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Procedure for internal review of complaints

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Short description	A procedure for the internal review of complaints made by students or staff. To be read in conjunction with the Complaints Policy.
Relevant to	All
Responsible officer	University Secretary
Responsible office	Office of Corporate Governance
Date approved	31 August 2007
Date commenced	31 August 2007
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Next scheduled review	30 August 2010
Related University documents	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
Related legislation	<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>
Key words	Regulations, staff, visitor, policy, procedure, legal, complaints, grievance, mediation, bullying, discrimination, misconduct, victimization, vilification, natural justice

1. PURPOSE

The purpose of this Procedure is to set out the processes for dealing with internal reviews of final decisions with respect to complaints made to the University.

2. SCOPE

This Procedure applies to all members of the University community for the management of internal reviews of final decisions with respect to complaints that have been dealt with under the:

- (a) "Procedure for handling workplace complaints"; and
- (b) "Procedure for handling student complaints"; and
- (c) Any other matter that was referred under a policy or procedure of the University for internal review under this procedure.

3. INTERNAL REVIEW

3.1 A person ('the applicant') involved in a complaint lodged under the "Procedure for handling working place concerns" or the "Procedure for handling student concerns" may lodge an application for an independent internal review of a decision. An internal review may be requested by any of the parties to a complaint.

3.2 A request for an internal review must:

- 3.2.1 state the ground under subclause 3.3 on which the application is lodged;
- 3.2.2 contain all the documentary information and arguments the applicant intends to rely upon in support of their application;
- 3.2.3 be lodged with the University Ombudsman within 10 working days of a final decision under the relevant procedures ('the due date'), using the Request for Internal Review form approved by the University Secretary.

3.3 Upon receipt of a request for an internal review by the due date, the University Ombudsman will assess the application and determine whether the party or parties applying for the internal review have provided *prima facie* information that shows on balance that:

- 3.3.1 there was a failure by the manager or supervisor involved in handling the complaint to deal with the matter in accordance with the principles of procedural fairness; or
- 3.3.2 the decision was manifestly unreasonable;
- 3.3.3 significant new information has come to light that a party did not have at the time of the decision, or could not by reasonable diligence have obtained at that time, and that the information is likely to have affected the decision made by the manager or supervisor.

3.4 A decision of the University Ombudsman, under sub-clause 3.3 is final.

3.5 Where the University Ombudsman forms the view under sub-clause 3.3 (a) or (b) that the applicant has provided sufficient information to show that there may have been a failure of procedural fairness, or that the decision was manifestly unreasonable in all the circumstances, the University Ombudsman shall conduct an internal review in accordance with clause 4.

- 3.6 Where the University Ombudsman forms the view under sub-clause 3.3 (c) that significant new information has come to light, the University Ombudsman shall refer the matter back to the original decision-maker for re-consideration of their decision.

4. CONDUCTING THE INTERNAL REVIEW

- 4.1 Upon receipt of an application for internal review the University Ombudsman shall conduct an internal review.
- 4.2 The University Ombudsman may, with the consent of the University Secretary, appoint another officer of the University or an independent external person to conduct the internal review. Where an appointment is made under this sub-clause, the person appointed shall hold the authority of University Ombudsman for the purposes of the conduct of the internal review.
- 4.3 An internal review shall be a review of the documents supplied by the parties and shall not require an interview with the parties unless the University Ombudsman, or the person appointed by the University Ombudsman, determines otherwise.

4.4 Determination

After considering the material relied on during the Internal Review, the University Ombudsman must make a determination (where practicable) within twenty-one (21) days. The determination may either:

- 4.4.1 confirm all or part of the decision made and the action taken in the initial conduct of the complaint; or
- 4.4.2 send all or part of the decision back to the original decision-maker for re-consideration outlining the reasons why; or
- 4.4.3 refer the matter to the Vice-Chancellor with recommendations under sub-clause 4.5
- 4.5 **Referral to the Vice-Chancellor with recommendations**
Where the University Ombudsman forms the view that the matter should be referred to the Vice-Chancellor with recommendations, the matter will be referred through the University Secretary within five (5) days. The recommendations may include remedial or follow-up action to be taken as a result of the issues raised during the review. The report must be in writing, marked confidential and signed and dated by the University Ombudsman.
- 4.6 The Vice-Chancellor shall consider the report from the University Ombudsman under 4.5 and may:
- 4.6.1 decline to act on any or all of the recommendations; or
- 4.6.2 approve any or all of the recommendations; or
- 4.6.3 make a different recommendation(s); or
- 4.6.4 any combination of the above.

5. REFERRAL

5.1 Unresolved Complaint

If the complaint remains unresolved after an internal review has been conducted, then the person with the complaint may refer the matter to an external agency for review, including but not limited to:

- (a) Anti-Discrimination Board of NSW
- (b) Human Rights and Equal Opportunity Commission
- (c) Independent Commission Against Corruption
- (d) NSW Ombudsman

Table of amendments

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