

UTS CRICOS PROVIDER CODE 00099F

# THE OFFICE OF THE STUDENT OMBUD 2021 ANNUAL REPORT

1 JANUARY 2021 – 31 DECEMBER 2021



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## 1. STAFF OF THE OFFICE

In 2021 the UTS Office of the Student Ombud consisted of the Student Ombud and three Assistant Student Ombuds, as follows:

Dr Elizabeth Humphrys	— UTS Student Ombud, Senior Lecturer, FASS
Professor David Eager	— Assistant UTS Student Ombud, Professor, FEIT
Mr Francis Johns	— Assistant UTS Student Ombud, Lecturer, Law
Professor Tracey Booth	— Assistant UTS Student Ombud, Professor, Law

In December 2021, after nine years and three terms, Professor David Eager finished his role as Assistant Student Ombud. We express our deep gratitude for his considered and thorough handling of student complaints over many years. In December 2021 Mr Francis Johns finished in his role as Assistant Student Ombud after three years, and we are very thankful for his expertise during his term.

Dr Elizabeth Humphrys and Professor Tracey Booth will continue in their roles in 2022. Overall resourcing for the Office has been reduced, moving from three Assistant Student Ombuds to one. The Student Ombud role has also been reduced from 0.5 to 0.3 of full-time academic role. This decision was taken in light of falling complaint numbers to the Office since 2019, when the Student Complaints Resolution Office (SCRO) was established. Notwithstanding these changes, and in accordance with its past practice, the University continues to provide the Office with sufficient resources to perform its role effectively.

## 2. PREAMBLE

The Office of the Student Ombud operates within the Office of the Deputy Vice-Chancellor and Vice-President (Education and Students) under the Terms of Reference approved by the University Council. The Terms of Reference can be found in Appendix 1.

The Office provides to students an independent avenue of dispute resolution and complaint that gives an assurance of:

- natural justice, procedural fairness, and confidentiality
- thoroughness in investigating a matter
- awareness of a student's personal situation
- access to all staff and all documentation for the purpose of the investigation
- expertise as to UTS processes and structures.

The Office has been in operation at UTS for 33 years and has established itself as an important part of the University grievance handling process. It is inherent in the role of the Office that it does not advocate for an individual student, rather it adds value to the University by providing a specialist complaint investigation unit to ensure that processes are implemented fairly and improved where necessary. While the Office receives only a small number of formal complaints from students each year, they can involve lengthy and highly complex investigations. In this way, the Office contributes to the overall quality and experience of student education at UTS.

### **3. FORMAL COMPLAINTS**

In 2021 the number of formal complaints (formal 'requests for assistance') received was nine (9), which is one more than those lodged in 2020 (8) and the same number as in 2019 (9).

The main complaint categories in 2021 were matters related to fees (4) and enrolment (2), with one each related to assessment, staff conduct, and appeals. Chart 1 (page 4) presents the complaint issue categories over the last four years. The range of issues is largely in line with previous years, although there were more complaints about fees. This is unlikely to be suggestive of a wider problem because in most of those cases no maladministration was found, and it remains a very small number of matters overall.

Chart 2 (page 5) details the home faculty of the student. It is important to note that student complaints are often not about their home faculty, or the faculty alone, but a decision by another business unit of the University. In 2021 there were more complaints about the Faculty of Science than in previous years, with two of the three matters related to the Traditional Chinese Medicine program which is due to close at the end of the 2022.

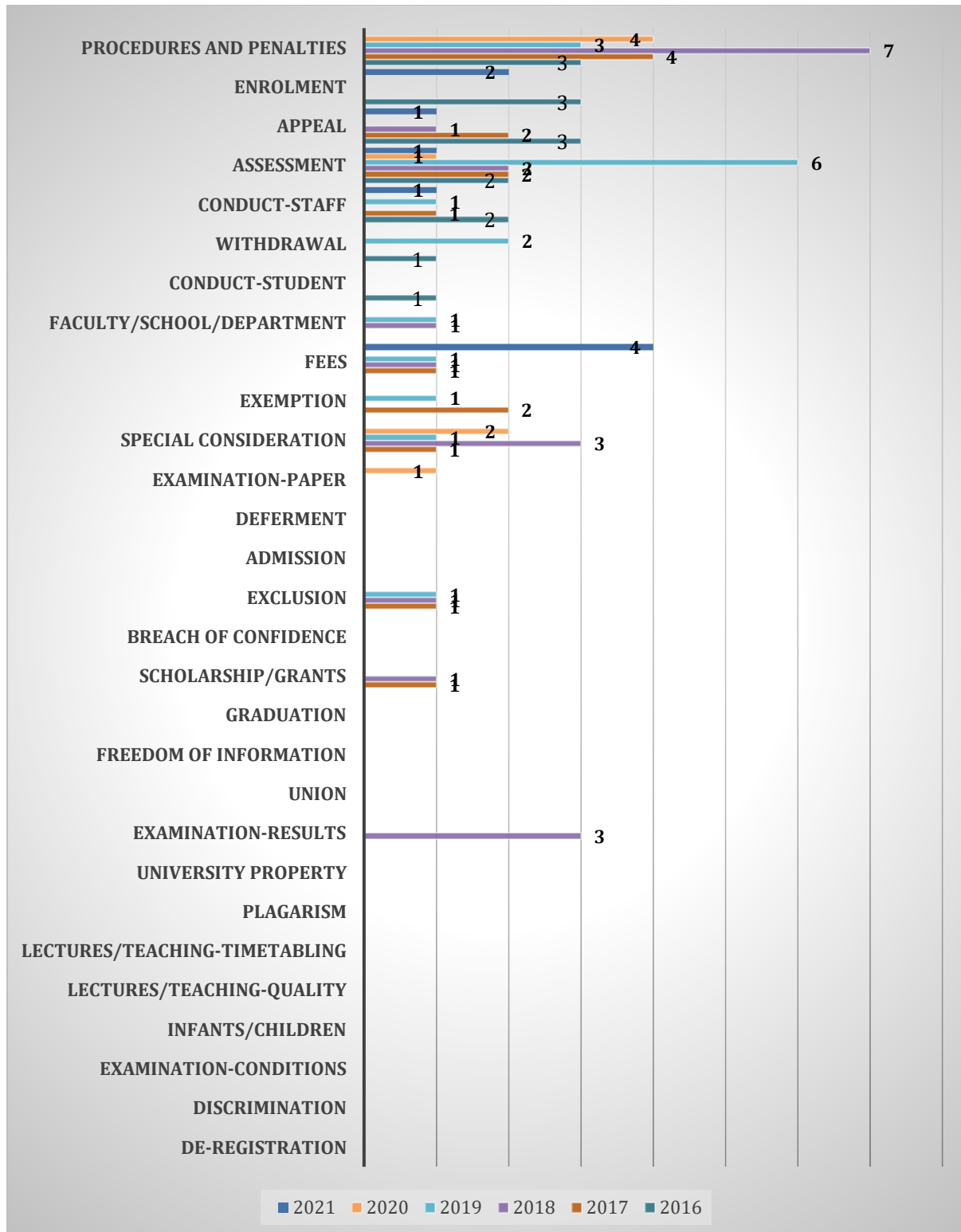
The incidence rate of complaints per 1,000 students enrolled in each Faculty in 2021 is available in Chart 3 (page 6). Complaints from Law students fell in 2021, and for the first time in many years the faculty did not have the highest incidence rate. Law students tend to raise complaints more often than other students, a trend that is not unique to UTS.

Chart 4 (page 6) presents the long-term incidence rate of formal complaints per 1,000 students, from 2001 to 2021. The compound annual growth rate (CAGR) depicts a significant long-term decline. The 2021 incidence rate of 0.2 held steady as compared to 2020, thus remaining at its lowest level in two decades. This rate is below the plateau level, of 0.3 to 0.4 incidents per 1,000 students, over the prior eight years.

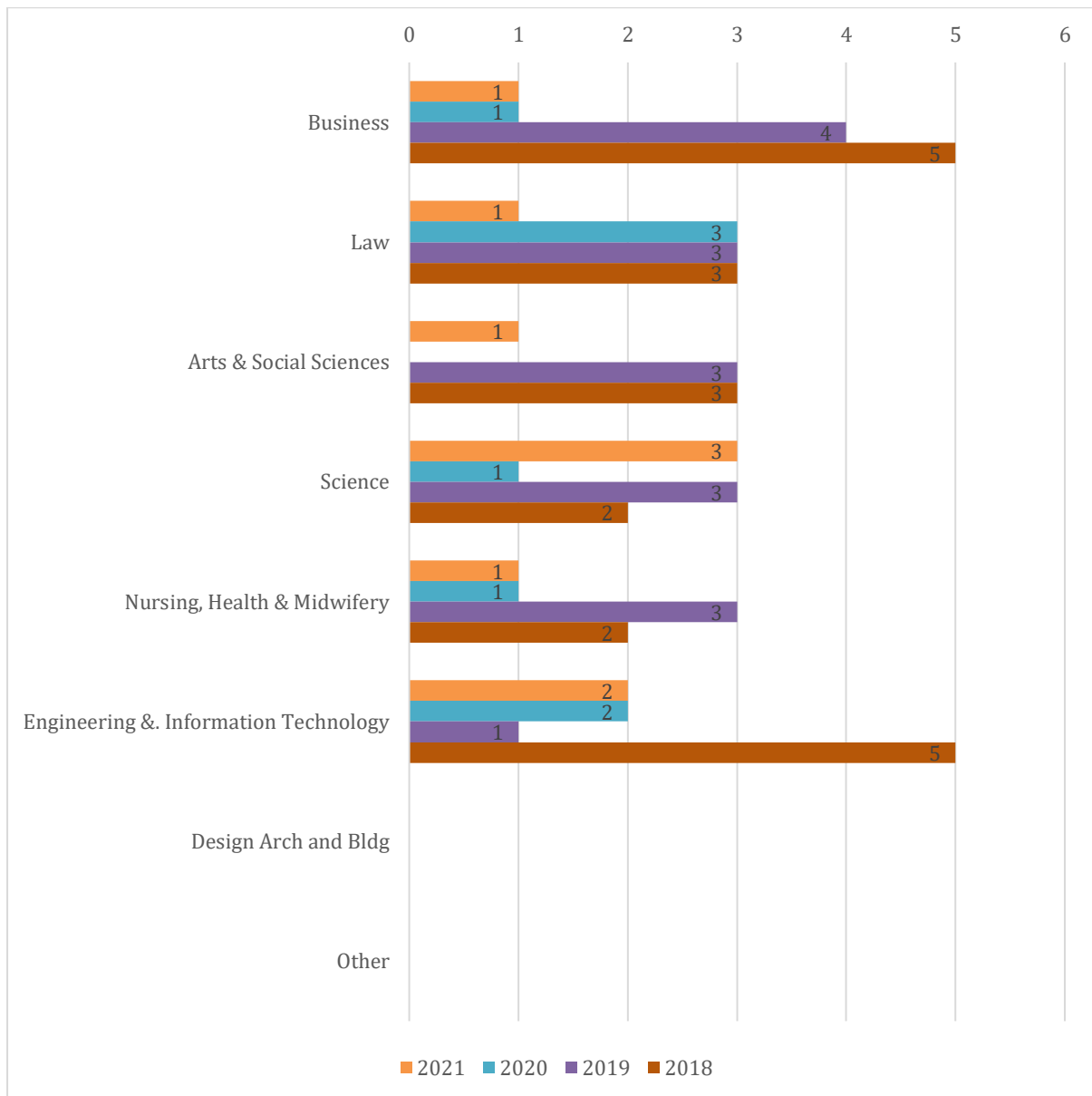
### **4. REFERRALS OF FORMAL COMPLAINTS**

The Office monitors referrals of complaints. When completing the Request for Assistance form in making a formal complaint, students are asked to indicate how they heard about the Office. This information is then used to better target information and resources. In 2021 all formal complaints came to our office through the SCRO.

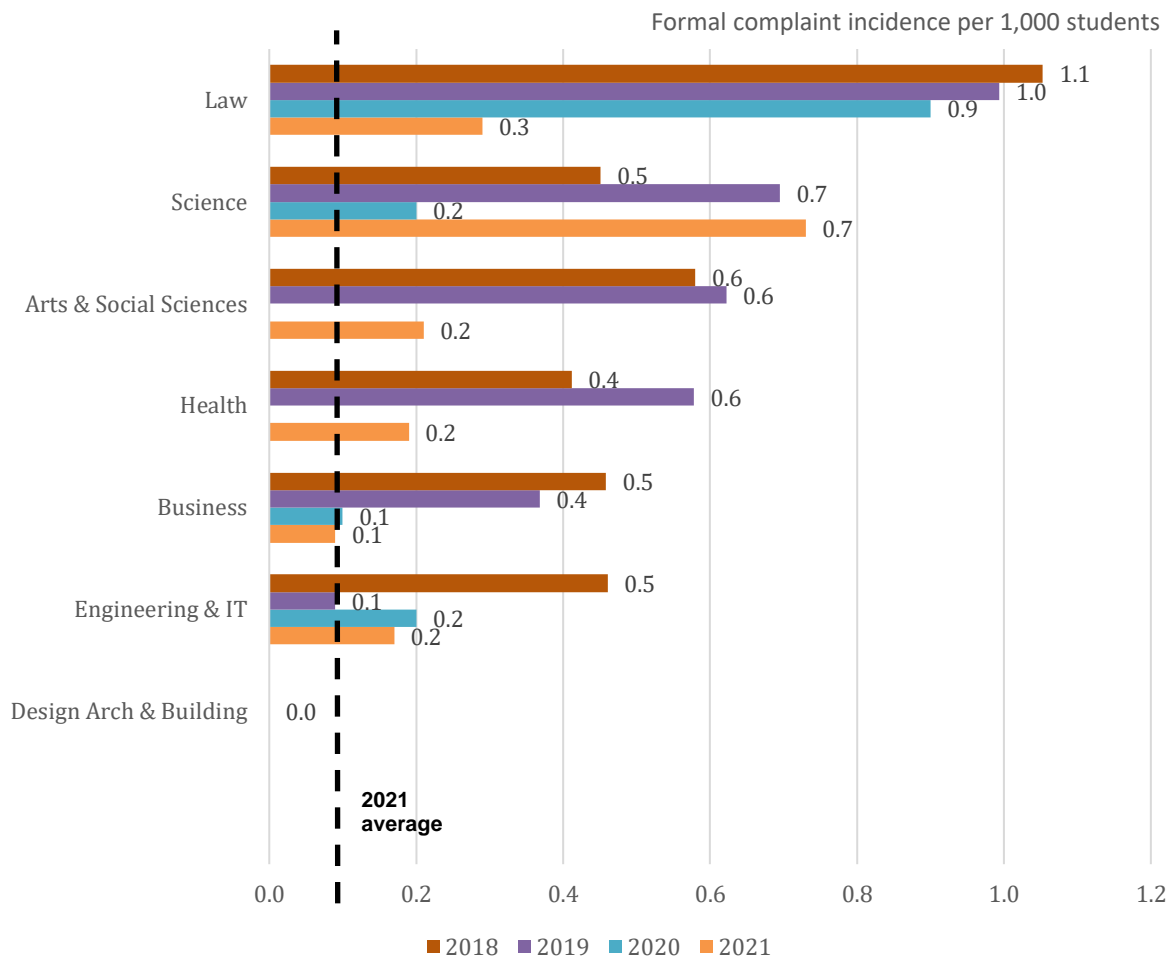
**CHART 1 – NATURE OF COMPLAINTS**



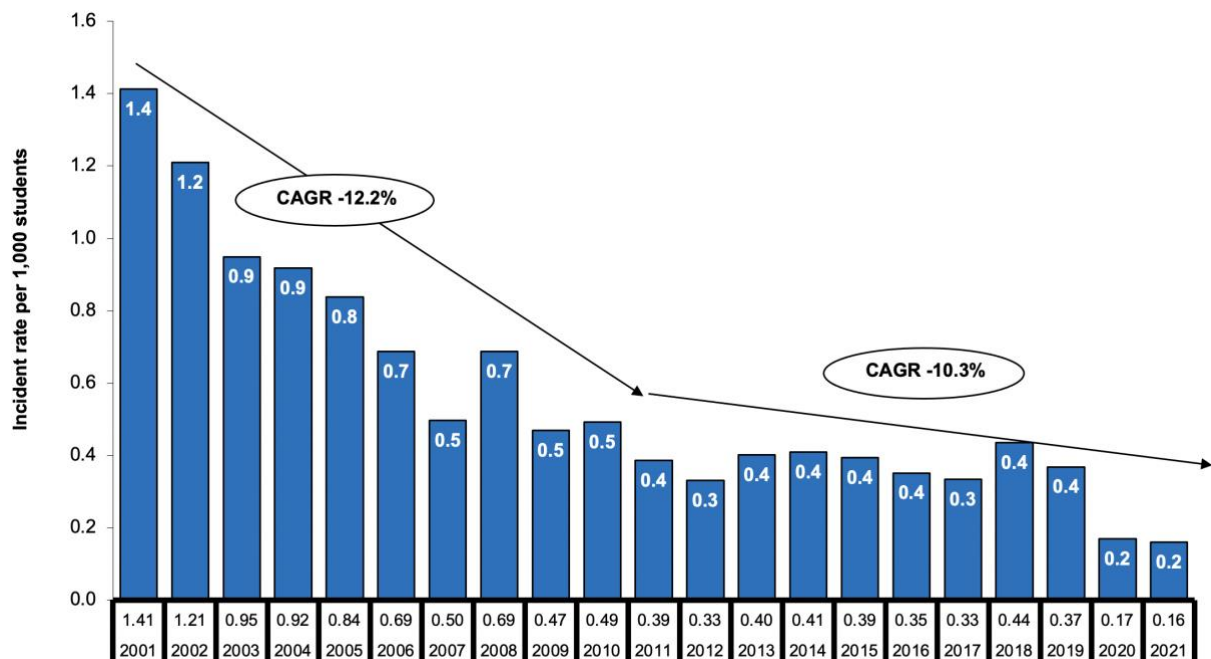
**CHART 2 – SOURCE OF COMPLAINTS**



**CHART 3 – INCIDENCE OF COMPLAINTS BY FACULTY**



**CHART 4 – LONG TERM AVERAGE INCIDENCE RATE**



## 5. INFORMAL COMPLAINTS

Approaches from students that do not fall within our Terms of Reference are recorded as informal complaints (or informal 'requests for assistance'). Almost all these matters are premature for our office because other internal avenues of complaint or appeal have not been exhausted. The majority of these complaints were referred to the SCRO.

There were 19 informal requests for assistance in 2021, a decrease from 59 in 2020 and 214 in 2019.

Informal complaints are logged confidentially by date, contact method, faculty and brief description. This information is allocated the same complaint categories that are used for formal requests in annual reporting. Informal complaints cover a wide range of issues. The largest number of informal matters was from students who had been excluded, in relation to the exclusion and appeals process (6). This was followed by those related to procedures and penalties (5), enrolment (3) and assessment (2). There was one complaint each about graduations, appeals (non-exclusion related), and staff conduct.

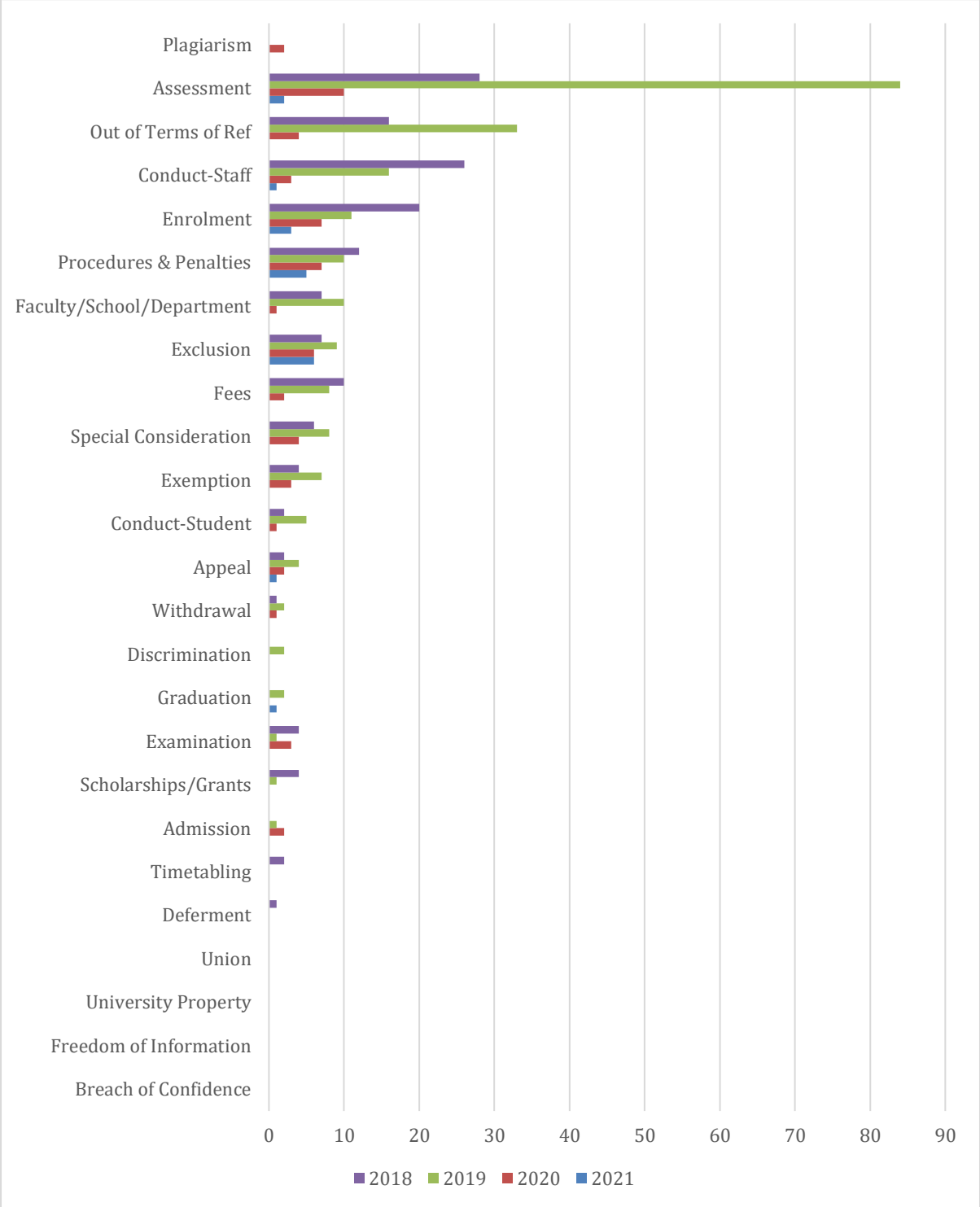
Chart 5 (page 8) details the nature of informal requests over the last four years.

Chart 6 (page 9) illustrates that in 2021 informal complaints fell again, as they did in 2020, but prior to that had been trending upwards. Between 2007 and 2019, informal complaints had grown from 60 to 214 even while formal complaints held steady through many of those years. The number of informal complaints peaked in 2016 at 233 complaints.

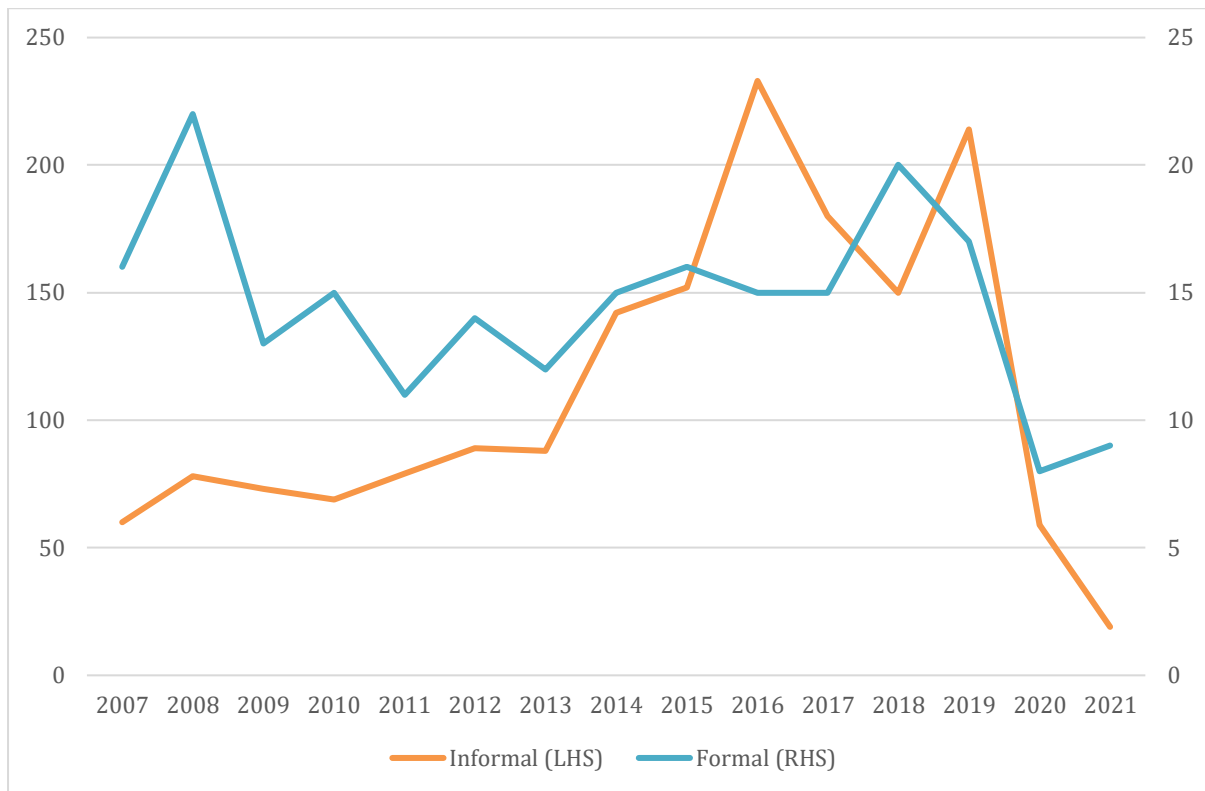
The further reduction in informal complaints in 2021 from 2020 data appears to have been a temporary decline, as there have already been 20 informal requests for assistance in 2022 up to 17 March. If this trend continues, it will result in a higher number of informal complaints in 2022 as compared to 2020.



CHART 5 – INFORMAL COMPLAINTS BY TYPE



**CHART 6 – FORMAL VERSUS INFORMAL COMPLAINTS TREND**



## 6. INTERNATIONAL STUDENTS

There were no systemic issues of concern related to international students identified by the Office during 2021. There was one formal complaint where an international student had to pay extra visa fees because of a delayed decision by UTS, which was resolved. This matter is discussed in more detail at Case Study A in section 10.

Table 1, overleaf, illustrates that formal complaints per 1000 students was 0.08 for international students (0.07 in 2020), and 0.24 for domestic students (0.21 in 2020). Informal complaints per 1000 students the rate was 0.25 (1.57 in 2020) for international students, and 0.28 (1.14 in 2020) for domestic students.

**TABLE 1 – INTERNATIONAL VERSUS LOCAL STUDENT COMPLAINTS**

	Student population		Formal requests		Informal Requests		Formal complaints per 1,000 students		Ratio Local:Int		Informal complaints per 1,000 students		Ratio Local:Int		Ratio of Informal to Formal complaints	
	Total	Local	Int	Total	Local	Int	Total	Local	Int	Total	Local	Int	Total	Local	Int	Total
<b>2021</b>	45,221	33,277	11,944	9	8	1	19	16	3	0.24	0.08	0.48	0.25	1.92	2	3.125
<b>2020</b>	46,318	32,355	13,963	8	7	1	59	37	22	0.21	0.07	1.14	1.57	0.73	5.43	22.43
<b>2019</b>	46,159	30,709	15,450	17	11	6	214	114	100	0.36	0.39	3.71	6.47	0.57	10.36	16.67
<b>2018</b>	45,930	30,796	15,134	20	12	8	152	84	68	0.39	0.53	2.73	4.49	0.61	7.00	8.50
<b>2017</b>	44,887	30,598	14,289	15	10	5	180	105	75	0.33	0.35	3.43	5.25	0.65	10.50	15.00
<b>2016</b>	42,674	30,290	12,384	15	13	2	233	162	71	0.43	0.16	5.35	5.73	0.93	12.46	35.50
<b>2015</b>	40,639	29,221	11,418	16	12	4	152	102	50	0.41	0.35	3.49	4.38	0.80	8.50	12.50
<b>2014</b>	39,074	28,339	10,735	15	11	4	142	96	46	0.39	0.37	3.39	4.29	0.79	8.73	11.50
<b>2013</b>	37,381	27,631	9,750	12	7	5	88	83	5	0.25	0.51	3.00	0.51	5.86	11.86	1.00
<b>2012</b>	36,357	26,886	9,471	14	9	5	89	84	5	0.33	0.53	3.12	0.53	5.92	9.33	1.00
<b>2011</b>	36,235	26,535	9,700	11	9	3	79	77	2	0.34	0.31	2.90	0.21	14.07	8.56	0.67
<b>2010</b>	34,646	25,530	9,116	15	11	4	69	62	7	0.43	0.44	2.43	0.77	3.16	5.64	1.75

## **7. FORMAL REPORTS**

In accordance with clause 4.1.2 of our Terms of Reference, reports may be submitted to the Deputy Vice-Chancellor and Vice-President (Education and Students) should a satisfactory conclusion not be reached regarding a student complaint, and where specific recommendations are required.

Our office made one report in 2021, in relation to the handling of a complaint about UTS Human Resources (HR) and the Faculty of Science. There is an overview of this matter in section 10, at Case Study B.

Despite this matter necessitating a formal report to the Deputy Vice-Chancellor, which the office had not done in many years, the Office continues to maintain a high level of cooperation for its work amongst university staff. The willingness of staff to assist us in the resolution of complaints, or providing further information as to their decision making, enables the Office of the Student Ombud to carry out its work effectively and efficiently.

## **8. INTERNAL REVIEW OF THE OFFICE**

In 2021 an internal review of the Office and the Ombud's functions was undertaken by Dr Humphrys, at the request of the Deputy Vice-Chancellor and Vice-President (Education and Students). In addition to her roles as UTS Student Ombud (2019-2022) and Assistant Student Ombud (2017-2019), Dr Humphrys worked in university complaint investigation and advocacy for over 15 years prior to becoming an academic. This included for the NSW Ombudsman, University of New South Wales, University of Sydney, and Western Sydney University.

The internal review assessed the impact of the 2019 establishment of the SCRO on the Student Ombud functions and Office. The views of current and former Ombuds still working at UTS were canvassed, as well as key university staff involved in complaint handling. The report benchmarked UTS complaint handling processes against the NSW Ombudsman's 2015 *Complaint Handling at Universities: Australasian Best Practices Guidelines*, and the Standards Australia' *Guidelines for Complaints Handling in Organisations* (AS ISO 10002:2014). The recommendations of the report set out a range of options for restructuring complaint handling at UTS, as well as suggestions related to internal reporting, managing potential conflict of interests, and staff training. This report recommends wider consultation on the future of the office and is currently under consideration by Deputy Vice-Chancellor and Vice-President (Education and Students).

## **9. VISIBILITY AND PROMOTION OF THE OFFICE**

The Office web site is <http://www.uts.edu.au/current-students/support/when-things-go-wrong/appeals-and-complaints/uts-student-ombud>. The text on this and related pages was significantly revised in 2020, more clearly directing students to the SCRO in the first instance, which has contributed to a fall in inquiries and informal complaints.

In previous years the Office provided promotional pens with the web site address to first year students. Considering falling complaint numbers and budget considerations, we did not continue this practice in 2021.

## **10. COMPLAINT CASE STUDIES**

To provide an insight into the work of the office, we detail below in anonymised form three formal complaints investigated by the Office in 2021.

There are always a range of outcomes in matters we handle, and in a many we find that there was no maladministration or error on the part of UTS. At the conclusion of such complaints, however, we often provide a student with further information and more detailed reasons to help them understand the original decision better.

### **Case Study A**

A student wrote to us and alleged delays in handing of their complaint by the Faculty of Health, and in finalising the pass grade for their final subject. They argued this resulted in the expiry of their student visa and them not being able to commence practising as a nurse when they ought to have reasonably expected to be able to do so.

Our investigation found that although there was no deliberate delay in dealing with the student's matter, it was clear that the delay resulted in considerable stress and inconvenience. We concluded that the University could and should have handled this matter in a more expeditious manner. We found that the fault did not lie with any individual UTS staff member, but rather with factors such as stretched resources and a lack of system redundancy. On several occasions there were unnecessary hold points because only a single staff member was able to act, and that person was on leave or unavailable.

We recommended that the UTS offer to pay the out-of-pocket expenses incurred by the student because of the delays, which the University did. We recommended that UTS embed redundancies within key academic positions so that when staff take leave there is a seamless transfer of roles and responsibilities, to ensure students are not disadvantaged. We recommended that all staff who deal with international students be provided with training that makes them aware of the possible implications and ramifications to overseas students when delays occur.

### **Case Study B**

A student wrote to us about the handling of their complaint regarding the conduct of a UTS staff member. The student raised their initial complaint with the Faculty of Science and when it was not resolved, they complained to the SCRO. The SCRO took their statement and appropriately referred the complaint to HR because it involved an academic staff member and the UTS Code of Conduct. HR investigated the matter and recommended no further action be taken.

The student complained to us that the investigation was not carried out in accordance with university policies and procedures, that the investigator did not obtain relevant evidence from witnesses, and that there were significant delays in progressing the investigation. We reviewed the matter and determined that the student's complaint had merit, and a new investigation was warranted as there had been a failure of procedural fairness. We recommended HR conduct a fresh investigation, which they advised they would do.

After further delays in investigating the matter HR advised they had reviewed the matter and would take no further action, again dismissing the student's complaint. New concerns were raised by the student at this point regarding further delays and the failure of HR to adequately communicate to them what additional action they had taken.

After a protracted set of inquiries by our Office to clarify the nature of the further investigation by HR, and whether the witnesses were interviewed, it was confirmed that there was a review of the original investigation's documentation but that no new inquiries were undertaken. HR advised they were unwilling to conduct a fresh investigation and interview the witnesses.

We found there was maladministration with respect to the University's investigation of the complaint. We determined that the investigation did not take place in accordance with the requirements of 52.9 of the Enterprise Agreement, in that adequate inquiries were not undertaken to 'establish the facts of the matter'. The complaint was in our view also not handled in accordance with best practice complaint handling in how evidence should be gathered from witnesses and its reliability tested, and that there were lengthy delays on the part of the university without explanation.

Given our recommendations that the matter be reopened and fully investigated by HR in accordance with the appropriate procedures were refused, we submitted a formal report to the Deputy Vice-Chancellor and Vice-President (Education and Students) in accordance with clause 4.1.2 of our Terms of Reference. We also noted to the DVC that we had requested HR apologise to the student for the lengthy delays in investigating their matter, and provided guidance from the NSW Ombudsman on how to make effective and meaningful apologies, but the apology made by them was limited and insufficient.

### **Case Study C**

A student complained that the Faculty of Law would not exempt them from two units in their program, arguing they had undertaken equivalent units in previous faculty programs they had transferred from.

While the student was unable to be exempted from the core units based on their previous study, the faculty agreed to a Recognition of Prior Learning (RPL) credit for an unspecified elective based on the student's previous study. Although there had been no error on the part of the university in its original assessment of the RPL application in relation to the core units, we considered this was a suitable resolution to the matter.

## **APPENDIX 1: TERMS OF REFERENCE**

### **1. Appointment**

- 1.1** The Council of the University shall appoint a person to be Student Ombud and may appoint one or more persons as Assistant Student Ombuds with the same authority and responsibilities as the Student Ombud, save that of the management of the Office of the Student Ombud.
- 1.2** The Student Ombud and Assistant Student Ombud shall be responsible to the member of senior University management nominated by the Vice-Chancellor.

### **2. Authority to Enquire**

- 2.1** The Student Ombud has the authority to conduct enquiries relating to complaints by registered students against decisions or conduct of staff, Committees, Boards or any unit or group either within the University or acting under the authority or auspices of the University.
- 2.2** On receipt of a written complaint signed by a registered student or a person who was a registered student at the time of the conduct complained of, the Student Ombud shall have authority to enquire into that complaint.
- 2.3** The Student Ombud may, for any reason including possible conflict of interests, refer a complaint to an Assistant Student Ombud.
- 2.4** On receipt of a complaint, the Student Ombud shall decide, by enquiry if necessary, whether or not the complaint falls within the role and functions of the Student Ombud. The complaint shall be dismissed if the Student Ombud 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 Student Ombud shall normally investigate the complaint only if the complainant has attempted other avenues available under University regulations and procedures. The role of the Student Ombud 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 conduct complained of is not of a character that concerns the University within its functions, responsibilities and powers as defined in the University Act, By-law, Rules, and policies.

Where the complaint has been dismissed by the Student Ombud, the complainant shall be informed of the reasons for the decision.

- 2.5** If during an investigation being carried out by the Student Ombud it becomes known that the complaint is the subject matter of a hearing or appeal under the University Act or By-law, the Student Ombud shall proceed no further with investigating the complaint until the hearing or appeal has been concluded.
- 2.6** The Student Ombud shall be given access to all University records and documents relating to the complaint.

### **3. Code of Conduct**

- 3.1** The Student Ombud 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 Student Ombud may proceed with the enquiry 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 Student Ombud deems it desirable, convening a conference to discuss the complaint.
- 3.3** Where the Student Ombud believes that during an enquiry a situation arises which requires attention to avoid further problems, the Student Ombud may make recommendations to any appropriate person.
- 3.4** Where the Student Ombud believes that during an investigation there arises a matter of principle affecting other sectors of the University, the Student Ombud may submit to the Deputy Vice-Chancellor a written interim report. In such a case, the Student Ombud 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 enquiry, if in the opinion of the Student Ombud:

**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 Deputy Vice-Chancellor (or Vice-Chancellor or Chancellor in appropriate cases) and to the persons involved; the Student Ombud'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 Deputy Vice-Chancellor (or Vice-Chancellor or Chancellor in appropriate cases); or

**4.1.3** the complaint warrants no further action, or no further action can be taken, the Student Ombud may decline to proceed further.

**5.** The Student Ombud may bring to the attention of the Deputy Vice-Chancellor any matter:

(i) arising from an enquiry; or

(ii) any matter relating to processes, procedures, rules or policies of the University.

#### **6. Annual Report**

Each year the Student Ombud shall present to the Deputy Vice-Chancellor an annual report for the previous year. The report shall be statistical in character and shall contain no reference to named individuals.