HARASSMENT AND BULLYING
STANDARD OPERATING PROCEDURES

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Procedures for addressing complaints of discrimination, harassment or bullying made by a member of staff against another member of staff.

The following procedures are available to all members of staff in the Lismore Catholic Education System who have complaints of discrimination, harassment and/or bullying against other staff. Where possible and appropriate, it is desirable to resolve the issue at the informal level. In more serious or persistent cases, investigations will proceed using the formal procedures outlined below.

1 Options available to persons with discrimination, harassment or bullying complaints

There are a number of options available to a staff member with concerns about conduct they believe to constitute discrimination, harassment or bullying. A staff member may wish firstly to seek confidential advice on how to deal with the situation. This may be from a colleague on staff with expertise in the area of harassment and bullying, the Catholic Schools Office, the Independent Education Union, Anti-Discrimination Board or Human Rights and Equal Opportunity Commission.

A staff member electing to address a situation personally may later decide to report the matter to the Principal or Anti-Discrimination Board if dissatisfied with the outcome. Conversely, a staff member commencing a process may elect to withdraw the complaint.

A person experiencing harassment, discrimination or bullying is advised to keep a record of what happened, including times, dates, witnesses, if any, and what was said and done.

1.1 Deal with the situation personally

A person who feels they are being harassed, discriminated against or bullied may not wish to file a complaint, but prefer to deal with the situation personally.

If the decision is to tell the person that their behaviour is not acceptable or is objectionable, it is helpful to focus on the behaviour of the person rather than on their personality by following these guidelines:

- Maintain eye contact
- Speak clearly and firmly
- Describe clearly the action/behaviour that is objected to
- State that you want the behaviour to stop
- Don’t confuse your message by ending with a smile or apology
- Keep repeating your basic message, if the person denies, argues or tries to excuse the behaviour.

It is appropriate to inform the person of the complaint in writing. If there is no change to the behaviour or the matter is unresolved, the staff member may choose to follow one of the options below.

1.2 Seek resolution with the assistance of a mediator

A person may not wish to engage in a formal investigation process but seek assistance to resolve behaviour that is not acceptable through a mediator. The mediator may be a person from the school community or CSO. Alternatively, an external mediator may be engaged to manage the process. If there is no change to the behaviour following mediation, the staff member may choose to follow one of the options below.
1.3 Report complaint to the Principal and/or School Harassment Referral Officer (SHRO) to be addressed through these procedures.

A person who chooses to report a concern to the Principal and/or SHRO is assured that a meeting with the Principal and/or Consultant will be arranged as promptly as possible. The person will be invited, if they wish, to have present at any meetings a support person such as a work colleague, union representative or, if necessary, an interpreter. The level of representation that the support person gives will vary depending on the seriousness of the situation. It may be necessary in some cases for the support person to speak on behalf of the person. As a general rule however, in order for the employer to gain first hand information, the complainant, rather than the support person describes the complaint. It is always appropriate to break the meeting to allow the support person to offer advice. The support person may take notes during meeting. The Principal and/or Consultant will also have a colleague present at meetings to record minutes.

1.4 Take your complaint to the Assistant Director for School Resources Services or Director.

There may be occasions when a person wishes to take their concerns directly to the Assistant Director for School Resources Services or the Director. They may do this personally or approach a union organisation to do so on their behalf. The procedures to be followed will be the same as those that apply when the Principal and/or Consultant handles the complaint.

In addition, if a person reports to the Principal and/or SHRO but is dissatisfied with how the complaint has been managed by the Principal and/or Consultant, it is appropriate to take the complaint to the Assistant Director for School Resources Services or Director.

A complaint against a Principal would be made to the Assistant Director for School Resources Services. For CSO staff a complaint against a supervisor would be taken to the person to whom the supervisor is accountable. Principals or senior office staff with complaints would take their complaint to the Assistant Director for School Resources Services or Director of Schools.

1.5 File a complaint with the Anti-Discrimination Board or with the Human Rights and Equal Opportunity Commission

It is usually preferable for a complaint to be settled locally rather than by an external body. However, employees who believe they have been discriminated against, harassed or bullied at work always have the right to lodge a complaint with the NSW Anti-Discrimination Board or the Human Rights and Equal Opportunity Commission. The Lismore Catholic Education System will support the person if this is their decision.

2 Procedure to be followed by Principal, Consultant or other senior CSO delegate handling a discrimination, harassment or bullying complaint

The following steps outline the process that will be followed when an employee elects to report a complaint of harassment, discrimination or bullying to an employer delegate. As already indicated, the complainant may elect to have a support person present at the meeting. The Principal and/or Consultant will have a colleague present to take notes. In planning the process, the Principal endeavours to cater for any particular circumstances including the need for an interpreter if required and a mutually agreeable venue e.g. offsite.
2.1 Principal and/or Consultant meets with complainant

At the meeting the Principal and/or Consultant allows the person to relate the incident or incidents uninterrupted the first time in order to gain a broad picture of events. This may unleash strong feelings requiring sensitivity and empathy.

The Principal and/or Consultant clarifies the incident or incidents in order to obtain an accurate written record of events in terms of dates, times, places, witnesses and action taken. He or she checks all details with the complainant and assists the person to clarify the exact details of the behaviour being objected to.

The Principal and/or Consultant asks for the names of anyone who may assist in investigating the incident – for example, people who have seen or heard the behaviour that is objected to, or who had a similar experience. The Principal and/or Consultant clarifies with the staff member what resolution they are seeking (e.g. an apology, mediation, no ongoing contact with the staff member.)

The Principal and/or Consultant explains to the complainant how the complaint process will proceed, providing a copy of the relevant document and confirms that the process will be conducted promptly and confidentially. The complainant is informed of the expected time line to be followed. The preliminary finding will be provided within one month approximately.

The staff member is offered counselling through the Employer Assistance Program, ACCESS Ph: 1800 818 728.

A person may be reluctant to proceed with the complaint process but may want the support of the Principal and/or Consultant in resolving the situation themselves or through mediation. This course of action may be appropriate in cases where the allegations are of a less serious nature. If the allegation is of a serious nature that, if substantiated, would involve disciplinary action, the diocese, as employer, has a responsibility to deal with the matter. Allegations of a criminal nature are reported immediately to the police.

2.2 Principal and/or Consultant interviews the respondent

The Principal and/or Consultant inform the person accused of harassment, discrimination or bullying in writing that a complaint has been made and arranges for an interview. The Principal and/or Consultant inform the person that they may be accompanied by a support person – for example, work colleague, union representative, or interpreter. The level of representation that the support person gives will vary depending on the seriousness of the situation. It may be necessary in some cases for the support person to speak on behalf of the person. As a general rule however, in order for the employer to gain first hand information, the respondent, rather than the support person responds to the allegation. It is always appropriate to break the meeting to allow the support person to offer advice. The support person may take notes during the meeting. The Principal and/or Consultant will also have a colleague present at meetings to record minutes. If it is apparent that the complaint may proceed to legal action, the Principal and / or Consultant informs the person they have the right to seek legal representation.

During the interview, the Principal and/or Consultant:

- informs the person about the allegation that has been made, providing the statement of allegation in writing
- explains what harassment, discrimination or bullying is
- informs the person about the resolution the complainant is seeking
• gives the person the opportunity to respond to the allegations. The person may prefer not to respond at this point but to respond in writing or to respond verbally at a later time

If the person confirms the allegations the Principal and/or Consultant:

• confirms that the person wants to resolve the matter
• proceeds to resolution of the matter

If the person denies the allegations, the Principal and/or Consultant:

• informs the person that the incident will be investigated further and that witnesses may be interviewed
• assures the person of their right to be afforded natural justice
• asks for the names of anyone who may support their position
• advises that there is to be no retaliatory action against the complainant
• advises that the issue should not be discussed with other staff
• assures that the issues will be dealt with promptly and confidentially
• informs the person of the process and the expected time line to be followed
• ensures the person has adequate support and offers counselling

2.3 Principal and/or Consultant interviews witnesses

The Principal and/or Consultant contacts each witness named by the complainant and the respondent and arranges individual interviews. The Principal and/or Consultant informs the person that they may be accompanied by a support person. The Principal and/or Consultant has a colleague present to record minutes of the meeting.

The Principal and/or Consultant informs the witness briefly as to why they are being questioned and requests that the matter be kept confidential. The Principal and/or Consultant assures the witness that there will be no repercussions from information they provide and that all necessary steps will be taken to ensure that no victimisation occurs.

At the interview the Principal and/or Consultant endeavours to clarify the position described by both the complainant and the person about whom the complaint has been made. The Principal and/or Consultant informs them that the interview is confidential. The Principal and/or Consultant proceeds to obtain from the witness an accurate written record in terms of times, dates, places, witnesses and action taken.

2.4 Resolution

A complaint of harassment, discrimination or bullying may be resolved in various ways depending on the seriousness of the allegation, whether the complaint is sustained, the wishes of the complainant and the nature of the working relationship of the persons involved. It is important that the resolution does not disadvantage the complainant in any way.

Following interviews with witnesses, it may be necessary for the Principal and/or Consultant to meet again with the complainant and/or the person accused of harassment, discrimination or bullying to clarify further information provided by witnesses.

When the investigation is complete, the weight of evidence is assessed to consider if on the balance of probabilities the allegation is sustained or not sustained.
If the complaint is not sustained the Principal and/or Consultant:

- informs each party of the decision and the reason for the decision (for example, there is no evidence to support the complaint, the evidence is inconclusive or the behaviour does not amount to discrimination, harassment or bullying)
- confirms this information in writing.

If the complaint is sustained the Principal and/or Consultant:

- Advises the respondent of the preliminary finding and the proposed disciplinary action/resolution inviting any further comment or relevant information within one week. If there is no additional information, the matter proceeds to resolution
- Meets with the complainant and informs them of the finding arranging an appropriate resolution
- Confirms this information in writing.

Action taken by the employer in the case of a complaint being substantiated may involve any of the following depending on the seriousness of the offence:

- Verbal or written apology
- Disciplinary letter/official warning
- Mediation
- Counselling
- Compensation if disadvantage has occurred (for example, re-crediting leave)
- Removal of the harasser or bully from the department shared with the complainant
- Redeployment
- Grievance procedure to address improper conduct of an employee
- Termination of employment

The Principal and/or Consultant makes it clear to the person that harassment, discrimination and bullying is not tolerated under any circumstances. The directions given to the person are confirmed in writing and a copy is included in the person’s personnel file.

2.5 Appeals

If at the end of the process, either party is not satisfied with the outcome they are advised that they may take the matter to the Anti-Discrimination Board or the Human Rights and Equal Opportunity Commission, and that the Lismore CSO will support any further enquiry. Alternatively, they may wish to appeal the process or outcome by contacting the Catholic Schools Office or approaching a union representative to act on their behalf.

2.6 Follow-up

To ensure that the offensive behaviour has ceased, the Principal and/or Consultant conducts a follow-up interview with both parties after a period of time – for example, one month – to ensure that the matter has been fully resolved.
3 Record keeping

3.1 Sustained complaints

When a complaint is sustained, a copy of the letter informing the person accused of discrimination, harassment or bullying of the outcome of the investigation and the resulting disciplinary action is placed in their personnel file. All other documentation relating to the investigation is kept in a sealed, confidential file in the School Resources Services department at the CSO. The file can only be accessed with the authority of the Assistant Director for School Resources Services.

3.2 Unsustained complaints

When a complaint is not sustained, no record of the complaint is included in the personnel file of the person accused.

All documentation relating to the investigation is kept in a sealed, confidential file in the School Resources Services department at the CSO. This documentation will include the letters to the complainant and the person accused of harassment, discrimination or bullying informing them that the complaint was unsubstantiated. The file can only be accessed with the authority of the Assistant Director for School Resources Services.

4 Review

The Catholic Schools Office of Lismore will monitor the use of this documentation and will ensure that it is reviewed periodically.
Maintaining Right Relations: Procedure for Staff to Staff

Employee delegate meets with complainant to receive complaint and clarify the resolution that is sought

Respondent is advised in writing of complaint and meeting to follow

Meeting between employer delegate and respondent to provide respondent with opportunity to confirm or deny allegations

Respondent confirms allegation and matter proceeds to resolution

Respondent denies allegation

Investigation proceeds

If sustained

Preliminary finding and any proposed resolution presented to respondent for response, including any mitigating circumstances within one week

Finding is presented to complainant and respondent in writing

Resolution proceeds

Appeals process

Monitoring and follow-up

If not sustained