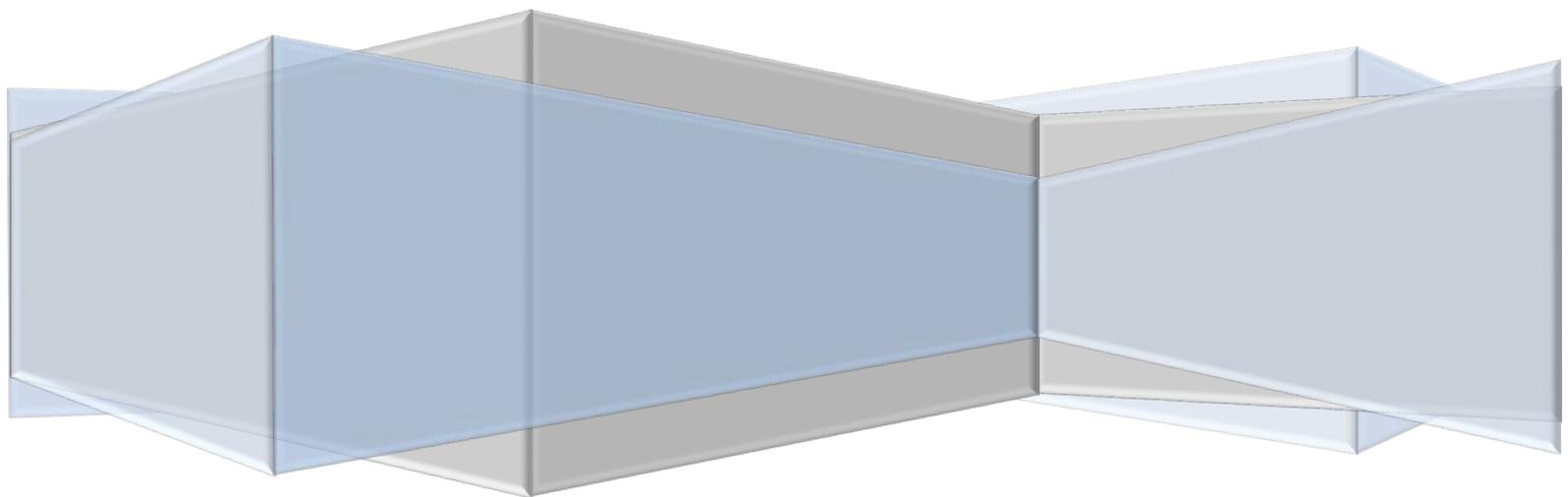


Complaint Handling

Line Manager Guidelines

How to effectively deal with complaints



27 July 2017

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The ISU acknowledges Ms Liz Halsmith, former Manager Conflict Resolution and Equity Strategies, who has kindly contributed significant content in selected sections of this document.

INTRODUCTION

Purpose of the guidelines

As a manager, you may be required to deal with a range of different issues, including complaints, staff performance matters and policy issues.

These guidelines have been produced to assist you specifically in managing complaints in the workplace. However, they may not cover all situations or circumstances and should not be relied upon as the sole source of advice. In addition, they do not cover processes to be followed once it becomes known that a complaint cannot (for whatever reason) be resolved by you alone as the line manager.

The processes described below should be used in particular for dealing with matters that lend themselves to local resolution between the parties to the complaint.

Line managers are encouraged to consult relevant policies, procedures and advisers throughout the University to assist in making decisions about the most appropriate course of action.

Complaint definition, form and origins

The [Complaints Procedures](#) defines a *complaint* as:

An expression of dissatisfaction with Curtin policies, procedures, decisions, omissions, quality of service or staff behaviour where a response or resolution is explicitly or implicitly expected.

As such, if a complaint is to be addressed by the University, it must pertain to matters that occur, have occurred or may occur in the course of its operations and over which it has some control.

As a line manager, you may become aware of a complaint matter concerning the University via:

- an official complaint notification email sent by the ISU;
- an email or correspondence from a third party (who may be the complainant); or
- your own observations or verbal communications with others.

Complaints may originate from anyone e.g. from identified Curtin staff, students, partners, external agencies or members of the public. A complaint may also originate from an anonymous source.

Main parties to a complaint

The following three parties to a complaint are referred to within these guidelines:

COMPLAINANT	the person who has made the complaint
LINE MANAGER	the University person assigned to handle the complaint
RESPONDENT	the University person(s) who is/are identified as being responsible for a prior, current or proposed decision, act or omission about which the complaint has been made

Expectations and obligations of the parties to a complaint

It is your duty to manage the complaint that is assigned to you.

In doing this however, you should be aware of certain expectations and obligations which come with the role. You should also be aware that both complainants and respondents have certain expectations and obligations as parties to the complaint.

These expectations and obligations are detailed in a brief three page ISU document titled: [Complaint Handling – Statement of Expectations and Obligations](#). **Please take time to review this document.**

Alignment with Curtin Values

In discharging your duties effectively as a line manager under these guidelines, you will display several key signature behaviours associated with Curtin’s values, in particular:

Integrity i.e. *to act ethically, honestly and with fairness.*

- ✓ Engendering trust through openness, honesty and consistency
- ✓ Leading by example and acting with due care
- ✓ Making informed decisions and being accountable for outcomes

Respect i.e. *to listen, value and acknowledge.*

- ✓ Ensuring safety, health and wellbeing are paramount.
- ✓ Acting professionally with courtesy and consideration of others.

Other important matters to remember in handling a complaint

- Issues in the workplace, including complaints and conflict, should be dealt with at the **most appropriate level** and at the **earliest appropriate time** to avoid protraction and escalation of disputes.
- As a line manager, you **can delegate** the handling of a complaint if necessary, taking into account the principle of resolution at the most appropriate level and at the earliest possible time. In such cases, you should refer the complaint back to the ISU and request that the matter be delegated to your line manager.
- It is critical that, as a line manager, you do not have, could not be perceived to have, or would not have the potential to have, a **conflict of interest** in handling the complaint assigned to you. In such cases, again you should refer the complaint back to the ISU and request that the matter be delegated to your line manager.

IMPORTANT NOTE

It is necessary, as a line manager assigned to a complaint, that you fully understand conflicts of interest and how they should be reported and managed. Please refer to the [Conflict of Interest Procedures](#) and the [Code of Conduct](#) for more information.

To this end, you may want to ask yourself: *do I have any relationship with the circumstances of the complaint that may be seen by a reasonable person as compromising my ability to make a fair and objective assessment?*

- As a general rule, you should commence addressing a complaint assigned to you **within ten working days of being made aware of it** (via an ISU complaint notification or through other means).

IMPORTANT NOTE

For international student complainants in particular, the ten day rule is a mandatory requirement under the National Code of the Education Services for Overseas Students (ESOS) Act 2000 (Cth).

- All relevant documents associated with your handling of the complaint should be held in **official records files or electronic repositories** (refer to [Records Management Procedures](#)). Efficient record keeping protects the interests of the University and individuals.

Also ensure that you carbon copy (cc) all emails and correspondence associated with the complaint's resolution to complaints@curtin.edu.au, along with a copy of your completed **Complaint Handling Checklist**.

IMPORTANT NOTE

Before the ISU can close off a complaint, you are required, as the Line Manager, to complete the [Complaint Handling Checklist](#) (a copy of which is provided to you by email when you are first notified about the complaint by the ISU).

- **Confidentiality should be maintained throughout the entire process.** All parties to a complaint have a right to expect that their privacy will be respected and the complaint will be investigated and resolved in a confidential manner.

However, the University is required to report some types of complaints to external agencies, such as the Corruption and Crime Commission and the Public Sector Commission. In addition, the University has a duty of care to act on certain matters that are brought to its attention e.g. personal safety and security concerns or other health and safety risks.

In general, freedom of information and privacy laws, as well as the principles of procedural fairness, make it unsafe to give any general undertaking of confidentiality to the parties to the complaint. 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.

Role of the ISU

The ISU has no decision making capacity. This rests with Line Managers (and Executive Managers under certain situations).

Line managers have the authority, knowledge and context that will enable them to resolve a complaint matter to the University's satisfaction.

Lodging a complaint with the ISU does not escalate or elevate a matter. The ISU is not another avenue of appeal if someone does not like a decision that has been made.

When the ISU registers or receives a complaint via the Complaints portal:

- Receipt of the notification is automatically acknowledged by the system to the complainant.
- The notification is recorded and triaged according to the subject matter.
- The notification is sent to the appropriate decision maker (the relevant line manager) and case coordination is provided on a case by case basis.
- Line managers are invited to access resources within the University including conflict management services provided by People & Culture and Counselling Services in the Support Services area.
- The line manager is required to formally advise the ISU of the outcome of the matter, after it has been managed in accordance with the relevant policy, procedure or employment instrument.

The ISU's role is to ensure that all reported cases are assessed and dealt with appropriately. The ISU, when notified of the outcome of a complaint, may refer the matter back to the line manager with appropriate advice should any obvious procedural errors or deficiencies be identified prior to complaint closure.

Finally, the ISU has responsibility for record keeping and the data it collects may suggest a pattern of complaints that highlight an area or individual requiring further attention. These matters are escalated to Executive Management, through the Director ISU, if and when they are identified.

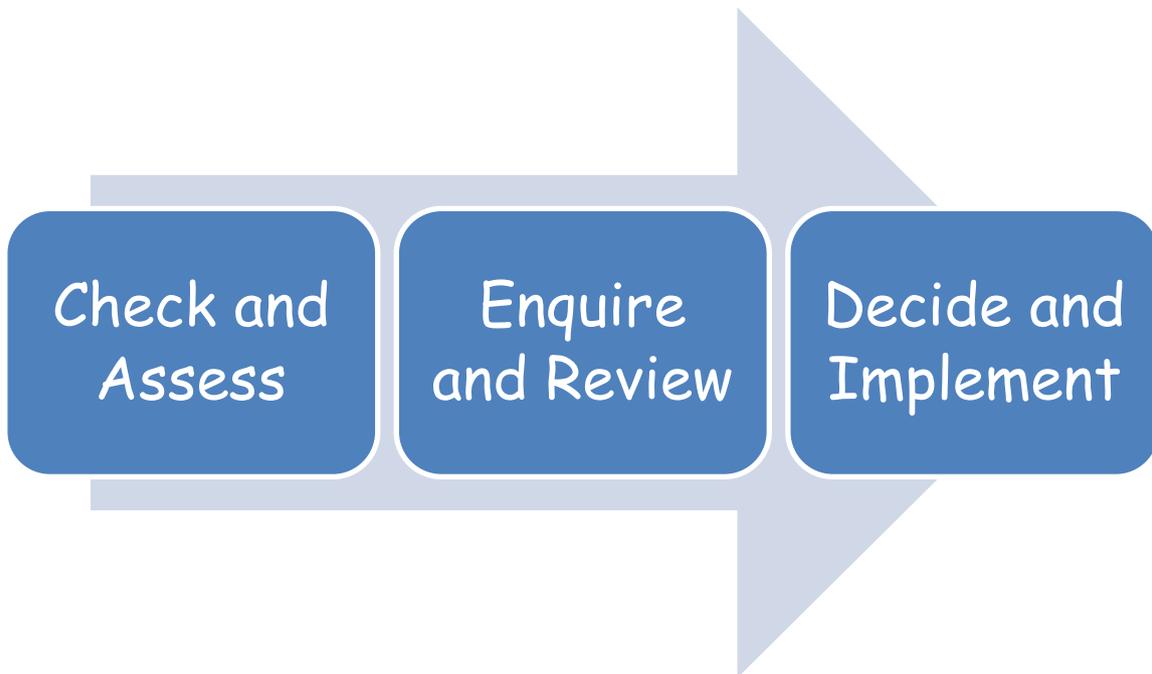
Important policies, procedures and other documents

Relevant documents to consider throughout the process are:

- [Code of Conduct](#)
- [Complaints Procedures](#)
- [Conflict of Interest Procedures](#)
- [Conflict Resolution resources](#)
- [Incident and Hazard Reporting and Investigation Procedure](#)
- [Records Management Procedures](#)
- [Research Management Policy](#)
- [Equal Opportunity Policy](#)
- [Australian Code for the Responsible Conduct of Research](#)

EFFECTIVE COMPLAINT HANDLING

involves a three stage process to achieving an outcome



In undertaking the above ...

The effective complaint handler is:

- ✓ calm
- ✓ clear about the roles of the parties to a complaint
- ✓ professional in dealing with the complaint and the parties to the complaint
- ✓ a great communicator
- ✓ keeps to commitments made e.g. timelines
- ✓ makes decisions about the most appropriate course of action to resolve a matter to the satisfaction of the University, while being mindful of the wishes of the complainant and respondent
- ✓ manages complainant expectations
- ✓ focuses on resolution
- ✓ resolves complaints at the most appropriate level and at the earliest possible time

STAGE 1: CONDUCT PRELIMINARY CHECKS AND ASSESSMENT

Steps to follow

A1	<p>Decide if you are the most appropriate person for dealing with the subject matter of the complaint.</p> <ul style="list-style-type: none">• Complaints should be dealt with at the most appropriate level and at the earliest appropriate time to avoid protraction and escalation of disputes. Where necessary, advise the ISU if the complaint needs to be delegated to another officer.• If the complaint contains information that is relevant to an activity outside of your area of control, forward the parts that are relevant to that area, for information.• Take immediate steps to remove yourself from handling any complaint where you have or would have an actual, perceived or potential conflict of interest in dealing with the subject matter.• Contact ISU where necessary for advice or to notify of any change in responsibility for handling the complaint.
A2	<p>Check that the matter has been registered in the ISU Complaints portal.</p> <ul style="list-style-type: none">• You may have received the complaint verbally, via email or letter direct from the complainant (instead of via an ISU email notification). If so, please remember to register it through the Complaints portal or seek advice from the ISU.• The Complaints Procedures require that all complaints be lodged with the ISU.
A3	<p>Formally acknowledge receipt of the complaint with the complainant and commence work.</p> <ul style="list-style-type: none">• A complaint must be formally acknowledged as soon as possible (no later than five working days) to assure the complainant that the matter is receiving attention. The acknowledgement should outline the complaint process and provide contact details. At this time, you may also need to further clarify any ambiguity in the complaint with the complainant in order to clearly understand the subject matter of the complaint.• As a general rule, you should commence addressing a complaint assigned to you within ten working days of being made aware of it.
A4	<p>If possible and where relevant, take time to make contact with the complainant to discuss their concerns. This can be done over the phone or by meeting with the complainant.</p> <ul style="list-style-type: none">• Explain the likely process to be followed, your role in that process and that of the other parties.• Listen carefully and attentively to what they have to say and attempt to obtain as much information as possible.• Clear up any ambiguity in the complaint with the complainant.• Take time to find out how the complainant has been affected and what they would like to see done (but remember that you are not limited to the resolution sought by the complainant in addressing the complaint).• Be clear about what is possible and what is not possible.• If possible, provide a likely timeframe for resolution.• At the conclusion of the discussion, thank the complainant for bringing the matter to your attention, and advise them that you will consider the most appropriate next course of action and get back to them as soon as possible.
A5	<p>Assess whether the complaint identifies any personal safety, security or wellbeing concerns or other immediate health, safety or other risks in the workplace.</p> <ul style="list-style-type: none">• If the complaint reveals concerns in relation to personal safety, security, wellbeing or workplace safety, contact the Safer Community Team, Health, Safety and Emergency Management, or your People Business Partner (PBP) immediately for advice. Also refer to the Incident and Hazard Reporting and Investigation Procedure.• Any actual or risk of damage to property disclosed in the complaint should also be addressed from the outset.• Act with due care when dealing with a complainant who presents as upset, anxious, distressed or angry during discussions or communications with you. Where necessary, refer complainants to the appropriate internal or external support service e.g. Counselling Services or the External Employee Assistance Provider (Optum).
A6	<p>Take sufficient time to review and assess the subject matter of the complaint, and what the complainant is seeking.</p> <ul style="list-style-type: none">• Assess the type of complaint you are dealing with e.g. is it feedback, a personal grievance, workplace bullying, inappropriate staff behaviour, interpersonal conflict, research misconduct or a combination of matters.• The action that you subsequently take will depend on the subject matter of the complaint received – refer to the FAQs below for further information.

1. Should I follow the above assessment process for all complaints assigned to me or which I become aware of and am responsible for addressing?

Yes, whether you receive a complaint on paper, via electronic channels, or verbally through contact with staff, each of the above steps should be considered, where applicable. The absence of a written complaint does not prevent this process from being followed.

As stated earlier, the process described should be used for dealing with matters that lend themselves to **local (line manager level) resolution** between the parties to the complaint.

IMPORTANT NOTES

- Please **do not** inform a complainant or potential complainant that you cannot or will not address their concerns until or unless they have registered it through the Complaints portal.
- If a complainant or potential complainant brings something to your attention which, once known to you creates an obligation / duty of care for you to act, **then you must act** regardless of whether the complainant wishes to proceed or not e.g. alleged criminal or corrupt behaviour, safety, security or wellbeing concerns or health and safety issues. If unsure, contact the ISU for further advice.

2. As a line manager, I am concerned that I may have to deal with complainants who may be upset or angry or just won't listen to what I have to say. What should I do in these situations?

You may be required to handle a complainant who is 'difficult' to deal with or unreasonable in their demands.

As such, you may wish to contact the ISU, your PBP or People & Culture (conflict management) in the first instance for advice on how to handle such situations.

Here are some pointers which may help:

- Listen carefully and attentively, without interrupting, and acknowledge the complainant's perspective on the situation.
- If necessary, allow the other person to 'let off steam' without giving in to the natural inclination to defend or fight back.
- Ask the complainant for sufficient time to gather information, speak to other people, and fully understand the complaint, if you need to.
- Be self-aware – keep in mind that **you are required to act in accordance with the University's Values, signature behaviours and Code of Conduct at all times**, independent of how unreasonable the other person might be. Take some time to calm down before contacting a complainant, or take a few deep breaths when dealing with a complainant, if you are feeling defensive or angry.
- If necessary, inform them of the University's values and your expectations as to how you should be treated during the process.
- Demonstrate respect for the complainant in your language and behaviour.
- Be tactfully honest in all you say and do.
- Avoid deliberately pushing the other person's buttons and escalating a situation which may already be heated.
- Provide assurance that their complaint will be taken seriously and dealt with promptly, and that you will keep them appropriately informed as to the status of their complaint.
- Focus on being clear about the boundaries and limitations to your assistance – to increase the likelihood of a satisfied complainant, advise them about the scope and limitations of what you can do.

- Use open and non-judgemental questions to gather information about what the complainant is hoping you'll be able to do for them e.g. *What outcome are you hoping for?, What's brought you here?, How have you been affected by this? What would you like to know about 'x'?*
- Reflect the complainant's feelings as well as the content of their complaint or concern e.g.
 - o *You're frustrated because the University hasn't responded quickly, is that right?*
 - o *It sounds like timing is really important?*
 - o *It sounds like you're concerned that, is that right?*
 - o *You're saying , have I understood you correctly?*
 - o *I want to make sure I've understood what you're saying – you'd like*
- If the client complains/becomes abusive, reiterate your understanding of the problem and offer to arrange for the client to speak to another officer with similar authority.

In summary, it works well to:

- Listen to the complainant and diagnose issues/sources of disagreement
- Diffuse strong emotions by reflecting content and emotion
- Refrain from interrupting them while they are explaining the problem
- Model co-operation and respect, even (especially!) when it is hard
- Express regret if it is genuine and appropriate
- At all times, maintain appropriate behaviour yourself
- Be clear about what you can do and what you cannot do

IMPORTANT NOTE

Where a complainant continues to exhibit unacceptable or unreasonable behaviour, seek advice from the ISU before taking any further action. More information is provided in the [Complaints Procedures](#).

3. What types of complaints can I expect to have to deal with as a line manager?

It is very important that you properly consider the **subject matter of a complaint** as this will determine the actions you may need to take in its resolution e.g. some matters may be addressed through quick resolution while others may require more substantive evidence to be sought before making a decision. Types of complaint are described below:

3.1 Negative Feedback

Negative feedback is usually general dissatisfaction expressed or uncomplimentary comments made by a third party about a particular action, behaviour, decision or omission of the University e.g. lack of parking spaces, excessive building construction noise, disagreement with an academic matter reported in the press or poor quality of food in cafeteria.

Feedback often comes from the public (anonymously or otherwise) and can usually be addressed by contacting the complainant (where possible), thanking them for their notification and responding to their concerns based on currently available information.

However, feedback may also reveal more serious matters such as breaches of legislation and policy, [maladministration](#) on the part of the University or other duty of care matters. **These matters must be attended to**, depending on their nature and severity. Here are some specific types:

- Health and safety issues in the workplace
- Personal security, safety and wellbeing concerns for staff, students and others
- Legislative breaches such as misleading and deceptive conduct under the Australian Consumer Law
- Criminal or corrupt conduct on the part of staff, students or others
- Loss or destruction of University property

3.2 Grievances

Most of the notifications that come through the Complaints portal are personal grievances (and most of these grievances tend to come from students); these concern allegations of inappropriate or unfair action, behaviour or a decision by a University staff member (or the University) which has adversely affected the complainant in their dealings with the University e.g. a disputed assessment grade, rude staff member encountered, or that a complainant acted on incorrect information on a Curtin website.

Grievances require action to be taken to assess the veracity of the complaint and come to a resolution.

The guidelines in this document should be applied as much as possible in resolving these types of complaints. However, when a complaint concerns allegations of inappropriate behaviour by a staff member which may be a breach of Curtin's Code of Conduct, then the complaint is more than a personal grievance – see next section for further detail.

3.3 Inappropriate Staff Conduct

Inappropriate staff conduct refers to alleged behaviour of a staff member that is contrary to the University's Values, potentially breaches Curtin's [Code of Conduct](#) and, if proven, would result in a disciplinary sanction for the staff member under the [Staff Enterprise Agreement](#), depending on the seriousness of the matter.

Examples of behaviour which would be considered inappropriate include (but are not limited to) the following:

- Aggressive or abusive behaviour such as threatening gestures or actual violence or assault and verbal abuse (for example, yelling, screaming, abusive or inappropriate or overly forceful language, including jokes, sarcasm, insults and crude language);
- Intimidatory behaviour (shouting, invasion of personal space, physically standing over another person, rifling through personal files and drawers; reading information on someone's desk without permission; blocking someone's exit, banging a desk);
- Persistent attempts to humiliate in front of colleagues (for example, teasing, name calling or ridiculing or making someone the brunt of pranks or practical jokes);
- Malicious or mischievous gossip, destructive innuendo and sarcasm (including rumours and gossip);
- Unsafe work practices or behaviour which may harm the staff member, student or others;
- Bullying, harassment or intimidation and excluding or isolating individuals - freezing out, ignoring, excluding or cutting off in conversation;
- Unwelcome physical contact including that of a sexual, intimate or threatening nature, including stalking;
- Withholding approval for, or denying requests, maliciously, discriminatorily, unfairly or without basis.
- Unreasonable refusal of applications for leave, training or promotion.
- Verbal and non-verbal threats e.g. threat of dismissal (although an employer may legitimately use disciplinary action) or threat of complaints when staff or students bring criminal, corrupt or fraudulent matters to the attention of the manager;
- Abusive or harassing notes, emails, telephone calls, text messages, etc during or after working hours;
- Stealing or misuse of University resources;
- Downloading and/or viewing inappropriate images or pornography in hard copy or electronically;
- Undeclared conflicts of interest or improperly managed conflicts of interest;
- Receiving expensive gifts or benefits without proper declaration;
- Taking unapproved leave;
- Conducting a private business during working hours;
- Unauthorised disclosure of confidential information;
- Bribery, corruption or financial fraud;
- Research misconduct, including plagiarism.

IMPORTANT NOTE

The Staff Enterprise Agreement contains provision for alleged staff misconduct matters to be resolved at the local level by the line manager in the first instance (as described in these guidelines). However, you should escalate the complaint to your Executive Manager if, at any point in the complaint handling process, any of the following occurs:

- you are unable to resolve the matter(s) at the local level; or
- you become of the view that it is not appropriate to deal with the matter(s) at the local level; or
- you become of the view that the conduct is sufficiently serious as to result in termination of employment; or
- you perceive a conflict of interest on your part in dealing with the matter(s).

Refer to Appendix 1 for the relevant extract from the Staff Enterprise Agreement.

In addition, potentially criminal, corrupt or fraudulent matters should be immediately reported to your Executive Manager and notified to the ISU (if not already done so). No attempt should be made to resolve these matters at the local level before hearing from the ISU. The alleged misconduct will have to be assessed by the Director ISU and, where necessary, reported to the police and to the Corruption and Crime Commission (via the Vice-Chancellor). A key consideration is the need to avoid prejudicing the criminal process.

The University will normally not proceed with a staff misconduct action if the police or Corruption and Crime Commission consider that the misconduct action may prejudice criminal proceedings. The University may initiate an enquiry / investigation (putting the respondent on notice that an action will ensue) but, if there is some risk of prejudice, will immediately suspend the investigation pending the outcome of criminal proceedings.

Where necessary, please seek advice and assistance from the ISU, or your PBP.

Alleged breaches of Curtin's Code of Conduct require either:

- section 62.3 Workplace Bullying provisions (see section 3.4 below); or
- section 74 Misconduct or Serious Misconduct provisions

of the Staff Enterprise Agreement to be invoked at the appropriate time. Your PBP can advise you on this.

3.4 Workplace Bullying

Workplace bullying, though a form of inappropriate staff conduct, needs special consideration in accordance with both the Staff Enterprise Agreement and relevant Fair Work Act legislation.

Clause 62.3.1 of the Staff Enterprise Agreement provides the following definition of workplace bullying:

Workplace Bullying means repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, that a reasonable person would regard as undermining the individual's right to dignity through victimising, harming, humiliating, intimidating or threatening a person or persons, thereby creating a risk to health and safety.

while Clause 62.3.4 states that:

Line Managers are responsible for investigating complaints of Workplace Bullying promptly, confidentially, and impartially.

IMPORTANT NOTE

As a Line Manager, you are required to investigate a complaint of workplace bullying to determine whether there is evidence of workplace bullying. This must be done promptly, confidentially and impartially.

If you feel you are not sufficiently skilled to do so, you can (through your Executive Manager) formally engage the ISU who in turn may either do the work in-house or find an external contractor with the appropriate background and skills.

3.5 Research Misconduct

Research Misconduct, though a form of inappropriate staff conduct, requires special consideration as a result of the University's endorsement of the [Australian Code for the Responsible Conduct of Research](#) (the Code) – refer to Curtin's [Research Management Policy](#).

The Code shows how to manage breaches of the Code and allegations of research misconduct, how to manage research data and materials, how to publish and disseminate research findings, including proper attribution of authorship, how to conduct effective peer review and how to manage conflicts of interest. It also explains the responsibilities and rights of researchers if they witness research misconduct.

...

Compliance with the Code is a prerequisite for receipt of National Health and Medical Research Council funding¹.

What types of matters could indicate research misconduct? There are many ways in which researchers may deviate from the standards and provisions of this Code, including but not limited to:

- fabrication of results
- falsification or misrepresentation of results
- plagiarism
- misleading ascription of authorship
- failure to declare and manage serious conflicts of interest
- falsification or misrepresentation to obtain funding
- conducting research without ethics approval as required by the National Statement on Ethical Conduct in Research Involving Humans and the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes
- risking the safety of human participants, or the wellbeing of animals or the environment
- deviations from this Code that occur through gross or persistent negligence
- wilful concealment or facilitation of research misconduct by others

A less serious breach of the Code will also require the attention of management.

IMPORTANT NOTE

If your complaint refers to matters that appear to be more than just a simple breach of the Code, then before attempting local level resolution, please contact the University's Designated Officer under the Code, the Deputy-Vice-Chancellor R&D for advice (if this has not already been done so by the ISU).

3.6 Interpersonal Conflict / Disputes / Differences

A complaint may be a reflection of some form of **interpersonal conflict, dispute or difference** between two or more staff members e.g. if, during the course of your discussions, it appears that the person alleged to be causing the difficulty is not at fault, or if they indicate that the complainant is equally at fault, a skilled Line Manager might well be able to assist in resolving the issue at this stage through engaging the services of a mediator.

If you form the view that the matter you are dealing with involves interpersonal conflict, a dispute or difference between people, then it is well worth contacting, in the first instance, People & Culture (conflict management) for advice in relation to **conflict prevention and management support**, including the availability of mediation and facilitated dialogues.

A conflict-resilient workplace uses adjudicated grievance processes when they are necessary; but prevents conflict escalating into formal grievances when early resolution is possible

[Developing Conflict Resilient Workplaces, A report for Victorian public sector leaders, Victorian Government, 2010](#)

¹ <https://www.nhmrc.gov.au/guidelines-publications/r39>

For more information, also refer to the [Conflict Resolution resources](#) web page.

3.7 Combinations

Sometimes a complaint will cover a range of different matters, some less serious than others.

Where a complaint covers a combination of matters, then action will need to be taken on each separate matter depending on its nature.

Where necessary, please seek advice and assistance from the ISU, or your PBP.

4. What do I do if a complaint assigned to me involves the behaviours or actions of a staff member who is also a student?

If the behaviour, actions or decisions reported in the complaint are associated with the work that the respondent is undertaking as a Curtin employee, then the matter should be dealt with in the same way as you would deal with any other employee in the same situation.

If the complaint relates to the person's activities as a student, the provisions of Statute 10 may apply and the matter should be referred to the ISU for forwarding to the Manager Student Discipline and Compliance in the Student Experience area.

5. Why should I be bothered lodging a complaint in the Complaints portal if I am already dealing with it?

As a line manager, you may have to deal with a matter which has not as yet been lodged through the Complaints portal. Here are some important reasons for taking the time to lodge the matter:

- To ensure proper, accurate and reliable data is captured, in turn enabling problem areas or systemic issues to be identified and addressed. For example, a single incident of bullying behaviour is unacceptable workplace behaviour and must not be ignored or condoned. In addition, it should be recorded in the Complaints portal to enable the University to assess whether it is part of a pattern of ongoing unacceptable behaviour by the respondent, and also if it is part of a bigger problem of workplace bullying across the University.
- To enable the ISU to screen for misconduct or suspected misconduct. The Vice-Chancellor has an obligation under the Corruption, Crime and Misconduct Act 2003 (WA) to notify the Corruption and Crime Commission or the Public Sector Commission in writing of any matter that they suspect, on reasonable grounds, concerns either serious misconduct or minor misconduct. More information on this obligation is available in the publication titled [Notification of Misconduct in Western Australia](#).
- To provide a defence to the University to staff members alleging that they told the University of particular matters which required the University to act on them and the University failed to take action in that regard.

Moreover, section 3.1.5 of the [Complaints Procedures](#) obliges you as a line manager to do so:

If the subject matter of a complaint is brought to the attention of or is dealt with by a line manager without it first being lodged with the ISU, the line manager will, as soon as is practicable, lodge that complaint via the online [Complaints Portal](#).

If you are unsure of your reporting obligations, please contact the ISU for advice.

6. What if I believe that the complaint assigned to me represents a false or mischievous report, made simply to discredit the respondent?

It is certainly true that this may happen. Curtin University views very seriously the reporting of allegations that are made in bad faith. Any report made in bad faith by an employee in particular, i.e. a seriously mischievous or vexatious report, would be considered a serious breach of the Curtin Code of Conduct. The University may take disciplinary action, if appropriate, against any person who knowingly makes a false accusation or acts with malicious intent.

This type of unacceptable behaviour is covered in the [Complaints Procedures](#). However, advice should be sought from the ISU before taking action.

IMPORTANT NOTE

It is a breach of the Complaints Procedures to threaten, intimidate, harass or victimise any party who makes, assists in or is responsible for the resolution of, or is the subject of, a complaint.

In addition, a complaint that appears to lack plausibility, or after investigation is not substantiated, is not necessarily false. A complaint that is not upheld does not imply the complaint was not made in good faith and that an avenue is automatically created for the respondent, the University or anyone else to take reprisal action against the complainant.

7. What if I receive an anonymous complaint or the complainant asks for anonymity?

An anonymous complaint must be managed in accordance with the [Complaints Procedures](#), and dealt with on its merits.

Complainants who express concern about the consequences of making a complaint should be directed to the Curtin [Code of Conduct](#), the Complaints Procedures and Staff Enterprise Agreement for reassurance as to the expectations of Curtin staff and the prohibition against victimisation.

Complainants who claim, in particular, to have information about inappropriate staff behaviour 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 ISU for confidential discussions with a PID Officer, in accordance with the Complaints Procedures .

Note that the Complaints portal provides the ability for a complainant to register an anonymous complaint.

8. Are there any other special considerations I need to take into account before or when engaging with complainants or respondents to a complaint?

Yes, it is advisable to incorporate consideration of **diversity of representation** in your dealing with particular types of complaint or respondent.

What does this mean? Well, it is important to understand that the demographic composition of staff involved in managing a complaint can be a factor which influences the degree to which participants in the process feel valued and heard, and are accepting of decisions arrived at by the University.

It is recommended that where matters are related to grounds covered by equal opportunity legislation, and/or where complainants and/or respondents identify as a member of an Equity and Diversity Group (Women, People from an Aboriginal or Torres Strait Islander Background, People from a Culturally or Linguistically Diverse Background, People

with Disabilities), then **every effort be made to consider whether involvement in the decision-making process on the matter includes representation that is sufficiently reflective of the diversity of the complainants / respondents.**

As well as helping participants to feel included, such practice can also assist in defending equal opportunity-related claims in external forums.

In such circumstances, EE&SJ should be contacted prior to processes commencing for advice as to whether any additional staff should be involved in the processes to address the above.

STAGE 2: UNDERTAKE ENQUIRY AND REVIEW

Steps to follow

B1

Consult relevant policies, procedures, other documentation, the Staff Enterprise Agreement, appropriate policy advisers / subject matter experts, and other staff (where necessary).

- Suggestions for relevant areas include People & Culture, ISU, Counselling, EE&SJ, and Health, Safety and Emergency Management, depending on the nature of the complaint.
- Seek as much advice as is reasonably necessary from subject matter experts while disclosing as much information about the complaint as is required to receive the best advice. Note that you are not bound by the advice and nor should you feel compelled to act solely on the advice.
- Consider emails, correspondence, reports, information stored in core application systems and other sources of data.
- Where necessary, interview other staff to gather relevant information.
- Ask for help if necessary e.g. consult with your line manager.

B2

Identify the most appropriate means to promptly inform the respondent that they are the subject of a complaint that has been received.

- Provide the respondent with sufficient information to allow them to identify the matter under enquiry and to provide a detailed response.
- Where adverse comments or information have been obtained during your enquiry, also provide the respondent with the opportunity to respond to it.

B3

Review all relevant information obtained, including the respondent's response to the complaint and information provided by other parties.

- This will ensure all relevant background information has been considered and assist in placing the complaint in the proper context before you make a decision.

FAQs

1. As a line manager, I am concerned with having to raise matters concerning inappropriate behaviour with the respondent to the complaint. Any advice on this?

Raising and responding to concerns about someone's behaviour in the workplace is probably the most challenging aspect of managing people. It can make everyone feel uneasy, regardless of whether they are personally involved or not.

People may feel defensive, upset and even aggressive when their behaviour is called into question.

Managers may be put under pressure, not only to address concerns about employee behaviour, but also to minimise the potential disruption to ongoing work.

Organisations such as Curtin University have dual obligations of ensuring proper standards of behaviour are maintained and of treating their employees fairly and reasonably. When dealing specifically with concerns about behaviour, it is not surprising that such cases can quickly escalate and divert so much time, attention and resources away from more productive activity. This underlines the need to maintain the highest possible standards of practice by reviewing policies and ensuring people have the right information and skills.

In bringing a complaint to the attention of a respondent therefore, it is usually best to call the officer to a meeting to brief them on the matter but this is dependent on a number of factors, including the sensitivity or severity of the matter being reviewed. You should provide a copy of the actual written complaint (if there is one) to the respondent but this should be done without breaching complainant confidentiality.

Further to the above, if you remain concerned with having to deal with bringing complaints to the attention of a respondent, please contact the ISU, your PBP or People & Culture (conflict management) for advice and assistance.

2. How much evidence do I have to collect during the enquiry, and how do I assess it before coming to a decision?

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.

Conducting an enquiry / investigation into 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.

When conducting an enquiry / investigation, you need to identify any sources of information which show whether or not the allegations contained in the complaint occurred. Sources of information may include:

- Other people who were present when the alleged event occurred.
- Electronic information, such as emails, swipe card logs.
- Relevant documents, such as employment contracts.
- Copies of text messages provided by the complainant, respondent or witnesses.

You will then need to assess this evidence in order to decide whether the complaint has substance and determine the appropriate action to resolve the complaint.

This assessment should take into consideration the following (depending on the type of complaint):

- Whether the weight and reliability of the evidence demonstrates that there is substance to the complaint.
 - The circumstances and context of the complaint.
 - Whether evidence was presented by the parties and witnesses in a credible and consistent manner.
 - The absence of evidence where it should logically exist.
-

3. What do I do if, during the course of enquiry, it becomes obvious that a matter which I thought was a grievance or staff conflict is potentially inappropriate staff conduct?

If it becomes evident at any time that the substance of a complaint contains allegations of inappropriate staff conduct (and therefore, a possible breach of the Curtin Code of Conduct), you should refer the matter to your PBP to obtain advice on invoking the misconduct provisions of the Staff Enterprise Agreement.

In the first instance of course, and for less serious misconduct matters, you are required under the Staff Enterprise Agreement to attempt a local area resolution – refer to section 3.3 above for more detailed information on when it is appropriate to do this.

4. Are there any particular steps I need to follow in conducting an enquiry with a view to coming to a decision on the complaint?

Yes, **Procedural Fairness** (otherwise known as natural justice) refers to the steps that must be taken to ensure that any decision you make in relation to the resolution of a complaint is fair. A failure to follow one of the steps is sufficient to call into question the decision that results, regardless of whether it appears to be a sound one.

Ensure that you adhere to the rules for procedural fairness in your dealings with all parties concerned. This is particularly important where, in making a decision on the matter, there may be adverse consequences for the respondent.

The Rules of Procedural Fairness require that:

- ✓ **You allow the complainant, respondent and, if relevant, others, to be heard.**
- ✓ **The person who may be adversely affected by a decision is given the right to know the information used to make that decision and to be given the opportunity to comment on that information.**
- ✓ **You are objective and unbiased. In all respects, deal with the situation in an even-handed and impartial manner. If you feel unable to deal with the matter objectively and without bias, consider delegating the matter to another person at the appropriate level and with the necessary authority.**
- ✓ **You have enough evidence to support your final decision. Evidence can be gathered by performing an assessment of the situation which includes finding out the known facts and identifying what is not known about the situation. This information enables you to make a good decision about the most appropriate course of action to take in response to the complaint.**

More information about procedural fairness is available on the [Ombudsman WA website](#).

Any failure to provide procedural fairness may result in the reviewing authority having to make a new decision, after rectifying the defect in procedural fairness of the original decision. For example, it may require that a person is given the opportunity to be heard on particular allegations that involve them. Under certain circumstances, the University may be directed by an external regulatory body such as the Ombudsman, Corruption and Crime Commission or Public Sector Commission to do this.

If a grievance handling system is not perceived as procedurally fair, it will itself generate grievances and become part of the problem

[Developing Conflict Resilient Workplaces. A report for Victorian public sector leaders, Victorian Government, 2010](#)

Note that a denial or breach of procedural fairness does not automatically mean that a different decision is substituted, or that a complainant is granted the outcome that they sought. The reviewing authority may acknowledge the error, remedy the procedural defect, and still arrive at the same decision.

STAGE 3: MAKE A DECISION AND IMPLEMENT IT

Steps to follow

C1	Make an informed decision on the merits of the matter and the most appropriate next course of action. <ul style="list-style-type: none">Your decision is required to be made in the <u>best interests of the University</u> i.e. to the satisfaction of the University, rather than necessarily to the satisfaction of the complainant or the respondent.
C2	Note and address any systemic, procedural, cultural, training or communication issues. <ul style="list-style-type: none">Take action to address these issues and/or forward your observations or concerns to the appropriate manager who is able to take action to address them.In particular, 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.
C3	Formally communicate your decision to the parties to the complaint. <ul style="list-style-type: none">The parties can expect that you will provide reasons for your decision (whatever it may be), as appropriate for the circumstances.
C4	File all your related documentation, close your file, then email this documentation along with your completed Complaint Handling Checklist to the ISU. <ul style="list-style-type: none">At some point in the future, you may be asked to account for the processes you went through in addressing the complaint, so have that information properly filed, secured and readily available should it be required.Don't forget to send all relevant documentation, emails and your completed Complaint Handling Checklist to the ISU at complaints@curtin.edu.au. The ISU will <u>not</u> close off the complaint unless a completed Complaint Handling Checklist is returned.
C5	Follow through on your decision. <ul style="list-style-type: none">Take responsibility for ensuring that the complaint is resolved promptly and in accordance with the decision you have made.
C6	Make sure your decision is effective. <ul style="list-style-type: none">Check in with the parties as appropriate, and monitor the situation on an ongoing basis that is relevant to the circumstances.

FAQs

1. How do I ensure that the decision I make in relation to the complaint's resolution will hold up to any scrutiny at a later date?

Procedural fairness requires that you, as the line manager responsible for handling the complaint, ask yourself:

1. Do I have the authority to make the decision?
2. Do I have the facts to support my decision?
3. Am I unbiased?
4. Have I allowed each potentially adversely affected person to be heard?

You may want to consider the following five steps to good decision-making:

STEP 1: When should I make a decision?

- Allow yourself enough time to calm your emotions and to think.
- Don't be rushed into a decision.
- There are very few situations when a decision is required immediately.
- On the other hand, remember that the complainant in particular will want their matter addressed as soon as possible, so don't ignore or unnecessarily delay it in the hope it will go away.

STEP 2: Do I have the authority to make a decision?

- Look for a primary source of legislation, regulation, policy, procedure or common law that nominates you as a person with the power at Curtin to make the decision. Examples (in order of precedence) include:
 - Commonwealth and State legislation
 - The Staff Enterprise Agreement/Contract of Employment
 - The Delegations Register
 - Policies
 - Procedures
 - Position Description
 - Inherent common law powers of an employer
- If two sources of authority conflict, you should defer to the one higher up the list.
- One way of checking this is if you imagine writing a sentence explaining your decision that starts with: *In accordance with ...* and inserting the relevant section or clause of your authority. If you can't find an express authority for your decision, either refer the matter to someone who does, or you will need to rely on persuasion rather than direction to execute your decision.

STEP 3: Do I have all the information that may be reasonably available to me to make the decision?

- Undertake as much inquiry as is reasonable in the circumstances.
- The more serious the consequences of your decision, the more inquiry you should make.
- Such inquiry can range from simply drawing on your own knowledge in a few seconds of internal reflection, through to delegating a third party to gather information on your behalf.
- Your inquiry should seek out any relevant policies, procedures, reports, system information or other documents that apply to the subject matter. It can also include speaking to a subject matter expert, such as in People & Culture, the ISU, Finance, Legal, Student Services etc.

STEP 4: Am I unbiased?

- Ask yourself whether you have the objectivity to be able to make a decision that is unhindered by factors that would not allow you to make a decision on its merits and to the satisfaction of the University.
- Remember that making a decision in relation to personal bias is not just about what you believe, **but what a fair minded and objective person would view as bias**. Even something as simple as your past friendship with one of the parties could be viewed as a conflict of interest and consequently, imply that you are biased in making the decision.
- The mere knowledge about past behaviour or decisions that you have made involving any affected parties may not be sufficient to create bias – but there will be bias if, for example, in the past you have made a complaint yourself about one of the parties, or, you were involved in disciplinary action against the respondent, or you have had interpersonal conflict issues with one the parties.
- A good manager will always have their 'finger on the pulse'. Ask yourself: *What would a fair minded and objective bystander say? Would they conclude that I will not bring an impartial and unprejudiced mind to the decision?*

STEP 5: Has any person who may be adversely affected by my decision been permitted to put their side of the story to me?

- If you think that someone may be adversely affected by your decision, invite them to put their side of the story to you. This can be done orally or in writing.
- Summarise the decision that you may make e.g. *I'm considering whether I will [describe possible decision] and I would like to know your views on this decision before I decide what to do.*
- One tool is to ask a person to 'show cause'. You either say or write to them inviting them to: *show cause why I should not do X*. Allow yourself time to consider their response and you must be open enough to it to potentially

modify your decision as a result of hearing their side of the story. If a person does not accept your invitation to be heard, you simply make the decision based upon the information that you have.

2. Will I be held accountable for my decision?

Yes, when you make your decision, you are required to **take responsibility for it.**

Do NOT make reference to any other person or adviser as being the reason that you made the decision. This not only undermines your authority, but it may leave your decision open to be challenged on the basis that you did not exercise your discretion but simply 'acted under dictation' i.e. that you exercised discretionary powers at the direction or at the behest of others.

For example, avoid:

*People and Culture said...and therefore.... or
The PVC said...and therefore..*

These statements undermine all the steps to good decision making because they imply that you did not act under your authority, did not refer to any facts, did not act objectively and paid no attention to what the person affected by your decision had to say to you.

Where staff conduct matters are being examined for example, in determining whether behaviour is unacceptable or unreasonable, consider what a "reasonable person" would judge to be unacceptable, inappropriate or unreasonable having regards to the circumstances.

If someone disagrees with your decision (which does happen), you should state clearly that the matter has been resolved to the satisfaction of the University after following due process but if there are concerns that proper process was not followed in relation to the complaint resolution, they are able to submit a new complaint via the Complaints portal (describing the alleged process failure) or, may refer the matter to an external regulatory body such as the Ombudsman.

A complaint resolution letter template for communicating your decision to complainants is available on the [ISU website](#).

3. What are the possible outcomes from enquiring into a complaint?

Your decision might be one of the following determinations:

- **No further inquiry is required** – complaint may be closed off because:
 - a. There is insufficient information to pursue further; or
 - b. The complaint is trivial or inconsequential (*this determination must be used with caution and must be strongly supported by the information you gathered that enabled you to make a decision*)

OR

- **Resolve at the local level.** For staff misconduct matters, reference should also be made to the disciplinary sanctions outlined in the Staff Enterprise Agreement.

OR

- **Conduct further inquiries** in accordance with policy and procedures, the relevant employment instrument and legislation. There may be a need to consult relevant advisers, specifically People & Culture, in doing this.
-

4. If the decision I make is to resolve the matter at the local level, what are some of the things I need to cover?

Normally, informal resolution of a complaint will involve talking to one or more of the parties.

The complainant may wish to deal with the situation themselves but may seek advice as to possible strategies to resolve the matter.

The complainant may ask the Line Manager or another person to speak to the respondent on their behalf. The Line Manager, or other person, may then privately convey the complainant's concerns, listen to the respondent's response and act accordingly.

Informal procedures emphasise resolution rather than determining the substance of a complaint and may include conciliation, mediation or training.

As stated above, all steps taken to resolve the complaint should be documented by the Line Manager. Documentation should be sufficiently detailed to provide a record of the steps taken in the management of the complaint.

5. What information should I provide to the complainant and respondent in communicating the outcome of my enquiry and final decision?

A written response outlining the resolution outcome and the reasons for it should be provided to the respondent. This should include:

- whether the complaint has substance;
- the reasons for the decision;
- the source of information relevant to the decision; and
- any action to be taken as a result of the decision.

A written response should also be provided to the complainant informing them of the conclusion of the process. Where appropriate, and taking into account privacy considerations, the response should broadly outline the key findings.

In communicating with the complainant, it is important to state clearly that you have heard the complainant's concerns and taken appropriate action to address them.

In addition, when writing the final letter, consideration should be given to giving the decision at the end of the correspondence rather than the beginning. This encourages the complainant to read the reasoning underpinning the decision first. The decision is then more likely to be understood. Some complainants, when faced by an adverse decision at the beginning of the letter, may not bother to read the rest of the letter before getting on the phone to the University to express their dissatisfaction or demand a review. This, unnecessarily, takes up more of your time.

A complaint resolution letter template for communicating your decision to complainants is included on the [ISU website](#).

IMPORTANT NOTE

In matters relating to staff misconduct, it is not appropriate to inform the complainant about the details of any disciplinary action taken against the respondent, as that is personal information between employer and employee.

Your PBP can advise you further on the content and format of correspondence to be issued to the parties in relation to staff conduct matters.

APPENDIX 1 - Extract from Staff Enterprise Agreement

74.5 Step 1 - Enquiry into Matters Concerning Staff Member's Conduct

74.5.1 A Line Manager will normally deal with matter(s) concerning a Staff Member's conduct through initial enquiry into the matter(s) and resolution at the local level using appropriate interventions, including counselling, mediation, and staff training.

74.5.2 Notwithstanding Clause 74.5.1, if the Line Manager:

- a) is unable to resolve the matter(s) at the local level; or
- b) is of the view that it is not appropriate to deal with the matter(s) at the local level; or
- c) is of the view the conduct is sufficiently serious as to result in termination of employment; or
- d) perceives a conflict of interest on their part in dealing with the matter(s);

the Line Manager will refer the matter(s) to the relevant Executive Manager for further consideration.