



University Behaviour Procedure

1 Purpose

The purpose of this *University Behaviour Procedure* is to set out the process and avenues that University community members and others can access to resolve concerns and complaints regarding inappropriate behaviour by a University community member.

What constitutes inappropriate behaviour is set out in the *University Behaviour Policy*.

2 Outline of this Procedure

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3 Scope

This procedure applies to any matter arising under the *University Behaviour Policy*.

4 Key principles

When assessing, dealing or investigating a concern or complaint of inappropriate behaviour which may be in breach of the *University Behaviour Policy*, the University will uphold the following key principles:

- 4.1 Where appropriate, we will take a restorative approach to dealing with inappropriate behaviours. This means we will seek to provide an opportunity for the community member to understand the implications of their inappropriate behaviour and to rebuild responsibility and accountability.
- 4.2 When required, we will act swiftly and decisively to ensure the safety for our University community.
- 4.3 The confidentiality and privacy of persons raising concerns or complaints, as well as those responding to complaints against them, will be maintained to the extent possible, noting that the University may need to inform or involve key personnel to progress a matter, and/or comply with mandatory reporting obligations at law.
- 4.4 All parties involved in a complaint will be afforded procedural fairness (also known as natural justice).
- 4.5 Concerns and complaints will be dealt with promptly. Sometimes timeframes may need to be extended, particularly when a matter is complex or more serious.
- 4.6 We will communicate regularly with all parties in relation to a concern or complaint and as the matter progresses, including where timeframes may change.
- 4.7 When dealing with complaints, the University will avoid and/or appropriately manage conflicts of interest.
- 4.8 The safety and wellbeing of our University community is paramount and will always be the priority. We take our duty of care responsibility seriously. All parties are encouraged to access available support services during the course of the complaint process.

5 Who can raise a concern or make a complaint

Any person may raise a concern or make a complaint regarding the behaviour of a University community member.

This includes:

- our University community members; and
- members of the public.

6 Raising a concern or making a disclosure

A concern is raising an issue or a matter of worry. It is not a complaint.

In the case of sexual misconduct, a concern includes a disclosure.

Generally, the University will not take action or investigate a concern or disclosure, unless there appears to be a risk to the health and safety of the complainant, and/or the University community. The person raising a concern or making a disclosure will be informed prior to any action being taken.

6.1 Where should you raise a concern or make a disclosure?

If you have a concern about inappropriate behaviour or want to make a disclosure you are encouraged to seek advice and assistance from the Safe and Fair Community Unit as early as possible.

When you raise a concern, the advice and assistance may include:

- assisting you to seek support services;
- exploring strategies to informally resolve the matter (if appropriate);
- providing information about the *University Behaviour Policy* (Policy) and this Procedure, as well as any applicable legislation;
- telling you about external agencies which may also assist you; and
- advising you of the options available to best achieve a resolution of the matter.

After seeking advice (and if appropriate), you may decide to seek informal resolution of your concern through self-resolution or by requesting assisted resolution (see Part 7).

If this is not appropriate or you wish the University to take action, a formal complaint can be made (as set out in Part 8).

6.2 Other reporting avenues

University community members may also raise concerns with:

- a Behaviour Contact Officer (BCO)
- Student Advocate
- The Tasmanian University Union (TUU)
- Academic staff members (ie Head of Discipline, Head of School)
- Your supervisor or manager
- Head of Division
- Human Resources

External options are also available and set out in section 13.

6.3 Anonymous concerns and disclosures

The University accepts anonymous concerns and disclosures, noting that our ability to provide support services or take any action will be limited.

A summary of the steps involved when raising a concern can be found in Appendix 1.

7 Informal resolution

7.1 Self-resolution

Where appropriate, it is recommended that concerns are raised informally and directly with the other person involved. Advising the person of the matter provides an opportunity for them to consider their actions or behaviour and reduces the possibility of issues progressing past this stage.

This discussion should be held in a neutral and private location and should focus on developing a shared understanding of the behaviour or concern and the effect that it is having.

The discussion should not be used to place blame or argue, rather it is an opportunity for both parties to reach a shared understanding and agreement.

If it is not appropriate, or you do not wish to raise the concern with the person involved, you could raise the matter with another person who may be able to speak with that person. For example, with that person's manager, or a Head of School.

7.2 Assisted resolution

Where self-resolution is either not appropriate or ineffective, assisted resolution may be considered. This involves the assistance of a third party who may either:

- meet with both parties together; or
- meet with each party individually.

A person wishing to engage in assisted resolution should first discuss the matter with the Safe and Fair Community Unit.

The Safe and Fair Community Unit will arrange for an appropriate person to facilitate the assisted resolution and may, where appropriate, attend the meetings. This should be done in a timely manner, to avoid escalation of the concern.

An 'appropriate person' could include those persons in a College or Division who are able to deal with behavioural matters.

Where the assisted resolution process does not resolve the matter, it is recommended that you initiate a formal complaint.

8 Making a formal complaint

A formal complaint means you are formally asking the University to take action in relation to your concern (or disclosure in the case of sexual misconduct).

8.1 Persons making a complaint

Any person may make a complaint in relation to inappropriate behaviour of a member of our University community, where the behaviour is reasonably connected to the University.

Where the University reasonably believes that a member of the University community has engaged in inappropriate behaviour, the University may decide to make an own motion complaint (at the University's initiative) and commence a process in accordance with this Procedure.

It is not necessary for a person to have raised a concern before submitting a formal complaint, or in the case of sexual misconduct, a disclosure.

8.2 Complaint in writing

A complaint must be in writing. If this is not possible, assistance can be provided to put your complaint in writing.

Formal complaints are to be submitted to the Safe and Fair Community Unit, which can be done via an online reporting site.

The written complaint should contain as much information as possible to aid in the assessment of the matter. Where possible, this should include:

- who the person/s are who are alleged to have behaved inappropriately;
- clear details of the alleged inappropriate behaviour and circumstances surrounding the incident/s including date, time, location and witnesses (if any);
- what strategies, if any, have already been tried to resolve the issue;
- any relevant documentation; and
- what you want the University to do with your complaint (that is, the outcome/s you are seeking).

8.3 Timeframes

Formal complaints are encouraged to be made within 12 months of the behaviour which is the subject of the complaint or the last occurrence of the behaviour. This is because extensive delays make it difficult for the University to effectively deal with a complaint.

The University has discretion to accept a complaint that falls outside this 12-month time limit in circumstances where:

- it is just and fair to deal with the complaint having regard to the delay and the reasons for the delay;
- the delay has not affected the University's ability to investigate the issues raised in the complaint;
- the complaint raises serious or systemic issues of concern; and
- it is in the interests of the University community to deal with the complaint.

Sexual misconduct complaints

We acknowledge the difficulty and sensitivity in disclosing or reporting incidents of sexual misconduct. This will be taken in account when determining whether or not the University will investigate or take action on a matter (should the incident have occurred outside the 12-month timeframe).

Final decision

A decision to not accept a complaint is final and cannot be appealed. This does not preclude the complainant from seeking a review or investigation of the matter by an external agency.

8.4 Withdrawing a complaint

A person making a complaint may withdraw from the resolution or investigation process in writing at any time.

The University may, in its sole discretion decide to undertake, or continue to undertake, the investigation process (or other process) despite the complainant withdrawing from the process, in circumstances where the complaint raises serious issue/s of concern or it is in the interests of the University community to deal with the complaint.

8.5 Anonymous complaints

We accept anonymous complaints of inappropriate behaviour.

In such cases however, the University's ability to take action or investigate the matter will be limited.

So that we are able to take appropriate action and provide support services, we strongly encourage complainants to make their identity known.

Complaints are dealt with confidentially and sensitively, noting that only those personnel who need to know, will be informed. We may also have mandatory reporting obligations at law.

A summary of the process involved in making a formal complaint is set out in Appendix 2.

9 Process involved in a formal complaint

Upon receipt of a formal complaint, the University will acknowledge receipt.

The complaint will then be assessed to determine the most appropriate way to deal with the matter.

This may include one or more of the following actions:

Informal resolution

The University may recommend an informal resolution process, as set out in Part 7.

No further action

An authorised officer will make a decision that:

- (a) no further action will be taken on the complaint; or
- (b) the complaint is malicious, vexatious, misconceived or lacking in substance.

If this occurs, the decision will be in writing with reasons provided. University community members will have an option to seek a review of this decision, by contacting an external agency.

An “authorised officer” is a person in the Safe and Fair Community Unit.

Urgency provisions

In some cases, it will be necessary for the University to act quickly in relation to inappropriate behaviour of a University community member. This will most often occur when the safety and wellbeing of University community members is at risk or it is appropriate to do so given the nature of the matter.

Part J of the *University Staff Agreement* and Part 8 of *Ordinance 21 (Student Behaviour and Conduct)* provides for such urgency, or otherwise at common law.

Safety and Wellbeing

The University will recommend actions that need to be taken to address any immediate concerns regarding any person’s health, wellbeing and safety, as well as participation in work or study.

Inappropriate behaviour by an employee, contractor, visitor or other appointee of the University

The complaint (in relation to inappropriate behaviour by an employee, contractor or other appointee of the University) will usually be referred to a senior manager within a College or Division (as appropriate) to deal with the matter, in conjunction with Human Resources and/or other appropriate personnel at the University.

A ‘senior manager’ is a person who is usually a Head of Budget Centre, or equivalent. Where this is not appropriate, a complaint will be referred to a suitable person.

Depending upon the nature of the complaint, resolution processes may include:

- recommending that an appropriate person assist the parties to resolve the matter;
- mediation between the parties or a facilitated discussion;
- investigating the incident or matter, which may be conducted internally or by using an external investigator;
- conducting a workplace review; or
- referring the matter to the Executive Director, Human Resources (or their delegate) for consideration in accordance with the *University of Tasmania Staff Agreement*.

Student inappropriate Behaviour

The complaint (in relation to inappropriate behaviour by a student) will be dealt with by the Safe and Fair Community Unit.

Depending upon the nature of the complaint, resolution processes may include:

- recommending that an appropriate person assist the parties to resolve the matter;
- mediation between the parties or a facilitated discussion;

- investigating the incident or matter, which may be conducted internally or by using an external investigator; or
- dealing with the matter in accordance with the processes set out in Ordinance 21 (Student Behaviour and Conduct).

10 Complaints to an external agency

We encourage our University community to utilise the University's processes for dealing with concern or complaints.

Reports or complaints may be made to an external agency at any time however, or where you remain dissatisfied with the outcome of the matter.

In the case of sexual assault, we encourage our community members to contact police, as this is a crime.

External agencies include:

- Tasmania Police or NSW Police (as appropriate) (in the case of criminal acts)
- Equal Opportunity Tasmania (for discrimination, vilification, victimisation)
- Anti-discrimination Board of NSW (for discrimination, vilification)
- Fair Work Commission (workplace bullying)
- Australian Human Rights Commission (discrimination, sexual harassment, vilification, victimisation)
- WorkSafe Tasmania (workplace bullying)
- SafeWork NSW (workplace bullying)
- Integrity Commission (conflicts of interest)

Any investigation by the University into inappropriate behaviour will be conducted in a way that avoids interference or perceived interference with a current external agency process.

11 Support Services and Advice

University community members involved in a complaint process under this procedure are encouraged to seek support services.

The University has a range of confidential and free counselling and support services that are available to community members.

In addition to being able to seek advice and assistance from the Safe and Fair Community Unit, community members may also seek advice and assistance from their Union or from other persons qualified to give advice and assistance.

12 About this procedure

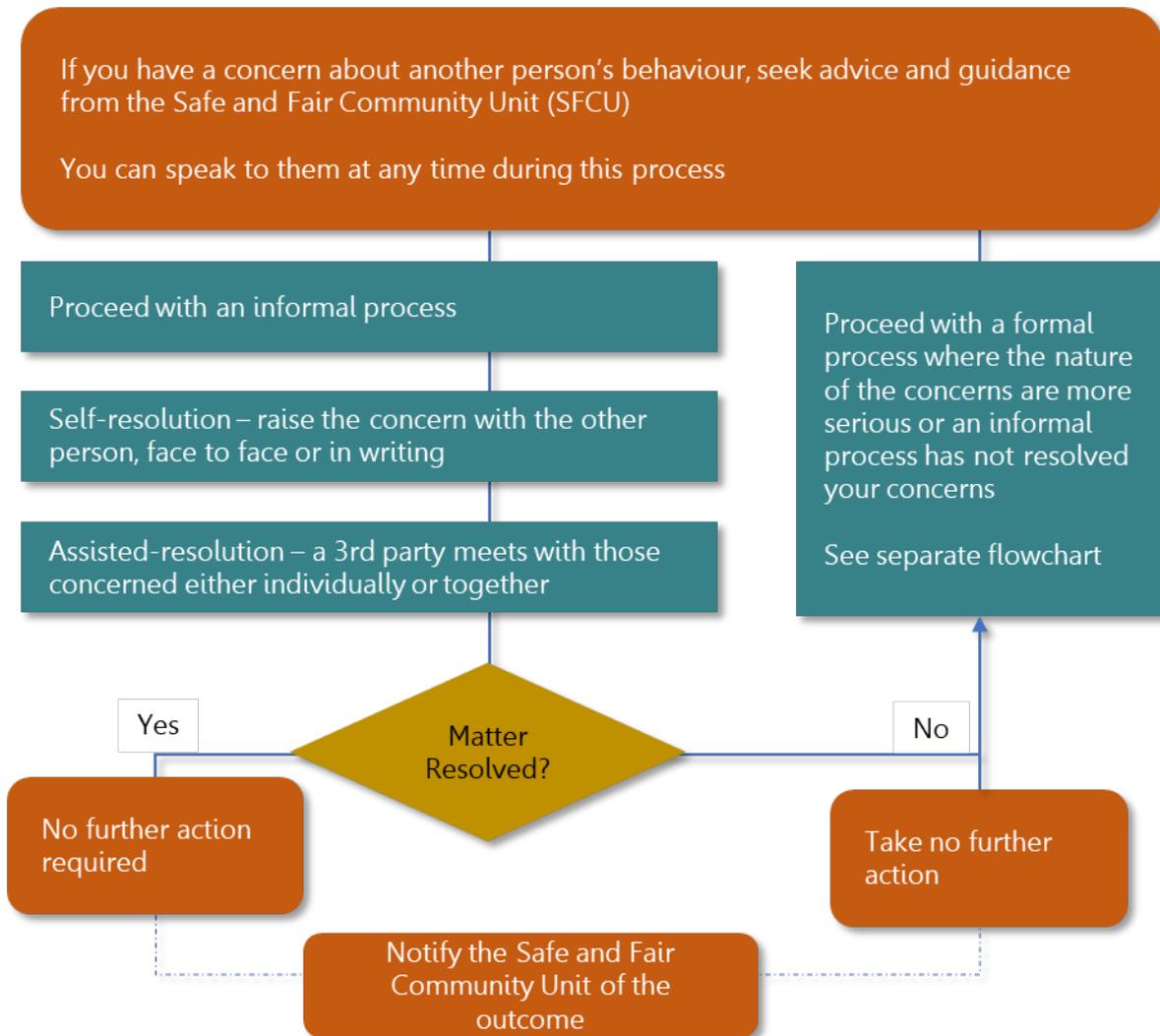
Responsible Officer	Provost
Approved by	Provost
Commenced	January 2019
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Relevant Legislation, Ordinance, Rule and/or Governance Level Principle	<i>Fair Work Act 2009 (Cth)</i> <i>Work Health & Safety Act 2012 (Tas)</i> <i>Workers Rehabilitation & Compensation Act 1988 (Tas)</i> <i>Criminal Code Act 1924 (Tas)</i> <i>Police Offences Act 1935 (Tas)</i> <i>Crimes Act 1900 (NSW)</i> <i>Anti-Discrimination Act 1998 (Tas)</i> <i>Anti-Discrimination Act 1997 (NSW)</i> <i>Racial Discrimination Act 1975 (Cth)</i> <i>Sex Discrimination Act 1984 (Cth)</i> <i>Disability Discrimination Act 1992 (Cth)</i> <i>Australian Human Rights Commission Act 1986 (Cth)</i> <i>Age Discrimination Act 2004 (Cth)</i> Any regulations associated with the above Ordinance 8 – Student Complaints Ordinance 21 – Student Behaviour and Conduct
Responsible Organisational Unit	Provost

13 Versioning

Former Version(s)	Version 1 Harassment and Discrimination Procedure; approved May 2007 Version 2 Harassment, Bullying and Discrimination Procedure; approved February 2011 Version 3 University Behaviour Procedure; approved December 2015.
Current Version(s)	Version 4 – University Behaviour Procedure; (approved December 2018 by the Provost)

Appendix 1

Raising a Concern



Appendix 2

Making a Formal Complaint Procedure

