

# GRIEVANCE POLICY & PROCEDURE

|                   |  |                                      |
|-------------------|--|--------------------------------------|
| Dates             | Approved<br>Effective  | 15 December 2014<br>16 December 2014 |
| Recommended by    | The Executive and the Academic Board   |                                      |
| Approved by       | Finance & Audit Committee  |                                      |
| Implementation by | NAS Director/CEO   |                                      |
| Author            | Ellen O'Shaughnessy – Governance & Business Operations Manager   |                                      |
| Related documents | NAS Whistleblowing Policy, Current Student Handbook, Staff Code of Conduct, Student Code of Conduct, Ethics Policy, NAS Privacy Policy, Discipline Policies, and other such policies of the National Art School. |                                      |

# TABLE OF CONTENTS

|          |   |           |
|----------|---|-----------|
| <b>1</b> | <b>INTRODUCTION .....</b>                               | <b>3</b>  |
| 1.1      | SCOPE .....   | 3         |
| 1.1.1    | Legislation .....                                       | 3         |
| <b>2</b> | <b>POLICY STATEMENT .....</b>                           | <b>3</b>  |
| 2.1      | RESPONSIBILITIES .....                                  | 4         |
| 2.2      | DEFINITIONS .....                                       | 4         |
| <b>3</b> | <b>PROCEDURE: STUDENT/ACADEMIC COMPLAINANT .....</b>    | <b>6</b>  |
| 3.1      | ASSESSMENT.....   | 6         |
| 3.2      | INFORMAL GRIEVANCE .....                                | 6         |
| 3.3      | FORMAL GRIEVANCE.....                                   | 7         |
| 3.4      | SERIOUS GRIEVANCES.....                                 | 8         |
| 3.5      | APPEALS .....   | 8         |
| 3.5.1    | The Appeals Committee .....                             | 8         |
| 3.5.2    | The Appeals Process.....                                | 9         |
| 3.5.3    | External Appeal .....                                   | 9         |
| <b>4</b> | <b>PROCEDURE: STAFF COMPLAINANT.....</b>                | <b>10</b> |
| 4.1      | ASSESSMENT.....   | 10        |
| 4.2      | INFORMAL GRIEVANCE .....                                | 10        |
| 4.3      | FORMAL GRIEVANCE.....                                   | 11        |
| 4.4      | SERIOUS GRIEVANCES.....                                 | 12        |
| 4.5      | APPEALS .....   | 12        |
| 4.5.1    | The Appeals Process.....                                | 12        |
| <b>5</b> | <b>PROCEDURE: EXTERNAL STAKEHOLDERS.....</b>            | <b>14</b> |
| 5.1      | ASSESSMENT.....   | 14        |
| 5.2      | INFORMAL GRIEVANCE RESOLUTION .....                     | 14        |
| 5.3      | SERIOUS GRIEVANCES.....                                 | 14        |
| <b>6</b> | <b>CONFIDENTIALITY &amp; RECORDS OF GRIEVANCES.....</b> | <b>16</b> |
|          | VERSION CONTROL AND CHANGE HISTORY .....                | 16        |



# 1 INTRODUCTION

The following Policy and Procedure provides a clear mechanism for the management and resolution of complaints and grievances identified by Students, Staff, and external stakeholders who come in contact with National Art School activities and operations.

## 1.1 SCOPE

The following (as relevant to the nature of the complaint or grievance) apply to all Student and Staff of the National Art School.

### 1.1.1 LEGISLATION

Dependent upon the nature of the complaint or grievance, *Corporations Act 2001, Part 9.4AAA, Protection for Whistleblowers*, may apply. Please see the National Art School Whistleblowing Policy for further detail. The following legislation may apply as relevant to the subject of the grievance:


- *Anti-Discrimination Act 1977*
- *Age Discrimination Act 2004*
- *Disability Discrimination Act 1992*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Fair Work Act 2009*

# 2 POLICY STATEMENT

The National Art School (NAS) is committed to creating and maintaining a culture where all Students, Staff, and external stakeholders feel safe, and are encouraged, to raise concerns about unacceptable practice or conduct.

- a. All Students and Staff have the right to a safe study and work environment and be treated with dignity and respect
- b. The National Art School will provide procedures through which Students and Staff can have their complaints and grievances addressed.
- c. All Students and Staff have the right the right to use the following procedures if they believe they have a legitimate complaint/grievance that can be dealt with under these procedures.

NAS will seek to ensure that all grievances are dealt with fairly, seriously, constructively, promptly and with due regard for confidentiality.





## 2.1 RESPONSIBILITIES

The Director of the School/CEO has overall responsibility for the implementation and review of this Policy and Procedure.

Student Services is responsible for the provision of advice, promulgation, and the administration of this policy to Students.

Human Resources is responsible for the provision of advice, promulgation, and the operational case management of this policy for Staff.

## 2.2 DEFINITIONS

**Academic Grievances** relate to student progress, assessment, curriculum and awards in a course of study.

**Bullying** is unreasonable and inappropriate behaviour that intimidates, offends, degrades, insults or humiliates anyone. This behaviour can be physical or psychological.

**Complainant** is the person(s) with the complaint or grievance.

**Confidentiality** is limiting disclosure of information relating to a grievance only to those who are legitimately involved in the grievance and any appropriate staff in the process of resolving the grievance.

**Discrimination** is being treated less favourably than another person or group because of a specified attribute such as race, colour, national or ethnic origin, gender, pregnancy, relationship status, carer status, age, disability; sexuality, union affiliation, religious or political conviction, or any other characteristic specified per current Australian laws.

**Formal Complaint** is when an informal approach to resolve the grievance has been unsuccessful and the complainant initiates a formal complaint in writing to Student Services, their Manager, Head, School Executive, or Board member.


**Grievance** is any type of problem, concern or complaint about the National Art School, its environment, or its operations. This includes, but is not limited to, bullying, discrimination, harassment, sexual harassment, victimisation, vilification, breaches in the use of personal information, and academic concerns or complaints.


**Grievance Officer** is a staff member of NAS who provides confidential advice when a person has a grievance and recommends the appropriate staff member who can assist in addressing the grievance. In a formal or serious grievance situation, the Grievance Officer is not permitted to investigate or otherwise attempt to resolve the grievance.

**Harassment** is when someone feels intimidated, insulted or humiliated because of their race, colour, gender, national or ethnic origin, disability, sexuality or any characteristic specified under human rights legislation. It may also refer to working in a hostile or intimidating environment. The behaviours can be overt or subtle, verbal, non-verbal or physical.

**Informal Complaint** is when the complainant attempts to resolve a grievance directly with the party involved (resulting in an informal resolution).

**Lodgement** in a grievance process is the point at which the complainant notifies an appropriate member of staff of a grievance. Note that the CEO and Head of Studies have the discretion to waive any lodgement periods detailed in this document.





**Procedural Fairness** is the right to a fair hearing, including the opportunity to present one's case, the right to have any material considered by an unbiased, impartial decision maker and the right to have any final decision based in logically probative evidence.

**Respondent** is the individual(s) against whom the complaint/grievance is made.

**Serious Complaints** are deemed as such when:


- A criminal offence may have been committed; and/or
- The nature of the complaint poses a risk to the student/s or staff; and/or
- A number of complaints of a similar nature have been received against a respondent.

**Sexual Harassment** is any unwanted, unwelcome or uninvited behaviour of a sexual nature that results in a person feeling humiliated, intimidated or offended. It can involve physical or other contact or verbal remarks of a sexual nature.

**Staff** or **Staff Member** is any employee of NAS and includes any visiting staff, contractor, or consultant to NAS.

**Student** means any person enrolled in, or in the process of enrolling in, a course of study at NAS whether part time or full time, on exchange, in studies abroad, or cross institutional study.

**Victimisation** includes threats or intimidation, as a result of the complainant taking action under NAS policies or because they have supported someone else who has taken action under NAS policies. Unfair treatment may include adverse changes to a work or study environment, denial of access to resources such as work opportunities or training, or ostracism.



### 3 PROCEDURE: STUDENT COMPLAINANT

This procedure applies to all enrolled students, and those seeking to enrol; covering academic and non-academic grievances regardless of the location of where the grievance has arisen, or the level/mode in which study is undertaken. Grievances should be made in a timely manner, as delayed notification of a grievance may affect the quality of investigations. A breach of any Code of Conduct may result in disciplinary action.

#### 3.1 ASSESSMENT

Where the complainant seeks the advice of a staff member (hereby a Grievance Officer), an initial assessment will be made regarding the validity and severity of the complaint.

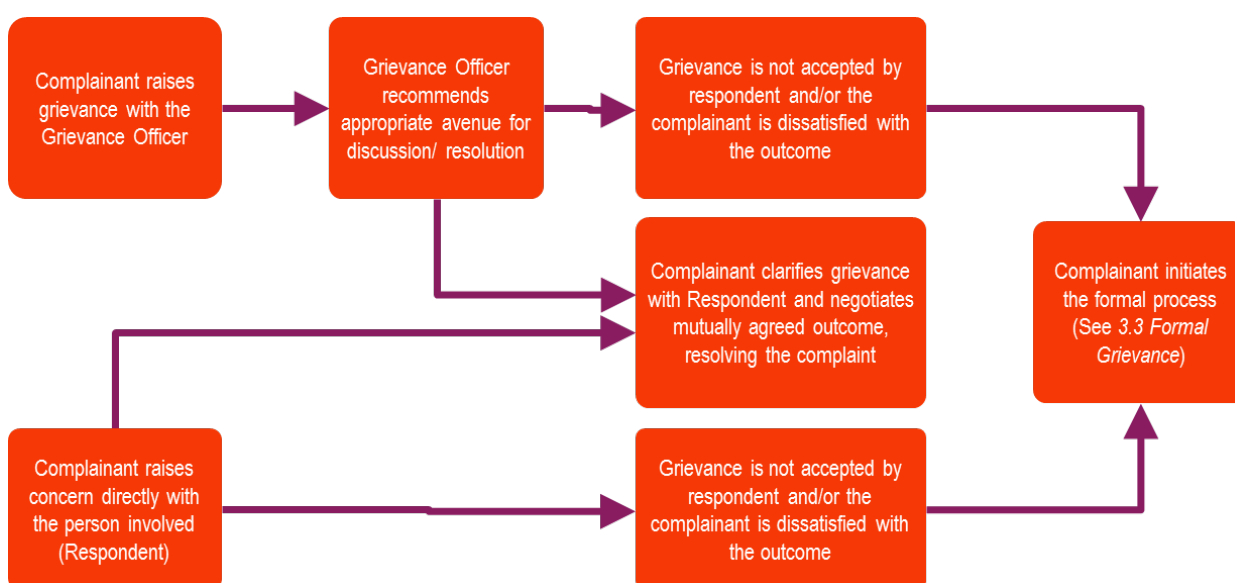
This initial assessment is used to advise whether a grievance conforms to the requirements regarding timeliness, eligibility and scope. The assessment also advises at what stage the complaint should be addressed and whether the grievance can be resolved informally or if a formal complaint should be submitted.

#### 3.2 INFORMAL GRIEVANCE

The process of addressing student/academic grievances offers informal resolution as an option at any point, with the agreement of all parties.

The complainant should raise their concerns with the person or persons involved normally within ten (10) working days of the incident. This can be done verbally (phone or face to face), in writing (letter or email), or via an appropriate member of staff such as a Lecturer or Student Services (hereby the Grievance Officer). The parties involved will then attempt to reach a satisfactory resolution of the matter.

Resolution should be undertaken expeditiously and within ten (10) working days of the complaint being raised. Should the respondent not accept the complaint or the complainant is dissatisfied with the outcome of the informal process, the complainant may consider the formal complaint process.



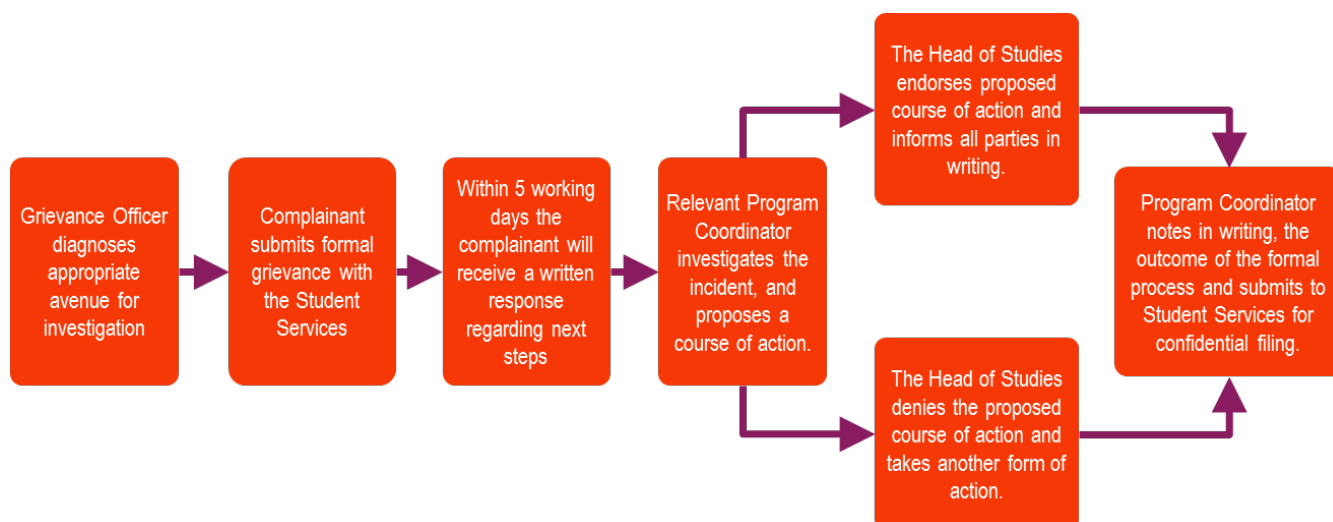
### 3.3 FORMAL GRIEVANCE

After discussion with a Lecturer or Student Services (hereby the Grievance Officer), a formal grievance can be initiated where:

- A resolution through the informal process has not been achieved; or
- The complaint is deemed to be of a serious nature; or
- The complainant initiates the formal process.

A formal complaint must be made in writing and submitted to Student Services. The grievance must be lodged no later than twenty (20) working days after the incident has occurred.

The grievance needs to contain sufficient information to substantiate the grievance and allow for the grievance to be investigated. Vexatious or trivial complaints may be subject to disciplinary action under the NAS Student Discipline Policy and the decision to investigate will be at the discretion of the Head of Studies, or if the Head of Studies is the subject of the grievance, the Director of the School.



At all stages, reasons and full explanations must be provided in writing of decisions and actions taken as part of the procedures to both complainant/s and respondent/s.

The complainant and/or respondent have the right to be accompanied and assisted by a third person (such as NAS staff member, family member, friend or counsellor etc) if they so desire.

Where a member of staff is unable to complete their role within the scope of this Policy due to involvement in the complaint or other conflicts of interest occur another member of staff will be selected to fulfil this role.

### 3.4 SERIOUS GRIEVANCES

All complaints of a serious nature **MUST** be investigated through the formal process at 3.3. A complaint is deemed serious when:

- A criminal offence may have been committed; and/or
- The nature of the complaint poses a risk to students, staff, members of the public; and/or
- Three (3) or more complaints of a similar nature have been received against this respondent.

Where a criminal offence may have been committed, the Head of Studies and Security must be notified immediately with the knowledge of the complainant, who must then notify the appropriate authorities.

### 3.5 APPEALS

A complainant may lodge an appeal on the grounds of lack of procedural fairness in the investigation process.

An appeal is lodged by giving written notice to the Quality Manager or the Head of Studies. The appeal must be lodged within fifteen (15) working days after the grievance outcome has been received, be signed by the party undertaking the appeal, and clearly specify the grounds of the appeal. The notice may also nominate a staff member to sit on the Appeals Committee.

A response notice must be served within fifteen (15) working days after the appeal notice is received, detailing the place, date, and time for the hearing of the appeal, which must take place within thirty (30) working days of the appeal lodgment date.

#### 3.5.1 APPEALS COMMITTEES

The National Art School convenes an Appeals Committee (“the Committee”) to hear and determine an appeal. The Committee is constituted by 3 members and must include:

1. A member of staff of the National Art School nominated by the party undertaking the appeal in the notice of appeal, or, if no such nomination is made or if the nominated person refuses to sit on the Appeals Committee, a member of staff of the National Art School nominated by the Executive of the School;
2. The Director of the School/Chair of The Academic Board;
3. A member of staff of the National Art School nominated by the opposing party in the grievance where one is specified, or, if no such nomination is made or if the nominated person refuses to sit on the Appeals Committee, a member of staff of the National Art School nominated by the Executive of the School;
4. A gender balance.

A staff member, who issued any notice in respect of the matter and the subject of the appeal, is ineligible to be a member of an Appeals Committee



### **3.5.2 THE APPEALS PROCESS**

The Committee must give the complainant and respondent concerned or their nominees (if any) the opportunity to be heard. The complainant and respondent have the right to be present before the Committee at any time when a witness is presented before it. The complainant and/or respondent have the right to be accompanied and assisted by a third person (such as NAS staff member, family member, friend or counsellor etc) if they so desire.

Minutes will be kept of the Committee's meetings and the Committee must provide a copy of the record to the complainant/respondent at request and without charge.

Written notice of the Committee's decision, including a full explanation for the decision, must be served on the parties concerned within ten (10) working days of the hearing.

### **3.5.3 EXTERNAL APPEAL**

If not satisfied with a decision of the Appeals Committee the complainant may request that the matter be dealt with through an external dispute resolution process provided by TAFE Directors Australia Ltd (TDA).

Contact details for TAFE Directors Australia Ltd are as follows:

Sydney Institute of TAFE NSW  
Turner Hall Ultimo College BG. 01,  
731-695 Harris Street,  
Ultimo NSW 2000

PO Box 707 Broadway NSW 2007

**Phone: 02 9217 3180**

[www.tda.edu.au](http://www.tda.edu.au)

Complaints will normally be addressed within 10 working days.

If TDA makes recommendations in relation to a grievance they have reviewed, TDA will forward those recommendations to Director of the National Art School within ten (10) days of commencement of the review. NAS will ensure that recommendations are implemented within ten (10) working days of receipt of such recommendations, if practicable.

## 4 PROCEDURE: STAFF COMPLAINANT

This procedure applies to all staff, those applying for a role with the School, contractors, consultants, and volunteers. Grievances should be made in a timely manner, as delayed notification of a grievance may affect the quality of investigations. A breach of any Code of Conduct may result in disciplinary action.

### 4.1 ASSESSMENT

Where the complainant seeks the advice of a Manager (hereby a Grievance Officer), an initial assessment will be made regarding the validity and severity of the complaint.

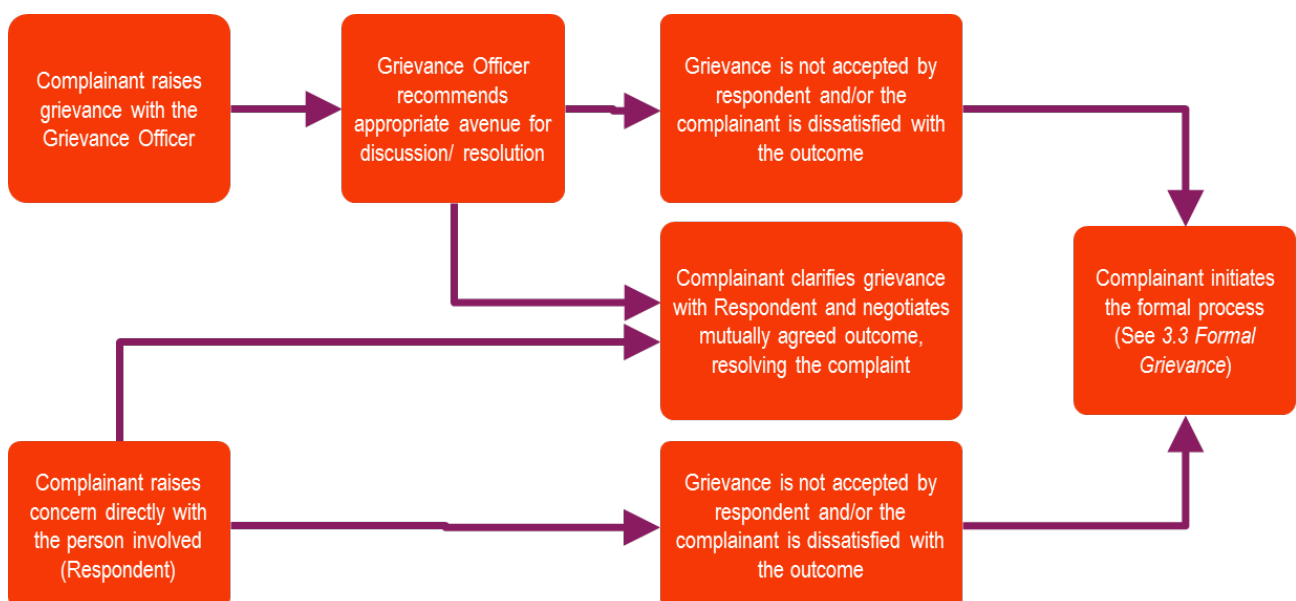
This initial assessment recommends whether a grievance conforms to the requirements regarding timeliness, eligibility and scope. The assessment also advises at what stage the complaint should be addressed and whether the grievance can be resolved informally or if a formal complaint should be submitted.

### 4.2 INFORMAL GRIEVANCE

An informal resolution process is offered as an option at any point, with the agreement of all parties, even once a formal complaint has been initiated.

The complainant should raise their concerns with the person or persons involved within ten (10) working days of the event. This can be done verbally (phone or face to face), in writing (letter or email), or via an appropriate member of staff such as a Manager (hereby a Grievance Officer). The parties involved will then attempt to reach a satisfactory resolution of the matter.

Resolution should be undertaken expeditiously and within ten (10) working days of the complaint being raised. Should the respondent not accept the complaint or the complainant is dissatisfied with the outcome of the informal process, the complainant may consider the formal complaint process.



## 4.3 FORMAL GRIEVANCE

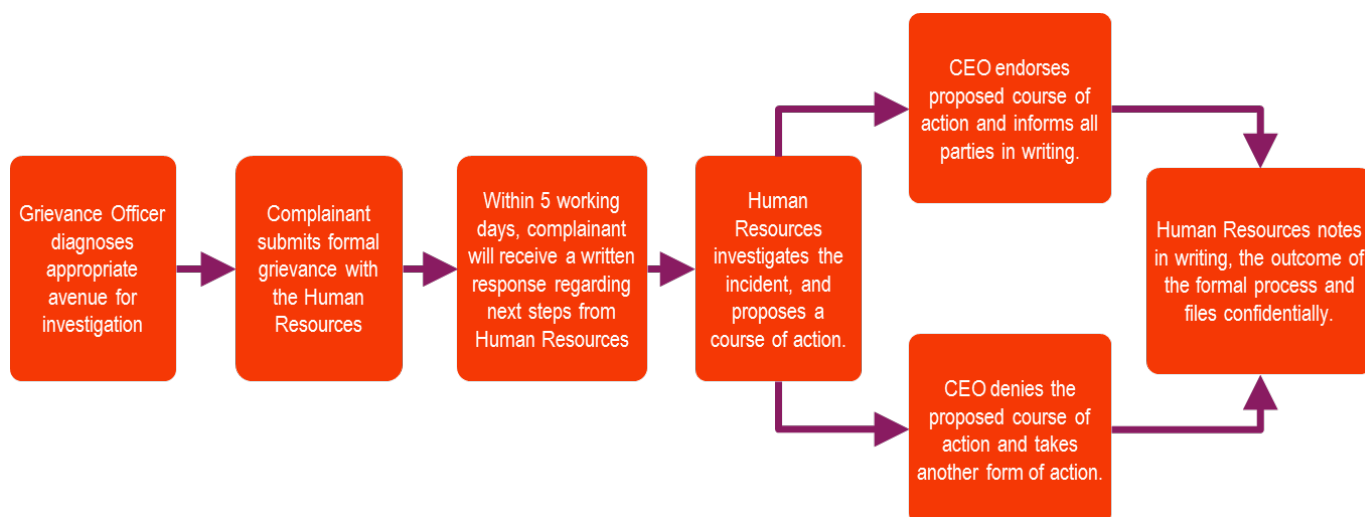
After discussion with a Manager (hereby the Grievance Officer), a formal grievance can be initiated where:

- A resolution through the informal process has not been achieved; or
- The complaint is deemed to be of a serious nature; or
- The complainant initiates the formal process.

A formal complaint must be made in writing and submitted to Human Resources or the complainant's Manager or Executive who will act as Grievance Officer. The grievance must be lodged no later than twenty (20) working days after the incident has occurred.

The grievance needs to contain sufficient information to substantiate the grievance and allow for the grievance to be investigated. Vexatious or trivial complaints may be subject to disciplinary action under the Employee Code of Conduct and the decision to investigate will be at the discretion of the CEO, or if the CEO is the subject of the grievance, Company Secretary.

A formal grievance meeting will be held no later than five (5) days after a grievance has been received by HR. The complainant will be invited to re-state their grievance and discuss how the grievance would ideally be resolved.



At all stages, reasons and full explanations must be provided in writing of decisions and actions taken as part of the procedures to both complainant/s and respondent/s.

The complainant and/or respondent have the right to be accompanied and assisted by a third person (such as Union representation, NAS staff member, family member, friend or counsellor etc) if they so desire.

Where a member of staff is unable to complete their role within the scope of this Policy due to involvement in the complaint or other conflicts of interest occur another member of staff will be selected to fulfil this role.



## 4.4 SERIOUS GRIEVANCES

All complaints of a serious nature **MUST** be investigated through the formal process at 4.3.

A complaint is deemed serious when:

- A criminal offence may have been committed; and/or
- The nature of the complaint poses a risk to students, staff, members of the public; and/or
- Three (3) or more complaints of a similar nature have been received against this respondent.

Where a criminal offence may have been committed, the Company Secretary and Security must be notified immediately with the knowledge of the complainant, who must then notify the appropriate authorities.

Dependent upon the nature of the complaint or grievance, *Corporations Act 2001, Part 9.4AAA, Protection for Whistleblowers*, may apply. Please see the National Art School Whistleblowing Policy for further detail.

## 4.5 APPEALS

A complainant may lodge an appeal on the grounds of lack of procedural fairness in the investigation process.

An appeal is lodged by giving written notice to the Company Secretary or the CEO. The appeal must be lodged within fifteen (15) working days after the grievance outcome has been received, be signed by the party undertaking the appeal, and clearly specify the grounds of the appeal.


A response notice must be served within ten (10) working days after the appeal notice is received, detailing procedures to further investigate, parties involved in the investigation, and the time-frame for resolution of the appeal, which must take place within thirty (30) working days of the appeal lodgment date.

### 4.5.1 THE APPEALS PROCESS

The complainant and respondent concerned or their nominees (if any) must be given the opportunity to be heard. The complainant and/or respondent have the right to be accompanied and assisted by a third person (such as Union representation, NAS staff member, family member, friend or counsellor etc) if they so desire.

Minutes will be kept of all meetings and copies must be provided to the complainant/respondent without charge.

Written notice of the decision/outcome, including a full explanation, must be served on the parties concerned within ten (10) working days of the resolution of the appeal.






#### **4.5.2 EXTERNAL APPEAL**

If not satisfied with a decision of the appeals process, the complainant may request that the matter be dealt with externally through the Fair Work Ombudsman.

Contact details for Fair Work Ombudsman are as follows:

Fair Work Ombudsman  
Complaints Assessment Team  
GPO Box 2567  
Adelaide SA 5001

Phone: 13 13 94



## 5 PROCEDURE: EXTERNAL STAKEHOLDERS

The National Art School will respond to all external complaints/grievances within ten (10) working days of receipt of the complaint/grievance.

### 5.1 ASSESSMENT

The staff member who receives the complaint/grievance must assess the severity of the incident. The assessment also advises whether the grievance can be resolved informally or if a formal complaint needs to be submitted.

### 5.2 INFORMAL GRIEVANCE RESOLUTION

Predominantly, an informal resolution to external complaints can be offered to the complainant.

If a satisfactory resolution cannot be offered upon receipt of the complaint/grievance, the staff member who receives the complaint must delegate the incident in writing to the appropriate department or Manager for resolution, with a copy to the complainant.

### 5.3 FORMAL GRIEVANCE RESOLUTION

If a satisfactory resolution cannot be offered upon receipt of the complaint/grievance, the complainant can formally lodge a complaint to:

Chair of the Board: [NAS.Chair@nas.edu.au](mailto:NAS.Chair@nas.edu.au)

Director/CEO: [Director@nas.edu.au](mailto:Director@nas.edu.au)

Head of Studies: [Simon.Cooper@nas.edu.au](mailto:Simon.Cooper@nas.edu.au)

Or by post to the relevant person above at:

The National Art School

Forbes Street, Darlinghurst

NSW 2010

## 5.4 SERIOUS GRIEVANCES

A complaint is deemed serious when:

- A criminal offence may have been committed; and/or
- The nature of the complaint poses a risk to students, staff, members of the public; and/or
- Three (3) or more complaints of a similar nature have been received against a particular respondent.

If a complaint has been deemed as a serious matter, the complainant must immediately be referred in writing to the Company Secretary for further action.

All complaints of a serious nature **MUST** be investigated formally by The Executives as a committee.

Where a criminal offence may have been committed, the Company Secretary and Security must be notified immediately with the knowledge of the complainant, who must then notify the appropriate authorities.

Dependent upon the nature of the complaint or grievance, *Corporations Act 2001, Part 9.4AAA, Protection for Whistleblowers*, may apply. Please see the National Art School Whistleblowing Policy for further detail.



## 6 CONFIDENTIALITY & RECORDS OF GRIEVANCES

All parties to a grievance in any form are required at all stages to maintain strict confidentiality in relation to the complaint/grievance and the parties involved.

Records of all grievances and applications for review of all decisions must be kept and be accessible to all involved parties for a period of 5 years. This is in addition to the legal access rights of regulatory bodies such as TEQSA and ASIC.

All such records will be kept strictly confidential and filed in a stand-alone file.

Any breaches of the above may result in disciplinary action in accordance with the relevant misconduct policy/procedure.

### VERSION CONTROL AND CHANGE HISTORY

This document is reviewed every three years by The Executive. Amendments/changes must be approved by the Finance & Audit Committee.

| Version | Change Description   | Implementation   | Approval date |
|---------|--|--|---------------|
| 1.0     | Document exclusive of staff and external stakeholder content is endorsed by Academic Board |  | Sept 2009     |
|         | Document is published and implemented  | H:\NAS POLICIES & PROCEDURES\Student Policies  | Sept 2009     |
| 2.0     | Document is reviewed for currency and procedural efficiency                                | H:\NAS POLICIES & PROCEDURES\Academic Policies & Procedures\Student Policies<br>And<br>H:\NAS POLICIES & PROCEDURES\Human Resources (HR) | December 2014 |
|         | Expanded scope to include Staff and External Stakeholders                                  |  |               |
|         | Document is endorsed by the Finance & Audit Committee                                      |  |               |
|         | Document is published and implemented  |  |               |

