ANNUAL REPORT

STUDENT OMBUDS OFFICE

UNIVERSITY OF TECHNOLOGY, SYDNEY

For the Period

1st February 2011 to the 31st January 2012

June 2012

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1. STAFF OF THE OFFICE

The Student Ombuds Office consisted of the following persons during 2011 on a part-time basis:

Maxine Evers - Student Ombud
Senior Lecturer
Faculty of Law
Markets Campus

Sally Varnham - Assistant Student Ombud
Associate Professor
Faculty of Law
Markets Campus

Susie Eisenhuth - Assistant Student Ombud
Lecturer
Faculty of Arts and Social Sciences
Broadway Campus

Layna Groen - Assistant Student Ombud (completed term June 2011)
Senior Lecturer
Faculty of Science
City Campus

Wing Bui - Assistant Student Ombud (began term July 2011)
Senior Lecturer
Faculty of Business
Markets Campus

Jenny Murphy - Administration Manager
Student Ombuds Office
City Campus

2. PREAMBLE

The Student Ombuds Office operates within the Office of the Deputy Vice-Chancellor (Teaching, Learning and Equity) under the *Terms of Reference* approved by the University Council which can be found at the end of this Report.

The University, in accordance with its past practice, continues to provide the Student Ombuds Office with sufficient resources to continue its role effectively. During 2011 the Student Ombuds Office handled 12 formal complaints. The majority of complaints were able to be resolved through discussion with the persons involved.

The Student Ombuds Office has now been in operation at UTS for 23 years. During this period the Office has established itself as an integral part of the University grievance handling procedures. The value of the Office is that it is one of "last resort", that is, the Student Ombuds Office will only intervene in a complaint when all other avenues have been exhausted. It is inherent in the role of the Office that it does not exist to advocate for an individual student, rather it adds value to the University by providing a specialist complaint unit which aims to ensure that University processes are implemented fairly and improved where necessary. Thus the Student Ombuds Office contributes to the overall quality and experience of student education.

3. COMPLAINTS

The complaints that led to a formal enquiry by the Office are set out in Table 1 of this Report. These complaints are further analysed in Graphs 1, 2, 3 and 4. Statistics in relation to the number of informal requests for assistance have also been included in this report. The Student Ombuds Office's Terms of Reference only allows the Office to accept formal requests for assistance from students after all other levels of UTS grievance handling have been exhausted. Informal requests for assistance are approaches from students that have been resolved after the Office has assisted students with advice or appropriate referrals.

Table 1 shows the source and nature of the complaints by the Faculty that students are enrolled in. This Table shows the Faculty a student originates from. This means that a low volume of complaints for this Table may be made by a student from the Faculty yet the complaint itself may be with respect to a person or body external to that Faculty. For example, a student complaint might relate to their enrolment in a joint degree or their treatment by external administrative or other units of the University.

Graph 1 presents the same information as in Table 1, with its focus being the nature of complaints rather than their location. It provides this information in a different format to Table 1 and compares it with previous years.

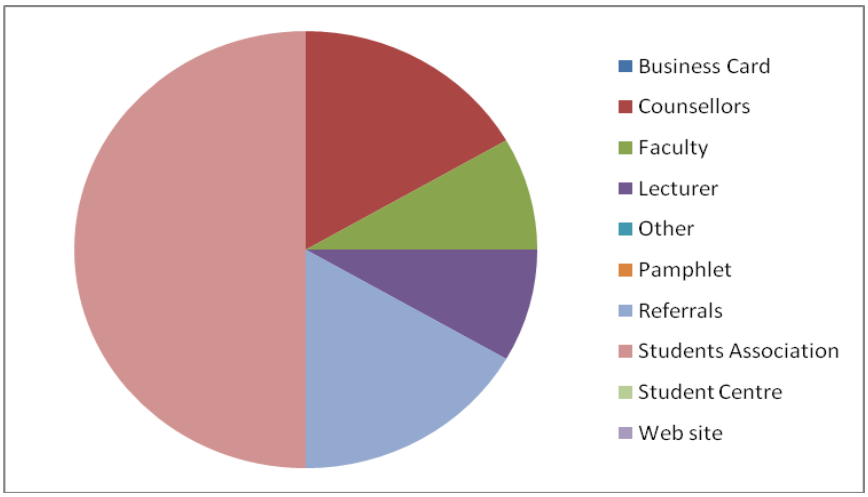
Graph 2 sets out the complaints according to the Faculty of the complainant. This information is not broken down by school. When viewing these figures please note that because a student of a Faculty makes a complaint, it does not necessarily follow that the complaint is associated with a matter or decision directly concerning that Faculty. Any analysis should therefore take into account the material in Table 1 where both the nature of the complaint and the Faculty are provided.

Graph 3 gives the incidence rate per 1,000 students of complaints by students enrolled in each Faculty in 2011. Once again, note that the students of a particular Faculty may be complaining about a matter or decision that has not arisen in their own Faculty.

Graph 4 demonstrates the decline or incline in the incidence rate per 1,000 students of complaints by students enrolled at UTS from 2006/07 to 2011/12. This graph was included in the 2005 Annual Report after it was noted that since 2001/02 there had been a yearly decline in the number of formal requests for assistance to the Office.

Referrals of complaints are monitored so that the Office can better gauge visibility and accessibility for students who use the Office. When filling out the Request for Assistance form required when making a formal complaint, students are asked to indicate how they heard about the Office.

The results of this survey for 2011 are illustrated in the pie graph below. This information is being used by the Office to better target information resources towards the student community.



In 2011 half (six) of the students who made a formal request for assistance were referred to the Office by the Students Association. In 2010 there had been an increase in referrals from the Students Association from 5 in 2009 to 9 in 2010. During the year the Office targeted Student Centres with brochures to increase awareness and visibility throughout the University community, however students have not identified this source as contributing to their awareness of the Office.

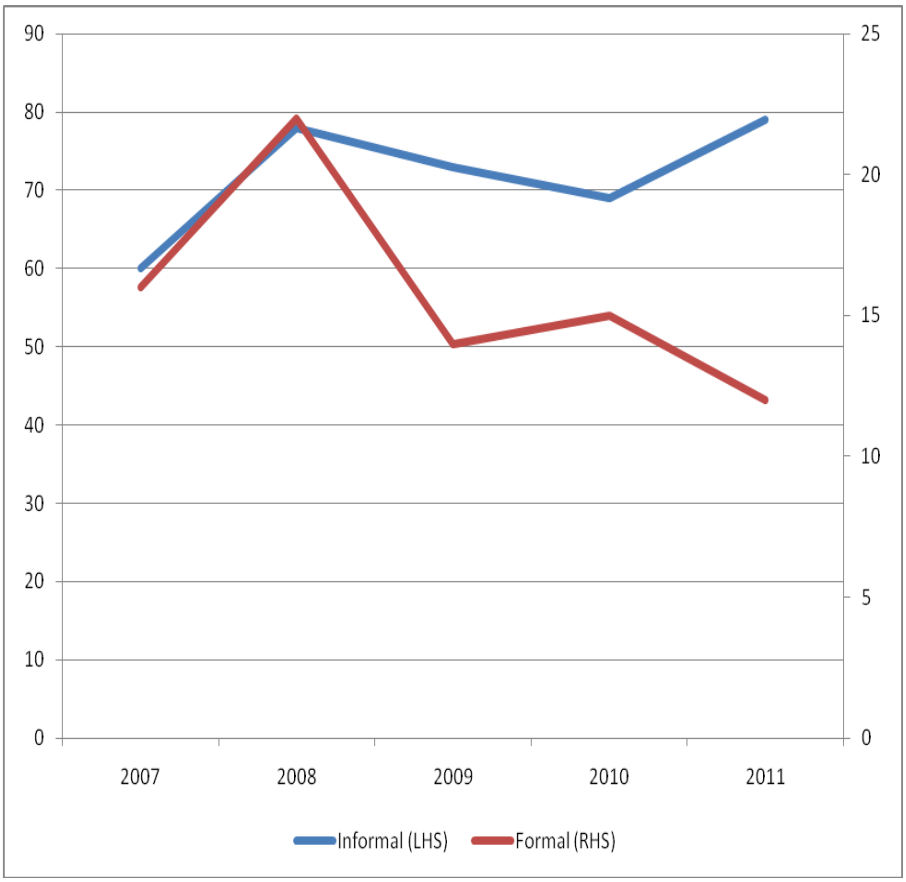
4. COMMENTS ON COMPLAINTS

Overall number of requests for assistance: The number of formal requests for assistance recorded in 2011 was 12, a decrease of 3 from 2010. The number of requests for assistance is in accordance with a general, if slightly, declining trend in the number of formal complaints.

Since 2007 the incidence of informal complaints has grown 7% from 60 to 79, while formal complaints have declined an annual average -7% from 22 to 12 complaints. This suggests a transfer away from formal complaints to informal complaints during this time. The cause of the transfer is unclear without further analysis of factors outside the Office. We suggest

that Faculty and alternate grievance handling avenues within the university are more appropriately dealing with matters referred to them by the Office.

Exhibit 1 – Formal versus informal complaints trend



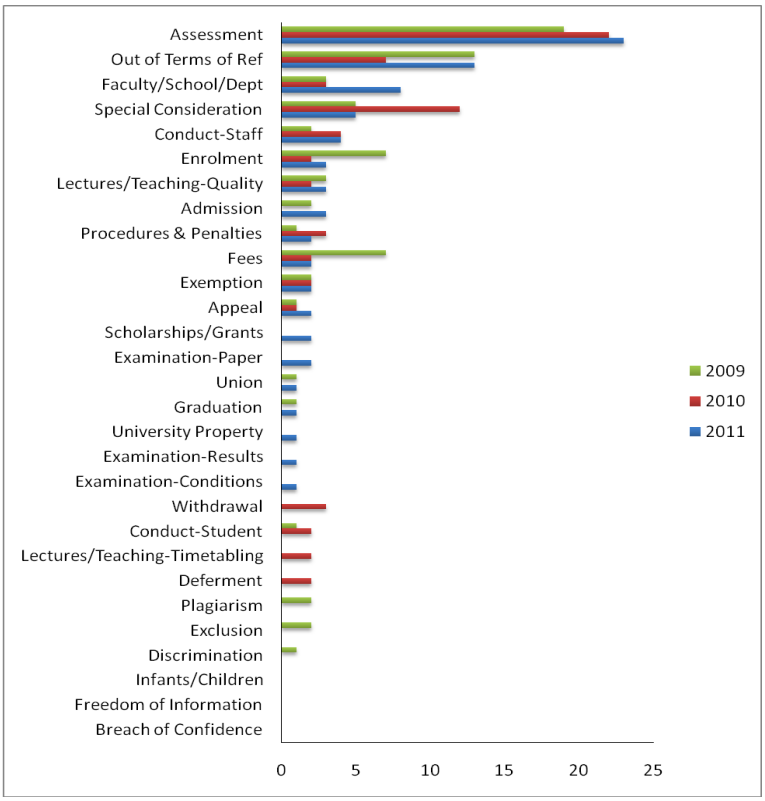
The main complaint categories of formal requests for assistance in 2011 were Assessment, Appeal, Enrolment, Examination, Exemptions and Special Consideration. Students approaching the Office with problems related to Special Consideration made up 25% of all formal requests.

Informal Complaints: Approaches from students that do not fall within our Terms of Reference because they were either not enrolled or registered students at UTS or the Office was not a last resort are confidentially recorded as informal requests for assistance. In 2011 there were 79 informal requests for assistance.

Informal requests for assistance covered a wide range of complaint categories. At the end of 2011 the Office investigated the nature of these complaints over the last three years. All informal complaints are logged confidentially by date, contact method, faculty and brief description. This information was allocated the same complaint categories that are used for Formal Requests in annual reporting. One other category was added *Out of Terms of Ref* to cover approaches to the Office such as staff seeking assistance, requests for legal advice or course information. The largest category of informal requests for assistance were from students experiencing problems related to assessment followed by problems associated with Special Consideration. Most of these were from students seeking retrospective special

consideration. The exhibit 2 below details the nature of informal requests for assistance over the last three years.

Exhibit 2 – Informal complaints by type



Co-operation with the Office: It is pleasing to note that the Office maintains a very high level of support for its work amongst University staff. This co-operation and willingness to assist in resolution of complaints means that the role of the Student Ombuds Office is carried out more effectively and efficiently.

Formal Reports: Reports to the Deputy Vice-Chancellor are made on only a small number of occasions where a satisfactory conclusion in not reached and where specific recommendations are required. During 2005-2011 period there has been no formal reports made to the Vice-Chancellor for consideration.

5. VISIBILITY

In 2011 the Student Ombuds Office again produced promotional pens with the Student Ombud Office web site address that were distributed to new students with other orientation information. The Ombuds Office does this with the intention of making the Office more visible to students. Student Ombud pamphlets were also distributed to Student Centres, Faculties and Units.

6. PERSONNEL

On 30 June 2011 Dr Layna Groen from the Faculty of Science concluded her contract with the Student Ombuds Office. In September 2010 Layna had generously offered to complete the term of Dr Farrar's contract as Assistant Student Ombud. Layna has been an invaluable member of the Student Ombuds Office joining in February 2005 as an Assistant Student

Ombud. In June 2006 she was appointed Student Ombud completing that term in January 2010. We thank her for all of her contributions to the Office.

In May expressions of interest were called for the position of Assistant Student Ombud from continuously appointed academic staff at UTS interested in UTS policy and procedure. Council approved the appointment of the successful candidate Wing Bui from the Faculty of Business. Wing's contract with the Office began on 1 July 2011 and will be for the usual two-year term with a possible 12 month extension.

The Office is presently staffed by the following:

Maxine Evers, Student Ombud

Sally Varnham, Assistant Student Ombud

Susie Eisenhuth, Assistant Student Ombud (Leave)

Wing Bui, Assistant Student Ombud

Jenny Murphy, Administration Manager

7. OMBUDS, DEANS OF STUDENTS & COMPLAINT HANDLERS WORKSHIP

On 29 August 2011, UTS hosted a Workshop for Ombuds, Deans of Students and Complaint Managers from the University sector. The Workshop was a follow-up to the 2010 Workshop hosted by the University of South Australia. Twenty-five universities were represented at the workshop. Professor Shirley Alexander, Deputy Vice-Chancellor (Teaching, Learning and Equity) welcomed the participants to the Workshop. Relevant and valuable presentations were given by Professor Anita Stuhmcke (UTS) on *IRON (International Research and Ombuds Network),* Professor Penny Oakes (ANU) on the *Dean of Students model of grievance-handling,* Chris O'Mallon (Manager of the Public Interest Disclosures Unit, NSW Ombudsman) on *Changes to the Public Interest Disclosures Act* and Dr Layna Groen (UTS) on *Dealing with difficult complainants*.

Current issues, including students with special needs and poor mental health, conflicts between staff and students' expectations, independence and education and training were discussed. The workshop also provided a rich opportunity to share ideas, practices and resources.

The 2012 workshop is to be held at Victoria University in September.

8. NSW OMBUDSMAN FORUM 2011

The Student Ombuds Office continued its strong working relationship with the NSW Ombudsman's Office. On 18 February Assistant Student Ombud Wing Bui attended the University Complaint Handling Forum held by the NSW Ombudsman's Office. The Forum looked at current issues and challenges facing University Ombudsman, Deans of Students and Complaint Managers, including international students, mental health issues, cheating and public disclosures. Each university gave a brief summary of its structure and processes. The Forum was also an opportunity to discuss matters of interest and concern with other universities in regional NSW and Sydney.

9. PUBLICATIONS AND CONFERENCE

In 2011, Assistant Ombud Sally Varnham and Ombud Maxine Evers published an article titled 'The challenges and opportunities of the role of student ombudsmen in an Australian university' in the Australasian Dispute Resolution Journal**,** vol. 22, no. 4, pp. 228-237.

This article was the subject of a presentation by Sally Varnham when she attended the 9th Annual Conference of the European Network of Ombudsmen in Higher Education (ENOHE) 2011 in Madrid from June 27, 28 and 29, 2011. This conference was attended by ombudsmen and others involved in student grievance resolution in universities from a wide range of European countries, the US, Canada, and Australia. Also presenting at the conference was Rob Behrens, the current Independent Adjudicator for Higher Education in the UK.

10. CASE STUDIES OF COMPLAINTS

Here are sample cases of Requests for Assistance that the Office investigated in 2011:

Case Study 1

A student lodged a Request for Assistance concerning a final supplementary exam undertaken in Autumn 2010. The student felt that the reason he did not do well in the supplementary exam was because he was not given access to course materials on UTS Online prior to the exam.

After considering the material provided by the student and acquiring the student's file from the Faculty, the Office met with the Associate Dean of the Faculty who agreed to discuss the provision of another exam for the student with the subject coordinator.

As a result of the meeting, and subsequent discussion, the student was provided with two options, either to submit a written assignment or to re-sit the exam. The student elected to re-sit the exam and achieved a pass result.

Case Study 2

An International student contacted the Office after their application for an exemption had been refused. The student claimed that Faculty had not explained the reason for the refusal and that when she had asked for the criteria it appeared to match the previous subject.

The Office contacted the Faculty and arranged for the Course Coordinator to provide the student with a more detailed response to the refusal of their Recognition of Prior Learning (RPL). The student contacted the Office again claiming to have support for the application from another Academic in the Faculty. On further enquiries the student accepted the decision of the Faculty and enrolled in the subject.

Case Study 3

A student came to the Office in relation to the dismissal of an appeal against grade. The student felt that he should have been given special consideration during the semester although he had not applied formally for special consideration.

The student provided the Office with email history showing that he had requested a review of final result and had received notification of the final results from the University. The

records also revealed that several UTS units had been involved in investigating various matters raised by the student.

The Office examined the requirements of the subject outline, checked key dates and deadlines for applying for special consideration and the review of final subject assessment result and the results release dates. The Office then obtained a breakdown of the student's marks from the Associate Dean of the Faculty.

After being shown the results of this investigation the student decided not to proceed with the Request for Assistance based on the fact that he had missed deadlines to apply for special consideration for the final exam and for any review of final assessment results.

Case Study 4

A Request for Assistance was received by a student who alleged a procedural irregularity in a final exam paper. He had been given a supplementary exam following a successful special consideration application and was told by the co-ordinator that the paper would not differ from the first exam. This was not the case and the student felt that he had been disadvantaged. His appeal to the faculty committee was unsuccessful on the basis there was no procedural irregularity. The student presented a string of contradictory emails from different faculty members. Following the investigation his mark for the subject was adjusted by agreement with the Faculty concerned. This case raised several systemic concerns which were the basis of recommendations in the final report. These were:

1. When a student is sitting a Supplementary Exam there should be a co-ordinated response to questions relating to content (between the lecturer and course convenor) so that no misunderstandings or inconsistencies arise.
2. A lecturer who is asked to remark a student's work should never communicate that remark to the student before the matter has been discussed with the Course Convenor.

The case also highlighted the point that when a student advises the Faculty that they have requested the assistance of the Student Ombud, it is important that the Faculty contact that office to ascertain the progress of the investigation before taking the matter further with the student.

The Office found that student had missed deadlines to apply for special consideration for the final exam and for any review of final assessment results in relation to the assessments completed for the subject. The student agreed to withdraw the Request for Assistance.

11. QUALITY

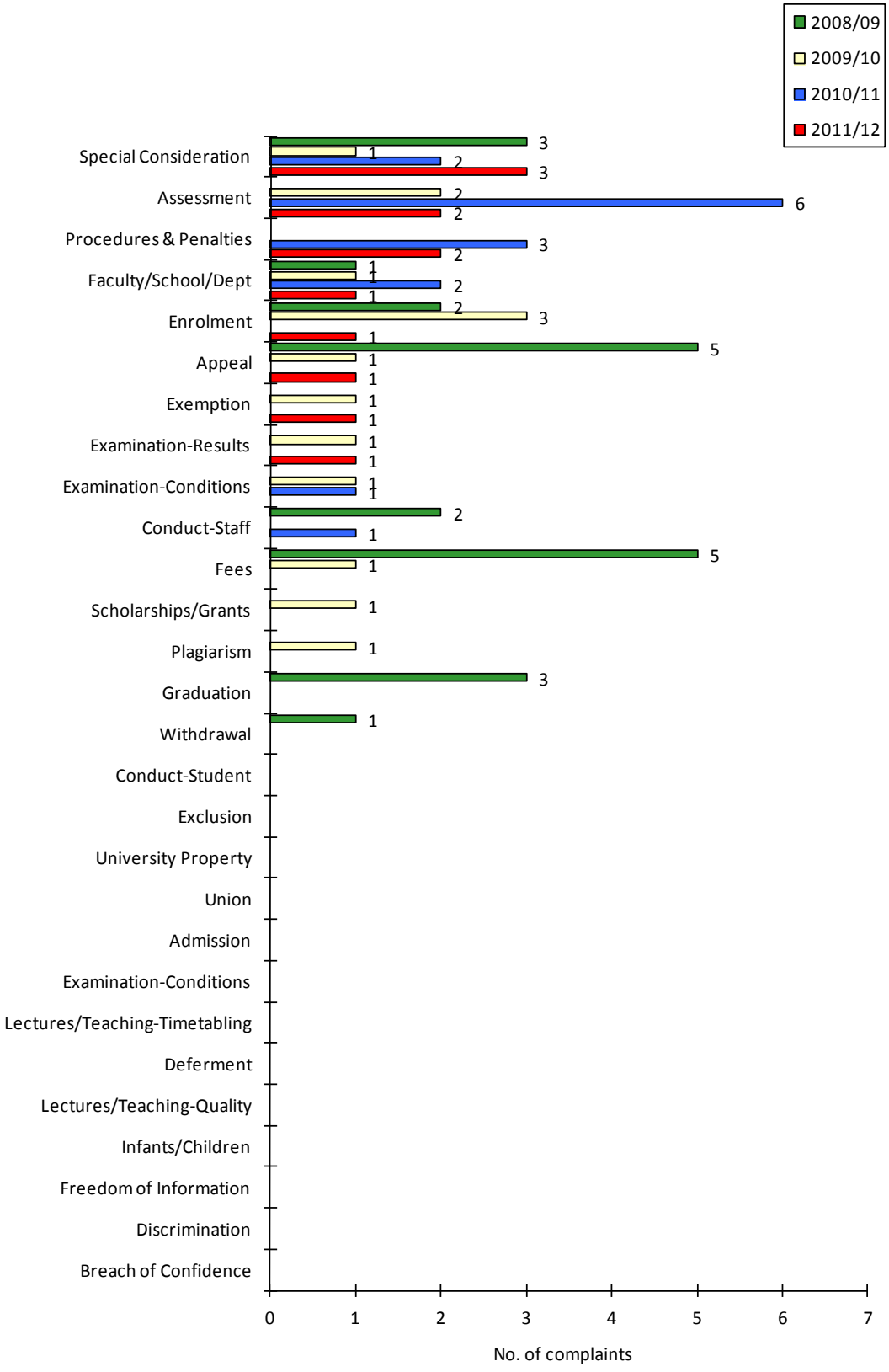
The UTS Student Ombuds Office provides to students an independent avenue of dispute resolution that gives an assurance of:

- Natural justice (fairness) and confidentiality
- Thoroughness in investigating a complaint
- Awareness of a student's personal situation
- Access to all staff and all documentation
- Expertise as to University processes and structure

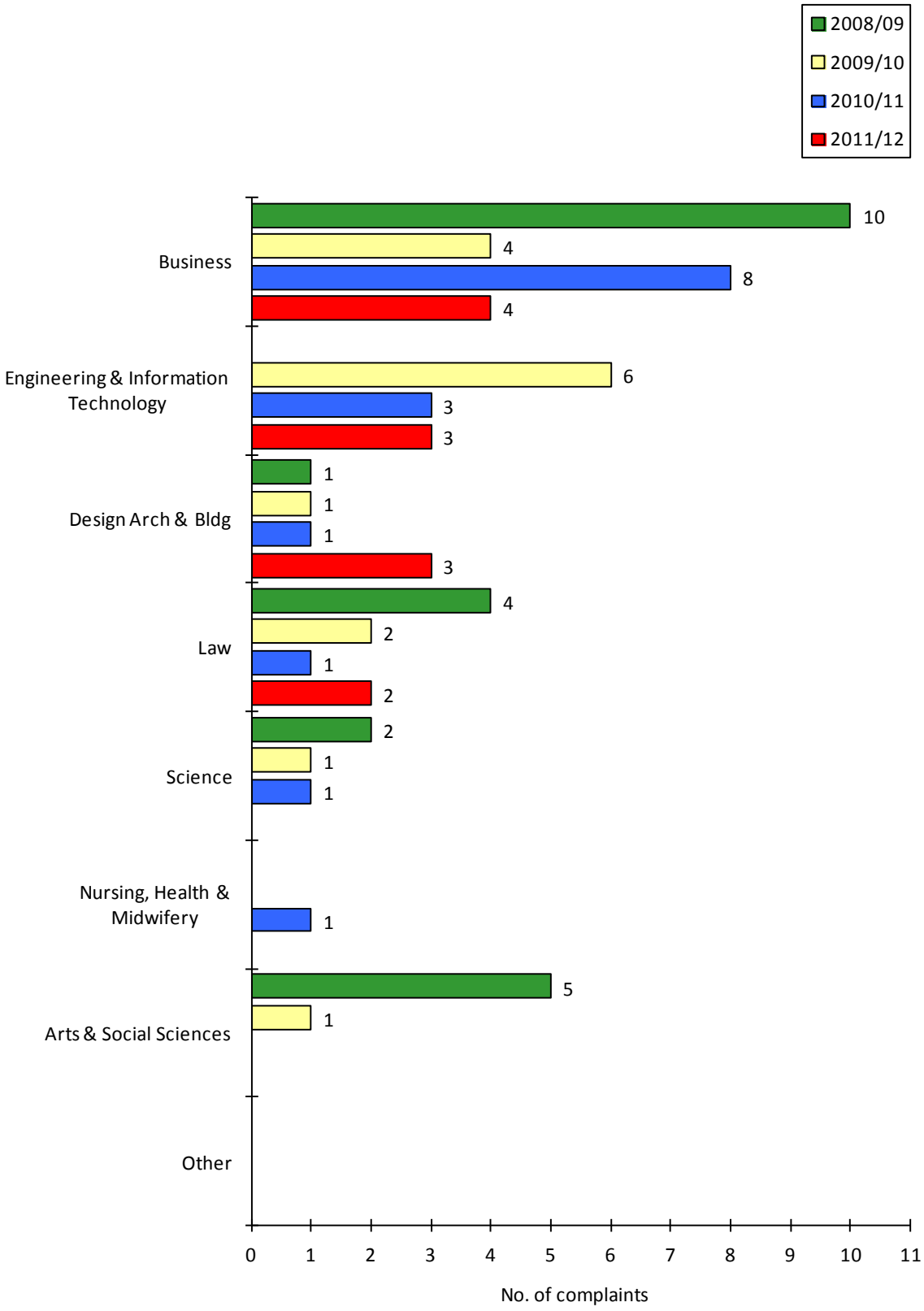
TABLE 1 - SOURCE & NATURE OF COMPLAINTS

	Science			Other			Arts & Social Sciences			Nursing, Health & Midwidery			Engineering & Information Technology			Design Arch & Building			Law			Business			TOTAL		
	11/12	10/11	09/10	11/12	10/11	09/10	11/12	10/11	09/10	11/12	10/11	09/10	11/12	10/11	09/10	11/12	10/11	09/10	11/12	10/11	09/10	11/12	10/11	09/10	**11/12**	**10/11**	**09/10**
Admission																											
Appeal																1						1		1	**1**		**1**
Assessment		1											1	3	2							1	2		**2**	**6**	**2**
Breach of Confidence																											
Conduct-Staff																							1			**1**	
Conduct-Student																											
Deferment																											
De-registration																											
Discrimination																											
Enrolment			1										1						1		1			1	**1**		**3**
Examination-Conditions									1					1								1	1		**1**	**1**	**2**
Examination-Paper																											
Examination-Results																											
Exclusion																											
Exemption													1			1						1			**1**		**1**
Faculty/School/Department													1			1	1						1		**1**	**2**	**1**
Fees													1														**1**
Freedom of Information																											
Graduation																											
Infants/Children																											
Lectures/Teaching-Quality																											
Lectures/Teaching-Timetabling																											
Plagarism																						1			**1**		
Procedures & Penalties										1						1			1	1			1		**2**	**3**	
Scholarships/Grants																		1					1				**1**
Special Consideration													1						1			1	2	1	**3**	**2**	**1**
Union																											
University Property																											
Withdrawal																			1								
TOTAL		1	1						1		1		3	3	6	3	1	1	2	1	2	4	8	4	**12**	**15**	**14**

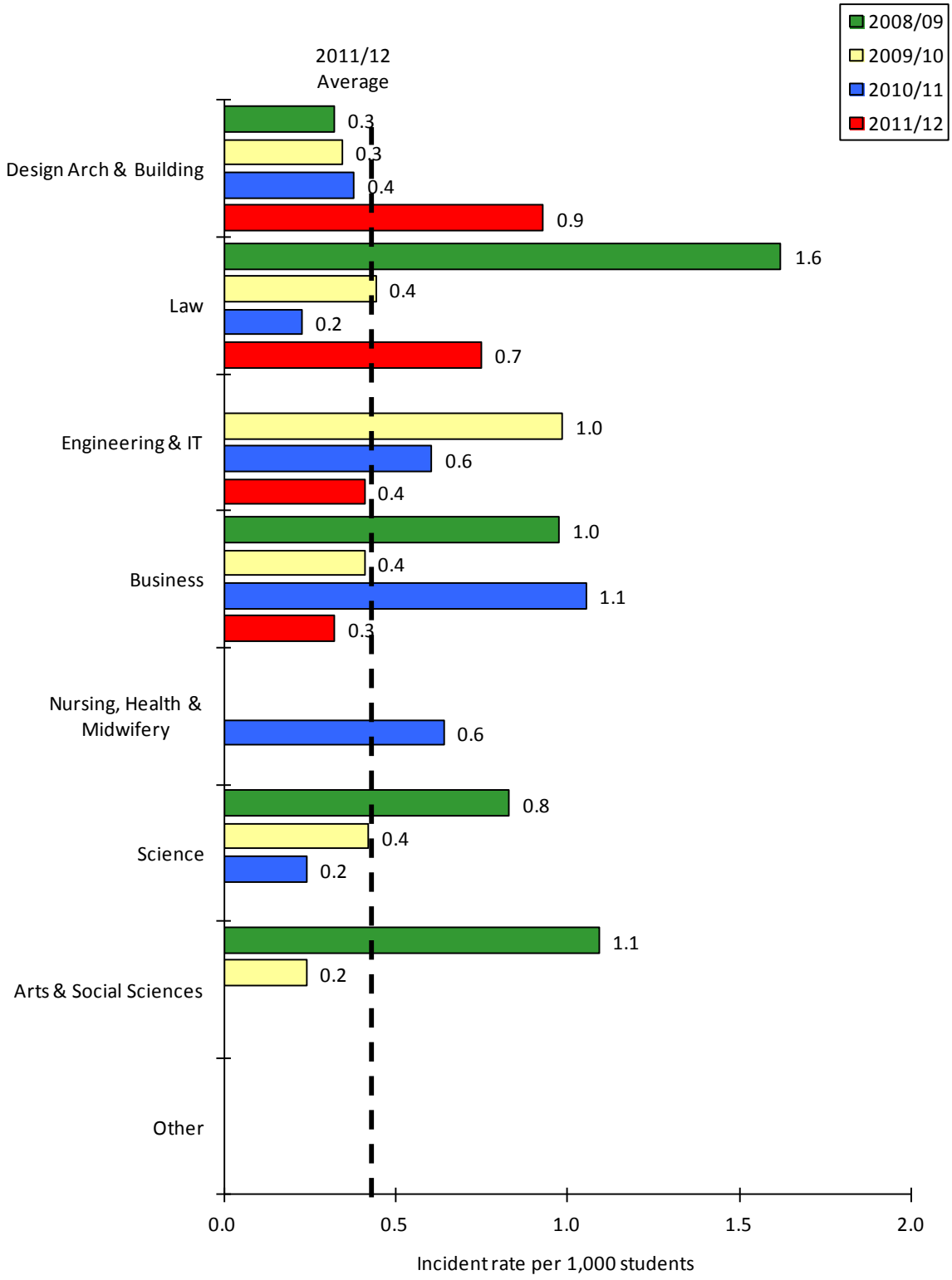
GRAPH 1 - NATURE OF COMPLAINTS



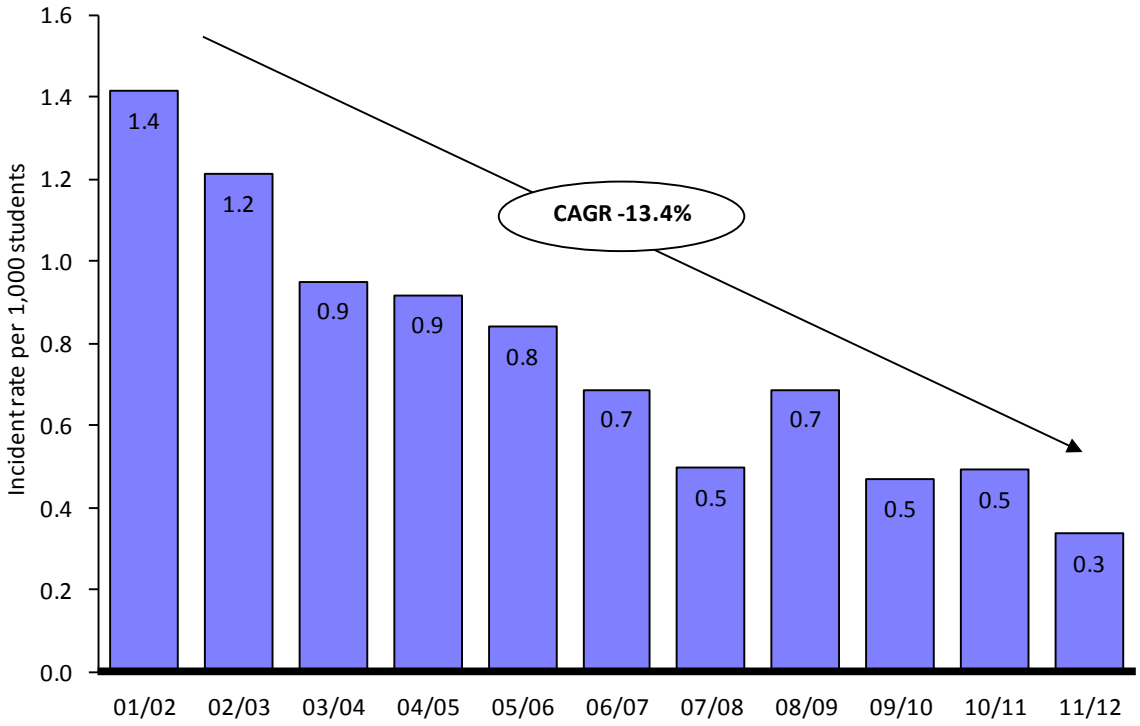
GRAPH 2 - SOURCE OF COMPLAINTS



GRAPH 3 - INCIDENCE RATE OF COMPLAINTS BY FACULTY



GRAPH 4 - LONG TERM AVERAGE INCIDENT RATE



ATTACHMENT 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 Student Ombuds Office.

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

In February of 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.