

Staff Grievance Policy and Procedure

1. Purpose

The purpose of this policy is to set out how The Geelong College will resolve grievances from employees.

2. Overview

The Geelong College is committed to providing a safe and healthy workplace in which diversity is valued and encouraged. Problems arise from time to time as a result of differences in the workplace. This policy outlines the steps that will be taken when a person makes a workplace complaint or some type of unlawful or inappropriate behaviour is observed and reported to management.

This policy is consistent with The Geelong College values.

Employees who engage in misconduct as outlined in the Workplace Behaviour Policy and Procedure may be subject to disciplinary action, up to and including instant dismissal.

This policy does not address performance management issues. The relevant policy that addresses performance management issues is the relevant Teachers Agreement and/or Business Operations Staff Agreement.

The scope of this Grievance Policy is quite separate from the Whistleblowers Policy, which has a different application.

3. Definitions

3.1 Breach of Confidentiality: during or after a formal investigation one of the parties/witnesses/managers/investigator connected to the investigation discloses information about the investigation to an employee not involved in the investigation.

3.2 Complainant: the person making the complaint.

3.3 Formal mediation: a form of alternative dispute resolution where a suitably qualified external third party assists the complainant and respondent to come to an agreed form of outcomes.

3.4 Frivolous complaint: a complaint that is found to be of little importance or to have no merit.

3.5 Grievance Officer (GO): a person trained to conduct formal investigations and resolve informal complaints.

3.6 Informal mediation: a process whereby a third party (usually internal) facilitates discussion between the complainant and respondent aiming to bring about a satisfactory resolution.

3.7 Investigator: person allocated to conduct the formal investigation. It may be a grievance officer or an external investigator.

3.8 Respondent: person responding to a complaint made about him/her.

3.9 Witnesses: anybody who is asked to provide information in relation to a formal investigation.

3.10 Vexatious complaint: a complaint that is instituted without sufficient grounds or serving to cause annoyance.

4. Application

This policy applies to everyone who works at The Geelong College, including employees, potential employees, labour-hire staff, trainees and contractors, regardless of whether they work full time, part-time are casuals or volunteers.

This policy applies to behaviour that occurs in the workplace including work outside normal work hours and at work related events such as conferences, training events and social functions like after hours drinks, Christmas parties and at any other place where an employee is a representative of The Geelong College.

This policy can be used to manage the following types of situations:

- a) perceived unlawful behaviour such as discrimination, harassment and bullying
- b) conflict with other staff
- c) lack of reasonable flexibility in workplace arrangements
- d) Promotions
- e) Training
- f) Rosters
- g) Workplace safety-if not resolved through the required occupational health and safety process
- h) Work environment issues
- i) Misconduct issues

This policy cannot be used to manage discipline issues related to poor work performance. This must be addressed through the performance management process as detailed in the relevant Teachers Agreement and/or Business Operations Staff Agreement.

5. Responsibilities

5.1 All Employees

All employees at The Geelong College must be aware of this policy. They are responsible for ensuring that:

- a) their behaviour in the workplace complies with this policy
- b) If an employee has any questions in relation to this policy then they can ask a manager/human resource person (HR)
- c) They respect the confidentiality of any complaint made and avoid gossip in relation to any possible inappropriate conduct.

Employees may be personally liable for their actions if they do not comply with the above requirements.

5.2 Line Managers

All staff who are line managers have a greater responsibility in the workplace.

Line Managers:

- a) Must investigate a complaint in accordance with the Grievance Management Policy and Procedure
- b) Must not allow, permit, assist or tolerate inappropriate actions occurring or continuing by their action or inaction
- c) Must not victimise a person for making a complaint or a witness for giving evidence
- d) Must ensure that confidentiality is maintained in relation to complaints including stopping gossip when they are aware of it.

Managers/supervisors may be personally liable for their actions if they do not comply with the above requirements.

5.3 Employers

Employers' must:

- a) Display this policy in a central location accessible to all staff
- b) Include this policy in the recruitment process and discuss with new employees at orientation
- c) Educate all employees in relation to their rights and responsibilities in relation to reporting harassment, discrimination and bullying
- d) Educate managers and supervisors in relation to their extra responsibilities and duties because of their role in the organisation
- e) Either have trained grievance officers to investigate complaints and / or an external investigator appointed
- f) Offer free confidential access to an external counselling/support service.

6. Over-riding Principles

6.1 Confidentiality

- a) People involved in the complaint (including the complainant, respondent, witnesses and investigator) are to follow the procedure outlined in this policy and not to disclose the information to anyone else within the workplace
- b) Information about a complaint will only be given to people directly involved in the management of the complaint
- c) Anyone who discloses confidential information to another employee may be disciplined
- d) All documents created in the course of the grievance are to be kept securely and only on an employee's personnel file if the grievance is substantiated.

6.2 Natural Justice

When a matter is investigated the complainant (person making the complaint) and the respondent (person complained about) have certain legal rights that protect them during the investigation process.

The Geelong College will ensure that when a matter is investigated:

- a) The relevant facts of the allegation complained of are given to the respondent
- b) Both parties have an opportunity to respond to all of the evidence gathered and have a reasonable amount of time to do this
- c) Both sides are allowed support or representation
- d) All allegations will be fully investigated before a decision is made
- e) The decision maker is impartial
- f) The decision made will be fair and based on the documented evidence before the decision maker
- g) No disciplinary action will be taken unless the complaint is found to be proven
- h) The disciplinary action recommended is reasonable
- i) Both parties have the right to appeal either the finding or the recommendation or both.

6.3 Victimisation

- a) Any employee who has made a complaint, or is a witness to a complaint will not suffer any disadvantage or detriment for having made a complaint in good faith
- b) Anyone who victimises another person will be disciplined
- c) Anyone found to have made a malicious or false complaint will be disciplined.

7. Discipline

Discrimination, harassment (sexual, racial, disability), bullying, victimisation and breach of confidentiality will not be allowed at The Geelong College. An employee who engages in any conduct that constitutes discrimination, harassment (sexual, racial, disability), bullying, victimisation or breach of confidentiality, will be subject to disciplinary action including instant dismissal. Disciplinary action could include:

- a) Counseling
- b) Warning-oral or written
- c) Demotion
- d) Apology
- e) Training
- f) Suspension
- g) Dismissal

Any manager who is made aware of any behaviour that could be discrimination, harassment (sexual, racial, disability), bullying, victimisation or breach of confidentiality and who does not deal with the conduct appropriately or report the conduct to the appropriate personnel will also be subject to appropriate disciplinary action, including instant dismissal.

An employee making a complaint has two options available. The intention is that the lowest level of intervention appropriate to the issue be used. Where the complainant wishes to go straight to the formal level, this decision is to be made in conjunction with Human Resources. Where the complaint is against the Director of Human Resources, the Principal, a member of Executive or any member of the College Council, then the matter automatically becomes a formal complaint and must be dealt with in accordance with the procedure outlined in formal complaint step 2 (see below).

8. Informal Complaint

An informal complaint is appropriate when one or more of the following exist:

- a) Where the complainant wants the matter to be dealt with informally
- b) The matter is of a minor nature with little or no ongoing consequences
- c) The behavior was one off or not over an extended period of time.
- d) The impact on the complainant is minor.
- e) There is an on-going working relationship with parties that wants to be maintained
- f) Informal resolution hasn't been tried
- g) The complainant wants the behaviour to stop but doesn't want the other party to be punished.

A manager may decide once he/she has heard the complaint that it is serious and may have to escalate it to a formal complaint status even if the complainant does not want this to happen.

Steps to follow for an informal complaint

8.1 Step 1: Preparation by the Complainant

- a) The complainant can access support from either a Contact Officer or their Employee Assistance Program (EAP) or a Manager to help talk through the situation
- b) It is useful for the complainant to think about what has happened and write it down (for their own benefit) in terms of what, when, where and who
- c) The complainant should work out what outcome he/she would like to happen
- d) The complainant should work out where, when and how he/she would like to approach the

person.

8.2 Step 2: Approach the Person

- a) The complainant can then state that he/she would like to have a talk with the respondent about his/her behaviour, ask him/her when they would like to do this
- b) State what he/she did/said and why the complainant did not like it and what the complainant would like the respondent to do instead
- c) If the matter is resolved then the complainant does not need to take any further action but he/she can contact their EAP/Manager to debrief if necessary.

8.3 Step 2: Speak with MNAGER/Human Resources/Grievance Officer

- a) If the matter is not resolved then the complainant can speak with a Manager/Human Resources/Grievance Officer (GO) to discuss other suitable informal options
- b) The Manager/HR/GO can have either a group general conversation or an individual general conversation with the respondent. The aim of this conversation is to remind staff of The Geelong College's policies in relation to appropriate workplace behaviours and to highlight the types of behaviours complained of. This is an appropriate option where the behaviour complained of is not serious and there is a likelihood that staff are not aware that their behaviour is inappropriate and more than one person has experienced/witnessed it and the complainant does not want their identity disclosed (and because the behaviour is not just directed at the complainant, their identity does not need to be disclosed)
- c) The other alternative is where the complainant does not feel comfortable speaking to the respondent, the Manager/HR/GO can separately speak with the respondent about the behaviour. If the respondent responds positively to the approach and the Manager/HR/GO communicates this to the complainant and the complainant is happy with this then the matter is resolved without bringing the two parties together and no further action will be taken.

8.4 Step 4: Informal Mediation

- a) Informal Mediation can be used where both parties agree to its use. The Manager/HR/GO will organise for the complainant and respondent to meet (after having had separate meetings with them) and the Manager/HR/GO will take on the role of mediating the conversation between the parties.

8.5 Step 5: Formal Mediation

- a) Formal mediation involves an external qualified mediator conducting a mediation between the respondent and complainant. Formal mediation is appropriate where the matter is serious and it is the last option before making a formal complaint. Both parties must agree to the mediation.

8.6 Recording Information

All interviews conducted should be reduced to writing. Any supporting evidence such as emails, pictures etc. should be copied and attached to the written notes. All of this information will be stored in a locked filing cabinet that only Human Resources and The Principal has access to.

9. Formal Complaint

A formal investigation is appropriate where an informal resolution was not successful or it has been decided that it is appropriate for a formal investigation to occur because one or more of the factors exist:

- a) Where the complainant wants the matter to be dealt with formally
- b) The matter is of a serious nature with significant ongoing consequences
- c) The behaviours are repeated over an extended period of time
- d) The impact on the complainant is significant psychologically and/or physically

- e) The working relationship has broken down
- f) The complainant wants the truth to come out and the other party to be held to account for his/her actions.

The process to be followed for a formal complaint is outlined below.

9.1 Step 1: Written Complaint

- a) The complainant or other relevant party (such as a Manager/HR/GO) completes the written complaint form. In the form the complainant focuses on the facts, what, where, when, how and any supporting evidence he/she may have, including other witnesses, emails, photographs, texts etc.
- b) If required the complainant can seek the help of their Manager/HR/GO/External Agency (to complete this form. The form is given to the Director of Human Resources who will decide if the matter is to proceed as a formal investigation and who to allocate the investigation to. Human Resources may decide that other informal options are to be explored first. It may be allocated to a Grievance Officer, Manager, or external independent investigator
- c) A copy of the written summary of the complaint will be given to the respondent before the respondent is interviewed by the investigator. Once the respondent has been notified of the complaint, The Geelong College has the option of suspending one or both parties on full pay and/or altering the work arrangements of one or both parties until the investigation is complete and the decision has been made by the decision maker being Human Resource in conjunction with the Principal.

In addition the investigator will also have a copy of the form.

9.2 Step 2: Investigation of Complaint

- a) An investigation must have commenced within 5 business days of the written form been given to someone in management
- b) If the complaint is made against The Principal of The Geelong College then the complaint immediately goes to the Chairperson of the Council and the matter is automatically investigated by an independent external party. Otherwise the investigator can be a Grievance Officer or other suitably trained person either internal or external to the College.
- c) The investigator meets with the complainant and outlines the grievance process, the principles that apply to the process and the procedure that will be followed.
- d) 4. The complainant can seek support or representation from their EAP/other external agency or Union or Lawyer
- e) The investigator interviews the complainant and any witnesses identified by the complainant and makes a written statement of all witnesses.
- f) The investigator checks the accuracy of the statements with the relevant witnesses and a final statement is completed within 3 days of the draft statement been provided to the complainant/witness.
- g) The investigator provides a summary of the statements to the respondent.
- h) The investigator meets with the respondent and outlines the grievance process, the principles that apply to the process and the procedure that will be followed.
- i) The respondent is provided with the complaint and all relevant summaries of witness statements, and has within 5 days to respond to the complaint.
- j) The respondent can seek support or representation from their EAP or other external agency
- k) or Union or Lawyer
- l) The respondent can respond in writing or/and by way of an interview with the investigator. A support person can be present during this interview and can take notes during the interview.
- m) The investigator makes a written statement based on the interview with the respondent and any relevant witnesses and checks the accuracy of the statements with the relevant witnesses and a final statement is completed within 3 days of the draft statement been provided to the

respondent/witness.

- n) Where new facts arise in the course of the investigator interviewing the respondent and his/her witnesses then the investigator may provide the relevant new parts of the respondent's statement and witness statements or summaries of to the complainant and allow at least 3 days time as preparation before the complainant responds.
- o) The investigator meets with the complainant and makes a written record of his/her response to the respondent and other witnesses' statements.
- p) At any time throughout the formal grievance process the investigator, may with the consent of both parties, pause the investigation and attempt to mediate a resolution of the grievance. If the mediation is successful then the investigation will cease at that point. All documentation collected up until that point will be stored in a secure location, not on the personnel files of either party.

9.3 *Step 3: Outcome of Investigative Process*

- a) The Investigator provides a written report to the decision maker being the Principal unless the Principal has been named in the grievance which contains all the relevant evidence and states whether the allegations are substantiated or not and may recommend an outcome. The recommended outcome may include but is not limited to:
 - i. Counseling
 - ii. Training
 - iii. Warning-oral/written
 - iv. Demotion
 - v. Apology
 - vi. Suspension
 - vii. Dismissal
- b) The decision maker makes a decision on the report provided and both parties are provided with the decision maker's decision (in writing) within 3 days of the report being provided to the decision maker.
- c) Either party may request in writing to have the finding or the discipline reviewed within 5 days of being notified of the decision. The request must be given to the Director of Human Resources in writing.
- d) Once an appeal letter has been received, the Director of Human Resources in conjunction with the Principal will outsource an independent investigator/legal practitioner to examine all of the evidence and advise accordingly.
- e) The independent investigators review is final within The Geelong College.
- f) The time frames outlined in this document can be varied either by agreement between the parties, at The Principal's or Grievance Officer's discretion for operational requirements or a justifiable reason for the delay can be substantiated; e.g. illness or leave.
- g) At any time the complainant may make a complaint to the Equal Opportunity Commission (ph:1300 292 153) The Australian Human Rights Commission (ph:1300 656 419) or WorkSafe (1300 307 877) if appropriate or bring a claim before Fair Work Australia (ph: 1300 799 675).

10. Vexatious Complaints

If a complaint is made and is subsequently found to be a frivolous or vexatious complaint then the person who made the complaint may be subject to disciplinary action up to and including instant dismissal.

11. Associated Policies

Workplace Behaviour Policy and Procedure

Community Grievance Policy

