



Complaints and Appeals Policy

1. Purpose

King's Own Institute (KOI) seeks to provide a fair, equitable and productive learning and working environment. This policy supports the achievement of this goal by providing a transparent, timely and consistent process for resolving complaints and appeals for students and persons seeking to enrol at KOI. (Note: in this policy, "complaint" generally refers to complaints and appeals unless specifically indicated otherwise).

KOI's *Complaints and Appeals Policy* seeks to:

- ensure that the rights of the complainant, the person against whom a complaint is made and KOI are protected when a complaint is made;
- ensure that KOI processes and procedures enable complaints to be resolved as expeditiously and effectively as possible;
- ensure that the resolution of complaints follows the standard procedures described in this policy;
- categorise, collate and report on internal and external complaints so that underlying causes can be addressed.

2. Scope

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.

The policy applies to the handling of all complaints, except where specific types of complaints and appeals are covered by other policies.

There are separate policies for the internal management of informal and formal assessment complaints and appeals (*Assessment and Assessment Appeals Policy*), appeals related to FEE-HELP determinations (*Domestic Student Refund Policy*), appeals against misconduct decisions (*Student Academic Misconduct Policy and Student Non-academic Misconduct Policy*) and complaints about sexual harassment or sexual assault (*Prevention of Sexual Assault and Sexual Harassment Policy*). Students who wish to lodge a complaint about these matters should first consult the relevant policy.

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 available under Australian law.

3. Policy principles

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

- KOI is committed to the early and informal resolution of complaints where possible so that those involved can focus on their learning and work;
- 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 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 of their choice at any relevant meetings but shall not have legal representation;
- 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 body independent of and external to KOI to hear appeals arising from the internal complaints and appeals process or to refer complainants to an existing body which is appropriate for the complaint or appeal;



- where a KOI student chooses to access the KOI complaints processes in accordance with this policy, KOI will maintain the student's enrolment while the complaints process is in train.

3.1 Natural justice and procedural fairness

KOI adheres 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 impartial 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 – see Section 10).

4. Examples of the types of complaints that may be covered by this policy

Matters that may be the subject of complaints and appeals under this policy include:

- non-assessment related complaints and appeals;
- complaints relating to curriculum and awards in a course;
- internal and external appeals relating to decisions about student progress;
- 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 security of personal information held by KOI.
- the manner in which someone has interpreted or implemented a policy or procedure;
- situations where relevant policies or procedures have not been properly followed;
- any adverse or unlawful action or behaviour that a reasonable person would not consider appropriate.

For complaints and appeals 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*. For appeals against decisions relating to misconduct, please see the *Student Academic Misconduct Policy* and the *Student Non-academic Misconduct Policy*. For matters relating to sexual harassment and sexual assault, please see the *Prevention of Sexual Assault and Sexual Harassment Policy*.

5. Timeframes

Complaints and appeals must be lodged on the appropriate form within twenty working days of the issue occurring or upon notification of the initial decision. The Complaints and Appeals Form is available on the KOI website.

The CEO and President 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.



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 working days after being notified of the complaint;
- A formal written complaint will be acknowledged within five working days. The Formal Procedure commences within ten 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 complaint handling or appeal process result in a decision that supports the complainant, KOI will advise the complainant of the outcome within five working days and implement any decision and/or corrective and preventative action required within twenty working days, or as soon as practicable thereafter.

6. Cost to lodge a complaint or appeal

There are no costs involved in the informal procedure or internal formal procedures (see Section 9.1 and 9.2 below).

While there is no cost to lodging a complaint or appeal with many of the external agencies listed in Section 10 below, some have costs as identified 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 with the relevant agencies for information.

7. Staff complaint management training

KOI staff and management are trained in the handling and resolution of complaints in accordance with the KOI Complaints and Appeals Policy in the following ways:

- all designated KOI staff receive internal training on the KOI Complaints and Appeals Policy and related procedures;
- the process and procedures are available in the KOI Staff Manual;
- staff are referred to good practice guides (for example, <https://www.ombudsman.gov.au/better-practice-guides>) and additional external training in complaints management and resolution is provided as required.

8. Three stages for resolving a complaint

KOI has a three stage procedure for handling complaints with two internal stages and one external stage. The KOI Complaints Management Process is illustrated in the flow chart in Attachment 1.

The first stage for resolution of a complaint involves an informal, local approach (see Section 9.1). This stage would normally be between the complainant and the other person concerned.

The second stage escalates the complaint to formal status and involves formal resolution and has two parts:

- the first stage of the Internal Formal Process is an Internal Review by the Vice-President (Academic) for academic matters and the Vice-President (Student Affairs) for administrative matters (see Section 9.2.1);
- the second stage of the Internal Formal Process, should the complaint remain unresolved, is a Final Internal Review by the CEO and President (see Section 9.2.2).

The third stage is External Review (see Section 10).

Complainants seeking external review in the first instance are encouraged, and often directed by external bodies, to seek internal resolution of their complaint 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 their supervisor. Where the conflict of interest relates to the CEO and President, the matter will be referred to Chair of the Council.

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

- a) to be invited to make an oral presentation to any body convened to hear the complaint and respond to questions;
- b) to be accompanied and assisted by a support person chosen by them at such a meeting but not to have legal representation;
- c) to receive and respond to any documentation concerning them, 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.

A person seeking to make a complaint who is unsure about how to proceed, or who would like support in making a complaint, may seek assistance and advice from any staff member. In particular, guidance and support may be sought from the Student Experience Manager, the Counsellor and the KOI Student Society. The request can be made through KOI Reception at Kent St, Market St and O'Connell St.

9. Internal procedures for resolving complaints

9.1 Informal procedure

When a problem or issue arises, complainants are encouraged to seek information, advice and resolution from the other person concerned. Contact may be made either face to face or via email in most instances, or arranged through KOI Reception. Guidance and support may be sought from the Student Experience Manager, the Counsellor and the KOI Student Society.

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.

Direct informal resolution is not recommended in cases involving violence, victimisation or corruption.

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;

A KOI staff member presented with an informal complaint should respond as soon as possible and no later than five working days after being notified of the complaint.

Informal complaints should be considered and resolved wherever possible within ten working days after being raised by the complainant. If both parties agree the complaint is resolved, no further action is required. Informal complaints are not recorded unless the complaint contains issues that remain unresolved or are likely to be of concern to other complainants. In such cases, the staff member involved should provide a record of relevant details to the Vice-President (Academic) for academic matters and the Vice-President (Student Affairs) for administrative matters so that the issues can be addressed to remove the likelihood of future complaints.

When the complainant believes the complaint is not resolved, but chooses not to proceed to Stage 2 (Formal Procedure – First Internal Review) within twenty working days of being advised of the response to the



complaint, the complaint is deemed to be withdrawn.

Where the complainant does not feel comfortable with attempting an informal resolution, the complainant may proceed directly to Stage 2 (Formal Procedure).

9.2 Formal procedure

9.2.1 First internal review

To make a formal complaint, the complainant should complete the *Complaints and Appeals Form* (available from Reception and the KOI website www.koi.edu.au under the *Forms and Policies* tab). Complainants who are unsure how to proceed may seek assistance and advice from any staff member. In particular, guidance and support may be sought from the Student Experience Manager, the Counsellor and the KOI Student Society. The request can be made through KOI Reception at Kent St, Market St and O'Connell St.

Complainants have twenty working days from the date of being advised of the outcome of the informal resolution process to lodge a formal complaint if they are dissatisfied with the resolution, or no resolution has been reached.

Complainants bypassing the Informal Procedure should do so within twenty working days after the occurrence of the problem or issue. The CEO and President may approve an extension of time to lodge a complaint where there are exceptional circumstances.

The application for a First Internal Review of a complaint must be in writing. The complainant should outline the incident/issue in writing, provide relevant evidence and, where possible, indicate the outcome they are seeking.

The application will be acknowledged within five working days by the Student Services team.

The formal complaint will be impartially assessed by the Vice-President (Academic) for academic matters and the Vice-President (Student Affairs) for administrative matters based on the evidence provided by all parties to the complaint. No person party to a complaint may assess the matter.

The Vice-President will seek written or verbal responses from the parties involved in the complaint, to be provided within ten working days of the request.

A mechanism to resolve the complaint will be developed, and all parties to the complaint will be advised 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 complaints will be resolved and the complainant and other parties advised of the outcome within twenty working days of the complaint being lodged with KOI.

Should the Vice-President consider the complaint is of a sufficiently serious nature, the matter may be referred directly to the CEO and President – the matter will be assessed as described in Section 9.2.2 below.

9.2.2 Final internal review

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

Complainants have twenty working days from the date of being advised of the outcome of the first internal review to lodge an appeal if they are dissatisfied with the resolution, or no resolution has been reached.

The application will be acknowledged within five working days by the Student Services team.

The CEO and President will review the matter and make a decision or appoint a Committee to review the complaint and make final decisions based on the admissible evidence.

The Committee shall determine its own procedures in accordance with the principles of natural justice. The



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.

Wherever possible, formal complaints and appeals will be resolved and the complainant advised of the outcome within twenty working days of the appeal being submitted to the CEO and President, but the time line may be extended if the CEO and President or the Committee believe this to be necessary to allow full and proper consideration of the issues raised.

The outcome of the Final Internal Review, and any resulting actions to be taken, will be communicated to all parties to the complaint 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 and President or the Committee, if appointed, is the final point of appeal within KOI.

10. External review procedures (information current as at 24 June 2020)

If the complainant is not satisfied with the final outcome of the internal KOI 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 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 or adjudication.* The student may contact KOI's *Dispute Resolution Service* and request mediation or adjudication of an unresolved complaint and appeal. The *Resolution Institute* is KOI's current *External Dispute Resolution Service*. Complainants can apply for *External Mediation or Adjudication* by completing the *Application for External Review* (available from KOI Reception or downloaded directly from the Resolution Institute's website (<https://www.resolution.institute/about-us/about>)). The Resolution Institute charges \$440 for the first 4 hours of mediation plus \$165 per hour for each additional hour. The student will be liable to pay \$100 on lodging their request. KOI will cover the remaining part of the fee charged by the Resolution Institute.

Details of the services of the Resolution Institute can be found at <https://www.resolution.institute>. The Sydney office is at Level 1 and 2, 13-15 Bridge Street, Sydney, phone 1800 651 650, email infoaus@resolution.institute

- b) *Overseas Student Ombudsman (OSO).* The Office of the Commonwealth Ombudsman investigates complaints about problems that overseas students have with private education and training in Australia. The services provided by the OSO are free. Contact details for the Overseas Student Ombudsman are: telephone 1300 362 072, email: ombudsman@ombudsman.gov.au, website: www.ombudsman.gov.au
- c) *Australian Competition and Consumer Commission (ACCC).* If a person cannot resolve a problem with KOI relating to complaints that are in breach of the *Competition and Consumer Act 2010*, contact can be made with the ACCC <https://www.accc.gov.au/>
- d) *Fair Trading, New South Wales.* If a person cannot resolve a problem with KOI relating to fair trading matters such as products and services, contact can be made with NSW Fair Trading on 13 32 20. 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>
TEQSA can only accept complaints about compliance with the TEQSA and ESOS Acts, the Higher Education Standards Framework and the National Code of Practice for Providers of Education and Training to Overseas Students 2018.



10.3.1 Implementation of external review decisions

Following an external review of a complaint or appeal, the CEO and President will receive written advice regarding the outcome of the review and any recommendations or further actions. The receipt of the written advice will be acknowledged by the Registrar within five working days of receipt of the advice.

The Registrar will advise the complainant of the receipt of the advice and any actions KOI will take as a result within ten working days of receiving the advice.

Depending on the specific contents of the advice, KOI will immediately take action to implement the outcomes and take any further actions within twenty 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 this timeframe.

The Registrar will advise all relevant parties in writing, providing evidence where necessary (e.g. a revised policy or procedure) of the implementation of the recommendations of the external review.

11. Possible outcomes from making a complaint or appeal

Possible outcomes from resolving a complaint under these procedures may include (but are not limited to) the following:

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

A complaint or appeal may be rejected if

- no reasonable grounds are stated for the complaint or appeal;
- no new or different grounds are stated for the appeal from those already considered by the previous hearing/adjudicator;
- the student does not respond within ten working days to requests for clarification or additional information;
- the student has not ensured that they are in a position to receive notifications from KOI - late or non-receipt of official letters will not be accepted as grounds for appeal if changes of address have not been notified and received by KOI; or
- the complaint or appeal is lodged outside the time limits stipulated in this policy

12. Withdrawal

A complainant may, at any time in the process, declare that the complaint 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 or appeal.

13. 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 formal procedures will be provided to the complainant and the respondent:

- a) written records of all formal complaints, appeals, outcomes and informal complaints resulting in further action, including dates, times and outcomes, will be maintained by the Registrar and kept in a confidential file accessible only with the permission of the CEO and President;
- b) sufficient details of all formal complaints will be entered in the Complaints Register to identify the nature of the complaint, timeframes for handling the complaint and whether or not a resolution has been reached and action taken to address the cause of the complaint;



- c) the Complaints Register is maintained by the Registrar and available only as prescribed by the CEO and President.
- d) a report based on the Complaints Register is reviewed by the Academic Board and the Council at each meeting as part of their oversight of risk management;
- e) parties to a complaint will be allowed supervised access to records considered by the CEO and President to be relevant to them.

14. Confidentiality and Security

All reasonable efforts are taken by the staff and management of KOI to ensure that the principles of privacy, confidentiality and security are maintained throughout the administration of complaints and appeals.

All staff designated to access information relating to complaints will 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*.

15. Definitions

<i>Appeal</i>	A request for an outcome resulting from a complaint 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 with an act, decision or omission by a member of KOI staff or another student. For the purposes of this policy the term "complaints" also includes 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>	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. Harassment can also happen if someone is working in a 'hostile' or intimidating environment. Harassment can include behaviour such as: <ul style="list-style-type: none">• telling insulting jokes about particular racial groups;• sending explicit or sexually suggestive emails;• 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.
<i>Staff Member</i>	Any person currently engaged by KOI as an employee or contractor.
<i>Student</i>	Any person currently enrolled with KOI as a student.
<i>Unlawful Behaviour</i>	Refers to any behaviour which contravenes civil or criminal law.
<i>Vilification</i>	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.

16. Related Legislation

KOI complies with the following NSW and Australian Federal legislation:

- *Higher Education Standards Framework (Threshold Standards) 2011*
- *ESOS Act 2000.*
- *National Code of Practice for Providers of Education and Training to Overseas Students 2018, Standard 10 (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*

Document Control

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Changes in this version	Clarification of procedures, timeframes and responsibilities Updated references to the National Code

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



Attachment 1

King's Own Institute Complaints Management Process

Note: The flow chart is for illustration only. For full details please see the Complaints and Appeals Policy. For assessment and student progress related complaints and appeals, please see the Assessment and Assessment Appeals Policy, for appeals against misconduct decisions, please see the Student Academic Misconduct Policy and Student Non-academic Misconduct Policy. These policies are available via the KOI website www.koi.edu.au.

Note: Timeframes refer to working days. See the policy for further explanations,

Senior Academic Adviser

