

Staff Decision Making in Student Cases





What types of decisions does this training cover?

- **Administrative decisions**
- **Academic decisions**

This training is for:

- **Frontline decision makers**
- **Designated decision makers**
- **Review and appeal officers**

Why is it important to make strong decisions?

Comply with best practice standards

- Australian Standard Customer Satisfaction – Guidelines for Complaint Handling in Organisations (AS ISO)
- New South Wales Ombudsman, Complaint Handling at Universities – Australasian Best Practice Guidelines (November 2014)
- Other relevant best practice recommendation for complaints management - Queensland Ombudsman, Commonwealth Ombudsman

Legislative requirements

- ESOS Act

Why is it important to make strong decisions?

Contribute to the achievement of the University's strategy and goals

- Improving the student experience

An opportunity for improvement

- Reflect on the University's business processes and use complaints or appeals as an opportunity to strengthen and improve decision making

Avoid unwanted consequences

- A single mishandled complaint may waste time, resources and goodwill
- The potential to cause significant damage to the reputation of the University and individuals involved.

Informally resolving problems

This may involve:

- Communicating with the student
- Ascertaining the student's concern and outcome sought
- Providing additional information and/or a further explanation of the decision
- Checking facts with the student
- Correcting any misunderstandings

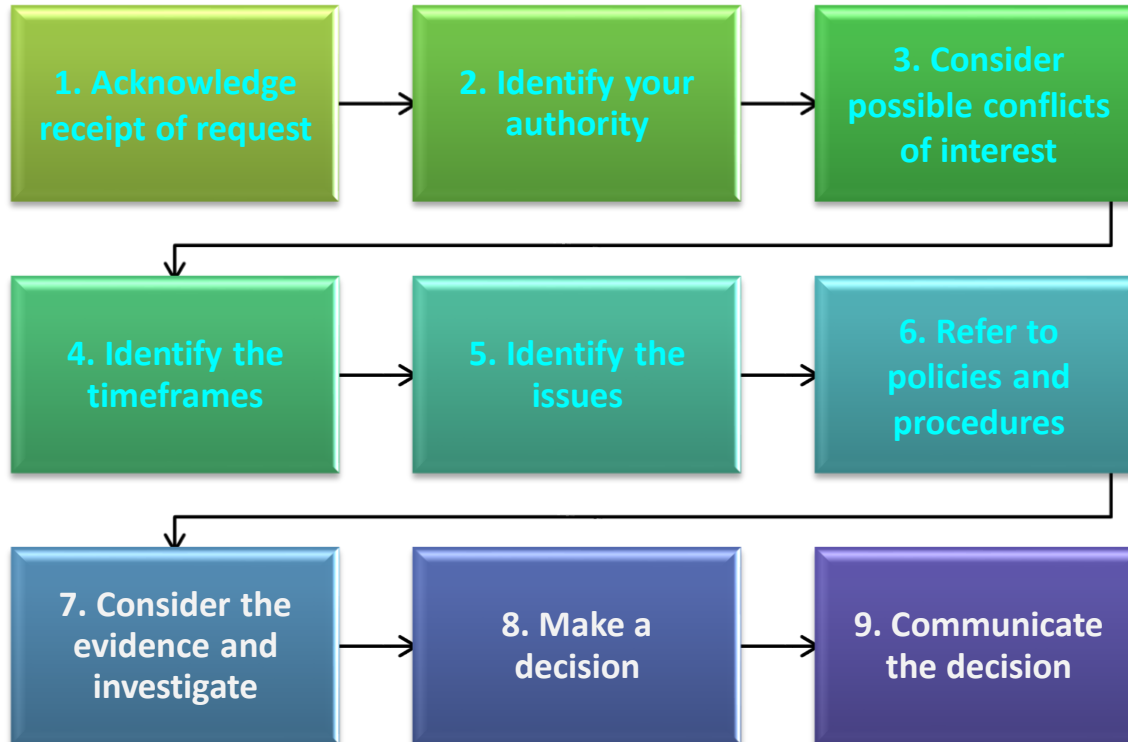
This allows parties to explore options for resolving the matter and find mutually beneficial outcomes

If informal resolution is not possible, refer the student to the process for making a formal application for review and appeal.



Formally resolving problems

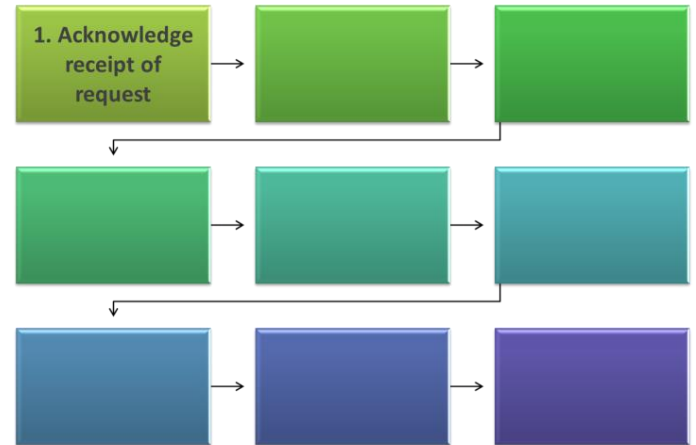
9 steps for handling a Review or Appeal



Step 1 – Acknowledge receipt of request

Advise the student as soon as practicable, or within 10 working days of receiving the request of:

- Actions to be taken in respect of the review of decision
- The timeframe in which you decide the matter



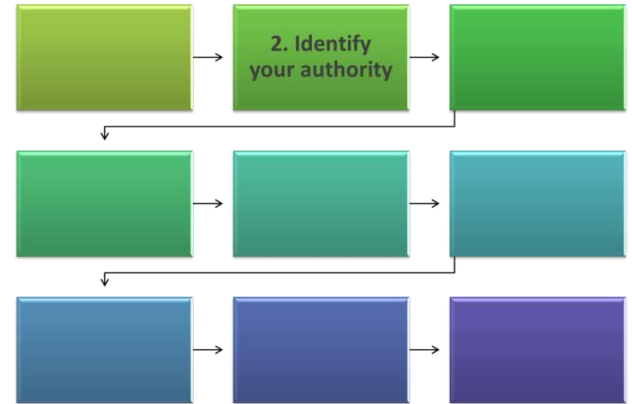
Step 2 – Consider whether you have the authority to make the decision

Do you have the authority to make the decision?

- Under policy
- Under delegated authority
- Under legislation (if applicable)

Authority is derived from your position, and is not assigned to you as an individual

Authority can be delegated

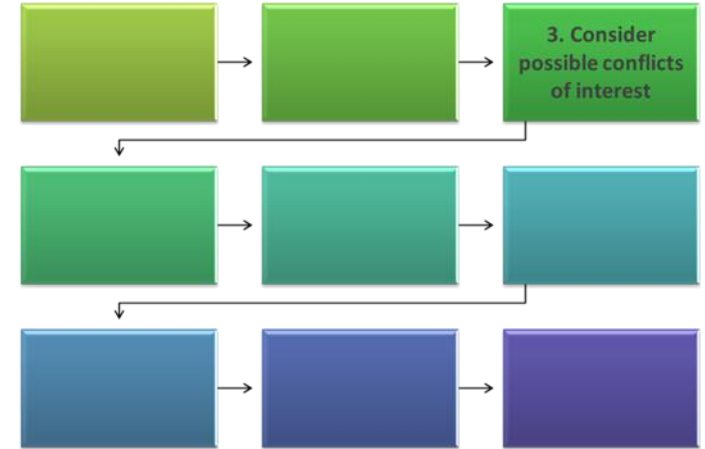


Step 3 – Consider possible conflicts of interest

A decision maker must act impartially, without bias which includes actual or perceived conflict of interest

A decision maker should not:

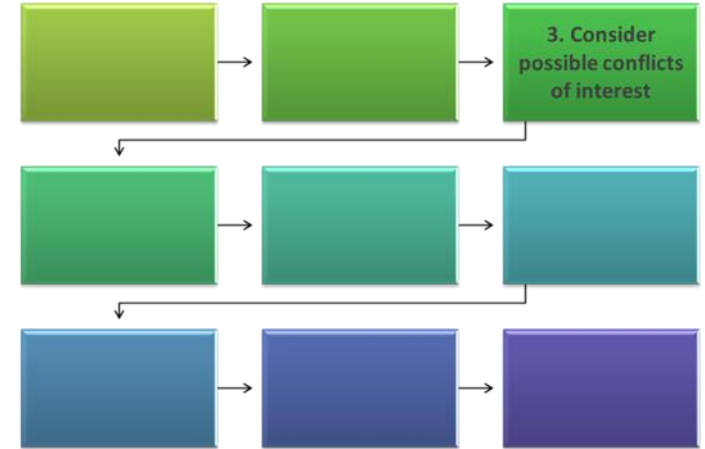
- Be a person with preconceived ideas about the outcome
- Have a close personal or family relationship with parties interested in the outcome
- Have a direct or indirect financial or other interest in the outcome of the decision
- Have a relationship with the student which a reasonable person might think would prejudice the staff member against the student



Step 3 – Consider possible conflicts of interest

Tips

- Be objective
- Separate the individual from the problem
- Consider your personal biases
- Each case should be decided as an individual case on it's own merits



Step 4 – Identify the timeframes

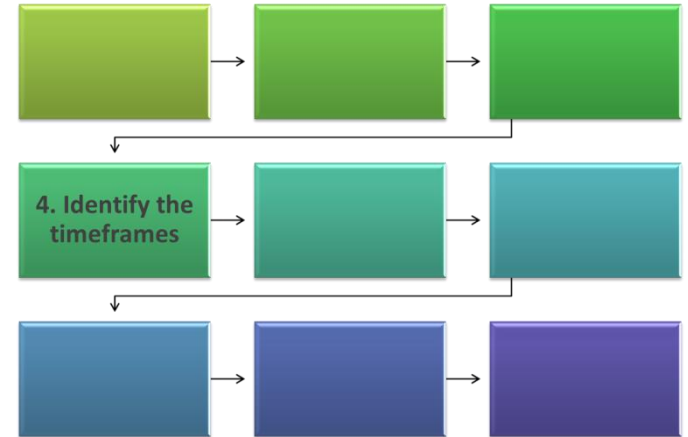
Unless otherwise specified in policy, the timeframes are as follows:

- Acknowledge receipt of a student's request within 10 working days
- Advise of decision within 20 working days (from receipt of student's request)

Delay is one of the most frequent causes of the unwanted escalation of complaints

Tips

Refer to the [*Staff Guidelines for Decision Making in Student Cases*](#)



Step 5 – Identify the issues

Consider:

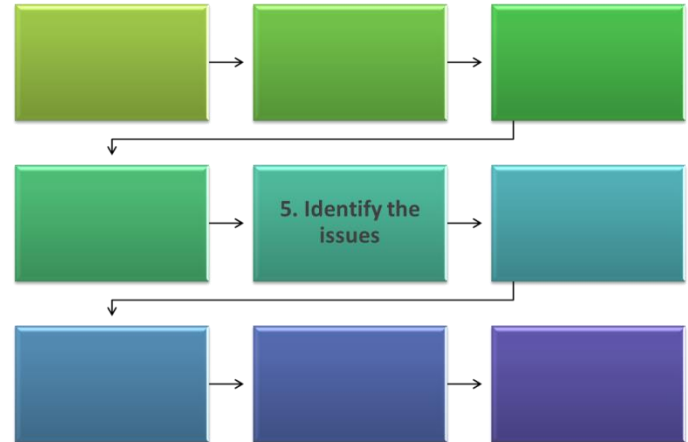
- What are the student's expectations?
- What outcome is the student seeking?
- What are the key issues?
- Do you need to make further enquiries?

Tips

Be careful to consider the outcome sought by the student.

If you are dealing with an appeal, what exactly are they appealing?

The Queensland Ombudsman has highlighted this issue on the next slide.



CASE FOCUS

Definitions matter

Having an issue clearly defined, and following the definition, can ensure agencies make good decisions and save time without the need for internal reviews or investigations by the Ombudsman's Office.

Case study 1: Limited appeal

The complaint

A university alleged that a student had engaged in academic misconduct. The student was found guilty of misconduct at a hearing of the allegation and a moderate misconduct penalty was imposed, involving loss of marks.



The student appealed against the finding but did not appeal the penalty. On appeal, the student was again found guilty. However, the penalty was increased and involved cancellation of their enrolment.

Investigation

The investigation considered whether or not the appeal was constrained to the finding of guilt only or if it included the level of penalty.

The university's student misconduct policy provided that an appeal against misconduct would proceed as a new hearing. Since the university saw the appeal as a new hearing, it maintained the view that it was entitled to raise the level of the penalty.

This Office considered that the only issues before the appeal decision-maker were those raised in the notice of appeal. Accordingly, the penalty should only have been changed if the appeal reversed the original finding of academic misconduct.

Making a difference

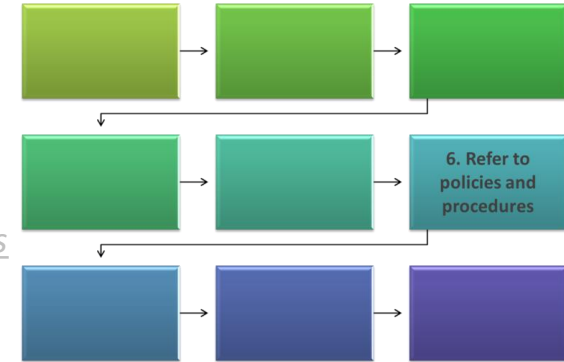
The university reinstated the original misconduct penalty. It also reviewed the student misconduct policy to ensure the extent of an appeals hearing is clear.



Step 6 – Refer to policies and procedures

Refer to the relevant policies and procedures:

- [Student Review and Appeals Policy](#)
- [Student Review and Appeals Procedures](#)
- [Institutional Framework for Promoting Academic Integrity Among Students](#)
- [Student Academic Misconduct Policy](#)
- [Student Academic Misconduct Policy – Higher Degree Research Students](#)



Tips

Download the relevant document from the University's [Policy Library](#) in order to access the approved version.

Step 7 – Consider the evidence and investigate

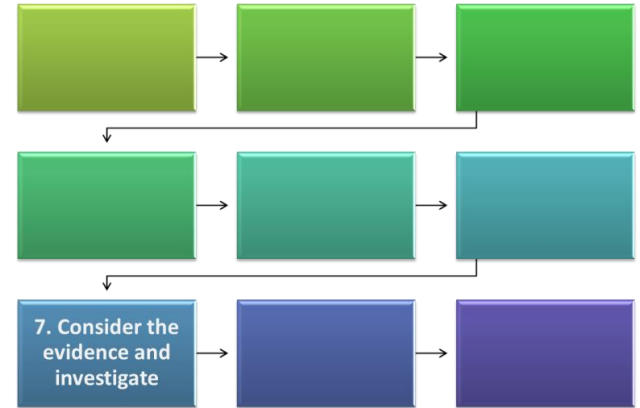
Adopt an organised and professional approach to decision making and complaint handling by:

- Gathering and recording all relevant information
- Checking facts
- Adhering to the principles of natural justice/procedural fairness
- Keeping accurate records to support your decision

Tips

The University is not a court of law, so the rules of evidence do not apply, however:

- Be careful to give weight to reliable and relevant evidence
- Avoid making decisions based on guesswork and/or assumptions



Step 7 – Consider the evidence and investigate

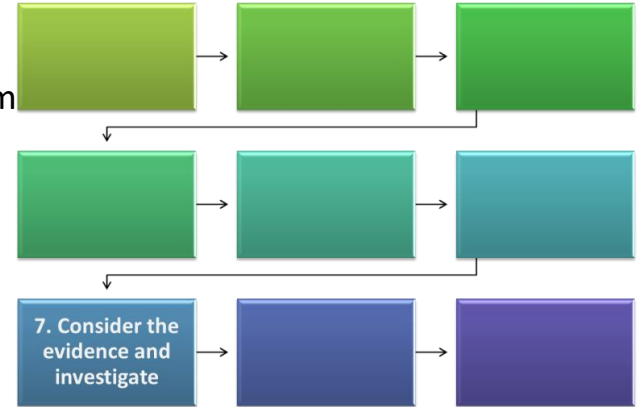
What is Natural Justice/Procedural Fairness?

The key elements are:

- The student's right to know the details of any allegation against them
- The opportunity to present their case
- The right to be treated without bias
- A decision made on the balance of probabilities*, based on an objective and unbiased assessment of evidence.

Tips

*On the balance of probabilities means '*more probable than not*' that the facts occurred. The evidence must be persuasive enough that you are satisfied of the occurrence of those facts.



Step 8 – Making the decision

What to consider?

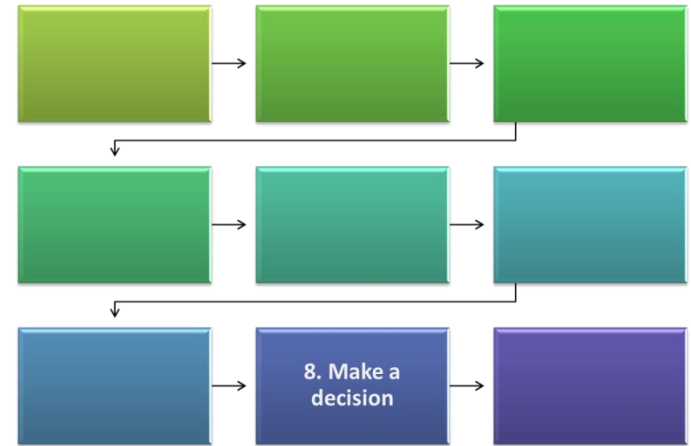
- Criteria – refer to the relevant published policy for appropriate decision making criteria
- Mitigating circumstances – this may form part of the decision making criteria
- Standard of proof – balance of probabilities

Discretion must be reasonably exercised.

Consistency – if you have made a decision of this nature previously, consider your decision/s and whether they are consistent.

Tips

Keep a record of your previous decisions. Consider the decision/outcome/penalty in similar cases and whether your current decision is consistent.



Step 9 – Communicating the decision

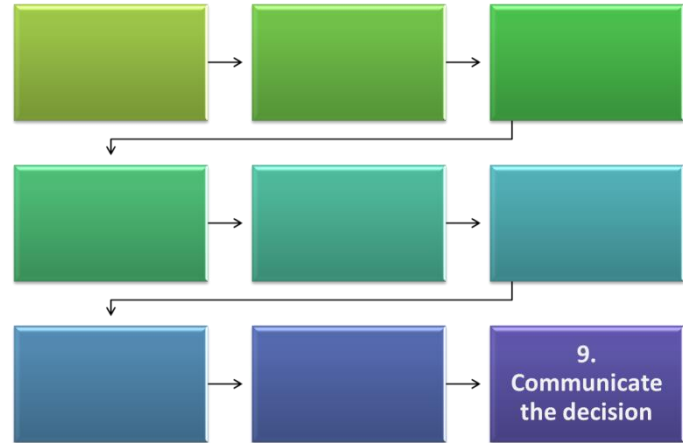
Take the time to explain a decision to the student. This will assist them to understand the issues and reduce likelihood of further appeal.

Advise of the decision as soon as practicable, or within 20 working days of receipt of the student's request.

Effectively communicate reasons for your decision so the student:

- Understands the decision
- Understands the facts and evidence you relied on in making your decision
- Has sufficient information to appeal the decision

Advise of the student's right of review or appeal, including their right to make a complaint to the Queensland Ombudsman



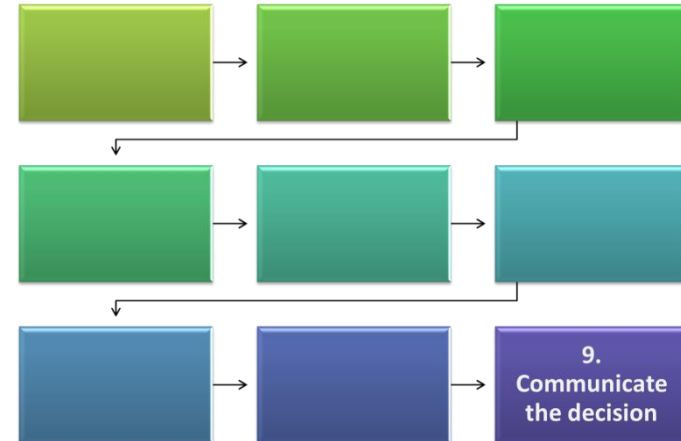
Step 9 – Communicating the decision

Tips

The seriousness of the decision and potential consequences for the student should inform the level of detail required in your letter of decision.

Templates are available in [Student Review and Appeals](#)

Templates for Student Academic Misconduct are in SAIMS.



Record keeping is important

Good record keeping:

- Protects the rights and interests of all parties
- Explains and justifies the actions of the University
- Documents and explains the decision in the event of internal or external review

Records should be:

- Accurate
- Factual - keep a factual account of what happened. Avoid observations or opinions unless you have evidence to support that opinion



Record keeping is important

Tips

- The following document are available to assist you:

[Record Management Policy](#)

Note

- The absence of records is no defence in the event of an external review.
- The next slide offers advise from the Queensland Ombudsman



FRONTLINE FOCUS

Lack of records is not a defence

A recent investigation focused on the information provided by an agency call centre to a complainant. The essence of the complaint was that incorrect information was provided by the agency to the complainant which influenced his decision to expend a significant amount of money.

In investigating the matter it became necessary for the Office to determine what advice was given to the complainant from the call centre.

Although not completely conclusive, the complainant had made brief notes of his original discussion with the call centre operator. Further, his account of what he was told was supported by subsequent emails he sent to the agency. Several times the complainant outlined his understanding of the information provided to him and this view was not challenged by the agency at the time.

After enquiries with the agency, the Office found that the call centre had a record of the original telephone call made by the complainant but no recording or other information was available about the content of the discussion. The agency advised that it did not have the technology to record telephone conversations.

The agency originally argued that, as it had no record of what was discussed, it was unable to verify the exact contents of discussions and therefore was not in a position to accept the complainant's version that he had been misled.

Having examined the available evidence (including the notes made by the complainant and his subsequent emails), this Office found it was probable the complainant had been provided with incorrect information from the call centre. In addition, it was not reasonable for the agency to rely on the lack of a record to refuse the complainant's claims.

As a result, the agency had to reconsider their decision in regard to the complainant.

Where an agency does not record details of advice and/or information given, the absence of a record does not automatically provide it with a defence to any claim that incorrect or inaccurate information has been provided. Importantly, its ability to deny such allegations is significantly limited, particularly where there is some evidence to the contrary.

In addition to the various requirements established under the *Public Records Act 2002*, keeping a record of advice and/or information provided to a customer (whether it be a recording of the conversation or a file note) allows the agency to meaningfully respond to a claim that it provided inaccurate or incorrect information.

Extract from the Queensland
Ombudsman *State Perspective*, Issue 23
(December 2014) available at:
<http://www.ombudsman.qld.gov.au/PublicAgencies/Resources/Perspectives/newletters/StatePerspective/tabid/165/Default.aspx>

Confidentiality



Handle reviews/appeals by students and allegations against them on a confidential basis and show respect for the privacy of individuals involved.



All documentation are to be kept confidential.



Only disclose to those persons who have a prescribed role in the process, or as required by law.



General rule = only people with an operational need to know about the matter should be informed.

Resources



[Guidelines for Staff Decision-Making in Student Cases](#)



[Student Complaints Support](#)



[Template letters](#)



Ask a colleague – Deans (Learning & Teaching) are experienced decision makers



[Queensland Ombudsman](#)



New South Wales, Ombudsman – [Complaint Handling at Universities: Australasian Best Practice Guidelines \(2015\)](#)



THANK YOU