



University of
South Australia

Student complaints resolution

POLICY NO: C-17.5

DATE OF APPROVAL: 1 April 1996

AMENDMENTS:

- Senior Management Group – September 1998
- Senior Management Group – December 2003
- Director: Student and Academic Services – June 2005
- University Council – January 2013
- Director, Chancellery and Council Services – February 2018

REFERENCE AUTHORITY: Vice Chancellor

CROSS-REFERENCES:

- Code of Ethical Conduct
- Code of Good Practice: Relationships between staff and students
- Code of Good Practice: Research degrees management and supervision
- Code of Conduct for Students
- Guidelines for best practices in UniSA work placements within Australia
- Guidelines for students on use of IT facilities, including email and the internet
- Guidelines on Electronic Communications with Students
- Assessment Policies and Procedures Manual
- A-46: Confidentiality of students' personal information
- C-1: Inclusive language
- C-2: Equal opportunity
- C-6: Occupational Health, Safety, Welfare and Injury Management
- C-7: Students with disabilities
- C-9: Security on campus
- C-12: Sexual harassment
- C-19: Prevention of violence on campus
- C-21: Anti-racism
- C-22: Acceptable use of Information Technology (IT) facilities
- RES-10 Higher Degrees by Research, and regulations
- University of South Australia Statute 7 – Student Misconduct
- University of South Australia Enterprise Agreement 2014
- University of South Australia Senior Staff Collective Agreement 2006
- Student Ombud Protocols

The following legislation applies as amended from time to time:

- *Age Discrimination Act 2004* (Cwth)
- *Disability Discrimination Act 1992* (Cwth)

- Workplace Gender Equality Act 2012 (Cwth)
- *Fair Work Act 2009* (Cwth)
- *Human Rights and Equal Opportunity Commission Act 1986* (Cwth)
- *National Code of Practice for Providers of Education and Training to Overseas Students 2018 (The National Code 2018)*
- *Racial Discrimination Act 1975* (Cwth)
- *Sex Discrimination Act 1984* (Cwth)
- *Equal Opportunity Act 1984* (SA)
- *Work Health and Safety Act 2012 (SA) and associated regulations*
- *Racial Vilification Act 1996* (SA)
- *University of South Australia Act 1990* (SA)
- *Whistleblowers Protection Act 1993* (SA)
- *Return to Work Act 2014* (SA)

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Purpose

The University of South Australia (UniSA) is committed to providing a harmonious work and study environment for all members of its community.

Scope

This policy provides a framework for resolving student complaints at UniSA. It defines parties' responsibilities and outlines the procedures for making or responding to a complaint.

The policy includes student complaints about:

- academic programs (clause 15)

- the decisions of UniSA committees or groups (clause 15)
- the administrative decisions and/or procedures of any unit or group within UniSA or acting under the authority or auspices of UniSA. (clause 15) UniSA staff. (clause 16)
- another student (clause 17)

It includes complaints about bullying, discrimination or harassment as defined in this policy.

It includes complaints about service providers that UniSA has an arrangement with to deliver services as part of, or relating to, a student's program or studies.

It does not include complaints regarding matters of academic judgement (such as final grades and preclusion) that are addressed in UniSA's academic and research policies.

All references to 'Executive Dean' include the Academic Director: UniSA College and the Academic Director: UniSA Online.

Definitions

For the purpose of this policy, the following definitions apply:

Bullying means the repeated unreasonable ill treatment of a person by another or other people. It consists of offensive, abusive, belittling or threatening behaviour directed at an individual or group that a reasonable person would expect to create a risk to the emotional, mental or physical health of the person(s) affected or targeted.

Complaint means a verbal or written communication from a student who believes they have been treated unfairly or inappropriately, either by a staff member or student of UniSA, through their dealings with a UniSA service provider, or as a result of UniSA policies and procedures which fall within the scope of this policy.

Complainant means a student who has lodged a complaint under the provisions contained within this policy.

Discrimination means treating an individual and/or group in employment or education less favourably than others, or causing them disadvantage on any of the grounds specified in the relevant legislation.

Examples of discrimination include but are not limited to:

- making denigrating verbal or written comments or jokes relating to the attributes specified in the relevant legislation
- displaying or distributing denigrating written or pictorial material, graffiti, clothing or badges relating to the attributes specified in the relevant legislation
- expressing stereotypes relating to the attributes specified in the relevant legislation
- using UniSA facilities to recruit students or staff to organisations or groups which advocate unlawful discrimination or harassment

Harassment is a deliberate, aggressive act which can be a form of bullying if it is repeated or persists over a period of time. Harassment may also be considered unlawful discrimination if it is associated with attributes covered by federal and/or state anti-discrimination legislation (e.g. age, sex, race, disability etc). See also 'Sexual Harassment'

Manager or supervisor means the relevant Executive Dean, deans, directors of research institutes, directors of central units, convenor or chair of a UniSA committee or group.

Natural Justice (also called 'procedural fairness') depends on the circumstances of the matter and is generally a process that seeks to ensure fairness to all parties. It includes the following principles:

- all parties must be given an opportunity to present their case
- the respondent must be provided with notice and information about allegations made against them
- the respondent must be given a reasonable timeframe within which to respond

- the decision maker must:
 - act fairly and without bias
 - declare any conflict of interest
 - consider all relevant evidence before the decision maker
 - base any decision on evidence that supports it
- all parties must be informed of the decision in relation to the complaint, and the reasons for that decision

Respondent means the person or persons whose alleged behaviour or action/inaction is the subject of the complaint.

Senior manager means Provost & Chief Academic Officer, Deputy Vice Chancellors, Pro Vice Chancellors and the Chief Operating Officer.

Service provider means any party that UniSA has an arrangement with to deliver services as part of, or relating to, a student's program or studies.

Sexual Harassment means unwelcome sexual behaviour or sexual innuendo that has the effect of offending, intimidating or humiliating a person in circumstances which a reasonable person having regard to all the circumstances would have anticipated that the person harassed would be offended, humiliated or intimidated.

Student Ombud is a UniSA staff member who is authorised by the Vice Chancellor to conduct enquiries and take action to resolve complaints raised by students under this policy. The Student Ombud operates within UniSA under terms of reference approved by the University Council. Although part of UniSA, the Student Ombud is independent and impartial.

Support person means a person who provides assistance to any party to a complaint.

Victimisation means an act by a person which causes another person involved in the complaint, other than the respondent, to be intimidated or coerced; or suffer a detriment or disadvantage, or be otherwise treated unfavourably; or the threat of such conduct, on the grounds that the person made or is proposing to make a complaint, or has or is proposing to provide information about a complaint, or otherwise asserting their legal rights.

Policy

1. Complaint resolution procedures will be conducted in accordance with the principles of natural justice as appropriate in the circumstances, as determined by UniSA from time to time.
2. UniSA will take reasonable steps to ensure that students and staff are aware of this policy and that it is accessible. All staff and students will receive information about this policy during orientation and/or induction programs.
3. Where possible a complaint will be dealt with at the local level and will involve as few people as possible. Complaints should not be escalated before attempting local resolution.
4. Any party to a complaint may be assisted or accompanied by a support person at relevant meetings, but may not have legal representation.
5. Requests for anonymity by the complainant will be considered on a case by case basis by the staff member managing the complaint. This will include consulting with the support person and/or the complainant as appropriate. Staff requiring guidance on this matter should seek advice from their line manager or the Student Ombud.
6. A complainant may withdraw their complaint at any time.
 - a. The complainant must promptly advise the staff member managing the complaint that the complaint has been withdrawn. This advice must be provided in writing.

- b. The staff member managing the complaint will advise all parties within two working days that the complaint has been withdrawn.
 - c. UniSA may still choose to investigate the complaint.
- 7. A student has the right to lodge a complaint with an external body (see clause 14.7). Where this occurs, UniSA may take further action in response to the complaint following the external body's determination.
 - 8. Any action arising from a complaint will be implemented in accordance with the relevant UniSA statute or industrial instrument, if applicable.
 - 9. Penalties may be instituted against anyone who victimises or retaliates against a complainant or a support person of either party.
 - 10. Nothing in this policy detracts from the provisions contained in relevant UniSA statutes, by-laws and policies.

Roles and Responsibilities

11. Responsibilities of UniSA staff and students

- 11.1 All staff and students are responsible for contributing to a harmonious work and study environment.
- 11.2 All staff and students must respect the rights of both the complainant and the respondent in accordance with the principles of natural justice.
- 11.3 All staff and students who have access to information regarding a complaint must ensure that this information is disclosed only to those legitimately involved in resolving the complaint, or as authorised or required by law.
- 11.4 A staff member or student who is approached by a complainant seeking to discuss allegations of bullying, discrimination or harassment should recommend that the complainant seek advice and information from the Student Ombud.
- 11.5 A staff member or student who is approached by a complainant seeking to discuss any other form of complaint under this policy should recommend that the complainant seek advice and information from:
 - a. Campus Central, or
 - b. a USASA student advocate, or
 - c. a UniSA Online Course Facilitator
- 11.6 Any staff member who is approached by a student seeking to discuss a complaint must decline or withdraw their involvement if there is, or could be, a real, perceived or potential conflict of interest. In these cases the staff member must refer the student to an appropriate alternative source of assistance.

12. Responsibilities of managers and supervisors

- 12.1 Managers and supervisors are responsible for:
 - a. having a working knowledge of this policy and the procedures for dealing with student complaints
 - b. ensuring that their staff, including any staff on short term contracts, are informed of this policy
 - c. arranging and/or supporting staff development initiatives designed to promote understanding of diversity and equal opportunity, and UniSA's complaints handling procedures

- d. ensuring that the requirements of natural justice are met when investigating student complaints
- e. acting to resolve student complaints that fall within their responsibility under this policy
- f. taking corrective and/or preventative action and/or making recommendations to address issues arising from the complaint
- g. meeting the requirements for confidentiality and record keeping as detailed in clause 19 of this policy.

12.2 Where a manager or supervisor

- a. is implicated in a complaint, or
 - b. there is, or could be, a real, perceived or potential conflict of interest in dealing with the complaint,
- the matter must be referred to their line manager.

13. Responsibilities of the Student Ombud

13.1 The Student Ombud is responsible for:

- a. ensuring that this policy is accessible to all staff and students via the University website
- b. ensuring that the services of the Student Ombud are available to all students regardless of location or mode of study
- c. providing education, training and advice to staff in relation to complaints handling procedures
- d. ensuring that the requirements of natural justice are met when investigating complaints from students
- e. acting to resolve complaints
- f. taking corrective and/or preventative action and/or making recommendations to address issues arising from the complaint
- g. meeting the requirements for confidentiality and record keeping as detailed in clause 19 of this policy
- h. monitoring and reviewing the implementation of this policy and procedures
- i. providing an annual report to University Council

13.2 With the exception of complaints about bullying, discrimination or harassment, the Student Ombud will normally only intervene in a complaint when all other avenues for resolution have been exhausted. However any party to a complaint may seek advice from the Student Ombud at any stage.

Procedures

14. General Procedures

14.1 The primary objective of these procedures is to achieve a fair and reasonable resolution of a complaint.

14.2 A complainant should first seek information and advice about options for resolving their complaint from:

- a. Campus Central, or
- b. a USASA student advocate, or
- c. a UniSA Online Course Facilitator

14.3 Where the complainant chooses to lodge a written complaint, the complaint must

- a. state the basis of the complaint
- b. contain specific details
- c. be signed by the complainant in printed or electronic form.

- 14.4** The staff member managing the complaint must acknowledge the complaint (whether verbal or written) in writing within two working days, commence the resolution process within ten working days of the initial contact from the complainant, and take reasonable measures to finalise the process as soon as practicable.
- 14.5** The complainant must be provided with a written statement of the outcome, including the reasons for the outcome and the contact details of the appropriate external appeals body, within five working days of the resolution of the complaint.
- 14.6** International students who lodge a complaint must be advised that their enrolment will be maintained while the internal complaints resolution process is ongoing.
- 14.7** Complainants may refer complaints to one of the following external bodies at minimal or no cost. The appropriate external body will depend on the nature of the complaint.
- the Office of the State Ombudsman of South Australia
 - the Equal Opportunity Commission of South Australia
 - the Australian Human Rights Commission
 - ESOS mailbox or ESOS helpline (for international students)
- Information about referring matters to external bodies can be found on their respective websites.

15. Complaints about academic programs; decisions of UniSA committees or groups; or administrative decisions and/or procedures

- 15.1** A student may initiate a complaint about:
- academic programs (content or structure)
 - course or program delivery
 - assessment methods
 - administrative procedures or decisions
 - access to resources
 - a decision made by a UniSA committee or group
- 15.2** Wherever possible, the complainant should first discuss their complaint with the staff member who has immediate responsibility. The complainant may do this independently or with the assistance of a support person. The aims of the discussion are to:
- establish the basis of the complaint
 - achieve a resolution of the complaint
- 15.3** Where the complaint is not resolved through discussion, the complainant may lodge a complaint with the relevant manager/supervisor. The parties listed in clause 14.2 can help the complainant to identify the manager/supervisor best placed to address the complaint.
- 15.4** The manager/supervisor will acknowledge receipt of the complaint in writing within two working days of receiving the complaint. The letter will include information about the complaints resolution process. The manager /supervisor will commence an investigation within ten working days.
- 15.5** If, following investigation, the complaint is not substantiated, the complainant will be advised in writing within five working days that the matter will not proceed further within UniSA.
- 15.6** If, following investigation, the complaint is substantiated, the manager/supervisor will:
- implement changes or recommend changes to the appropriate person or committee to redress the issue

- b. advise the complainant in writing within five working days of the resolution of the complaint including:
 - i. the outcome
 - ii. the reasons for the outcome
 - iii. further avenues of complaint
 - c. ensure the equitable treatment of other students who may have been affected.
- 15.7** If the matter cannot be resolved at the local level, either the complainant or the manager/supervisor may refer the matter to the relevant senior manager (see Definitions).
- 15.8** If the matter remains unresolved following investigation by the senior manager, either the complainant or the senior manager may refer the matter to the Student Ombud.
- 15.9** If the complainant is dissatisfied with the outcome following investigation by the Student Ombud, the complainant may lodge a complaint with an external body such as those listed in clause 14.7.
- 15.10** If a complaint is referred directly to the Vice Chancellor before the process outlined above has been undertaken, the Vice Chancellor will normally refer it to the relevant manager/supervisor.

16. Complaints about a UniSA staff member

- 16.1** Wherever possible, the complainant should first discuss their complaint with the staff member concerned. The complainant may do this independently or with the assistance of a support person. The aims of the discussion are to:
- a. establish the basis of the complaint
 - b. enable communication between the complainant and the respondent
 - c. achieve a resolution of the complaint
- 16.2** Where the complaint is not resolved through discussion, the complainant may lodge a complaint with the relevant Executive Dean/director. The parties listed in clause 14.2 can help the complainant to identify the head of school/director best placed to address the complaint. If the Executive Dean/director determines that the complaint is trivial and/or vexatious, they will advise the complainant in writing within five working days that the matter will not proceed further within UniSA.
- 16.3** Any allegations of misconduct/serious misconduct by a staff member must be referred to the Executive Director: People, Talent and Culture for consideration, investigation and action under UniSA's relevant industrial instruments. The relevant Deputy Vice Chancellor/Pro Vice Chancellor must also be advised of the allegations.
- 16.4** Complaints that do not involve misconduct/serious misconduct are most appropriately resolved in accordance with the following process.
The Executive Dean/director will:
- a. acknowledge receipt of the complaint in writing within two working days of receiving the complaint. The letter will include information about the complaint resolution process and the respondent's rights, including the right to natural justice
 - b. discuss the matter with the respondent. This should include:
 - i. providing details of the complaint. Where the complaint has been lodged in writing, the respondent should be provided with a copy of the complaint (see clause 5 and clause 19.1.b)
 - ii. explaining the effect of the alleged behaviour on the complainant
 - iii. providing information about the respondent's rights, including the right to natural justice

- iv. providing information about relevant support services, UniSA policy, procedures and external legislation (see Cross References)
- v. advising that victimisation will not be tolerated
- c. discuss the complaint with the complainant, with the aim of resolving the complaint
- d. provide a written confirmation of the outcomes of the complaint to all parties within five working days of the resolution of the complaint.

16.5 If the matter cannot be resolved at the local level, either the complainant or the Executive Dean may refer the matter to the Student Ombud.

16.6 If the complainant is dissatisfied with the outcome following investigation by the Student Ombud, the complainant may lodge a complaint with an external body such as those listed in clause 14.7.

16.7 If a complaint is referred directly to the Vice Chancellor before the process outlined above has been undertaken, the Vice Chancellor will normally refer it to the relevant Executive Dean/director.

17. Complaints about another student

17.1 Wherever possible, the complainant should first discuss their complaint with the student concerned. The complainant may choose to do this independently or with the assistance of a support person. The aims of the discussion are to:

- a. establish the basis of the complaint
- b. enable communication between the complainant and the respondent
- c. achieve a resolution of the complaint.

17.2 Where the complaint is not resolved through discussion, the complainant may lodge a complaint with the relevant Executive Dean. The parties listed in clause 14.2 can help the complainant to identify the Executive Dean best placed to address the complaint. If the Executive Dean determines that the complaint is trivial and/or vexatious, they will advise the complainant in writing within five working days that the matter will not proceed further within UniSA.

17.3 The Executive Dean will:

- a. acknowledge receipt of the complaint in writing within two working days of receiving the complaint. The letter will include information about the complaint resolution process and the respondent's rights, including the right to natural justice.
- b. discuss the matter with the respondent. This should include:
 - i. providing details of the complaint. Where the complaint has been lodged in writing, the respondent should be provided with a copy of the complaint (see clause 5 and clause 19.1.b)
 - ii. explaining the effect of the alleged behaviour on the complainant
 - iii. providing information about the respondent's rights, including the right to natural justice
 - iv. providing information about relevant support services, UniSA policy, procedures and external legislation (see Cross References)
 - v. advising that victimisation will not be tolerated
- c. within 10 working days write to the complainant, the respondent and other relevant staff as appropriate to arrange an informal meeting for the purpose of resolving the issue.
- d. provide a written confirmation of the outcomes of the complaint to all parties within five working days of the resolution of the complaint.

- 17.4** If the matter cannot be resolved at the local level, either the complainant or the Executive Dean may refer the matter to the Student Ombud.
- 17.5** If the complainant is dissatisfied with the outcome following investigation by the Student Ombud, the complainant may lodge a complaint with an external body such as those listed in clause 14.7.
- 17.6** Some complaints may involve matters that are subject to Statute 7. Where the Executive Dean considers that Statute 7 might apply, they must seek advice from the Office of the Vice Chancellor.
- a. If the Vice Chancellor determines that Statute 7 is applicable, the complaint will be addressed using the procedures outlined in Statute 7.
 - b. If the Vice-Chancellor determines that Statute 7 is not applicable, the complaint will return to the head of school for resolution using the process outlined in clause 17.3.
- 17.7** If a complaint is referred directly to the Vice Chancellor before the process outlined above has been undertaken, the Vice Chancellor will normally refer it to the relevant Executive Dean.
- 18. Complaints about a service provider that UniSA has an agreement with to deliver services as part of, or relating to, a student's program or studies.**
- 18.1** A student may initiate a complaint about a service provider that UniSA has an agreement with to provide services that support the delivery of all or part of a student's program.
- 18.2** A student may initiate a complaint about a service provider that UniSA has an agreement with to deliver services relating to and intending to support a student's studies at UniSA. This may include but is not limited to the provision of accommodation and health care services, and for international students, may include the services provided by an education agent.
- 18.3** Wherever possible, the complainant should first discuss their complaint with the service provider. The complainant may do this independently or with the assistance of a support person. The aims of the discussion are to:
- a. establish the basis of the complaint
 - b. achieve a resolution of the complaint
- 18.4** Where the complaint is not resolved through discussion, the complainant may lodge a complaint with the relevant manager/supervisor. The parties listed in clause 14.2 can help the complainant to identify the manager/supervisor best placed to address the complaint.
- 18.5** The manager/supervisor will acknowledge receipt of the complaint in writing within two working days of receiving the complaint, and will commence an investigation within ten working days.
- 18.6** If, following investigation, the complaint is not substantiated, the complainant will be advised in writing within five working days that the matter will not proceed further within UniSA.
- 18.7** If, following investigation, the complaint is substantiated, the manager/supervisor will act to resolve the complaint. The resolution process will be determined by both the nature of the complaint and the contractual arrangements that exist between UniSA and the service provider.
- 18.8** If the matter cannot be resolved, either the complainant or the manager/supervisor may refer the matter to the relevant senior manager (see Definitions).

- 18.9** If the matter remains unresolved following investigation by the senior manager, either the complainant or the senior manager may refer the matter to the Student Ombud.
- 18.10** If the complainant is dissatisfied with the outcome following investigation by the Student Ombud, the complainant may lodge a complaint with an external body such as those listed in clause 14.7.
- 18.11** If a complaint is referred directly to the Vice Chancellor before the process outlined above has been undertaken, the Vice Chancellor will normally refer it to the relevant manager/supervisor.

19. Complaints about bullying, discrimination or harassment on placement

- 19.1.** If a student alleges bullying, discrimination or harassment while on a placement, UniSA will investigate. Where those allegations are substantiated, as determined by UniSA, UniSA will:
- a. act as far as is reasonable and possible to protect the student
 - b. work with the other organisation to investigate and resolve the complaint
 - c. take precautions to prevent recurrence.

20. Confidentiality and record keeping

- 20.1** All records created and held in relation to a complaint must be treated as confidential. This means:
- a. information concerning the complaint will only be made available to a person who:
 - i. has a legitimate role in the complaint resolution process
 - ii. is required or authorised by law to access the information
 - b. if the complainant requests that their complaint be kept confidential, their permission must be obtained before information about the complaint is provided to any other person, subject to natural justice.
- 20.2** A complete written record of all complaints and their outcomes must be kept. This includes:
- a. where the complaint has been substantiated:
 - i. retaining a copy of the record on the respondent's file
 - ii. providing a copy of the record to the respondent, who is entitled to attach comment
 - b. retaining a copy of all correspondence on the student's file in Campus Central
 - c. retaining a record of any corrective and/or preventative action taken in response to the complaint
 - d. providing a copy of the complete record of the complaint to the Records Management Office for archiving.

