

Complaints Handling Policy and Procedures

Lutheran Schools seek to be places where caring, cooperative and respectful relationships contribute to supportive communities that reflect the values of the gospel of Jesus Christ and where there is a focus on love, justice, compassion, forgiveness, service, humility, courage, hope, quality and appreciation and restoration.

The Complaints Handling Policy and Procedures provide a mechanism for complaints to be dealt with in a consistent, timely, fair and transparent way with sensitivity which gives effect to the above aims, and account to the legal obligations of Queensland Lutheran Schools, including (but not limited to) workplace health and safety requirements and the according of procedural fairness and natural justice.

1. Policy

Complaint or conflict situations often involve two or more people with different expectations and views, each one taking a position and acting on what they believe is right. In addition, Schools have expectations that must also be taken into account.

Those involved in the management of complaints in Queensland Lutheran Schools:

- 1.1. Acknowledge and respect that employees, parents and students are **entitled to raise a complaint** in good faith;
- 1.2. Consider the **safety and welfare** of all the parties involved where appropriate;
- 1.3. Have a commitment to complaints handling procedures being **accessible**, promoted within the school and community, and **applied consistently and fairly** to all those to whom this Policy and Procedures is expressed to apply in paragraph 2.1 below;
- 1.4. Have a commitment to ensuring complaints are **dealt with sensitively** and **without undue delay**;
- 1.5. Subject to the affording of natural justice/ procedural fairness, **maintain confidentiality** of the process to protect its integrity and the welfare of all parties involved at all times; and
- 1.6. Act in **good faith**, exercise good judgment, focus on the issues not the person (impartial) and communicate in a courteous, and respectful manner.

2. Scope

- 2.1. The scope of this policy extends to Complaints brought by any member of staff, parent/s, student/s or other member/s of the School/ wider community.
- 2.2. Queensland Lutheran Schools have specific policies/ procedures in place for:
 - 2.2.1. Child Protection;
 - 2.2.2. Unsatisfactory Performance;
 - 2.2.3. Serious Misconduct and Summary Dismissal;
 - 2.2.4. Any mandatory complaints handling processes applicable under federal and/or state funding agreements or funded programs;
 - 2.2.5. Accidents/ incidents more appropriately dealt with under the School's Incident Recording and Reporting and Incident Investigations procedures

Complaints determined as relating to matters of the above nature should be dealt with under the specific policy/ies and or procedures in place relating to such matters and the Complainant and Respondent shall be advised promptly which policy or policies are being invoked. Subject to paragraph 9.4.2, this policy is therefore applicable where Complaints are determined as not having to be dealt with under another policy/ procedure

3. Definitions

- 3.1. **Complaint:** An expression of dissatisfaction by any person, which may include an employee, parent, student or other member of the School or wider community about any act, behaviour, omission, situation or decision that the person considers unfair or unjustified;
- 3.2. **Complainant:** any person who has a complaint. A complainant may include any member of staff, parent, student or other member of the School or wider community;
- 3.3. **Complaint Policy:** The policy set out in this document;
- 3.4. **Complaint Procedure:** the procedures set out in this document;
- 3.5. **Natural Justice:** Natural Justice involves:
 - 3.5.1. Acknowledging and respecting that Complainants are entitled to raise a Complaint/s in good faith;
 - 3.5.2. Complaints handling procedures being accessible, promoted within the School and applied consistently and fairly to all those to whom these procedures apply;
 - 3.5.3. Both Complainant and Respondent having the capacity to seek advice, have a Support Person and/or be represented throughout the process;
 - 3.5.4. Sufficient particulars of the allegation/s made or relevant information relied upon to support the allegations being provided to enable the Respondent to respond;
 - 3.5.5. Both Complainant/ Respondent being given a reasonable time to prepare and submit: the Complaint (Complainant); a response to allegations made (Respondent); or information provided (both Complainant and Respondent);
 - 3.5.6. Genuine consideration must be given to all information (including the Respondent's response) prior to any decision being made.
- 3.6. **Policy and Procedures Document:** This Complaints Handling Policy and Procedures document;
- 3.7. **Particulars:** The particulars of an allegation must provide enough detail to enable the Respondent to provide a response. Details such as who, what, when, where and how must be provided to ensure delivery of natural justice. Relevant particulars of the allegation/s or information relied on to support the allegation should be provided to the Respondent in writing.
- 3.8. **Procedural Fairness:** Procedural fairness is concerned with the procedures used during an investigation and/or by a decision-maker, rather than the actual outcome. It requires a fair and proper procedure to be used when conducting an investigation and/or making a decision. A process that delivers procedural fairness requires a demonstration of transparency, equity in examination of evidence and freedom from bias, perceived or otherwise, in the decision making process.
- 3.9. **Respondent:** Any person against whom a complaint is brought;
- 3.10. **School/ Schools:** Means the Schools listed in **Schedule 1** of this Agreement.
- 3.11. **Support Person/Representative:** Both Complainant and Respondent are entitled to avail themselves of a support person or representative of the Complainant's/Respondent's choosing. A support person provides support, and a representative provides support and/or advocacy (where appropriate) to the Complainant/ Respondent throughout the process.

4. Confidentiality

- 4.1. Subject to the terms of this paragraph 4, Queensland Lutheran Schools are committed to the confidentiality of all Complaints, at all stages throughout the complaints handling process.
- 4.2. There are many reasons why a Complaint should at all times be handled confidentially. The existence and the nature of a Complaint should not be disclosed to anyone other than those who need to know for the purposes of investigating, dealing with or providing support in respect of the matter or as otherwise required by law. Unnecessary disclosure of information may jeopardise an investigation, injure the reputations of innocent parties and/or negate any defences against defamation. In some cases, an inappropriate disclosure could also constitute

a breach of an applicable law. Schools consider any breach of confidentiality a serious issue worthy of disciplinary action or other appropriate sanction if warranted.

- 4.3. This reference to confidentiality is not intended to stop a Respondent from approaching potential witnesses for the Respondent in an appropriate manner where the purpose of such an approach and discussion is to inform the Respondent/s response to the allegation/s. The Respondent must inform the Authorised Person of the name/s of any such potential witness/es either prior to or immediately following approach, and confirm to the Authorised Person that the Respondent has explained the obligations of this paragraph 4 to any and all such person/s. The Respondent must not, under any circumstances, approach the Complainant or any person/s known to be actual or, where identified, potential witnesses for the Complainant.
- 4.4. The identity of the Complainant should not be revealed to any third party without the Complainant's consent, unless it is required to be disclosed by law or is required for the purposes of paragraph 4.3 or 4.6.
- 4.5. Any hard or soft copies of material associated with a Complaint should be handled responsibly and securely stored to prevent unauthorised access.
- 4.6. While confidentiality is important, there may be circumstances in which it is not possible to uphold a person's right to confidentiality. For example, as a matter of procedural fairness, Respondents are entitled to know the nature of the allegation being made and who has made the allegation against them. Further, the Complaint may involve criminal activity, someone's health and safety being at risk, or disclosure may otherwise be required by law. As such, Complainants can not be guaranteed anonymity with respect to their Complaint.

5. Timeframe for Resolution of Complaint

The School will endeavour to resolve all Complaints as quickly as possible. However, an approximate timeframe will be provided to the parties to the Complaint with the caveat that the timeframe for resolution of a Complaint will depend on the complexity, nature and scope of the Complaint.

6. Procedure

The Complaint Procedure consists of a 3 level process. A Complaint/s may be resolved at any stage of this process. Where possible, Complaints should be responded to at the local level and at the lowest level possible.

6.1. **Levels 1 and 2** outline the *Informal Process*. If at all possible, a concern, issue, problem or conflict is best dealt with directly between the people involved before it escalates to the stage of making a Complaint. Early action at levels 1 and 2 generally provides the best opportunity for positive resolution.

6.2. **Level 3** outlines the *Formal Process*. It is anticipated this stage will only be utilised if a resolution can not be reached using the Informal Process or the circumstances and / or the seriousness of the matter clearly require a formal process to be implemented. During the Formal Process, the outcome of the matter is determined by someone other than the Complainant or Respondent.

7. Reporting of Complaints – Roles and Responsibilities

The following key roles and responsibilities should be allocated and publicised in the School so that everyone is very clear about who to contact and the extent and limitations of that person's role. Conflicts of interest must be declared by Authorised Persons designated under this paragraph:

ROLE	RESPONSIBILITIES
<p>AUTHORISED PERSONS</p> <ul style="list-style-type: none"> • Trained to deal with complaints relating to behaviour • In Schools, are likely to be the Principal, senior management members or other managers with stated responsibility and appropriate training 	<ul style="list-style-type: none"> • Receive complaints; • Take accurate and detailed records of complaints and subsequent action; • Co-ordinate investigations; • Keep the Complainant fully informed of progress to the resolution of the Complaint; • Ensure that any agreed action arising from the Complaint is carried out.
<p>COMPLAINTS COORDINATOR</p> <ul style="list-style-type: none"> • A senior staff member who has been delegated both the authority and the responsibility for policy creation, implementation and evaluation, and ensuring compliance 	<ul style="list-style-type: none"> • Senior contact officer; • Acts as a point of contact for the parties involved and communicate with them; • Receive complaints and hand to Authorised Person; • Coordinate the tasks that need to be undertaken in the resolution process; • Ensure everyone is treated fairly and with confidentiality; • Ensure that details of all Complaints and subsequent action are recorded and filed confidentially; • Monitor the management of Complaints, ensuring that they proceed to resolution in a timely manner; • Monitor the Complaints records for repetition and patterns of behaviour that may be of concern; • Ensure that relevant staff receive training in complaints processes; • Provide information regarding external investigation and mediation services; • Does not act as an Authorised Person, mediator, investigator or decision maker.
<p>CONTACT OFFICERS</p> <ul style="list-style-type: none"> • Designated and trained people charged with the responsibility for providing support and information. • The following may be appointed by the School as a Contact Officer: <ul style="list-style-type: none"> - employee's immediate supervisor; - a manager eg Head of Department; - Workplace Health & Safety Advisor; - Workplace Health & Safety Representative 	<ul style="list-style-type: none"> • Act impartially and with appropriate confidentiality to provide information and support and allow Complainants to make informed choices about further action in relation to alleged behaviour or grievance; • Provide information about the options available to resolve the matter; • Provide information about the relevant School policies and procedures; • Ask the Complainant what action they wish to take; • Provide information about support services available to both Complainant and Respondent; • Take accurate notes of meetings; • Provide feedback to the Authorised Person and Complaints Co-ordinator; • Advise an Authorised person immediately if there are concerns about the safety of the Complainant or Respondent • Do not act as a mediator, investigator or decision maker in the complaints process.

8. The Informal Process

Level 1: Affected Parties Meet

8.1. Objects

8.1.1. If at all possible and appropriate, to encourage the parties to first seek to resolve issues in a timely manner informally, personally and in a spirit of goodwill and commitment to maintenance of a safe and harmonious environment.

8.1.2. To encourage those involved to approach the situation in an open, inclusive and cooperative manner and to work together to reach a mutually agreed resolution through a problem solving approach.

8.2. The Process

8.2.1. It is an expectation in Lutheran schools that, if at all possible and appropriate, understanding the viewpoint of all persons involved in an issue, including that of the person who has made the Complaint, is paramount and therefore deserves the time and energy to work to create an outcome that fosters better relationships within the School and/or wider community.

8.2.2. Face to face resolution involves the person with the Complaint raising the matter directly either verbally or in writing, with the person(s) responsible for the behaviour to let them know the impact their behaviour has had and to see if a misunderstanding has occurred. In most instances, initial informal discussions lead to improved understandings and better working relationships and agreement for changed work practices.

8.2.3. Notes should be kept of any informal discussions as well as any agreed outcome and should be held by the parties.

8.2.4. The following process is recommended for the party initiating resolution:

- (a) Approach the Respondent to explain their concern using effective communication;
- (b) Discuss the matter confidentially;
- (c) State what the problem/s is/ are;
- (d) Give an example of the behaviour that has caused dissatisfaction;
- (e) State how it is affecting the party and their work;
- (f) Describe what is at stake and why the problem needs to be resolved;
- (g) Express personal willingness to contribute to a resolution;
- (h) Seek the other person's perception of the situation;
- (i) State what is needed;
- (j) Be open to new/ alternative solutions and be willing to make the first move towards reconciliation.

Level 2: Third Party to Assist Resolution

8.3. Objects

8.3.1. If possible and appropriate, to use a neutral third party to help parties identify the disputed issues, understand the perspective of the other, develop options, consider alternatives and endeavour to reach a mutual agreement the parties are prepared to abide by.

8.3.2. To encourage both parties to consider solutions at an early stage.

8.4. The Process

- 8.4.1. If informal discussions were unsuccessful in resolving the matter or were not possible/ appropriate, the Complainant should approach their Complaints Coordinator to put their concern in writing. Details to be recorded in writing will include, along with the specific allegation/s, the name and contact details of the Complainant, details of the allegation/s (when, where, what and who it involves), dates, and times of the allegation/s, the name/s of any witness/es and desired outcome.
- 8.4.2. A copy of the written allegations provided to the Authorised Person.
- 8.4.3. The Authorised Person will approach the Respondent and request that they attend a third party facilitated discussion and/ or mediation to resolve the issue. The Authorised Person will show the Respondent the allegation/s and offer the Respondent an appropriate time to review, consider and write down any objections to the allegations, the Respondent's perceptions of the problem and suggestions as to possible solutions. A copy of any written objections will be provided to the Authorised Person.
- 8.4.4. The Authorised Person will then show the Complainant any objections raised by the Respondent and offer the Complainant an appropriate time to review and consider the objections in advance of the third party facilitated discussion.
- 8.4.5. As soon as practicable upon 8.4.3 and 8.4.4 having occurred, and provided both Complainant and Respondent have indicated their willingness to participate in a third party facilitated discussion, a meeting involving the relevant parties (Complainant, Respondent, third party facilitator or mediator) will be scheduled.
- 8.4.6. The Complainant and/or Respondent may have a support person present during the assisted discussion.
- 8.4.7. The neutral third party to assist the third party facilitated discussion and/or mediation may be (as appropriate):
- (a) A trained Mediator;
 - (b) The School's Workplace Health & Safety Advisor;
 - (c) Such other neutral person as the Principal may nominate after discussion with both the Complainant and Respondent. The neutral person may be an appropriately trained person external to the School.
- 8.4.8. The role of the neutral third party is to:
- (a) Provide a forum to allow the parties the opportunity to tell their side of the story openly;
 - (b) Remain impartial;
 - (c) Encourage formulation of solutions;
 - (d) If the matter is not resolved, advise about future process options;
 - (e) Maintain confidentiality at all times.
- 8.4.9. The neutral third party should keep notes of any agreed outcome or, if final agreement is not reached, the areas of agreement and disagreement that exist between the parties as identified and agreed to by the parties. A copy of the agreed notes should be provided to the parties by the neutral third party.
- 8.4.10. It should be noted that any agreement reached by the parties during a third party assisted discussion is not directly enforceable against the School (except in the situation where the principal or his/ her nominee is agree to be bound by the outcome).

9. Level 3: The Formal Process

It is anticipated that this stage will only be utilised if a resolution can not be reached using the Informal Process outlined above, or the seriousness of the matter is not suitable for third party assisted resolution and/or clearly requires a formal process to be implemented. During the Formal Process, the outcome of the matter is determined by someone other than the immediate parties.

9.1. Lodging a Complaint

9.1.1. Complainants may formally make a Complaint by recording the Complaint in writing, such written Complaint to include (along with the allegation/s), the name and contact details of the Complainant, details of the allegations (when, where, what and who it involves), dates and times of the allegation/s, the name/s of any witness/es and desired outcome.

9.1.2. The written Complaint may be lodged with the Complaints Coordinator in any of the following ways:

- (a) Sending a fax marked to the attention of the Complaints Coordinator;
- (b) Sending the Complaint Form to the Complaints Coordinator by post;
- (c) Handing the Complaint Form to the Complaints Coordinator.

9.1.3. The Complaint Co-ordinator's contact details for the purposes of paragraph 9.1.2 above will be made readily available to all staff at School site.

9.1.4. Where the Complaint is against the Principal, the Complaint should be made to and lodged with a member of the School's governing body. In such case, the Chair of School Council shall be the Authorised Person for the purposes of this Policy and Procedures Document.

9.1.5. Complaints may also be lodged by telephoning the Authorised Person, or by reporting the Complaint to the Authorised Person. When a Complaint is lodged in either of these ways, the Authorised Person will request the Complainant to put his or her Complaint in writing. However, sometimes a Complainant will not wish or be able to do so, and/or he or she may request that no action be taken at all. If this occurs, the School may be legally obliged to take action, despite the Complainant's request depending on the circumstances and/ or the seriousness of the matter. This is because failure to respond to a Complaint, even an unwritten and informal one, could put the School in breach of its legal obligations under anti-discrimination legislation (for example, where the Complaint involves an allegation of sexual harassment), under occupational health and safety legislation (for example, where the Complaint involves an allegation of conduct causing a health or safety risk) or other legislation (refer to paragraph 4.6 above).

Where the School is legally obliged to take action and the Complainant is unwilling or unable to put the Complaint in writing, the Authorised Person will identify particulars of the allegation/s contained in the Complaint and record them in writing on the Complainant's behalf.

9.1.6. Anonymous Complaints are taken seriously, recorded and considered by the School as far as practically possible. However, it is acknowledged that there can be limitations on investigation and resolution of Complaints received anonymously. This is because, as a matter of procedural fairness, Respondents are entitled to know the nature of the allegation being made and who has made the allegation against them.

9.2. Recording the Complaint

The person receiving the Complaint will record the information in a confidential Complaints Register stored in a secure, locked location, and ensure that written acknowledgement of receipt of the Complaint is provided to the Complainant.

9.3. Assessing the Complaint

9.3.1. Once sufficient information about the Complaint has been obtained, then the Authorised Person should conduct an initial assessment of the Complaint and an appropriate procedural response.

9.4. Respond and Resolve

9.4.1. Where possible, Complaints should be responded to at the local level and at the lowest level possible.

9.4.2. If, during an investigation, it becomes clear that the Complaint is not a Complaint to which this Policy and Procedures Document applies, or is another Complaint type to which another School policy/ies specifically apply/ies, the investigation should be discontinued and the Complaint referred or otherwise dealt with appropriately.

9.4.3. Not all matters will need to be raised with the Respondent concerned if, after initial investigation the matter proves to be unfounded or vexatious. Where matters have been raised with the Respondent and the initial investigation of the matter proves that the Complaint is unfounded or vexatious, the Authorised Person will inform the Respondent of any actions taken in respect of the Complainant (vexatious Complaint) and allow the Respondent the opportunity to reflect on the Complaint (if tendered in good faith) in case the unfounded Complaint identifies any need to modify practice.

9.5. Action Required

9.5.1. Following assessment of the Complaint, the action required will depend upon the seriousness of the matters alleged. Action required may involve:

9.5.2. *No Action.* The School may decide to take no action if the issue has been resolved or the situation complained about no longer exists. In deciding to take no action or discontinuing action, the School should consider all of the available facts against the potential outcomes to individuals and the organisation.

9.5.3. *Management Action.* In the case of less serious matters and provided there is sufficient information, the School may respond to a Complaint by taking management action such as changing a decision, providing information, correcting a record, effecting a change in policy/procedure of the School, waiving a penalty, implementing increased supervision or performance management strategies/ processes, giving guidance or counselling, or providing specific training.

9.5.4. *Reporting of Criminal Matters to Police.* In some instances, the School has no discretion and the Complaint must be reported to the Police or other relevant outside authorities. Such instances may include (but are not limited to) physical or sexual assault, fraud, indecent exposure, stalking or obscene communications or threatening behaviour.

9.5.5. *Investigation.* There will be some cases where a full investigation of the Complaint is the only appropriate response. Where the most serious possible consequence of the Complaint is (by way of example) dismissal (or demotion) (in the case of an employee), exclusion of a student and/or termination of an enrolment contract with the School, the School should take the utmost care to ensure such matters are investigated fairly and

thoroughly. During an investigation, the outcome of the matter is determined by someone other than the immediate parties.

9.6. Investigation

9.6.1. If it is determined that a more detailed investigation of the Complaint is required beyond that identified in 9.4.3, the investigation will be conducted in a fair, objective and timely manner in accordance with the principles of natural justice and procedural fairness.

9.6.2. Procedural fairness/ natural justice involves:

- (a) The Respondent being informed of allegations made against them. To avoid confusion over the allegation, it is a requirement that the Respondent be informed of the allegations in writing at least 48 hours prior to interview;
- (b) Informing both the Complainant and Respondent of the process and their right to have a support person throughout the process, and the possible consequences of the investigation;
- (c) Providing a reasonable opportunity to respond – to both Respondent and Complainant, at relevant stages of the investigation;
- (d) Avoiding undue delay;
- (e) All decisions being made impartially/ without bias;
- (f) Acting only on the basis of logically presented and verified evidence and on the balance of probability;
- (g) Providing at least 48 hours notice in writing to all parties of any interviews or meetings regarding the Complaint;
- (h) Considering any special needs of the Complainant and/or Respondent and putting in place appropriate measures to manage same.

9.6.3. Further, the Complainant and Respondent should be informed of:

- (a) Requirements of confidentiality (refer to paragraph 4 above);
- (b) If necessary, what interim measures will be taken to ensure the safety and welfare of the Complainant, Respondent or any other person during the investigation (in serious matters, interim measures may include suspension on full pay of the Respondent).

9.6.4. The investigator will:

- (a) Gather and analyse information;
- (b) Formulate findings (whether a Complaint/s is substantiated/ unsubstantiated);
- (c) Document their findings and provide a copy of same to the Principal for consideration. However, in the event the Complaint is made against the Principal, the investigator shall provide a copy of their findings to the Chair of School Council for consideration;
- (d) The Principal should communicate the findings to the parties in writing. However, in the event the Complaint is made against the Principal, the Chair of School Council shall undertake this task. A copy of the investigator's findings referred to in paragraph 9.6.4(c) above will be provided to the Complainant/ Respondent upon request.

9.7. Determination

9.7.1. In the case of a Respondent, if a Complaint is found to be substantiated it may be dealt with under an applicable School policy or contract, appropriate management or disciplinary action or as prescribed under an applicable Annexure to the Queensland Lutheran Schools Single Enterprise Agreement 2013 (as amended or replaced from time to time).

9.7.2. In the case of a Complainant: Assistance should also be provided for the Complainant, where appropriate, such as (but not limited to):

- (a) Offering professional counselling;

- (b) Mentoring and support from a senior manager or other appropriate school community member;
- (c) Provision of appropriate training.

10. Victimisation/ Adverse Action

- 10.1.1. No victimisation/ adverse action should be taken against any party because they are exercising their right to make/ respond to/ give evidence in relation to/ assist in administering a complaint.
- 10.1.2. *Victimisation* occurs when a person is treated less favourably or is aggrieved in some way because they have chosen to taken certain actions, such as a legal claim against a Respondent. Unfavourable treatment could include (but is not limited to) adverse changes in the work environment, denial of training and/or promotion opportunities, and/or retribution or exclusion by peers.

11. Vexatious Complaints

- 11.1.1. A *good faith* Complaint is a Complaint submitted by a Complainant who has honest belief based on reasonable grounds.
- 11.1.2. If a Complaint is found to be *vexatious*, that is, without foundation/ reasonable grounds, and is intended to cause unjustifiable damage to the career and reputation of the alleged harasser, to obtain a personal benefit, or to extract revenge in regard to a personal or professional issue, then disciplinary action or other appropriate sanction may result if warranted.

12. Review

- 12.1. The Council for Lutheran Education Queensland (**CLEQ**) will conduct an annual review of the effectiveness of this Policy and Procedures Document.
- 12.2. CLEQ reserves the right to amend this Policy and Procedures Document at any time provided always that, in the case of an amendment/s proposed by CLEQ to this Policy and Procedures Document relating to Complaints made against staff (other than an amendment/s required under applicable legislation), employee endorsement of a variation of this Queensland Lutheran Schools Single Enterprise Agreement 2013 (as amended from time to time) to reflect such proposed change/s must also be obtained.