



# Complaints and Appeals Policy

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| <b>Category/Business Group</b>       | <b>Education Group</b>           |
| <b>Published Externally (Yes/No)</b> | <b>Yes</b>                       |
| <b>Approver</b>                      | <b>Chief Executive Officer</b>   |
| <b>Responsible Officer</b>           | <b>General Manager, Services</b> |
| <b>Contact Officer</b>               | <b>ESOS Compliance Officer</b>   |
| <b>Effective Date</b>                | <b>2/10/2020</b>                 |
| <b>Next Review Date</b>              | <b>2/10/2023</b>                 |
| <b>Version</b>                       | <b>3</b>                         |

## Policy Approval

|                       |                            |                       |
|-----------------------|----------------------------|-----------------------|
| <b>Approver (CEO)</b> | <b>Responsible Officer</b> | <b>Policy Officer</b> |
| Laurie Pearcey        | Vicki Drewe                | Hayley Alderton       |
| Date: 9/11/2020       | Date: 2/10/2020            | Date: 6/11/2020       |

### UNSW College

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## 1 Background

UNSW College is committed to delivering a high standard of education and training services to all of its students. One way that UNSW College fulfils this commitment is by ensuring that all students (both domestic and international) have access to a robust and fair complaints and appeals process.

Additionally, UNSW College has obligations under the *Education Services for Overseas Students Act 2000 (ESOS Act)*. The ESOS Act regulates the delivery of education and training courses to overseas students who come to Australia to study on a student visa. One of the functions of the ESOS Act is to set up a National Code which provides standards for all registered providers including UNSW College.

Standard 10 of the National Code requires UNSW College to have complaints and appeals processes that are independent, easily and immediately accessible and inexpensive for the parties involved.

## 2 Purpose

This policy explains how UNSW College handles complaints and appeals made by UNSW College students or applicants. It contains the process to be followed by the students or applicants if they wish to make a complaint or appeal a decision.

## 3 Scope

Subject to the exclusions outlined in this section, this policy applies to:

- (a) UNSW College, its employees and contractors;
- (b) all UNSW College students who have accepted UNSW College Conditions of Enrolment and paid the first instalment of their fees;
- (c) all applicants who formally applied to be enrolled at UNSW College; and
- (d) any third party providing services on UNSW College's behalf to UNSW College students or applicants.

This policy does not apply to:

- (a) UNSW Diploma students (please refer to UNSW's Complaint Management Policy framework)
- (b) Third Party Test Candidates (a Third Party Test Candidate who wishes to lodge a Complaint should refer to the Third Party Test Day Complaints Procedure).

## 4 Definitions

**Appeal** means a written appeal against a decision made by UNSW College lodged in accordance with this policy.

**Appellant** means a person specified in the scope of this policy who makes an appeal in accordance with this policy.

**Complaint** means an expression of dissatisfaction, described in section 6 below, and lodged in accordance with this policy.

**Complainant** means a person specified in the scope of this policy who makes a complaint in accordance with this policy.

**DHA** means the Department of Home Affairs.

**ESOS Act** means the *Education Services for Overseas Students Act 2000*.

**National Code** means the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* established under the ESOS Act.

**Third Party Test Candidate** means a person, whether or not they are a UNSW College Student, who takes a language test, which is conducted by UNSW College at a Test Centre on its premises on behalf of a third party organisation. Examples include:

- International English Language Testing System (**IELTS**), which is conducted by UNSW College on behalf of IELTS Australia Pty Ltd;
- Test of English as a Foreign Language (**TOEFL**) which is conducted by UNSW College on behalf of Educational Testing Services (**ETS**); or
- Occupational English Test (**OET**) which is conducted by UNSW College on behalf of Cambridge Boxhill Language Assessment Trust (CBLA)

**UNSW College Student** means a student who is enrolled with UNSW College to study a program of studies which is delivered by UNSW College (excluding Diploma students).

**Vexatious Complaint** means a complaint without merit, which intends to cause inconvenience, harassment or expense to UNSW College.

## 5 Policy Statement

UNSW College is committed to complaint and appeal processes which help ensure that UNSW College students have a fulfilling and rewarding learning experience.

### 5.1 UNSW College's Commitment to Procedural Fairness

The following principles apply to the complaint and appeal processes set out in this policy:

- (a) where possible and appropriate, Complaints are handled informally by the original decision maker, Customer Service or a Student Adviser;
- (b) all Complaints and Appeals are finalised within a reasonable timeframe, taking into consideration factors such as the length of the UNSW College student's visa and the student's enrolment in future subjects and/or programs, where applicable;
- (c) the principles of procedural fairness and natural justice apply to all Complaints and Appeals;
- (d) where Complaints are about a person's behaviour, all parties involved in the Complaint or Appeal must maintain confidentiality about the complaint or appeal;
- (e) notes and documentation are kept at all stages of the Formal Review and Internal Appeal Process (Stages 2 and 3) including records of meetings, discussions and actions proposed or taken;
- (f) information and records about a Complaint are confidential and should only be disclosed to staff of UNSW College or UNSW staff with direct involvement in the process to enable proper investigation of the matter. However, UNSW College may disclose records about a Complaint to its legal advisers, insurers and, if necessary, to an external agency;
- (g) all Complainants who seek a Formal Review or an Internal Appeal under Stages 2 and 3, will be provided with a written statement of the outcome of their complaint or appeal, including the reasons for the decision; and
- (h) at any stage a Complainant may decide to withdraw a Complaint or an Appeal. Where the Stage 2: Formal Review Process or the Stage 3: Internal Appeal Process is underway, any withdrawal must be in writing (this may be by email). In most instances UNSW College will then deem the Complaint or Appeal resolved.

## 5.2 Complainants' Rights Under This Policy

All Complainants accessing the Complaints and Appeals processes set out in this policy can expect the following:

- (a) there is no direct cost to a Complainant for making a Complaint or requesting an Appeal;
- (b) Complainants will not suffer any reprisal as a result of lodging a Complaint or an Appeal;
- (c) Complainants may be accompanied by a support person during the Complaints and Appeals process;
- (d) a UNSW College Student's enrolment will be maintained while the Complaint and Appeal process is ongoing; and
- (e) Complainants may choose to have their Complaint reviewed by an external complaint handling body (see section 7.4).

## 5.3 Complainants' Obligations Under This Policy

Similarly, Complainants who engage in the Complaints and Appeals process set out in this policy are expected to:

- (a) act in good faith;
- (b) avoid making Vexatious Complaints;
- (c) provide proper documentation where required;
- (d) meet timeframes stipulated under this policy; and
- (e) maintain confidentiality where a Complaint is about a person's behaviour (see section 6.2 below).

## 6 Types of Complaints

There are three types of Complaints within the scope of this policy:

### 6.1 Complaints About Academic Decisions and Matters

Students may make a Complaint about academic decisions and matters where any of the following apply:

- (a) the Complaint relates to a lack of procedural fairness or inconsistent application of UNSW College policy or procedure; or
- (b) the UNSW College Student does not consider the matter has been satisfactorily resolved under the relevant UNSW College policy or procedure, for example, they are not happy with the outcome of their request for a remark, or the UNSW College Student does not believe they should have received a letter indicating UNSW College's intention to report the UNSW College Student to the DIBP for unsatisfactory academic progress or attendance.

### 6.2 Complaints About a Person's Behaviour

Complainants may make a Complaint relating to the behaviour of:

- (a) other UNSW College Students of or applicants to UNSW College;
- (b) academic staff (including contract staff and guest lecturers);
- (c) professional and technical staff (including casual and contract staff); and

- (d) people external to UNSW College with whom UNSW College Students interact as part of a program of studies.

Where UNSW College considers that the behaviour complained about may amount to misconduct or serious misconduct, other agreements, laws and policies, such as the Student Misconduct Policy, will also apply.

### **6.3 Complaints About Administration or Process**

Complainants may make a Complaint relating to administrative issues or processes including Complaints about the inconsistent application of UNSW College policy or procedure, denial of procedural fairness, failure to provide rights and incorrect advice leading to detriment. Examples include: any Complaints about administrative processes such as changes to enrolment, classes or program stream.

## **7 Complaints and Appeals Process**

In most circumstances Complaints from UNSW College Students follow a four-stage process:

### **7.1 Stage 1: Informal Complaint Process**

This approach is suitable for straightforward issues that are urgent but not serious, or administrative in nature. Complainants are encouraged to attempt to resolve their Complaint informally by getting in touch with the original decision maker, Customer Service or a Student Adviser.

Stage 1: Informal Complaints are not generally made in writing.

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Examples of informal Complaints include:

- late return of assessment results
- disagreement over marks
- teacher quality feedback
- wrong information provided by staff
- wrong COE issued
- wrong attendance recorded
- customer service feedback
- class and timetabling changes
- facilities/Wi-Fi Complaints
- Complaints about homestay providers
- Complaints about airport pickups

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### **7.2 Stage 2: Formal Review Process**

To be used where the Stage 1: Informal Complaint Process does not resolve the Complaint or in the case of overseas UNSW College Students, the UNSW College Student has received a written notification from UNSW College, such as a letter indicating an intention to report the UNSW College Student to the DIBP.

Stage 2: Formal Reviews must be requested in writing.

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Examples of Complaints that may be submitted to formal review:

- incorrect issuing of intention to report
  - refusal to issue a release letter
  - refusal to change stream
  - all unresolved informal Complaints
  - refusal of repeat request
  - bullying and harassment
  - decision to cancel enrolment
  - refusal to issue a refund
  - refusal to allow leave of absence
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### 7.3 Stage 3: Internal Appeal Process

An Appellant may appeal a decision made in the Stage 2: Formal Review Process or any decision or outcome arising from student misconduct.

Appeals may be made on the grounds of lack of procedural fairness only. Procedural fairness, also known as natural justice, is a principle of law concerned with the procedures used by the decision maker, rather than the outcome reached.

There is no right to appeal the merits of the decision. In other words, an Appellant has no right of appeal simply because they do not agree with the decision.

Stage 3: Internal Appeals must be made in writing.

If the outcome of the Appeal (internal or external) is favourable to the Appellant, UNSW College will implement any decision and/or corrective action required.

### 7.4 Stage 4: External Appeal Process

An Appellant may lodge and Appeal with the relevant external agency, a decision made in the Stage 3: Internal Appeal Process, or otherwise at any point during the internal Complaints and Appeals process. Appellants should be aware that external agencies may require them to have lodged a Complaint or Appeal with UNSW College before they become involved.

Appellants should also be aware that there is more than one external body that deals with Complaints and Appeals from UNSW College Appellants and they should take care to direct their Complaint or Appeal to the correct external body (see section 9 below). Appellants should visit the websites of the external bodies or contact the external agency directly if they have any questions or require more information.

When an external Appeal is lodged by an overseas UNSW College Student against the UNSW College's decision to report the overseas UNSW College Student for unsatisfactory course progress or attendance, UNSW College will maintain the overseas UNSW College Student's enrolment and not report the UNSW College Student for unsatisfactory progress or attendance until the external Appeal process is complete.

## 8 How to Make a Complaint or Appeal

If you need help or have questions about the Complaints and Appeals process, speak to a Student Adviser or Customer Service. You can make an appointment in person at the Student Services Centre or via email at [student.support@unswcollege.edu.au](mailto:student.support@unswcollege.edu.au).

## Stage 1: Informal Complaint Process

- You are encouraged to attempt to resolve issues that arise informally, by contacting either the original decision maker, Customer Service or a Student Advisor. This should be done as soon as possible after the issue arising.

## Stage 2: Formal Review Process

- If the Stage 1: Informal Complaint Process does not resolve the Complaint, you may begin the Stage 2: Formal Review Process.

### • **You Must:**

- Email a Stage 2: Formal Review Form to [complaintsandconduct@unswcollege.edu.au](mailto:complaintsandconduct@unswcollege.edu.au) Hardcopy forms are also available from, and may be submitted to the Student Services Centre.
- Lodge the Stage 2: Formal Review Form within 10 working days (20 working days in relation to ITRs) of the issue arising or receiving a response to your Stage 1: Informal Complaint.

### • **We Will:**

- Refer your Complaint to the appropriate person for investigation and resolution.
- Acknowledge your Complaint within 10 working days of receiving your Stage 2: Formal Review Form and, in some cases, contact you to arrange an interview.
- Inform you the outcome of your Complaint, including the reasons for the outcome, within 10 working days of the acknowledgement of your Complaint, or of any interview conducted.

## Stage 3: Internal Appeal Process

- If you wish to appeal the outcome of a Stage 2: Formal Review Process, you may begin the Stage 3: Internal Appeal Process to have the matter reviewed by the UNSW College Appeals Committee (or the Compliance Committee if you are appealing against findings of serious misconduct).

### • **You Must:**

- Email a Stage 3: Internal Appeal Form to [complaintsandconduct@unswcollege.edu.au](mailto:complaintsandconduct@unswcollege.edu.au) Hardcopy forms are also available from, and may be submitted to the Student Services Centre.
- Lodge the Stage 3 Internal Appeal Form within 10 working days of receiving the written outcome of your Stage 2: Formal Review Process.

### • **We Will:**

- Acknowledge your appeal within 10 working days of receiving your Stage 3: Internal Appeal Form.
- Submit your appeal to the UNSW College Appeals Committee, who will determine the outcome of your appeal within 20 working days of receiving your Stage 3: Internal Appeal Form.
- Send you a written statement of the outcome of your appeal, including the reasons for the outcome, within 10 working days of the appeal hearing by the UNSW College Appeals Committee.

## Stage 4: External Appeal Process

- If you are not satisfied with the outcome of the internal complaints and appeals process you may refer the matter to an external body for an independent review (see section 9 below).
- If you commence an external appeal, so that your enrolment can be maintained during the appeals process, you must inform us in writing by emailing [complaintsandconduct@unswcollege.edu.au](mailto:complaintsandconduct@unswcollege.edu.au)



## 9 External Appeal Bodies

### 9.1 UNSW Foundation Studies

Unless the complaint is about discriminatory or criminal behavior of a person, all UNSW Foundation Studies students or applicants should appeal to the [NSW Ombudsman](#).

### 9.2 UNSW Institute of Languages

Unless the complaint is about discriminatory or criminal behavior of a person, UNSW Institute of Languages students or applicants should appeal to one of the external bodies listed below:

- (a) Domestic Students
  - (i) The [Tertiary Education Quality Standards Agency \(TEQSA\)](#) or [National Training Complaints Hotline](#) if your Complaint is about your program of study, curriculum, etc.;
  - (ii) [NSW Fair Trading](#) if your Complaint is about the refund of fees; or
- (b) Overseas Students
  - (i) The [Tertiary Education Quality Standards Agency \(TEQSA\)](#) if your complaint is about your program of study, curriculum etc.;
  - (ii) If your complaint is about actions and decisions of UNSW College, you should appeal to the [Overseas Student Ombudsman](#).

### 9.3 Complaints About a Person's Behaviour

- (a) *Discriminatory Behaviour*: complaints that relate to the discriminatory behaviour of a person (whether in relation to age, disability, race or sex) should be referred to the Australian Human Rights Commission or the Anti-Discrimination Board of NSW.
- (b) *Criminal Behaviour*: complaints that relate to the criminal behaviour of a person should be referred to the NSW Police.

## 10 Where This Policy Does Not Apply

UNSW College may refuse to make the Complaints process available for:

- (a) To Complaints of Third-Party Test Candidates. Third Party Test Candidates who wish to lodge a Complaint should refer to UNSW College's Third Party Test Day Complaints Procedure.
- (b) Complaints about decisions or actions of UNSW (including their staff, for example, security and UNSW Library staff);
- (c) Complaints which are made more than 10 working days after the issue first arises (in which case the Complaint will be dealt with at UNSW College's discretion); or
- (d) Matters where a more suitable alternative process is applicable.

## 11 Legal and Policy Framework

This policy complies with and implements the *ESOS Act* and Standard 8 of the *National Code*.

### 11.1 Responsibilities

- (a) *Approver* - the Chief Executive Officer is responsible for the approval of this policy.
- (b) *Responsible Officer* - the General Manager, Services is responsible for the implementation, dissemination and review of this policy.
- (c) *Contact Officer* - the ESOS Compliance Officer is responsible for the day to day



implementation of this policy and is the first point of contact for all enquiries that relate to this policy.

- (d) *Administration and publication* - the ESOS Compliance Officer is responsible for the administration and publishing of this policy.
- (e) *Staff, Supervisors and Executives* -UNSW College staff, supervisors and executives are responsible for assisting in the implementation of and adherence to this policy.

## 11.2 Review

This policy is due for review three (3) year from its date of implementation or in case of legislative changes governing the delivery of education services to Overseas Students on a student visa.

## 12 Linked Documentation

- (a) Student Handbook
- (b) Stage 2: Formal Review Form
- (c) Stage 3: Internal Appeal Form

## 13 Related Policies and Procedures

- (a) ESOS Complaints and Appeals Procedure
- (b) Part-time English and Language Courses Complaints and Appeals Procedure

## 14 Version History

| Version Control | Date Effective | Approved By    | Amendment Notes   |
|-----------------|----------------|----------------|---|
| 3.0             | See page 1     | Laurie Pearcey | Updated to remove Diplomas from the Scope section – UNSW Sydney’s policy framework applies (in conjunction with any UNSW College local processes made pursuant to the relevant policy). Removed RTO references.   |
| 2.1             | 1 January 2018 | E. Drummond    | Reflect changes made to the National Code, company letterhead   |
| 2.0             | 1 January 2016 | E. Drummond    | <ol style="list-style-type: none"> <li>1. Changes to the ‘Scope’ of the Policy: Applicants and RTO students added to the scope. Test Candidates excluded from the Policy.</li> <li>2. Changes to the ‘Definitions’ section: definitions of ‘Appellant’, ‘Complainant’, ‘RTO’, ‘Test Candidate’ and ‘Vexatious Complaint’ added.</li> <li>3. Point 9.2 b) added to explain the requirement of external review by independent party applicable to RTO Students under the Standards for RTOs 2015</li> </ol> |