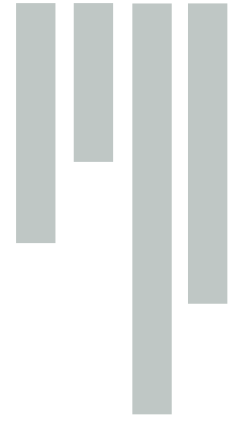


HEA

An tÚdarás um Ard-Oideachas
The Higher Education Authority

Unreasonable Conduct Policy



1. Introduction

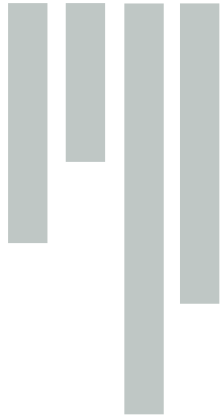
The primary function of the Higher Education Authority (“HEA”) is to lead the strategic development of the Irish higher education and research system with the objective of creating a coherent system of diverse institutions with distinct missions. In furthering their objectives, the HEA will often receive and deal with complaints from stakeholders engaged with higher education institutes. The HEA seeks to address all complaints in fair and transparent manner and uphold the principles of the Public Sector Duty.

While, in the majority of cases the complainants interact with the HEA in a restrained and reasonable manner, we fully appreciate that some are particularly stressed when pursuing complaints against higher education institutes and that, from time to time, this stress will show in these interactions. Our staff know that managing such interactions professionally and appropriately is an intrinsic part of their job. However, this does not mean that we expect our staff to tolerate behaviour from complainants that is abusive, offensive, threatening or, due to the frequency of contact, accounts for a disproportionate amount of time and resources that could be spent more effectively dealing with other aspects of their role in helping deliver the HEA’s primary function. Unreasonable conduct may arise in the event of a complaint however this policy applies to all avenues of communication.

2. Unreasonable conduct

In communicating with complainants, we require our staff to engage, respond and treat every complaint fairly and with respect. We also require our staff to be professional and courteous. However, this does not mean that we expect our staff to tolerate unreasonable conduct. Some examples of the type of behaviour that we consider to be unreasonable conduct, and which may cause us to use this policy include but are not limited to:

- Unreasonable Behaviour: Unreasonable behaviour includes threats of violence, abuse of the HEA’s staff, rude or aggressive conduct, and threats of self-harm, using abusive or foul language face to face, on the telephone, in writing or on social media, or electronically recording meetings and conversations without the prior knowledge and consent of the other person involved, or refusing to accept any findings of the HEA, or refusing to accept any explanation of what the HEA can and cannot investigate.

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- Unreasonable Demands: An outcome or approach is expected that is unrealistic or disproportionate. Examples include repeated demands for investigation of a matter that is outside remit, seeking a remedy that is disproportionate, unrealistic or outside of the HEA's legislative power; or refusing to accept that certain issues are not the HEA's responsibility; insisting that the enquiry/complaint be dealt with in ways which are incompatible with good practice.
 - Unreasonable Lack of Co-operation: Persistent presentation of a complaint in a disorganised manner. Examples include not identifying the complaint clearly, presentation of often unnecessary voluminous material that requires in-depth review while also expecting instantaneous responses, transforming the complaint midway through the investigation process, and (occasional) dishonesty in the statement of facts, or submitting untrue documents.
 - Unreasonable Arguments: Examples include exaggerating issues, presenting irrelevant and/or unreasonable arguments, placing too much emphasis on trivialities, insisting that the complainant's version of events be accepted as fact where there is no objective evidence to support this view, obstinately refusing to consider counter-arguments, being guided by unfounded conspiracy theories and/or by desire for revenge or retribution against another person or public body.
 - Unreasonable Persistence: Persistence with a complaint that has already been reviewed and dealt with by the HEA. The persistence may be manifested in different ways; for example, insisting that the complaint be looked at again following a review by the HEA or by persevering with an argument that has earlier been addressed, or making an unreasonable number of contacts with the HEA, by any means in relation to a specific enquiry/complaint and expecting immediate responses.



3. How we will manage unreasonable conduct

When we consider that behaviour is unreasonable, we will tell the complainant why we find their behaviour unreasonable and we will ask them to change it. Where it might be of assistance, we will consider possible adjustments to our service which may help the complainant to avoid unreasonable behaviour into the future.

However, if the unreasonable behaviour continues, we will take action to limit the complainant's contact with the HEA. The decision to limit access will only be taken after we have reviewed the complaint. We take these restrictions seriously and therefore those decisions will be taken at Principal Officer level. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:


- requesting contact in a particular form (letters only);
- requiring contact to take place with a named officer and refraining from any contact with any other members of the HEA where requested to do so;
- restricting telephone calls to specified days and times;
- restricting access to the office of the HEA;
- requesting contact through a third party representative;
- asking the complainant to enter into an agreement about their future conduct; and/or
- terminating all contact with the complainant where the behaviour shows no signs of abating.

In all cases, we will write to tell the complainant why we believe their behaviour is unreasonable and what action we propose to take. However, where the behaviour is so extreme that it threatens the immediate safety and welfare of the HEA's staff or others, we will consider other options, for example, reporting the matter to the Garda Síochána or instigating legal action. In such cases, we may not give the complainant prior warning of that action.

Regardless of the complaint's behaviour, our staff will act respectfully to the complainant and impartially with regard to the complaint.

4. Appealing our decision

Following our decision to write to the complainant stating that we find their behaviour unreasonable, the complainant may appeal our decision. Appeals need to be made in writing and submitted to the Head of Corporate Affairs. If the complaint relates to the Head of Corporate Affairs or if the Head of



Corporate Affairs needs to recuse themselves from the process for whatever reason, the complaint should be directed to the Office of the CEO for assignment to another Principal Officer within the organisation. The complainant should be advised to make such an appeal within 20 days. Appeals need to be made in writing and submitted to the CEO who shall request a member of the HEA Board to consider the appeal. They will consider the appeal within 30 working days of receipt. Restrictions will stay in place until a decision is made. Any amendments to the restrictions will be made by the individual considering the appeal.

5. Withdrawal of ‘unreasonableness’ status

Following a decision to deem a complainant unreasonable, the HEA will not engage with the complainant except in the restricted manner outlined to them. The complainant will have the opportunity to have their unreasonableness status withdrawn if the complainant can subsequently demonstrate a more reasonable approach.

6. Recording instances of unreasonable complainant conduct

All instances of unreasonable conduct requiring the HEA to use this Unreasonable Conduct Policy are recorded and kept on file. In line with the HEA’s Privacy Notice, we will not keep this information for longer than is necessary to achieve the purpose for which it was collected.