



## Document Control

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## Complaints and Appeals Policy

(There are separate policies for the internal management of informal and formal assessment complaints (*Assessment and Assessment Appeals Policy*) and student progress complaints *Course Progress and Intervention Policy*).

### 1. Description

King's Own Institute (KOI) seeks to provide a fair, equitable and productive learning and working environment for all its students and persons seeking to enrol at KOI. This policy seeks to support the achievement of this goal by providing a transparent, timely and consistent process for resolving complaints, grievances and appeals (hereafter referred to as complaints unless specifically indicated otherwise).

### 2. Purpose

KOI's *Complaints Policy* seeks to:

- ensure that the rights of the complainant, the person against whom a complaint is made, and KOI are protected when an eligible person submits a complaint;
- ensure that KOI processes and procedures enable complaints to be resolved as expeditiously and effectively as possible;
- ensure that the resolution of complaints follows standard procedures;
- categorise, collate and publish internal and external complaints procedures in accordance with legislated requirements.

This policy and the associated procedures do not remove the right of any party involved in a complaint to take further action through any other legal remedies or any other responsibilities which arise under other higher education provider policies.

### 3. Policy Principles

The following general principles underpin KOI's approach to the resolution of complaints:

- all current and former students, and persons seeking to enrol at KOI are entitled to access the complaint procedures set out in this policy regardless of the KOI delivery location at which the complaint has arisen, the person's place of residence, or the mode of study;
- KOI is committed to the early and informal resolution of complaints;
- a process is in place for lodging a formal complaint if the matter cannot be resolved informally. This requires a written record of the complaint or appeal to be kept;
- each complainant has an opportunity to formally present his or her case at minimal or no cost to him or herself, and has the right to access the external appeals process at minimal or no cost;
- each party to the complaint may be accompanied and assisted by a support person at any relevant meetings;
- the complainant is given a written statement of the outcome of a formal complaint, including details of the reasons for the outcome and their right to further internal or external appeal;
- KOI has arrangements in place for a person or body independent of, and external to KOI to hear grievances or appeals arising from the internal grievance and appeals process or refer complainants to an existing body where that body is appropriate for the grievance or appeal;
- should a student complainant choose to access the KOI complaints processes in accordance with this policy, KOI will maintain the student's enrolment while the complaints process is ongoing.



## 3.1 Natural Justice and Procedural Fairness

KOI will adhere to the following principles of natural justice and procedural fairness:

- the complainant and respondent will not be victimised or discriminated against in any of the stages set out in this policy;
- all parties to a complaint will know all the allegations affecting them and have a reasonable opportunity to respond;
- all relevant submissions and evidence will be considered;
- matters that are not relevant to the complaint will not be considered;
- persons who make the complaints may not determine the outcome;
- decision makers must be disinterested and unbiased;
- decisions must be based upon evidence;
- anonymous complaints will not be considered;
- KOI reserves the right to decline applications which it deems to be mischievous or vexatious, in which case a complainant may invoke the External Review procedure.

## 4. Examples of the Types of Complaints that may be covered by this Policy

The following matters are included in areas that might be the subject of complaints against any KOI staff member or student:

- non-assessment related complaints and grievances (unresolved complaints);
- non-assessment related appeals;
- complaints relating to curriculum and awards in a course;
- External Appeals relating to student progress following the exhaustion of the Internal Appeals Process;
- External Appeals against assessment decisions following the exhaustion of the Internal Assessment Appeals Process.
- victimisation or bullying;
- harassment or vilification;
- discrimination;
- lack of equal opportunity;
- any matter that arises from a perception of unfair or inappropriate treatment;
- decisions or actions which may adversely affect:
  - a. the work or study of a student;
  - b. the ability of a student to have access to or to enjoy the benefits of KOI;
  - c. the manner in which someone had interpreted or implemented a policy or procedure;
  - d. situations where relevant policies or procedures have not been properly followed;
  - e. the security of personal information held by KOI.
- any adverse or unlawful action or behaviour that a reasonable person would not consider appropriate.

For complaints relating to academic matters such as student progress and assessment, please refer to the *Course Progress and Intervention Policy* and the *Assessment and Assessment Appeals Policy*.

## 5. Timeframes

Specific timeframes are indicated in the stages of the Complaints Management Process (Section 8 below):

- wherever possible complainants should attempt to resolve any complaints in an informal way with the person concerned before beginning a formal complaint process. Any KOI staff member presented with an informal complaint should respond as soon as possible, but no later than five (5) working days of being notified of the complaint;
- the Formal Process commences within ten (10) working days of the formal lodgement of the complaint and supporting information and all reasonable measures are taken to finalise the process as soon as practicable;
- should the internal or any external grievance handling or appeal process result in a decision that supports the complainant, KOI must implement any decision and/or corrective and preventative action required within twenty (20) working days, or as soon as practicable, and advise the complainant of the outcome.



The CEO & Dean may allow a complaint to be lodged after the indicated timeframes. The elapsed time and the situation will be taken into account in deciding whether or not to hear the complaint under this policy.

## 6. Cost to Lodge a Complaint or Appeal

There are no costs involved in the Informal process or Internal Formal processes (See Section 8.1 and 8.2 below).

While there is no cost to lodging a complaint or appeal with most of the external agencies listed in Section 8.3 below, some, e.g. KOI's External Mediator, have costs as identified (current as at 15 July 2015) and some may have fees attached to some processes should the complainant wish to pursue the matter further e.g. taking a matter first raised with Fair Trading (no cost) to the NSW Civil and Administrative Tribunal (NCAT). Students wishing to pursue an external appeal should check the relevant websites for information.

## 7. Staff Complaint Management Training

KOI staff and management are trained in the management and resolution procedures in accordance with the KOI Complaints Management Process in the following ways:

- all designated KOI Administration management and staff receive internal training in the KOI Complaints Management Process and related procedures;
- the process and procedures are available in the Staff Manual;
- as required, additional externally provided training in complaints management and resolution is to be provided.

## 8. Three Stages for Resolving a Complaint

KOI applies a three (3) stage procedure in response to complaints, two (2) internal stages and one (1) external stage. The KOI Complaints Management Process is outlined in Attachment 1.

The first stage for resolution of a complaint involves an informal, local approach. This stage would normally be between the complainant and the other person concerned.

The second stage escalates the complaint to grievance status and involves formal resolution and has two (2) sub-parts:

- the first stage of the Internal Formal Process is the 1<sup>st</sup> Internal Review by the Deputy Dean (Administration);
- the second stage of the Internal Formal Process, should the complaint remain unresolved, is a Final Internal Review by the CEO and Dean.

The third stage is External Review. See Section 8.3 below for External Review Procedures.

Complainants seeking external review in the first instance are encouraged, and often directed by external bodies to seek internal resolution of their complaint or grievance first.

Where it can be demonstrated that there is a conflict of interest, or potential for a perceived conflict of interest, the KOI staff member involved in any stage of the complaint resolution should immediately refer the complaint to the next senior person identified in the Complaints Management Process. Where the conflict of interest relates to the CEO & Dean, the matter will be referred to a member of the Academic Board or Council.

In any Internal process, complainants and respondents have the following rights:

- a) to be present or make an oral presentation to anybody convened to hear the complaint and respond to questions;
- b) to be accompanied and assisted by a support person chosen by them at any relevant meetings;
- c) to receive and respond to any documentation, as appropriate, that is submitted in connection with a complaint;
- d) to have a complaint treated confidentially with details only disclosed with permission, unless KOI has



reasonable grounds for believing the information will be a threat to the life or health of any person, or the disclosure is authorised by law;

- e) to be given a copy of all resolution(s) and reasons for the decision in writing by the relevant designated person.

## 8.1 Informal Procedure

When a problem or issue arises, complainants are encouraged to seek information, advice and resolution from the other person concerned e.g. lecturer, tutor, fellow student etc. Contact may be made either face to face or via email in most instances.

The purpose of informal resolution process is to:

- establish if the issue is a misunderstanding or error;
- achieve a prompt, informal resolution at the local level.

KOI staff and management dealing with an informal complaint will ensure that they:

- a) listen and understand the nature of the complaint;
- b) explore all the options and possible implications for resolving the issue with the complainant;
- c) avoid behaviour that might be misinterpreted;
- d) look for a resolution so that the issue can be resolved at the local level with the least amount of disruption for all parties wherever possible;
- e) where the source of the complaint contains any issues that remain unresolved or are likely to be of concern to other complainants, provide a record of relevant details to the Deputy Dean or relevant designated person so that the issues can be addressed to remove the likelihood of future complaint.

Informal complaints relating to KOI staff should be addressed and resolved wherever possible within ten (10) working days of the complaint. If both parties agree the complaint is resolved, no further action is required. Resolved informal complaints are not recorded except for instances relevant to point 8.1(e) above.

When the complainant believes the complaint is not resolved, but chooses not to proceed to the Formal stage - 1<sup>st</sup> Internal Review - within ten (10) working days of being advised of the resolution of the complaint, the complaint is deemed to be withdrawn.

Where the complaint is of a serious nature, or the complainant does not feel comfortable with attempting an informal resolution, the complainant may proceed directly to Stage 2 Formal Procedure.

## 8.2 Formal Procedure

### 8.2.1 1<sup>st</sup> Internal Review

To make a formal complaint, the complainant may contact the Reception Desk and seek to speak with the Deputy Dean (Administration), or complete the *Complaints Grievances and Appeals Form* (available from Reception and the KOI website [www.koi.edu.au](http://www.koi.edu.au) under *Forms and Policies* tab). Complainants who are unsure how to proceed may seek assistance and advice from any staff member.

Complainants have ten (10) working days from the date of being advised of the resolution to the informal resolution process to lodge a formal grievance if they are dissatisfied with the resolution, or no resolution has been reached.

Complainants bypassing the Informal Procedure should do so within ten (10) working days after the occurrence of the problem or issue. The CEO & Dean may approve an extension of time to lodge a complaint where there are exceptional circumstances.

The 1<sup>st</sup> Internal Review is likely to include the following procedures:

- a) complainants lodge a formal written grievance with the Deputy Dean (Administration) via KOI Reception (usually by completing a *Complaints, Grievances and Appeals Form* available from KOI Reception and the KOI website [www.koi.edu.au](http://www.koi.edu.au) under the *Policies and Forms* tab) – this should be within ten (10) working days of the informal complaint process being undertaken;
- b) complainants outline the incident/issue in writing or agree that notes taken in an interview with the Deputy Dean (Administration) are accurate;
- c) complainant desired outcomes are noted;
- d) the formal grievance is entered in a Complaints Register.



The formal grievance will be impartially assessed by the Deputy Dean (Administration) based on evidence produced by all parties to the grievance. No person party to a grievance may assess the matter.

A mechanism to resolve the grievance will be developed, and all parties to the grievance will be advised verbally and/or in writing of the decision and any resulting actions to be taken - this will include their right to and avenues for further Internal Appeal and External Appeal. The details will be entered into the Complaints Register, and information added to appropriate files and records as necessary.

Wherever possible, formal grievances will be resolved within twenty (20) working days of the grievance being lodged with KOI.

Should the Deputy Dean (Administration) consider the complaint is of a sufficiently serious nature, the matter may be referred directly to the CEO & Dean – the matter will be assessed as described in Section 8.2.2 below.

### 8.2.2 Final Internal Review

Should the complaint or grievance remain unresolved, the complainant may appeal requesting a Final Internal Review by the CEO & Dean. The appeal must be made in writing, clearly stating the grounds for appeal.

The CEO & Dean will review the matter and produce a resolution, or may appoint a Grievance Committee to review the grievance and make final decisions based on all the evidence.

The Grievance Committee shall determine its own procedures in accordance with the principles of natural justice. The Grievance Committee may conduct hearings, authorise investigations, and seek written or oral submissions from people it believes can assist in its deliberations by way of evidence or expert opinion.

The outcome of the Final Internal Review, and any resulting actions to be taken, will be communicated to all parties to the complaint/appeal verbally and/or in writing. This communication will include the right to and avenues for External Appeal. The details will be entered into the Complaints Register, and information added to appropriate files/records as necessary.

The CEO & Dean or the Grievance Committee is the final point of appeal within KOI.

### 8.3 External Review Procedures

If the complainant is not satisfied with the final outcome of the Formal Procedure, the complainant may request that the matter is dealt with through an external dispute resolution process. There are a number of avenues for external dispute resolution which can be followed by any person who believes that a complaint has not been satisfactorily resolved. Unless otherwise stated, first lodgement of a complaint with an External Agency is usually free of charge.

Should KOI consider the matter is not resolved, KOI may also request the matter be resolved using External Mediation with the consent of the complainant.

a) *External Mediation.* The complainant may contact KOI's External Mediator and request mediation of an unresolved complaint and appeal. LEADR is KOI's current External Mediator. Complainants can apply for External Mediation by completing the *Application for External Review* (available from KOI Reception or downloaded directly from LEADR's website <http://www.leadriama.org/membership-information/student-mediation-scheme>). KOI will cover any fees charged by the External Mediator.

Details of LEADR's *Student Mediation Scheme* can be found at <http://www.leadriama.org/documents/item/1205>

LEADR's contact details are:  
Level 1, 13-15 Bridge St, Sydney NSW 2000 Australia  
T: + 61 2 9251 3366 F: + 61 2 9251 3733  
E: [leadr@leadr.com.au](mailto:leadr@leadr.com.au) [www.leadr.com.au](http://www.leadr.com.au)



b) *Overseas Student Ombudsman*. The Overseas Student Ombudsman investigates complaints about problems that overseas students have with private education and training in Australia. Contact details for the Overseas Student Ombudsman are: telephone 1300 362 072; email: [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au) website: [www.oso.gov.au](http://www.oso.gov.au)

c) *Australian Competition and Consumer Commission (ACCC)*. If a person cannot resolve a problem with KOI relating to complaints that are related to the *Competition and Consumer Act 2010*, contact can be made with the ACCC <http://www.accc.gov.au/>

d) *Fair Trading, New South Wales*. If a person cannot resolve a problem with KOI relating to fair trading matters, contact can be made with Fair Trading on 13 32 20. [http://www.fairtrading.nsw.gov.au/ftw/Consumers/Buying\\_services/Education\\_and\\_training.page](http://www.fairtrading.nsw.gov.au/ftw/Consumers/Buying_services/Education_and_training.page)

e) *Tertiary Education Quality and Standards Agency (TEQSA)*. Students studying with a higher education provider are able to contact the Tertiary Education Quality and Standards Agency (TEQSA) to register a complaint about education quality issues <http://www.teqsa.gov.au/complaints>

### 8.3.1 Implementation of External Review Decisions

Following an External Review of an appeal, the CEO & Dean will receive written advice regarding the outcome of the review, and any decided outcomes or further actions. This written advice will be acknowledged within five (5) working days of receipt of the advice.

KOI will advise the complainant of the receipt of the advice and any actions KOI will take as a result.

Depending on the specific contents of the advice, KOI will implement the outcomes and further actions within twenty (20) working days of the receipt of the advice if practicable, or identify appropriate timeline(s) for any course of action not able to be implemented within the timeframe.

The CEO & Dean will advise all relevant parties in writing, providing evidence where relevant, e.g. a revised Policy or Procedure, of the implementation of the External Review outcomes.

## 9. Possible Outcomes from Making a Complaint

Possible outcomes for resolving a complaint or grievance may include (but are not limited to) the following:

- the complaint may be dismissed;
- a personal apology;
- a written undertaking or apology;
- a written agreement on future behaviours or actions;
- remedial action, for example, correction of records, improved practices, revised policies;
- new internal policies, procedures or guidelines;
- conciliation/mediation under guidance of a mutually accepted third party (internal or external).

## 10. Withdrawal

A complainant may, at any time in the process, declare that the complaint, grievance or appeal is withdrawn. Such a declaration must be in writing to protect all parties, except for an informal complaint raised verbally. It is not necessary for a complainant to provide any reason for withdrawal of a complaint, grievance or appeal.

## 11. Documentation and Documents

At all stages of the process, reasons and a full explanation in writing for decisions and actions taken as part of the procedures will be provided to the complainant and the respondent:

- a) all formal complaints, grievances, appeals, outcomes, and informal complaints resulting in further action are recorded in writing through a process determined by the CEO and Dean;
- b) due care is taken about accurate documentation, dates, times and outcomes;



- c) records of complaints and their outcomes are maintained by the Deputy Dean Registrar and Company Secretary will be kept strictly confidential and filed in a separate file (not kept in the student or staff file) and stored in the office of the CEO and Dean for a period of five (5) years;
- d) the register of complaints is accessible only to the CEO and Dean, the Deputy Dean and Academic Director, the Deputy Dean and Director Student Services and the Deputy Dean Registrar and Company Secretary and members of the Council;
- e) the register of complaints is reviewed by the council at each meeting as part of the consideration of its oversight of risk management;
- f) parties to the complaint will be allowed supervised access to these records.

## 12. Confidentiality and Security

All reasonable effort should be made by the staff and management of KOI to ensure that the principles of privacy, confidentiality and security are maintained throughout the administration of complaints, grievances and appeals.

All staff designated to access information relating to complaints are obliged to preserve confidentiality in accordance with KOI's *Privacy Policy*, the *Privacy Amendment (Enhancing Privacy Protection) Act 2012* and the *Australian Privacy Principles (APPs)*. Records relating to complaints will be retained and disposed of in accordance with the *Records Management Policy*.

## 13. Definitions

<i>Appeal</i>	A request for an outcome resulting from a complaint or grievance to be reassessed
<i>Bullying</i>	Occurs when an individual or group of individuals repeatedly behaves unreasonably towards another individual or a group of individuals, and the behaviour creates a risk to health and safety.
<i>Complaint</i>	An expression of dissatisfaction, not yet made formal, with an act, decision or omission by a member of KOI staff or another student, managed first in an informal manner. For the purposes of this Policy the term 'complaints' will also include grievances and internal and external appeals.
<i>Discrimination</i>	Any action which results in less favourable treatment of an individual or a group in comparison with another individual or group because of their race, colour, national or ethnic origin; sex, pregnancy or marital status; breastfeeding; age; disability; religion; sexual preference; trade union activity; or some other characteristic determined under discrimination or human rights legislation.
<i>Duty of Care</i>	KOI owes a duty of care to its students through the need to take reasonable care for their health and safety, and take such measures as are reasonable in all the circumstances to protect students from risks of harm that reasonably ought to be foreseen.
<i>Harassment</i>	<p>Any action that is uninvited or unwelcome and interferes with an individual's right to work or study in a non-threatening environment. It includes any action designed to make any individual feel intimidated, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under antidiscrimination or human rights legislation. It can also happen if someone is working in a 'hostile' or intimidating environment.</p> <p>Harassment can include behaviour such as:</p> <ul style="list-style-type: none"><li>• telling insulting jokes about particular racial groups;</li><li>• sending explicit or sexually suggestive emails;</li></ul>



- displaying offensive or pornographic posters or screen savers;
- making derogatory comments or taunts about someone's race or religion;
- asking intrusive questions about someone's personal life, including their sex life.

*Staff Member*

Any person currently employed by KOI.

*Student*

Any person currently enrolled with KOI as a student.

*Unlawful behaviour*

Refers to any behaviour which contravenes civil or criminal law.

*Vilification*

Refers to a public act that could incite others to hate, have serious contempt for, or severely ridicule a person or a group of people. Under NSW legislation, perceived or actual vilification because of race, colour, nationality, descent, ethnic, ethno-religious or national origin, homosexuality (lesbian or gay), HIV or AIDS status or transgender status is illegal.

## 14. Related Legislation

KOI complies with the following NSW and Australian Federal legislation:

- *Higher Education Standards Framework (Threshold Standards) 2011*
- *ESOS Act 2000.*
- *National Code 2007, Standard 8 (Complaints and appeals)*
- *TEQSA Act 2011*
- *Anti-discrimination Act 1977*
- *Australian Human Rights Commission Act 1986*
- *Privacy Amendment (Enhancing Privacy Protection) Act 2012 and the Australian Privacy Principles (APPs)*
- *Age Discrimination Act 2004*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*

\*\*\*\*\* END OF POLICY \*\*\*\*\*





**Attachment 1**

**King's Own Institute (KOI) Complaints Management Process**

(For full detail please see the Complaints Policy. For assessment and student progress related complaints and appeals, please see the Assessment and Assessment Appeals Policy, and the Course Progress and Intervention Policy, for avenues of internal complaint/appeal – both are available via the KOI website [www.koi.edu.au](http://www.koi.edu.au)).

