

Individual rights and mutual responsibilities of the parties to a complaint

This document supports the [Complaints Management Procedure – Unreasonable Complainant Conduct](#)

For Charles Sturt University to ensure that all complaints are dealt with fairly, efficiently, and effectively and that work health and safety standards and duty of care obligations are adhered to, the following rights and responsibilities must be observed and respected by all the parties to the complaint process.

Individual rights¹

Complainants have the right:

- to make a complaint and to express their opinions in ways that are reasonable, lawful, and appropriate, regardless of cultural background, national origin, sex, sexual orientation, gender expression, disability or other cultural or personal characteristics²
- to a reasonable explanation in a wide range of languages of the University's complaints policy and procedure, including details of the confidentiality, secrecy or privacy rights or obligations that may apply
- to a fair and impartial assessment and, where appropriate, investigation of their complaint based on the merits of the case³
- to a fair hearing⁴
- to a timely response
- to be informed in at least general terms about the actions taken and outcome of their complaint⁵
- to have decisions that affect them explained to them
- to be treated with courtesy and respect
- to communicate valid concerns and views without fear of reprisal or other unreasonable response.⁶

¹ The word 'rights' is not used here in the sense of legally enforceable rights (although some are), but in the sense of guarantees of certain standards of service and behaviour that a complaint handling system should be designed to provide to each of the parties to a complaint.

² Differences of opinion are normal: people perceive things differently, feel things differently and want different things. People have a right to their own opinions, provided those opinions are expressed in acceptable terms and in appropriate forums.

³ While degrees of independence will vary between complaint handlers, all should assess complaints fairly and as impartially as possible, based on a documented process and the merits of the case.

⁴ The 'right to be heard' refers to the opportunity to put a case to the complaint handler/decision-maker. This right can be modified, curtailed or lost due to unacceptable behaviour, and is subject to the complaint handler's right to determine how a complaint will be dealt with.

⁵ Provided this will not prejudice on-going or reasonably anticipated investigations or disciplinary/criminal proceedings.

⁶ Provided the concerns are communicated in the ways set out in relevant legislation, policies and/or procedures established for the making of such complaints/allegations/disclosures/etc.



Complaint managers have the right:

- to determine whether, and if so how, a complaint will be dealt with
- to finalise matters on the basis of outcomes they consider to be satisfactory in the circumstances⁷
- to expect honesty, cooperation, and reasonable assistance from complainants
- to expect honesty, cooperation and reasonable assistance from organisations and people within jurisdiction who are the subject of a complaint
- to be treated with courtesy and respect
- to a safe and healthy working environment⁸
- to modify, curtail or decline service (if appropriate) in response to unacceptable behaviour by a complainant.⁹

SUBJECTS OF A COMPLAINT HAVE THE RIGHT:

- to a fair and impartial assessment and, where appropriate, investigation of the allegations made against them
- to be treated with courtesy and respect by staff of the Charles Sturt University
- to be informed (at an appropriate time) about the substance of the allegations made against them that are being investigated¹⁰
- to be informed about the substance of any proposed adverse comment or decision
- to be given a reasonable opportunity to put their case during the course of any investigation and before any final decision is made¹¹
- to be told the outcome of any investigation into allegations about their conduct, including the reasons for any decision or recommendation that may be detrimental to them
- to be protected from harassment by disgruntled complainants acting unreasonably.

Mutual responsibilities

Complainants are responsible for:

- treating staff of Charles Sturt University with dignity and respect
- clearly identifying to the best of their ability the issues of complaint, or asking for help from the staff of Charles Sturt University to assist them in doing so
- providing Charles Sturt University to the best of their ability, with all the relevant

⁷ Some complaints cannot be resolved to the complainant's satisfaction, whether due to unreasonable expectations or the particular facts and circumstances of the complaint [see also footnote 24].

⁸ See for example WH&S laws and the common law duty of care on employers.

⁹ Unacceptable behaviour includes verbal and physical abuse, intimidation, threats, etc.

¹⁰ Other than where there is an overriding public interest in curtailing the right, for example where to do so could reasonably create a serious risk to personal safety, to significant public funds, or to the integrity of an investigation into a serious issue. Any such notifications or opportunities should be given as required by law or may be timed so as not to prejudice that or any related investigation.

¹¹ Depending on the circumstances of the case and the seriousness of the possible outcomes for the person concerned, a reasonable opportunity to put their case, or to show cause, might involve a face-to-face discussion, a written submission, a hearing before the investigator or decision maker, or any combination of the above.



information available to them at the time of making the complaint

- being honest in all communications with Charles Sturt University
- informing Charles Sturt University of any other action they have taken in relation to their complaint¹²
- cooperating to the best of their ability with the staff who are assigned to assess/investigate/resolve/determine or otherwise deal with their complaint.

If complainants do not meet their responsibilities, Charles Sturt University may consider placing limitations or conditions on their ability to communicate with staff or access certain services.

Charles Sturt University has a zero-tolerance policy in relation to any harm, abuse or threats directed towards its staff. Any conduct of this kind may result in a refusal to take any further action on a complaint or to have further dealings with the complainant.¹³ Any conduct of a criminal nature will be reported to law enforcement, and in certain cases legal action may also be considered.

The University Ombudsman and / or complaint managers are responsible for:

- providing reasonable assistance, including cultural and linguistic assistance, to complainants who need help to make a complaint and, where appropriate, during the complaint process
- dealing with all complaints, complainants and respondents professionally, fairly, and impartially
- giving complainants or their advocates a reasonable opportunity to explain their complaint, subject to the circumstances of the case and the conduct of the complainant
- giving respondents to a complaint a reasonable opportunity to put their case during any investigation and before any final decision is made¹⁴
- informing respondents to a complaint, at an appropriate time, about the substance of the allegations made against them¹⁵ and the substance of any proposed adverse comment or decision that they may need to answer or address¹⁶
- keeping complainants informed of the actions taken and the outcome of their complaints¹⁷
- giving complainants explanations that are clear and appropriate to their circumstances, and adequately explaining the basis of any decisions that affect them
- always treating complainants (and respondents) with courtesy and respect

¹² For example, whether they have made a similar complaint to another relevant person or body or have relevant legal proceedings on foot.

¹³ Other than in circumstances where the organisation is obliged to have an ongoing relationship with the complainant.

¹⁴ See footnote 10.

¹⁵ Other than where an allegation is so lacking in merit that it can be dismissed at the outset.

¹⁶ See footnote 10.

¹⁷ See footnote 5.



- taking all reasonable and practical steps to ensure that complainants¹⁸ are not subjected to any detrimental action in reprisal for making their complaint¹⁹
- giving adequate warning of the consequences of unacceptable behaviour.

If Charles Sturt University or its staff fail to comply with these responsibilities, complainants may complain to the University Ombudsman.

Respondents to a complaint are responsible for:

- cooperating with Charles Sturt University staff who are assigned to handle the complaint, particularly where they are exercising a lawful power in relation to a person or body within their jurisdiction²⁰
- providing all relevant information in their possession to Charles Sturt University or its authorised staff when required to do so by a properly authorised direction or notice
- being honest in all interactions with Charles Sturt University and its staff
- always treating Charles Sturt University staff with courtesy and respect
- refraining from taking any detrimental action against the complainant²¹ in reprisal for them making the complaint.²²

If the respondent to a complaint fails to comply with these responsibilities, action may be taken under relevant laws or codes of conduct.

Charles Sturt University is responsible for:

- maintaining an appropriate and effective complaint handling system in place for receiving, assessing, handling, recording, and reviewing complaints
- making decisions about how all complaints will be dealt with
- ensuring that all complaints are dealt with professionally, fairly, and impartially²³
- ensuring that staff treat all parties to a complaint with courtesy and respect
- ensuring that the assessment and any inquiry into the investigation of a complaint is based on sound reasoning and logically probative information and evidence
- finalising complaints based on outcomes that the University, or its responsible staff, consider to be satisfactory in the circumstances²⁴

¹⁸ 'Complainants' include whistleblowers/people who make internal disclosures.

¹⁹ 'Complaints' includes disclosures made by whistleblowers/people who make internal disclosures.

²⁰ This does not include any obligation to incriminate themselves in relation to criminal or disciplinary proceedings, unless otherwise provided by statute.

²¹ See footnote 18.

²² See footnote 19.

²³ See footnote 3.

²⁴ Once made, complaints are effectively 'owned' by the University Ombudsman who is entitled to decide (subject to any statutory provisions that may apply) whether, and if so how, each complaint will be dealt with, who will be the case officer/investigator/decision-maker/etc, the resources and priority given to actioning the matter, the powers that will be exercised, the methodology used, the outcome of the matter, etc. Outcomes arising out of a complaint may be considered by the complaint handler to be satisfactory whether the complainants, any respondents to a complaint or the University agrees with or is satisfied with that outcome.



- implementing reasonable and appropriate policies, procedures, and practices to ensure that complainants²⁵ are not subjected to any detrimental action in reprisal for making a complaint,²⁶ including maintaining separate complaint files and other operational files relating to the issues raised by individuals who make complaints
- adequately considering any confidentiality, secrecy or privacy obligations or responsibilities that may arise in the handling of complaints and the conduct of investigations.

If Charles Sturt University fails to comply with these responsibilities, complainants may complain to the NSW Ombudsman.

²⁵ See footnote 18.

²⁶ See footnote 19.



Document history

Approval date	Resolution or delegation	Nature of Amendment
March 2023		First version, published with the Complaints Management Procedure – Unreasonable Complainant Conduct

