



## MANDELBAUM HOUSE COMPLAINT RESOLUTION PROCEDURES

### 1 Introduction

- 1.1 Mandelbaum House Ltd is committed to providing a safe, happy and productive living and working environment for its residents, staff, volunteers, Council members, guests, and other members of its community.
- 1.2 This can only be achieved if all community members feel that they can confidentially raise complaints, and that Mandelbaum House will respond fairly and appropriately. Complaints provide an opportunity for Mandelbaum House to identify areas for improvement, and to enhance the quality of our services and the experience of our residents and staff.
- 1.3 Mandelbaum House will seek to resolve all complaints sensitively, promptly, confidentially and with a minimum of disruption, while following the principles of procedural fairness.
- 1.4 These procedures should be read in conjunction with the *Sexual Misconduct Policy* and the *Discrimination, Harassment and Bullying Policy*.

### 2 Definitions

- 2.1 In these procedures:

<b>CEO</b>	means the Chief Executive Officer of Mandelbaum House.
<b>community member</b>	means a resident, staff member, volunteer, Council member, guest, or other member of the Mandelbaum House community.
<b>complainant</b>	means any person who makes a complaint in accordance with these procedures.
<b>Harassment and Discrimination Officer</b>	means the person nominated by the Mandelbaum House Council to receive concerns and complaints of sexual misconduct, sexual harassment, discrimination, harassment, vilification and bullying.
<b>respondent</b>	means a person whose conduct is the subject of a complaint.
<b>Staff (member)</b>	means continuing, fixed term and casual employees, and contractors.
<b>University</b>	means the University of Sydney.
<b>University accommodation</b>	means University owned and affiliated residential accommodation.

### **3 Meaning of complaint**

3.1 A complaint is any problem, concern or grievance (however described) raised with Mandelbaum House that requires the involvement of the CEO or the Harassment and Discrimination Officer, including (but not limited to):

- (a) complaints made in accordance with the *Sexual Misconduct Policy*; and
- (b) complaints made in accordance with the *Discrimination, Harassment and Bullying Policy*.

3.2 General inquiries, feedback and comments (including on social media) will generally not be regarded as a complaint.

### **4 Informal resolution**

4.1 Where appropriate, community members should seek to resolve issues informally by directly approaching the person they believe is responsible for the issue (either on their own or with another person as a support person), and:

- (a) telling them what the issue is; and
- (b) asking them to stop or to behave differently.

4.2 Informal resolution is not appropriate for complaints concerning alleged criminal conduct, including sexual misconduct.

### **5 Making a complaint**

5.1 A person who is unable to resolve their issue through informal resolution, or considers informal resolution to be inappropriate, can make a complaint by contacting:

- (a) Harassment and Discrimination Officer: Naomi Winton, 0412 544 854, [nwinton@mandelbaum.usyd.edu.au](mailto:nwinton@mandelbaum.usyd.edu.au); or
- (b) Chief Executive Officer: Shana Kerlander, 0414 138 305, [ceo@mandelbaum.usyd.edu.au](mailto:ceo@mandelbaum.usyd.edu.au).

5.2 Complainants are not required to put their complaint in writing in the first instance. However, a written complaint may be required if an investigation is needed.

5.3 Complaints about or involving Mandelbaum House should be sent to the Chairperson, Mandelbaum House Council: A/Professor David Levy, 0421 932 035, [david.levy@sydney.edu.au](mailto:david.levy@sydney.edu.au).

### **6 Assisted resolution**

6.1 Where it is appropriate to the type of complaint, and taking into account the wishes of the complainant, Mandelbaum House may attempt to resolve the complaint through assisted resolution. This may include, but is not limited to:

- (a) helping the parties clarify a misunderstanding;
- (b) an apology;
- (c) facilitated discussion, including mediation or conciliation;
- (d) an agreed plan of action to avoid further incidents;

- (e) implementing awareness-raising or educational sessions about behaviour. Examples include distributing information to residents, or requiring staff to undertake cross-cultural awareness training.
- 6.2 Assisted resolution does not involve an investigation or a formal decision by Mandelbaum House about what has happened, or what the consequences should be.
- 6.3 Assisted resolution is usually not appropriate for complaints concerning alleged criminal conduct, including sexual misconduct.
- 6.4 Mandelbaum House will keep a confidential record of the outcome of any assisted resolution process.

## **7 Formal resolution**

- 7.1 If assisted resolution is unsuccessful, or inappropriate due to the nature of the complaint, Mandelbaum House may formally resolve the issue by conducting an independent investigation.
- 7.2 When deciding whether an investigation is appropriate, Mandelbaum House will take into account:
- (a) whether attempts at assisted resolution have failed or are inappropriate;
  - (b) whether there is a dispute as to the facts;
  - (c) when the conduct is alleged to have occurred;
  - (d) whether the alleged conduct is serious (for example, whether it involves alleged criminal conduct, or is alleged to have impaired the reasonable freedom of another community member to live, study, work or relax comfortably at Mandelbaum House);
  - (e) whether the alleged conduct has been repeated after an assisted resolution process;
  - (f) whether the respondent is in a position of power or authority;
  - (g) any risk to the health and safety of community members; and
  - (h) the wishes of the complainant.
- 7.3 Mandelbaum House may engage an internal or external person to conduct the investigation on its behalf.
- 7.4 The investigator may determine their own procedures, but must conduct the investigation in accordance with the principles set out in these procedures.
- 7.5 At the conclusion of the investigation, the investigator will provide the CEO with a written report that sets out their findings of fact (with written reasons) and any breaches of policy, and makes recommendations for resolving the complaint.
- 7.6 The CEO will take the investigation report and any other relevant considerations into account when deciding how to resolve the complaint. The CEO may decide to:
- (a) take no further action;
  - (b) issue a warning;
  - (c) require one or more of the parties to undertake counselling or training;

- (d) take disciplinary action, including (as relevant) expulsion, suspension, termination of employment or termination of contract; and/or
  - (e) take any other action considered appropriate in the circumstances.
- 7.7 The CEO will meet with and write to the complainant and the respondent to inform them of the outcome of the complaint.
- 7.8 Mandelbaum House will keep a confidential record of the outcome of any formal resolution process.
- 8 Opportunity to be heard**
- 8.1 The investigator will ask the complainant to describe their complaint in detail, usually in writing, and to provide any documents relevant to the complaint.
- 8.2 The investigator will:
- (a) provide the respondent with the allegations in sufficient detail to ensure that they understand them; and
  - (b) ensure that the respondent has a reasonable period of time in which to respond to the allegations and any relevant information, and to provide any relevant documents.
- 8.3 Complainants and respondents will be strongly encouraged to bring a support person to any meeting with the investigator.
- 8.4 The standard of proof to be satisfied in investigations is ‘on the balance of probabilities’, which requires satisfaction on the evidence that the matter found to have occurred is more likely to have occurred than not. Mandelbaum House and the investigator will take into account the nature and seriousness of the alleged conduct when deciding whether the standard of proof is met.
- 9 Timeliness**
- 9.1 Mandelbaum House will address complaints in a timely manner. It will inform all parties in writing of the reasons for any delay, and the projected timeframe for resolution of the complaint.
- 9.2 The investigator must conduct the investigation in a timely manner, and must take reasonable steps to complete the investigation as soon as practicable. The investigator will inform all parties of the reasons for any delay, and the projected timeframe for completion of the investigation.
- 10 Impartiality**
- 10.1 Mandelbaum House will resolve complaints in a manner that is free from actual or reasonably perceived bias, and conflicts of interest.
- 10.2 The investigator must not have an actual or reasonably perceived conflict of interests or bias in regard to any of the parties to the complaint or its subject matter.
- 10.3 If the Harassment and Discrimination Officer or the CEO has or may be perceived to have a conflict of interest or bias in regard to the complaint or its subject matter, the complaint will be referred to the Chair of the Mandelbaum House Council.

## **11 Confidentiality**

11.1 Mandelbaum House will keep information about a complaint confidential, except where the disclosure of information is necessary to:

- (a) obtain a response from the respondent;
- (b) conduct an investigation;
- (c) ensure the safety and wellbeing of staff, members, guests and visitors; or
- (d) meet Mandelbaum House's legal obligations.

11.2 Subject to clause 11.3, complainants and respondents must keep confidential:

- (a) the identity of the complainant, the respondent and participants in the resolution or investigation of a complaint;
- (b) the information provided or collected during the resolution or investigation of a complaint;
- (c) the fact that a complaint has been made; and
- (d) any report, outcome or determination of a complaint.

11.3 Complainants and respondents may disclose the information in clause 11.2 in order to report a crime, or to obtain support or advice from:

- (a) their immediate family members;
- (b) a qualified counsellor or psychologist;
- (c) their student representative or lawyer;
- (d) the Police;
- (e) the NSW Anti-Discrimination Board or Australian Human Rights Commission.

## **12 No victimisation**

12.1 A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person:

- (a) making a complaint;
- (b) providing information about a complaint; or
- (c) supporting a person who has made a complaint.

12.2 Victimisation may result in disciplinary action, including (as relevant) expulsion, suspension, termination of employment or termination of contract.

## **13 Vexatious complaints**

13.1 A person must not make a vexatious or malicious complaint.

13.2 For the purposes of this policy, a complaint will be considered vexatious or malicious if the person makes it:

- (a) knowing it to be false; and
- (b) for the primary purpose of damaging Mandelbaum House or the person against whom the complaint is made.

13.3 Making a vexatious complaint may result in disciplinary action, including (as relevant) expulsion, suspension, termination of employment or termination of contract.

## **14 Appeals**

14.1 A respondent may appeal against a decision of Mandelbaum House to take disciplinary action against them in accordance with these procedures.

14.2 An appeal may only be made on one or more of the following grounds:

- (a) the decision is unreasonable or cannot be supported, having regard to the relevant evidence;
- (b) the investigation was procedurally unfair;
- (c) new relevant evidence has become available that was not available or known to the respondent at the time of the investigation, and could reasonably be expected to affect the decision;
- (d) the penalty to be imposed on the respondent is excessive or inappropriate.

14.3 Any appeal must be lodged in writing with the Chair of the Council within 20 working days of the date that the respondent was informed of the decision, and must specify one or more grounds of appeal.

14.4 Any appeal will be:

- (a) conducted on the written material; and
- (b) limited to the grounds of the appeal, as specified by the respondent.

14.5 The Chair of the Council may uphold or dismiss an appeal. If the Chair dismisses an appeal, the decision of the CEO will stand. If the Chair upholds an appeal, they may make a new decision about the outcome of the complaint.

14.6 At the conclusion of the appeal, the Chair of the Council will provide the respondent with a written statement of the outcome of the appeal, including reasons.

## **15 Record keeping**

15.1 All records collected, generated or used as part of the resolution of a complaint under these procedures will be stored confidentially in a secure location, in accordance with the Commonwealth *Privacy Act 1988*.

15.2 Subject to clause 11.1, access to information about a complaint of sexual misconduct or sexual harassment will be restricted to Mandelbaum House staff and Council members who have a need to access and use the information in order to meet their responsibilities under the *Sexual Misconduct Policy* and these procedures.

## **16 External assistance and advice**

16.1 Mandelbaum House will take all reasonable steps to resolve complaints internally.

16.2 However, if a person makes a complaint about conduct over which Mandelbaum House has no jurisdiction, or which necessarily involves the University or University accommodation, Mandelbaum House may refer the complaint to, or seek assistance from, the relevant external organisation to resolve the complaint. We will not do this without seeking the views of the complainant.

- 16.3 Complainants may also elect to contact the [University](#), the [NSW Anti-Discrimination Board](#) or the [Australian Human Rights Commission](#) to make a complaint.
- 16.4 Mandelbaum House may refer complaints to its insurers.

#### **SCHEDULE 1 – Emergency contacts**

- 1) In an emergency, students should contact **emergency services** by dialling triple zero (**000**).
- 2) Residents who feel unsafe on campus or are concerned for someone else’s safety can also contact **Campus Security** on **9351 3333**, 24 hours a day.
- 3) Residents and former residents who have experienced sexual assault can contact:
  - (a) **NSW Rape Crisis Service** on **1800 424 017**, 24 hours a day;
  - (b) **1800RESPECT** on **1800 737 732** or online via [www.1800respect.org.au](http://www.1800respect.org.au), 24 hours a day;
  - (c) **Royal Prince Alfred (RPA) Hospital Sexual Assault Service** on **9515 9040** (Monday to Friday) or **9515 6111** (after hours). Counselling and medical services are available for anyone who has been sexually assaulted. Campus Security can arrange transport to RPA.
- 4) Residents who have experienced sexual misconduct, sexual harassment, discrimination, harassment, vilification or bullying have access to a range of University support services and assistance, including:
  - (a) **Counselling and Psychological Services (CAPS): 8627 8433** (from 9am-4:30pm, Monday to Friday);
  - (b) **USYD 24/7 Crisis Line: 1300 474 065 (telephone support)** (from 5pm to 9am weekdays, 24 hours on weekends and public holidays);
  - (c) **USYD 24/7 Crisis Text: 0488 884 429 (SMS chat)** (from 5pm to 9am weekdays, 24 hours on weekends and public holidays);
  - (d) **University Health Service: 9351 3484** (from 8:30am to 5pm, Monday to Friday).

## Notes

### Complaint Resolution Procedures 2019

Date adopted: 7 November 2019

Date commenced: 7 November 2019

Related documents: *Sexual Misconduct Policy 2019*  
*Discrimination, Harassment and Bullying Policy 2019*

Related legislation: *Anti-Discrimination Act 1977 (NSW)*  
*Crimes Act 1900 (NSW)*  
*Privacy Act 1988 (Cth)*  
*Disability Discrimination Act 1992 (Cth)*  
*Racial Discrimination Act 1975 (Cth)*  
*Sex Discrimination Act 1984 (Cth)*