

Complaints Policy - UNE Representatives not covered by Enterprise Agreements

Section 1 - Overview and Scope

(1) The purpose of this Policy is to assist to provide a fair and consistent approach to managing the resolution of complaints and grievances involving the University of New England and UNE Representatives who are not covered by a UNE Enterprise Agreement, including for example, persons employed on a common law contract, independent contractors and/or members of the Council.

(2) This Policy applies to a Complaint that is:

- a. made by a UNE Representative not covered by the UNE Enterprise Agreements;
- b. made in relation to a UNE Representative not covered by a UNE Enterprise Agreement (other than where the complaint is made by an employee covered by a UNE Enterprise Agreement); and
- c. not within the scope of other UNE rules, policies or procedures.

(3) Within this Policy:

- a. Part A outlines the guiding principles;
- b. Part B outlines the informal complaints resolution mechanism; and
- c. Part C outlines the formal complaint resolution approach.

Part A - Guiding Principles

(4) A complaint process that is consistent with the University's values and [Code of Conduct](#) principles, as well as [guidance by the NSW Ombudsman](#) regarding complaint handling and ensures:

- a. the right of individuals who make or have Complaints made against them to have those Complaints dealt with promptly and be treated fairly, and with respect;
- b. natural justice and procedural fairness;
- c. impartiality;
- d. confidentiality as far as is appropriate;
- e. support and protection for all parties; and
- f. a non-adversarial approach.

(5) The general process for dealing with Complaints is set out in Parts B and C. However, the University is not bound by this and adopts a flexible approach to handling Complaints. The University Officer has the authority and discretion to handle each Complaint in a manner and by a process or procedure as they consider appropriate in the circumstances and which promotes resolution in a way that is fair and efficient.

Protecting and supporting parties

(6) All Complaints should be genuine and made in good faith. Vexatious, false, or misleading allegations could expose

the Complainant to the risk of legal proceedings such as defamation or disciplinary action being taken against the Complainant by the University.

(7) University Officers who assist with complaint handling should inform themselves about this University Policy, and seek support from People and Culture in the first instance where they have questions. University Officers should also first consider and disclose any potential conflicts of interest or seek advice on a potential conflict of interest from People and Culture or Head of Internal Audit, before accepting a complaints handling role.

Support: University Officers are encouraged to check “associated information” relating to this Policy or contact People and Culture for more information about the complaints process, tools and tips. University Officers might also like to access the [NSW Ombudsman online module](#) for “frontline complaint handlers”.

(8) Free, confidential and professional counselling is available for UNE Representatives through the [Employee Assistance Program \(EAP\)](#) or the student [Counselling and Psychological Services \(CAPS\)](#).

(9) During the Complaint process, the University may make appropriate arrangements, including, but not limited to:

- a. changes to role, reporting lines and/or delegations;
- b. engaging independent internal or external mediators; and
- c. providing parties the opportunity for Support Persons.

(10) The University, Complainant, Respondent and witnesses must maintain confidentiality during the investigation. However, for reasons including (without limitation) natural justice and procedural fairness, resolution, future conduct of and dealings with individuals concerned and record keeping, the University Officer may inform those who need to know.

(11) Complaints of a serious nature may qualify as being disclosures to which legislative protections apply and relevant policies, such as the [Public Interest Disclosure and Whistleblower Policy](#).

(12) Where a criminal offence has been committed disclosure to appropriate authorities may be required.

(13) Misconduct or unsatisfactory performance are matters between an employee and the University. If the University Officer determines that a Complaint is in substance an allegation of misconduct or unsatisfactory performance against the other party, then the resolution of the Complaint is a matter between the University and the other party in accordance with University processes and procedures. Whilst a Complainant has the right to make a Complaint, and to provide evidence in support of the Complaint, the Complainant does not have standing to pursue a complaint of misconduct or unsatisfactory performance against another party.

Raising Complaints

(14) A Complaint should be raised promptly with a University Officer, and within six months of the event or action occurring. Complaints can be initially raised in person or in writing but will need to be confirmed in writing.

(15) If an alleged event or action is reported that occurred more than six months prior ago, and there are not special circumstances, the University Officer may decide to not to take action. A note of the report may be kept and considered if the event or action reoccurs.

Part B - Informal approach to resolving Complaints

(16) The University provides both informal and formal methods that are consultative and collaborative as set out in the tables below.

(17) A party to the complaint may decide to have a Support Person present during the formal complaint resolution process.

Table 1 - Direct resolution

1. Discuss	2. Raise Informal Complaint
Complainant discusses the matter directly with the Respondent to explain the concern and listens to any response with the aim of finding a mutually satisfactory resolution. Or, if unable to discuss directly, the Complainant can raise an informal Complaint directly with the University Officer.	If not satisfactorily resolved or behaviour continues: - parties can raise an informal Complaint with the University Officer.

Table 2 - Informal Complaint stages

1. Consult	2. Resolve	3. Implement
University Officer holds discussions with the Complainant and Respondent independently or together to: - gather facts; and - provide opportunities to respond.	University Officer assists the parties to collaboratively identify a satisfactory resolution (University Officer acts as mediator/conciliator or may appoint an internal or external mediator/conciliator): - parties agree actions to resolve; and - parties commit to resolution.	All parties implement the agreed resolution. The Complaint is closed.

Part C - Formal Complaint resolution

(18) The formal complaint process (see Table 3) can only be used when:

- a Complaint has not been resolved through the informal process; or
- the University Officer determines the informal process is not appropriate or a Complaint requires a formal process for reasons including (without limitation) to ensure the Guiding Principles of Part A are met.

(19) A party to the complaint may decide to have a Support Person present during the formal complaint resolution process.

(20) The University Officer will, having considered resources (see clause 7), determine the appropriate process/es to be followed in the formal resolution phase in consultation with the parties and which may include one or more of the following stages in Table 3 - Formal Complaint resolution.

Table 3 - Formal Complaint resolution

1. Conciliate	2. Investigate	3. Resolve
<p>Official documentation of the Complaint, proceedings, and outcomes.</p> <p>Implement any required interim workplace arrangements to protect the parties and University interests.</p> <p>Formal consultative discussions held with Complainant and Respondent independently or together.</p> <p>Opportunity is provided to parties to put their case and respond.</p> <p>Recommend appropriate actions to resolve the Complaint and seek agreement from the parties.</p> <p>Commit to undertaking resolution actions.</p>	<p>Where no agreement and commitment to a conciliation or conciliated resolution actions are not implemented, an investigation of the Complaint may be undertaken with the aim of ascertaining a recommended resolution.</p> <p>An investigation may include but is not limited to, preliminary investigations and inquiries (for less serious matters where basic facts are unclear) or investigations by an internal or external investigator (more serious matters).</p> <p>Following an investigation, a recommendation may be made to the Senior Officer about further steps towards resolution of the Complaint or about how to respond to the findings of the investigation.</p>	<p>The recommendation is considered by the Senior Officer and appropriate action is taken to implement a resolution or respond to the findings.</p> <p>The Complaint is closed.</p>

(21) The Senior Officer is responsible for identifying the appropriate person/s to undertake the investigation and be the University Officer. The appointed person will not have potential conflicts of interest.

(22) Unless a party to the Complaint, the Vice-Chancellor and Chief Executive Officer may determine at any time (including while a Complaint is being addressed) that it is more appropriate to appoint a different person as the University Officer, providing reasons. An external party may be engaged to act as the University Officer.

(23) Where a party to the Complaint elects not to participate in the formal process:

- the University Officer will notify the Senior Officer of the recommended resolution; and
- the Senior Officer will decide on the resolution to be implemented consistent with the [UNE Act](#) and the [University By-Laws](#), Rules, policies and procedures.

Section 2 - Authority and Compliance

(24) This Policy is made by the Council consistent with section 29 of the [University of New England Act 1993 \(NSW\)](#).

(25) The Custodian of this Policy, the Chief Operating Officer, is authorised to make minor administrative updates and procedures to this Policy.

(26) This Policy is not a term of any contract, including any contract of employment and may be amended by the University at any time.

Table 4 - Summary of Roles and Responsibilities

Role	Responsibility
University Officer	<p>Manage and facilitate the informal and formal resolution processes using the principles in Part A.</p> <p>Ensure all parties are made aware of the process and provide supporting material.</p> <p>Redirect any complaints or grievances that are outside the scope in Section 1, Clause (2) to the appropriate process or mechanism. Seek advice from University directorates as required.</p> <p>Engage an internal or external person to act as an alternative University Officer, mediator, conciliator or investigator to meet the principles in Part A.</p> <p>Recommend and implement any arrangement under Clause (9).</p> <p>Keep records of the Complaint, parties, proceedings and course of action according to the Records Management Rule, ensuring the privacy of the content is maintained.</p> <p>Ensure that the resolution is implemented.</p>
Complainant and Respondent	<p>Participate in the informal and formal resolution processes using the principles in Part A.</p> <p>Provide information to support the process.</p> <p>Maintain confidentiality of the matter.</p> <p>Demonstrate why a direct resolution and/or informal approach are not appropriate before commencing a formal Complaint resolution.</p> <p>Seek any independent legal advice as required.</p>
Senior Officer	<p>Consider recommendations and determine appropriate action/s.</p> <p>Seek advice from University directorates as required.</p>
Director People and Culture or their delegate	<p>Recommend and implement any arrangement under Clause (9).</p> <p>Provide advice to the University Officer and Senior Officer (which may include Council) as requested.</p>
UNE Legal	<p>Provide advice to the University Officer and Senior Officer (which may include Council) as requested.</p>
UNE Council	<p>Approve any recommended arrangement under Clause (9) that required changes to role, reporting lines and or delegations of the Chancellor or Vice-Chancellor and Chief Executive Officer.</p> <p>Remove any member of the Council from office for breach of duty as defined in Schedule 2A of the University of New England Act 1993 (NSW).</p>

(27) This Policy operates as and from the Effective Date.

Quality Assurance

(28) The implementation of this Policy will be supported by the Chief Operating Officer regularly monitoring and providing an annual report to the Vice-Chancellor and Chief Executive Officer and to the Remuneration Committee of Council on the operation of, and compliance with, this Policy.

Section 3 - Definitions (specific to this Policy)

(29) Complainant – means a UNE Representative who has a Complaint within the scope of this Policy.

(30) Enterprise Agreements – means the [UNE Academic and English Language Teaching Staff Enterprise Agreement 2020-2022](#) and the [UNE Professional Staff Enterprise Agreement 2019-2022](#), as extended, replaced or varied from time to time.

(31) Complaint – means a complaint or grievance by a UNE Representative about a problem or concern in relation to their employment or engagement at the University, including but not limited to workplace related bullying, harassment or discrimination.

(32) Respondent – means the UNE Representative who engaged in the behaviour, or made the decision, that the Complaint relates.

(33) Senior Officer – means a UNE Representative authorised to approve the recommendation of the formal Complaint

process. The UNE Senior Officer must be, at a minimum, the next level in the reporting line to the University Officer. If the Complaint concerns the Vice-Chancellor and Chief Executive Officer, or Deputy Vice-Chancellor, the Senior Officer for the purpose of this procedure is the UNE Council. However, the University may determine at any time (including while a Complaint is being addressed) that it is more appropriate to appoint a different person as the Senior Officer. An external party may be engaged to act as the University Officer.

(34) Support Person – means an independent person who provides emotional support to a party.

(35) University Officer – means the person authorised to handle the Complaint on behalf of the University. Generally, the University Officer is the supervisor of the Complainant. If the Complaint is about the supervisor, then the next level of management or an appropriately trained and nominated officeholder with a separate reporting line from the supervisor will be the University Officer. If the Complaint concerns the Vice-Chancellor and Chief Executive Officer, the University Officer for the purpose of this procedure is the Deputy Chancellor on behalf of UNE Council. However, the University may determine at any time (including while a Complaint is being addressed) that it is more appropriate to appoint a different person as the University Officer.

(36) Gather facts – means in this Policy and in relation to the informal complaint process, to collect relevant information about the complaint from both the complainant and the respondent and potentially others, including when the complaint arose, who was involved, where and why it occur etc, so there is an record of the key factors that triggered the incident and/or the complaint.

(37) Provide opportunities to respond – means in this Policy and in relation to the informal complaint process, allowing each of the parties, i.e. the complainant and the responder, to have their say and to hear and respond to the other party. The University Officer might bring the parties together or act as a ‘go between’ each of the parties.

(38) An Investigation – in this Policy means a structured approach including observation, review and questioning/interviews with complainant and responder (and potentially witnesses and other contacts of the parties involved) to document in detail the sequence of events and facts relating to an incident(s) or complaint(s). An investigation may look beyond a single incident and will generally result in a formal report and recommendation for action.

Status and Details

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Approval Date	4th November 2021
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Unit Head	Jo Scanlan Chief Operating Officer 61267733036
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Glossary Terms and Definitions

"UNE Representative" - Means a University employee (casual, fixed term and permanent), contractor, agent, appointee, UNE Council member, adjunct, visiting academic and any other person engaged by the University to undertake some activity for or on behalf of the University. It includes corporations and other bodies falling into one or more of these categories.