

Independent review recommendations

Recommendations from the independent review of Waipapa Taumata Rau, University of Auckland's Student Discipline Procedures relating to complaints and incidents of harmful sexual behaviour

The review made 70 recommendations in total. Many of the recommendations for actions have already been completed by the University or were already in progress at the time the Review was conducted. Of the recommendations that are still 'to do' most are relatively minor and/or awaiting other actions to be implemented before they can be progressed.

"Statute" refers to the [Statute for Student Discipline](#).

Recommendation 1

Have separate statutes for academic and non-academic misconduct, with separate 'owners' [Provost](#) for the former, [Registrar](#) for the latter. While the reviewer's preference is to have separate Statutes, it could be possible to retain this within a single statute, but with separate sections. The Statute needs to ensure that there is provision for a specialist investigator to be appointed where specialised expertise would be appropriate

University response

Agreed. The Statute is under review and the proposed update will reflect this recommendation.

Status

In progress

Recommendation 2

The Statute needs to clearly articulate the role of the University in relation to criminal acts.

University response

Agreed. The Statute is under review and the proposed update will reflect this recommendation.

Status

In progress

Recommendation 3

Allow for a separate committee to hear matters relating specifically to sexual harm (or other non-academic matters); maximum 3 – 4 members, with a deliberative vote as well as casting vote accorded to the Chair in the event of a tied vote. At least one member of the Committee needs to have specific expertise in the area under consideration (whether harmful sexual behaviour, or other matters which may come before the Committee). It is recommended that this expertise could be sought from outside the University.

University response

Agreed. The Statute is under review and the proposed update will reflect this recommendation.

Status

In progress

Recommendation 4

If a separate committee (or sub-committee) were to hear harmful sexual behaviour matters, consult with AUSA as to the appropriateness of student representation on that (sub)-committee.

University response

Agree, we will meet with AUSA and Thursdays in Black

Status

In progress

Recommendation 5

That the Statute revision under consideration at the present will specify the role and mandate of Proctors. This would include confirmation that the Proctor is responsible for oversight of investigation of complaints, and ensuring students have support, both prior to any reference to Discipline Committee and subsequent to any Discipline Committee hearing

University response

Agreed. The Statute is under review and will reflect this recommendation.

Status

In progress

Recommendation 6

Reconsider the definition of 'authorised person' to be broad only for the purposes of 3(f) of the Statute (taking action necessary to protect safety of people or property) and limit to specific positions for the imposition of penalties under 3(g) of the Statute.

University response

Agreed. The Statute is under review and the proposed update will reflect this recommendation.

Status

In progress

Recommendation 7

If 'authorised persons' (other than specified roles) can impose penalties, ensure that there is a centralised recording system for such penalties.

University response

Agreed. The Statute is under review and the proposed update will reflect this recommendation.

Status

In progress

Recommendation 8

That the Statute identify that the imposition of penalties in the non-academic misconduct areas be limited to DC, Proctors and Residential Manager.

University response

Agreed. The Statute is under review and the proposed update will reflect this recommendation.

Status

In progress

Recommendation 9

Clarify who has power to refer directly to DC. The current statute allows 'any authorised person' to refer; current practice is only the Registrar or Provost may do so.

University response

Agreed. The Statute is under review and the proposed update will reflect this recommendation.

Status

In progress

Recommendation 10

Separate out the procedures for Discipline Committee and Proctors from the Statute so that procedures can be more easily amended if necessary.

University response

Include in update of the Statute and development of separate procedures and guidelines. Proctor's Office already has a detailed Operations Manual

Status

In progress

Recommendation 11

Provide a greater range of options for the Proctor to address matters prior to forwarding to DC, for example a compensation order, University community service (e.g. to rectify vandalism), training, compulsory counselling, reparation, compensation, low level fines to a specified maximum, apology.

University response

Agree, include in update of Statute

Status

In progress

Recommendation 12

Clarify in the Statute which policy and disciplinary process applies where there are respondent students who are also staff.

University response

Agree, include in update of Statute and in Proctor's Operations Manual

Status

In progress

Recommendation 13

There is no mention of harmful sexual behaviour in Residential Rules. It references the Addressing Bullying, Harassment and Discrimination policy, but does not mention anything specifically about sexual issues. Reference to the Harmful Sexual Behaviour policy, currently in draft, needs to be included within the Residential Rules.

University response

Agree, we will update accommodation rules to include reference to harmful sexual behaviours and the Policy

Status

To do

Recommendation 14

The time frame for a thorough investigation is difficult to reduce and simultaneously maintain natural justice for both parties. It is recommended therefore that harmful sexual behaviour complaints be given priority for investigation when there may be multiple other issues to be investigated.

University response

Agree, this is the current practice in the Proctor's Office Operations Manual

Status

Complete

Recommendation 15

That the University provide more regular communication with parties with an outline of an investigation process before it begins, and during investigation to update on progress of the complaint, whether or not it will go to Discipline Committee and the next steps at this point.

University response

The Proctor's Office has improved communication processes recently but will continue to review communication process and make improvements where possible

Status

Complete

Recommendation 16

That the University provide training for all Discipline Committee members around issues relating to harmful sexual behaviour, its impacts and sensitivity regarding communication styles with parties.

University response

Agreed

Status

In progress

Note: Same as recommendation 51. More detail in report

Recommendation 17

Create a more user-friendly profile page for Discipline Committee member information on the University website, including that X number will be chosen to form the DC.

University response

Agree, the Discipline Committee website will be updated

Status

To do

Recommendation 18

Create opportunity for paid debrief / external counselling for Discipline Committee members and Discipline Committee administration staff post Discipline Committee hearings in this area.

University response

Agreed

Status

To do

Recommendation 19

Consideration be given to local time where either complainant or respondent attends from a non-NZ time zone. Ensure that Discipline Committee administration staff contact both parties where a Discipline Committee hearing is to take place to check what time zone they will be in on the proposed date.

University response

Agreed

Status

To do

Recommendation 20

Continue with the provision of legal advice to DC.

University response

Agreed. Continue with current process.

Status

Complete

Recommendation 21

Convene a facilitated discussion between the Registrar, Campus Life, Proctors, the Chair of Discipline Committee and Discipline Committee members and Legal Counsel to specify and agree where cases can be referred to DC.

University response

Agreed

Status

To do

Recommendation 22

Analyse the year-level data of student parties to complaints of harmful sexual behaviour, and periodically include this in reporting to Audit and Risk Committee to allow for informing future communications and training. Ensure privacy is preserved within this reporting

University response

Agree, we will review the reports to Audit & Risk Management Committee

Status

To do

Recommendation 23

Ensure direct verbal contact with the respondent is made prior to the Discipline Committee hearing to check that they have read and understood their rights to advocacy or other support, and are aware of the potential outcomes for them from a Discipline Committee hearing.

University response

Agree as preferable noting this is not always possible

Status

To do

Recommendation 24

Specify within the Statute the makeup and size of the Appeals Committee.

University response

Agree, include in update of Statute

Status

In progress

Recommendation 25

Identify **all** rights of review (for both complainant and respondent in non-academic matters) around misconduct in the Statute (or Statutes if a separate one for non-academic or harmful sexual behaviour is created).

University response

Agree, include in update of Statute

Status

In progress

Recommendation 26

Identify whether the Appeals Committee should review every appeal about every part of the complaint process, or solely those that have been through a Discipline Committee process. If the latter, then identify who has the power to review earlier decisions in the process. Reviews ideally need to be considered at the lowest appropriate level.

University response

Agree that Appeals Committee mandate and the complaints process should be clarified.

Status

In progress

Recommendation 27

Ensure timely meeting requirements of the Appeals Committee when an appeal is lodged.

University response

Agreed

Status

To do

Recommendation 28

Maintain student involvement in appeals.

University response

Agreed

Status

To do

Recommendation 29

Clarify in the Statute where the University has jurisdiction to address in terms of discipline under policies or the Code of Conduct apply. If 'bringing the University into disrepute' continues to form part of the decision making in this area, then clarify what this means. Note: Solely because the parties happen to be students doesn't necessarily create disrepute to the University. Failure by the University to address an issue in a timely fashion, or addressing it inappropriately may do so

University response

Agree to further clarify jurisdiction in update of Statute

Status

In progress

Recommendation 30

Outline findings Discipline Committee or other members of the University cannot make – e.g. a criminal finding of sexual violation, but the University may still may take ongoing action to provide a safe environment for the complainant and respondent – e.g. non contact directives; suspension or revocation of enrolment until the complainant has completed a course or paper; moving one or both parties to other accommodation

University response

Agree

Status

In progress

Recommendation 31

Explore how to provide a clearer path to an opportunity for a facilitated/ mediated/ restorative justice process where appropriate. This may allow for a swifter path to resolution of lower level complaints where both parties are open to participation in this.

University response

Agree, will explore and present alternative resolution options to parties to a complaint

Status

To do

Recommendation 32

As a culturally diverse institution, the University needs to consider the range of culturally or faith-based appropriate ways of resolving issues between parties – e.g. hohourongo (reconciliation /peace) process for Māori students if desired and agreed to by both parties, with a focus on the future while maintaining the mana of the parties. This is not something that should be imposed, but provided, in consultation with students and relevant Pro Vice-Chancellors if it is an appropriate avenue in the given circumstances.

University response

Agree, will explore and present alternative resolution options to parties to a complaint

Status

To do

Note: Same as recommendations 55, 57, 64

Recommendation 33

The Statute should provide for Proctors to impose further penalties.

University response

Agree, include in update of Statute

Status

In progress

Recommendation 34

A 'fitness to study' consideration for Discipline Committee to consider be promulgated.

University response

Agree to explore this concept noting it is legally complex and will require careful consideration and expert advice.

Status

To do

Recommendation 35

Consideration be given to whether Discipline Committee should have the power to compel attendance at counselling for respondents.

University response

The university will consider this in the range of options for respondents

Status

In progress

Recommendation 36

Develop a stand-alone policy re sexual harassment, sexual harm and sexual assault, with a revised definition along the lines adopted by the University of Canterbury for higher levels of inappropriate sexual behaviour.

University response

Policy has been developed, consultation has occurred, and revision underway

Status

In progress

Note: More detail in report

Recommendation 37

In a stand-alone policy outline the situations in which consent is not given, as per the situations outlined in the Crimes Act 1961 s.128A

University response

Agree, these will be included in a definition of consent in both policy and procedures

Status

In progress

Recommendation 38

Keep the general harassment definition within the University's policy of Addressing Bullying Harassment and Discrimination as it is.

University response

Agree

Status

Complete

Recommendation 39

Define 'serious cases' within the Statute within similar parameters as Category 2 levels anticipated for academic matters; provide accompanying guidelines in relation to this with scenarios, and updated to make this a living document.

University response

Agreed. The Statute is under review and the proposed update will reflect this recommendation.

Status

In progress

Recommendation 40

Ensure that complainants of harmful sexual behaviour are aware of their rights to go to the Police, and are supported to take that action in the event that this is their decision

University response

Agree, this is the current practice in the Proctor's Office Operations Manual

Status

Complete

Recommendation 41

Use 'survivor' in University documentation as the term for those who have experienced proven harmful sexual behaviour, allowing for self-determination of the term for those impacted

University response

Agree to use survivor in university documentation when referring to those involved in proven harmful sexual behaviour cases. We will update communications to reflect this.

Status

To do

Recommendation 42

Ensure ongoing support and resourcing for the Proctor role through the Manager Student Conduct and Investigations, and administrative functions of the role through Campus Life

University response

Agree, this resource and support is confirmed and ongoing

Status

Complete

Recommendation 43

Attach time allocation to role if it is not recognised as being within their 20% 'service' allocation. Consult with the Proctors on how much time they have spent in the role since their appointment

University response

Proctor services is recognised within the 20% service allocation. Review of Proctor workload is ongoing

Status

Complete

Recommendation 44

Provide relevant training for Proctors in consultation with them, Director Campus Life, the Registrar and AUSA

University response

A suite of training is provided to Proctors, including Creating Cultures of Consent and Respect training. We will continue to review training requirements in consultation with the Proctors

Status

Complete

Recommendation 45

Ensure that the time spent in the role of Proctor is considered for academic advancement in terms of service to the University.

University response

The University confirms that time in the Proctor role is considered part of 'service' to the University in academic promotion processes

Status

Complete

Recommendation 46

Consider the diversity within the Proctor group when new appointments are made, to reflect more accurately the diversity of the student population.

University response

Agree, this occurs when new appointments are made

Status

Complete

Recommendation 47

Ensure Proctors know how to link students to appropriate cultural support if the student is not aware of it

University response

This occurs through Campus Care and Manger Student Conduct and Investigations

Status

Complete

Recommendation 48

Continue the practice of appointing both academic and professional staff to the Proctor role

University response

Agree, we will continue this practice

Status

Complete

Recommendation 49

Ensure that any students enrolling from the USA understand the different role of Proctor from their home country

University response

We will consider if 'Proctor' is the most appropriate term for this role, given it is not widely used. If we decide to keep the term, we will include information about Office of the Proctor in onboarding information for US students.

Status

To do

Recommendation 50

Extend 'Creating Cultures of Consent and Respect' training to Discipline Committee members and other relevant staff who may be involved in either being a first responder, or in the more formal process of addressing complaints. Sexual, sexuality, gender and cultural issues need to form part of this training. The impact of intersectionality issues also needs to be well covered in any training.

University response

Agreed

Status

To do

Note: Same as recommendation 16

Recommendation 51

Ensure all Discipline Committee members are trained in the principles of natural justice.

University response

Agreed

Status

To do

Recommendation 52

Liaise with AUSA to identify which search terms would be helpful to students to more readily access the sort of information they are seeking in the event of harmful sexual behaviour. (see further discussion about this in the section on Student Perception of the University).

University response

Agree, we will work with AUSA and the Creating Cultures of Consent and Respect Student Advisory Group to better understand search terms and update website accordingly

Status

To do

Recommendation 53

Liaise with AUSA to ensure that there is easy and varied information about access for support for students with issues, not solely on the website. Examples could be posters, notice boards in bathrooms with information on harmful sexual behaviour (what it is; where and how to get help; what to do; what not to do etc), videos, an app re support structures.

University response

The University has worked with AUSA and TIB recently to update resources. There is now a range of information resources in a range of formats available. We will continue to work with the Creating Cultures of Consent and Respect Student Advisory Group to improve these

Status

Complete

Recommendation 54

That the University explore the range of opportunities there may be for facilitated outcomes or other alternative resolution options, which recognises the needs of the complainants, and ensures the upholding of the dignity and mana of both parties.

University response

Different options are already available, such as mediation and restorative justice. Other processes can be considered in consultation with both parties. The University will investigate alternative options.

Status

To do

Recommendation 55

Ensure that Pro Vice-Chancellor Māori and Pro-Vice-Chancellor Pasifika are consulted and involved in the developer of culturally appropriate processes.

University response

We will hold a korero to discuss different options for Māori and Pacific students

Status

To do

Note: Same as recommendations 32, 57, 64

Recommendation 56

Ensure that AUSA and Māori student groups are consulted and involved in the development of culturally appropriate processes.

University response

We will hold a korero to discuss different options for Māori and other student groups

Status

To do

Recommendation 57

Allow opportunity for parties to settle matters within the cultural context most relevant to them. Both parties would need to agree to any process, other than a hearing by DC.

University response

Different options are already available, such as mediation and restorative justice. Other processes can be considered in consultation with both parties.

Status

To do

Note: Same as recommendations 32, 55, 64

Recommendation 58

Continue with the current practice of full disclosure and transparency of the responses from the alleged perpetrator to the complainant at the Proctor investigation stage.

University response

Agree, we will continue this practice

Status

Complete

Recommendation 59

Ensure relevant disclosure to the complainant of Discipline Committee outcomes related to the respondent, particularly those that directly impact the complainant.

University response

Partially agree. The University must ensure that the privacy of any individual is not compromised, however agree to disclose as much as is possible to the complainant

Status

To do

Recommendation 60

Ensure relevant disclosure of Discipline Committee outcomes to Campus Care to allow appropriate support to be put in place for parties, through relevant staff and as appropriate to the circumstances, e.g., Heads of Department, Residential Managers, Residential Advisers.

University response

Agree, will establish or add to the checklist for Discipline Committee hearings the requirement to advise Campus Care of outcomes to enable support offering.

Status

To do

Recommendation 61

Provide more appropriate opportunity for complainants to participate at Discipline Committee hearings if they wish; if they do choose to participate to have the opportunity to have their say prior to the respondent.

University response

Acknowledged and feasibility to be considered within the review of the Statute

Status

In progress

Recommendation 62

Keep a record of those who have had complaints made against them for consideration in either future issues or employment within the University. This recommendation was raised particularly in relation to employment of Residential Advisers. This could now form part of a good character assessment safety check which has been a requirement of the Education and Training Act (s.540A) since 1 August 2022 specifically around consideration for employment roles within residential accommodation.

University response

A safety check has now been implemented for employment as a Residential Advisor. Any Proctor or Discipline Committee finding is also noted on the student record, and can be checked by hiring managers. However, only complaints that are investigated and where there is an outcome are noted on a student record. The University must also ensure that hiring processes are fair and that it does not discriminate against potential candidates.

Status

Complete

Recommendation 63

Provide anonymised summarised publication of Discipline Committee findings and penalties, creating greater transparency, and potentially accountability. In compliance with Department of Statistics guidance in relation to preserving confidentiality, this to be done once there are 6 or more cases of the same nature that have been considered by the DC.

University response

This information is reported to Audit & Risk Committee, and is also a requirement of the Pastoral Care Code of Practice, however the details of what units must report is still being determined by the regulator. Once it is clear what we must report for PCCP purposes, we can consider how this information is made public

Status

To do

Recommendation 64

Involve students in developing culturally appropriate lower level processes for settling issues.

University response

This will be achieved through the Creating Cultures of Consent and Respect Student Advisory Group

Status

To do

Note: Same as recommendations 32, 55, 57

Recommendation 65

Ensure access to culturally competent support for students of colour, minority cultural and other groups, rainbow students, (for both complainants and respondents).

University response

This will be achieved through collaboration between Campus Care, Proctor's Office and Student Equity

Status

Complete

Recommendation 66

Recognise that alternative resolution processes may not be appropriate for all situations because of the seriousness of the allegation(s) or a breakdown in relationship between the parties.

University response

Agree, continue current practice and review as part of development of alternative dispute resolution processes

Status

Complete

Recommendation 67

Focus on a survivor-centric approach to investigations and Discipline Committee operations; note that this does not mean that the rights of the respondent are abrogated; it is to ensure that the complainant also feels supported through the process.

University response

The University must ensure that it provides a balanced and fair approach to all parties in any complaint, and observe natural justice principles. We will continue to provide support to the complainant throughout the process through separate support measures, such as Campus Care Case Manager

Status

In progress

Recommendation 68

If the more formal process is used, keep students informed of progress with matters throughout investigation; update them on progress and expected hearing by Discipline Committee or separate committee.

University response

The Proctor's Office has improved communication processes recently but will continue to review communication process and make improvements where possible

Status

Complete

Recommendation 69

Continue with providing each year (during O week?) simple information about where to find help services and how much of it is free to every student.

University response

Agree, will continue current practice

Status

Complete

Recommendation 70

Training around creating a better culture of consent and respect for students is underway, but needs further action to ensure it is accessed by the wider student body. Ensure that understanding the impact of alcohol and/or drug consumption on decision-making is clear. Consideration needs to be given to making this mandatory, at least for all first year students, as those most at risk of being the perpetrator of harmful sexual behaviour are unlikely to consider it an important topic.

University response

Creating Cultures of Consent and Respect face-to-face training is mandatory for some students. The online training is available to all students but is currently optional. The University will consider mandatory training in consultation with AUSA and TIB and consider the efficacy of mandatory training leading to greater awareness and prevention.

Status

In progress