

# THE DEVELOPMENT OF A STUDENT CONTRACT AND IMPROVEMENT IN STUDENT DISCIPLINARY PROCEDURES AT MASSEY UNIVERSITY

JULIA PEDLEY

UNIVERSAL COLLEGE OF LEARNING, NEW ZEALAND

VIRGINIA GOLDBLATT<sup>†</sup>

MASSEY UNIVERSITY, NEW ZEALAND

*One of the most important considerations of universities is the nature of the legal relationship between the institution and its students together with the legal consequences of that relationship. Massey University in New Zealand, in recognition of the fact that there had been a paradigmatic shift in the relationship from one based on *studium generale* to one of contract, sought to embody an institutional framework to reflect this change. The authors discuss how, in response to this environment, Massey University focused on the development of a regulatory framework which endeavored to affirm the contractual nature of the relationship between the University and its students. This process resulted in the enactment of an explicit University Student Contract, enforceable at law, and, arising out of the student's contractual status, a set of disciplinary procedures for students which sought to limit any disciplinary action to activities which arose out of the student's specific status as a student of the University.*

## I INTRODUCTION

This paper outlines the issues and processes involved in developing a set of disciplinary regulations for a particular university. Underlying those procedures is the nature of the legal relationship between the University and its students. Not until the final decade of the 20<sup>th</sup> Century was that relationship clarified in New Zealand.

Prior to *Grant v Victoria University of Wellington*,<sup>1</sup> Universities had chosen to believe that their relationship to students was based on one of *studium generale*. They did not consider that they had a contractual relationship with their students; nor did they choose to accept that students were customers or clients purchasing a service provided by the University. This patriarchal approach saw students as entitled to tuition and protection and required to accept discipline which the University believed was appropriate. Like good 19<sup>th</sup> century children, students should be seen and not heard. The University, like a firm but caring parent, would do what was best for its students, including punishing them if necessary. Students would not be expected to question these measures, but simply submit to them.

University calendars rarely contained academic grievance procedures; disciplinary procedures were either rudimentary or cumbersome; and, until Massey University did so in 2000, no New Zealand University had an explicit written contract with its students.

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<sup>†</sup>Address for correspondence: Virginia Goldblatt, Dispute Resolution Centre, College of Business, Massey University, Private Bag 11 222, Palmerston North, New Zealand. Email: v.goldblatt@massey.ac.nz

The VUW case, an education malpractice suit, provided a salutary lesson for the University system – the legal question was answered: yes, the relationship between the University and its students is one of contract. The substantive issue, which concerned the adequacy of course delivery in the MA (Applied)(Environmental Studies), did not come to the Court but was settled by the parties concerned.

Farrington in *The Law of Higher Education* had already argued for this approach in 1998:

The principal message of this chapter will be that the status of students has changed irrevocably. The change has been from one of being in a subordinate role in the *studium generale* to one of a consumer of services. The consumer contracts with an institution to purchase those services which are themselves provided under a separate contract with the state. In 1989, when the Association of University Teachers threatened industrial action over a pay claim, the pre-1992 universities began to appreciate the importance of defining the terms of the institution-student contract. The advice given by leading counsel to one university was crystal-clear:

“In my opinion ... there is no doubt that the failure by the University to provide each student with the examination system described in the Faculty Handbook in accordance with the Regulations would amount to a breach of contract for which the student would be entitled to claim damages.”<sup>2</sup>

This paradigmatic shift still had a way to go. Students as consumers had an increased consciousness of their rights, including the right to complain if the service provider was unsatisfactory. On the other hand, Universities still wanted to preserve the ability to discipline students in certain limited circumstances for certain types of misconduct – something Briscoes or Foodtown do not attempt to do to their customers, or accountants to their clients. Farrington went on to observe that in

this relationship today there is a new emphasis on the student being a party to a learning experience and there is less emphasis on disciplinary rules, constraints and controls. Both institutions and students are more concerned now with what can be done rather than with what cannot be done. Flexibility of choice, wider access to higher education and the reasonable expectations of the “customers” make this inevitable and welcome.<sup>3</sup>

## II THE MASSEY UNIVERSITY APPROACH

Massey University had already introduced a framework for student complaints through its Academic Grievance Procedures, as adopted in 1996. Following the legal developments above, it sought first to develop an explicit contract with its students (see Appendix 1) and then to design a disciplinary framework which could achieve consistency and transparency in the handling of allegations of student misconduct. That framework sought to embody the paradigmatic shift in the perception of the student’s relationship with the University by limiting any disciplinary action to activities that arose out of the student’s status as a student of the University and not impinge on their rights as private citizens in their lives outside of University premises or University study.<sup>4</sup>

The focus in the policy design stage for all policies and procedures in the framework centred on the delicate task of retaining good will and open communication in the Student/University relationship and on ensuring participation from all sectors of the University community. A commitment to informal, consensual problem resolution was also a key element. The approach to designing the procedures was a working party one. From the outset, different perspectives were

valued and a variety of viewpoints sought. The Association of University Staff and the Student Association were closely involved in the development of the academic grievance procedures, and the staff representatives on the University Council were part of the approval and adoption process. Similarly, there was an extensive process of consultation with the students' associations on the disciplinary procedures and this resulted in significant changes to the drafts throughout.

Another key feature of the Massey approach was the full involvement of a top-level sponsor from the executive level of the University. The Assistant Vice-Chancellor (Academic) participated in almost every meeting of the working party on the academic grievance procedures and commented on every draft. There was similar support for the working party on the disciplinary procedures which had, for instance, the Acting Vice-Chancellor as its chair in 2002/2003.

Expertise was also obtained from within and outside the University. The University proctors and University mediators<sup>5</sup> were able to bring their extensive knowledge of the University environment to the project. This use of knowledge and experience in the workplace was crucial to the development of a workable set of procedures. A significant point to be made here is that these persons were academic staff members who were also fully engaged in the core University functions of teaching and research.

These sources identified a framework, a preferred approach and a defined objective and then sought external legal input. Massey University was fortunate to have the valuable advice and support of a senior partner from one of the leading law firms in Wellington for both the student contract and the disciplinary procedures. He was also involved in revising the academic grievance procedures to ensure they harmonised with the introduction of the student contract. In this regard the lawyer was not simply provided with drafts for comment, but also participated in the vigorous debates within the working party and helped to promote the procedures to the various stakeholders.

In our view, the absence of either an internal working party, with both standing in the University community and a thorough understanding of the University's particular needs, or external legal expertise of a sophisticated nature, would have compromised the procedures and their implementation. As well as recognising the legal issues outlined later in this paper, those involved in the development of these policies and procedures have also identified core values and key features. These include an acknowledgement of reciprocal rights and responsibilities and the place of low-level, prompt and informal resolution wherever possible.

Massey University's recognition of this need for balance is clearly evident in the Massey University Student Contract. Amongst other things the contract acknowledges the right of students to a professional standard of tuition and to fair and reasonable treatment by the University. It also recognises the responsibility of students to use their best endeavours to fulfil the University's requirement to observe the regulations and rules of the University and accept the jurisdiction of the University in all matters connected with academic progress and with discipline.

Thus the Student Contract reproduced below in Appendix 1 provides the foundation for all other aspects of the regulatory framework and governs the relationship between the University and its students.<sup>6</sup>

Further, in Clause 12 of the same, there is a requirement that

Any dispute arising out of or in connection with this Contract, or otherwise relating to the performance by the University or its staff of their responsibilities to the Student, shall be resolved through the Grievance Procedures prescribed by the University which shall be the exclusive procedures for resolution of such a dispute.

The counterpart of these procedures are the University disciplinary procedures for students. These were introduced in 2005 and were the product of a sustained process of review. The review was prompted by a recognised need to improve the previous regulations in order better to safeguard staff, students and the University. The earlier regulations committed the University to a lengthy and cumbersome process for every complaint of misconduct, ranging from minor infringements to serious misconduct, thereby placing unnecessary stress on students and often causing undue distress and delay.

In comparison with the academic grievance procedures, which were adopted by Council within some eighteen months of the commencement of the project, the University's disciplinary procedures, attempting as they do, to cover all types of misconduct and all degrees of seriousness, was a challenging and complex task, taking some five years from commencement to completion.

The University's disciplinary procedures, while embodying the core values outlined earlier in this paper, also endeavour to preserve the rights of the University to protect its staff, students, property and systems while at the same time protect the rights of students to natural justice, a fair hearing, appropriate penalties and above all, whenever possible, the opportunity to resolve matters informally and by agreement. The preamble to the Disciplinary Procedures, and forming part of the document, is a one page Code of Student Conduct.<sup>7</sup>

### III DISCIPLINARY PROCEDURES

The students' right to protest and free speech is enshrined within the *New Zealand Bill of Rights Act 1990*.<sup>8</sup> Equally, a University is recognised as providing an environment where freedom of expression is encouraged. Notwithstanding the recognition of these rights, it is also observed that such rights must be balanced to take account of the corresponding rights and responsibilities of others. Indeed, the actuality is that human rights, notably those under the *New Zealand Bill of Rights Act 1990*, are not absolute. This is given statutory recognition under s 5 of the Act which permits reasonable limits to be placed on rights and freedoms.

The paramount consideration in the project to develop disciplinary procedures was therefore to provide a process which is efficient and flexible in its resolution of complaints of misconduct against students, while simultaneously safeguarding the fundamental rights of students to peaceful assembly and freedom of expression.

It is acknowledged that placing restrictions on such rights and freedoms should never be done lightly. We believe that this balance has been attained within the Massey University Code of Student Conduct and Disciplinary Procedures by the placement of a number of safeguards around the definition of misconduct. Specifically, 'misconduct' by a student must take place upon University premises or have some connection with the student's status as a student of the University and amount to conduct which, under the University's definition of misconduct, is deserving of censure. Furthermore, of crucial significance in observing the balance of rights is the inclusion of a proviso contained in the definition of misconduct which unequivocally states that persons shall not be prevented from reasonably exercising their rights to freedom of expression and peaceful assembly.

It is also axiomatic that effective mechanisms for dealing with student misconduct are procedurally fair and operationally sound. This ensures the provision of a safe University environment for all who are connected with the same.

The previous disciplinary regulations, whilst tolerable when originally enacted, had not been the subject of substantial amendment since their enactment, and by 2000 were considered to be procedurally restrictive in that they tied the University to an inefficient and inflexible process which had attendant risks of institutional jeopardy. For example, under the previous regulations if, at the point of investigation by the proctors, a student pleaded by their own admission to the allegation of misconduct, a Hearing before the University's Disciplinary Committee had to be convened despite that guilty plea. Following due process, a minimum of four weeks notice of the Hearing had to be given to the student and during the course of the disciplinary process, it was common, depending on the nature of the misconduct, for the student's access to the University's support systems to be suspended for up to eight weeks. If penalties could have been imposed at a point where the student first pleaded guilty, this would have avoided a lengthy period of suspension and eliminated the need to convene a hearing. Under the new procedures, informal resolution is permitted to resolve complaints without resort to formal processes where appropriate.

In addition, the previous regulations were increasingly seen as not commensurate with the corresponding components of the regulatory framework which were being established. Thus a comprehensive overhaul of the principles and procedures for dealing with student misconduct and discipline was undertaken.

The main focus of the working party was to enact a set of disciplinary procedures that would move far beyond the previous disciplinary regulations, in terms of safeguarding our students, staff and the University through the provision of such procedures. In promoting the new proposals to the University community, it was important that this focus was emphasised. An extensive consultation phase was enacted inviting submissions on the proposed procedures from the whole of that community and twenty-one substantive submissions were received from students and staff from all three campuses. All submissions were acknowledged and in some cases follow-up meetings were held.

The document features a Code of Student Conduct with Disciplinary Procedures for breaches following this. The Code of Student Conduct is the single point of reference for the standards of behaviour required and the procedures that may apply in the event that those standards not be adhered to. Misconduct may occur in both the academic and non-academic contexts and provision is made in the procedures whereby complaints of misconduct against students of the University may be brought by other students, University staff, or affected persons outside the University community. The code has been designed to act as a positive introduction to the disciplinary procedures, and in a positive and concise manner sets out Massey University's expectations about certain required standards of student conduct. Thus appropriate behaviour is encouraged at the outset.

In terms of the relationship with the University's other policies, procedures and guidelines, the code and disciplinary procedures represent the University's overriding jurisdiction for resolving all complaints of misconduct against students of Massey University. As a result, all other documents relating to academic, research, or other misconduct sit behind the code as 'guidelines'. By virtue of their enrolment, students are deemed to have accepted the disciplinary jurisdiction provided in the code and procedures.

Provision has been made for complaints of misconduct to be classified by definition into three separate and distinct categories: infringements, misdemeanours, and serious misconduct. This is a significant feature of the procedures in that there is an obvious recognition that some types of misconduct are more serious than others, and thereby provision has been made for appropriate processes to deal with each classification. Thus, for each designated category a separate process

of resolution is prescribed, ensuring that an appropriate level of response is made to the nature of the alleged misconduct.

For example, the lowest classification is that of an infringement which represents a breach of a University regulation in respect of which a penalty or process is already prescribed by that regulation. The new procedures allow for less serious misconduct such as an infringement to be dealt with in an efficient and expeditious manner while still observing the common procedural requirements of due process and natural justice.

Therefore the application of the relevant process to the specific category of the alleged misconduct promotes the efficient use of resources, clarity and certainty of procedures, and flexibility. A further consequence of classifying complaints into categories for which different processes are prescribed means that clear reporting lines have been established. For example, complaints of misconduct (other than infringements) must be referred in the first instance to the office of the Pro Vice-Chancellor of the relevant College or to the office of the Deputy Vice-Chancellor at the campus attended by or responsible for the respondent. The Pro Vice-Chancellor or Deputy Vice-Chancellor as the case may be, has the power to either: i) dismiss the complaint; or ii) seek to resolve it via informal processes; or iii) process the complaint based on the classification assigned by them as to the 'seriousness' of the misconduct. In the case of an allegation of serious misconduct, the complaint will be referred to the Assistant Vice-Chancellor (Academic or Research) or to the University Registrar for resolution following an investigation by a University Proctor.

While the type of misconduct, (academic, research or other), is not defined until the serious misconduct stage, it is anticipated that these classifications will mean in practice that, at the level of misdemeanour, the academic leaders, the Pro Vice-Chancellors, will deal with academic and research misconduct while other misconduct will be handled by the various campus leaders, the Deputy Vice-Chancellors.

In order to support an informal, flexible and efficient approach to the management of complaints of student misconduct, under the new procedures University proctors will only become engaged when a complaint of serious misconduct is referred to them directly by the Assistant Vice-Chancellor (Academic or Research) or the University Registrar for the purpose of conducting an investigation: 'A Proctor to whom a complaint of serious misconduct has been referred, shall investigate that complaint and in the course of doing so, shall follow the investigative process set out in Appendix 3'.<sup>9</sup> Appendix 3 of the procedures provides that in carrying out the investigative process the following steps should be taken:

- invite the Respondent to respond to the complaint;
- review relevant documentation;
- seek clarification or make other relevant inquiries;
- provide any material obtained in the course of the investigation to the Respondent except any material legally privileged;
- examine and evaluate relevant facts and evidence in order to determine whether misconduct has occurred;
- conform to the requirements of natural justice.

In this regard it is noted that in the appointment of University proctors, preference is given to those persons who are legally or arbitrarily qualified.<sup>10</sup> All other complaints are managed in terms of the relevant prescribed process. Thus, infringements are managed by the person or agency designated in the regulation concerned, and misdemeanours are managed in terms of

investigation and resolution by the office of the Deputy Vice-Chancellor at the relevant campus responsible for the respondent or by the office of the Pro Vice-Chancellor of the relevant College. In this regard the powers of the Deputy Vice-Chancellor or Pro Vice-Chancellor may be delegated to other persons appointed by them for the purpose.<sup>11</sup> As stated earlier, this is in stark contrast to how complaints of misconduct were managed and investigated under the previous disciplinary regulations.

In line with the intention of seeking informal resolution wherever possible to complaints of misconduct, it is to be noted that, provided that at all times the requirements of natural justice are observed, all decision-makers under these procedures are permitted to resolve complaints without resort to formal processes where appropriate in the circumstances of the alleged misconduct.<sup>12</sup> The overt encouragement to resolve misconduct by a consensual process such as mediation is seen as a key feature of the new code and disciplinary procedures. For example, in the case of misdemeanours and serious misconduct, the complaint may be referred to mediation. Where this occurs, then only in the event that the respondent declines to mediate, or the mediation is unsuccessful is the matter referred back to the relevant body for resolution by other means.<sup>13</sup>

In accordance with the provisions of the *New Zealand Bill of Rights Act 1990*, any student against whom an allegation of misconduct has been made has a right to the observance of the principles of natural justice by any tribunal or other public authority with the power to make a determination in respect of such student's legal rights, obligations or interests.<sup>14</sup> Natural justice is fundamental to adversarial, investigative and judicial processes and to the recognised concept of fairness. Whilst acknowledging that all investigations of complaints of misconduct must be conducted in accordance with the principles of natural justice, the working party gave consideration to what this should mean in terms of best-practice. To this end, the working party ensured that to provide clarity on this matter and ensure consistency in implementation, an explicit reference to the meaning of natural justice and its basic requirements be incorporated within the definitions clause of the disciplinary procedures, as follows:

**Natural justice** means ensuring that the standards of procedural fairness are met, and seen to be met, at all times, including the following three basic requirements:

- a) the respondent must be given notice of the complaint and the process to be used;
- b) the respondent must be given the opportunity to respond to the complaint;
- c) the decision-maker(s) must act impartially, honestly and without bias at all times.<sup>15</sup>

One of the primary objectives of the new disciplinary procedures was that, regardless of the classification of the alleged misconduct, the primacy of the principles of natural justice be maintained, thereby ensuring that all respondents will receive the same high level of information about their rights. With regard to complaints of misconduct classified as misdemeanours or serious misconduct, there is explicit detail included with regard to the procedures to be followed by the decision-maker. Such procedural steps are set out comprehensively so as to ensure that no complaint of misconduct is upheld without due process being followed at all times. Therefore, by providing detailed and procedurally fair processes for the management, investigation and resolution of all categories of misconduct, this is thought to have significantly reduced the possibility of a legal challenge based on an alleged breach of natural justice.

In the matter of appeals in respect of complaints which have been classified as infringements or misdemeanours, where such a complaint has been upheld, the student may appeal against the decision. This will be either to the Deputy Vice-Chancellor or relevant Pro Vice-Chancellor in the

case of an infringement, or in the case of a misdemeanour to either the Assistant Vice-Chancellor (Academic or Research), or to the University Registrar as appropriate and in accordance with the relevant processes on Appeals.<sup>16</sup> This is consistent with promoting the efficient use of University resources, coupled with a preference for managing complaints of misconduct at the lowest possible level.

In contrast, the University Disciplinary Committee is required to meet only to hear and determine whether an appeal against a finding of serious misconduct should be upheld.<sup>17</sup> This represents a major departure from the previous disciplinary regulations whereby the University Disciplinary Committee was required to convene every time a case of misconduct was referred to it by the proctors. This Committee, which is convened by the Vice-Chancellor, consists of five people and is comprised of two University staff members, and two student representatives. Fairness and neutrality is ensured by a permanent independent chairperson who is neither a current student nor a University employee.<sup>18</sup>

In order to review and advance consistency and efficiency, the disciplinary procedures provide for the establishment of the University Disciplinary Advisory Committee.<sup>19</sup> With a membership of seven and chaired by the Assistant Vice-Chancellor Academic or Assistant Vice-Chancellor Research, the key functions of this Committee are to review the consistency of decision-making at all levels and to report on the efficiency and consistency of the disciplinary processes.<sup>20</sup> An annual report on the same is to be made to the Vice-Chancellor at the end of each academic year which will also contain a non-identifying summary of all cases of misdemeanours and serious misconduct disposed of during that year.<sup>21</sup>

Throughout the process it was important to the working party to ensure that the successful engagement of the University with its obligations under the Treaty of Waitangi and its obligations to international students was acknowledged in the procedures. To that end, it is a common procedural requirement that all persons having responsibility under the disciplinary procedures shall, when carrying out their functions, take due care to ensure that they are cognisant of the cultural beliefs and values of the parties involved<sup>22</sup> and that in proceedings at all levels, parties may avail themselves of whanau support.<sup>23</sup>

Furthermore, in addition to the requirement for the appointment of at least one Maori Proctor,<sup>24</sup> there is specific provision for the principal appointees or alternates appointed by the Academic Board and the Students' Associations to the University Disciplinary Committee to include where possible one Maori member.<sup>25</sup> The University Disciplinary Advisory Committee is also vested with the power to co-opt a Maori University staff member should it require a Maori perspective on a particular issue or issues.<sup>26</sup>

#### IV CONCLUSION

In summary, Massey University's Code of Student Conduct and Disciplinary Procedures ensure that students are provided with a high level of information about their rights in a clear and understandable way. Misconduct is classified and for ease of reference the use of a flow chart effectively summarises the entire complaints process.<sup>27</sup> Processes and procedures are fully explained and penalties for breach by students are set out clearly in an Appendix to the disciplinary procedures.<sup>28</sup> Accessibility is assured by placement of the disciplinary procedures on-line with the provision of web links to these in other student documentation.

After 5 years in the making and extending to 24 pages (including 4 Appendices), the Massey University Code of Student Conduct and Disciplinary Procedures represent a prodigious advance



in the regulatory framework of the University in terms of both the clarification and simplification of pertinent process and procedure for the management, investigation and resolution of all complaints of student misconduct. Clear and well published processes are now established and have been designed specifically to ensure that they are legally sound and operationally safe, while at the same time retaining sufficient flexibility to permit informal resolution where appropriate in the circumstances. Yet though the ink is scarcely dry on the page, we are aware that we will need to reflect and review - not just on what has been achieved so far but also on what could be improved for the future.

#### ENDNOTES

1. *Grant v Victoria University of Wellington* [2003] NZAR 185 (VUW case).
2. D J Farrington, *The Law of Higher Education* (2<sup>nd</sup> ed, 1998) 307.
3. *Ibid* 309.
4. Because there is no equivalent in New Zealand of the case of *Griffith University v Tang* [2005] HCA 7, it is not possible to determine how such a matter might be decided by the Courts. However, the Disciplinary Procedures at Massey University are complemented by Student Grievance Procedures and the Student Contract (see Appendix 1) obliges students to follow both these procedures (see Clause 12 of the Contract). Therefore, in the first instance, a complaint such as Ms Tang's would need to be dealt with under the internal Student Grievance Procedures of the University.
5. The authors of this paper were directly involved in the project, both being members of the working party in their respective roles as University Disputes Advisor and University Proctor.
6. Appendix 1 – The University – Student Contract.
7. *Code of Student Conduct and Disciplinary Procedures*. This is published on the Massey University website at <http://policyguide.massey.ac.nz>
8. *New Zealand Bill of Rights Act 1990*, s 14 (Freedom of expression) and s 16 (Freedom of peaceful assembly).
9. Massey University, *Disciplinary Procedures for Students* (2006) Clause 10.3.
10. *Ibid* Clause 10.2.
11. *Ibid* Clause 3.4, Clause 8.2.
12. *Ibid* Clause 6.1.
13. *Ibid* Clause 8.7(b), Clause 9.7(b).
14. *New Zealand Bill of Rights Act 1990* s 27 (Right to justice). However, it should be noted that s 27(1) of the *New Zealand Bill of Rights Act 1990* does no more than recognise the common law in respect of the requirements of natural justice, and does not expand it in any way.
15. Massey University, above n 9, Clause 2.
16. *Ibid* Clause 11.6, Clause 11.7.
17. *Ibid* Clause 11.8.
18. *Ibid* Clause 12.3(a).
19. *Ibid* Clause 13.
20. *Ibid* Clause 13.4(a) and (b).
21. *Ibid* Clause 13.5.
22. *Ibid* Clause 4.4.
23. *Ibid* Clause 7.2(c), Clause 8.4(a)(iii), Clause 9.2(d), Appendix 4.
24. *Ibid* Clause 10.1.
25. *Ibid* Clause 12.5.
26. *Ibid* Clause 13.2.
27. See Appendix 2.
28. Massey University, above n 9, Appendix 1 – Schedule of Penalties.

## APPENDIX 1 – THE UNIVERSITY – STUDENT CONTRACT

[AS IT APPEARS IN THE 2007 UNIVERSITY CALENDAR. THE CONTRACT ALSO APPEARS ON THE UNIVERSITY WEBSITE FOR THAT YEAR]

*The University and the Student form a contractual relationship when the University enrolls the Student as a member of the University community. Following are the terms of that Contract which the University and the Student accept are to govern their relationship, along with statute, and with the regulations and rules of the University.*

The University will:

1. Use best endeavours to provide the Student with tuition and supervision of a professional standard in the course(s) in which the Student is enrolled.
2. Act reasonably and fairly in exercising its powers under the regulatory framework and this Contract.
3. Give reasonable notice of any changes in the course(s) required because of changes in funding, staffing or other reasonable cause.

The Student will:

4. Use best endeavours to fulfil the requirements prescribed by the University for the course(s).
5. Observe the regulations and rules of the University and accept the jurisdiction of the University in all matters connected with academic progress and with discipline.
6. Pay the fees prescribed by the University for the course(s).

The University and the Student also agree:

7. The Contract is formed when a Confirmation of Enrolment Form is issued for the course(s).
8. The Contract will continue for the period for which the Student is enrolled by the University and will then end. However, clause 12 will continue to apply after the Contract ends.
9. The University and the Student may enter into further contracts, in subsequent periods, by repeating the process in clause 7.
10. The relevant Admission Form, Enrolment Form, Confirmation of Enrolment Form and material published in the *Calendar* also form part of this Contract, but nothing else shall be incorporated into the contractual relationship between the Student and the University.
11. Liability for failure to perform this Contract is excluded where that failure has been caused by circumstances beyond the control of the University or the Student.
12. Any dispute arising out of or in connection with this Contract, or otherwise relating to the performance by the University or its staff of their responsibilities to the Student, shall be resolved through the Grievance Procedures prescribed by the University Calendar, p.28; <http://www.massey.ac.nz/> which shall be the exclusive procedures for resolution of such a dispute.

## APPENDIX 2 – COMPLAINT PROCESS FLOWCHART



