



**Catholic Schools Office  
Diocese of Lismore**

**DISCRIMINATION, HARASSMENT AND BULLYING IN  
THE WORKPLACE**

**STANDARD OPERATING PROCEDURES**

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**SOP Contact officer:** Human Resources Consultant – Hayley Youngberry

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.*

## **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. INFORMAL COMPLAINTS PROCEDURE**

### **1.1 Options for informal resolution:**

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.

### **1.2 Provision of advice and mediation**

The complainant may seek advice from a supervisor on how to approach the other party or request their supervisor to discuss the matter on their behalf with the other party.

The complainant may provide the complaint to the respondent 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 Record Keeping**

Resolution of informal complaints should be documented and filed by either the complainant or the supervisor. All records should be kept in a confidential file.

## **2. FORMAL COMPLAINTS PROCEDURE**

A formal complaint can be made verbally or preferably in writing. All formal complaints will be investigated.

### **2.1 System level initiation**

#### **2.1.1 Report complaint to the Principal/Supervisor**

A person who chooses to report a concern to their principal/supervisor is assured that a meeting with the principal and/or supervisor 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 the meeting. The principal/supervisor may also have a colleague present at meetings to record minutes. If necessary the principal/supervisor may request the assistance of the Human Resources Consultant at the CSO.

#### **2.1.2 Take your complaint to the Catholic Schools Office**

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

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

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.

### **2.1.3 File a complaint with the Fair Work 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 Fair Work Commission. The Catholic Schools Office will support the person if this is their decision.

## **2.2 Process to be followed when 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/consultant will have a colleague present to take notes. In planning the process, the principal/consultant endeavours to cater for any particular circumstances including the need for an interpreter if required and a mutually agreeable venue e.g. offsite.

### **2.2.1 Principal and/or Consultant meet with complainant**

At the meeting the principal/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 following details are sought from the complainant:

- Clarification of the incident or incidents in order to obtain an accurate written record of events in terms of dates, times, places, witnesses and action taken. All details are checked with the complainant to clarify the exact details of the behaviour being objected to.
- 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/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/consultant explains to the complainant how the complaint process will proceed, providing a copy of the Discrimination Bullying and Harassment Policy and the Standard Operating Procedures 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 approximately one month.

The claimant will be assured that there will be no repercussions/victimisation/disadvantage for alleging an incident/s of discrimination, bullying or harassment.

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 may 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.

### **2.2.2 Principal and/or Consultant interviews the respondent**

The principal/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/consultant informs 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/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/consultant informs the person they have the right to seek legal representation.

During the interview, the principal/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 submit a further response in writing within a specified timeframe of the investigation meeting.

#### **If the person confirms the allegations the principal/consultant:**

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

#### **If the person denies the allegations, the principal/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

### 2.2.3 Principal/Consultant interviews witnesses

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

The principal/consultant informs the witness briefly as to why they are being questioned and requests that the matter be kept confidential. The principal/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/consultant endeavours to clarify the position described by both the complainant and the person about whom the complaint has been made. The principal/consultant informs them that the interview is confidential. The principal/consultant proceeds to obtain from the witness an accurate written record in terms of times, dates, places, witnesses and action taken.

## 2.3 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/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/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.

## **2.4 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**

