Student Complaints Policy

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Responsibility: Executive Director Quality	Date Last Reviewed:
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Purpose

UCOL takes complaints seriously. UCOL is committed to giving the Complainant the opportunity to resolve issues fairly, quickly and cost effectively in accordance with this Policy so they can focus on their study.

Complaint

A complaint is a written adverse comment about UCOL signed by the Complainant, or an issue that has been raised orally by the Complainant and then recorded in writing by UCOL to the Complainant. The complaint must contain sufficient detail to enable UCOL investigation.

Scope

This Policy:

- Applies to conditionally enrolled individuals, currently enrolled and/or former students of UCOL;
- Applies to parents or guardians of conditionally enrolled individuals, currently enrolled, and former students under 18 years old;
- Applies to all UCOL staff involved in the management of student complaints.

Note: this policy does not apply to academic misconduct, such as dishonesty during assessment or plagiarism, or student appeals against a result for a course or component of a course or programme. Where a complaint concerns an academic matter the Chief Executive may, by notice in writing, require the complaint to be dealt with under the Academic Statute (Part VIII: Academic Misconduct, or Part IX: Appeals).

This Policy does not apply to complaints excluded under its provisions (see Exclusion of Complaints section).

Responsibility

All staff are responsible for the implementation of this policy.

Objectives

UCOL is committed to ensuring that the Complainants are able to:

- Voice their opinions within the law;
- Have their opinions treated with respect and;
- Have the opportunity to have their complaints dealt with in a systematic, timely and fair manner.

Complainant's Responsibility

Complainants are responsible for taking a common-sense approach and raising any concerns as soon as they arise with staff, with the aim of resolving them at the earliest opportunity.

Concerns

If Complainants believe that their concern has not been adequately resolved, they maintain their right to have it dealt with via this Student Complaints Policy in accordance with the provisions of this Policy.

Information

Except as required by law, all information relating to complaints, and all reports made and all decisions under this Policy are:

(a) confidential to UCOL; and

(b) are without prejudice, and will not be used in any subsequent proceedings unless UCOL and the Complainant have entered into any agreement in resolution of the complaint. When UCOL and the Complainant have entered into an agreement in resolution of the complaint then only that agreement may be used for enforcement of that agreement.

Complainant Assistance

Where the Complainant has a disability, communication difficulty or is impacted on by any factor that makes it difficult for them to effectively communicate their complaint then the Complainant may nominate, by written notice to UCOL, an agent to act on their behalf and under their instruction.

Procedure upon receiving a Complaint

Upon receiving a Complaint the Executive Dean (who holds primary delegation) must provide a copy of the Complaint to both the Executive Director Quality and the relevant Executive Director, or at the Executive Dean's option provide a copy to the Executive Director Quality and refer the Complaint to the relevant Executive Director.

The Executive Dean or where the Executive Dean has referred the Complaint to the Executive Director then the Executive Director:

- Must, within two working days of receiving the complaint, acknowledge receipt of the Complaint in writing to the Complainant; and
- Must establish and maintain a file of all documentation in relation to the Complaint; and
- Must ensure that any other individual named in the Complaint receives a copy of the Complaint as soon as practicable unless exceptional circumstances exist; and
- May at any time before any written agreement resolving the Complaint is signed by UCOL and the Complainant, decide whether or not the Complaint is excluded from progressing under this Policy because of any of the grounds specified under Exclusion in this Policy in which case advise the Complainant and any other individuals concerned and state the reasons for exclusion.
- May investigate the Complaint or delegate the responsibility of the investigation of the Complaint to another staff member. Where a Complaint alleges unprofessional behaviour or a breach of professional standards, an acknowledged expert selected by UCOL from the specialty/profession may at UCOL's request investigate the Complaint. Results of any investigation will,

subject to the Privacy Act and subject to the UCOL's and/or the Chief Executive's statutory obligations, generally be provided to the Complainant and other individuals involved or a summary of them unless exceptional circumstances exist.

- May at any time do any one or more of the following actions and may take any such action more than once:
    a) negotiate with the Complainant with a view to resolution; and/or
    b) suggest mediation in accordance with this Policy; and/or
    c) issue a proposed decision to the Complainant to give the Complainant an opportunity to comment on the findings before a decision is issued; and/or
    d) give written notice that the Complaint is excluded from this Policy under Exclusions.

Natural Justice

The Executive Dean must consider the Complaint in accordance with the provisions of natural justice and must ensure that all parties to the Complaint are afforded the full benefit of those principles.

Parties named in a Complaint have the right to natural justice; i.e. generally the right to know who has laid the Complaint, the right to representation, and the right to be heard.

The Complainant and other parties named or interviewed relating to a Complaint have a right to have a support person present at the interview. If the Complainant or any party to the Complaint intends to arrange a legal representative as their support person they must notify the meeting convenor in advance as in this situation UCOL will always arrange their own legal representative (meeting scheduling will need to take into account the availability of these legal representatives).

Mediation

Any Complaint may be referred to mediation where there is agreement by the Complainant to participate in mediation. The parties will agree on a suitable person to act as mediator, or where there is no agreement UCOL will ask the Arbitrators' and Mediators' Institute of New Zealand Inc to appoint a mediator.

The mediation shall end by:

a) The conclusion of an agreement by UCOL and the Complainant; or

b) Notice to the parties by the mediator; or

c) Notice by one or more of the parties to the mediator to the effect that further efforts at mediation are no longer justified; or

d) The expiry of 60 working days from the mediator's appointment, unless the parties expressly consent to an extension of this period.

Decisions on Complaint

Where a Complaint has not been excluded under this Policy, or not resolved at mediation, or not withdrawn by the Complainant, or not resolved by negotiation, then this section of the Policy applies.

The Decision Maker must give notice in writing to the Complainant of their proposed decision based on the information available to them and give the Complainant 10 working days to make written comment on the proposed decision. After considering any submissions made the Decision Maker issues their final decision.

The Decision Maker must act in accordance with what is fair and reasonable in the circumstances.

In making a decision, the Decision Maker, will have regard to the law, relevant good practice, the Code and relevant Policy.

The Decision Maker is not bound by rules of evidence or previous decisions.

The Decision Maker must decide the Complaint according to substantive merits and justice and not on technical matters. The Decision Maker may obtain external legal advice before issuing a proposed decision or decisions, which advice will be privileged and not available to the Complainant.

The Decision Maker means either the Executive Dean or the relevant Executive Director.

Should the investigation indicate a need for improvement of an institutional process the matter can be moved outside the process for this purpose, without compromising confidentiality.

Exclusion of Complaints

Unless there are exceptional circumstances in the Executive Dean or Executive Director's opinion, UCOL will not investigate or progress:

- Anonymous complaints or complaints based on hearsay;
- complaints made more than 30 working days after the alleged incident;
- complaints where UCOL receives no response from the Complainant within 90 days;
- Where the purpose of lodging a complaint is not, in UCOL's opinion, a genuine effort to resolve a complaint;
- Complaints that are before the Police until the Police process has finished;
- The complaint is being addressed in another forum;
- The complaint would, in UCOL's opinion, be more appropriately dealt with in another forum;
- The complaint has previously been dealt with under this Policy;
- The complaint is frivolous or vexatious in the opinion of UCOL;
- Even where exceptional circumstances exist, given the age of the complaint, it is no longer feasible, in the opinion of the Executive Dean or Executive Director (as the case may be), to gather sufficient evidence or other information for resolution of the complaint.

Appeals

Any Complainant who is dissatisfied with a decision of the Executive Dean or the Executive Director under this Policy may appeal to the Chief Executive. The Complainant may also appeal a decision to exclude the Complaint under this Policy.

The appeal must be submitted in writing within 28 days of receiving the letter notifying the decision.

The Chief Executive will consider the relevant documentation and may, at his or her discretion, consult the person who made the decision. The Chief Executive may also, at his or her discretion, interview any parties to the complaint.

The Chief Executive may uphold or dismiss the appeal either in whole or in part.

The Chief Executive will communicate the outcome of the appeal to the appellant and all interested parties in writing within 20 working days of receiving the application to appeal.

The decision of the Chief Executive shall be final and there is no right of appeal to Council or elsewhere within UCOL.

When the Chief Executive notifies the parties of the appeal decision, they will also inform the parties of the Ombudsman's role in relation to complaints about tertiary education institutions. If relevant, the Chief Executive will also inform international students on the options available to them.

Other Matters

The Chief Executive has the power to decide any matter not expressly provided for in this Policy.

Records and Reporting

The Executive Director, Quality is responsible for oversight of student complaint records and reporting to UCOL Council.

Relevant Legislation

- Consumer Guarantees Act (1993)
- Crimes Act (1961) and Amendments
- Education Act (1989)
- Employment Relations Act (2000)
- Fair Trading Act (1986)
- Health and Safety at Work Act (2015)
- Human Rights Act (1993)
- Official Information Act (1982)
- Ombudsmen Act (1975) and subsequent amendments to this Act
- Privacy Act (1993)
- Vulnerable Children Act 2014
- International Student Contract Disputes Resolution Scheme (DSR) 2016

Related Documentation

- Education (Pastoral Care of International Students) Code of Practice 2016
- Student Concerns and complaints Procedure
- UCOL Academic Statute
- Student Harassment/Bullying Prevention Policy
- Student Harassment/Bullying Prevention Procedure
- Student Discipline Statute (Non-academic)