

# C&S GRIEVANCE & INVESTIGATION PROCEDURE

<b>Responsible Officer:</b>	Operations Manager
<b>Approved By:</b>	CEO
<b>Approval Date:</b>	26/09/2023
<b>Review Date:</b>	26/09/2024

## 1. Purpose and Scope

The purpose of this procedure is to provide the Tasmanian University Student Association (TUSA) affiliated Clubs & Societies' members with clear guidelines as to how complaints are handled. The procedure seeks to ensure that all disputes and grievances are handled sensitively, confidentially and in a manner consistent with principles of procedural fairness, natural justice and TUSA values.

## 2. Key Requirements

### 2.1. Overview

The TUSA acknowledges that problems can arise within our Clubs & Societies (hereafter referred to as Club) that may sometimes cause members to feel aggrieved. These problems, referred to as grievances, can sometimes arise from the behaviour or decisions of other members, including management. The objectives of this procedure are to:

- a. Allow Club executives/members to have grievances and resulting complaints addressed internally in a timely and confidential manner.
- b. Outline the procedures executives and members should follow to try to resolve a grievance.
- c. Advise the steps the TUSA will take to resolve a grievance if an executive or member makes a formal complaint.

## 2.2. Resolving a Grievance

Club executives/members can elect to resolve a grievance:

- a. Directly and informally with the person(s) involved.
- b. Locally with the assistance of others.
- c. Formally by lodging a complaint.

## 2.3. Direct and Informal Resolution

Direct and informal resolution focuses on solving the problem by approaching those involved in the grievance, if appropriate and both parties feel comfortable in doing so.

When attempting to resolve an issue directly and informally, an executive or member should:

- a. Tell the other person(s) involved which behaviour or decision they consider unreasonable or unacceptable.
- b. Politely ask the person(s) to stop or to behave or decide differently.
- c. Keep a written record of this action and discussion, with the agreed outcome or actions.

## 2.4. Local Resolution

Where a Club executive/member does not feel comfortable raising the matter directly with the other person(s) involved, they can raise the issue with a member of their executive/committee. If an executive/committee member is the subject of the complaint, they may wish to seek assistance from the TUSA.

To protect the rights and privacy of all involved, those involved in the complaints handling process should only discuss the complaint with persons legitimately and directly involved in the complaint or in its resolution.

Where an executive/committee member has been approached to assist they should seek the complainant's approval before taking further action. However, in serious allegations of unacceptable behaviour or discrimination, the TUSA Student Engagement and Development Manager must be contacted, and they may decide that action is necessary regardless of the complainant's consent to escalate. Some matters may also be considered a criminal offence and may be reported to the Police or other relevant body (such as UTAS). For example, in cases of physical or sexual assault/harrasment.

## 2.5. Formal Resolution

Where resolution at the local level is not possible or is not appropriate due to the serious or complex nature of the complaint, a formal complaint should be reported in writing to the TUSA Student Engagement and Development Manager. If the complaint is about the TUSA

Student Engagement and Development Manager, the written complaint should be forwarded to the CEO or Board of Management Chair. The written complaint should contain:

- a. A description of the incident(s), decision, behaviour in question.
- b. The time and date of the incident(s).
- c. The names of any witnesses.
- d. The complainant's signature and date of the complaint.

A formal complaint triggers a procedure which includes:

- a. An investigation.
- b. Decision-making about whether the complaint can be substantiated.
- c. The implementation of an action to remedy the complaint as authorised by management, or whether this power has been explicitly delegated, their delegate.

## **2.6. Formal Investigation**

Once a formal complaint is made, an appropriate person appointed by TUSA management will be responsible for conducting an investigation into the matter. This process will likely involve interviews being conducted with the complainant, with the subject of the complaint, and with any witnesses. However, how the investigation is conducted is at the discretion of the TUSA.

### **2.6.1. General Guidelines for Investigations**

Complaints will be handled in accordance with the following guidelines:

- a. Confidentiality. Only the persons directly involved in making or investigating a complaint, witnesses, or any other person who needs to be involved in the complaint to ensure a suitable resolution is achieved, will be involved in the complaints process and/or have access to information about the complaint.
- b. Impartiality. Both sides will have an opportunity to present their version of events. No assumptions will be made, and no action will be initiated until all relevant information has been collated and duly considered.
- c. Support. Both sides are entitled to have a support person present during the complaint process. Support can be provided by any person chosen by the parties, including a fellow Club executive/member, TUSA Student Advocate, Student Legal Service Lawyer, or a union representative in the case of a complaint against a TUSA staff member.
- d. Victimisation. No action will be taken against anyone for making a genuine complaint or helping someone make a complaint. Executives/members who engage in the victimisation of persons who have made a complaint and/or acted against an alleged harasser will be subject to a disciplinary process.

- e. Timeliness. All complaints are to be dealt with as expeditiously as is practicable.
- f. Records. Formal records will be kept of the investigation.
- g. Notification. Both sides to the complaint will be informed of the outcome of the complaint.

## **2.7. Formal Investigation Outcomes**

Typically, the investigation will determine whether the complaint or grievance is:

- a. Substantiated.
- b. Unsubstantiated.
- c. Found to have been fabricated or vexatious.

### **2.7.1. Substantiated Complaint or Grievance**

If a complaint is substantiated, one or more of the following actions may be initiated:

- a. A written apology to the complainant.
- b. Training or re-training.
- c. Expulsion from a Club.
- d. Performance management, specifically in the case of a TUSA staff member following the TUSA Enterprise Agreement and TUSA Grievance & Investigation Procedure.
- e. Facilitated discussion or mediation between the parties.
- f. Removal from the university in the case of currently enrolled students.
- g. Disciplinary action under the UTAS Behaviour Policy.

In some cases, a person may also be held personally liable for their actions or behaviour, in which case, they may face external legal action where it is initiated by the aggrieved party. In such circumstances the TUSA will neither pay nor reimburse a Club executive/member for personal monetary penalties or legal fees.

### **2.7.2. Unsubstantiated Complaint or Grievance**

If a complaint is not substantiated (or otherwise is inconclusive because of insufficient detail or evidence provided) the following actions may be initiated:

- a. Training.
- b. Ongoing monitoring of behaviour.

### **2.7.3. Vexatious Complaint or Grievance**

Reports of complaints must be genuine and honest. If any executive/member is found to be making a malicious complaint, or a complaint without substance, they may be subject to further investigation.

## 2.8. External Assistance

If the complainant is not satisfied with the way in which a grievance or complaint was handled, they may have the option of raising the complaint with an outside agency, such as the Australian Human Rights Commission, the Fair Work Ombudsman or the relevant State Anti-Discrimination Board and other bodies. In appropriate circumstances, individuals may wish to seek advice from a lawyer (including a Student Legal Service lawyer) and where the complaint is against a TUSA staff member, they may also seek advice from their union representative.

Unresolved or serious complaints involving students may be referred to the Safe and Fair Community Unit (SaFCU) for investigation of general misconduct and disciplinary action under the UTAS Behaviour Policy, or any other relevant governance instruments, including those that succeed these documents.

## 3. Responsibilities

Club executive/members must comply with all relevant laws, regulations and TUSA governance instruments.

It is the responsibility of the TUSA management to ensure that any matter which does not comply with these principles is identified and addressed as promptly and sensitively as possible.

## 4. Relevant Documentation

Club executive/members are encouraged to read this procedure in conjunction with other relevant documentation, as detailed below.

TUSA governance instruments:

- TUSA Code of Conduct Statement
- TUSA Diversity & Inclusion Policy

UTAS governance instruments:

- UTAS Student Behaviour and Conduct Ordinance
- UTAS Behaviour Policy and Procedure

Government legislation:

- Anti-Discrimination Act 1997 (NSW) & 1998 (TAS)
- Australian Human Rights Commission Act 1986 (Cth)
- Ombudsman Act 1978 (TAS)

## 5. Review

This procedure will be reviewed annually, or as needed. Any amendments deemed necessary will be approved by the CEO.

## 6. Versioning

TITLE	PARA. AMENDED	APPROVAL DATE
C&S Grievance & Investigation Procedure	Entire document	26/09/2023

## 7. Appendix

### 7.1. Grievance & Complaints Handling Procedure Flowchart

