

# **Student Union Advocacy Service Report**

## **April - June 2013**

### **Introduction**

This quarter saw very similar numbers to the same quarter last year. April to June covers an academic cycle which predominantly features assessment related matters. This is reflected in the primary issues presenting during the period.

### **Meeting of the Advocacy Service Reference Group**

It was a pleasure to meet the members of the Advocacy Service Reference Group and discuss the first year of operation of the expanded SSAF funded service. Consistent with its terms of reference, the group provided some valuable suggestions on development of this report and the data collected. Many of which I hope you will see reflected in this report. The suggestions implemented this time include the addition of recommendations in the 'trends and issues' section and report backs on implementation of previous recommendations.

### **Advocacy & Legal Student Advisory Group**

Following an internal review last year and an organisational restructure, UMSU established a Student Advisory Group for each of the newly established divisions within UMSU including Advocacy and Legal. The first of the quarterly student advisory group meetings took place on 15 May 2013 and was attended by staff of the Advocacy and Legal services as well as a number of student representatives.

The terms of reference include the opportunity for students to provide feedback and advice on student experiences of the Advocacy & Legal Services; identify current issues for students that are relevant to the provision of the Advocacy & Legal Service and issues specifically relevant to the support provided to elected student representatives by the Advocacy & Legal Service; and to identify opportunities for staff and student representative collaboration.

This meeting discussed advocacy and legal service reports detailing recent advocacy and legal service case work, research, projects and initiatives staff are currently undertaking and determined future directions for the student advisory group. We anticipate that this direct student input into service planning and priorities will significantly enhance service delivery and ensure relevance for students at large.

### **Audit of the University's Student complaints framework**

I was pleased to meet with Piero Ammirato of the University's Internal Audit office in relation to an audit of the University's Student complaints framework. One of the issues I raised with him - and I feel is worthy of further exploration - was the need for further training and development of responsible officers in good administrative decision making.

It is important for the University to monitor its complaints processes, however the Advocacy Service notes that - anecdotally at least - it appears that many issues which might have been resolved informally, ultimately progress to a formal grievance and many formal grievances progress to appeals on the basis of poor or unsound decision making. Notably the fear of setting precedent (a.k.a. 'floodgates mentality') presents a real barrier in this area. We note

that the University Compliance Program has produced a useful publication in this direction; however there is not universal compliance with its guidelines.<sup>1</sup>

Research over the last decade indicates that the incidence of students seeking legal recourse outside of Universities is on the increase.<sup>2</sup> The now well established application of market principles in the tertiary sector has seen students become increasingly identified as "consumers" in a commercial education system.<sup>3</sup> Other administrative matters have potential to become judicially reviewable decisions.<sup>4</sup> Importantly, any such university decisions will be held to the same standard as those applied to other statutory tribunal decisions (such as Administrative Appeal Tribunal or Migration Review Tribunal). In this context we believe that there is a strong argument to review administrative decision making across the University.

### **Recommendation**

The University could survey key responsible officers on their awareness of administrative decision making principles and their obligations. This might inform a programme of training and development which will ultimately enhance the University's dispute resolution procedures.

## **Trends and Issues this Quarter**

### ***Assessment during SWOTVAC***

The *Coursework Assessment Design and Methods Procedure* (MPF1200) provides:

#### **7.1.3 Swot-Vac**

- a) Assessments (exams, tests or due-date for assignments) will not be scheduled during the 'swot-vac' period at the end of the standard teaching semester and before the assessment period.

In the first few days of SWOTVAC five students contacted the service advising that they had assessment tasks due during the SWOTVAC period. Subsequently the elected student office bearers in the Education Academic Affairs portfolio posted information on these procedures to UMSU social media sites. This resulted in a flurry of further reports of this practice.

As the assessment was all due within days of these contacts, with students, there was relatively little which could be done beyond advising the affected students to respectfully raise it directly with their subject coordinators.

### **Recommendation**

The practice appears relatively widespread. UMSU student representatives have collected data from students affected by assessment in SWOTVAC by a survey conducted from the student union website which received 155 responses. The raw data indicates that there were

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<sup>1</sup> Procedural fairness in Decision making – a compliance guide <<http://www.unimelb.edu.au/compliance/compliance-materials/Procedural%20Fairness%20in%20decision%20making%20Compliance%20Guide%20April%202011.pdf>>.

<sup>2</sup> See e.g. Hilary Astor, 'Australian Universities in Court: Causes, Costs and Consequences of Increasing Litigation' (2008) 19 *Australasian Dispute Resolution Journal* 156; & Bruce Lindsay, 'Student Subjectivity and the Law' (2005) 10 *Deakin Law Review* 628.

<sup>3</sup> Bruce Lindsay, 'Complexity and Ambiguity in University Law: Negotiating the Legal Terrain of Student Challenges to University Decisions' (2007) *Australia & New Zealand Journal of Law & Education* 7.

<sup>4</sup> Patty Kamvounias & Sally Varnham, 'Legal Challenges To University Decisions Affecting Students In Australian Courts and Tribunals' (2010) 34 *Melbourne University Law Review* 140.

approximately 120 individual subjects which had some form of assessment due during SWOTVAC in semester 1 2013. The matter is currently with Professor Pip Pattison who is investigating what can be done to communicate the policy to staff better. The Education (Academic Affairs) Officer has also raised the issue at TALDEC and TALQAC. Details of this survey can be made available to the reference group for reference or follow up.

### ***The Rise and Rise of Social Media and General Misconduct***

It has been relatively well documented that many who use social media platforms believe that they are anonymous, untraceable or at least not subject to the usual social niceties expected in real life (IRL). Buoyed by this erroneous belief, students are increasingly falling foul of the fact that they are in fact generally very easily identifiable when engaged in University related social media activities and will be held to their usual obligations under University policy. More surprising to some is that their “private” Facebook page is in fact shared with their “friends”, some of whom may not share their views.

This quarter there were a number of enquiries about the University’s role in responding to student’s personal social media posts. Several of these enquiries culminated in misconduct allegations.

### **Recommendation**

The Advocacy Service is interested in initiating an educational campaign for students alerting them to their rights and responsibilities in the somewhat complex area of social media engagement. The service also recommends that the University considers informal/educative responses to students in the first instance in appropriate situations.

### ***General Misconduct and Criminal or Civil Legal Consequences***

We have seen a large number of students facing general misconduct allegations this quarter. One of the issues highlighted by these cases is the potential legal consequences which may flow from the University’s general misconduct proceedings. There are currently two cases on foot which illustrate the potential problems.

Regardless of the final outcomes of these particular cases, the following situations raise certain procedural issues which suggest further critical consideration may benefit future practice.

The first case involves a student facing an allegation of sexual harassment which was not referred to People and Fairness but progressed through the general misconduct procedures pursuant to Statute 13.1. The allegation was made on the basis of a letter of complaint sent to the University by the husband of the person who was subject to the alleged conduct by the student. The letter detailing the complaint which prima facie formed the basis for the allegation of general misconduct also clearly stated that further legal action may issue as a result of the alleged conduct.

The matter was referred to a General Misconduct Committee which met with the student as part of its investigations. The General Misconduct Committee, in finding the misconduct was substantiated, applied a penalty (among others) requiring the student to write a letter of apology to the complainant. In this context such a letter would be effectively an admission which could potentially have further legal consequences for the student should the complainant proceed with threatened civil action against the student.

The other case involves a student who faces general misconduct allegations with respect to a breach of Regulation 8.3.R2. The student had his access to IT facilities suspended as a result of alleged conduct which may attract a criminal prosecution as obtaining financial advantage by deception. We hope that the General Misconduct Committee has regard to the potential criminal consequences for this student of making a written submission to the Misconduct Committee. In this instance, requiring frank disclosure by the student of the relevant conduct may have the effect of abrogating the student's privilege against self-incrimination in a criminal setting.

### **Recommendation**

That the general misconduct provisions of Statute 13.1 are reviewed specifically with respect to potential interaction with criminal investigations or other legal proceedings. Regard should be given to the timing of any university investigation. The Chair of the General Misconduct Committee should, as a matter of course, consult with University General Counsel and Legal Services to identify any relevant legal risk.

### ***Inconsistent Practice between Faculties***

There have been a few matters this quarter which exemplify problems students face from time to time with respect to inconsistent practice between student centres. On their own they may appear somewhat trivial, however these sorts of matters are routinely reported to the Advocacy Service and taken collectively indicate some room for improvement.

In the first case, a student presented to two different student centres with a request to verify her enrolment for the purposes of applying for an international program unrelated to her University studies.

She attended the Science Student Centre at the same time as another student who was also requesting the same form be signed to verify their enrolment. The form requires a signature from an authorised representative of the school and also provides a space for an official seal/stamp.

A staff member at the Science Student Centre signed and stamped the form for the student who is enrolled in a Bachelor of Science degree, however could not provide this service for the other student as she is enrolled in a Bachelor of Biomedicine. Subsequently the student was referred to the MDHS Student Centre, where she advises that on two separate occasions she was informed that the form could not be signed "for legal reasons". The student was then referred to Student Administration, where she was advised that she could submit the form to be signed by the Academic Registrar for a fee of \$25 with a wait of up to three working days. It is worth noting that the Student Administration page for this service discusses verification of their academic record, not proof of student status.

On the student's request, the Advocacy Service contacted the MDHS Student Centre and was advised that staff at the student centre are not being legally authorised to sign on behalf of the registrar. We subsequently raised this response with a staff member from the Science Student Centre given their willingness to sign the form, and it was explained that they requested a University stamp so they could provide this service to students free of charge. At this point the staff member from the Science Student Centre offered to sign and stamp the student's form in order to resolve the issue which had by this time become very urgent for the student.

Another example of inconsistent practice arose recently where the Commerce Student Centre declined to provide a student with a copy of their Student Record. In the first instance, the Student Centre cited “policy” as the reason. The student was further advised they would need to make an FOI request. The student subsequently went to the Arts Student Centre and was provided with their student record card upon first request. The Advocacy Service followed up with the Commerce Student Centre however it is unclear whether they will review their practice and advice in this area.

**Recommendation**

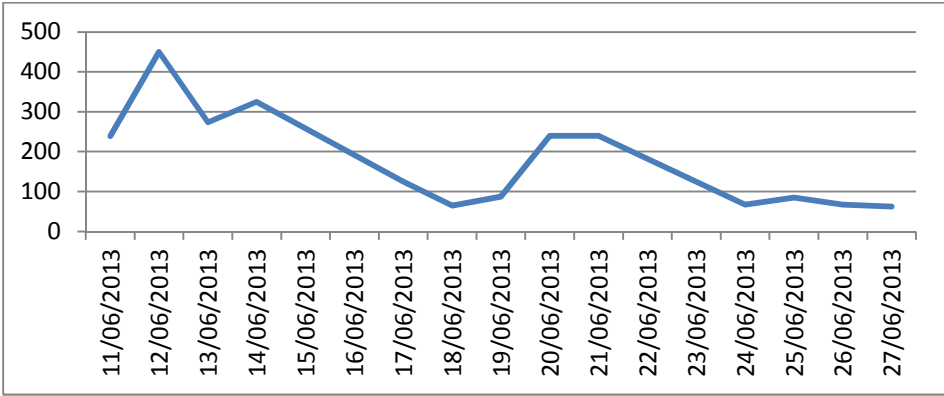
Student Centres review and consolidate their practice and advice on a range of routine matters to ensure consistency of approach and equity in outcomes for students.

**Programmes this Quarter**

***Exam Support Stall***

Training was provided to 42 volunteers who staffed the examination support stalls during the examination period. A total of 2380 students received a service from the stall over the three weeks of exams. Volunteers do two hour shifts, and set up and put away the marquee and table every day. Equipment is stored in the Royal Exhibition Building.

Volunteers answer a range of questions; provide directions on the location of facilities, and referral to discuss issues such as special consideration and academic misconduct. Those involved report that students appreciate the programme - at a time when many students need extra support because they are stressed and anxious.



The volunteers at the stall provide on-site information, advice, referral and support to students who sit exams at the Royal Exhibition Building in Carlton during the exam period (2-3 weeks in both June and November). The stall gives away water and sells assorted stationary, tissues and lollies for a nominal fee. Unfortunately the stall unexpectedly ran out of water in the second week and this is reflected in the significant dip in the graph above. Given the water is the single most requested item at the stall, we have been working on a way to provide water in reusable clear containers. However negotiations with the Royal Exhibition Building to allow a water cart on site have not been fruitful so far. Additionally students may borrow approved calculators and clear plastic bags for their pens etc. Signs are displayed reminding students not to inadvertently take their study notes or any unauthorised materials into the venue with them. The stall also has information about the Advocacy Service; an exam tips information card and information on other University services.

## Statistics

### **Comparative data - April-June 2013**

80 students were provided a service resulting in 240 contacts with the service. In the same quarter last year, 78 students were seen resulting in 212 contacts with the service. These numbers are characteristic of a quarter where there were no course unsatisfactory progress meetings.

Additionally, the Advocacy website received 5888 unique page views this quarter. There were over 1100 unique page views on our volunteering opportunities page and other popular pages included information on study tips, assessment disputes and special consideration.

### **Distribution by primary issue:**

The primary issue is generally identified as the university process to which the student's main concern or problem relates. Data is classified in this way because it provides a standardised and more meaningful breakdown which may be useful for tracking policy trends amongst other things. Additionally this classification system aligns with the general methodology employed by the service in providing advice and problem solving support to students. Specifically while students may express their issues in a multitude of ways, the primary issue is identified according to the policy or procedure by which the University provides possible resolutions.

### **April-June 2013**

Special Consideration	18	21.18%
General Misconduct	12	14.12%
Academic Misconduct - Plagiarism	9	10.59%
Assessment Dispute	9	10.59%
Course Unsatisfactory Progress	9	10.59%
Student Admin - Enrolment problems	4	4.71%
Scholarship Issues	4	4.71%
Incorrect Advice	3	3.53%
Course structure/changes	2	2.35%
Student complaint about uni staff	2	2.35%
Supervision Problems	2	2.35%
Academic Misconduct - Collusion	2	2.35%
Intellectual Property Dispute	1	1.18%
Vocational Placement Problems	1	1.18%
Other	1	1.18%
Not Specified	1	1.18%
Quality Teaching	1	1.18%
Advance Standing Credit/RPL	1	1.18%
Admission - Selection Appeal	1	1.18%
Academic Misconduct - Exam	1	1.18%
Equitable Accommodation (SEAD)	1	1.18%

**April-June 2012**

Special Consideration	14	17.95%
Assessment Dispute	12	15.38%
Academic Misconduct - Plagiarism	11	14.10%
Course Unsatisfactory Progress	9	11.54%
Academic Misconduct - Exam	8	10.26%
Student Admin - Enrolment problems	6	7.69%
Other	4	5.13%
Progress - HDR	3	3.85%
General Misconduct	2	2.56%
Not Specified	2	2.56%
Advance Standing Credit/RPL	1	1.28%
Equitable Accommodation (SEAD)	1	1.28%
Intellectual Property Dispute	1	1.28%
Scholarship Issues	1	1.28%
Student Admin - Remission of Fees	1	1.28%
Student Admin - Graduation	1	1.28%
Supervision Problems	1	1.28%

**Distribution by graduate/undergraduate status***April-June 2013*

Graduate	37	46.25%
Undergraduate	43	53.75%

*April-June 2012*

Graduate	32	41.03%
Undergraduate	46	58.97%

**Distribution by International/Domestic Status***April-June 2013*

Domestic	68	85.00%
International	12	15.00%

*April-June 2012*

Domestic	57	73.08%
International	21	26.92%

**Distribution of cases over all by Faculty/School – January-March 2013**

In order to make the following data more meaningful the relative weighting of faculties by enrolment has been included. Currently this is based on approximate data sourced from University Careers and Employment. We are hoping to obtain more accurate and current data from the faculties each quarter in the future. This allows a more accurate comparison of how faculties are represented by issues presenting to the service. It is also relevant to note that it is not possible to draw from this data *why* faculties may be over or under represented. For example, high representation may reflect an active referral policy within that faculty or it may disclose certain procedural issues.

	Number of cases and as a proportion of all cases.		Enrolments in the faculty as a proportion of students enrolled at university	Indication of relative representation in Advocacy casework
Arts	13	17.57%	15.37%	>
Science	10	13.51%	10.74%	>>
Medicine, Dentistry & Health Sciences	10	13.51%	12.74%	==
Melbourne School of Engineering	7	9.46%	3.79%	>>>
Melbourne Law School	6	8.11%	5.12%	>>
Melbourne Graduate School of Education	6	8.11%	5.26%	>>
VCA	5	6.76%	3.09%	>>>
Melbourne School of Land and Environment	4	5.41%	2.06%	>>>
Melbourne School of Design	4	5.41%	Unavailable	-
Architecture Building & Planning	4	5.41%	5.68%	==
Graduate School of Humanities and Social Sciences	2	2.70%	4.62%	<<
Veterinary Science	1	1.35%	Unavailable	-
Melbourne School of Information (IT)	1	1.35%	Unavailable	-
Business & Economics	1	1.35%	7.79%	<<<

## Commentary

The breakdown of graduate to undergraduate students was 43 to 37 (compared with 32 to 46 for the same period last year). This continues the trend towards equal service provision between the groups.

There were 68 domestic students and 12 international students seen in this period (compared with 57 to 21 in the same period last year). This reflects an unusually low proportion of international students accessing the service this quarter. We will monitor this to see if it forms a trend or remains an anomaly.

The primary presenting issue this quarter related to special consideration, both advice on applications as well as disputes regarding outcomes. This was the same for the equivalent quarter last year and is usual for the period leading up to final assessment. The interesting statistic this quarter is that the incidence of general misconduct as the primary presenting issue increased threefold on the same period last year. This continues a steady increase in general misconduct matters presenting to the service over the last 18 months.

Assessment disputes and allegations of plagiarism continue to feature in approximately equal numbers. Assessment disputes were evenly spread across a number of Faculties and Schools, including Arts, Law and Engineering. As usual, the report concentrates on the top four issues for the quarter; however, further breakdowns against other primary issues and against various demographics are available on request.

Presenting students came from 14 schools and faculties. Arts was the most frequently represented faculty followed by Science and Medicine, Dentistry & Health Sciences. Arts was the faculty with the most special consideration issues presenting, although the School of Engineering followed closely. Assessment disputes and allegations of plagiarism were not concentrated in any particular faculties and schools.



**Special Consideration - By Faculty/School**

Arts	5	27.78%
Melbourne School of Engineering	4	22.22%
Science	2	11.11%
Medicine, Dentistry & Health Sciences	2	11.11%
Architecture Building & Planning	2	11.11%
VCA	1	5.56%
Melbourne School of Land and Environment	1	5.56%
Melbourne Law School	1	5.56%

**Special Consideration – by Graduate/Undergraduate**

Undergraduate	13	72.22%
Graduate	5	27.78%

**Special Consideration – by International/Domestic**

Domestic	15	83.33%
International	3	16.67%

**General Misconduct Allegations - By Faculty/School**

Architecture Building & Planning	3	25.00%
Business & Economics	2	16.67%
Arts	2	16.67%
VCA	2	16.67%
Science	1	8.33%
Melbourne Law School	1	8.33%
Medicine, Dentistry & Health Sciences	1	8.33%

**General Misconduct Allegations – by Graduate/Undergraduate**

Undergraduate	11	91.67%
Graduate	1	8.33%

**General Misconduct Allegations – by International/Domestic**

Domestic	12	100.00%
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**Assessment Disputes - By Faculty/School**

Melbourne School of Engineering	2	20.00%
Melbourne Law School	2	20.00%
Arts	2	20.00%
Veterinary Science	1	10.00%
Science	1	10.00%
Melbourne School of Land and Environment	1	10.00%
Medicine, Dentistry & Health Sciences	1	10.00%

**Assessment Disputes – by Graduate/Undergraduate**

Graduate	6	60.00%
Undergraduate	4	40.00%

**Assessment Disputes – by International/Domestic**

Domestic	9	90.00%
International	1	10.00%

### ***Plagiarism allegations - By Faculty/School***

Science	2	22.22%
Melbourne School of Design	2	22.22%
Melbourne Graduate School of Education	2	22.22%
Arts	2	22.22%
Business & Economics	1	11.11%

### ***Plagiarism allegations – by Graduate/Undergraduate***

Graduate	5	55.56%
Undergraduate	4	44.44%

### ***Plagiarism allegations – by International/Domestic***

Domestic	6	66.67%
International	3	33.33%

## **Secondary Consultations with the University Community**

The service is available to staff at the University for Secondary Consultations on matters of policy or procedure from a student rights perspective.

Staff in the Advocacy Service liaised with the University Community in the following ways over the period:

27/04/2013	Melbourne School of Land and Environment	Clarification regarding process and principles for assessment disputes (staff previously using the term appeal).
24/05/2013	Melbourne School of Engineering	Collusion allegation - whether to see the students together or separately.
6/06/2013	Melbourne Global Mobility	"Good Ambassador" definition for Exchange/Study Abroad.

The next Advocacy Service report will cover the quarter July to September 2013 and will be available in early October 2013.

## **Summary of Recommendations**

### ***Good Administrative decision making***

The University could survey key responsible officers on their awareness of administrative decision making principles and their obligations. This might inform a programme of training and development which will ultimately enhance the University's dispute resolution procedures.

### ***Assessment during SWOTVAC***

The practice appears relatively widespread. UMSU student representatives have collected data from students affected by assessment in SWOTVAC by a survey conducted from the student union website which received 155 responses. The raw data indicates that there were approximately 120 individual subjects which had some form of assessment due during SWOTVAC in semester 1 2013. The matter is currently with Professor Pip Pattison who is investigating what can be done to communicate the policy to staff better. The Education (Academic Affairs) Officer has also raised the issue at TALDEC and TALQAC. Details of this survey can be made available to the reference group for reference or follow up.

***Social media and general misconduct***

The Advocacy Service is interested in initiating an educational campaign for students alerting them to their rights and responsibilities in the somewhat complex area of social media engagement. The service also recommends that the University considers informal/educative responses to students in the first instance in appropriate situations.

***General Misconduct and Criminal or Civil Legal Consequences***

That the general misconduct provisions of Statute 13.1 are reviewed specifically with respect to potential interaction with criminal investigations or other legal proceedings. Regard should be given to the timing of any university investigation. The Chair of the General Misconduct Committee should, as a matter of course, consult with University General Counsel and Legal Services to identify any relevant legal risk.

***Inconsistent Practice between Faculties***

Student Centres review and consolidate their practice and advice on a range of routine matters to ensure consistency of approach and equity in outcomes for students.

Phoebe Churches  
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University of Melbourne Student Union  
July 2013

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Survey Results