

Version Control	
Document Number	7-1 Procedures
Status (draft version / approved)	Final
Policy owner	Team Leader – Quality Assurance Team
Effective from	Date of approval by the Director
Review date	+3 years

Related FHEC documents: policies / procedures / guidelines, etc.	Policy 7-1 – Legal Compliance
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1.0 Identification of alleged non-compliance and initial response

- 1.1 Upon receiving notification of a breach or potential breach, staff members should notify their manager and the compliance officer by e-mail.
- 1.2 If a complaint is anonymous, it needs to be sufficiently specific in detail to allow for investigation. Sensitivity must be exercised. Anonymous complaints may be malicious. On the other hand, concerns may be genuine, but the complainant fears reprisal.
- 1.3 In consultation with FHEC senior management as appropriate, the compliance officer will coordinate the initial response, taking any steps necessary to:
 - 1.3.1 Determine the level of risk associated with the alleged breach;
 - 1.3.2 Provide initial confirmation of whether or not a breach has in fact taken place;
 - 1.3.3 Take any appropriate immediate steps to contain the breach (including alerting the HEI if not self-declared and requiring the HEI to preserve records); and
 - 1.3.4 Ensure that, where-ever possible, the interests of affected students are protected.

2.0 Planning to be undertaken if a breach of legal compliance is confirmed or further investigation is required

- 2.1 In discussion with the senior management or governance of the HEI as appropriate, the compliance officer and any other staff within the FHEC will develop an action plan based on the assessed risk.
- 2.2 The assessment of risk will take into account the seriousness and extent of the breach, the risk to students and other affected individuals, reputational risks to the HEI concerned, reputational risks to the FHEC.
- 2.3 The plan should first address whether further steps to limit the breach are necessary, such as:
 - a) Collection of documentation;
 - b) Suspension of particular activities;
 - c) Suspension of staff pending investigation; and/or
 - d) Any specific arrangements to protect the interests of students.
- 2.4 The team developing the plan should consider whether legal advice may be necessary and at what stage.
- 2.5 The team developing the plan should consider whether a media strategy may be necessary.
- 2.6 The plan should then address whether an investigation is necessary and what form it should take depending on the seriousness of the breach and whether or not the facts and extent of the breach are clear.

3.0 Conduct of an investigation

- 3.1 Investigations should:
 - 3.1.1 Determine the root causes;
 - 3.1.2 Identify whether it was a systemic breach, an isolated incident or a deliberate act;
 - 3.1.3 Identify and gain agreement on appropriate actions to prevent the breach recurring or escalating to a more serious level;
 - 3.1.4 Apply the principles of natural justice; and
 - 3.1.5 Be completed in a timely manner.
- 3.2 The investigation outcome should be reported to the senior management and/or governance of the HEI as appropriate and recorded in the Legislative Breach Register unless the investigation has demonstrated that an alleged breach has not in fact occurred.
- 3.3 Where breaches involve criminal activity, this should be referred to appropriate law enforcement agencies or authorities for investigation.

4.0 Implementation of corrective action

- 4.1 Recommended corrective and/or preventative actions will be documented by the FHEC and agreed by the HEI. They will identify appropriate persons responsible for implementation and target completion timelines.
- 4.2 Where systemic issues are identified within the HEI an improvement plan should be developed to address policy and/or process improvement.
- 4.3 Practical ways of monitoring the implementation and effectiveness of corrective actions and systems improvements will be agreed with the HEI.
- 4.4 All corrective outcomes and notes on their implementation will be recorded in the Legislative Breach Register.

5.0 Unresolved outcomes

- 5.1 In the event of a request for reconsideration of an investigation decision, the staff of the FHEC involved in the case will advise the director whether in their view, there are sufficient grounds for reconsideration. If there are sufficient grounds, the director will develop, in consultation with the Commissioners an action plan to reconsider the matter either internally (led by a senior staff member not previously involved) or appoint an external reviewer.
- 5.2 In the event that agreed actions with the HEI are not carried out satisfactorily, the director will advise the Commissioners and ask them to approve appropriate sanctions on the HEI concerned.
- 5.3 In the event that agreed actions with the HEI are carried out in good faith but do not remedy the breach, the director may re-open the investigation and ask the investigators to reconsider the recommended corrective actions.

6.0 APPROVAL BY THE DIRECTOR, FIJI HIGHER EDUCATION COMMISSION



Linda Aumua
Director
Fiji Higher Education Commission

22:08:17

Date

