

Election Complaints & Appeals Procedure

UNSA Student Representative Council

1. ESTABLISHMENT

This Procedure ensures that appeals against the determination of the UNSA SRC election Returning Officer (or their nominee) are dealt with in a fair and impartial manner and resolved in a timely and effective way.

This Procedure should be read in conjunction with the approved Terms of Reference for the UNSA Elections Independent Assessment Panel.

2. SCOPE

This Procedure applies to student Candidates (and their supporters) whose behaviours and actions within the auspices of UNSA SRC elections are the subject of a complaint. The Returning Officer (or their nominee) may refer matters of complaint to the Panel for determination.

Candidates (and their supporters) who, subject to a complaint against them being upheld by the Returning Officer (or nominee), may appeal that determination.

3. DEFINITIONS

The following definitions shall apply to this Procedure:

Appeal - a request in writing to the Returning Officer (or their nominee) in relation to a decision of the Returning Officer (or their nominee) in relation to a complaint.

Candidate - The individual whose action or behaviour is subject to complaint. This individual is liable for the behaviour of their supporters in relation to the election.

Complaint - an expression of concern, dissatisfaction or frustration raised by an individual with regard to the actions of a Candidate or their supporters in relation to UNSA elections.

Complainant - A student, staff member or affiliate who has lodged a complaint.

Independent Assessment Panel (the Panel) - is the group with delegated authority to consider and make determination on complaints received pertaining to UNSA SRC elections.

Returning Officer (RO) – the Returning Officer is a member of University of Newcastle staff appointed by the UNSA Board of Directors who has independent and impartial oversight of the conduct of the SRC elections. The Returning Officer may appoint one or more Deputy Returning Officers as their nominees.

4. PRINCIPLES

The principles underpinning these Procedures are based on those outlined in the Australian Standard, *Guidelines for complaints handling in organisations* and *Complaint Handling at Universities: Australasian Best Practice Guidelines* (NSW Ombudsman). They include:

- an accessible and transparent complaint handling system;
- complaints dealt with on their merit;
- all steps of a complaint are appropriately documented;
- each complaint is managed in an objective and unbiased manner;
- procedural fairness is afforded to all parties in the process;
- all parties are treated with respect;
- the appeal process provides avenues for review of the complaint outcome by people other than the original decision maker; and,

- confidential information will remain confidential and only referred to where necessary to address the complaint.

5. COMPLAINT PROCEDURE

Anonymous complaints will not be actioned by the Returning Officer or their nominee, however the complainant may elect to have their identity withheld from the Candidate.

In the instance an actionable complaint is received regarding the conduct of a Candidate or their supporters, the following process will be followed:

- The Returning Officer (RO) will make contact with the Candidate to advise a complaint has been received and outline the substance of that complaint.
- The RO may request additional information from either or both the complainant and Candidate. Both parties are required to engage with the RO in a timely manner.
- Based on the complaint and other information received the RO may:
 - a) make a determination; or
 - b) refer the complaint to the Independent Assessment Panel.
- In the case the RO makes a determination they may uphold or dismiss the complaint.

If the RO upholds the substance of the complaint, they may either:

- Require the Candidate to make right the substance of the complaint to be compliant with Code of Conduct, the UNSA Election Rule, the Election Etiquette and Campaigning Guidelines and/or any other related documents; or
- Take action to terminate the Candidate's candidacy.

The RO will provide confidential correspondence to the Candidate and complainant regarding the outcome.

6. APPEALS PROCEDURE

If the RO upholds the complaint resulting in the termination of candidacy, the Candidate may appeal the decision to the Panel by advising the RO in writing.

In the case of an appeal the RO will convene the Panel of which is composed as follows:

- the Panel is constituted of five members, made up of one University of Newcastle staff member (excluding the RO and DRO) and four independent students;
- the final composition of the Panel will be dependent on the availability and eligibility of the members; and
- the identity of all Panel members will be withheld from the Candidate and the complainant.

Regarding the management of conflict of Interests and matters of confidentiality, Panel members will be required to:

- confirm no conflict of interest exists with regard to the election outcome or with either the Candidate or the complainant;
- observe confidentiality while the matter is under consideration and after a determination is made; and
- Where a Conflict of Interest is identified the student is not eligible to participate as a member of that Panel.

The Candidate may provide a written statement outlining the reason for appeal and against the determination. This statement may be no more than 750 words.

All correspondence in the matter including (but not limited to) the initial complaint and responses from the Candidate and complainant, will be made available to the Panel to assist their determination and the decision of the Panel is final.

The Panel may uphold or dismiss the appeal. If the Panel upholds the appeal the Candidate may be required to:

- take no action; or,
- to make right the substance of the complaint to be compliant with Code of Conduct, the UNSA Election Rule, the Election Etiquette and Campaigning Guidelines and/or any other related documents.

Neither the Candidate nor the complainant will be given access to the record of meeting and the Panel Chair will provide the determination of the Panel to the RO in writing, who will in turn advise the Candidate and complainant.

In the instance a complaint is received, or an appeal is lodged and the process is not completed by close of ballots, the results of that ballot will not be determined until the matter is concluded.

7. RECORD KEEPING

Records and documents created in the course of investigating a complaint will be stored and retained by the Returning Officer (or nominee).

8. RELATED DOCUMENTS

This document may be read in conjunction with the following:

- UON Code of Conduct
- UNSA Candidate Statement – Guidelines
- UNSA Election Etiquette and Campaigning Guidelines
- Election Complaints & Appeals Procedure
- Election Complaints & Appeals Panel Terms of Reference