



# **ADVOCACY**

Service Report May - August 2023

## Introduction

Between 2012 and 2017 the Advocacy Service was funded by the University subject to a service contract. As part of the contractual reporting requirements, the Service produced a quarterly report to the University's Advocacy Service Reference Group (ASRG). Subsequent to the discontinuation of the separate Advocacy service contract with the University, after funding for the service was subsumed into the UMSU whole of organisation funding under the 2017 SSAF funding model, the ASRG was formally disbanded on 17 April 2018 at its final meeting.

Nevertheless, although the Service Report was originally commissioned by the ASRG as an accountability measure, it has also served to ventilate student experiences of processes within the relevant parts of the University. Over time, the circulation of the Report grew to encompass a good cross section of the University Community, establishing strong communication channels for feedback and issues management between relevant stakeholders. We hope to continue to expand and consolidate these channels and invite interested University staff to contact the Service directly to collaborate on responses to the issues identified in the Report.

## Data and 'Anecdota'

The data presented in this report is drawn from the statistics recorded in the Advocacy Service Case management database. It is not drawn from, nor is it correlated with university collected service data, to which we have no access. For this reason, it is important to interpret the data and analysis as pertaining solely to activities of the Advocacy Service. The Report statistics cannot be extrapolated to provide commentary on the performance of Faculties or Schools, unless specifically indicated in the commentary.

The 'Trends and Issues' identified in the report are based on both service statistics, and anecdotal observations and case studies. They are provided as insights into the student experience of university processes, or as potential indicators of systemic problems with administrative decision making and procedural fairness. These issues are not intended to reflect the totality of student experience, but rather those areas where the University needs to address potentially serious issues and risks.

The Service can generate drill down or other statistics on its activities, where these may be of interest to the University community, however due to relatively few resources, such requests need to be made with due notice.

## Trends and Issues

### Trust us, we have the authority

During this period, the Service assisted a student who had received two General Misconduct allegation notices, the second of which was issued due to the student's failure to comply with a directive not to contact the staff member involved.

The Student Discipline Committee (SDC) subsequently determined that the following penalties imposed under Section 27 of the Vice-Chancellor Regulation:

*(d) exclude the student from all or any part of University premises for such period and on any terms and conditions;*

*(g) impose a requirement that the student refrain from having any or such specified contact with particular students, groups of students, or other members of the University community in order to prevent, or prevent a recurrence, of misconduct;*

*(h) impose any condition(s) on the student's participation in University activities and/or use of University property or facilities in order to prevent, or prevent a recurrence, of misconduct.*

The notice went on to state:

*"In relation to (d) above, the SDC agreed that you may not attend any of [staff member]'s classes, in person or online, for the remainder of your time in Australia. In addition, you will be withdrawn from the semester one 2023 subject taught by [staff member] that you are currently enrolled in..."*

And a little later in the notice:

*"Please note that you have been withdrawn from the [subject code] Major capstone subject [subject name] Project. You have also been withdrawn from [subject name], which you may not complete or attend classes in person or online."*

While it is important to acknowledge that the staff member's safety had been understandably and rightly central to the SDC's decision making, the Service has reservations regarding the SDC's authority to summarily remove the student from a subject in the current semester, especially when they had not been provided the requisite time to exercise their right to appeal. Section 24(2)(b) of the VC Regulation stipulates the following:

*"In making a decision to made to (sic) suspend, terminate the enrolment of, expel, and/or exclude, a student under (1), the Vice-Chancellor must:*

*(b) other than where the suspension or exclusion is under an Immediate Order, allow 20 University business days for the student to appeal in accordance with the Academic Board Regulation before the suspension, termination, expulsion, and/or exclusion takes effect."*

Given the student's right to appeal and the possibility that the SDC's decision could be substituted or overturned; and given the provisions of section 24(2)(b) of the VC Regulation, it appeared that the SDC was acting outside of authority to remove the student from the subject with immediate effect.

Consequently, we wrote to the Academic Registrar (AR) to seek clarification and requesting that if it was in fact the case that this action was out of authority, that appropriate steps be taken to allow the student to participate in the subject while the appeal process was pending.

In response, while emphasising that the safety of the staff member in question was central to the decision and that other actions and steps had been attempted to address that particular concern, the AR confirmed that the SDC did not have the authority to remove the student from the subject, and that as a result, the AR had asked the SDC to reconvene and reconsider the penalty outcome.

This was an encouraging response, but further twists were to come.

The revised outcome arrived and stated:

*"...the SDC agreed on the following penalty outcomes in accordance with Section 27 of the Vice-Chancellor Regulation:*

*(g) impose a requirement that the student refrain from having any or such specified contact with particular students, groups of students, or other members of the University community in order to prevent, or prevent a recurrence, of misconduct;*

*(h) impose any condition(s) on the student's participation in University activities and/or use of University property or facilities in order to prevent, or prevent a recurrence, of misconduct.*

*In relation to (g) above, the SDC agreed to direct you to not under any circumstances or by any means whatsoever contact or attempt to contact [staff member]. The SDC warns you that any attempt to do so may result in your expulsion from the University.*

*Also in relation to (g) above, the SDC agreed to recommend to the Vice-Chancellor that you be withdrawn from the semester one 2023 subject...that you were enrolled in... and that you may not enrol in, or attend, any of [staff member]'s classes, in person or online, for the remainder of your time in Australia."*

This revised penalty raised a new question in relation to the referral to the VC.

Under Part 6 of the VC Regulation, there is no authority to refer penalties imposed in accordance with Section 27(1)(g) to the VC; it is only under Section 27(1)(j-k), where there is a recommendation to suspend or expel the student, that a matter is referred to the VC. Consequently, in substituting their original decision with this decision, the SDC had again acted outside of their authority in referring a penalty under Section 27(1)(g) to the VC.

We again sought clarification on this from the AR (as well as advice on the student's standing to attend classes while the option to appeal was still open) but ended up running into a brick wall.

The AR explained that the SDC agreed that the appropriate penalty was to terminate the student's enrolment in the subject and to exclude them from future enrolment, and then claimed that this fell under the VC powers in regulation 27 as "The VC holds the power to impose the penalties of termination of enrolment and exclusion from future enrolment".

Well, yes they do, but only when a proper process is followed to reach that stage.

The regulation makes it quite clear that the VC can only exercise that power if a matter has been referred to them by a SDC under Section 27(1)(j-k), or alternatively by direct implementation of an Immediate Order.

In this case, the SDC had referred a penalty under Section 27(1)(g) to the VC, which the Regulation does not provide for, and as a result the VC had endorsed an invalid recommendation.

Additionally, it was still unclear regarding the student's standing to attend classes while the appeal process was pending.

The VC notice stated that *"The cancellation of your enrolment in [subject name] is effective from the date of this letter."* However, this was not compliant with Section 24(2)(b) of the VC Regulation:

*“In making a decision to made to (sic) suspend, terminate the enrolment of, expel, and/or exclude, a student under (1), the Vice-Chancellor must:*

*(b) other than where the suspension or exclusion is under an Immediate Order, allow 20 University business days for the student to appeal in accordance with the Academic Board Regulation before the suspension, termination, expulsion, and/or exclusion takes effect.”*

After this was put to the AR, we received a brief response which made it clear that they were unwilling to consider the matter any further: *“The decision to exclude [student] from [staff members]’s classes immediately is appropriate and continues pending the outcome of the appeal process. The VC or a delegate can take any reasonable immediate action to manage a foreseeable OHS or safety risk.”*

Yes, they can, but only in accordance with the provisions of the VC Regulation which provides that authority, namely an Immediate Order.

While this is a case where the University justifiably needed to remove a student from campus immediately in order to protect the safety of a staff member, it is nevertheless critical that proper process is followed when taking such action. The importance of this is only increased when the situation requires action to be taken at the highest levels, and trust in the institution is significantly undermined when the university acts arbitrarily, and outside of its own regulatory framework.

### **Recommendations:**

That the University simply follows its own processes correctly; the framework is there, but for reasons that are impossible to fathom, we see examples such as this where the University twists itself in knots to manufacture a particular outcome that could be implemented quite easily using existing regulatory provisions.

### **We won’t let one giant oversight stop us from revoking your award and expelling you**

*\*This case study has been updated to include the final determination.*

Back in December 2022/January 2023, a student sought our assistance in responding to an allegation of academic misconduct regarding the falsification of medical documents to support extension requests in two subjects. This occurred in the student’s final semester, and the allegation was raised after the student’s degree had been conferred in December 2022.

In late January 2023, the student received the outcome from the Faculty Misconduct Committee, which was a fail in both subjects, a recommendation to Council to revoke their award, and a recommendation to the VC for them to be expelled. We advised the student to wait for the final decision from the VC before recontacting us to commence the appeal process.

It was not until May that we heard from the student again, informing us that they had still not heard anything from the VC or the University Secretary regarding the recommendations to revoke the award and expel them.

On our advice, the student wrote to the Chair of the Faculty Misconduct Committee and the Academic Secretary (as Policy Steward) to explain that they were still waiting for communication from the VC and University Secretary. In response, the University Governance Team explained that the University was still proceeding through the steps required under the Revocation of Awards Policy, and also that “As the academic misconduct proceedings have concluded, no further input or involvement is required from you at this stage”.

The student did not immediately advise us of this development, as they presumably thought they would wait for the further communications that had been promised, but when they hadn’t heard anything further by late August – three months after the previous response, and now seven months since the outcome of the allegations – they reached out to us again.

After seeing the very concerning response from the Governance Team, we instructed the student to respond immediately and clarify that they had never received correspondence from the VC regarding the Misconduct Committee’s recommendation to terminate their enrolment, and consequently had never been given the opportunity – as was their right – to appeal the decision, and that it was therefore not correct for them to state that the academic misconduct proceedings had concluded.

Further, the student advised that they absolutely intended to appeal the decision to terminate if the VC endorsed it, and therefore University Council should not be considering the revocation of their award until they had been able to exercise their right to appeal.

The very next day, the student received notice from the University Secretary that University Council had decided to revoke their award.

Again, we advised the student to respond to clarify that they had never received a final decision from the VC, and therefore the matter should not yet have been considered by University Council. To avoid any potential doubt, we advised them to cite Part 9 Section 45(4) of the Academic Board Regulation, which states:

*“In the case of a recommendation made under 45 (1) (j), the faculty must allow 20 working days for the student to appeal to the Board before sending the recommendation to revoke the award to the University Secretary for Council’s consideration.”*

At this point the student decided to engage external legal help – due both to the unholy mess that the issue had become, and the significant amount of time that had passed – and we provided consultation to their lawyer in respect of the administrative and procedural errors in the process.

Then, in February 2024 – more than a year after the initial allegation of misconduct was raised – the student informed us that they had just received a revised penalty outcome from the Faculty Misconduct Committee, as the VC had remitted the matter to the Committee for reconsideration. As a result, the recommendation to terminate the student’s enrolment was withdrawn.

It should not have required the student to engage external legal assistance to get this matter resolved; it was just a clear procedural irregularity that the student had tried to raise on multiple occasions across a number of months.

Eventually, a more just and satisfactory outcome was reached, but not before the student was put through a torturous ordeal over the course of 14 months, profoundly impacting their wellbeing and academic/professional progress. And all of this from a simple administrative oversight which could have been addressed and resolved at numerous stages across that time.

### **Recommendations:**

When a clear error has occurred, it is important for the decision-making body to acknowledge the error and take swift action to address it. When this student clearly explained in May – at that point already four months after the initial outcome – that the VC had not yet communicated a decision on the Misconduct Committee’s penalty recommendation, the matter should have been prioritised and dealt with then and there.

Mistakes and oversights happen. It’s just critical to deal with them efficiently to ensure the impact on the student is minimised.

## Advocacy Service Statistics

### Comparative data – May - August 2023

This period 592 students were provided a service resulting in 1486 contacts. In the same period last year, the service saw 617 students resulting in 1809 contacts. This reflects a stable demand across the 12 months.

### 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.

Previously, the majority of our casework presented via either our contact form or through our drop-in service. However due to the shift to remote service delivery, students have found us through a variety of other sources, many of which are not optimised to collect the usual base data which is routinely collected via our contact form or drop-in service. This includes data on students' faculty, award level (including graduate or undergraduate status) and whether they are a domestic or international student. We have done our best to collect these demographics wherever possible, however the sheer volume and urgency of many contacts has meant that our demographic data is in many cases not as detailed as usual. We have also taken advantage of the reach of our social media channels to provide advice and these contacts may also be lacking in the usual detail. This makes reporting along on graduate/undergraduate and domestic/international lines problematic in this report.

## May- August 2023

All Students			Graduate Coursework students			RHD students		
Special Consideration	155	26.18%	Special Consideration	38	26.21%	Progress- HDR	10	35.71%
Assessment Dispute	93	15.71%	Assessment Dispute	19	13.10%	Student complaint about	6	21.43%
Course Academic Progress Committee	59	9.97%	Course Academic Progress Committee	14	9.66%	Supervision Problems	3	10.71%
Academic Misconduct- Plagiarism	35	5.91%	Academic Misconduct- Plagiarism	7	4.83%	Scholarship Issues	2	7.14%
Academic Misconduct- AI	34	5.74%	Academic Misconduct- AI	7	4.83%	Other	2	7.14%
Remission of Fees	31	5.24%	Enrolment problems	7	4.83%	Enrolment problems	1	3.57%
Student complaint about uni staff	18	3.04%	Other	6	4.14%	Selection Appeal	1	3.57%
Enrolment problems	18	3.04%	Student complaint about uni staff	6	4.14%	Incorrect Advice	1	3.57%
Academic Misconduct- Falsified docs	18	3.04%	Academic Misconduct- Collusion	6	4.14%	Special Consideration- ongoing	1	3.57%
Academic Misconduct- Exam	15	2.53%	Vocational Placement Problems	5	3.45%	Academic Misconduct- Research	1	3.57%
Academic Misconduct- Collusion	13	2.20%	Remission of Fees	5	3.45%			
Academic Misconduct- Other	13	2.20%	Special Consideration- ongoing	4	2.76%			
Advanced Standing/Credit/RPL	12	2.03%	Academic Misconduct- Other	3	2.07%			
Special Consideration- ongoing	12	2.03%	Academic Misconduct- Exam	3	2.07%			
Progress- HDR	11	1.86%	Advanced Standing/Credit/RPL	3	2.07%			
Supervision Problems	7	1.18%	Supervision Problems	3	2.07%			
Incorrect Advice	7	1.18%	Academic Misconduct- Falsified docs	2	1.38%			
Exchange	5	0.84%	Incorrect Advice	2	1.38%			
Vocational Placement Problems	5	0.84%	Not Specified	1	0.69%			
Student complaint about another student	5	0.84%	Discrimination	1	0.69%			
Selection Appeal	4	0.68%	Student complaint about another student	1	0.69%			
Quality Teaching	4	0.68%	Course structure/changes	1	0.69%			
Fitness to Practice (FTP)	3	0.51%						
Graduation	3	0.51%						
Course structure/changes	2	0.34%						
Scholarship Issues	2	0.34%						
Sexual Harassment	2	0.34%						
General Misconduct	2	0.34%						
Bullying	1	0.17%						
Academic Misconduct- Research	1	0.17%						
Discrimination	1	0.17%						



## May- August 2022

All Students			Graduate Coursework students			RHD students		
Course Academic Progress Committee	125	20.26%	Course Academic Progress Committee	26	19.55%	Progress - HDR	5	41.67%
Special Consideration	93	15.07%	Special Consideration	17	12.78%	Course Academic Progress Committee	3	25.00%
Academic Misconduct - Plagiarism	87	14.10%	Vocational Placement Problems	14	10.53%	Supervision Problems	1	8.33%
Assessment Dispute	75	12.16%	Academic Misconduct - Plagiarism	13	9.77%	Student complaint about uni staff	1	8.33%
Academic Misconduct - Exam	51	8.27%	Assessment Dispute	13	9.77%	Enrolment problems	1	8.33%
Student Admin - Enrolment problems	25	4.05%	Enrolment problems	8	6.02%	Not Specified	1	8.33%
Academic Misconduct - Collusion	22	3.57%	Incorrect Advice	4	3.01%			
Remission of Fees	21	3.40%	Academic Misconduct - Collusion	4	3.01%			
Academic Misconduct - Other	18	2.92%	Academic Misconduct - Exam	4	3.01%			
Vocational Placement Problems	16	2.59%	Academic Misconduct - Other	4	3.01%			
COVID-19	11	1.78%	Remission of Fees	4	3.01%			
Other	9	1.46%	Advance Standing Credit/RPL	3	2.26%			
General Misconduct	8	1.30%	Other	3	2.26%			
Academic Misconduct - Falsified docs	7	1.13%	Not Specified	2	1.50%			
Progress - HDR	6	0.97%	General Misconduct	2	1.50%			
Student complaint about uni staff	6	0.97%	COVID-19	2	1.50%			
Incorrect Advice	5	0.81%	Student complaint about uni staff	2	1.50%			
Selection Appeal	5	0.81%	Special Consid (ongoing)	1	0.75%			
Special Consid (ongoing)	4	0.65%	Scholarship Issues	1	0.75%			
Sexual Harassment	4	0.65%	Selection Appeal	1	0.75%			
Advance Standing Credit/RPL	4	0.65%	Sexual Harassment	1	0.75%			
Student complaint about another student	4	0.65%	Graduation	1	0.75%			
Quality Teaching	2	0.32%	Student complaint about another student	1	0.75%			
Scholarship Issues	2	0.32%	Supervision Problems	1	0.75%			
Exchange	2	0.32%	Intellectual Property Dispute	1	0.75%			
Graduation	2	0.32%						
Supervision Problems	2	0.32%						
Discrimination	1	0.16%						
Intellectual Property Dispute	1	0.16%						



### Distribution by graduate/undergraduate status

May- August 2023

Graduate	230	38.85%
Undergraduate	357	60.30%
Unspecified	5	0.84%

May- August 2022

Graduate	214	34.68%
Undergraduate	382	61.91%
Unspecified	21	3.40%

### Distribution by International/Domestic Status

May- August 2023

Domestic	269	45.44%
International	280	47.30%
Unspecified	43	7.26%

May- August 2022

Domestic	243	38.38%
International	306	49.59%
Unspecified	68	11.02%

## Commentary

The proportion of graduate to undergraduate students was 38.85 to 60.30, which is a similar figure to the equivalent period in 2022 (34.68% to 61.91%). The breakdown of international and domestic students during this period was 47.30% to 45.44%, which is stable in comparison to the same period in 2022 (49.59% to 38.38%).

The primary presenting issue overall this period- representing over a quarter of all matters- were issues related to Special Consideration. The next most common issues related to assessment disputes, problems with and concerns about Course Academic Progress, then academic misconduct allegations in respect of plagiarism.

Special Consideration matters involved the usual assistance with advice on late applications, disputes over outcomes, and those deemed to have insufficient evidence. The majority of presentations came from the faculties of Science, Arts, Business and Economics, and MDHS. There were significantly more undergraduate than graduate students seeking assistance with this issue, and domestic and international students were evenly represented.

More than half of all Assessment Disputes related to formal requests for remarking of assessment, mainly on the basis of procedural concerns. The majority of students came from the faculties of Science and Business and Economics, with twice the number of undergraduates than graduates, and an even spread between domestic and international student presentations.

### Special Consideration – Contacts by Stage of Process

STAGE	REASON	Total
Application	Late Application	36
Internal Review	Unhappy with outcome provided	25
	Late Application	20
	Deemed Insufficient Grounds	19
		<b>64</b>
Formal Grievance	Deemed Insufficient Grounds	15
	Late Application	12
	Unhappy with outcome provided	8
		<b>35</b>
Appeal	Unhappy with outcome provided	17
	Deemed Insufficient Grounds	3
Total Special Consideration Matters		<b>155</b>

### Special Consideration – by Faculty

Faculty of Science	48	30.97%
Faculty of Arts	25	16.13%
Faculty of Business and Economics	19	12.26%
Faculty of MDHS	15	9.68%
Melbourne School of Engineering	14	9.03%
Melbourne Law School	12	7.74%
Melbourne School of Design (AB&P)	8	5.16%
VCA & Music	7	4.52%
Melbourne Graduate School of Education	5	3.23%
Faculty of Veterinary and Agricultural Sciences	1	0.65%
Melbourne Business School (MBS)	1	0.65%

### Special Consideration – by Graduate/Undergraduate

Undergraduate	90	58.06%
Graduate	65	41.94%

### Special Consideration – by International/Domestic

Domestic	79	50.97%
International	76	49.03%

### Assessment Dispute – Contacts by Stage of process

STAGE	REASON	Total
Informal/assessment review with examiner	Procedural Issue	30
	Conduct of Assessment	8
		<b>38</b>
Formal request for remark	Procedural Issue	40
	Conduct of Assessment	12
		<b>52</b>
Formal grievance	Procedural Issue	1
Academic Board Appeal	Procedural Issue	2
Total Assessment Related Matters		<b>93</b>

### Assessment Dispute – by Faculty

Faculty of Science	32	34.41%
Faculty of Business and Economics	23	24.73%
Faculty of Arts	10	10.75%
Melbourne School of Engineering	9	9.68%
Faculty of MDHS	7	7.53%
Melbourne School of Design (AB&P)	6	6.45%
VCA & Music	3	3.23%
Melbourne Law School	2	2.15%
Melbourne Graduate School of Education	1	1.08%

### Assessment Dispute – by Graduate/Undergraduate

Graduate	32	34.41%
Undergraduate	61	65.59%

### Assessment Dispute – by International/Domestic

Domestic	46	49.46%
International	47	50.54%

### Course Academic Progress – Contacts by Stage of Process

STAGE	REASON	Total
First Attendance	Physical Health	25
Academic Board Appeal	Restrictions on enrolment	15
	Termination of enrolment	9
	Suspension of enrolment	7
		<b>31</b>
Ombudsman	Restriction on enrolment	2
	Termination of enrolment	1
		<b>3</b>
Total CAPC Related Matters		<b>59</b>

#### Course Academic Progress – by Faculty

Faculty of Science	20	33.90%
Faculty of Arts	15	25.42%
Melbourne School of Design (AB&P)	8	13.56%
Faculty of Business and Economics	6	10.17%
Melbourne School of Engineering	3	5.08%
Melbourne Law School	3	5.08%
Faculty of Veterinary and Agricultural Sciences	3	5.08%
Faculty of MDHS	1	1.69%

#### Course Academic Progress – by Graduate/Undergraduate

Graduate	20	33.90%
Undergraduate	39	66.10%

#### Course Academic Progress – by International/Domestic

Domestic	26	44.07%
International	33	55.93%

The next Advocacy Service report will cover the quarter September to December 2023 and should be available around March 2024.

Paul Lewis-Hornsby

**Team Leader, Advocacy Service**