Council to improve the University's service delivery and workplace environment. Preventative and corrective action will be taken to eliminate the causes of complaints and to improve the quality of the University's policies and operating environment.
- 5.6 Authority: individuals involved in handling complaints will have the necessary authority and management support to carry out the process effectively, and will have (where specific skills are required, such as mediation) access to appropriate training and resources to fulfil their role.
- 5.7 Conflict of Interest: Individuals involved in the handling of a complaint, or investigating or adjudicating on a complaint, must not act in any complaint in which they have a conflict of interest.

## **6. RIGHTS OF STAFF INVOLVED IN COMPLAINT HANDLING**

- 6.1 University staff are entitled at all times to be treated with respect and courtesy when handling complaints.
- 6.2 Where a person involved in a complaint behaves in a threatening, rude or harassing manner toward staff, the Vice-Chancellor may decline to further consider the complaint and institute proceedings for misconduct against the person under applicable rules or policies of the University or refer the matter to an external agency.

## **7. UNIVERSITY MAY DECLINE COMPLAINTS**

The University may decline to deal with a complaint at any time where the University Ombudsman forms the view that:

- 7.1 the complaint is
- 7.1.1 frivolous
  - 7.1.2 vexatious
  - 7.1.3 not made in good faith
  - 7.1.4 misconceived
  - 7.1.5 lacking in substance
  - 7.1.6 lacking in currency
  - 7.1.7 declined by the Vice-Chancellor as at 6.2;
- 7.2 a claim has been commenced (either by the complainant or the University) in a court or before another judicial authority;
- 7.3 the subject matter of the complaint has been lodged with an external agency and it is more appropriate for the matter to be dealt with by that agency;
- 7.4 the subject matter of the complaint may be more appropriately dealt with by an external agency;
- 7.5 the University has already dealt with the substance of the complaint in the past. Note: at 7.2, 7.3 & 7.4) all internal processes should be completed and implementation of recommendations not unduly delayed.

## **8. REFERRAL OF COMPLAINTS**

- 8.1 In general, the University will consult with the complainant to identify how the complainant wishes the complaint to be handled and the outcomes the complainant is seeking without reference of the matter to third parties.
- 8.2 However, where the conduct complained about amounts to serious misconduct (e.g. serious risk to the health and safety of staff or students), to a criminal offence, or where mandatory reporting is legislated, the University has an obligation to deal with the matter under the relevant rules and to refer the matter to the Police or other agency for investigation e.g. WorkCover.

## **9. RECORDS**

- 9.1 Accurate written records must be kept of all communications that form part of the complaint process. This includes notes taken of conversations between the parties which relate to management of the complaint and all decisions made in relation to the complaint. All records must be marked "Confidential".

- 9.2 Only the people who are directly involved in the complaint, or in helping to resolve it, are to have access to information about the complaint.
- 9.3 All documentation of complaints managed under this Policy will be held by the University Ombudsman. Complaint documentation is to be kept separate from personnel or student administration files, and these should be annotated only where a person has had a penalty imposed as result of disciplinary action as an outcome under this Policy.

**10. TIME LIMITS**

- 10.1 The time limit set out in the procedures approved under this Policy must be complied with if reasonably practicable. It is recognised that time delays may be experienced where communication is required off-campus or with other contracted service providers. In exceptional circumstances, where it is not possible for an action to be completed within the time limit, steps must be taken to ensure that the process is completed within a reasonable time. Under such circumstances the complainant will be kept informed of the progress.
- 10.2 While staff must endeavour to comply with time limits, no action or determination made under the procedures is invalidated simply because a time limit is exceeded.
- 10.3 A reference to days means working days, that is, days on which the University ordinarily opens for business, unless otherwise stated.

**11. DECISION-MAKING**

- 11.1 The overriding intent of the Complaints Policy and its associated procedures is to ensure that complaints are dealt with in a fair and impartial manner and that complaints are resolved in a timely and effective way.
- 11.2 Where the application of this Policy, or the procedures made under this Policy, would lead to a process or result that is inconsistent with the principles of natural justice or procedural fairness, or the adoption of a different approach would lead to a more timely and efficient resolution of a complaint, the staff member handling the complaint may vary the procedures to the extent necessary. In general, a decision to adopt procedures that are inconsistent with the procedures established by the University should be discussed with the University Ombudsman before implementation and communicated to the parties, including the reasons for the decision.

**Table of amendments**

Version number	Date	Short description of amendment