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## Purpose

This procedure describes the process for making and resolving concerns and complaints about inappropriate behaviour by a member of the University community.

## Applicable governance instruments

Instrument	Section	Principles
<i>Behaviour Policy</i>	All	All
<i>Child Safety Policy</i>	1 Child-safe culture 2 Child-safe environment 3 Education and awareness 4 Reporting and response	All 2.5 3.4 All
<i>Student Behaviour and Conduct Ordinance</i>		
<i>University of Tasmania Staff Agreement 2017-2021</i>		

## Procedure

### 1. What is inappropriate behaviour?

The University's *Behaviour Policy* requires that all members of the University community are considerate of each other and behave appropriately, acting in accordance with the University's values of respect and self-respect, fairness and justice, integrity, trust and trustworthiness, responsibility and honesty.

Examples of actions that may constitute inappropriate behaviour are set out in Appendix A.

As per the *Behaviour Policy*, the University will respond to instances of inappropriate behaviour, and members of the University community who engage in such behaviours may face consequences which could have a significant impact for them. This may include impact on the continuation of their study, their accommodation arrangements, their employment or their access to the University.

#### 1.1. Where does it apply?

This procedure applies to all University community members who engage in behaviour or conduct which is inappropriate and:

- a) occurred on land or property owned or occupied by the University or University-affiliated accommodation;
- b) occurred in relation to any academic or work experience or placement program which has a connection to the University (this includes digital and online environments);
- c) relates to another member of the University community; or
- d) otherwise has the potential to affect their suitability to continue as University community member, having regard to:
  - whether they may be trusted to comply with the University's *Behaviour Policy*; or
  - the safety and wellbeing of members of the University community.

## 2. Reporting inappropriate behaviour

### 2.1. Raising a concern or making a formal complaint

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

The University cannot investigate or otherwise deal with matters involving persons outside the University community. However, community members are encouraged to access support services and may seek advice from the [Safe and Fair Community Unit](#) on possible options or referral to other services.

#### 2.1.1. Raising a concern

Raising a concern refers to reporting an issue that is not intended to be a formal complaint. In some cases, the person may only want to seek support or advice on possible reporting options or next steps. A person who has knowledge of or witnesses inappropriate behaviour may also raise a concern.

In the case of sexual misconduct, reporting a concern includes a disclosure. This can include telling someone in our University community about an assault or harassment, such as the Safe and Fair Community Unit, a Student Advisor, Student Living Support Officer, or a lecturer or manager.

Anyone with a concern about inappropriate behaviour is encouraged to seek advice and assistance from the [Safe and Fair Community Unit](#) as early as possible.

SaFCU can:

- assist with information and referral to available support and advocacy services
- explore strategies to informally resolve the matter, if appropriate
- provide information about the *Behaviour Policy*, this procedure and any applicable legislation
- provide information regarding external agencies which may also be able to assist
- advise of options available to best resolve the matter.

#### Anonymous concerns

The University accepts anonymous concerns and disclosures, noting that the ability to provide support or take any action may be limited. [Online reporting](#) allows anonymous reporters to nominate an identifier (reference number or similar), so that they can choose to make themselves known a later point.

#### 2.1.2. Making a formal complaint

A formal complaint is where the person affected by the inappropriate behaviour wants the University to act in relation to the concern or disclosure and is seeking an outcome from the University. It is not necessary for a person to have raised a concern or made a disclosure before submitting a formal complaint. In some cases, the University may decide to initiate a complaint.

A formal complaint must be made in writing, by submitting an [online report](#) or by [email](#) to the Safe and Fair Community Unit. The complaint should contain as much information as possible to assist in the assessment of the matter and where possible, should include:

- who is 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 pursued to resolve the issue

- any relevant documentation
- what outcome/s the complainant is seeking

If required, the Safe and Fair Community Unit can assist to put a complaint in writing. If any other person or area of the University receives a formal complaint about inappropriate behaviour, they will promptly refer the complaint to the Safe and Fair Community Unit as the University's central complaint handling unit.

### 2.1.3. Timeframe for lodging a formal complaint

Formal complaints to the University must be made within 12 months of the last occurrence of the behaviour to ensure the University can effectively act on the complaint.

In some circumstances, an authorised officer of the University may 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
- it is in the interests of the University community to deal with the complaint or otherwise appropriate to do so.

An authorised officer of the University includes a person employed in the Safe and Fair Community Unit, People and Wellbeing or Legal Services.

It is acknowledged that there are unique sensitivities related to disclosing or reporting incidents of sexual misconduct and these issues will be taken into consideration if the matter is reported outside the 12-month timeframe.

### 2.1.4. Withdrawing a complaint

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

The University, however, may decide to undertake, or continue to undertake, the investigation 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.

## 2.2. Support for complainants and respondents

The safety and wellbeing of our University community is paramount and will always take priority.

All University community members involved in matters under this procedure are encouraged to seek support and advocacy services which include:

### **Counselling support and wellbeing services**

The University has a range of confidential and free counselling and wellbeing support services available to University community members, including [student counselling](#) and an [Employee Assistance Program](#).

**Study or work adjustments**

Where a University community member has been impacted directly by inappropriate behaviour, they may ask the University to take this into consideration in respect to their study or work performance and expectations. Any concessions or adjustments will be at the discretion of the University. SaFCU can assist students and staff with such requests.

**Independent support for complainants**

Complainants may have an independent person support them during a complaint process. This might be a member of SaFCU or other appropriate person at the University, such as a TUSA Advocate or Behaviour Contact Officer, or the complainant may request to be represented by a lawyer at their own cost. The role of the support person is to support complainants and provide practical guidance. They will have no direct involvement in the complaint investigation or resolution process.

**Independent advice and advocacy for respondents**

In addition to being able to seek information from the Safe and Fair Community Unit, University community members who are responding to a complaint of inappropriate behaviour (“respondents”) may also seek advice and assistance from their union or from other persons of their choice including legal representation at their own cost. The [TUSA Advocates](#) can provide free advocacy services to students involved in a complaint process.

**2.3. Privacy, confidentiality and mandatory reporting**

The confidentiality and privacy of persons raising concerns or complaints, as well as those responding to complaints against them, will be maintained where possible.

The University may need to communicate with others to progress a matter, and/or to comply with mandatory reporting obligations at law including matters involving a child or requirement to comply with a warrant or subpoena. The person raising a concern or making a formal complaint will be informed prior to the required action being taken.

In the case of sexual misconduct, it is the choice of the complainant whether they wish to report to police. While SaFCU is unable to do this on a complainant’s behalf, support will be provided to assist them to do so.

All records and information generated during a process described in this procedure are stored confidentially by the University.

The University may use information from complaints to implement appropriate safety measures and provide de-identified reports to relevant parties within the University for the purposes of responding to risk.

All staff and students must handle information related to disclosures and reports sensitively, and with respect to the people whose identities are ascertainable from the information.

**3. How inappropriate behaviour is assessed and resolved****3.1. Precautionary actions**

In some cases, it may be necessary to take precautionary actions upon the raising of a concern or disclosure, or receipt of a formal complaint to ensure:

- the safety and wellbeing of persons affected by a complaint, and others in the University community;
- there is no unreasonable risk of victimisation or further inappropriate behaviour; or
- the integrity or confidentiality of any process under this procedure.

Precautionary actions are not penalties under a University conduct process and are not in any way prejudging the outcome of any process. A failure to comply with a precautionary action may constitute a breach of a reasonable direction.

In the case of disclosures of sexual assault or harassment or other serious inappropriate behaviour, precautionary actions may include but are not limited to, directions to relocate from University residential accommodation, changes to study or work arrangements, restrictions from attending campus or specified classes or activities, and directions to resign from positions of leadership.

An authorised officer will recommend actions that need to be taken to address any immediate concerns regarding any person's health, wellbeing and safety, participation in work or study and any relevant supports.

In the case of student behaviour and conduct, "precautionary action" may be taken in accordance with the provisions set out in the [Student Behaviour and Conduct Ordinance](#) under "Urgency Provisions".

### 3.2. Preliminary assessment of a formal complaint

Upon receiving a written formal complaint, the Safe and Fair Community Unit will acknowledge receipt within two working days.

Information on the next steps and available support and advocacy services will be provided. Complainants will also be advised of the expected timeframes involved with the complaint and will be advised of the reasons for the revised timeframes when a longer period is required or necessary.

An authorised officer will undertake a preliminary assessment of the matter within 5 working days of receiving the complaint. This includes determining the most appropriate way to deal with the complaint, which may include one or more of the options outlined in section 3.6 of this procedure.

In some cases, the timeframe for undertaking a preliminary assessment may need to be extended, particularly when matters are more complex. The complainant will be kept informed as to progress and expected timeframes, with appropriate supports put in place.

### 3.3. Decision not to proceed

An authorised officer may decide not to progress a complaint in certain circumstances. These include:

- the person making the complaint has provided insufficient detail or evidence of the issue to enable the matter to be properly considered. This may include those complaints that are made anonymously, or where the complainant does not provide information within a reasonable timeframe
- the complaint is frivolous, vexatious, or malicious or not otherwise made in good faith
- the complaint or matters involved in the complaint have been appropriately responded to or resolved by the University and do not warrant further action
- the complaint is received outside the 12-month timeframe (as provided for in section 2.1.2 of this procedure).

The complainant will be advised in writing should there be a decision not to proceed, including the reasons. A decision to decline is final, although the complainant may refer their complaint to an external agency.

### 3.4. Procedural fairness

Persons responding to complaints of inappropriate behaviour will be afforded procedural fairness. This is also known as natural justice, and it includes:

- providing detail of the precise nature of the allegations or complaints with sufficient particulars to enable a person to meaningfully respond
- providing a reasonable opportunity for the person to respond to the allegations and information or evidence that may be relied upon when making a decision (and prior to the decision)
- ensuring an impartial consideration and/or investigation of the matter
- keeping the person responding to a complaint informed as to the complaint and investigation process and relevant timeframes
- allowing the person to be supported during any meeting or hearing by a third party, including by legal representation by request.

The University will ensure that staff involved in a complaint or investigation process manage any conflicts of interests appropriately.

### 3.5. Informal resolution of concerns and complaints

Where appropriate, it is recommended, that concerns and complaints regarding behaviour are raised informally and directly with the other person involved before escalating to a formal complaint. Advising the person of the matter provides an opportunity for them to consider their actions or behaviour and resolve the matter without formal investigation or intervention.

If this is not appropriate, or difficult to do, the matter could be raised with someone who may be able to speak with that person, such as the person's manager or a Head of School, or a Student Living Support Officer, or the Safe and Fair Community Unit.

Alternatively, 'assisted resolution' may be considered, ie involving the assistance of a third party to facilitate informal resolution.

Where an informal process does not resolve the matter, a formal complaint may be initiated.

### 3.6. Formal resolution of complaints

Formal complaints about staff, contractors, visitors or other appointees of the University are governed by different instruments (the [University of Tasmania Staff Agreement](#) for staff and the [Student Behaviour and Conduct Ordinance](#) for students). The procedures for resolving complaints for these two groups vary and are outlined below.

#### 3.6.1. Resolving a formal complaint about a staff member, contractor, visitor or other University appointee

A formal 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 or

to People and Wellbeing. Where this is not appropriate, a complaint will be referred to a suitable person.

In some cases it will be necessary for the University to make an assessment of a complaint in accordance with the University's [Public Interest Disclosure Procedures](#).

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
- referring the matter to the Chief People Officer (or their delegate) for consideration in accordance with the process set out in the [University of Tasmania Staff Agreement](#).

Following the resolution process, the complainant(s) will be promptly informed of the outcome of their complaint. Where a complaint has not been substantiated, the University will provide an explanation as to the reasons for this. Where a complaint has been substantiated, the complainant will be advised of the outcomes that have been applied in response, and when this has occurred. Complainants will also be provided an opportunity for a verbal “debrief” in relation to their complaint.

### 3.6.2. Resolving a formal complaint about a student

A formal 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
- an educative or restorative approach
- mediation between the parties or a facilitated discussion
- issuing reasonable directions to a student in accordance with section 12 of the [Student Behaviour and Conduct Ordinance](#)
- dealing with the matter in accordance with the processes set out in this procedure and sections 7 and 8 of the [Student Behaviour and Conduct Ordinance](#).

Following a preliminary assessment (as set out section 3.2 of this procedure), an authorised officer may determine that a complaint of inappropriate behaviour by a student is to be dealt with under this section.

#### a) Notice of inappropriate behaviour

An authorised officer will write to the student who has allegedly acted inappropriately setting out the nature of the behaviour and inviting the student to a preliminary meeting with the authorised officer. At least 5 working days' notice of this meeting will be provided to the student.

The respondent student is entitled to bring a support person to this meeting, including legal representation by request.



If the student does not respond to correspondence or make contact within five working days of receiving the notice, the authorised officer will further attempt to make contact with the student.

If the student fails to make contact within 10 working days of the initial notice, the University may deal with the matter in the absence of any evidence from the student and impose appropriate outcomes or penalties (as set out in the [Student Behaviour and Conduct Ordinance](#)).

#### **b) Preliminary meeting**

During a preliminary meeting with the respondent student, an authorised officer will:

- explain the nature of the inappropriate behaviour and allegations that apply or may apply
- provide an opportunity for the student to respond, including providing their version of events and any evidence in support, or to acknowledge the inappropriate behaviour
- provide an opportunity for the student to discuss any personal or health matters that are affecting their behaviour
- discuss any precautionary actions/urgency provisions or other appropriate action that is in the best interests of the student and the University community and any complainant(s)
- set out the range of potential educative or remedial outcomes that are available or the penalties that may apply.

Following this preliminary meeting, the authorised officer may meet with the student again.

#### **c) Following the preliminary meeting**

At or following a preliminary meeting, an authorised officer will determine the most appropriate way to resolve the matter. This may include:

- determining that no further action will be taken, and the matter will be dismissed;
- referring the matter to an informal resolution pathway;
- issuing the respondent student with reasonable directions in accordance with section 12 of the [Student Behaviour and Conduct Ordinance](#);
- requiring a period of leave or exclusion on health or medical grounds in accordance with section 6 of the [Student Behaviour and Conduct Ordinance](#);
- issuing a finding of either unsatisfactory conduct or misconduct in accordance with section 3.6.2(d) of this procedure; or
- proceeding with a formal investigation in accordance with section 3.6.2(e) of this procedure.

#### **d) Finding of unsatisfactory conduct or misconduct**

Following consideration of the complaint and all relevant information an authorised officer may determine that the inappropriate behaviour amounts to unsatisfactory conduct or misconduct, and apply outcomes and/or penalties in accordance with section 7 of the [Student Behaviour and Conduct Ordinance](#).

The student will be provided with written notice of the finding and the reasons for it.

*Unsatisfactory conduct* is behaviour of a student that falls short of the standard of behaviour that a member of the University community is entitled to expect of a student, where the extent, seriousness or impact of the behaviour is not substantial.

*Misconduct* is the unsatisfactory conduct of a student where the conduct involves a substantial or repeated failure to reach or maintain a reasonable standard of behaviour.

The student has a right of appeal against a finding of unsatisfactory conduct or misconduct, which will be referred to the Deputy Vice-Chancellor (Academic) (or their nominated delegate) for consideration, as set out in section 3.6.2(i) of this procedure.

The authorised officer will promptly notify the complainant in writing of the outcome of the matter. Where a complaint has not been substantiated, the University will provide an explanation as to the reasons for this. Where a complaint has been substantiated, the complainant will be advised of the outcomes and/or penalties that have been applied.

#### e) Formal investigation

In some circumstances the authorised officer will determine that it is appropriate to conduct a formal investigation of the allegations of inappropriate behaviour, particularly if there are disputed facts or the behaviour could amount to serious misconduct.

*Serious misconduct* is either:

- wilful or deliberate inappropriate behaviour that is inconsistent with the continuation of study or research; or
- inappropriate behaviour that causes serious or imminent risk to the health and /or safety of a person.

Where it is determined that a formal investigation is required, the following process will apply:

- the student will be provided with a notice of inappropriate behaviour, setting out the specific allegations
- the student will be provided with a reasonable timeframe in which to respond to the allegations, but generally a minimum of seven working days
- an investigator will be appointed, which may be internal or external to the University
- the investigator may gather any information or evidence, interview the student and the complainant(s), witnesses or other relevant party
- the investigator will make relevant findings and complete an investigation report for the Deputy Vice-Chancellor (Academic)'s (or their nominated delegate) consideration.

During an investigation, all parties to a complaint will be kept informed as to the progress and expected timeframes. The University will seek to resolve the complaint process within 60 days. Where this cannot be achieved, the parties will be kept updated as to expected timeframes. Support will continue to be provided to all parties.

#### f) Determining the outcome of a formal investigation

The Deputy Vice-Chancellor (Academic) (or their nominated delegate) receives investigation reports and determines allegations of misconduct and serious misconduct in accordance with this procedure and as required by the [Student Behaviour and Conduct Ordinance](#).

They may also deal with any matter referred to it by an authorised officer, and an appeal of a decision made by an authorised officer (see subsection (d) above).

The student will be offered an opportunity to meet with the Deputy Vice-Chancellor (Academic) (or their nominated delegate) to discuss the findings of the investigation report. Reasonable notice of meetings will be provided to the student.

The student may bring a support person to the meeting who may assist them, which may include legal representation by request.

When determining an allegation of inappropriate behaviour, the Deputy Vice-Chancellor (Academic) (or their nominated delegate):

- must act fairly in all the circumstances, and provide procedural fairness to the student;
- is not bound by the rules of evidence or other technicalities or legal forms;
- may inform themselves or seek advice in relation to any matter that they think fit;
- may accept or reject some or all of the findings set out in the investigation report.

The Deputy Vice-Chancellor (Academic) (or their nominated delegate) will determine whether the allegation(s) of inappropriate behaviour is substantiated or not on the balance of probabilities and decide to:

- take no further action and dismiss the matter;
- issue a written warning to the student or a reasonable direction;
- require a period of leave or exclusion from the University on health or medical grounds; or
- confirm a finding of unsatisfactory conduct, misconduct or serious misconduct and impose a penalty(s) and/or outcome(s) in accordance with section 7 or 8 of the [Student Behaviour and Conduct Ordinance](#).

A nominated delegate may include a person internal or external to the University, as appropriate to the circumstances.

#### **g) Written decision to respondent and advice to complainants**

Where the Deputy Vice-Chancellor (Academic) (or their nominated delegate) decides to impose one or more penalties or outcomes in accordance with the [Student Behaviour and Conduct Ordinance](#), they will notify the student concerned in writing of the decision, the reasons for the decision, the penalties and outcomes imposed, and of their right to appeal.

Following the resolution process, the complainant(s) will be promptly informed of the outcome of their complaint. Where a complaint has not been substantiated, the University will provide an explanation as to the reasons for this. Where a complaint has been substantiated, the complainant will be advised of the outcomes that have been applied in response, and when this has occurred. Complainants will also be provided an opportunity for a verbal “debrief” in relation to their complaint.

#### **h) Appeals**

Students have a right of appeal for any finding of inappropriate behaviour.

A request for appeal must be received by the Safe and Fair Community Unit within 10 working days of the student receiving the written decision.

A request for appeal must set out the grounds on which the appeal is based (as set out in section 9 of the [Student Behaviour and Conduct Ordinance](#)) and provide relevant supporting

evidence. Appeal requests may be accepted outside the timeframe in exceptional circumstances.

Where a finding of inappropriate behaviour has been determined by an authorised officer, the Deputy Vice-Chancellor (Academic) (or their nominated delegate) will consider and hear appeal requests.

Where a finding of inappropriate behaviour has been determined by the Deputy Vice-Chancellor (Academic) (or their nominated delegate), the University Appeals Panel will consider and hear appeal requests. The composition of the University Appeals Panel is set out in Appendix B.

All appeal requests for determinations issued by the Deputy Vice-Chancellor (Academic) (or their nominated delegate) are forwarded to the Chair of the University Appeals Panel for consideration.

Within 5 working days of receiving an appeal request, the Chair will consider the appeal request, and either:

- accept the request and convene a University Appeals Panel for consideration in accordance with this procedure; or
- if a request does not meet the grounds for appeal, inform the student in writing of the reasons for the refusal, and refer the student to an external agency, as appropriate.

The University Appeals Panel will convene within 15 working days of receipt of the appeal by the Safe and Fair Community Unit. In exceptional circumstances, this timeframe may be extended.

The student may attend the appeal hearing and may either submit a written submission prior to the hearing or provide an oral submission at the hearing or both. The student may take a person to the meeting who may assist them (including by request, legal representation).

The complainant(s) will also be provided with an opportunity to make a submission or meet with the panel.

When considering an appeal, the panel:

- must act fairly in all the circumstances and provide procedural fairness to the student;
- is not bound by the rules of evidence or other technicalities or legal forms;
- may inform itself or seek advice in relation to any matter that it thinks fit; and
- may interview any party or receive any information as relevant.

The University Appeals Panel may uphold or dismiss an appeal. It may also vary any decision and/or penalty and outcome that has been applied by the authorised officer or the Deputy Vice-Chancellor (Academic) (or their nominated delegate), as relevant or refer the matter back to the original decision maker to further determine the matter in accordance with the decision of the panel.

A decision from the University Appeals Panel must be made within a reasonable timeframe, and the student will be advised in writing, providing reasons for the decision.

The decision of the University Appeals Panel is final. Where a student is not satisfied with the decision of the University Appeals Panel it is their right to refer the matter to a relevant external agency.

## 4. Complaints to an external agency

### 4.1. Reporting to an external agency

University community members are encouraged to utilise the University's processes for dealing with concern or complaints, however, reports or complaints may be made to an external agency at any time, including when a complainant remains dissatisfied with the outcome of their matter.

In the case of criminal behaviour (such as sexual assault) or offences at law (such as common assault), University community members are encouraged to also report the matter to police.

In matters of sexual misconduct, the University is only able to investigate and determine whether a person has engaged in such behaviour in breach of the University's [Behaviour Policy](#). The University will not investigate or determine whether a civil wrong (in the case of sexual harassment) or a criminal act (in the case of sexual assault) has occurred. These matters may only be determined by an external process.

External agencies include:

- [Tasmania Police](#) or [NSW Police](#) – in the case of criminal acts
- [Equal Opportunity Tasmania](#) – for discrimination, harassment, sexual harassment vilification, victimization
- [Anti-discrimination Board of NSW](#) – for discrimination, vilification
- [Fair Work Commission](#) – for workplace bullying, discrimination or other relevant adverse action
- [Australian Human Rights Commission](#) – for discrimination, harassment, sexual harassment, vilification, victimisation
- [WorkSafe Tasmania](#) – for workplace bullying
- [SafeWork NSW](#) – for workplace bullying
- [Integrity Commission](#) for conflicts of interest, corruption, maladministration
- [Child Safety Service](#) (TAS) – for safety or welfare of a child
- [Child Protection](#) (NSW) – for safety or welfare of a child
- [Ombudsman Tasmania](#)

### 4.2. Parallel proceedings

Any investigation by the University into alleged inappropriate behaviour will be conducted in a way that avoids interference or perceived interference with a current external agency process, and meets procedural fairness obligations.

Where a matter has been reported to police or an external agency and is undergoing a criminal investigation or other process, the University will suspend its internal investigation. In some cases the University may also need to suspend the investigation at request from the police or another external agency as appropriate.

Where an investigation is suspended, appropriate support and guidance will continue to be provided to the complainant. Where necessary, the University will also put in place arrangements to ensure the safety and wellbeing of the complainant and/or University community members, which can be regularly reviewed.

Following the conclusion of a police or other investigation and/or a criminal justice process, the University may choose to proceed with the matter in accordance with this procedure.

### 4.3. Child safety mandatory reporting

Reports or complaints regarding inappropriate behaviour by a University community member that relate to conduct involving a child need to be considered with reference to legislative obligations regarding mandated reporting. Legislation in Tasmania provides that all University community members are obligated to report if they reasonably suspect abuse against a child in the University community to Tasmania Police or the Child Safety Service. Some professional roles within the University are also mandated reporters.

Legislation in NSW provides that mandated reporters (including counsellors, psychologists and teachers) are required to report suspected child abuse and neglect to NSW Police or Child Protection.

If reported to the University, SaFCU will assist University community members to report to police and/or the relevant child safety authority. Parallel proceedings considerations will apply if the relevant incident or inappropriate behaviour occurred within the University community.

## 5. Timeframes

The University will use its best endeavours to act and respond within the timeframes set out in this procedure, recognising that reporting and responding to complaints of inappropriate behaviour are often difficult. Where timeframes need to be extended, all parties will be kept informed and appropriate supports will be available.

In the interests of continuous improvement, the University will monitor performance in respect to timeframes outlined in this procedure.

The University also expects that University community members and their advisors or advocates to use their best endeavours to act and respond within the timeframes set out in this procedure. Requests for extensions of time will be considered and accepted where it is reasonable to do so and where it does not unreasonably impact upon the wellbeing of parties concerned.

## 6. Reporting and continuous improvement

The Safe and Fair Community Unit will regularly monitor and analyse concerns, sexual misconduct disclosures and complaints of inappropriate behaviour (on a deidentified basis).

Periodic reports will also be prepared to help inform the University of systemic issues or matters that require improvement or change in policy or practice, as well as educational initiatives.

## Related procedures

[Public Interest Disclosure Procedures](#)

## Versions

<b>Version</b>	<b>Action</b>	<b>Approved</b>	<b>Business Owner/s</b>	<b>Approval Date</b>
Version 1	Approved	Provost	Executive Director Student Experience	29 June 2021
Version 2	Approved	Provost	Executive Director Student Experience	10 September 2021
Version 3	Minor amendment approved (position title changes)	Director Governance and Compliance	Executive Director Student Life and Enrichment	16 May 2022

## Definitions

[Inappropriate behaviour](#) | [Consent](#) | [Protected attribute](#) | [Improper conduct](#)

## APPENDIX A: Examples of inappropriate behaviour

Certain behaviour and conduct are not accepted in our University community. This includes (but is not limited to):

Behaviour or conduct	Examples
<p>Sexual misconduct (including sexual assault and sexual harassment)</p> <p><i>Sexual assault covers a range of sexual acts (or attempted acts) directed towards or committed upon another person, without their <a href="#">consent</a>.</i></p> <p><i>It includes both penetrative and non-penetrative sexual acts performed with any part of the body or with an object. It includes rape and unwanted sexual behaviour such as kissing or touching.</i></p> <p><i>Sexual harassment is any unwanted or unwelcome sexual behaviour or conduct, which makes a person feel offended, humiliated, insulted, ridiculed or intimidated - in circumstances in which a reasonable person would have anticipated that the person would be offended, humiliated, insulted, ridiculed or intimidated.</i></p> <p><i>Sexual harassment can take many forms. It can be obvious or indirect, physical or verbal,</i></p>	<p>Examples of sexual assault may include:</p> <ul style="list-style-type: none"> <li>• Two people in a relationship start engaging in sexual activity but Person A changes their mind and asks to stop. Person B refuses to stop and forces sexual activity.</li> <li>• A student taking advantage of another intoxicated student at a party by encouraging them back to their room and engaging in sexual activity when the student is unable to give consent due to being affected by alcohol.</li> <li>• A research supervisor manipulates a student to engage in sexual acts in exchange for better marks.</li> <li>• A staff member who has been continually making advances towards another staff member proceeds to force themselves onto that staff person while they are alone in a meeting room, attempting to kiss and touch them under their clothing.</li> </ul> <p>Examples of sexual harassment may include:</p> <ul style="list-style-type: none"> <li>• Staring or leering at a person in a sexual manner</li> <li>• Standing deliberately too close to someone or deliberately brushing against someone as you walk past</li> <li>• Displaying pornographic or sexually explicit material (posters, screen savers etc)</li> <li>• Sending sexually explicit emails, SMS messages</li> <li>• Inappropriate advances on social networking sites</li> <li>• Sexual insults or taunting</li> </ul>



<p><i>via online and be a one-off occurrence or ongoing. Intent or motive is irrelevant</i></p>	<ul style="list-style-type: none"> <li>• Requests for sex or repeated unwanted requests to go out on dates</li> <li>• Making promises or threats in return for sexual favours</li> <li>• Intrusive questions or remarks about a person's sexual activities</li> </ul>
<p>Physical assault or other forms of personal harm or violence (including threats to assault or harm)</p>	<ul style="list-style-type: none"> <li>• Use or threat of weapons</li> <li>• Punching or hitting</li> <li>• Domestic violence</li> <li>• Stalking</li> </ul>
<p><b>Bullying</b></p> <p><i>Bullying is repeated, unreasonable behaviour directed towards one or more persons, which creates a risk to health and safety. Bullying can occur unintentionally.</i></p>	<p>Repeated incidents of:</p> <ul style="list-style-type: none"> <li>• Abusive, insulting or offensive language or comments</li> <li>• Unjustified criticism or complaints</li> <li>• Deliberately excluding someone from workplace activities</li> <li>• Withholding information that is vital for effective performance</li> <li>• Setting unreasonable timelines or constantly changing deadlines</li> <li>• Spreading misinformation or malicious rumours</li> </ul>
<p><b>Unlawful discrimination</b></p> <p><i>Unlawful discrimination means treating a person or group less favourably on the basis of the person or group having a particular characteristic or attribute (known as <a href="#">protected attributes</a>) which are prescribed under State or Federal legislation.</i></p>	<p>Examples of direct discrimination may include:</p> <ul style="list-style-type: none"> <li>• Refusing to employ or promote a person because of their age</li> <li>• Mocking, teasing or harassing a person because of their disability</li> <li>• Giving a person a lesser (or no) pay increase because they are about to commence maternity leave</li> </ul> <p>Examples of indirect discrimination could be:</p> <ul style="list-style-type: none"> <li>• Requiring a group of people to attend a training or study event that is held on a day of great religious significance to some people</li> <li>• Regularly holding staff meetings at school drop off or pick up times</li> </ul>
<p><b>Fraud or corruption</b></p>	<ul style="list-style-type: none"> <li>• Theft of money or other property of the University</li> <li>• Deliberate falsification of documentation</li> <li>• Improper use of information or position</li> <li>• Abuse of position for personal gain</li> </ul>
<p>Behaviour which offends, humiliates, or intimidates on the basis of certain attributes (for example, race, age, disability,</p>	<ul style="list-style-type: none"> <li>• Mocking or teasing someone because of their disability</li> <li>• Deliberating embarrassing a colleague who is expressing milk for the purposes of breastfeeding their child</li> <li>• Making inappropriate comments to a person who needs to leave a tutorial early to collect their child from care</li> </ul>

religion, gender and gender identity, sexual orientation)	<ul style="list-style-type: none"> <li>• Emailing or using social media to send jokes to someone about a particular racial group, to which that person belongs</li> </ul>
Indecent or non-consensual filming or photography	<ul style="list-style-type: none"> <li>• Taking a photograph of someone without their consent</li> <li>• Sharing sexual or naked images or videos without consent</li> </ul>
Vilification or victimisation to a person or group of people	<p>Examples of vilification include:</p> <ul style="list-style-type: none"> <li>• Publishing claims that a racial or religious group is involved in serious crimes without any proof</li> <li>• Repeated and serious verbal remarks about the race or religion of another person</li> <li>• Encouraging people to hate a racial or religious group using flyers, stickers</li> </ul> <p>Examples of victimisation include:</p> <ul style="list-style-type: none"> <li>• A student sending a rude and aggressive note to another student because that student has complained about the behaviour of a friend of theirs</li> <li>• A supervisor humiliating a staff member because that staff member gave evidence in support of a colleague in relation to a complaint against the supervisor</li> </ul>
Theft or damage to University property, or the property of a community member (or threat of theft or damage)	<ul style="list-style-type: none"> <li>• Stealing</li> <li>• Vandalism or graffiti</li> </ul>
Behaviour that negatively impacts on the ability of others to study, research, work or take part in University activities	<ul style="list-style-type: none"> <li>• Inappropriate or inordinate demands for work space, time and/or attention</li> <li>• Inappropriate behaviour in classes or meetings such as calling out, distracting others by talking, monopolizing discussions, unreasonable constant questioning or interruptions</li> <li>• Raising one's voice or acting with aggression during a meeting or when working with others</li> <li>• Inappropriate use of equipment or materials</li> <li>• Willfully ignoring others</li> <li>• Inappropriate behaviour arising from the consumption of alcohol or illicit drugs</li> </ul>
Making vexatious, malicious and/or frivolous complaints	<p>A complaint is vexatious, malicious or frivolous where the complaint is:</p> <ul style="list-style-type: none"> <li>• without merit, misconceived or lacking in substance,</li> <li>• intended to cause harm,</li> <li>• dishonest or contains intentionally misleading information, or</li> <li>• pursued in an unreasonable or abusive manner</li> </ul>

**APPENDIX B: Composition of the University Appeals Panel (Panel)**

- 1 Academic Senate will appoint a University Appeals Panel of at least 15 members, who will be expected to serve for a period of three years. Academic Senate will ensure, before end of each year, that there is a full complement of staff for the following year.
- 2 The Deputy Vice-Chancellor (Academic) or their delegate will ensure that the University Appeals Panel hearing an appeal consists of at least (gender balanced where possible):
  - the Chair or Deputy Chair of Academic Senate (who will chair the meeting); and
  - a head of an academic unit; and
  - a professional member of staff at HEO 10 or above.
- 3 The Secretary of Academic Senate will be appointed to assist with the appeal process. This person will not have had any prior involvement with the matter.
- 4 The Secretary must ensure that no member of the Panel has been previously involved or associated with the circumstances relating to the matter or have any close association with the parties involved in the matter.
- 5 Where a Panel is convened, the membership of the Panel must remain the same throughout the hearing of the matter notwithstanding any adjournment. A quorum for a panel is three members.
- 6 At any time during the hearing of a matter, the Panel may consult with or seek advice from anyone they consider appropriate, including legal advice.
- 7 A decision of the Panel will be by a simple majority.
- 8 The University will provide and/or facilitate appropriate training to members of the Panel.