

LA TROBE UNIVERSITY

**EXPLANATORY MEMORANDUM FOR THE UNIVERSITY APPEALS
COMMITTEE STATUTE 2009**

Council is invited to make the attached **University Appeals Committee Statute 2009** (the new Statute).

The main purpose of the new Statute is to establish a new, centralised appeals body to hear and decide appeals against decisions made under various Statutes and regulations. This new body, to be called the “University Appeals Committee” (or UAC), will have the jurisdiction conferred on it by other Statutes. Initially, the most important of these will be the **Academic Misconduct Statute 2009**, the **Academic Progress Statute 2009** and the **General Misconduct Statute 2009**. The UAC will replace the many and varied appellate bodies that currently deal with appeals relating to decisions on academic misconduct, academic progress and general misconduct. Jurisdiction under other Statutes may be added over time.

The UAC will be constituted in accordance with regulations which are to be made once the new Statute has been made but before it comes into operation (see section 5).

Details of the UAC’s jurisdictional powers are set out in section 6, and include all the functions and powers of the original decision-maker, as well as the power to affirm, vary or set aside the decision being appealed and substitute a new one for it.

Under section 7, the procedure of the UAC will be up to the UAC itself, subject to a requirement to observe the principles of natural justice and conduct each proceeding as informally and with as much speed as the Statute, regulations and a proper consideration of the matters before it permits. A quorum of the UAC will be 3 of its members.

Under section 7(3), appellants may be accompanied by a support person, but not by a person with legal qualifications. In addition to this, a support person will not be permitted to act as an advocate for an appellant without the leave of the UAC. This is to help ensure that UAC proceedings do not become bogged-down in technical argument.

Finally, under section 9, an appealed decision is suspended pending the outcome of the appeal.



LA TROBE UNIVERSITY
UNIVERSITY APPEALS COMMITTEE STATUTE 2009

The Council of La Trobe University makes this Statute under section 30 of the *La Trobe University Act 1964*.

PART 1—PRELIMINARY

1. Name and commencement

- (1) This Statute is the **University Appeals Committee Statute 2009**.
- (2) This Statute comes into full force and effect on 1 July 2009.

2. Purpose

The purpose of this Statute is to provide for the establishment, composition, powers and functions of an appeals committee, to be called the University Appeals Committee, to hear and decide appeals relating to decisions made under the various Statutes and regulations of the University.

3. Interpretation

In this Statute, *decision* includes determination.

PART 2—THE UNIVERSITY APPEALS COMMITTEE

4. Establishment of the University Appeals Committee

The University Appeals Committee is established.

5. Constitution of the University Appeals Committee

The University Appeals Committee shall be constituted in accordance with the Regulations.

6. Jurisdiction, functions and powers of the University Appeals Committee

- (1) The University Appeals Committee has the jurisdiction conferred on it by or under any Statute to hear an appeal relating to a decision made by a decision-maker under that Statute (the *enabling Statute*).
- (2) In exercising its jurisdiction, the University Appeals Committee has the functions and powers conferred on it by or under the enabling Statute, as well as any functions and powers conferred on it by or under this Statute and the regulations.
- (3) Without limiting subsection (2), in determining an appeal the University Appeals Committee—
 - (a) has all the functions and powers of the relevant decision-maker; and
 - (b) may—
 - (i) affirm the decision being appealed;
 - (ii) vary the decision being appealed; or
 - (iii) set aside the decision being appealed and make another decision in substitution for it.
- (4) A decision as affirmed or varied by the University Appeals Committee, or a decision made by the University Appeals Committee in substitution for a decision—
 - (a) is deemed to be a decision of the relevant decision-maker; and
 - (b) subject to any contrary decision by the University Appeals Committee, has, or is deemed to have had, effect from the time at which the decision the subject of the appeal had effect.

- (5) In this section, ***relevant decision-maker*** means the person or body the decision of whom or which is the subject of an appeal to the University Appeals Committee.

7. Procedure of the University Appeals Committee

- (1) In conducting its proceedings, the University Appeals Committee—
- (a) is bound by the rules of natural justice;
 - (b) is not bound by the rules of evidence or practices or procedures applicable to courts of record; and
 - (c) may inform itself on any matter as it sees fit.
- (2) A quorum of the University Appeals Committee is at least 3 of its members.
- (3) A person bringing an appeal before the University Appeals Committee (an ***appellant***) may be accompanied by a support person, other than a legal practitioner or person with a law degree. A support person accompanying an appellant under this subsection is not entitled to make submissions or present arguments to the University Appeals Committee on behalf of the appellant, or act in any other way as an advocate for the appellant, without the leave of the University Appeals Committee.
- (4) The University Appeals Committee—
- (a) must conduct each proceeding with as little formality and technicality, and determine each proceeding with as much speed, as the requirements of this Statute, the regulations and a proper consideration of the matters before it permits; and
 - (b) subject to this Statute and the regulations, may regulate its own procedure.

8. Appeals involving fines

- (1) If a person applies for a review of a decision under which a fine was imposed and the University Appeals Committee confirms the fine on appeal, the fine shall be due and payable no later than 28 days after the day on which the fine is so confirmed.
- (2) If the University Appeals Committee sets aside a fine on appeal and in its place substitutes a different fine (***the substituted fine***), the substituted fine shall be due and payable no later than 28 days after the day on which the University Appeals Committee imposes it.

- (3) A student who fails to pay a fine by the date it is due under this section shall be taken to be guilty of general misconduct within the meaning of the **General Misconduct Statute 2008**.

9. Effect on decision of application for review

If a person brings an appeal before the University Appeals Committee, the decision in respect of which the appeal is brought is suspended and no action may be taken to implement the decision pending the outcome of the appeal.

PART 3—GENERAL

10. Regulations

- (1) The Council may make regulations—
 - (a) for or with respect to or providing for any matter or thing for the purposes of this Statute;
 - (b) for or with respect to the constitution of the University Appeals Committee; and
 - (c) amending or revoking any regulations made under this Statute.
- (2) The Council must ensure that regulations made under this Statute are promulgated by having the regulations displayed on an official notice board of the University for a period of at least 14 days.
- (3) For the purposes of determining when regulations made under this Statute come into full force and effect within the meaning of section 30(4) of the Act, the regulations are taken to have been promulgated in accordance with sub-section (2) at the start of the first day on which they are displayed on an official notice board of the University.

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Approved by the Council—

Approved by the Minister—