



Appendix C: External Mediation Policy

1.1 Ongoing disputes between members of staff, or between students, or between students and staff, which cannot be resolved through existing grievance and appeals processes and which the parties to the dispute do not wish to be referred to external bodies (such as the Administrative Appeals Tribunal, the Department of Fair Trading or the Anti-discrimination Board), might be resolved without damage to the reputation of the institution and to the satisfaction of the parties concerned if there were to be arbitration by an external 'circuit breaker' or 'honest broker' with some experience of dispute resolution or conciliation

1.2 The Council of the College may appoint such a person to be an 'External Mediator' on rare occasions. The role is to supplement existing College Grievance and Appeals Policies and Procedures, particularly when the object of the complaint has recurred.

1.3 An External Mediator shall be responsible to the Provost except when the Provost is the subject of the complaint, in which case the responsible person shall be the Registrar. If both are the subject of a complaint, then the responsible person shall be the Chair of the Council.

2. Authority to inquire

2.1 At the request of the Provost, and the permission of the Chair of Council, an External Mediator has the authority to conduct inquiries relating to complaints by registered students against decisions or conduct of staff, Committees, Boards or any unit or group either within the College or acting under the authority or auspices of the College.

2.2 After discussion with the Provost, and on receipt of a written complaint signed by a contracted staff member or a registered student (who was contracted or registered student at the time of the conduct complained of), an External Mediator may be engaged for a mediation session at which he/she shall have authority to inquire into that complaint.

2.3 An External Mediator may, for any reason including possible conflict of interests, refer a complaint directly to the Provost or Registrar.

2.4 On receipt of a complaint, an External Mediator shall decide, by inquiry if necessary, whether or not the complaint falls within the role and functions of an External Mediator. The complaint shall be dismissed if the External Mediator in that particular case is of the opinion that:

2.4.1 the complaint is frivolous, trivial, or not in good faith;

2.4.2 the complainant has an insufficient interest in the matter;

2.4.3 the conduct complained of occurred at too remote a time to justify investigation;

2.4.4 in relation to the conduct complained of there is available to the complainant an alternative and satisfactory means of redress;

2.4.5 in disputes involving the assessment of a student's academic performance, the External

Mediator shall normally investigate the complaint only if the complainant has attempted other avenues available under College policies and procedures. In this case, the role of an External Mediator shall normally be confined to being satisfied that the procedures of assessment for the course(s) in question have been followed and are reasonable in all the circumstances;

- 2.4.6 the External Mediator decides that strict adherence to the published Grievance and Appeals Procedures of the College would be a more efficient means of resolving the problem in question.

Where the complaint has been dismissed by an External Mediator, the complainant shall be informed of the reasons for the decision.

- 2.5 If during an investigation being carried out by an External Mediator it becomes known that the complaint is the subject matter of a hearing or appeal under the jurisdiction of an external authority, an External Mediator shall proceed no further with investigating the complaint until the formal external hearing or appeal has been concluded.
- 2.6 An officially appointed External Mediator for a particular complaint shall be given access to all College records and documents relevant to that complaint.

3. Code of Conduct

- 3.1 An External Mediator shall decide the form and procedures to be adopted in investigating a complaint. All persons involved shall be given reasonable opportunity to explain their views and encouraged to reach agreement.
- 3.2 If the complaint is not settled by informal consultation and discussion the duly appointed External Mediator may proceed with the inquiry by methods such as:
- 3.2.1 providing a written copy of the complainant's statement to the person(s) against whom the complaint has been made; or
- 3.2.2 at the request of either the complainant or the person(s) complained against, or in any case where the External Mediator deems it desirable, convening a conference to discuss the complaint.
- 3.3 Where an External Mediator believes that during an inquiry a situation arises which requires attention to avoid further problems, the External Mediator may make recommendations to any appropriate person.
- 3.4 Where an External Mediator believes that during an investigation there arises a matter of principle affecting other sectors of the College, the External Mediator may submit to the member of senior College management nominated by the CEO a written interim report. In such a case, the External Mediator shall inform the relevant persons that such a report has been made and shall indicate to them what, if anything, has been recommended.



4. Report of investigation

- 4.1 At the conclusion of an inquiry, if in the opinion of an External Mediator:
 - 4.1.1 the complaint has been settled, no further action will be taken other than under 5 below; or
 - 4.1.2 the complaint has not been settled, a written report may be made to the Provost and to the persons involved, the External Mediator's views on the matter and recommendations would normally be included. In such a case, persons involved shall be informed that they may make a submission in writing to the Provost; or
 - 4.1.3 the complaint warrants no further action, or no further action can be taken, the External Mediator may decline to proceed further.
- 4.2 An External Mediator may bring to the attention of the Council any matter
 - 4.2.1 arising from an inquiry, or
 - 4.2.2 any matter relating to processes, procedures, rules or policies of the College.

5. Annual Report

In February of each year any External Mediators who participated in a mediation process in the preceding year shall present to the Council, through the Provost, an annual report for the previous year. The report shall be statistical in character and shall contain no reference to named individuals.

