



## Complaints Policy and Procedure

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<b>Risk category</b>	Trust & Reputation
<b>NESA</b>	Registered and Accredited Individual Non-Government Schools (NSW) Manual - 3.6
<b>Church</b>	St Peter's Anglican College Ordinance 2000 South Coast Anglican Schools Ordinance 2009
<b>Relevant legislation/guidelines</b>	Fair Work Act 2009 Privacy Act 1988 Disability Discrimination Act 1992 Equal Opportunities Act 1987 Work Health and Safety Act 2011 External avenues for appeal: Fair Work Ombudsman - <a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a>
<b>Related documents</b>	Staff Code of Conduct Student Code of Conduct Child Protection Policy Workplace Complaints Procedure Bullying and Harassment (including sexual harassment) in the Workplace Policy and Procedure Investigations Policy and Procedure Whistleblower Policy and Procedure Privacy Policy Work Health and Safety Policy Employee Assistance Program
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## Purpose

This document outlines St Peter's Anglican College's (SPAC) (the College) policy regarding the resolution of workplace complaints. According to the type of complaint it may be read in conjunction with *Reportable Conduct Policy* and/or *Mandatory Reporting*.

## Scope

This is an organisation-wide policy and applies to personnel in all services and programs. This procedure does not extend to personal grievances between parents, guardians or other members of the college community. Nor does it extend to complaints which are whistleblowing disclosures. See - *Whistleblower Policy*.

Any concern about a child's wellbeing may be reported under this policy. All complaints relating to child safety are to be dealt with using the procedures outlined in the *Child Protection Policy*. Complainants are not required to assess whether their concern meets the threshold of reportable conduct before making a complaint.

## Definitions

**Discrimination** is defined as treating one person or group less favourably than another or causing them disadvantage. Unlawful discrimination is discrimination which law has defined as unacceptable. There are a number of Federal and State laws which presently make discrimination unlawful on a variety of grounds (unlawful reasons) including:

- sex, marital or relationship status, pregnancy, breastfeeding or family responsibilities;
- sexuality or sexual preference;
- race, colour, descent, nationality, national origin, ethnicity or ethno-religious origin;
- religious belief or activity;
- political belief or activity;
- trade union activity;
- disability or impairment;
- transgender status or gender identity;
- age;
- responsibilities as a carer; or
- service in the voluntary defence forces.

**Harassment** - Anti-discrimination law defines harassment as any form of behaviour that:

- you do not want
- offends, humiliates or intimidates you
- creates a hostile environment.

**Personnel** means all staff, volunteers and contractors

## Policy

The College is an equal opportunity employer that promotes fair, equitable and respectful behaviour in the workplace. We aim to:

- create a working environment where all workers are treated with dignity, courtesy and respect.
- implement training and awareness raising strategies to ensure that our people know their rights and responsibilities.
- provide an effective procedure for complaints based on the principles of natural justice.
- treat all complaints in a sensitive, fair, timely and confidential manner.
- guarantee protection from any victimisation or reprisals.
- encourage the reporting of behaviour which breaches this policy.
- promote appropriate standards of conduct at all times.

College personnel may lodge a workplace complaint in relation to an alleged breach of policies and procedures and/or values as outlined in the *Code of Conduct*. Workplace complaints may arise from issues such as:

- interpersonal relations
- harassment
- discrimination
- recruitment
- promotion
- resources
- rosters
- work performance
- training

The College recognises that all personnel have the right to:

- be treated with respect and courtesy
- disagree with management decisions
- lodge a workplace complaint at any time
- have that complaint taken seriously, investigated and resolved fairly, promptly and without delay.

The College will address all workplace complaints in a confidential manner. Only the people directly involved in making, investigating or resolving a workplace complaint will have access to information about it.

Personnel have a responsibility to:

- treat everyone with respect and courtesy.
- accept that disagreeing with a management decision does not make the management decision wrong.
- raise complaints with supporting information at an early stage.
- cooperate fully with the investigation in order to resolve the complaint promptly.

Personnel should also refer to the *Workplace Complaints Procedure* and the *Bullying and Harassment (including sexual harassment) in the Workplace Policy and Procedure*.

## Responsibilities

College policy documents must be ratified by the Board. This document will be reviewed every two years by the Director of Risk and Compliance. Consultation with personnel will take place prior to ratification.

All personnel are responsible for adhering to authorised policy documents and for identifying topics, gaps and areas where policy, procedure and instruction are needed.

Line managers at all levels are responsible for:

- monitoring the work environment to ensure that acceptable standards of conduct are observed at all times and identify and manage any issues with appropriate support.
- treating all complaints seriously and taking immediate action to investigate and resolve the matter.

All personnel are responsible for:

- their own health and safety.
- complying with this policy.
- maintaining complete confidentiality if they provide information during the investigation of a complaint.

## Procedure

### Dealing with a Grievance

All members of the College community are strongly encouraged to maintain respectful and collaborative working relationships and quickly address any misunderstanding with colleagues should they arise. However, a person may feel aggrieved in the course of their engagement with the College and believe that the situation is serious enough to warrant external assistance to remedy the issue. The source of the grievance may be varied, ranging from conflict over professional or academic issues; concern over an employment condition or application of a College policy through to serious discrimination or harassment.

A minor grievance may be remedied by the parties themselves but, if not dealt with, minor grievances and conflicts can escalate and become issues of a more serious nature. Therefore, if it cannot be remedied quickly, the person should raise issues of grievance and conflict as soon as possible.

A grievance may be initially communicated in a written letter, email or a meeting. Issues should be raised in the first instance as follows:

- Staff with their immediate supervisor, or if a grievance is with a supervisor, the issue should be raised with the Principal.
- Students with the class teacher or Head of Junior School or the Director of Students and Planning (Senior School).
- Contractors with the person who has engaged them at the College.
- Parents and volunteers with a Head of Junior School or the Director of Students and Planning (Senior School), or the Principal.
- External stakeholders with the Principal.

Complaints made without substantiation or accusations made without any basis will be viewed by the College as a very serious matter.

Persons who are involved in a conflict of any kind may wish to refer to Appendix 1 - *Helpful Tips when approaching Conflict and Grievance Resolution*.

## Support

It is acknowledged that raising issues of conflict may be difficult for some people. Therefore, the option exists for a support person to be included in any meetings with the person investigating the grievance. The role of a support person is to provide support to the complainant, for example by discussing the issue with them or taking notes in the meeting. In this situation, a support person is not an advocate for the complainant and should not become actively involved in the discussions.

A support person could be a colleague or friend and in the case of students, parents or guardians. It is advisable to give due consideration to the person's ability to support and provide wise counsel. Given the potential conflict of interest, it would not normally be appropriate for a support person for an employee to be a member of the College Executive Team, although there may be exceptions.

To avoid escalating the issue a support person should not be an industrial advocate, lawyer, person from another school or professional working in the field of grievance resolution. However, the person does not need to be an employee of the College. Similarly, in order to prevent matters from becoming personal rather than professional, it is not usually appropriate for an employee's support person to be a spouse, partner or close family member.

## Confidentiality

The supervisor dealing with the issue should approach all parties with fairness and equity. Similarly, the supervisor should treat all information divulged by the staff members as confidential. The supervisor should only disclose details, should it be necessary, with the permission of the staff member who raised the issue.

An exception to the requirement for confidentiality will be made if there are legal obligations (such as duty or care or child protection) to report the information disclosed by the staff member.

Accusations of unlawful discrimination/harassment can harm the reputation of those involved and could lead to legal action for defamation. Matters of this kind must be dealt with confidentially on a need to know basis. The matter is not to be discussed generally with colleagues or members of the college community.

## Process for Complaint

On the initial receipt of a formal complaint (written or verbal), the person receiving the complaint will assess the nature of the complaint and either deal with the matter themselves or, if appropriate, pass the matter to a person who is suitably independent and competent to manage the matter. Any complaint about the conduct of a staff member should be raised with the Principal in the first instance.

In the case of informal complaints, in which the complainant wishes to lodge a concern but explicitly does not wish to initiate a formal grievance, the person receiving the complaint should still regard the matter seriously and consider carefully and respectfully the most appropriate course of action, which may for example be to log the concern for further monitoring, to deal with the issue through on-going management, or to escalate the matter to formal proceedings if serious enough, with due sensitivity to the wishes of the complainant.

Once the issue has been raised, the person receiving the complaint should take action as promptly as is feasible. Usually the person handling the complaint will meet with the staff member within seven working days of the formal complaint being raised. In normal circumstances, a resolution plan will be formulated before the end of ten working days (excluding teacher term breaks and holidays).

If appropriate, the person dealing with the grievance may elect to seek to resolve the issue informally by meeting with the parties singly and/or together, providing advice or strategies for action. Such an approach is not an option for dealing with formal complaints of harassment, bullying or discrimination which should always progress immediately to the formal grievance procedure.

If the matter is dealt with informally and resolved to the satisfaction of the complainant and the complaint was not trivial, then details of the issue and resolution should be noted in confidential College records. Where this informal process is not appropriate or does not lead to resolution, the formal complaint procedure will then apply.

Appropriate disciplinary action will be taken against a person who is found to have breached College policies

### Assessing a Complaint

The Principal will generally assess the complaint and determine:

- whether the complaint is one to be addressed under this policy or reportable conduct or mandatory reporting which are dealt with by the relevant policies, and
- the priority of the complaint in accordance with the urgency and/or seriousness of the matter raised; and
- whether the College may be required to report the matter to the Office of the Children's Guardian, Police, Department of Communities and Justice or other relevant authorities should the complaint relate to possible unlawful conduct or other reportable matters.

### Formal Complaints

The College regards complaints as serious matters that have the potential to affect the reputation and career of staff or the prospect of students continuing at the College. Therefore, complaints must be made in a formal manner according to the following guidelines:

- Formal complaints must be in writing, signed by the complainant (unless the Principal decides that this is not appropriate because of the nature of the complaint or to protect the complainant);
- The written complaint should clearly outline the nature of the complaint and specify individuals involved. It should include all relevant supporting material available to them such as emails and notes of verbal communication including, where appropriate, the names of witnesses; and
- The formal written complaint should be directed to the Principal.

All complaints will be treated seriously and generally in accordance with this statement.

The College will determine the most appropriate method of dealing with the grievance. The process for investigating a formal complaint is contained in the College's *Investigation Policy*.

### Fair Work Commission

It should be noted that all staff are covered by the dispute resolution procedures outlined in the Award which is relevant to their employment.

An employee, contractor, apprentice or volunteer who reasonably believes they have been bullied at work may apply to the Fair Work Commission for an order to stop the workplace bullying. Such workers should contact the Fair Work Commission to find out if they are eligible to apply for an order.

The Fair Work Commission will only make an order if satisfied the worker has been bullied at work by an individual or a group of individuals and there is a risk that the worker will continue to be bullied at work. The Fair Work Commission will take into account:

- internal procedures available to resolve grievances and disputes at the workers' workplace.
- final or interim outcomes arising from an investigation undertaken by the worker's employer or other body.
- any other matters the Fair Work Commission considers relevant.

### Appeals

The College does not offer unlimited opportunities for appeal if a complainant is unhappy with the resolution of a complaint. Any appeal against the resolution of a complaint should be made in writing to the Principal. An appeal is only likely to be considered if there is evidence that there was a procedural problem with the investigation.

The Principal, at his/her discretion, will consider the application for an appeal and will either direct that the complaint be re-examined or direct that the matter be closed.

### Follow Up

It is important for the supervisor or person managing the grievance process to keep clear and detailed notes on all discussions held. Once the issue has been resolved, a covering statement should be written and the documentation should be provided to the Principal for appropriate filing. The following should be recorded:

- the person who made the report
- when the report was made
- to whom the report was made
- the details of the issue reported
- action taken to respond to the issue
- any further action required – what, when and by whom.
- Records should also be made of conversations, meetings and interviews detailing who was present and the agreed outcomes.

After addressing a specific workplace bullying issue, the College should examine the situation to identify and address any underlying factors that may increase the risk of workplace bullying.



## Academic Appeals

Complaints about academic assessment are, in the first instance, to be referred to the appropriate classroom teacher. Where this appears to be inappropriate or satisfactory resolution is not achieved, they are to be brought to the Deputy Principal or Head of School and, if necessary, to the Principal.

## Compliance

Noncompliance with this procedure may result in disciplinary action up to and including dismissal.

## Appendix 1

### Helpful Tips when Approaching Conflict and Grievance Resolution

Conflict resolution expert, Alan Tidwell,<sup>1</sup> suggests there are three necessary elements that must be in place for effective conflict resolution to occur. These are:

1. Opportunity – this involves creating a ‘space’ where effective and productive discussion can occur. Creating such a space is the responsibility of the supervisor.
2. Capacity – this refers to the capacity the parties have to reach resolution. Having a limited grasp of English, being in a psychological state which inhibits rational thought, and allowing emotions to overcome a discussion are all ways in which capacity to resolve a situation may be diminished.
3. Volition (will) - the parties must want to resolve the problem and be willing to do so through the mechanisms established. Without volition the possibility of resolution is greatly reduced.

Other points, which may assist, include:

- Stepping away from the situation – in the heat of the moment it is often easy to let emotions drive a discussion. If you encounter a genuine issue of conflict, it may be helpful to remove yourself from the situation, attempt to calm down and then focus on the source of the problem.
- Try not to globalise the problem – in difficult situations it is often easy to include past experiences or actions, which are not directly related to the current situation. The problem with ‘globalising’ is that the primary source of the problem becomes lost amongst broader issues.
- Make notes – even if you decide not to address the problem in writing, it is still helpful to write some notes before you enter a meeting. Writing notes will give you some time to think about the primary problem you are dealing with and in turn communicate this effectively to a supervisor.

Staff and supervisors are encouraged to keep these factors in mind when approaching any issue of conflict.

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<sup>1</sup> Tidwell, A.C., 1999, Conflict Resolved? A Critical Assessment of Conflict Resolution, (Pinter, London).