



Version	Approved by	Approval date	Effective date	Next full review
1.1	Director of Governance	25 February 2021	25 February 2021	July 2021
Procedure Statement				
Purpose	To assist University staff handling complaints to: - recognise and manage unreasonable complainant conduct; - act fairly, consistently and appropriately when responding to unreasonable complainant conduct; - clarify roles and responsibilities in managing unreasonable complainant conduct.			
Scope	The procedures set out in this document may be applied together with the University's complaint management procedures to any case when a complainant displays unreasonable conduct. Where there are inconsistencies, the provisions in the relevant University Complaint Management Procedure will prevail. Unreasonable complainant conduct by UNSW staff or affiliates may be inconsistent with the UNSW Code of Conduct, terms of employment or conferral of academic titles, and/or staff enterprise agreements. Where required, unreasonable complainant conduct will be managed in accordance with the relevant staff agreements, Codes, Policies and Procedures.			
Are Local Documents on this subject permitted?	☒ Yes, however Local Documents must be consistent with this University-wide Document			☐ No
Procedure Processes and Actions				

UNSW recognises that people make complaints about their experiences may do so for a good reason. There will be occasions where they may be annoyed, upset or angry. Experiencing this behaviour may be uncomfortable, difficult or confronting. A range of complaint handling techniques are available which may be effectively applied to manage most circumstances.

This Procedure should be applied in rare instances where a complainant's conduct exceeds what most people would consider reasonable in the circumstances.

1. Unreasonable complainant conduct

Unreasonable conduct means any behaviour by a current or former complainant which, because of its nature or frequency, has unacceptable consequences for the University, its staff, the subject of the complaint, other people, or in certain circumstances, the complainant themselves.

'Unacceptable consequences' means adverse health, safety or resource implications for UNSW.

Descriptions of some of the types of unreasonable conduct covered by this Procedure are set out in [Appendix A](#).

2. Managing unreasonable complainant conduct

This Procedure sets out the steps for managing unreasonable or offensive complainant conduct by changing or restricting the way the University interacts with the complainant. This may include changing or restricting:

- *Who* they have contact with, such as limiting interaction to a sole contact person
- *What* complaints can be received and processed, such as defining or limiting the scope or subject matter of communications that the University will consider and respond to
- *When* they can have contact, such as limiting contact to a particular time, day, or length of time, or frequency of contact with the University

- *Where* they can make contact, and
- *How* they can make contact, such as the manner of face to face engagement.

Strategies may vary from case to case according to the circumstances and response to the case and more than one strategy may apply at any time.

The type of change and/or level of restrictions that are applied, may also be adjusted according to the Complainant's response. In exceptional cases, the University may terminate access to all its services or prohibit access to University premises.

Unacceptable conduct, such as threats, abuse or actual physical harm directed at staff, may be referred to UNSW Security or the NSW Police, where appropriate.

Key steps for managing unreasonable complainant conduct are set out below. An overview of the key steps is set out in *Appendix B*.

2.1. Assess the situation and decide

A local area manager, in consultation with relevant staff, may change or restrict University interaction with a complainant. As part of this process, a local area manager should consider:

- the circumstances giving rise to the unreasonable complainant conduct
- the impact or likely impact of the complainant's conduct on UNSW, staff, time, resources, etc.
- the complainant's responsiveness to the staff member's warnings or requests to stop the unreasonable behaviour
- other actions staff have taken to manage the complainant's conduct, if any; and
- options for managing the situation.

2.2. Formally warn the Complainant

When a complainant's conduct poses a risk to the health and safety of staff or other people, the University may provide a formal written warning to the complainant in the first instance.

A formal written warning may not be practical if it is likely to provoke a negative response or aggravate the complainant's conduct.

Where a complainant's conduct poses a risk to the health and safety of staff or other people, the University may refer the matter to UNSW Security and/or NSW Police.

2.3. Notify the complainant of proposed change or restriction

The University should send a written notification of any change or restriction that will apply, including restriction periods, if a complainant's unreasonable conduct:

- continues after they have been given a written warning
- poses a risk to the health and safety of others in the University; and/or
- involves unlawful and unacceptable conduct.

Complainants may seek a review of a decision to change or restrict their access to UNSW services or campuses (see section 4).

2.4. Notify other staff

For the purpose of ensuring the health and safety of staff and others at the University, where a complainant is prohibited from entering UNSW campuses or premises the decision maker, or their delegate, should notify all relevant staff and service areas at the University, (such as UNSW Security and Chancellery Reception), of any decision to change or restrict a complainant's access to the University or its services.

The UNSW Student at Risk Group (SARG) should also be contacted where the complainant is an enrolled student.

The decision maker, or their delegate, should also ensure that any change or restriction affecting a complainant's access to UNSW services is appropriately flagged on the UNSW Complaints Management System.

2.5. Monitor and review

The decision maker should periodically review any restriction imposed upon a complainant, upon requests by a staff member or following any threatening incidents. This is to ensure that the restriction remains necessary and appropriate.

The decision maker has the discretion to invite the complainant to participate in the review process but should consider the possibility it may provoke further unreasonable conduct.

As part of the review the decision maker should consider:

- the complainant's compliance with the restriction period and whether the complainant has contacted or attempted to contact University staff during the restriction period;
- any information or submissions made by the complainant about the restriction; and
- any other information that may be relevant in the circumstances.

If the decision maker determines that the restriction has been ineffective in managing the complainant's unreasonable conduct, further restrictions could be imposed and ultimately access to UNSW services could be terminated altogether.

3. Complete restriction of access

In exceptional circumstances a complainant may be restricted from any contact or access to the University staff and services, including its campuses and premises. For example, where the complainant has not, or is unlikely to change their unreasonable conduct, or their conduct poses a significant risk to UNSW staff or other people because it involves one or more of the following types of conduct:

- Acts of aggression, such as verbal and or physical abuse, threats of harm, harassment, intimidation or stalking
- Damage to property while on UNSW premises
- Threats with a weapon or any other items that may be used to harm another person or themselves
- Physically preventing a UNSW staff member from moving freely or carrying out their duties
- Potentially unlawful conduct.

The decision to restrict a complainant's access to the University or its staff or services may only be made by the:

- Deputy Vice-Chancellor Equity Diversity and Inclusion, Deputy Vice-Chancellor Planning & Assurance or Chief Human Resources Officer, if the complainant is a member of staff
- Deputy Vice-Chancellor Equity Diversity and Inclusion, or Director, UNSW Conduct and Integrity in consultation with the Deputy Vice-Chancellor Equity Diversity and Inclusion, if the complainant is a student
- Director, UNSW Conduct and Integrity or any more senior member of staff if the complainant is a member of the public or a person external to the University.

A written notification must be issued to the complainant outlining the decision and the duration of the restriction/s, indicating non-compliance may be in breach of the *Inclosed Lands Protection Act 1901 (NSW)*.

The notification should include the contact details of a manager/senior manager who may handle any appeal from the complainant against the decision, or a representative third party.

4. Appeal

Appeals under this section are not available to UNSW staff or affiliates whose complainant conduct has been managed in accordance with the relevant staff agreements, Codes, Policies and Procedures.

4.1. Making an appeal

A complainant may appeal a decision by writing to the manager/senior manager cited in the notification within 10 working days of the date of decision. UNSW will undertake a review of a decision to change or restrict access to UNSW campuses or services, once only.

4.2. Consideration of the appeal

The review of the decision should be undertaken by another manager at the same level or more senior than the initial decision maker and should be a person who was not involved in the original decision to change or restrict the complainant's access.

The reviewer should consider:

- 1) the complainant's submissions
- 2) all relevant records of the complainant's previous conduct
- 3) whether the process adopted by the University conforms with this Procedure and associated Codes, Policies and Procedures; and
- 4) if the process was procedurally fair.

The reviewer will advise the complainant of the outcome of their appeal in writing as soon as practicable and update the complainant's record on UNSW Complaints Management System.

If the complainant is dissatisfied with the UNSW process, including the appeal process, they may seek an external review by the NSW Ombudsman.

5. Staff wellbeing and safety

The University takes its responsibility to support staff wellbeing, recovery and safety very seriously. All staff are responsible for notifying their managers and senior managers of threatening conduct that they have been subjected to and believe require management and/or UNSW Security, and/or police involvement.

Following stressful experiences, managers should provide affected staff with the opportunity to debrief or express their concerns, either formally or informally. Managers should ensure that staff are provided with proper support and assistance, including access to the University's Employee Assistance Program (EAP), medical, UNSW Security or police assistance and other forms of support, if necessary. The manager should also report the incident as a Work, Health and Safety issue.

6. Record keeping and reporting

Details of the complaint, including the detailed process followed, interactions with the complainant and the basis of decisions made, must be recorded in the UNSW Complaints Management System.

This online system enables the University to monitor and respond consistently to persons or situations that pose potential threats in the future. The Director, UNSW Conduct & Integrity, is responsible for monitoring and reporting on the number and type of cases where this Procedure is applied.

7. Supporting references

This Procedure is based upon the NSW Ombudsman's '*Managing Unreasonable Complainant Conduct Model Policy*' and is supported by the following UNSW Policies and Procedures:

- [Complaint Management Policy](#)
- [Complaint Management Procedure](#) (External)
- [Student Complaint Procedure](#)
- [Research Misconduct Procedure](#)
- [Staff Complaint Procedure](#)
- [Health and Safety Policy](#)
- [Report Wrongdoing Policy](#)
- [Report Wrongdoing Procedure](#)
- [Student Misconduct Procedure](#)
- [Sexual Misconduct Prevention and Response Policy](#)

8. Further assistance

For information, training and other support please contact:

UNSW Conduct and Integrity
Division of the Deputy Vice-Chancellor Equity Diversity and Inclusion
E: complaints@unsw.edu.au

Appendix A - Types of unreasonable complainant conduct

Unreasonable persistence

Unreasonable persistence is continued, incessant and unrelenting conduct by a complainant that has a disproportionate and unreasonable impact on UNSW, staff, services, time and/or resources. Some examples of unreasonably persistent behaviour include:

- An unwillingness or inability to accept reasonable and logical explanations including final decisions that have been comprehensively considered and dealt with
- Persistently demanding a review simply because it is available, without presenting a valid or pressing case for one
- Pursuing and exhausting all available review options when it is not warranted and refusing to accept that further action cannot or will not be taken on a complaint
- Reframing a complaint to seek to have it re-examined
- Inundating UNSW staff with phone calls, visits, letters, emails (including cc'd correspondence) after repeatedly being asked not to do so
- Contacting different staff within UNSW and/or externally seeking to obtain a different outcome or a response to their complaint.

Unreasonable demands

Unreasonable demands are any demands (express or implied) that are made by a complainant that have a disproportionate and unreasonable impact upon UNSW staff, services, time and/or resources. Some examples of unreasonable demands include:

- Issuing instructions and making demands about how staff should handle their complaint, its priority status and/or the outcome that was or should be achieved
- Insisting on talking to a senior staff member personally when it is not appropriate or warranted
- Emotional manipulation with intent to invoke guilt, intimidate, harass, shame, seduce or portray themselves as victims – when this is not reasonable
- Insisting on outcomes that are not possible or appropriate in the circumstances, such as demanding someone be sacked or prosecuted, demanding an apology and or compensation when there is no reasonable basis for expecting this
- Repeatedly demanding services that are of a nature or scale that UNSW cannot provide.

Unreasonable lack of cooperation

Unreasonable lack of cooperation is an unwillingness and/ or inability by a complainant to cooperate with UNSW staff or the UNSW complaints process that results in a disproportionate and unreasonable use of University services, time and/or resources. Some examples of unreasonable lack of cooperation include:

- Sending a constant stream of irrelevant or disorganised information without clearly defining any issues of complaint or explaining how they relate to the core issues being complained about
- Providing little or no detail when lodging a complaint and/or presenting information sporadically
- Refusing to follow or accept UNSW instructions, suggestions or advice without a clear or justifiable reason for doing so
- Arguing frequently and/or with extreme intensity that a particular solution is the correct one in the face of valid contrary arguments and reasonable explanations
- Displaying unhelpful behaviour, such as withholding information, acting dishonestly, misquoting others.

Unreasonable arguments

Unreasonable arguments include any arguments that are not based in reason or logic, that are incomprehensible, false or inflammatory, trivial or vexatious and that disproportionately and unreasonably impact upon UNSW staff, services, time and/or resources. Arguments are considered unreasonable when they:

- fail to follow a logical sequence
- are not supported by any evidence and/or are based upon unsubstantiated anecdotal suggestions

- reject all other valid and reasonable contrary arguments
- are not of a reasonable magnitude compared to the amount of time, resources and attention that the complainant demands
- are false, inflammatory or defamatory.

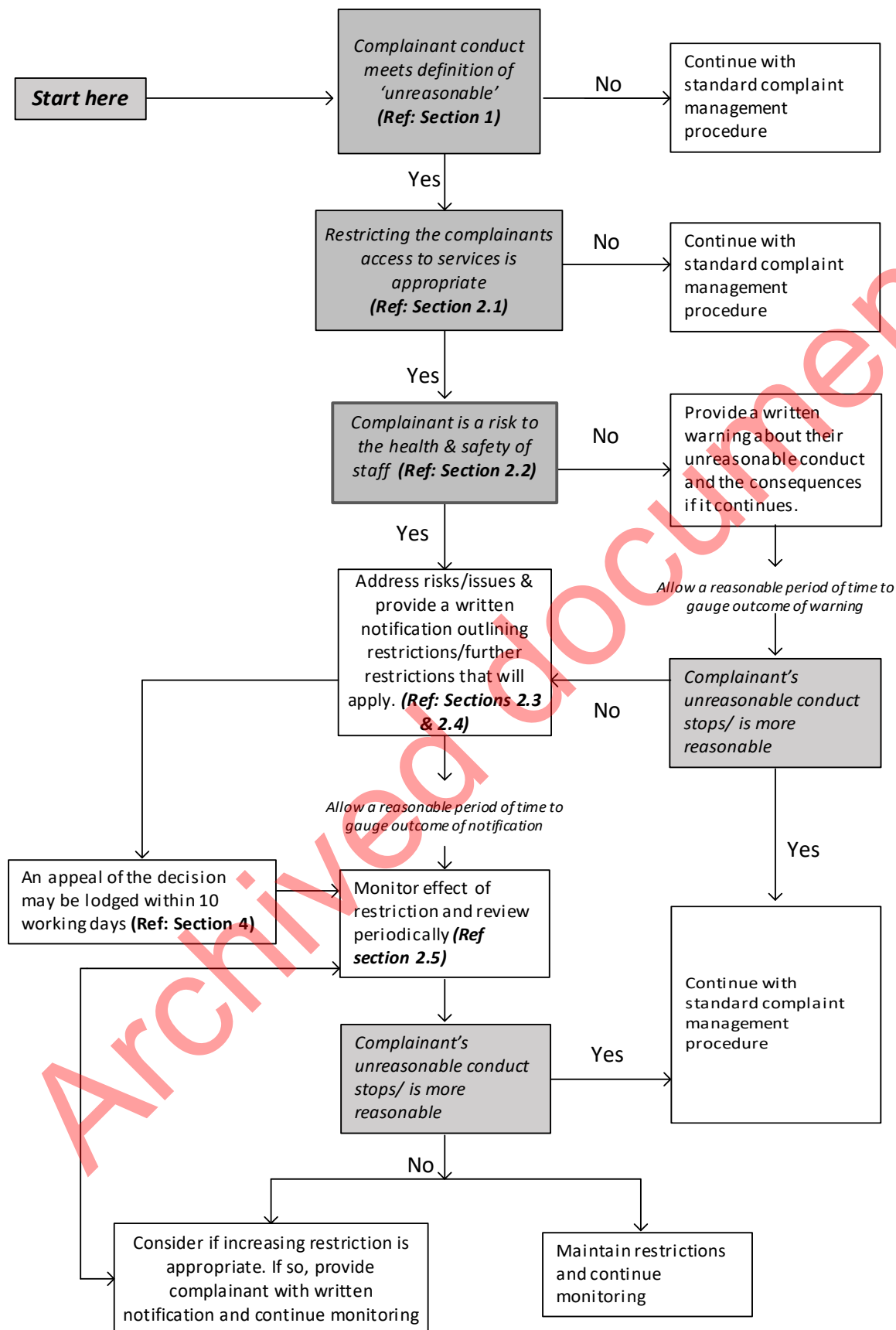
Unreasonable behaviour

Regardless of how stressed, angry or frustrated a complainant is, unreasonable behaviour is conduct that is unreasonable in all circumstances because it unreasonably compromises the health, safety and security of UNSW staff, other service users or the complainant. Some examples of unreasonable behaviours include:

- Acts of aggression, verbal abuse, derogatory, racist, or grossly defamatory remarks
- Harassment, intimidation or physical violence
- Rude, confronting and threatening communications, including correspondence
- Threats of harm to self or third parties, threats with a weapon or threats to damage property including bomb threats
- Stalking (in person or online)
- Emotional manipulation.

Archived document

Appendix B – Overview of key steps in managing unreasonable complainant conduct



Reminder

Record complainants conduct and all communications/correspondence in the UNSW Complaint Management System

Accountabilities				
Responsible Officer		Deputy Vice-Chancellor Equity Diversity and Inclusion		
Contact Officer		Director, Conduct & Integrity		
Supporting Information				
Legislative Compliance		This Procedure supports the University's compliance with the following legislation: State Records Act, 1998 (NSW) Privacy and Personal Information Protection Act, 1998 (NSW) Government Information (Public Access) Act, 2009 (NSW) Anti-Discrimination Act 1977 (NSW) Work Health and Safety Act 2011 (Cth)		
Parent document		Complaint Management Policy		
Supporting documents		Complaint Management Procedure		
Related documents		Student Code of Conduct Code of Conduct Research Code of Conduct Student Complaint Procedure Student Misconduct Procedure Student at Risk Procedure Student Critical Incident Procedure Required Medical Leave Procedure Staff Complaint Procedure Enterprise Agreements Research Misconduct Procedure Report Wrongdoing Policy Report Wrongdoing Procedure Health and Safety Policy HS731 External Complaints Procedure Sexual Misconduct Prevention and Response Policy		
Superseded documents		Nil		
File number		2018/18138		
Definitions and acronyms				
Affiliates		Means conjoint and visiting appointees; consultants and contractors; agency staff; emeriti; members of University committees; and any other person appointed or engaged by the University to perform duties or functions for the University.		
Complainant		Person lodging a complaint.		
Complaint handler		A person who is nominated by the School/Faculty/Service area to assess, investigate/co-ordinate an investigation and determine the outcome of a complaint under this Procedure.		
University		The University of New South Wales (UNSW)		
UNSW Complaints Management System		Designated central repository of complaints and complaints management information at UNSW and managed by UNSW Conduct and Integrity.		
Revision History				
Version	Approved by	Approval date	Effective date	Sections modified
1.0	Deputy Vice-Chancellor Academic	23 July 2018	23 July 2018	New Procedure
1.1	Director of Governance	25 February 2021	25 February 2021	Changed Responsible Officer to DVCEDI; administrative updates to titles in Section 3, 7, 8 and Related Documents.