



# STAFF COMPLAINT PROCEDURE

JANUARY 2017

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# 1. Introduction

## 1.1 Scope and purpose

This procedure outlines the processes for staff to follow when making and managing work related complaints (referred to as staff complaints) and should be read together with the [Dignity and Respect in the Workplace Charter](#).

Staff complaints can cover a range of concerns, such as:

- interpersonal conflict or disagreement between staff
- disagreements about how work is allocated or managed
- disagreements about the application of workplace policies
- staff behaviour
- other perceived unfairness in workplace decisions, systems or policies.

The processes are intended to address staff complaints:

- effectively, impartially and confidentially
- at the level closest to the source
- promptly and with procedural fairness
- with the least possible impact on everyone's health and safety
- with the least possible work disruption
- without reprisal.

Some complaints are not dealt with by the Department. Where there are allegations of criminal conduct, there must be a report to Police (if in doubt, contact Legal Services Directorate on 9561 8538). Where there is a risk of significant harm to a student contact the Child Protection Helpline. For other risks of a child protection nature or if unsure complete the Mandatory Reporter Guide, record the outcome and take any required action.

Other complaints need to be referred to a specialist area of the department for handling, if a staff complaint is about:

- allegations of a child protection nature against a staff member
- allegations of criminal conduct, corrupt conduct or other misconduct
- a matter that seems to constitute a protected disclosure
- a risk of harm or significant harm to a child
- privacy issues
- legal proceedings and requests for payment of damages.

For detailed information about the processes for these and similar complaints and contact details for seeking advice from the relevant area of the Department, see [Referring Complaints](#).

**Appendix 1 – Flowchart Staff Complaint** outlines the key steps in the process where the complaint raises concerns about disagreements, conflict and/or the behaviour of another staff member.

**Appendix 2 – Flowchart staff/workplace decisions, systems and policies** outlines the key steps in the process where the complaint raises concerns about workplace decisions, systems or policies.

A Complaint Management Toolkit which is designed to assist with and support the management of complaints is available for use in conjunction with this procedure.

The procedure gives timeframes for complainants and managers to undertake key steps in the process. Those timeframes should be met where reasonably practicable but may, in some cases, be impacted by factors such as school holidays, staff availability, staff seeking advice, complexity and other workplace priorities.

## 2. Resolving concerns directly

The Department expects all staff to identify and raise workplace concerns as informally as possible. Staff are required to work cooperatively and respectfully to resolve concerns.

### 2.1 Concerns involving a colleague

If a staff member has concerns about the behaviour of a colleague (other than child protection or serious misconduct concerns) they should promptly raise those concerns directly with the person involved, in a calm and respectful manner. In many circumstances, a respectful conversation will resolve a concern or interpersonal conflict.

When discussing interpersonal concerns, staff should:

- outline the concern/s politely and professionally
- state the impact it is having on them
- seek agreement on a resolution.

If a staff member does not feel confident to raise an issue alone, they may seek the assistance of a mutually agreed member of staff to attend the discussion.

If the direct conversation does not resolve the concerns, the staff member may ask their manager, another suitable manager or member of the executive, to facilitate a conversation with the colleague. The conversation should take place within 5 working days of any request.

### 2.2 Concerns about a workplace decision, system or policy

If a staff member has concerns about a workplace decision, system or policy, they should raise those concerns directly with the decision maker or their principal / workplace manager (for systems and policy matters) as soon as possible. They should:

- outline the concerns to the decision maker or their immediate workplace manager/principal politely and professionally
- seek an explanation or further information about the decision, system or policy.

In many circumstances, a respectful conversation will allow the decision, system or policy to be explained or for the decision to be reconsidered.

## 3. Making a staff complaint

Where the staff member continues to have workplace concerns after the discussion/s or facilitated conversation/s detailed above, they can consider making a formal complaint. Any complaint should be made promptly. Staff are encouraged to put their complaint in writing. (See [Staff Complaint Form](#)). The complaint should state:

- the nature and full details of the complaint
- the parties involved
- the circumstances giving rise to the complaint
- the current situation
- the issues (without extraneous material)
- the outcome/s sought.

Staff should give their written complaint to their immediate workplace manager. The principal or workplace manager will appoint a complaint manager to manage the complaint process (who can be the principal or workplace manager). However, if the complaint is about their manager or someone more senior, the staff member should provide the complaint to the supervisor of the person the complaint is about, to manage the matter. If the complaint is about a staff member from another school or work area, the complaint should be provided to their principal or immediate workplace manager.

A complaint of racism can be raised with the Anti-Racism Contact Officer, who can provide advice about the process and information about who will handle the complaint, including whether it may need to be referred.

## 4. Confidentiality, fair treatment and participation

All staff involved in a complaint (e.g. complaint managers, reviewers, complainants, people being complained about, witnesses) must keep complaint information confidential and only discuss the complaint process on a 'need to know' basis. A serious breach of confidentiality relating to a complaint may amount to misconduct. Complaint managers and/or supervisors should report alleged serious confidentiality breaches to the Professional and Ethical Standards (PES) Directorate for assessment.

Staff who raise workplace concerns or make a complaint must not be subjected to reprisal action. Complaint managers and supervisors must act immediately on any reports of unfair treatment or reprisal action linked to a complaint and refer them to PES for assessment.

All staff must work cooperatively to resolve concerns and actively participate in any related complaint handling processes.

## 5. Support

Complaint managers and other managers should remind staff involved in the complaints process of the support available via the Employee Assistance Program and/or their union or professional association.

Any staff member may have a support person present at a complaint handling meeting.

The support person must not have a conflict of interest (for example, a direct involvement with the complaint issues) and should not respond on behalf of the staff member unless the complaint manager agrees they may assist. See [Role of the staff support person](#).

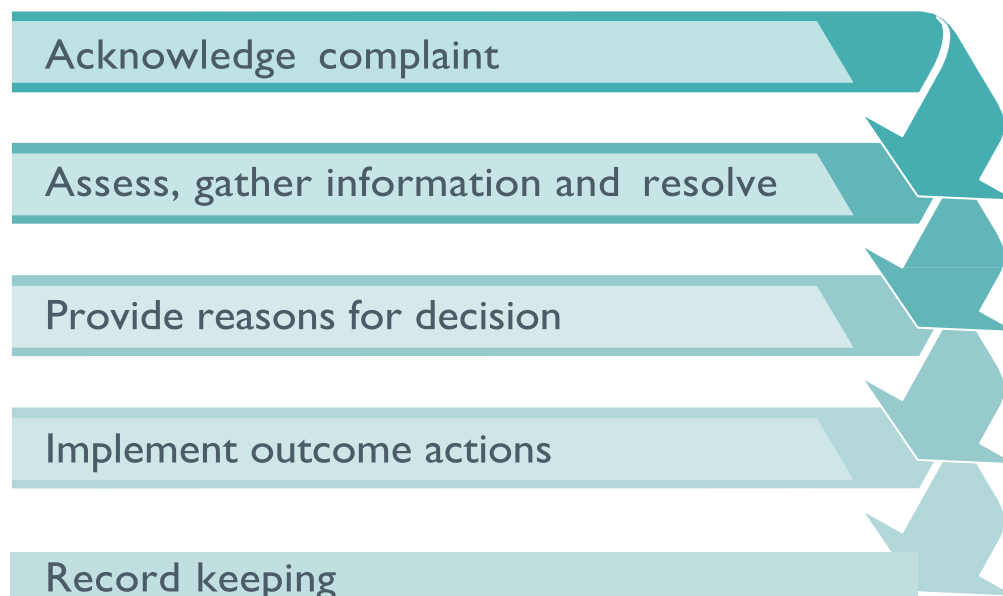
## 6. Receiving a staff complaint

### 6.1 Assess risk and refer certain complaints

When a staff member makes a complaint, the receiving staff member should initially assess the complaint to identify any immediate health, safety or security risks and escalate to the principal or workplace manager if there are risks. Any identified risks and risk management actions should then be documented by the principal or workplace manager.

# 7. Managing a staff complaint

The five key stages of managing a staff complaint are:



Complaint managers can use [Checklist for handling staff complaints](#) as they work through each stage of the process.

## 7.1 Acknowledge

Complaint managers should acknowledge staff complaints promptly and within 3 working days.

## 7.2 Assess, gather information and resolve

### 721 Assess

Complaint managers should assess the staff member's concerns to identify the complaint issues as soon as practicable.

If the staff member prefers to make their complaint verbally, the complaint manager should document the complaint and ask the complainant to confirm that the concerns have been correctly characterised by signing the document.

Complaint managers may need to gather some additional information to inform their assessment.

The complaint manager then decides whether to continue to deal with the staff complaint under this procedure. In some cases, it may be appropriate to take no further action. For example, if the complaint is too old to be dealt with fairly, or if the complainant is not sufficiently connected with the complaint issues. Complaint managers must document their reasons for taking no further action and inform the staff member in writing of the decision.

### 722 Assess bullying, harassment or discrimination complaints

Bullying, harassment and discrimination have legal definitions and may constitute misconduct. Complaint managers may assess complaints alleging bullying, harassment and/or discrimination using [Checklist for handling staff complaints](#) to assist with deciding whether the complaint can be dealt with under this procedure or referred to Professional and Ethical Standards Directorate for assessment and possible investigation of misconduct.

If a complainant believes a formal finding of discrimination is required, they may wish to make an application to the Anti-Discrimination Board or the Australian Human Rights Commission.

Where a staff complaint alleging bullying, harassment and/or discrimination does not meet the thresholds for referral, complaint managers should focus on describing the alleged conduct, rather than using labels such as “bullying”. It may be necessary to put steps in place to manage the workplace while the allegations are assessed and/or until there is an outcome to the complaint.

### 723 Gather information

Where this procedure continues to apply, the complaint manager then gathers further information to determine the most appropriate option/s for a prompt resolution.

The complaint manager should advise any person who is being complained about, of the complaint issues and give them the opportunity to respond and participate in resolving the issues. While the person who is being complained about needs to know the complaint issues, they do not need to be provided with a copy of the complaint.

The complaint manager should focus on gathering information relevant to the complaint issues, in a way that:

- is fair, impartial and thorough
- maintains confidentiality where possible
- gives involved staff an opportunity to provide a response

Complaint managers may also need to gather additional information, including:

- information and/or accounts from students, employees or other areas of the Department
- policies and procedures
- copies of other departmental documents such as forms, reports, etc
- copies of previous correspondence
- further information from the complainant and any person complained about

All staff, including the complainant, must assist complaint managers with their inquiries and respond promptly and co-operatively when a complaint manager makes any reasonable requests for information. Complaint Managers Toolkit: Gathering information gives further information.

### 724 Resolve: the complaint outcome

Once relevant information has been gathered, the complaint manager should determine the best option(s) for resolving the complaint. There is a list of possible outcomes at Possible findings and outcomes.

Outcomes will depend on:

- the seriousness of the complaint issues
- the strength of the information gathered
- any reasonable outcome(s) suggested by the staff involved
- any whole of school or workplace issues (e.g. workplace culture)
- any other systems issues.

Complaints should be finalised within 20 working days from receipt of the complaint. If a delay is anticipated and that time frame will not be met, complaint managers should update the staff involved, about the expected timeframes.

## 7.3 Provide reasons for decision

At the end of the process, complaint managers should inform the complainant and any staff member who was complained about of:

- the outcome of the complaint and any action that is going to be taken
- the reason/s for the decision
- the review option.

If the complaint manager advises the complainant or other staff member of the outcome at a meeting, they should confirm the advice by email or a letter. Where a staff member is on extended leave, complaint managers should provide the outcome advice in writing. If a staff member has made a workers compensation claim contact Health and Safety before providing any outcome advice. If a staff member is on sick leave, contact them before sending the outcome advice to confirm that they are fit to receive the letter.

## 7.4 Implement outcome actions

If an outcome from the complaint requires action, there needs to be a plan for implementing and monitoring the outcome. The plan does not need to be formal, but it should identify who is responsible for the outcome and any timeframes for implementation and/or monitoring.

## 7.5 Record keeping

Complaint managers should document the:

- key steps taken to manage the complaint
- information gathered

- outcome/s of the complaint, including whether any concerns were substantiated and the outcome actions
- steps taken to follow up and monitor outcome actions, including details of any reviews of work processes or systems.

The level of detail will depend on the level of complexity of the complaint. [Keeping records](#) provides further guidance. The [State Records Act 1988](#) requires staff complaint records to be retained for 7 years. Principals and workplace managers must implement a secure system for filing staff complaint records in their workplaces (electronic or paper based).

# 8. Reviews

A complainant and/or the staff member complained about may request a review of the complaint managers decision if they can give reasons why the complaint outcome was incorrect or how the complaint handling process was unfair.

Requests should be in writing and give the reasons for the request for review and which particular part of their complaint is the subject of their review request. The request should be addressed to the complaint manager or their supervisor.

The request should be made within 10 working days from receipt of the written outcome, unless there are special circumstances (for example, illness).

A manager not previously involved in managing the complaint undertakes the review. In most cases this will be the next line manager, or a manager at peer level to the original complaint manager (for example, if a Deputy Principal managed the complaint, another Deputy Principal may undertake the review). The reviewer should not have any actual conflict of interest. The review should be completed within 20 working days from the receipt of the request, wherever possible.

The reviewer can decide on a different complaint outcome if they identify problems with the initial complaint handling process and/or consider the initial outcome to be unreasonable.

Reviewers should consider meeting or telephoning the staff member/s to discuss:

- the review outcome, including any action that is going to be taken
- the reason/s for the decision.

If the reviewer advised of the outcome verbally, they should confirm the advice by email or a letter. Where a staff member is on extended leave, a reviewer should provide the outcome in writing.

The reviewer should also advise the initial complaint manager of the outcome.

Once the review is complete, there is no further internal review. Staff may wish to seek independent advice about external review options if they are not satisfied with the outcome of a review.



## 9. Respectful and reasonable conduct during the complaints process

The Department expects supervisors, complaint managers and those undertaking complaint reviews internally to effectively respond to staff concerns and complaints in accordance with this procedure. However, effective complaint resolution depends on all parties behaving in a respectful and reasonable manner.

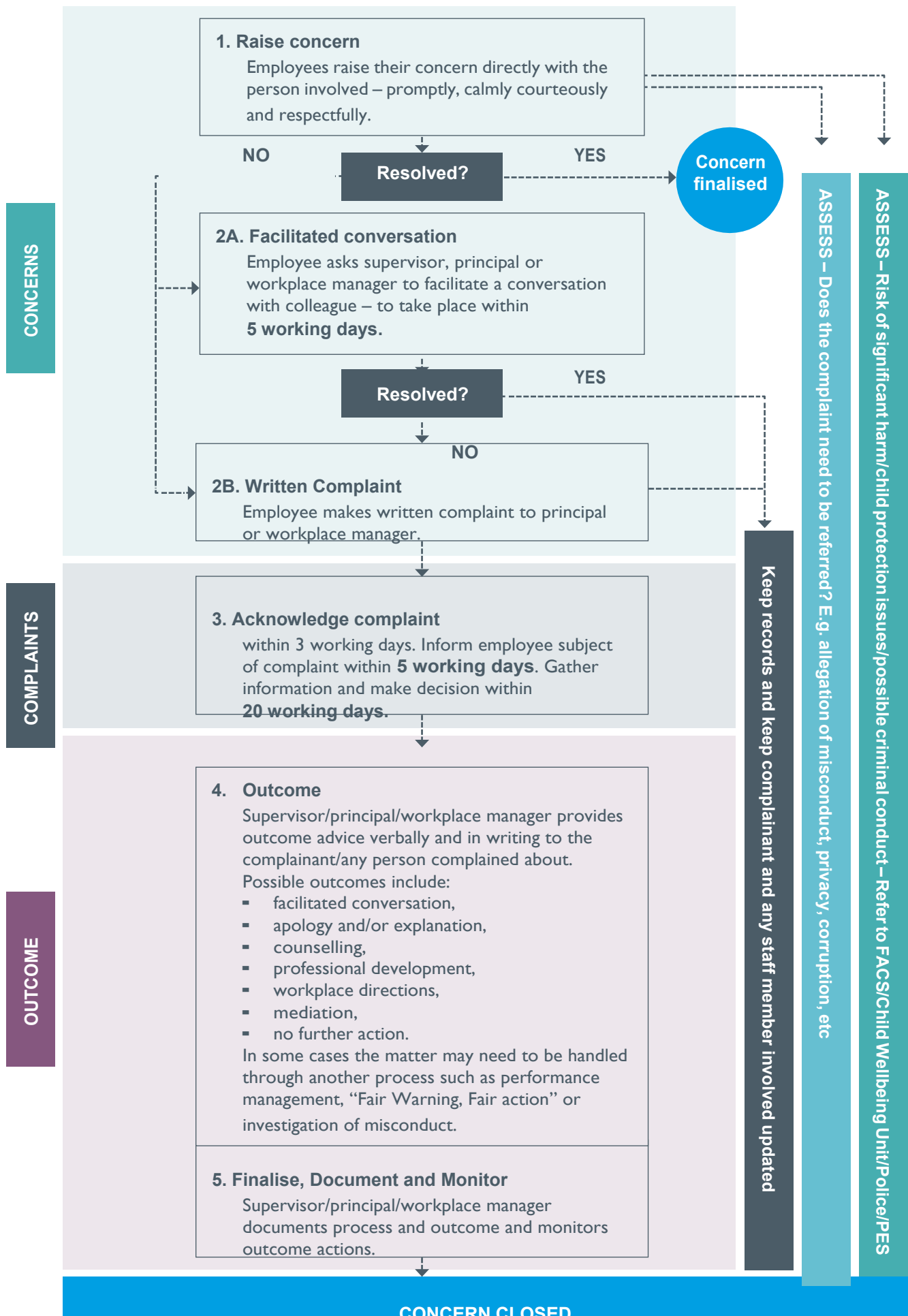
While making or responding to a complaint can be stressful, the standards of behaviour required

under the Code of Conduct continue to apply during the complaints process and any breaches by complainants or any person complained about will be managed. See [Responding to staff concerns and managing unreasonable staff behaviours during the complaints process](#) for more information.

### Toolkit Resources

- [Toolkit: Acknowledging the complaint](#)
- [Toolkit: Referring the complaint](#)
- [Toolkit: Gathering information – staff complaints](#)
- [Toolkit: Keeping records](#)
- [Toolkit: Identifying the right complaint manager](#)
- [Toolkit: Ongoing complaint handling responsibilities](#)
- [Toolkit: Apologies](#)
- [Toolkit: Reviews](#)
- [Toolkit: Checklist for reviewers](#)
- [Toolkit: Informal resolution – Tips for dealing with workplace conflict early](#)
- [Toolkit: Checklist for handling staff complaints](#)
- [Toolkit: Assessment tool for allegations of bullying, discrimination and harassment](#)
- [Toolkit: Role of the staff support person](#)
- [Toolkit: Possible findings and outcomes](#)
- [Toolkit: Responding to staff concerns and managing unreasonable staff behaviours during the complaints process](#)
- [Toolkit: Fair management of complaints](#)

# 10. Appendix 1 – Flowchart Staff Complaints



# Appendix 2 – Flowchart Staff/Workplace decisions, systems and policies decisions

