ANNEX A

COMPLAINT ASSESSMENT GUIDE

1. What specifically is the complaint about?

It is easy to be distracted by the emotional effect of receiving a complaint or the way in which it is presented. The complaint may contain information and assertions about many topics. Your first priority is to work out what is the issue or issues. Your second is to decide how these issues are relevant to the University, as distinct from how the complainant views them.

If the complaint is in writing, read the complaint as many times as it takes to state what the complaint is about. One way of confirming this is to check what outcome that the complainant is asking for. The complaint may be about more than one issue, in which case you will need to respond to each of these issues. If the complaint was submitted orally, be sure to ask the complainant what outcome they are hoping for.

You can ask someone else who has the appropriate understanding of confidentiality to read the complaint and provide you with their view on what it is about and what useful next steps might be.

Write down what the complaint is about to make sure that you remain focussed on the core issue/s and do not become distracted by other information that may have been included in the complaint, but which is not relevant to the resolution of the matter to the University’s satisfaction.

2. Does the complaint disclose any risk to health, safety or property?

The health and safety of others are the paramount consideration in the assessment of a complaint. They take precedence over everything else.

If the complaint states or implies a risk to health or safety of any person, you must seek advice from the appropriate area of the University or outside agency on what needs to be done to provide appropriate care for any person at risk.

Any risk of damage to property disclosed in the complaint should also be addressed from the outset.

3. Is the complaint relevant to any decision or behaviour that is not within the control or responsibility of Curtin?

The mere status of a complainant or the subject of a complaint as a current, former or intending student or staff member, or as a consumer of Curtin’s services, does not of itself mean that Curtin
has an obligation to resolve a complaint from that person. Curtin only has jurisdiction over decisions and behaviour that occur in the course of its operations and over which it has some control.

Curtin does not have responsibility for resolving private disputes that involve Curtin staff or students that have no connection with its operations.

4. **Does the complaint disclose any criminal behaviour or misconduct as defined by the Corruption and Crime Commission Act?**

A complaint that alleges criminal behaviour such as theft or assault should be referred to the PSCU for assessment for possible reporting to the police.

A complaint that includes information that may amount to misconduct as defined by the *Corruption and Crime Commission Act* must be referred to the PSCU.

In cases of doubt, refer the complaint to the PSCU for advice.

5. **Does the complaint disclose any matter that may adversely affect Curtin’s reputation?**

The VP-Corporate Relations and Development or their delegate should be notified of any complaint that contains information that may adversely affect Curtin’s reputation.

6. **Does the complaint disclose any matter that is relevant to another area of Curtin?**

A complaint may contain information that is relevant to an activity that is outside your area of control. You should forward the parts of the complaint that are relevant to that area for information.

7. **Is the complaint about a decision that you have made?**

You are not required to exclude yourself on the grounds of bias or conflict of interest from responding to a complaint solely because it is about a decision that you have made. As the original decision-maker, you are in the best position to review your decision.

You may, for example, be persuaded to change your decision in favour of the complainant on the basis of new information provided in the complaint or simply because you recognise your error of judgement.

Any bias in your decision on the complaint can be addressed if the complainant decides to take their compliant to the Executive Manager.
You have the discretion to forward a complaint about your decision directly to your Executive Manager if you believe that you are biased, or that there may be the perception of bias.

8. **Is the complaint about my behaviour or decision?**

See above on bias. You are more likely to be biased if the complaint is about your behaviour and therefore you should forward it to your line manager.

9. **What is the outcome that the complainant has asked for?**

Clarity about how to resolve a complaint may be gained by looking at what the complainant has asked to be done in response to their complaint, mindful that you are not bound by the complainant’s wishes. Rather, being clear about the outcome the complainant is seeking can provide some ideas for resolution and also gives insight into the complaint’s perspective of the situation.

It is important to be clear with the complainant that you are required to resolve the matter to the University’s satisfaction, not necessarily to the satisfaction of the complainant, respondent or other parties.

You are not limited to the resolution sought by the complainant in deciding what to do in response to a complaint. You will almost always have broader workplace considerations that are greater than the personal remedy that will usually be sought be a complainant.

Your first priority and responsibility is to the effective performance of your duties and workplace. The resolution of a complaint is one element of discharging that responsibility.

10. **Is the complainant anonymous or asking for anonymity?**

An anonymous complaint must be managed in accordance with this policy and dealt with on its merits. A complainant who discloses any identifying information but who asks for anonymity must be told that there is no discretion to provide them with anonymity.

Complainants who express concern about the consequences of making a complaint should be directed to the Curtin Code of Conduct and this policy for reassurance as to the expectations of Curtin staff and the prohibition against victimisation.

Complainants who claim to have information about staff misconduct that may make them reluctant to be identified may have options for protection under the Public Interest Disclosure (PID) Act. They should be referred to the PSCU for confidential discussions with a PID Officer.
11. Is the complaint vexatious?

A complaint that is clearly and unambiguously lacking in merit or substance may be deemed vexatious under this policy. The mere fact that a complaint is petty, requires time and effort to investigate, or is potentially embarrassing for any person is not sufficient grounds to deem it vexatious.

It is also insufficient to suspect that the complainant has a hidden motive for making the complaint or is advancing another agenda.

12. Does the complaint disclose other issues that need to be addressed by Curtin, regardless of the outcome sought by the complainant?

A complaint may reveal issues that go beyond the local area and which need to be brought to the attention of a manager who has responsibility for those issues.

13. Do I have the authority to make a decision to resolve this complaint?

You can only make a decision on a complaint if it is within your authority to do so. You should review the relevant regulation, policy, enterprise agreement, contract or other source of delegated authority to determine whether you have the authority.

If you do not have the authority, you should refer the complaint to the person who does, with any information and recommendation that may assist the decision-maker. The authorised decision-maker is responsible for responding to the complainant.

14. What legislation, Curtin policy or procedure or other instrument (e.g. Employment Agreement) needs to be applied in assessing the merits of the complaint?

You must decide what policy or legislation is most applicable to the subject matter of the complaint and apply that policy.

You should seek advice from the sponsor or expert on the policy or legislation. However, the final decision is yours and you should always exercise your discretion based upon the merits of the complaint.

It is potentially a denial of procedural fairness for you to make a decision solely based on the argument that another expert or superior directed you to do so.
15. **Do I have a conflict of interest that precludes me from making a decision on the merits of the complaint?**

As explained above, the mere involvement in a decision that led to a complaint does not of itself mean that you have a conflict of interest and cannot resolve the complaint.

You need to assess whether you have any relationship with the circumstances of the complaint that may be seen by a reasonable person as compromising your ability to make a fair and objective assessment. This will usually be the case if you received some personal benefit or advantage as a result of any circumstances that led to the complaint.

If there is any doubt about a conflict of interest, you should refer the complaint to the executive manager for a decision.

16. **Do I need more information before I can make a decision about the complaint?**

You should collect as much information as is reasonable in the circumstances before making a decision on a complaint. You may do it personally or you may delegate someone to do it on your behalf. The ‘investigation’ of a complaint is simply the collection of data and does not of itself escalate the seriousness of a complaint or imply wrongdoing by any person.

You should check the relevant policy or employment agreement before undertaking any delegated investigation to ensure that the investigation complies with any procedural requirement.

17. **Do I need specialist advice about the complaint?**

You should seek as much advice as is reasonably necessary from subject matter experts and may disclose as much information about the complaint as is required to receive the best advice.

You are not bound by the advice and nor should you feel compelled to act solely on the advice. You should take into account all relevant information in coming to a decision and should ultimately exercise your managerial discretion.

18. **Is my decision on the complaint likely to include an adverse finding about a decision or behaviour of another Curtin staff member?**
It is a fundamental principle of procedural fairness that any person who may be adversely affected by a decision has the right to be ‘heard’ before such a decision is made. This is known as the ‘hearing rule’ and is an element of procedural fairness.

It does not literally mean that there is a ‘hearing’ in the courtroom sense. It simply means that the person must be given the opportunity of addressing orally or in writing any information that will be used to make the decision. Giving the complainant a copy of a statement that contradicts all or part of their complaint is one example.

If you identify that you may make a decision that may adversely affect another person as a result of a complaint, you must allow that person to put their side of the story to you.

19. Does the Professional Standards and Conduct Unit know about the complaint?

The PSCU has a responsibility to report any misconduct to the Vice-Chancellor, as well as collect data on complaints. The PSCU must therefore be informed in writing about a complaint, and its eventual outcome.

Unless the PSCU advises otherwise, you are free to resolve the complaint once you have notified the PSCU.

20. Do I need to do anything to repair any damage in the workplace caused by the complaint or the issues that it disclosed?

A complaint may result from, or cause, wider conflict or unease in the workplace. You must be sensitive to this and be prepared to take action to repair damage to working relationships that may exist beyond the resolution of the complaint.

You should seek advice from specialist areas within the University as to what resources may be available to help you to achieve this. You can refer to the *Use and Management of Alternative Dispute Resolution* policy.

21. What should I do once the complaint is resolved?

It is good practice to write to anyone who was involved in resolving the complaint, either as a witness or an advisor, and inform them that the complaint has been resolved. You should provide as much information about the resolution that does not breach the privacy of any person or the confidentiality of a decision. This is particularly the case when a disciplinary or other adverse finding has been made about someone.
22. How confidential are documents that are prepared in the course of resolving a complaint?

Freedom of Information and Privacy laws, as well as the principle of procedural fairness that gives the right to affected parties to access information about them are broad enough to make it unsafe to give any general undertaking of confidentiality. Simply marking a document ‘confidential’ does not make it so. It is good practice when drafting any email or document to assume that it will be read by any person referred to in it.