

# University Ombudsman Rule

## Appointment

- (1) The Vice-Chancellor shall appoint a Chief University Ombudsman and one or more persons to be University Ombudsman at the University of New England.
- (2) The Chief University Ombudsman and the University Ombudsman shall be responsible:
  - a. to the Vice-Chancellor; or
  - b. if the Vice-Chancellor has a conflict of interest, to the Chancellor, in which case all references to the Vice-Chancellor in rules (Report of Investigation and Action on Report) below shall apply equally to the Chancellor.

## Complaints

- (3) A complaint may be made by a registered student or by a person who was a registered student at the time of the conduct to which the complaint relates or by a member of staff or a person who was a member of staff at the time of the conduct to which the complaint relates.
- (4) A complaint may relate to the process by which a decision was reached or an action was taken by any member of staff, or by Committees, Boards, or any unit or group within the University or acting under the authority or auspices of the University.
- (5) An approach to the Chief University Ombudsman may be made in the first instance orally.
- (6) A complaint will be addressed to the Chief University Ombudsman.

## Jurisdiction

- (7) Where the Chief University Ombudsman has jurisdiction under this clause, he/she has authority to investigate complaints and to report on whether the appropriate process and procedures have been established and followed and to make recommendations as to possible improvements in process and procedures.
- (8) When dealing with complaints relating to matters under academic jurisdiction the Chief University Ombudsman:
  - a. will act solely to determine whether correct procedures have been established and followed; and
  - b. will not under any circumstances purport to exercise academic judgment.
- (9) On receipt of a complaint or information, the Chief University Ombudsman shall decide whether or not such a complaint falls or would fall within the role and functions of the Chief University Ombudsman. The complaint shall be dismissed if one or more of the following grounds apply:
  - a. the complaint is frivolous, trivial, or not in good faith;
  - b. except as provided in clause (8)a the complaint relates to a matter under academic jurisdiction, including the nature or content of courses or teaching, research or assessment, or the making or withholding of academic awards or entitlements;
  - c. the complainant has an insufficient self-interest in the matter;

- d. the conduct complained of occurred at too remote a time to justify investigation;
- e. in relation to the conduct complained of there is or was available to the complainant an alternative and satisfactory means of redress;
- f. the conduct complained of is not of a character that concerns the University of New England within its functions, responsibilities and powers as defined in the University Act and the By-law;
- g. the complaint is already the subject of an appeal to the Student Conduct Appeals Committee or the Vice-Chancellor under the Student Behaviour Misconduct Rules; or
- h. the complaint relates to issues that are covered under the terms of the University's Workplace Agreement or an Australian Workplace Agreement.

(10) Where the Chief University Ombudsman forms the view that there is no jurisdiction under this clause the complainant shall be informed in writing of the reasons for the decision.

(11) The Chief University Ombudsman, on the request of the Vice-Chancellor, shall have jurisdiction, subject to the University Ombudsman Rules, to investigate and report on the question of whether applicable and appropriate procedures have been followed regardless of the fact that a complaint in terms of clauses 3-6 has not been received.

## **Referral**

(12) The Chief University Ombudsman will normally conduct the inquiry.

(13) When this is not possible, the Chief University Ombudsman will assign the matter for inquiry to a specific University Ombudsman and in such cases:

- a. the complainant will be informed of the identity of the person who will conduct the inquiry; and
- b. all references to the Chief University Ombudsman in rules (Access to Information to Action on Report) below, except those in rule (23), shall apply equally to the University Ombudsman.

## **Access to Information**

(14) For the purpose of deciding whether there is jurisdiction and for the purpose of any subsequent inquiry, the Chief University Ombudsman shall be given access, on a confidential basis, to all University records and documents relating to the complaint.

## **Conduct of Inquiry**

(15) If the Chief University Ombudsman forms the view that there is jurisdiction to proceed, the Chief University Ombudsman shall require the complainant to make a written statement of the matter which the complainant wishes to have investigated.

(16) Upon receipt of a complaint in writing the Chief University Ombudsman shall decide the form and procedures to be adopted in the inquiry.

(17) The Chief University Ombudsman will normally provide a copy of the complainant's statement to the person(s) against whom the complaint has been made.

(18) Where the Chief University Ombudsman deems it desirable, the Chief University Ombudsman may convene a conference to discuss the complaint at which both parties are invited to be present.

## **Report of Investigation**

(19) At the conclusion of an enquiry, if in the opinion of the Chief University Ombudsman:

- a. the complaint has been settled and no further action is needed, the Chief University Ombudsman shall send a short report to the Vice-Chancellor and to the complainant;
- b. the complaint has not been resolved, the Chief University Ombudsman shall make a written report to the Vice-Chancellor and to the persons involved. The Chief University Ombudsman will normally include their views and recommendations on the matter. In such a case, the persons involved shall be informed that they may make a submission in writing to the Vice-Chancellor;
- c. the complaint warrants no further action or no further action can be taken, the Chief University Ombudsman may decline to proceed further and shall notify the complainant and the Vice-Chancellor in writing of this decision.

(20) Where the Chief University Ombudsman believes that a matter has arisen which requires further action, the Chief University Ombudsman may make recommendation to any appropriate officer of the University.

(21) Where the Chief University Ombudsman believes that a serious matter of principle has arisen during an investigation, the Chief University Ombudsman may submit to the Vice-Chancellor a written interim or final report.

(22) In any case where the Chief University Ombudsman submits a report, the Chief University Ombudsman shall inform the parties to the complaint that a report has been made and will normally give the parties a copy of the report and shall indicate to them what further procedures, if any, have been recommended.

(23) A report on an inquiry undertaken by the Chief University Ombudsman will be signed by the Chief University Ombudsman; a report on an enquiry undertaken by a University Ombudsman will be signed by the relevant University Ombudsman and the Chief University Ombudsman or by two University Ombudsmen if the Chief University Ombudsman has a conflict of interest.

## **Penalties**

(24) The Chief University Ombudsman shall have no power to impose penalties.

## **Action on Report**

(25) On receipt of a report from the Chief University Ombudsman characterised under (19)b, (20) or (21), the Vice-Chancellor will consider the recommendations made by the Chief University Ombudsman and accept or reject the recommendations.

(26) The decision to accept or reject the recommendations shall be explained to each complainant in writing by the Vice-Chancellor. The Chief University Ombudsman who delivered the report will routinely receive a copy of such explanation.

(27) Following finalisation of a review, the Vice-Chancellor shall report the matter and the decision to the Council of the University.

## **Right of Appeal**

(28) A complainant who remains dissatisfied at the conclusion of this process may exercise her or his right of recourse to the NSW Ombudsman.

## **Annual Report**

(29) In February each year the Chief University Ombudsman shall present to the Vice-Chancellor an annual report summarising the actions taken under these rules during the previous year.



## Status and Details

<b>Status</b>	Historic
<b>Effective Date</b>	27th July 2015
<b>Review Date</b>	6th March 2015
<b>Approval Authority</b>	Council
<b>Approval Date</b>	5th October 2007
<b>Expiry Date</b>	12th August 2016
<b>Unit Head</b>	Kate McNarn Director Governance and University Secretary
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