



# University of St Andrews

## Policy on dealing with abusive, persistent or vexatious complaints and complainants

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## 1. Introduction

The University recognises that people may act out of character in times of trouble or distress. Issues of complaint raised with the University may, for instance, relate to upsetting or distressing personal circumstances and as a result, the process may be stressful for the complainant.

However, the actions of a minority of complainants who are angry, abusive, demanding or persistent may result in unreasonable demands on the University, or improper behaviour towards staff. The University considers such actions to be unacceptable. When this happens the University is required to consider the impact of such behaviour on the safety and well-being of staff and the ability of the University to provide a service to others.

This Policy sets out the University's approach to managing unacceptable actions and behaviours that may emerge through the course of a complaint being raised.

## 2. Objectives and scope

To ensure that access to the University Complaints Handling Procedure ("the CHP") is reasonably available to all who require to make use of it, and that the University's ability to provide services is not unduly degraded, through unacceptable behaviour and/or vexatious use.

This Policy sets out how the University will reach a view as to when a complainant's behaviour is assessed to be unacceptable, and what actions will then be undertaken in those circumstances.

### 2.1. *Intended audience*

This Policy applies to all persons who can make use of the CHP.

### 2.2. *Principles*

- The University reserves the right, following assessment, to determine that a complainant's actions and behaviour are unacceptable;
- If the University finds that a complainant's behaviour is unacceptable, it will advise the complainant in writing why this has been found to be the case, and the steps that are to be taken;
- Complainants will be advised of the ability to ask the University to review any decisions reached, and how to seek an external review by the Scottish Public Services Ombudsman ("the SPSO").

### 2.3. *Legislative and regulatory framework*

The Scottish Public Services Ombudsman Act 2002 makes provision for the University to investigate complaints raised against it, e.g. concerns relating to the failure of service delivery. The University's response to complaint management must be made within the framework of a model CHP, developed by the SPSO for implementation in the Higher Education sector.

### 2.4. *Relationship with existing University Policies and Regulations*

This Policy provides overall direction setting out the conditions that would allow the University to conclude that a complainant's behaviour is unacceptable and the steps that the University can then take to manage these circumstances. Should a complainant be a current student or member of staff, and their behaviour is found to be aggressive or

abusive, then the University's separate disciplinary procedures (student or staff) may be engaged, or additionally for students consideration offered under the University's Fitness to Study Policy.

## 3. Procedure

### 3.1. *Unacceptable actions*

A complainant's actions may be deemed to be unacceptable where these demonstrate behaviours, exemplified below, under the headings: **aggressive or abusive behaviour**; **unreasonable demands**; or **unreasonable persistence**. This is not intended to be an exhaustive list: this is intended to provide direction to all parties involved with implementing the University's CHP.

#### 3.1.1. **Aggressive or abusive behaviour**

The University understands that complainants can become angry about the issues they have raised in their complaint. If that anger escalates into aggression or abuse towards University staff (in any form, e.g. oral or written), the University considers that behaviour to be unacceptable. The University expects that all members of its community are treated with dignity and respect. Any form of violence or abuse towards staff is unacceptable.

Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether verbal or written) that may cause staff to feel offended, afraid, threatened or abused. The University will judge each situation individually, in the context that individuals who raise a complaint may be upset or distressed. Language, which is designed to insult or degrade, is racist, sexist, homophobic, or which makes serious allegations that individuals have committed criminal, corrupt or perverse conduct without any evidence is unacceptable. The University may decide that comments aimed not at us but at third parties are unacceptable, because of the effect that listening or reading them may have on our staff.

#### 3.1.2. **Unreasonable demands**

A demand will become unacceptable when it starts to (or when complying with the demand would) impact substantially on the ability of the University to: undertake its work; implement a legitimate decision; provide services; or meet its duty of care towards staff. This could include instances where an excessive amount of staff time and/or resource, to the disadvantage of other members of the University community or functions, arises.

Examples of actions grouped under this heading include:

- Demanding responses within an unreasonable timescale;
- Insisting on seeing or speaking to a particular member of staff when that is not possible;
- Making persistent and unreasonable demands or expectations of staff and/or the CHP after the unreasonableness has been explained (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails);
- Refusal to specify the grounds of complaint – when the University is investigating issues of complaint it needs to clearly identify the precise elements of complaint

to be investigated. Refusal to co-operate would make it difficult for the University to proceed. It is unreasonable to bring a complaint, and then not to respond to reasonable requests for clarification;

- Repeatedly changing the substance of a complaint;
- Raising unrelated concerns/issues of complaint;
- Raising subsidiary or new issues whilst a complaint is being addressed (following agreement on the scope of the complaint having been reached) that were not part of the complaint at the start of the complaint process;
- Refusal to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
- Insisting on the complaint being dealt with in ways which are incompatible with the CHP;
- Unreasonable use of the CHP, when the effect of repeated complaints is to harass, or to prevent the University from pursuing a legitimate aim or implementing a legitimate decision;
- Unreasonable use of the CHP to make unsubstantiated allegations about a person;
- Using multiple University processes in parallel to raise similar or related issues of complaint, for the same issue; or
- Make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced.

### **3.1.3. Unreasonable persistence**

The University recognises that some people will not, or cannot, accept that the University is unable to assist them further, or provide a level of service other than that provided already. A complainant may persist in disagreeing with the actions or decisions taken following the conclusion of the CHP.

Examples of actions grouped under this heading include:

- Persistent refusal to accept a legitimate decision made in relation to a service delivered or complaint received; or
- Pursuing a matter internally within the University where the University's CHP has been properly implemented, followed and fully exhausted.

## **3.2. *Managing unacceptable actions***

### **3.2.1. Immediate steps – aggressive or abusive behaviour**

1. Any member of University staff who directly experiences aggressive or abusive behaviour from a complainant has the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this Policy.
2. The matter will be reported to the appropriate Line Manager.
3. Incidents may also be reported to the Police.
4. Where the complainant is a student or member of staff at the University, disciplinary proceedings as appropriate may be initiated.

### **3.2.2. Restrictions**

1. The University may restrict contact in person, by telephone, email etc. or by any combination of these. The University will try to maintain at least one form of contact with a (vexatious) complainant.
2. The University reserves the right to write to the person concerned, informing them that no direct contact between them and the University will be entered into. Further communication may be maintained between the University and a third party representative of the person concerned.
3. The University will not deal with communications that are abusive, or contain unsubstantiated allegations. Should such communications be received, the University will advise where it finds the language offensive, unnecessary or unhelpful. The University will ask the person concerned to stop using such language. They will also be advised that the University will not respond to their communications if their use of offensive language etc. does not stop. The University may require that future communication takes place via a third party (see point 2 above).
4. University staff may end telephone calls or leave a face-to-face meeting where they consider the language or behaviour of the complainant to be aggressive, abusive, or offensive. The member of University staff has the right to make that decision. They should advise the person concerned that their behaviour is unacceptable, and to end the interaction if that behaviour does not immediately stop.
5. Where a complainant repeatedly phones, visits the University, raises repeated issues, or sends large numbers of documents where their relevance is not clear, then the University may decide to:
  - a. Limit contact to telephone calls from the complainant at set times on set days;
  - b. Restrict contact to a single, named member of University staff who will deal with future calls or correspondence from the complainant;
  - c. Arrange to see the complainant by appointment only;
  - d. Restrict contact from the complainant to writing only, or from a third party representative of the complainant;
  - e. Return any documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed; or
  - f. Take any other action that we consider appropriate.
6. In exceptional cases, the University reserves the right to refuse to consider a complaint or future complaints from an individual. The University will take into account the impact on the individual and also whether there would be a broader public interest in considering the complaint further.

### **3.3. Imposing restrictions**

The following process will be followed to impose restrictions:

1. The University will ensure that the complaint is being, or has been, investigated properly according to the CHP.
2. Unless it is not appropriate to do so, the University may first write to a complainant to provide reasonable warning that their behaviour is giving cause

for concern. This gives the complainant the chance to consider and to modify their behaviour before any restrictions available through this Policy are applied.

3. The Head of Information Assurance and Governance will provide the Vice-Principal, Governance, or their nominee, an assessment on whether the actions/behaviour of a complainant are abusive, persistent or vexatious, within the scope of this Policy.
4. The Vice-Principal, Governance will determine what (if any) restrictions are to be imposed.
5. The University will confirm in writing with the complainant:
  - a. Why the University has taken the decision;
  - b. What action(s) are being taken;
  - c. The duration of that action(s);
  - d. The review process of this Policy; and
  - e. The right of the complainant to contact the SPSO for an external review.

### **3.4. Review**

Complainants can ask the University to review the decision to impose restrictions, following a determination that a complainant's behaviour is unacceptable. The grounds for review are limited to:

1. In reaching a judgement that a complainant's behaviour is unacceptable, the University has made a substantial error in fact; or
2. Significant, new evidence comes to light.

A review will normally be undertaken by the Master or by another member of the Principal's Office, with the exception of the Vice-Principal, Governance.

At review, the Master has the discretion to remove or vary the restrictions as they think best. They will make their decision based on the evidence available to them.

Following review, the complainant will be advised in writing of the outcome i.e. that either the restrictions applied by the Vice-Principal, Governance still apply or a decision to follow a different course of action has been reached.

### **3.5. Recording incidences of unacceptable behaviour and vexatious complainants and complaints**

The University will record all incidents of unacceptable actions by complainants. Where it is decided to apply restrictions, an entry noting this will be made in the relevant file and on appropriate records. Records of incidences of unacceptable behaviour by complainants and the steps taken by the University will be subject to periodic review (see 3.5.1 below).

#### **3.5.1. Review of the application of restrictions**

Where restrictions have been applied to a complainant under this Policy e.g. any decision to restrict contact with a complainant, these will be reviewed bi-annually, by the Head of Information Assurance and Governance with recommendations passed to the Vice-Principal, Governance. The purpose of this review is to establish whether it is appropriate or otherwise to maintain a restriction.



## **4. Methodology**

The development of this Policy was partly informed by external benchmarking, drawing upon similar policies in use at the SPSO, other universities and local authorities.

## **5. Review**

This Policy will be reviewed at regular intervals. The review period will be approved by the Vice-Principal, Governance, and recorded on the accompanying coversheet. Any significant change to University procedures primarily concerned with complaint management may trigger an earlier review.

## **6. Availability**

This Policy will be published on the University Website. The Policy can be made available in different formats: please direct any requests to the Head of Information Assurance and Governance.

## **7. Contacts/further information**

Enquiries regarding this Policy can in the first instance be directed to the Head of Information Assurance and Governance.