



Comments on the Draft Harassment and Discrimination Prevention Policy and Resolution Procedure

Joint Submission of SUPRA and the SRC

Presented by:

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Introduction and Background

Implementation of the draft *Harassment and Discrimination Prevention Policy and Resolution Procedure* should be delayed to allow for a full and formal external review of current policy. There is a need to evaluate progress as to how effectively harassment and discrimination has been addressed under current policies and to allow more time to properly re-incorporate essential provisions from current policy into the new draft. SUPRA and the SRC also have a series of specific and important recommendations which aspire to make this document a leading policy in the higher education sector for promoting a harassment and discrimination free environment.

The draft policy makes an ambitious attempt to condense three detailed policy documents into one, those three policies being the current *Harassment Prevention Policy*, *Discrimination Prevention Policy*, and *Harassment and Discrimination Resolution Procedures*. In the view of SUPRA and the SRC, such an ambitious project needs considerable additional work, if it is to be a success. The desire to streamline processes and create clarity for staff, students, managers and supervisors, which motivated the draft policy, is laudable and receives our support. However, in attempting to achieve this, the current draft has cut important rights and responsibilities that, we would argue, are crucial to supporting the legitimacy of policies on prevention and resolution of harassment and discrimination.

The result is the draft policy is unacceptable to students as it stands. The draft document would have the effect of creating less clarity for students wanting to raise problems, concerns or complaints, rather than enhancing clarity. In many instances, it would discourage students from raising issues at all. Sections of the original policy which have been cut in the draft include the right of students to consult Harassment and Discrimination Support Officers, explicit timeframes encouraging speedy resolution, the requirement to have a complaints investigator who functions independently of the University management structure. In the draft policy, the Vice Chancellor no longer plays a role in the internal review process, requirements to promote the policy have been omitted, the provisions around confidentiality and victimisation have been weakened, and there are no statistical reporting requirements within the policy. Finally, the language in which the new policy is written is more legalistic, explanation of terms and processes in plain English has been omitted, and the result is a document that will be harder for students to understand, especially those whose first language is not English.

More issues are detailed below. However, we would strongly argue that the omissions in the draft policy, mean that it is far from a best practice document. Certainly, it does not meet many of the basic requirements of an effective complaint handling mechanism as set out in the NSW Ombudsman's 2006 *Complaint Handling at University's: Best Practice Guidelines*. We believe many of these problems would have been resolved if thorough consultation with SUPRA, the SRC and other relevant stakeholders had occurred.

Comments below address our concerns with the consultation and review process to date, address issues with detail of the draft provided, offer some general observations, and provide a conclusion and recommendations.

RECOMMENDATION:

That an expert external consultant (and preferably the ADB) be appointed to:

- *assess progress on addressing harassment and discrimination under current policies;*
- *make appropriate recommendations on properly re-incorporating essential provisions from the current three policies on harassment and discrimination prevention and resolution into one policy;*
- *consult with all stakeholders who were involved in the 2000 ADB review and consultation process, to ensure that not only the provisions identified by SUPRA and the SRC above are reincorporated, but also those identified as important by other stakeholders; and*
- *ensure any new policy is up to date with current legislation and compliant with appropriate complaint handling guidelines, such as those produced by the NSW Ombudsman.*

Issues with Consultation and Review Processes

Provisions in current policy were drafted by the Anti-Discrimination Board of NSW (ADB), following a thorough process of consultation with stakeholders from January to April 2000. Face to face consultations were held with the Vice Chancellor's Advisory Council, Heads of Department, Heads of Administrative Units, Discrimination Advisers, EEO Committee, Fellows of Senate, Senior Administration, NTEU, EEO Unit, Executive Officer to the Vice Chancellor, SUPRA, the SRC, and the CPSU. Additional written or oral input was also given by the Manager Industrial Relations, Director Student Services, Assistant University Solicitor, the EEO Unit, the SRC and the CPSU. There were 14 written submissions from individual students or staff members. The draft completed by the ADB had widespread support and was passed into University policy, and has remained unchanged since its implementation in 2001. Removing provisions that were created after so much collaborative work is unacceptable, particularly given the current policy was explicitly cited by the NSW Ombudsman in their 2004 Discussion Paper *Complaint Handling in NSW Universities*, for being "a comprehensive, Plain English explanation of procedures for staff and students... The procedures [are] set out in an easy to readtable incorporating time limits for complaint handling and a flowchart" (p11).

By way of contrast with the consultation process that led to the last major change of policy, and which ultimately drew such high praise from the NSW Ombudsman, SUPRA and the SRC were only provided an exposure draft of the current document on 26 August 2009. We were offered two weeks to provide written feedback on a draft that makes wholesale changes to policy and procedure. We have had no face to face consultations, nor any opportunity to have input in the drafting process.

We had already raised concerns about harassment and discrimination policy development, within the context of individual casework matters throughout semester 2, 2008, when current resolution procedures were removed from the University web site without warning. We directed a written question about this matter to the Student Association/Senate Liaison Committee in October 2008, after repeated informal enquiries with appropriate staff failed to get procedures re-posted, and the procedures remained inaccessible for several months. At the time, and in response to the Liaison Committee question, we were advised in writing that an exposure draft was close to finalisation, that we would be consulted, and the policy was re-posted on the web. When we followed up with the contact person for the review, they had commenced leave. When we then called the person responsible in the Case Management Group in February 2009, they still did not have any documentation they could give us.

We raised concerns, again in writing, for a March 2009 meeting of the Student Associations/Senate Liaison Committee. We noted in our question that the current procedures drafted by the ADB had our support. We also stated:

“we are of the opinion that, with minor amendment and more resources, the current policy is a highly appropriate and adaptable document. We would be eager that any revisions do not make wholesale changes to a policy developed with a highly reputable external body. We seek advice as to when we will be provided a copy of the exposure draft.”

We did not receive that advice and it was not until 26 August 2009 that we received the draft procedures.

We are very disappointed that the document now makes wholesale changes to the policy, almost twelve months since caseworkers first raised concerns, and that the changes were made without consultation with SUPRA and the SRC.

Knowing that we supported the current policy and were concerned that about changes to that policy, we should have been included in the drafting process. This would have enabled our concerns to be incorporated and addressed at a much earlier stage. Indeed, the ADB’s recommendation, when it presented the original policies, was that their operation should undergo a formal and external review (possibly by the ADB again) no later than two years after the implementation of the new system, and that stakeholders should be included in the review process. We are not aware of whether such a review was carried out and seek advice as to whether there is record of it. We also suggest that such a review should be conducted now and certainly prior to any new policy implementation.

The ADB anticipated that such reviews would comprise widespread consultative mechanisms, including all the stakeholders consulted in the initial 2000 review. The University rightly advertises the ADB drafted procedures as a basis of their legitimacy and trustworthiness. If the ADB conducted the process again, it would mean the University could continue to promote the policy in this way. As they stand, the new draft procedures will not have the same legitimacy as the current policy, if the proposed, substantial changes are introduced without an external review and consultation process (other than this submission).

As a general comment, the draft procedures read as a policy document designed to meet minimum legal compliance requirements. By way of contrast, the current policies are, from a student perspective, useable and accessible resources. The usability and accessibility of these documents are key in encouraging those who feel dis-empowered by harassment or discrimination to come forward. We do not object to merging the three current policy documents into one, provided that the same provisions can be maintained and extended, and the same tone and accessibility of language is achieved. But we would argue strongly that it is important for these policies to retain an aspirational character, not simply meet bare minimum requirements, and include systemic provisions to ensure progress is made on eliminating harassment and discrimination. It is not impossible for this to be achieved by one document. However, the current draft policy has not even fulfilled the

minimum requirements, and is not ready for implementation. Specific issues with the draft are addressed in the next section.

Casework Services of SUPRA and the SRC

SUPRA and the SRC employ professional casework staff to provide free and confidential advice, advocacy and referral services to students. A range of common questions they receive about harassment and discrimination issues are currently addressed in the Question and Answer Sections of the Harassment Prevention Policy and the Discrimination Prevention Policy. Other typical questions asked of caseworkers can be readily understood and explained to students through reading these policies and the associated Harassment and Discrimination Resolution Procedures.

One of the key problems with draft policy is that casework staff will no longer be able to answer a range of important questions. Some of the questions which SUPRA and the SRC anticipate will be asked by students seeking our services, and which we will not be able to answer under draft policy, are listed below.

Bullying & Other Misconduct

1. What policy/procedures are there for *students (not staff)* experiencing bullying?
2. What happens to non-award students who have allegations made against them that are referred for a potential misconduct investigation?

Privacy

3. What happens to information that is gathered in any investigation under draft policy?
4. What information and privacy is given to a complainant, and a person against whom an allegation is made?

The Investigation

5. Who undertakes the investigation? What training will they be required to have? Who do they report to?
6. What form will the investigation take? What is the process? Is investigation on evidence, balance of probability?
7. If a complainant makes a complaint, are there cases in which the complainant may they lose control of the process – that is, if they chose to drop the complaint but an investigation proceeds anyway?

8. What is the timeframe for the investigation?
9. What are the potential outcomes of the investigation?
10. What other processes and procedures can/will be used during an investigation (eg. Staff agreements are referred to but not the specific clauses of those agreements)?
11. Who makes the decision about what course the investigation will take?
12. What is the relationship in the process between the investigator and the decision maker?
13. What is the role of the Office of General Counsel?
14. Does the investigator have the power to question others?

Independent Review

15. How does a person/investigator who is externally contracted differ from the investigator that is employed by the University?
16. How is an independent review handled?
17. What role do the SSEOU and University lawyers have if a complaint is referred to a body external to the University?

Appeal

18. Who can appeals be made to?
19. What can people appeal against?

Confidentiality

20. Who can people talk to once a complaint is made?
21. How does the confidentiality work with disclosures that may have occurred prior to making a complaint?

External Bodies

23. What type of complaints will be referred to external bodies – eg police?

Harassment and Discrimination Support Officers

24. What is the role of the Harassment and Discrimination Support Officers?
25. Where do they fit in the process?

26. What training have they received for complaint handling?

Feedback on Specific Concerns with Draft Procedures

The following feedback is provided under the headings used in the draft policy. It should be read alongside the draft provisions. Note that we advocate reincorporation of many provisions from the current prevention and resolution policies.

Overview

1. The draft process is said to set out a procedure for handling complaints of “unlawful” harassment and discrimination. Current policy not only covers “unlawful” harassment and discrimination but leaves space to address harassment and discrimination which might not strictly be “unlawful”, but which the University community would nevertheless aspire to eliminate. We would argue that, if students feel that they have to establish a breach of law has occurred in order to raise a concern, then they are unlikely to come forward. By steering away from the word “unlawful”, students who might wish to come forward with concerns but are intimidated by the procedure and power differences between them and staff, are nevertheless encouraged to raise issues.
2. Current policy is also very careful to ensure that persons can raise “problems” and “concerns”, and not just complaints. It has the effect of encouraging people to come forward who might not want to be seen as a “complainant”, but nevertheless have a legitimate harassment and/or discrimination issue that requires addressing. The draft policy is very different in that it frames procedures as being to handle “complaints of unlawful harassment or discrimination”. This language will discourage students from coming forward with concerns that they may not want to raise to the level of complaint, and means the University cannot collect accurate statistical data on harassment and discrimination issues. It makes it more likely that proactive interventions in individual cases and at a broader policy level will not occur because they will tend to be under-reported.
3. The NSW Ombudsman’s Best Practice Guidelines (referred to on page 1 of this submission) point out that complaints are an opportunity for organisations to identify areas of risk, and areas that need improvement. Focusing only on harassment and discrimination complaints about “unlawful” behaviour means that an important source of information on risk and areas needing improvement will no longer be available to the University.

References

4. State and Federal legislation covering harassment and discrimination matters with which the policy needs to be read should be included in this section.

Policy

5. The word “unlawful” should be removed from wherever it currently appears in this section, and wherever possible and appropriate from further sections of the draft document.
6. The retainment in the draft policy of the requirement for managers and supervisors to be actively responsible for intervening to prevent harassment and discrimination is important. However the previous Harassment Prevention Policy went into detail about these responsibilities, and also makes it clear that academic staff involved in teaching share these responsibilities. It clarified the responsibility of academic staff to ensure understanding of the policy of those supervised or taught, the need to be a good role model, the requirement to ensure the work/study environment is free of stereotyping material, the need to actively follow up if one suspects harassment could be occurring, and much more. The lack of detail in the draft policy will lead to confusion and a lack of understanding of these responsibilities for managers, supervisors and academic staff. Indeed, it appears that the draft policy would relieve academic staff of these responsibilities altogether, which cannot have been the intention of the document.
7. The requirement for the University to run regular promotion, education and training programs has not been carried over from current policy into draft policy. An accessible and transparent complaint handling system is one of the basic principles in the NSW Ombudsman’s Best Practice Guidelines. It states that commitment to the complaints handling process should be demonstrated by promoting it internally and externally, and this responsibility should be reflected in all policy related to complaint matters. The ADB made comprehensive recommendations on how to promote harassment and discrimination policies within the University in its 2000 final report, and these should be re-visited and a requirement to implement these kinds of strategies included within the draft policy.

Guidelines - Definitions

8. We are unclear as to whether the definition of “Affiliate” covers persons appointed by the University in a non-paid capacity to teach students. For example, it is not clear that it covers those who supervise students for professional and clinical placements, or associate supervisors from other Universities or institutions in the case of higher degree research

students. Such appointees should be covered by the University's Harassment and Discrimination provisions, and the definitions should be clarified to ensure this is the case.

9. Non award students are apparently covered by this policy according to the draft definition, but there is a problem insofar as they are not treated as students for the purposes of newly amended provisions for student misconduct proceedings under the *University of Sydney By Law 1999 (as amended)*. The inconsistency needs to be addressed.
10. The definition of "supervisor or manager" to mean "the academic staff member responsible for supervising the student's academic progress", seems to apply directly to higher degree research students and may apply to undergraduate honours students in some circumstances, but not to coursework postgraduate or undergraduate coursework students. Clarification is needed.

Guidelines - What is Unlawful Harassment?

11. There is a need to expand on the list of grounds for a harassment complaint. 'Domestic status' should be added to 'marital'. Infectious disease and criminal record should be additional grounds under which one cannot be unlawfully harassed.

Guidelines - What is Unlawful Discrimination?

12. The additional grounds mentioned above in numbered paragraph 11 should be added to this section.

Procedures - Resolution Procedures

13. This section of the draft policy says staff, students, or affiliates who believe they have experienced harassment or discrimination *are* to contact one of several University services. Current policy encourages the use of University services, but makes it clear that one can also obtain advice from external agencies including the Anti Discrimination Board of NSW, the federal Australian Human Rights Commission, and the Australian Industrial Relations Commission. These referrals should be given prominence in the policy by including them in this part of the policy (not only in the last section of the draft policy) with clear contact details.
14. Current policy refers students to Harassment and Discrimination Support Officers, whereas the draft policy indicates only staff and affiliates can use this facility. This should be rectified. The role of the Support Officers should also be clarified within the draft policy and should remain consistent with current arrangements, whereby they are able to hear an allegation, produce a confidential report, and act as a support person, but cannot advocate or investigate a matter. Under arrangements in the current policy, the Support Officers are to be

trained, appointed for a period of at least two years, be given time release to perform their roles, be selected from a wide variety of backgrounds, and receive ongoing training and support, all of which should be reflected in wording within the draft policy, so as to give confidence to students who consider using their services.

15. Contact details for SUPRA and the SRC should be included as sources of advice and advocacy support for students, and the NTEU and CPSU should be added as sources of advice and advocacy support services for staff. As with our comments above in numbered paragraph 13, these organisations should be included in this section of the policy, rather than merely referring to “staff unions and student representative bodies at the University” at the very end of section 4 of the draft policy.
16. Services for students as sources of assistance should also be expanded to at least include the International Student Support Unit for international students, as the Counselling Service only provides counselling to the local student population. The NSW Ombudsman discussion paper suggests that adequate procedures for complaint referral should include both internal and external referrals, and we would consider these amendments to be the minimum needed to meet these requirements.

Procedures - Role of the Staff and Student Equal Opportunity Unit (SSEOU)

17. This section appears to make permanent the loss of the position of Manager, Harassment and Discrimination Resolution and transfers responsibility for being the very first point of contact for complaints to the SSEOU. In formally transferring this responsibility to SSEOU, the functions previously performed by the Manager have been severely curtailed. The draft policy limits SSEOU to conducting a preliminary investigation on only ‘unlawful’ harassment and/or discrimination complaints, ensuring the parties are aware of resources and processes, and ‘where appropriate’ facilitating resolution. By contrast current resolution procedures give the Manager, Harassment and Discrimination Resolution the responsibility to “resolve the vast majority of concerns, problems and complaints relating to discrimination or harassment”. The Manager is kept independent of the University’s organisational hierarchy and reports directly to the Vice Chancellor. Where the Manager is not available, those who are assigned to fill the role are also required to act independently and are fully trained in handling harassment and discrimination concerns, problems and complaints.
18. The independence of the Manager, Harassment and Discrimination Resolution and its authority to resolve the vast majority of matters is a key part of what gives the current policy its legitimacy. SUPRA and the SRC recognise that in practice, with the position currently unfilled, the functioning of the policy became problematic. However, our solution

would not have been to completely disband the position and remove their functions within the draft policy, but rather to reinstitute an independent position of this sort, possibly still situated within the SSEOU, but reporting direct to the Vice Chancellor and with a formal requirement to act independently at all times. The watered down provisions included in the draft are not acceptable to students, who would, understandably, be sceptical of the independence of the resolution procedures.

19. In relation to the Manager, Harassment and Discrimination Resolution role, it is worth noting that the ADB's final report found strong support for the independent position. At the time, the EEO unit was required to provide reports for external legal and quasi-legal matters on behalf of the University, and it was important to make the problem resolution position separate from those processes. We are not aware of whether the current SSEOU is required to perform these tasks, but if so, it would obviously be another reason to re-establish the independence of the Manager role.

Procedure - Preliminary Assessment, Referral and Resolution

20. This section of the draft policy does not include the requirement to give a written acknowledgement of receipt of a concern, problem or complaint within 24 hours. It also removes the explicit requirement for the Manager to explain, within two working days of the person approaching the Manager, Harassment and Discrimination Resolution, how the rest of the procedure works, get full information about the problem, complaint, or concern, and to consider whether they are the appropriate person to continue handling the matter.
21. Further timeframes have been removed including the expectation that wherever practical and within one week of the interview raising issues, the information received will be put to the person(s) being complained about to get their side of the story. "Within one week of interviewing the person/people you're complaining about, and no later than four weeks from the date you first approached the complaint handler", there is a requirement in current policy to work out whether the complaint will be referred to misconduct provisions, whether there is enough information to know whether the matter did or did not happen, begin speaking with witnesses if required, and decide how the complaint should be resolved. These provisions are absent from the draft. Once again, adequate specification of timeframes is identified as a minimum recommended standard for complaint procedures in the NSW Ombudsman's 2004 discussion paper.
22. Steps 1 – 6 in this section of the draft policy do not contain any positive obligation on the SSEOU to resolve the complaint itself. Despite a statement in the previous section of the draft policy (Role of SSEOU) that the SSEOU is responsible for "where appropriate, facilitating resolution of the complaint", steps 1-6 do not require SSEOU to do

much more than simply refer the complaint on and monitor any developments. Further, there is an implication from the wording “where appropriate” that SSEOU will not handle resolution of complaints itself. If these issues are the result of an oversight during the drafting process, we recommend the draft policy be amended to clearly outline the steps SSEOU would take in resolving disputes. We can see a case for tightening the wording in current policy. However, the substance of the steps required of the Manager, Harassment and Discrimination Resolution is appropriate. We would be very concerned if there has been no such oversight, and if the intention of the draft policy is that SSEOU will only act as the first point of contact for complaints and ordinarily will not play any role in resolving disputes.

23. We note that the principles of natural justice are referred to in the first paragraph of this section of the draft policy. Given that many users of this document will not be familiar with the term “natural justice”, we recommend that the draft policy be amended to include a brief description of those principles.
24. Current policy explicitly requires consideration of the need for professional internal or external mediators to help readjust to working and/or studying together effectively. It requires consideration of reimbursement needs, consideration of the need to help one move to another section, course, supervisor or University, and to monitor the outcome to make sure there are no repercussions. These are further provisions that are cut from the draft policy. These cuts again go against the recommendations of the NSW Ombudsman’s Best Practice Guidelines, which recommend using Alternative Dispute Resolution (ADR) techniques wherever possible, including mediation by a neutral third party. The Ombudsman makes it clear that mediation must be voluntary and the right to refuse needs to be included in policy. We recommend that the draft policy be amended to re-instate the provisions in the current policy in this regard and further, that the draft policy state clearly that if a mediator is appointed, the costs of the mediator will be borne by the University.
25. Current policy also says that it is harassment to “bully or intimidate someone to such an extent that their (or others’) health and/or safety is at risk”. This provision is gone without any policy or procedures to replace it. We note there is a *Workplace Bullying Prevention Policy and Procedure* in draft at present. We recommend that the definition of bullying in that draft bullying policy (namely, the first paragraph in the section titled “What is Bullying?”) be included in this draft policy. This will allow a user of this draft policy to understand what constitutes bullying without having to locate and refer to a separate document. Whilst we also have concerns (similar to some of those discussed in this submission) about the content of the draft bullying policy, we believe a bullying policy should be developed for students, rather than all potential incidents of bullying only being investigated by the

Associate Dean of the Faculty or under provisions of the Student Code of Conduct.

Procedures - Confidentiality and Victimization

26. Several detailed and strong provisions which give effect to the commitment to protect against breaches of confidentiality and victimisation are completely missing from the draft policy. In relation to victimisation, current policy commitments to use security staff to protect persons, assist in making apprehended violence orders, ensure future work and assessments are not influenced, and to refer to the Manager, Harassment and Discrimination Resolution to address the victimisation, are also completely absent from the draft policy. In relation to confidentiality, the new draft excludes provisions contained in current policy that specify precisely who can have access to confidential files, provisions that keep information in relation to complaints from being included on general student or staff personnel files, and a requirement that where a file is accessed it only happens where the person has legitimate reason to do so, and is required to note the reason and date of access on the file.

Procedures - Review

27. The draft policy says “students who are dissatisfied with the outcome of a complaint of unlawful harassment or discrimination may apply for a review in accordance with the *Student Grievances, Appeals and Applications for Review Policy*”. Yet the policy referred to only makes provisions to request an internal review of a University decision to refuse to “re-credit some or all of a Student’s learning entitlement for a unit of study” or “re-credit a Student’s FEE-HELP balance”. The general non-academic grievance resolution procedures in this policy explicitly exclude complaints in relation to harassment and discrimination matters. Even if the Student Grievances, Appeals and Applications for Review Policy did include measures to deal with harassment and discrimination complaints, this policy currently refers students to their Dean of Faculty as the last point of appeal. This is completely inappropriate. If the complaint involves a staff member of the Faculty, it is unlikely that the Dean will be seen as an independent reviewer in the eyes of students. We would advocate using the current provisions that make any internal review the responsibility of the Vice Chancellor, along with a description of the review process. It is important to the integrity of the process, that any internal review is overseen and endorsed by the highest level of the University. Current policy allows the Vice Chancellor to delegate responsibility to conduct the review, but ultimately, the Vice Chancellor is required to make the final decision in relation to the review outcome.

Procedures - Misconduct

28. Issues raised above in terms of maintaining appropriate timelines for

determining whether a matter should be referred to a staff or student misconduct process apply to this section as well. The process in current policy, requiring the complaint handler to perform that assessment within one week wherever practical and no later than four weeks from approaching the complaint handler, is appropriate and should be maintained.

29. The draft policy would prevent a person from raising a matter that occurred more than 12 months before the complaint is made, and exclude the provision in current policy for the complaint handler to hear matters where there are exceptional circumstances. Explicit provisions for extending the 12 month deadline, in some circumstances, should be maintained.

Procedures - External Assistance and Advice

30. The list of contact points and details for those contacts and their functions is much more comprehensive in current policy, and should be included in the draft policy with any relevant updates to details.

General Comments & Other Issues with the Draft Policy

31. The legalistic nature of the language in the document is inappropriate if the document is intended to be used by and accessible to all students and staff. The persons whom one wants to encourage to come forward are often embarrassed, they are concerned about unsympathetic responses, they are fearful of the person or persons against whom they are going to raise concerns, and they can experience high levels of anxiety and distress. The language in a policy document such as this needs to be mindful of the vulnerable population that will use the process. It needs to inspire confidence that no matter what their concern or complaint, their perspective will be heard and taken seriously. It should lay out options for support clearly, and in a way that is easily accessible and understandable. It should create clear and robust procedures for raising concerns in a supported way. The draft policy does not achieve these outcomes.
32. There is no mention of reporting requirements in relation to collection of data, even though it was clear from the ADB's report that they had every intention that such data would be kept and used to help identify and address systemic issues. An improvement on current policy and the proposed draft would be to include such requirements, so as to give students assurance that no matter what the outcome of their particular matter, their input will be used to help identify issues and make improvements.
33. There is no mention in the draft policy of potential outcomes of making a complaint. Current policy goes through possible outcomes and explains what they mean in detail. These explanations are important and should be retained within draft policy. They answer a range of

questions which students want to know, and which they could not possibly derive from the information contained in the draft policy. In addition, the current prevention policies outline lists of behavior that may constitute harassment and/or discrimination, and are important inclusions, if one is to help students identify behaviour that is not appropriate.

34. Mention of interpreter services and the right to access assistance needs to be maintained in the draft policy. Students from culturally and linguistically diverse backgrounds may have more than sufficient command of English to conduct their University studies, but when in distress and under pressure, it is important that they can explain their issues in the language they are most comfortable with. Students who use English primarily in academic contexts may not be familiar with the language needed to communicate about their reactions or emotions, or about events.
35. As discussed above, the detailed question and answer sections within the current Harassment Prevention Policy and Discrimination Prevention Policy address issues which are not covered at all by the present draft. Questions explicitly addressed are common enough for them to deserve exposure within a policy document, and the answers are clearly and plainly written, making complicated matters understandable for students.
36. Non-University owned colleges continue to be outside of the provisions of the draft procedures. The aspiration in 2000 was that the colleges would, through negotiation with the University, come under common harassment and discrimination resolution policies and procedures. It has always appeared to SUPRA and the SRC that it would be in the interests of the colleges to adopt the current procedures, and we certainly believe it is in students' best interests to be able to raise concerns in relation to alleged harassment and/or discrimination under a procedure at arm's length from the relevant college. We encourage the University to again enter into negotiation with the non-University owned colleges to come under University processes.
37. There are various other unresolved issues raised in the 2000 ADB report which could and should now be addressed. The issue of students being potentially subjected to cross examination by a respondent or their representative as part of misconduct investigations was raised, yet so far the recommendations to amend processes to help protect complainants have not been implemented.

Conclusion & Recommendation

The draft policy is likely to discourage people to come forward with problems, concerns, and complaints. It does not achieve what the ADB expected of the procedures, which was to significantly increase the confidence of staff and students to come forward, to decrease the occurrence of mishandling, and

ultimately create a climate which discourages and reduces the level of discrimination and harassment at the University. Current policy explicitly acknowledges power differences within its text, and implicitly takes account of these differences by writing procedures in a clear and accessible manner. With the University now intending to collapse three detailed policies into one it will be challenging to create policy and procedures that achieve the same ends. For these reasons, we strongly recommend an expert external consultant be appointed to consult stakeholders and to conduct a full and formal review of current policy before it is changed.

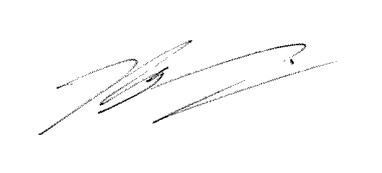
Our specific recommendation is that an expert external consultant (and preferably the ADB) be appointed to:

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Signed:



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