



DOBCEL Prevention of Bullying, Harassment and Discrimination Procedures

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Procedure

Procedure for resolving complaints under the Prevention of Bullying, Harassment or Discrimination Policy.

Definitions

Leadership: For Schools, Leadership refers to the Principal or their nominated delegate. For Catholic Education Ballarat, Leadership refers to the employees direct Team Leader or their Directorate member.

Leadership Responsibilities

Leadership is required to:

- treat allegations of bullying, discrimination, or harassment seriously;
- ensure a safe and healthy workplace environment for employees;
- take reasonable measures to prevent bullying, discrimination, and harassment from taking place and ensure adherence to policy;
- ensure that employees understand their responsibility, to not bully, discriminate, or harass other employees or members of the school community;
- ensure that their own actions do not result in harassment or bullying of any employees or members of the school community and set a good example for employees;
- where leadership is involved in an investigation, handle all allegations and complaints in a prompt, sensitive and confidential manner;
- seek prompt advice from the Manager Human Resources or the CECV ER Unit regarding the appropriate management of a complaint under the Prevention of Bullying, Discrimination, and Harassment Policy.

Leadership must act on any report or suspicion of discrimination, harassment, or bullying in the workplace. As the employer, DOBCEL may be legally responsible for discrimination, harassment or bullying that occurs in the workplace, or in connection with the person's employment. Leadership must demonstrate that reasonable steps were taken to reduce this liability (referred to as vicarious liability).

- If no complaint is made but leadership has cause to believe that discrimination, harassment, or bullying is occurring, the issue should be addressed in a general manner such as a memo or reminder at a staff meeting

- Leadership does not need to wait for a formal complaint to be made to act. If the Leader witnesses an incident(s) of discrimination, harassment or bullying themselves, they become the complainant
- If leadership hears of an incident from a third party, they can sensitively ask the affected employee(s) if they would like to make a complaint and/or discuss their options for resolving the matter

Investigation Officer responsibilities

DOBCEL may appoint a designated Investigation Officer for the purpose of investigating allegations of discrimination, harassment, and bullying. The Investigation Officer may be internal such as the Principal, Team Leader, Manager HR or Assistant Director People and Development. An external investigator may be appointed for sensitive and complex cases or where the allegations may involve a member of the leadership team.

The designated Investigation Officer will:

- Treat allegations of bullying, discrimination, or harassment seriously
- Investigate all allegations and complaints in a prompt, sensitive and confidential manner and with regard to the principles of procedural fairness
- Manage all incidents and complaints in accordance with DOBCEL policy and in respect of relevant legislation
- Organise mediation and/or conciliation to resolve the complaint if required
- Recommend any further action or recourse required where mediation and/or conciliation is not sufficient to resolve the matter

Human Resources responsibilities

The Manager, Human Resources will:

- promote a safe work environment for all employees;
- provide education and support as required;
- treat any allegations of harassment or bullying seriously;
- provide information and support to leadership and employees as required;
- where allegations of discrimination, harassment or bullying have been substantiated, advise leadership on appropriate action.
- provide information about employee rights and responsibilities;
- act on, and/or provide support to Leadership, to act on any report or suspicion of discrimination, harassment, or bullying.

All allegations of discrimination, harassment or bullying will be taken seriously. Breaches of this policy will not be tolerated. Any complaint of bullying, discrimination, or harassment will be managed promptly, confidentially, and in accordance with this procedure. This may include a formal investigation and remedial action to resolve the matter.

Remedial Action

Remedial action may include, but is not limited to, an apology, education/training, performance management, mediation and/or conciliation. Where the claim has been substantiated disciplinary action may be taken, up to and including termination of employment.

Resolution Procedure

For the purposes of complaint resolution processes:

- the person who makes a complaint is the Complainant; and
- the person about whose actions or behaviour a complaint relates is the Respondent

Before taking any steps to resolve the matter, the complainant may elect to speak to a member of the leadership team or Manager, Human Resources for guidance on their options for handling the complaint.

Where the complaint is about a Principal the employee may speak to the Education Consultant or the Assistant Director People and Development.

Anyone who believes they have been bullied, discriminated, or harassed is strongly encouraged to take appropriate action to ensure that the matter is resolved quickly and effectively. There are four options for resolving complaints:

1. Resolve Directly

Complainants are encouraged to take appropriate steps to resolve the matter directly by speaking with the other person firsthand.

The complainant must advise the other employee that her/his behaviour is offensive, unwelcome and not consistent with DOBCEL policy, and that they want the behaviour to stop immediately.

It is the complainant's choice to attempt to resolve a matter informally or to request Leadership support or intervention.

2. Informal resolution

The complainant may ask their Principal or Team Leader to intervene or initiate a conversation with another employee on their behalf. Where this occurs:

- the Leader cannot intervene on a complainant's behalf without their consent.
- the respondent has the right to know the details of the complaint and who the complainant is.
- the respondent must have the complaint clearly explained to them and be allowed time to respond.

Where the complaint is about a Principal or Team Leader the employee may ask the Education Consultant or Assistant Director People and Development to intervene on their behalf.

Mediation or conciliation

If unsuccessful. The appropriate leader can organise or provide mediation and/or conciliation to resolve the complaint. It may be necessary or helpful for the Principal or Team Leader to consult with the Manager Human Resources on this matter. For complaints involving a Principal the Education Consultant may consult with the Assistant Director People and Development.

In mediation, the Mediator negotiates with the respondent on the complainant's behalf but not in their presence. If resolution is not reached through mediation, or if conciliation is considered the best option, it should be considered at this point. Both the complainant and respondent are present at conciliation.

3. Formal resolution – Internal

Where a complainant seeks a formal investigation, this shall be referred immediately to the Principal or Team Leader. The Principal or Team Leader, in consultation with the Manager Human Resources, will designate the role of Investigation Officer. Where the concern is about a Principal or Team Leader the Assistant Director People and Development will coordinate the investigation process.

All parties involved in any part of this process have the right to have the matter treated confidentiality and sensitively.

Written Complaint

A formal written complaint must be provided by the complainant detailing specific information including: Names, dates, times, locations, witnesses and any actions.

Investigation

The complainant will be formally interviewed by the Investigations Officer and detailed notes of the alleged incident recorded. The respondent will be informed of the allegation, the name of the complainant and the need to formally investigate the complaint.

The respondent is allowed to contest the accuracy of the written report and to respond to the allegations made against them.

Following the investigation of the complaint, the Investigations Officer, in consultation with the Manager Human Resources or Assistant Director People and Development will make a determination on the balance of probabilities.

Outcome

The complainant and the respondent will be informed of the outcome of the investigation. In respect of an individual's the right to privacy, the involved parties may not always be informed of the actions taken as a result of the investigation.

In the case of a substantiated claim, following determination a recommendation will be made regarding the appropriate remedial action. This recommendation will be made to the position the employees Team Leader.

Remedial action

This may include, but is not limited to, an apology, education/training, performance management, or disciplinary action up and including possible termination of employment. In some cases, criminal charges may also apply.

A summary of the substantiated complaint will be included on the respondent's personnel file. A monitoring process will be established to ensure the matter has been successfully resolved and that a professional and respectful working relationship continues.

Inconclusive Investigation

If an investigation is inconclusive (i.e. a complaint cannot be proved due to a lack of evidence) further action may nevertheless be taken which may include counselling, mediation, changed working arrangements and/or conducting training for employees on relevant policies.

Complaints involving Leadership members

If a Complainant wishes to make a formal complaint about their Principal/Team Leader, the complaint will be directed to the Directorate member to whom they report, or in the case of a Principal to the Assistant Director People and Development.

If a Complainant wishes to make a formal complaint about a CEB Directorate Member, the complaint will be directed to the Executive Director Catholic Education Ballarat.

If the Complainant wishes to make a complaint about the Executive Director Catholic Education Ballarat, please refer to the *DOBCEL Complaints Procedure for complaints concerning the Director of Catholic Education*.

4. Formal complaint – External

A Complainant may choose to seek assistance, information and/or mediation support at any time during the process from a range of statutory and employee support agencies in Victoria.

Each agency will have specific requirements for lodging a complaint and will have varied investigation procedures.

In dealing with complaints, the school or DOBCEL may seek external advice and assistance from professional mediators, investigators, external agencies, and any other appropriate persons.

Documentation

A record of any disciplinary action that is taken arising from a formal investigation will be placed on the personnel file of any person who is formally cautioned or disciplined.

Confidentiality

All parties involved in a complaint under this policy, must ensure that the circumstances and facts of the complaint are disclosed only to those people who are directly involved in progressing its investigation and resolution. In particular, it is important that staff who either make a complaint, or who may be witnesses to the circumstances giving rise to the complaint, do not discuss the matter outside the investigation and resolution processes.

Victimisation or Retaliation Claims

Disciplinary action will be taken against any person who victimises or retaliates against a person who has lodged or is involved in a matter under this Policy. Such action may include termination of employment.

Vexatious Claims

Where an employee makes frivolous, vexatious or malicious claims against a respondent, for example, where false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution; depending on the circumstances, disciplinary action may be taken against that individual.

Access to Support and Representation

The complainant, respondent and any witnesses can elect to seek advice and to be accompanied by a support person. A support person's role is to support and advise the employee, ensure procedural fairness is afforded and to assist the employee to articulate their responses and participate as appropriate.

An employee, party to the matter, may utilise confidential, complementary counselling services provided by Converge International at any stage of the process. The contact phone number for this support is 1300 687 327.

APPENDIX: DOBCEL Prevention of Bullying, Harassment and Discrimination Procedure - Flowchart

