Student Union Discussion Paper
Special Consideration Policy Review 2011

The student union is always grateful for the chance to express the views and concerns of the student body. We feel that a review of the special consideration policy is an issue that will be of great concern to RMIT students. We would like to respond to the specific questions raised with the student union about the changing special consideration policy. We would also like to comment on the process as a whole, the intentions underlying it and the way it interrelates and interconnects with the RMIT policy suit.

Abstract

The way that RMIT cares for students in distress is more than just an administrative issue. It is a question about equity, compassion and human rights.

The student union feels that to comment on parts of this policy would be peripheral and ineffective. We see the current issues of rising appeals rates and high incidences of mental health issues amongst students as symptomatic of underlying problems.

The main issues with the current policy, as we see them are:

1) Special consideration policy is a detached, structured, administrative process in the face of evidence which indicates that students experiencing trauma, crisis and stress can not be expected to navigate these kinds of processes. Accepted statistics show that one in five tertiary students will be diagnosed with a mental health issue at some point throughout their studies. We feel that attempts to alter the current special consideration policy can not address this issue. We believe that only a compassionate process designed from the outset with an understanding of mental health and trauma can make real and positive change.

2) Special consideration policy as it exists does not comply with the Disability Standards for Education. The student union is in possession of compelling evidence which suggests that RMIT has been aware for some time that under the definition of ‘disability’, special consideration policy should fall under the Standards.

3) There is currently no responsibility to consult placed upon the Special Consideration Panel, the University Appeals Committee or the Academic Registrar’s Group. This responsibility is made clear under the Disability Standards. We feel that consultation with students regarding their applications would lead to less appeals, a more rational and streamlined process and a process which causes less unnecessary stress and trauma for students who are already in difficult circumstances.

4) The student union believes that the current culture of suspicion and mistrust towards students applying for special consideration is hampering both this review process and RMIT’s responsibility to provide a learning environment free from discrimination.

5) The student union has concerns about the nature of this review process. We feel that the body which oversees special consideration process- the Academics Registrar’s Group, may be unable to approach this review in an unbiased manner due to their closeness to the process and their being directly influenced by the rise in appeals rates. We feel that as equal members of the RMIT community and the members who are arguably most effected by any changes to this policy, that the student body must be consulted in this review.
Student Union Recommendations

- It is critical that there be an overarching equity policy. This policy should stipulate the University's obligations to accommodate equity. It needs to be in a greater level of detail than the general information in the Equal Opportunity Policy because responsibilities need to be more clearly delineated and defined.

- RMIT should continue to focus on the effects of disability or equitable circumstance. The student union believe that this should be stated as a much higher priority of the institution’s than it currently is; particularly with regard to the Special Consideration and Academic Progress Policies.

- In looking at the effects of disabilities, crises and equitable circumstances, the University needs to recognise that many students will have difficulty completing the process and that they will often experience trouble expressing what decision makers need to understand about the effect of their problems.

- The University needs to allow students to be witnesses to their own circumstances and the system should be based on consultation so that, when necessary, students should have the opportunity to sit down and have a discussion. This is what we believe that consultation should mean for many students.

- RMIT should consider developing integrated forms, particularly bringing together the process of applying for remission of HECS with the process of applying for late withdrawal without academic penalty through special consideration.

- We believe that the University should be more flexible about its time periods. We cannot see why 48 hours is a necessary timeframe for students to apply for consideration.

- RMIT should use simple, plain language email communication when it is talking to students who are in distress. While we acknowledge that there is a duty to provide what is often a large amount of administrative information, this is difficult for people who are in distress to read and process. There should be very simple statements made to students and there should be the opportunity to pick up the telephone and ring an identifiable person to consult and to confirm if that information is not clear.

- Review of special consideration and Equitable Assessment Arrangements should be available and it should not be hedged with criteria. We believe that these decisions should be appealable on a simple show cause basis.

- There should be a functional separation between the areas of the University which make the decisions and the areas which have responsibility for formal review. This is an absolute because the nature of collegial review is such that self review or peer review is often not satisfactory to identify and address systemic problems.

- There needs to be a periodic audit of decision making about special consideration and reasonable adjustment to ensure that it is effective and is in accordance with the principles set forth in the Standards.

- There must be ongoing education of the University community about the rights and responsibilities of the institution to it's students in accommodation of disabilities.
Action and resources need to be put into equity in teaching.

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Support for a Review

The Student Union supports a review of special consideration and disability related policies. This policy area has been struggling to meet demand and the needs of some groups of students. There are an increasing number of appeals against decisions made under this policy and there is a perception from students and some areas of the institution that the policies are not working for everyone. There are increasing administrative difficulties in processing special consideration, particularly late applications; yet these are often for the most compelling of circumstances. We have had a number of late applications come to our attention recently which have not been processed, have been lost or have gone in circles. The students who are making these applications have experienced substantial levels of distress as a result.

We believe that a review is necessary because we feel that there is increasing evidence that the process of providing equitable support has become increasingly bureaucratic, and at times harsh, and we are in danger of losing sight of the human needs it should be addressing.

Policy Strengths

Before we consider some of the issues with this policy area, it is worth noting what we believe that RMIT is doing well and what should be built on.

The Student Union supports the use of an effect based system for looking at students’ circumstances. Historically consideration was often expressed in moral terms, or students’
experience was mapped against an arbitrary scale. Looking at what a student’s personal circumstances meant for their ability to perform in assessment tasks is a valuable feature of the system. We believe it is in keeping with the thrust of anti discrimination laws.

We support the attempts to preserve the privacy of students applying for special consideration. We believe that it is ordinarily appropriate for special consideration documentation not to enter academic schools. We note that there are some more complex issues regarding privacy which are discussed below.

The use of expertise, particularly within the Disability Liaison Unit, is very appropriate and it is worthwhile retaining that system wide knowledge and resource.

Conflict about appeals is a hallmark of the system and a large amount of effort and frequently expense goes into reviewing special consideration decisions. We believe that there is a lot of goodwill shown by University staff members in looking at student’s circumstances and that there is normally compassion and engagement. In addition there are some examples of extremely supportive practice being shown across the University including within specialised areas such as the secretariat of the University Appeals Committee.

While we are critical of many aspects of the operation of the policy we believe that the institution and its staff are trying to do the right thing.

Policy Foundations

The current policy dating from 2006 is essentially a rationalisation and centralisation of a much older policy which had been administered by Schools. The tertiary sector has accepted, for a very long time, that some students are affected by circumstances beyond their control and that these circumstances are worth showing compassion for, hence there has historically been a mechanism for considering issues that may have happened on the day of an assessment.

Over the last twenty years this essentially discretionary approach was stretched to accommodate a broader range of circumstances and a different conceptualisation of the rights of the student body. Driving this process was the introduction of anti-discrimination laws with the key rule for the accommodation of disabilities in education being the Commonwealth Disability Discrimination Act, 1992, and the associated Disability Standards for Education, 2005. While not every student who applies for special consideration is affected by a disability the construction of disability in the act is extremely broad. Very clear processes and rights that are set forth in the Standards serve as a best practice template for the sector. According to Section 4 of the Act, disability:

*in relation to a person, means:*

1. *total or partial loss of the person’s bodily or mental functions; or*
2. *total or partial loss of a part of the body; or*
3. *the presence in the body of organisms causing disease or illness; or*
4. *the presence in the body of organisms capable of causing disease or illness; or*
5. *the malfunction, malformation or disfigurement of a part of the person’s body; or*
(f) a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction; or

(g) a disorder, illness or disease that affects a person’s thought processes, perception of reality, emotions or judgment or that results in disturbed behaviour;

and includes a disability that:

(h) presently exists; or

(i) previously existed but no longer exists; or

(j) may exist in the future (including because of a genetic predisposition to that disability); or

(k) is imputed to a person.

To avoid doubt, a disability that is otherwise covered by this definition includes behaviour that is a symptom or manifestation of the disability.

Because the act covers such things as the presence of organisms in the body causing disease or illness or capable of causing disease or illness and temporary conditions it applies to virtually every medically based special consideration application; the majority of applications. Several other protected characteristics form important categories for special consideration applications. These include student’s status as a parent or a carer for children or for an incapacitated member of their family and equitably based claims founded on people’s cultural or racial backgrounds.

Recommendation: The Student Union believes that it is important for the language and processes of the Policies to be brought into line with modern legislation.

Illness a Moral or a Legal Issue?

There has been a long standing misconception in RMIT that there is a distinction between disability and illness. If this was true then students experiencing short term illness would have different rights because the formal coverage of the Disability Discrimination Act would only extend to students who have ongoing or chronic conditions.

The misconception was captured in the 2005 Disability Strategy Plan, where the Pro Vice Chancellor Students was directed to clarify the difference. We believe that it was one of the assumptions which led to the Special Consideration policy being drafted in its current form, following discretionary principle rather than being designed around the requirements of the Disability Standards. Even as late as 2007, student representatives were told by senior representatives of the Registrar’s Group that the Standards did not apply to Special Consideration.

The Registrar’s Group has been aware since at least 2005 that this distinction is artificial and incorrect. The Student Union has in its possession an email from the previous Registrar which says:

The news form the Legal Office is not good. We are required to take the medical certificates at face value as they come under the provisions of the Disability Act. Under the Act the students would be deemed to have been suffering a temporary disability.

1 Sue Jellett. Email 4th December 2004.
We question whether the Registrar's Group acted to ensure that this knowledge of the rights of students with disabilities was fully reflected in the Special Consideration Policy, particularly with regard to the requirement to consult.

An Unacceptable Policy Gap

The Disability Standards for Education are intended to cover a student right through the process of education. When you analyse the overall coverage of this policy suite it is striking that RMIT has only developed formal policy to cover the accommodation of disabilities in assessment itself.

The Student Union believes that it is an unacceptable situation.

The DDA is now nineteen years old and the Standards are in their sixth year. It is incredible that over this extended period of time, RMIT has not taken action to create any kind of policy based imperative for the development of equitable teaching practices.

It is left up to individual course co-ordinators to design courses as they see best. Guidance is not given about how to make teaching more accessible to students with disabilities. This is not an individuated issue about particular courses, it is an overall policy issue for the institution.

Policy Multiplication and Coherence

There has been an apparent approach from RMIT of attempting to create policy to address every circumstance and seeing the creation of policy as the answer to dealing with diversity and management of the institution. An unintended consequence is that, if a situation doesn’t fit a policy, it becomes invisible and impossible for institutional decision makers who have become unused to applying policy and legislative principles to ‘grey areas’ to process or address.

This is problematic for managing equitable situations and is often very unreasonable.

Another characteristic of the university’s policy regime is that individual issues are dealt with under individual policies so a student may have issues which fall under a number of different policies. For instance there are clear divisions between Student Complaints, (which includes discrimination), Assessment Appeals, Special Consideration, Academic Progress, Privacy and Fee Remission. All of these separate areas may need to be addressed in a situation where a student alleges they have failed a course because of discrimination.

All of these processes will hinge on the same set of evidence but the University expects that students will drive a number of different processes. This expectation may be reasonable for people who are fully abled and have the capacity to master (and put time into) different processes. We feel that it is not a reasonable expectation of students who are suffering significant levels of distress or psychological impairment. Furthermore there is evidence to suggest that insisting that people who have suffered trauma tell their story over and over again, can be damaging and substantially hinder their recovery process (http://www.mhfa.com.au).

Because the only policies that provide specific guidance about accommodation of disabilities relate only to assessment, in related areas of policy which may be called on to understand the same incident of distress, disability can be treated in unnecessarily different ways. Disability can stop becoming an issue requiring accommodation and start becoming what RMIT refers to as ‘compassionate and compelling circumstances’ (Unsatisfactory Progress Policy) and is a discretionary input into decision making. This can easily lead to situations where the requirement to accommodate a student’s disability is ignored.
This can become very illogical and the lack of overarching policy leads to situations where disability is either differentially treated or dismissed from the situation entirely.

**Recommendation:** We believe that RMIT should use integrated processes and where possible, forms.

**Policy Fragmentation**

**Recommendation:** The Student Union supports the Registrar’s goal to make RMIT’s Policies more coherent.

Following the link from the ‘Administration Essentials’ section of the ‘Current Students’ page there is a list which *appears complete* but is a lot smaller and omits many key Policies, particularly the Equal Opportunity and Compliance Policies.

A student needs to access these Policies in order to understand why a decision is or is not appropriate within the broader framework of institutional policies and procedures. If they cannot do this then they will be unsuccessful in making a special consideration appeal in most circumstances.

**Policy Assumptions**

There are a set of assumptions behind the policies which need to be interrogated.

There is an assumption reflected in some of the language of special consideration related policies that consideration is still a discretionary matter and that the University is somehow doing students a favour. For instance the Deferred Assessment Policy states that a deferred exam is a ‘major concession’. Because deferred assessments are only granted when there is evidence that a student’s ability to perform has been either ‘severely’ or ‘totally’ affected it is a right, not a ‘concession’. We believe that language such as this in the Policies is inaccurate and may contribute to an environment which is hostile to students with equitable circumstances.

The original set of performance measures for the Special Consideration Policy included that the Policy would lead to a reduction in the number of applications and of the number of appeals, this has clearly not been the case.

The claim from RMIT was that it would train students to be proactive when they faced difficulties and that this would reduce the need for consideration. We feel that this approach is potentially at variance with the Act, which creates a primary obligation for the institution, not the student, to take reasonable steps to accommodate a condition. This expectation continues to be important in special consideration decision making. For instance a student who has been previously advised to apply for Equitable Assessment Arrangements has their special consideration application rejected when they have not done so, on the basis that the students need was not ‘unexpected’. There is a basic issue that every year and in some programs and areas every six months, there is a new cohort of students. The idea that we could once and for all train the student body to be proactive is not supported by the circumstances. Does every cohort of students need to learn their lessons the hard way or should we be more understanding and supportive?

**Recommendation:** We believe that it should be the student’s decision what support arrangements they make and that the forseeability of a problem should not prevent a support being available.
In a similar vein students who have applied a number of times directed by the Panel to provide a ‘Health Management Plan’ and subsequent decisions appear to be contingent on supplying the plan. Because of the Victorian Charter of Human Rights and Responsibilities, the University does not have the authority to force people to access treatment. Consideration should be made dependent on the scale of effect of a problem and these requirements appear to be based on the reintroduction of moralistic categories of thought.

We feel that these practices have may be consciously intended to deter students applying for support which they are entitled to.

Advising or Appeasing Schools

For many years there has been a perception current at the University that the majority of applicants for special consideration are ‘not genuine’. In looking at academic perceptions of equity this belief sits alongside a concern that if too many students are given consideration it would be unfair for other students and that, to ensure equity, everybody would have to be given consideration.

These views are erroneous:

- There is a regular stream of misconduct cases identified by the Panel and dealt with by Discipline Board every year but this is a miniscule proportion of the overall number of applications. Given that the Board does not need a criminal standard of proof they can punish a student if it appears probable that cheating has occurred. Widespread cheating, if it was occurring, would equate to widespread punishment, something which is not occurring.

- Reasonable accommodations are only made by the University where the Panel agrees that there is serious evidence of an effect on a student. To assume that “not genuine” applicants are receiving consideration, it must be assumed that the Panel’s process for vetting applications and assessing evidence is similarly not genuine. In essence RMIT only offers special consideration where a student cannot be reasonably expected to pass an assessment because of incapacity. Because adjustments are proportional to need there is no reasonable argument or imperative to provide adjustments to other students who do not have similar levels of need.

These ideas perpetuate the misinterpretation that awarding special consideration gives a student an advantage, where as in truth, special consideration exists to give disadvantaged students an equal chance of success, or to “level the playing field”. These beliefs are discouraging students from applying for extensions or consideration, when they have need, and creating a culture amongst staff of shaming students who are asking for help.

If such sweeping generalisations and assumptions were made about supports for other equity groups, for instance Indigenous people, women or the elderly we believe our community would be concerned about prejudice. These assumptions are however, allowed to be important considerations in the way RMIT thinks about disability.

Academic and some administrative staff receive a copy of the email acknowledging that a student has made an application and they receive a copy of the outcome email. They do not know why the student has applied and hence the reason consideration is granted.

If staff are activated by the belief that the majority of applications are not genuine then you could expect that they will become increasingly concerned the more approvals are granted. This creates a pressure on the University to reject applications to preserve an appearance of academic rigor.

It is not hard to understand why students asking for extensions or about reasonable adjustments often encounter a negative initial response.
We therefore believe that it would be inappropriate for Schools to give feedback on eligibility related issues but expect that this will be their primary concern.

**What Might the Misconceptions About Consideration Lead To?**

In analysing the motivation behind RMIT moving away from a School administered system to a centralised system for processing special consideration applications, the student union has concerns that motivations did not stem from a desire to make the process better, but as a reaction to one misunderstood case.

**Case Study:** When RMIT Business looked at special consideration rates in 2005 they found that local and international student applied for consideration at roughly the same rates (5 and 7%) but that Chinese nationals wanted consideration at almost twice the rate (11%)\(^2\). Further examination of the figures showed that over half of a group of international students who had been admitted with poor TAFE results (in many cases they had also not passed basic academic English) had either failed or deferred half of their exams.

Stopping this group from accessing special consideration appears to have become a University priority as the paper which identified the problem also proposed punitive solutions such as charging fees or recording that consideration had been given on transcripts. These solutions could not be implemented for legal reasons, but one of the paper's recommendations was the creation of a centralised process.

RMIT missed a chance to understand the distress of this group of students as a result of being placed into courses they were not equipped to pass. Jumping to conclusions we tightened the rules, implementing a centralised policy, rather than listening to their voices.

We are concerned that this policy review may continue what appears to be a trend of addressing minor issues rather than underlying causes.

**False Polarities**

It is possible to see the basic question of who is eligible for special consideration as a trade off. When asked about special consideration, many students they tell you two apparently contradictory stories; one story will be about someone who was in hospital and who was found to be ineligible which is juxtaposed with stories of people that they know who have gained special consideration when they weren't actually eligible. Special consideration often seems like an act of balancing between different dichotomous extremes.

Some of these polarities include:

- Tension between Student Rights Officers who argue in support of students or for new constructions of the policy in opposition to the Registrar’s Group and the university.

- Conflict between the Disability Standards and the need to accommodate medical conditions in opposition to the need to maintain academic standards and the rigour of qualifications.

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• The need for equity, ensuring that both an individual’s personal circumstances and the students who are undertaking the regular assessments are fairly taken into account.

Dichotomies may exist but it does not necessarily follow that an appropriate approach to writing policy is about achieving an acceptable and scientific balance between:

• False positives; people who are found to be eligible for special consideration, but in fact did not deserve the support and
• False negatives; people who have been denied consideration but actually had circumstances that warranted it.

In actual fact the situation is a lot more ambiguous than trying to achieve a simple balance.

We are quite well aware that many students highly value the Disability Liaison Unit’s support and that special consideration is frequently offered and greatly appreciated. There is another side of the coin; that the experience of being denied consideration although seriously affected by circumstances or to not able to get staff to implement your reasonable adjustments is often very distressing. This experience is not comparable with the situation where a student unfairly accesses special consideration.

The feeling that your experience has been rejected or not recognised by the University is often quite confronting. Special consideration is meant to be available as a short term reaction to people’s experience of distress; to be told that that distress was not important or to feel that you have not been listened to because of administrative criteria is quite confronting. A lot of students seem to feel that they’ve been personally rejected by the university. This reaction helps to explain why a large number of students who have been rejected for special consideration are quite persistent in the Appeals process. It also suggests that there are many students who are not able to go on with and through the Appeals process because the experience of rejection has been very confronting for them.

Resolving these polarities is about trying to find new ways of thinking about establishing eligibility for support.

**Rational Process/ Rational Students**

One assumption is fundamental to the way RMIT makes policy and to understanding why there are issues with this suite of policies. RMIT develops policy in a rational, ordered and process based manner. The institution expects that students will then, similarly, act in a rational, ordered and process based manner.

The University has the ability to place requirements or conditions on people who are trying to access equitable services and supports. There is an onus on RMIT to show the reasonableness of these requirements (Disability Discrimination Act, Section 6).

With special consideration there are a number of requirements which may not always be reasonable. These include that the student will be able to:

• Access the forms and Impact Assessment Statement,
• Get a practitioner to sign off on them on the day of the assessment or credibly comment on what happened on the day of the assessment and
• supply this information within 48 hours

If they cannot there is a further requirement that they must show that their reasons for not doing so were ‘exceptional’.
We ask, why is 48 hours a reasonable amount of time and why do students not have more time available to them?

There are further requirements that the student will be able to:

- access the policy and find out what is required of them
- access their email account and
- comprehend the emails and the correspondence from RMIT,
- find out or know enough about policy and decision making at RMIT to be able to make an appeal based on limited grounds which revolve around RMIT policy.

**Effects of Crises on Student Behaviour**

One of the primary features of distress is that people’s reaction is often not rational, ordered or logical in the same way that they behave when they are in ordinary circumstances. People frequently concentrate only on the issues which are to do with their crisis and find it hard to ‘step back’ and look objectively at the flow on problems a crisis is causing in other, less immediate, areas of their life; such as their study.

Very common symptoms of depression, anxiety, stress and grief, which cover many of the reasons that a student may be applying for special consideration, include poor concentration, lack of energy or motivation, an exaggerated sense of guilt or worthlessness which may contribute to students not asking for assistance in a timely manner (http://au.reachout.com).

For instance a homeless person has to spend much more time engaging with the realities of everyday living, working out where they’re going to sleep, and what they’re going to eat when they can’t cook.

Many students experience mood disorders while they are at RMIT, particularly anxiety, depression and post traumatic stress disorder. It is inappropriate to treating these students in the same way as students who are unimpaired.

Many students experiencing anxiety may be unable to contact the University or may have to invest so much emotional effort into merely opening an email that they are unable to process its content. One of the key features of depression is that people tend to feel that they don’t deserve help, that they’re not worthy of the institution’s consideration. They can also be expected to face difficulties motivating themselves to access support within the required timeframe.

These are all effects of the conditions which should be being accommodated. We believe that you cannot make a neat separation between the academic effects of a condition, which are visible to special consideration, and the effect on a student’s ability to comply with administrative deadlines for requesting consideration, which are treated as inviolate in all but exceptional circumstances.

Following is a short guide on what to do and what not to do when assisting someone who has been through trauma, which has been copied from the Queensland government’s website: http://www.health.qld.gov.au

**Helping someone who has been through trauma**

1. Spend time with the stressed person, *without judging or demanding*, their recovery will occur in its own time.
2. **Offer support and a listening ear:** talking is one of the best things they can do to work things out; but they may need to go over things many more times than you expect. Try to be interested in what they want to say; avoid giving advice or trying to solve the problems. The talking itself is important and helps to make it fade.

3. Help with practical tasks and chores as this enables more of their energy and time to be given to the recovery process.

4. **Give them time, space and patience:** don’t take it personally if at times they are irritable, bad tempered or want to be alone. These are a natural part of the stress response and will pass as they recover.

5. Don’t try to talk them out of their reactions, minimise the event or say things like “you’re lucky it wasn’t worse,” or “pull yourself together,” or try to get them to look on the bright side; stressed people need to concentrate on themselves at first; they will feel supported if you let them know you are concerned, want to help and are trying to understand. They will see your viewpoint as they recover.

Contrast each of these numbered points with its corresponding numbered point listed below in a special consideration process that:

1. Does not provide any formal opportunity for students to take time to recover before being expected to gather documentation and submit their application

2. Does not provide any kind of human contact with decision makers whatsoever {unless a student appeals a decision to deny their application}, let alone support and a listening ear, as the exchange of information that is expected is that students submit forms and paperwork without knowing who it will be read by, and only receive a response in the form of an email that does not even have the name of the staff member sending the email or anybody else’s name on it. The student union has had numerous cases of student’s explaining that they just want to talk to someone, even if it is only on the telephone, so they can explain their circumstances, because they are not able to make whoever is reading their applications understand just by submitting paperwork.

   The only point at which the student gets to speak to decision makers is when their application has been denied and they appeal that decision. By this stage the student needs to explain why the university has made the wrong decision. So they are placed into a competitive, quasi-legal argumentative framework from which they will either emerge as the winner by showing the special consideration expert panel did the wrong thing or as a loser because the university has decided the impact of their circumstances was not severe enough.

3. Requires the student to expend time and effort gathering documentation and formulating arguments for their application at a time when the circumstances are in most cases still impacting them

4. Requires the student to submit their application within 48 hours of their assessment or justify why they are submitting the application ‘late’.

5. Where applications are unsuccessful, leaves them feeling that the reality of their circumstances and the impact of those circumstances has been denied by the university.
We believe that the ways the Policies expectations are framed and enforced has the effect of
privileging applicants who have not experienced substantial distress. We question whether this is
what the University intended?

**Information Processing**

The University expects that students experiencing trauma will be able to process and deal with large
volumes of complicated information particularly in the emails which are sent by the Special
Consideration Panel. Similar issues exist with academic progress emails. The Student Union
understands that it is a necessary part of RMIT’s duty of care for it to fully inform students of their
rights and obligations.

It is questionable whether it is reasonable to expect that students will fully understand the page and
a half of quite complicated information and data that gets sent to them advising them around the
outcomes of particular applications or decisions. It is suggested by leading organisations that work
with people who have experienced trauma that one should not use technical or complicated
language in communicating with victim as it can increase anxiety and there can often be difficulties
in understanding words and concepts (http://www.mhfa.com.au).

There are some generalised issues of intergenerational communication; University decision makers
are often older people who are attempting to convey information to a generation of students who
have very different ways of accessing information.

**Reaffirming Stigma- The Ostrich Technique**

While RMIT has made some very laudable efforts to not stigmatise particular conditions and
disabilities, stigmas still exist in the broader community and affect a student’s willingness to
disclose certain circumstances such as; psychiatric conditions or sexual or intimate partner violence.

There are also many students who come from countries which do not have equitable legislation and
where the common perception of disabilities, particularly of mental health problems is one of
weakness and of shame. Students take time to learn how things are perceived in Australia and may
not want to set aside their culture and perspectives for ours.

Students often do not understand that there is not one single, unitary student file, so they have
concerns about where special consideration records will be stored, who will have access to them
and how this may affect their reputation in their Program.

These issues strongly affect some students’ ability to make timely disclosures to the institution. It is
common to see the Panel note, in their decisions, that students have not made timely applications or
have initially withheld information because of privacy concerns but to treat this as a choice and
refuse to consider the information.

Being reluctant to provide information because of concerns about privacy ramifications, cultural
perceptions or because of fear about possible discrimination is not wilful behaviour. Refusing to
support students in these circumstances actually reaffirms the stigmatised nature of their problems
by making a problem which has its origins in community prejudices the sole responsibility of the
person who has the stigmatised characteristic.
**Recommendation:** We believe that RMIT needs to give effect to the Student Charter’s commitments to:

- Provide a safe, supportive and sustainable environment that challenges and empowers students
- Recognise, celebrate and support the diversity of students and staff on each RMIT Campus
- Reject discrimination and harassment

This could be achieved by changing the Special Consideration Policies requirement that late applications can only be accepted in ‘exceptional circumstances’ so that late applications will be accepted in reasonable circumstances.

The Victorian Government estimates that almost have of all Australian’s will experience some kind of mental health issue over the course of their lives, and that one in five Australian’s will suffer from a mental health issue every year (http://www.betterhealth.vic.gov.au/bhc2/bhcarticles.nsf/pages/Mental_illness_prevalence). If we think of the University as a microcosm of the greater society we could have as many as one in five students suffering some form of mental illness annually. Add to this the emerging evidence that International Students, of which RMIT has many, are unlikely to disclose that they are suffering mental illness. This is due to the stigma attached to such illness in their home countries, a difficulty communicating in English and fear of asking for help (Chau, Suicide in Australia, http://www.aph.gov.au/Senate/committee/clac_ctte/suicide/submissions/sub135.pdf). Given such statistical evidence it is important that the RMIT community as a whole have proper policy and guidelines for dealing with Mental Illness.

**Recommendation: Overarching Disability/Equity Policy**

We strongly believe that there is a need for an overarching policy to govern the implementation of reasonable adjustments across the University. This policy needs to cover all the areas addressed by the Disability Standards.

RMIT must also provide its community with guidance about how to accommodate disabilities within other policies. The legislative requirements to accommodate disabilities and other equitable circumstances create overarching obligations. Our community needs to be guidance about where the accommodation of disabilities sits as a priority and its importance vis a vis other policy and operational priorities. We do not believe that every institutional policy needs to be rewritten but they may need to be varied where their requirements are unreasonable in the context of particular students’ disabilities.

A policy must also clearly delineate responsibilities and how these overlap and can be co-ordinated. It is not reasonable to attempt to address a disability which has effects across a number of areas without coordinating between these areas. Take for instance a student who has particular needs to access a classroom with particular equipment; this may involve negotiation between:

- The student,
- The Disability Liaison Unit,
- The academic School,
- Property Services,
- Student administration and timetabling, and
- The College

Several areas of the University may need to come together to look at a particular student’s needs. Who initiates this process and who takes responsibility for it should be clearly stipulated.

Accommodation of complicated disabilities and equitable circumstances is sometimes a process of trial and error and often requires lateral thinking to work through with the student and other
interested parties, exploring different potential solutions to find the best one. This can not always be completed by choosing one box on a list as occurs in academic progress interviews. It requires engagement and for engagement to occur there sometimes needs to be overall guidance.

Cultural Reasons for Late Disclosure

It is well known that many of our students come from cultures which have different attitudes towards disclosing personal problems. In particular students from Confucian heritage cultures tend to see the disclosure of personal problems such as psychological difficulties or familial problems as shameful and only want to do so when it has become clear that the difficulty has lead to failure, a problem which is more shameful than privately disclosing its cause.

Why do we seem to expect that students from other cultures will assimilate to our ways of doing?

The University is concerned to see a reduction in the number of students who are granted deferred exams, but do not sit them, indeed this was one of the two issues the Student Union were asked to specifically comment on.

Recommendation: We consider that allowing students to submit applications after the publication of results would:

- Reduce the number of un-sat deferred exams by allowing students to make a choice about whether to apply based on their known performance.
- Help protect student’s privacy by reducing the number of unnecessary applications.
- Be more rational.
- Be more inclusive.
- Reduce the effects of distress on a students’ ability to manage the administrative requirements of the process.

Other Problematic Requirements

Documentation

Normally it is reasonable to expect that there would be a level of professional documentation to prove that a student has in fact experienced distress. However, there are common situations where documentation is difficult to obtain.

This problem highlights a key weakness of the system: information is not collected in any detail about the actual impact on a student’s academic performance instead attention is focussed on professional evidence about the circumstance which starts a chain of disruption to study and eventually performance. Because of the individual nature of:

- Student’s study habits and routines
- Their underlying levels of competence
- The effect of particular conditions
- Assessment tasks and academic requirements

Impact Assessment Statements represent what is often an educated guess as to the likely level of effect on a student’s ability to meet academic requirements. These assessments can be affected by the practitioners:

- Values
- Communication skills
- Ability to make cross cultural diagnoses
- Length of relationship with the student
• Workload

Yet the process concentrates on this one assessment and does not value information which is supplied by the student themself.

One of the clearest examples of a situation where documentary evidence is difficult to obtain concerns sexual assaults. Many survivors of assaults do not involve the Police and often do not seek medical or counselling help until some time after the attack. The University’s expectation that there will be third party professional evidence collected at the time when a problem affected study is unfair and unrealistic for many survivors as they are merely able to document current distress but unable to document when this started. People are ready to start talking about traumatic events when they are ready to start talking about them and it’s not reasonable to impose a timeframe for them to seek professional help to suit the institution’s administrative priorities.

The effect of familial problems such as parental illness or financial distress can also be difficult to document using the Impact Assessment Statement when this has developed over a period of time. Because of the way the form is set out it privileges short term, severe impacts. The lower level, but more chronic impact of caring responsibilities or stress on the student’s ability to prepare for and hence perform in final assessments makes students appear ineligible despite still have substantially affected the student’s performance.

**Recommendation:** A students own statutory declaration should be accepted by the Panel as evidence in its own right. To lie in a statutory declaration is a criminal act and the document therefore holds significant weight and authority.

**Impact Statements**

The Impact Statement works reasonably well with circumstances that catastrophically affect a student’s ability on a particular day, for instance a significant illness on the day of an exam. Impact statements are often not satisfactory when the students has a number of problems which compound each other. An example of this is where a student experiences illness, takes medication which has side effects which trigger another disorder like anxiety, causing a panic attack. In such circumstances it is possible that no one single practitioner is able to provide an overall assessment of the student’s capacity.

This is another example of the way a focus solely on the Impact Statement is unreasonable because it ignores the need and ability for students to be able to give evidence about their own circumstances.

Our view that student’s accounts of their circumstances are systematically devalued by the process is not an insistence that their accounts should always be taken at face value; there will be a need for verification. It is problematic that the Panel appears to place such primacy on the Impact Statement even though some students provide additional documentation which credibly demonstrates a much more severe impact than the practitioner has written on the Statement itself.

**Recommendation:** The University often holds additional evidence which may indicate how severely affected a student was; the assessment records themselves such as exam papers. We believe that in some circumstances it is unreasonable for the University to refuse consideration without consulting these records but note that this does not appear to happen.
‘Student to Liaise’

There appears to be a generalised expectation that students will organise their own reasonable adjustments. Special consideration emails about alternative assessment tasks often require the student to initiate the discussion with staff to arrange the assessment.

We believe that this is extremely problematic. A student in equitable circumstances makes a choice about whether to ask for help; RMIT has responsibility to make the reasonable adjustments.

Naturally there is some delicacy and complexity about this. To begin with, Part 3 of the Disability Standards makes it quite clear that there is a responsibility to consult with a student during the design and implementation phases of making reasonable adjustments. In plain language RMIT should:

- Ask you how your disability affects you and what kind of supports you need,
- Use this information to develop a proposed package of reasonable adjustments and
- Ask you whether this package is appropriate.

However there are often complications in real life. Privacy issues - to only disclose what support a student needs, not why they need them, could affect later implementation by Schools. Students may choose to disclose that they need help only in some circumstances. Needs are also sometimes situational, a student may require a particular adjustment in one class but not require it in another because of a difference in the nature of assessment or of the material being studied.

What concerns us is that RMIT is phrasing recommendations for reasonable adjustments as opt out statements that allow lecturers not to participate in supporting a student’s learning.

The intent of the Standards is to develop individually tailored packages of reasonable adjustments that are suitable for a student’s specific circumstances including these change over time. Decisions not to provide particular forms of adjustment must be made in a way which is considered and which ensures that suitable overall support is provided.

Most students do not have the ability to negotiate as equals with academics. Academic staff have authority about how assessment will be conducted and students are quite aware of this.

The requirement to negotiate individually is particularly problematic where the student’s disability itself disadvantages the student in approaching people, disclosing that there is an issue and negotiating their assistance. This is particularly the case with mood disorders. Consider the case of a student who has been to anxious or depressed to work on a presentation for their class; why would it be reasonable to expect that they will have an unimpaired ability to approach their Course Coordinator to negotiate an extension? We feel that there is a generalised problem for students with disabilities which are not visible: negotiating with individual academics creates a situation where students feel that they may be forced to justify their needs. Many students with disabilities worry about how to answer the inevitable ‘why?’

Death Certificates - They Don’t Just Hand Them Out at Funerals

The Special Consideration form gives supplying a Death Certificate as an example of suitable documentation to support an application. We believe that this is a classic example of unreasonableness in the Policy. Other forms of documentation are perfectly good for establishing an impact and Death Certificates:

- Are typically not available at the time of the bereavement itself so tends to deter students from making applications.
- Do not contain any information on the personal relationships between the student and the deceased.
• Do not provide any information on the impact on study of the bereavement, funeral rituals or the period of illness which precedes the death. In addition it is often quite offensive for even close family members to ask for a Death Certificate.

Why do we create an appearance that students need to supply a document which is often not available and which does nothing to clarify the actual impact of bereavement?

**Privacy Issues**

There are some complex issues surrounding the privacy and consideration/ equitable support. Most information provided by students will be ‘sensitive information’ within the meaning of the Information Privacy Act 2000 and hence should be kept secure. Students often do not understand that information provided to the Special Consideration Panel and the Disability Liaison Unit is held separately and is not passed on to their Schools.

While this is appropriate, there are a number of difficult issues.

Students often believe that information has been shared, or is accessible to their School in some situations. This has two potentially negative consequences:

- Students are deterred from applying because of privacy concerns but this is not accepted as a legitimate reason for making a late application.
- The assumption that Schools have access to their full special consideration record leads to students not documenting academic progress submissions properly. This has led to a number of students being excluded despite the Panel or DLU holding information which demonstrates compelling reasons for poor performance.

Making sure that students understand the full significance of the Privacy Policy and record keeping regime at RMIT is not as simple as including a reference to the Privacy Policy in the Special Consideration Policy. The Privacy Policy itself does not say where such records will be held and to fully understand the Privacy framework a student needs to also refer to the Privacy Policy Principles, a separate document. Even within the Principles a student must be able to understand the distinctions which are being drawn in Principle 2 between primary and secondary uses of data in different situations:

2.1 The University will not without the prior consent of an individual use or disclose personal information about that individual for a purpose (the secondary purpose) other than the primary purposes of collection except in any of the following situations:

(a) both of the following apply:

- the secondary purpose is related to the primary purpose of collection and, if the personal information is sensitive information, directly related to the primary purpose of collection; and
- the individual would reasonably expect the University to use or disclose the information for the secondary purpose

They would have to go back to the Policy to learn that their medical certificate is ‘sensitive information’. They would also have to understand the structure of the University and its Policies, (particularly in the light of Principle 10) before they could make informed predictions about how their information would be used. It is not surprising that students are often confused, particularly when they try to understand this complicated material while they are in crisis.
There is sometimes also an issue in accommodating disabilities; there is a need for academics to fully understand the effect of a condition so that they know how to design a task that is equitable and supportive but there is also an overall imperative to keep the underlying nature of the condition private.

**Recommendation:** We believe that students should be given, in clear, plain language, information about their privacy which is specific to the process.

**Concerns about the Review Process**

We have three fundamental concerns about the way this review is being conducted which appear to warrant open discussion within the University.

As discussed below, special consideration and equitable assessment arrangements must be made in a way which is compliant with the Disability Standards for Education. The Standards are themselves under review. Changing our Policies now may be premature and may continue a situation where our processes are not compliant with the Standards and hence are unlawful.

Consultation in this review appears to focus on Schools and may not fully take the experiences of students into account. We are all equally members of the University (RMIT Act, 2010, section 4(3)) and should have equal say about a process which affects the entire University. We believe that it would be paternalistic and unreasonable to design a process for addressing complicated issues of equity without considering the opinions and experiences of the members of the equity group.

**Conflicts of Interest?**

The Student Union is concerned about the Registrar’s Group having a number of contradictory roles in the administration of special consideration and appeals. These include:

- Writing the original Policies
- Auspicing the Special Consideration Panel
- Separately making decisions about whether late applications should be accepted
- Acting as a secretariat for the University Appeals including making decisions about whether students will even get to present an appeal.
- Investigating complaints, including those about the special consideration process.

We therefore believe that a review should be conducted at arms length from the Group to ensure that it is not affected by any potential conflict of interest.

**Acting on Bias?**

**The Academic Registrar’s Group**

When you understand the Registrar’s broad power to reject any appeal which they ‘deem’ not to meet the appeals criteria it could be argued that the Registrar has very significant control over what aspects of their own decisions can be reviewed.

This can be perceived to be happening with special consideration, the area where the Registrar’s Group has the greatest level of control. Here the criteria for appeal became restricted from the four traditionally used by the University Appeals Committee to only two:

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3 Regulation 5.4.4- The University Appeals Committee, Section 3
a) The student has additional relevant information or evidence which was not available at the time of the application

b) There is evidence that a breach of University Statute, Regulation or Policy occurred which had a meaningful impact on the outcome of the application.

This means that students cannot use the appeal ground which is most suited to talking about equitable responsibilities: There is evidence that the decision is excessive, unreasonable or inappropriate.

It would seem reasonable to ask how students subject to this process perceive the independence and fairness of the Committee when they discover that:

- They have no right to know who has made the ‘Expert’ decision about their application or what this person’s expertise is.
- They are no longer able to make a simple argument that the Panel’s decision was unreasonable or inappropriate.
- To make an argument about the same matters based on RMIT Policy requires detailed knowledge of the relationship between the University and the external regulatory environment (and therefore half a page of technical argument).
- There is a legal expectation clearly spelled out in Part 3 of the Standards that they will have been consulted about any doubts or grey areas in their application, but there is no mechanism for this to occur.
- The strongest appeals never go in front of the University Appeals Committee, as the Panel is allowed to change its decision before a hearing. While it is quite reasonable for individual cases to be reviewed it does mean that there is no body outside of the Registrar’s Group which has full oversight over the process.

Looking at the overall operations of the Registrar’s Group with the University Appeals Committee it could also be perceived that:

- Pre-screening appeals directly contributes to cost savings within the Group,
- Pre-screening may be being manipulated so that there is a consistent and manageable number of hearings.
- Perhaps make the above point more diplomatic by saying there is a chance that overworked and overstressed staff who can only possibly deal with a certain amount of hearings may have their judgement about whether students have met the grounds required affected by workload issues and the impracticality of allowing every appeal which deserves one to be heard with the limited resources at their disposal. ARG might like that as they would want more resources?
- The role of providing secretarial support for the Committee has been changed to one of having direct input into decisions, with the staff member acting as secretary now being entitled as ‘Advisor’ to the Committee.

This situation leads us to question if Registrar’s Group is able to oversee University Appeals Committee’s decisions impartially.

We have become concerned over the past six months that there are indications that the Group may be failing to exercise oversight over inappropriate treatment of students applying for special consideration.

The Special Consideration Panel

We would like to raise a number of practices of the Special Consideration Panel which fall into a troubling generalised pattern. The Policy was drafted to state that students applying for special consideration only had one opportunity to sit a deferred assessment. According to the Standards
there is no simple limitation which could be placed on the number of times a student’s disability could be accommodated. In fact the standards say that you need to reconsider adjustments as students circumstances change. If a student is totally incapacitated on the day of their original exam they should be given a deferred exam, if they are again totally incapacitated for the same or a different illness then accommodation needs to be made again. This means that it may be reasonable for an exam to be deferred a number of times.

The Registrar’s Group may have been aware of this when the Policy was written as the email from the previous Registrar of December 2004 - page 5, was specifically written to report legal advice about whether students could defer exams several times.

We are concerned that it took some time, and a number of appeals, before the practice of just refusing to defer a deferred exam was changed. Even as late as first semester last year the Panel sent advice to students advising them that they only had one opportunity to sit their deferred exams. This is despite direction from the University Appeals Committee that, where reasonable, that had to allow the deferral of deferred exams.

Recommendation: It also concerns us that while Standards make it clear that the institution is required to consult with students about their disability affects, the Panel appears to not fully accept this responsibility. While the Panel provide some email advice to students they appear to refuse to enter into a conversation with student and refuse to make phone calls or meet face to face. We believe that the responsibility to consult exists in all cases of special consideration applications which are medically based and which should by logical extension occur with all special consideration applications. Self-conscious consultation may not always be necessary but we can document many cases where it would have alleviated distress, prevented appeals and led to fairer and swifter outcomes.

We ask why is it reasonable for the Panel to not talk to students even when these students beg the Panel to call them?

Reviewability of Equitable Assessment Arrangements

The Student Union wonders whether the University community is conscious of the issues that exist with reviewing Equitable Assessment Arrangements.

Equitable Assessment Arrangements are, by definition, supposed to be made early, at least four weeks before any assessment occurs. With some forms of EAA, such preparing material in alternative formats, this length of time is quite reasonable. The Policy tells students that they have an appeal right, but appeals must be made within ten working days of the students receiving the EAA recommendations. The University Appeals Committee interprets the Policy as that appeal rights relate to the specific implementation of EAA. This occurs much later than ten working days after the receipt of the memo, in practice often at the end of the semester.

Appeals cannot occur therefore.

Given the current appeal criteria, because there is no policy governing learning support students are not actually able to appeal this essential part of their adjustments, only assessment. We submit that where a student has been unable to learn assessment is a meaningless activity.

Because of the lack of overarching policy students are not able to use the Appeal Against Assessment Procedure to talk about failure to support learning with any precision. Students can make generalised of arguments based back onto the Standards but because of the loose and
discretionary wording of the recommendations this is very difficult as it is hard to police wording like ‘if possible it may’.

When attempts have been made to use the appeals process to question packages of EAAAs this has proved to be fruitless and there is actually no appeal right, despite one being published.

We feel that the way that the policy is written, interpreted and implemented leads to a situation where students’ rights to review are much less favourable than those enjoyed by other students in comparable circumstances. We believe that decisions about reasonable adjustments should have the same standing as assessment instructions published for the generality of students in the Course Guide.

Why are students able to appeal on the basis of non delivery of sometimes quite trivial sections of the Course Guide, yet RMITs seems to not want to hear student concerns about the reasonableness of their reasonable adjustments?

Shared Responsibility

The Student Union believes that the accommodation of equity and student distress issues is broader than just policy processes and mechanisms for making decisions about individual students.

Accommodation of disabilities and support for equity needs to start in the broader collegial community of the institution. It needs to be based in a vibrant and dynamic life, in programs and orientations which ensure that students are given the opportunity to make contact with each other, that limit isolation and that provide meaning and sense of community for RMIT students. In this regard the accommodation of disabilities and building a better and fairer system of equitable support is something where we as the Student Union have responsibilities and we believe that we can improve our practices.

A Newer Vision

We believe that the current system has become unsustainable. It is not meeting the needs of our community and the volume of complaints and appeals is making the system top heavy. The student union is grateful for the opportunity to comment on these policies and the review process. We believe that the student union is in a unique position to offer expert advice, from a grass roots level, on many aspects of these policies and procedures which other departments of the University do not have contact with. We hope that our recommendations will be seriously considered, as coming directly from the students who experience this process from the other side.