1. INTRODUCTION

TAFE NSW has a zero tolerance approach towards harm, abuse or threats directed towards TAFE NSW employees or third parties by complainants. Conduct of this type will be dealt with under this procedure and in accordance with TAFE NSW’s duty of care towards its staff and others and obligation to manage workplace safety.

2. PURPOSE

This purpose of this procedure is to set out how and when TAFE NSW will restrict or terminate complainants’ access to TAFE NSW for unreasonable conduct.

3. SCOPE

This procedure is for the use of TAFE NSW employees who manage complaints and applies to complainant conduct that is unreasonable.

4. PROCEDURE

4.1 CRITERIA FOR RESTRICTION

The Project Manager, Complaints Management has authority to restrict a complainant’s access to TAFE NSW’s services in circumstances where a complainant has engaged in unreasonable conduct. Whether a restriction is imposed and the type of restriction will depend on the:
4.1 PROCEDURE

a. Nature of the unreasonable conduct - threats of harm, actual harm and/or verbal abuse will be likely to result in some restriction of access.
b. Number of instances of unreasonable conduct – the more instances, the more likely access is to be restricted.
c. Impact the unreasonable conduct has on the ability of TAFE NSW to undertake business as usual functions.
d. Impact the unreasonable conduct has had on TAFE NSW Staff, other complainants or third parties.
e. Level of diversion of resources from TAFE NSW progressing and finalising other complaints.
f. Seriousness of the complaint giving rise to the unreasonable conduct – if the complaint lacks substance or cannot be reasonably resolved TAFE NSW will be more likely to restrict access to a complainant as a result of unreasonable conduct.
g. Circumstances of the complainant – TAFE NSW will be less likely to restrict access in circumstances of hardship or where the complainant has other barriers that impact on his or her ability to communicate effectively with TAFE NSW in relation to his or her complaint.

4.2 TYPES OF RESTRICTION

TAFE NSW may adapt the ways in which we deal with complainants who have engaged in unreasonable conduct by:

a. Limiting access to one staff member at TAFE NSW (with one back up staff member in case of absence).
b. Restricting the issues TAFE NSW will consider and/or to which TAFE NSW will respond.
c. Restricting when, and for how long a complainant can contact TAFE NSW and/or the number of times the complainant can contact TAFE NSW.
d. Restricting the locations in which a complainant can have face-to-face access to TAFE NSW staff.
e. Limiting the complainant to particular types of communication such as only in writing or via a representative.
f. Terminating contact with the complainant altogether (last resort).

4.3 NOTIFICATION OF RESTRICTION

A complainant will be given one warning that TAFE NSW is considering restricting access to its services or staff for unreasonable complainant conduct and the type of restriction being considered. If the conduct ceases the complaint will be handled as usual from that point forward.

If the conduct continues or recurs the complainant will be notified of the restrictions and the reasons for the restrictions that will be in place from the time the complainant receives the notification.
4.4 REVIEW OF A DECISION TO RESTRICT ACCESS

Complainants who are subject to restricted access to TAFE NSW may request that this restriction be reviewed no earlier than 3 months after the restriction has been imposed. TAFE NSW may lift a restriction to access if the complainant’s conduct during the restriction period has been reasonable, the review request is made in a reasonable way and if the complainant undertakes to continue to interact with TAFE NSW reasonably.

If the complainant wishes to have the decision reviewed before the expiration of 3 months or after a review upholds the decision to restrict access the complainant should approach the NSW Ombudsman with a complaint about TAFE NSW’s decision.

4.5 PROCEDURE PERFORMANCE INDICATORS

The performance indicators are:

a. A reduction in instances of unreasonable conduct by complainants.
b. Earlier resolution of complaints made by complainants who engage in unreasonable conduct.

5. RESPONSIBILITIES

| Project Manager, Complaints | The Project Manager, Complaints Management is responsible for advising on decisions to restrict complainant access to services or staff. Written advice to complainants that access to services or staff will be restricted is to be reviewed by the TAFE NSW Legal Service Unit prior to issue. |

6. DEFINITIONS

| Complaint | A complaint is an expression of dissatisfaction made to TAFE NSW where a response or resolution is explicitly or implicitly expected (or required by legislation). |
| Consumer Protection Officer | All approved Smart and Skilled training providers are required to have a Consumer Protection Officer who can assist with student issues or concerns that are not first resolved by the training provider. |
| Unreasonable Conduct | Unreasonable conduct by a complainant is any behaviour by a current or former complaint which raises health, safety or equity issues. |
The conduct includes unreasonable:

- Persistence
- Demands
- Lack of cooperation
- Arguments
- Behaviours.

7. RELATED DOCUMENTS

This procedure should be read in conjunction with the following related documents:

- Complaint Management Policy
- Complaints Management Procedure

8. CONTACTS

Business Owner  General Manager Governance, Legal & Risk
WD Officer  Complaints Referral Specialist – E: Nicholas.Race2@tafensw.edu.au

9. DOCUMENT INFORMATION AND REVIEW

This policy document will be reviewed at least every two years.

HPRM No.  D17/64553
Review Due  13 June 2019

Approval History
No:  1.1
Effective:  1 July 2017
Approved by:  Chief Operating Officer
Amendment:  Minor amendment to update WD Officer