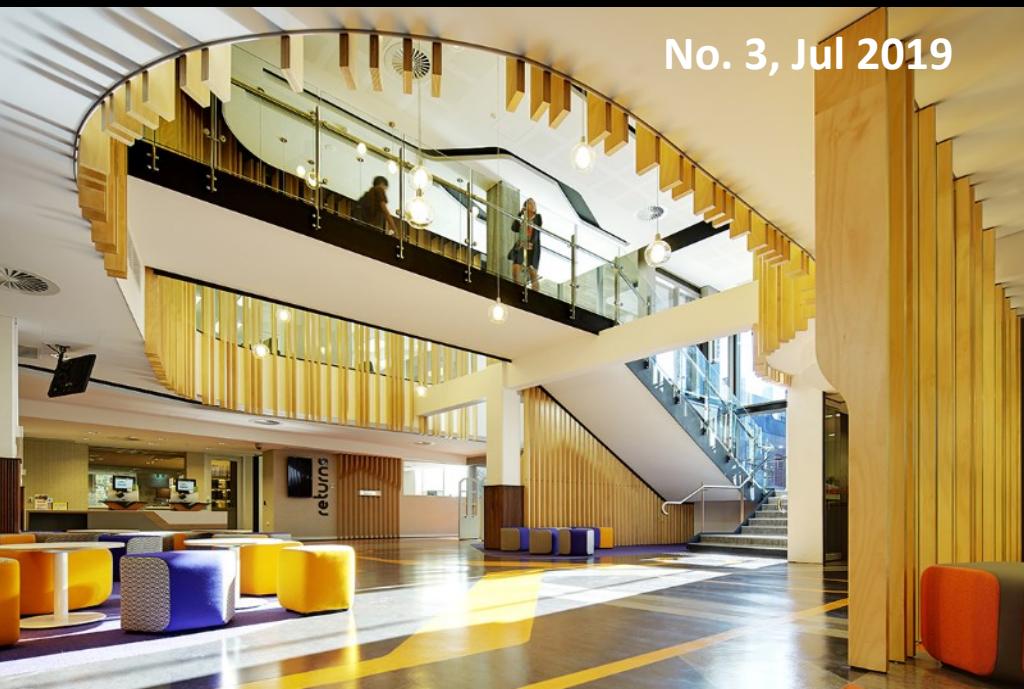




Integrity and Standards Unit (ISU)

INFORMATION SHEET



No. 3, Jul 2019

Due process in complaint resolution

Have you ever been assigned a complaint to resolve? Did you know that the process you go through while resolving that complaint can mean the difference between a good resolution outcome (i.e. one that can't be successfully challenged in terms of the process) and an outcome in which the complainant ends up lodging a new complaint against you in relation to your handling of the earlier complaint?

In coming to a decision as to whether a complaint is substantiated or not, it is vital that you follow due process at every stage of the complaint resolution process.



To assist you in this, the ISU provides all the information and advice you need to ensure successful complaint resolution and decision making; refer to:

1. [Online detailed instruction on complaint handling \(including procedures, guidelines, FAQs, sample forms and flowcharts\)](#)
2. [Face-to-face, written and phone advice](#)
3. [Informative quarterly information sheets](#)
4. [Education and training workshops](#)

While you can't always be sure of making the "right" decision, you can be sure of making a "good" decision if you follow due process i.e. a decision that is defensible and repeatable, whether it is challenged by the complainant or in a court of law or tribunal.

Do you know the Code of Conduct?

Test your knowledge of the [Code of Conduct](#) (the Code) with this short (TRUE or FALSE) quiz:

1. *The Code doesn't apply to me because I'm a volunteer.*
2. *The Code imposes more personal behavioural obligations on me than already exist under Curtin's legislative and compliance framework.*
3. *The Code applies when I am engaged in official duties outside of normal business hours or at an offshore campus.*
4. *The Code has no relationship whatsoever with Curtin's Values or Signature Behaviours.*
5. *The Code doesn't cover students of Curtin under any circumstances.*
6. *A breach of the Code may result in sanctions being applied against me under the relevant staff agreement.*
7. *Once I complete the online Code of Conduct training (Work Essentials), I will never have to do it again.*
8. *As a line manager, I don't have any responsibility to ensure that breaches of the Code by my staff are addressed.*
9. *The Code contains seven professional standards that must be adhered to by parties to the Code.*
10. *I'm not accountable for breaching the Code if I don't really know or understand it.*

Answers: 1 - F; 2 - F; 3 - T; 4 - F; 5 - F; 6 - T; 7 - F; 8 - F; 9 - T; 10 - F

Please refer to the
ISU website for information
on the following:

- [Complaint Resolution Process](#)
(procedures, guidelines, flowcharts, forms)
- [Conflicts of Interest / Gifts, Benefits and Hospitality](#)
(system, procedures, guidance, FAQs)
- [Public Interest Disclosures](#)
(what, how, when, links to PSC information)
- [Fraud and Corruption Prevention](#)
(plan, policy, risks, case studies, red flags)
- [Reporting Misconduct to external agencies](#)
(CCC or Public Sector Commission)

and to access the:

- [Code of Conduct](#)
- [Online Complaints Portal](#)
- [Online Conflicts of Interest Register](#)
- [External avenues for lodging a complaint](#)

Interviewing parties to a complaint

If you've accepted responsibility for resolving a complaint of staff misconduct, you will probably need to interview the complainant, the respondent and possibly witnesses to the alleged events. Of prime importance is to ensure that all parties interviewed are treated fairly. In interviewing, this means you need to:

- ✓ Provide an explanation of the investigation process;
- ✓ Explain that participation in the process is voluntary;
- ✓ Schedule interviews at a reasonable place and time;
- ✓ Inform witnesses of those people who their evidence may be disclosed to, including the respondent, if applicable;
- ✓ Afford interviewees the opportunity to have an interpreter to assist if requested;
- ✓ Afford interviewees a support person in accordance with the relevant employment instrument or contract present; and
- ✓ Be sensitive to the needs of the individual concerned who may be adversely affected by the investigation process.



More detailed information about interviewing techniques is provided in our [Fact Finding](#) workshop that is run in May and Sept each year, or on demand. Also see the [Formal investigations and inquiries](#) section on our Complaint Resolution webpage [here](#).

Make tomorrow better.

CURTIN ALLY

White
Ribbon
Workplace

INTEGRITY AND STANDARDS UNIT

INFORMATION SHEET

NO. 3, JUL 2019

If you see or hear something
that's not right ... say something!



What happens if a complainant withdraws their complaint?

After you have become aware of a complaint matter which requires your attention, the complainant may decide to withdraw their complaint and their support of any current investigation into the substance of their complaint. There may be many reasons for this, including cases where there is a fear of reprisal or lack of faith in Curtin's ability to properly and fairly investigate the matter. So does that mean that you can close the complaint and take no further action?

The answer is ... not always! While a complainant may feel justified that they "own" their complaint, once Curtin becomes aware of a matter that imposes a duty on it to investigate or continue investigating the matter, the University must weigh up any potential risk to the complainant from choosing to proceed to investigate with the potential risk to the University or members of the University community from not proceeding. In some cases, this duty may be imposed by legislation. Here are some examples of where such situations may arise:

- Criminal, corrupt or fraudulent behaviour
- Health and safety concerns
- Property damage
- Breaches of the law



That said, it is always appropriate to talk to the complainant in these situations up front; ask them why they want to withdraw their complaint and offer solutions as to how their safety, security and wellbeing concerns (if this is the reason for their withdrawal) can be addressed in going forward. Such situations should always be managed with care and sensitivity.

If you require assistance or advice should such a situation arise, please contact the ISU.

It was inappropriate for the defendant... to rely on choices made by its employees as to the employer's proper response to the employee's complaint... the employer is under an affirmative obligation to actively consider amelioration of a risk of injury and cannot abrogate that responsibility to its employee.¹



1. From [Swan v Monash Law Book Co-operative \[2013\] VSC 326](#), in which an employee who was being relentlessly bullied, harassed and intimidated by her manager did not want the matter pursued and went to the Board to complain but said she did not want the manager spoken to. The bullying continued in 2007 and the employee eventually suffered a severe psychological condition. The Court found that if the Board had acted appropriately in 2003 when first becoming aware of the complaint, it was likely that the employee would not have suffered the severe psychological condition. The employee was awarded almost \$600,000 for past and future economic loss and damages for pain and suffering and loss of enjoyment of life.

The rules for gifts, benefits and hospitality disclosure

Though they may look complicated, the rules for the disclosure of gifts, benefits and hospitality are quite straightforward (and are explained in the [Conflict of Interest procedures](#)). In fact, once you login to the [Conflict of Interest system](#), the system guides you through the process for determining whether to make a disclosure and what to disclose. Its actually a two step process:

1. Assess if your acceptance of the gift, benefit or hospitality would create a conflict of interest (as described in the procedures). If the answer is YES, then **STOP** - you need to refuse, return or repay the gift. There is no need to make a disclosure in the system.
2. Otherwise, login to the system, click on the button **GIFT, BENEFIT & HOSPITALITY*** and input relevant information about your gift, benefit or hospitality, as requested by the system:

Q1. What is the value of the gift received from or offered by the third party?	Q2. Is the total \$ value of all gifts received from the same third party (including this gift) \$300 or less over the previous 12 mths?	Q3. Is the total \$ value of all gifts received from the same third party (including this gift) more than \$300 over the previous 12 mths?
If the gift value is less than or equal to \$150 ... then go to Q2.	<u>YES</u> , then disclosure in CofI register is optional (line manager will <u>not</u> be automatically notified to decide on what action to take)	<u>YES</u> , then disclosure in CofI register is mandatory (Executive Manager will be automatically notified to decide on what action to take)
If the gift value is more than \$150 and less than or equal to \$300 ... then go to Q2.	<u>YES</u> , then disclosure in CofI register is mandatory (line manager will be automatically notified to decide on what action to take)	<u>YES</u> , then disclosure in CofI register is mandatory (Executive Manager will be automatically notified to decide on what action to take)
If the gift value is more than \$300 ... then go to Q3.		<u>YES</u> , disclosure in CofI register is mandatory (Executive Manager will be automatically notified to decide on what action to take)

Fraud has many faces

In the [Fraud and Corruption Control policy](#), "Fraud" is defined as:



Dishonest activity causing actual or potential financial loss to any person or entity including theft of personal identity, money or other property by employees or persons external to the University and where deception is used at the time, immediately before or immediately following the activity.

All parties to the Code of Conduct are expected to conduct themselves to the highest standards of honesty and integrity. Engaging in dishonest behaviour with an intent to deceive the University or other members of the University community in order to cause financial loss would be classified as a major failure to meet these standards.

Below are some examples of fraudulent behaviour that would certainly result in allegations of staff misconduct being made against the party or parties concerned:

- ⌚ Falsely overstating hours worked on a timesheet.
- ⌚ Undertaking undisclosed and unauthorised paid employment with a non-University external party during work hours while at the same time being paid by the University.
- ⌚ Taking annual leave but failing to submit a leave application (and obtaining prior approval), thereby being absent from work without authorisation.
- ⌚ Providing false information on a research grant application.
- ⌚ Being untruthful in negotiations with a potential external supplier or collaborator.
- ⌚ Using falsified or previously used receipts to claim a financial reimbursement.
- ⌚ Submitting false missing receipt declarations to support personal purchases made through a Curtin corporate card.
- ⌚ Knowingly incorporating unacknowledged work from another author in a research publication.

In 2014, the CCC finalised a two-year investigation into a fraud involving the dishonest claim of overtime by a former Queensland Health employee ... Over a two-year period, she dishonestly claimed nearly \$40 000 in overtime ... The former employee was sentenced to two years' imprisonment, to be suspended after three months.

[Crime and Corruption Commission, Queensland](#)

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