

Our Lady of Mount Carmel School



Staff Harassment, Discrimination and Bullying Policy

COMPLAINTS OF HARASSMENT, DISCRIMINATION OR BULLYING (STAFF MEMBER AGAINST PRINCIPAL)

The following procedures are available to all members of staff in West Australian Catholic schools who have complaints of harassment, discrimination or bullying against their principal.

Where possible and appropriate, it is desirable to resolve the issue informally or through conciliation. In more serious or persistent cases, investigations will proceed using the formal investigation procedures outlined below.

OPTIONS AVAILABLE TO PERSONS WITH HARASSMENT, DISCRIMINATION OR BULLYING COMPLAINTS

A staff member may wish firstly to seek confidential advice on how to deal with the situation. This may be from the school-based contact officer, a consultant from the Catholic Education Office of Western Australia (CEWA), the Independent Education Union, a counsellor from the Employee Assistance Program, Equal Opportunity Commission, Human Rights and Equal Opportunity Commission (HREOC) or another appropriate source.

A staff member electing to address a situation personally may later decide to report the matter to CEWA or the Equal Opportunity Commission 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.

Option 1: Less Serious, intermittent complaint(s) – Dealt with according to the school Harassment, Discrimination and Bullying Policy and Procedures

1.1 Deal with the situation personally

A person who feels they are being harassed, discriminated against or bullied may not wish to file a complaint, but prefer to address the issue themselves by approaching

Staff Harassment, Discrimination or Bullying Policy

Revised 2018

Review 2021

the person(s) concerned in an effort to seek self-resolution. It is recommended that this informal resolution method be employed for the resolution of less serious, intermittent complaint(s). Self-resolution works best if those involved demonstrate goodwill and recognise their mutual rights and needs. It is helpful to focus on the behaviour of the person rather than on their personality by using the following 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 Seek resolution through conciliation

A person may not wish to engage in a formal investigation process but seek assistance to resolve behaviour that is not acceptable through conciliation. In addition, if the matter is less serious and not persistent the school-based contact officer may offer conciliation rather than a formal investigation process. Conciliation allows issues to be 'aired' and conflict (or perceived conflict) to be resolved in a non judgmental and non disciplinary manner. The conciliator may be a person from the school community, a consultant from the CEWA external conciliator. The staff member is also entitled to bring a nominated support person with them to such meetings.

Please be aware that notes regarding the resolution process should be maintained at school level and include all salient details (i.e. day, date, an outline of the allegations, details regarding resolution). It is not necessary to forward these details to CEWA.

If there is no change to the behaviour following conciliation, one of the options below may be followed.

Option 2: Lodge a formal complaint with the Equal Opportunity Commission or with the Human Rights and Equal Opportunity Commission (HREOC)

It is preferable for a complaint to be settled at the local level as opposed to an external agency. However, members of staff who believe they are the victim of harassment, discrimination or bullying have the right to lodge a complaint with the WA Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission. It is incumbent upon the principal and the CEWA to support the person if they enact this decision.

Option 3: Serious and/or Persistent Complaint(s) –Dealt with via a formal investigative pathway.

Where a formal complaint of harassment is made against the principal or delegate, the contact officer shall refer the matter directly to the Director of Catholic Education. The initial contact may be made to the CEWA Workforce Relations Team. The Director of Catholic Education shall appoint an investigating officer to deal with the matter. The investigating officer may be a consultant from the CEOWA Workforce Relations Team or an external third party.

In such instances, a meeting between the aggrieved member of staff, the principal and the investigating officer must be convened at the earliest possible time. The staff member is entitled to bring a support person of their choice to all formal meetings. Appropriate support persons include (but are not limited to) a spouse, a work colleague, a union representative. During the planning of the process, the investigating officer must endeavour to cater for any special circumstances including the need for an interpreter if required and a mutually agreeable venue (e.g. it may be necessary to conduct interviews at an off-site location rather than at school).

If the case involves a physical assault or action of a criminal nature, it must be referred to the relevant authorities. For this and all other situations of serious and/or persistent complaint(s) of harassment, discrimination or bullying of a staff member by a principal, communication with a consultant from the CEWA must be made prior to enacting each stage. All paperwork must contain salient details (i.e. day(s), date(s), an outline of the allegations, meeting transcripts/summaries, summaries of witness testimony, details regarding resolution/punishment applied and copies of all formal letters), be presented chronologically and filed at school level.

The following steps are important and must be adhered to:

Step 1: Investigating officer meets with staff member (complainant)

Formal complaints of harassment, discrimination or bullying by a principal may initially be referred to the CEWA Workforce Relations Team verbally or briefly in writing (e.g. via email). However, it is required that a detailed formal written complaint (including date and signature) be lodged by the complainant to initiate the investigation process.

Upon receipt, the investigating officer will schedule a formal meeting with the complainant in writing (see Attachment One) and attach a copy of the school-based Harassment, Discrimination and Bullying Policy and these procedures. As part of these arrangements, the investigating officer must convey that he/she is entitled to attend this meeting with a nominated support person (see detail above). The investigating officer must conduct this meeting with an appropriate third party who fulfils the dual role of witness to proceedings and minute recorder. Please note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the complainant for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from CEWA.

At the meeting, the investigating officer allows the complainant to relate the incident or incidents uninterrupted the first time in order to ascertain a broad picture of events. This may unleash strong feelings requiring sensitivity and empathy. After this initial recount, the investigating officer should attempt to clarify the incident(s) in order to obtain an accurate written record of events in terms of dates, times, places, witnesses and action taken. The investigating officer should request the names of people (people who may have seen or heard the behaviour that is objected to, or who have had a similar experience) who may be in a position to assist the investigation. The investigating officer should also seek from the complainant any medical/psychological reports that the complainant may have to support their claim. The investigating officer should also take steps to clarify the resolution sought by the complainant (e.g. an apology, mediation, no ongoing contact with the respondent). However, it is imperative to clarify that such a resolution will depend upon the investigation process and outcomes. Promises regarding outcomes should not be made. The investigating officer must also explain how the complaint process will proceed and inform the complainant of the anticipated timeline (preliminary finding(s) should be provided within a one-month timeframe).

At the conclusion of this meeting, the staff member should be offered counselling through the ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00. It is imperative that the staff member be assured that this service is free, totally confidential, available to him/herself and members of the immediate family and that raw, non-specific statistical data is presented to CEWA.

The complainant shall be advised verbally and in writing that the matter must be kept strictly confidential.

In the event that the complainant is reluctant to proceed with the complaint process, they should be offered the opportunity to resolve the issue via mediation (facilitated by the investigating officer). If this offer is accepted, enact the mediation/conciliation process detailed Option 1. Please note that allegations of a criminal nature must be reported immediately to the police.

Step 2: Investigating officer interviews respondent (i.e. the principal accused of harassment, discrimination or bullying)

The investigating officer informs the principal accused of harassment, discrimination or bullying of the tabled allegation(s) and the need for a meeting in writing via the formal letter detailed in Attachment 2. This letter, accompanied by copies of the school-based Harassment, Discrimination and Bullying Policy and these procedures, should be addressed to the principal and mailed to his or her personal mailing address.

As part of this notification process, the investigating officer shall arrange for the principal to be accompanied by their nominated support person at all formal meetings. As detailed previously, the investigating officer must conduct this meeting with an appropriate third party who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the principal for signing. As detailed above, copies must be kept on file.

During the interview, the investigating officer:

- informs the respondent about the allegation that has been made, reiterating the statement of allegation provided via letter;
- defines harassment, discrimination or bullying and refers to the school-based policy and procedures mailed to the personal mailing address;
- conveys the resolution requested by the complainant; and
- provides the principal with the opportunity to respond to tabled allegations. The principal may prefer not to respond at this point but to respond in writing or to respond verbally at a later time. Detailed notes should be produced regarding responses.

If the principal confirms the allegations, the investigating officer:

- confirms that the staff member desires to resolve the matter; and
- proceeds to an appropriate resolution.

If the principal denies the allegations, the investigating officer:

- informs the principal that the incident will be investigated further and that witnesses may be interviewed;
- assures the principal of their right to the principles of natural justice;
- asks for the names of people (staff or community members) who may support their position;
- advises that there is to be no retaliatory action against the complainant;
- advises that the issue is to be kept strictly confidential and not to be discussed with persons other than immediate family and nominated support person(s);
- assures that the issues will be dealt with promptly and confidentially;
- informs the respondent of the process and the expected investigation time line; and

- ensures the respondent has adequate support and offers counselling through the ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00.

If it is apparent that the complaint may proceed to legal action, the investigating officer informs the principal they have the right to seek legal representation and terminates the meeting. Further detailed notes should be made and filed appropriately.

Step 3: Investigating officer interviews witnesses

The investigating officer contacts each witness named by the complainant and the respondent and arranges individual interviews. Where witnesses are students, their parent(s)/guardian(s) must be notified prior to the commencement of the meeting and invited to attend. As detailed previously, the investigating officer must conduct this meeting with an appropriate third party who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the witness for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from CEWA.

At the start of each interview, the investigating officer must inform the witness as to why they are being questioned and clarify the position described by both the complainant and the respondent. It is imperative to request that confidentiality be observed and maintained and that repercussions stemming from information provided will not occur. The investigating officer then proceeds to obtain from the witness an accurate written record in terms of times, dates, places, witnesses and action taken.

Step 4: Resolution

A complaint of harassment, discrimination or bullying may be resolved in various ways depending upon the seriousness of the allegation, whether the complaint is sustained, the desire of the staff member and the nature of the contact between the persons involved.

Following witness interviews, it may be necessary for the investigating officer to meet again with the complainant and/or the respondent accused of harassment, discrimination or bullying to clarify further information provided by witnesses. For such follow-up interviews, the investigating officer must conduct this meeting with an appropriate third party who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the staff member for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from CEWA.

Upon completion of the investigative process, the weight of evidence must be assessed to consider if *on the balance of probabilities* the allegation is sustained or not sustained. Evidence will be stronger (given more weight in assessing the case information) if it is reliable, relevant to the inquiry, consistent and corroborated.

A summary report of the investigation findings and proposed actions will be written by the investigating officer and made available to all parties upon request.

If the complaint is sustained the investigating officer:

- advises the respondent (principal) of the finding(s) and the proposed resolution/disciplinary action;
- invites further comment or relevant information within one week. If there is no additional information, the matter proceeds to resolution;
- meets with the complainant (staff member) and informs them of the finding(s) arranging an appropriate resolution; and
- confirms the finding(s) in writing to both parties (see Attachments 3 & 4).

Action taken by CEWA in the case of a complaint being sustained may involve any of the following depending on the seriousness of the offence:

- requirement for a verbal or written apology
- disciplinary letter/official warning
- mediation
- counselling
- compensation if disadvantage has occurred (for example, re-crediting leave)
- redeployment
- grievance procedure to address improper conduct of an employee
- termination of employment

During the interview process to communicate the determined action, the investigating officer should make it clear to the respondent that harassment, discrimination or bullying is not tolerated under any circumstances. The sanctions applied are provided in writing with a copy maintained in the respondent's personal file and at CEWA.

If the complaint is not sustained, the investigating officer:

- informs each party of the finding(s) and the associated reasons for the decision (e.g. there is no evidence to support the complaint, the evidence is inconclusive or the behaviour does not amount to harassment, discrimination or bullying); and
- confirms this information in writing to both parties (see Attachments 3 & 4).

Appeals

In confirming the determination of a complaint, both parties are advised that if dissatisfied with the outcome, either party may lodge an internal appeal in writing to the Director of Catholic Education stating the reason for the objection or externally take the matter to the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission (HREOC).

A written appeal must be lodged within five (5) working days of receiving the letter advising the investigation outcome. The result of the appeal will be conveyed in writing within four (4) weeks or a longer time frame via negotiation.

Follow-up

To ensure that the behaviour complained of has ceased, the investigating officer will conduct follow-up interviews with both parties after a period of two weeks and again at one month to ensure that the matter has been fully resolved.

Record keeping

Sustained complaints

When a complaint is sustained, a copy of the letter informing the person accused of harassment, discrimination or bullying (the respondent) of the outcome of the investigation and the resulting disciplinary action is placed in the personnel file. Duplicate copies of all documentation should be compiled into a chronological file and forwarded to the relevant consultant from CEWA. Required documentation includes:

1. The initial formal letter of complaint (dated and signed by the complainant)
2. The initial interview notes/transcript from the complainant/investigating officer interview (dated and signed by all parties)
3. The initial letter of notification to the respondent (Attachment 2)
4. Any letters of response from the respondent
5. Letters from legal advisors (if appropriate)/associated legal correspondence
6. The initial interview notes/transcript from the respondent/investigating officer interview (dated and signed by all parties)
7. Witness interview notes/transcripts (dated and signed by all parties)
8. A summary report of the investigation findings and actions
9. Letters to both parties detailing investigation findings and proposed actions (Attachments 3 & 4)
10. The interview notes/transcript from the complainant/respondent finding and resolution interview (dated and signed by all parties)
11. The interview notes/transcript from the respondent/investigating officer interview if complaint is sustained (including details of actions – dated and signed by all parties)
12. The follow-up interview notes/transcript from the complainant/investigating officer interview post-resolution implementation (Weeks two and four – dated and signed by all parties)

13. The follow-up interview notes/transcript from the respondent/investigating officer interview post-resolution implementation (Weeks two and four – dated and signed by all parties)
14. Other appropriate documentation

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 listed above must be compiled into a chronological file and forwarded to the relevant consultant from the CEOWA Workforce Relations Team.

Attachment 1: Initial Letter to Staff Member (Complainant)

Dear [NAME],

I write to acknowledge receipt of the claims you have made against [NAME OF RESPONDENT] pertaining to [GENERAL NATURE OF THE MATTER].

I will be conducting the investigation into the claims and am responsible for determining the finding.

The procedure that will be followed is described in the school based Harassment, Discrimination and Bullying Policy and the CECWA Harassment, Discrimination and Bullying Procedures and I enclose copies for your information. As outlined in the procedures you may wish to nominate a support person.

I would like to meet with you on [INSERT DATE, TIME AND VENUE] to gain an understanding of your complaint so that a clear statement of the complaint can be obtained. At this meeting there will also be the opportunity to clarify the process, identify person/s who may support your claims and identify the resolution you are seeking.

In facilitating the process, respect for the dignity and reputation of all involved is paramount. Every effort will be made to manage this matter confidentially and any person interviewed will be advised of the necessity to maintain confidentiality.

I appreciate this is a very difficult time for you and I encourage you to use the confidential services of ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00.

If you require further information about the process, please do not hesitate to contact me or [INSERT NAME], a consultant from the *Workforce Relations Team* at the Catholic Education Office of Western Australia on (08) 6380 5231.

Yours sincerely

INVESTIGATING OFFICER

Staff Harassment, Discrimination or Bullying Policy

Revised 2018

Review 2021

Attachment 2: Initial Letter to principal (Respondent)

Dear [NAME]

I have received allegation(s) of harassment, discrimination and bullying made against you by [NAME OF COMPLAINANT]. The claim(s) pertain(s) to [DESCRIBE GENERAL NATURE OF COMPLAINT].

I enclose for your information a statement of complaint by [NAME OF COMPLAINANT] and a description of the resolution she/he is seeking.

I will be conducting the investigation into the claims and am responsible for determining the finding.

The procedure that will be followed is described in the school based Harassment, Discrimination and Bullying Policy and the CECWA Harassment, Discrimination and Bullying Procedures and I enclose copies for your information. As outlined in the procedure you must attend a formal meeting (and possible subsequent meetings). You may also wish to nominate a support person.

I would like to meet with you on [INSERT DATE, TIME AND VENUE] for you to provide your response to the claims that have been made. There will be an opportunity presented at this meeting for you to clarify the process to be followed and provide the name(s) of person(s) who may support your response.

In facilitating the process, respect for the dignity and reputation of all involved is paramount. Every effort will be made to manage this matter confidentially and any person interviewed will be advised of the necessity to maintain confidentiality. Likewise, you are expected to abide by such confidentiality expectations.

I appreciate this is a very difficult time for you and I encourage you to use the confidential services of ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00.

If you require further information about the process, please do not hesitate to contact me or [INSERT NAME], a consultant from the *Workforce Relations Team* at the Catholic Education Office of Western Australia on (08) 6380 5231.

Yours sincerely

INVESTIGATING OFFICER

Attachment 3: Final Letter to Staff Member (Complainant)

DEAR [NAME]

I write with regard to the outcome of an investigation into claims of harassment, discrimination and bullying made by you against [NAME]. The claims pertained to [DESCRIBE NATURE OF COMPLAINT].

I have reviewed all documentation and considered the findings based on the weight of evidence gathered. I advise that on the balance of probabilities I find that the claims of harassment, discrimination and bullying are [FINDING].

[EXPLAIN REASON FOR THE FINDING]

[IF CLAIM OF BULLYING] In regard to the allegations of bullying, I considered the information presented in the light of the definition in the CECWA Policy Statement *Harassment, Discrimination and Bullying* which describes bullying as *repeated, unreasonable behaviour directed towards a person that will victimise, humiliate, undermine or threaten*.

Thank you for raising your concerns and for your cooperation with the process. I assure you I am addressing the concerns you raise appropriately. I would like to meet with you on [INSERT DATE, TIME AND VENUE] to discuss the specifics of the findings of the investigation and requisite actions.

I appreciate this has been very difficult for you. We have endeavoured to conduct this process ensuring confidentiality and respect for all parties concerned. Please do not hesitate to contact me should you require additional support or further information.

My best wishes for your ongoing work at our school.

Yours sincerely

INVESTIGATING OFFICER

Attachment 4: Final Letter to principal (Respondent)

Dear [NAME]

I write in regard to the outcome of an investigation into claims of harassment, discrimination and bullying made against you by [COMPLAINANT]. The claims pertained to [DESCRIBE NATURE OF COMPLAINT].

I have reviewed all documentation and considered the findings based on the weight of evidence gathered. I advise that on the balance of probabilities I find that the claims of harassment, discrimination and bullying are [FINDING].

[EXPLAIN REASON FOR THE FINDING]

[IF CLAIM OF BULLYING] In regard to the allegations of bullying, I considered the information presented in the light of the definition in the CECWA Policy Statement *Harassment, Discrimination and Bullying* which describes bullying as *repeated, unreasonable behaviour directed towards a person that will victimise, humiliate, undermine or threaten*.

[IF DISCIPLINE OR SUPPORT INITIATIVES ARE REQUIRED DESCRIBE]

I appreciate this has been very difficult for you. We have endeavoured to conduct this process ensuring confidentiality and respect for all parties concerned. Please advise me of any further support you require.

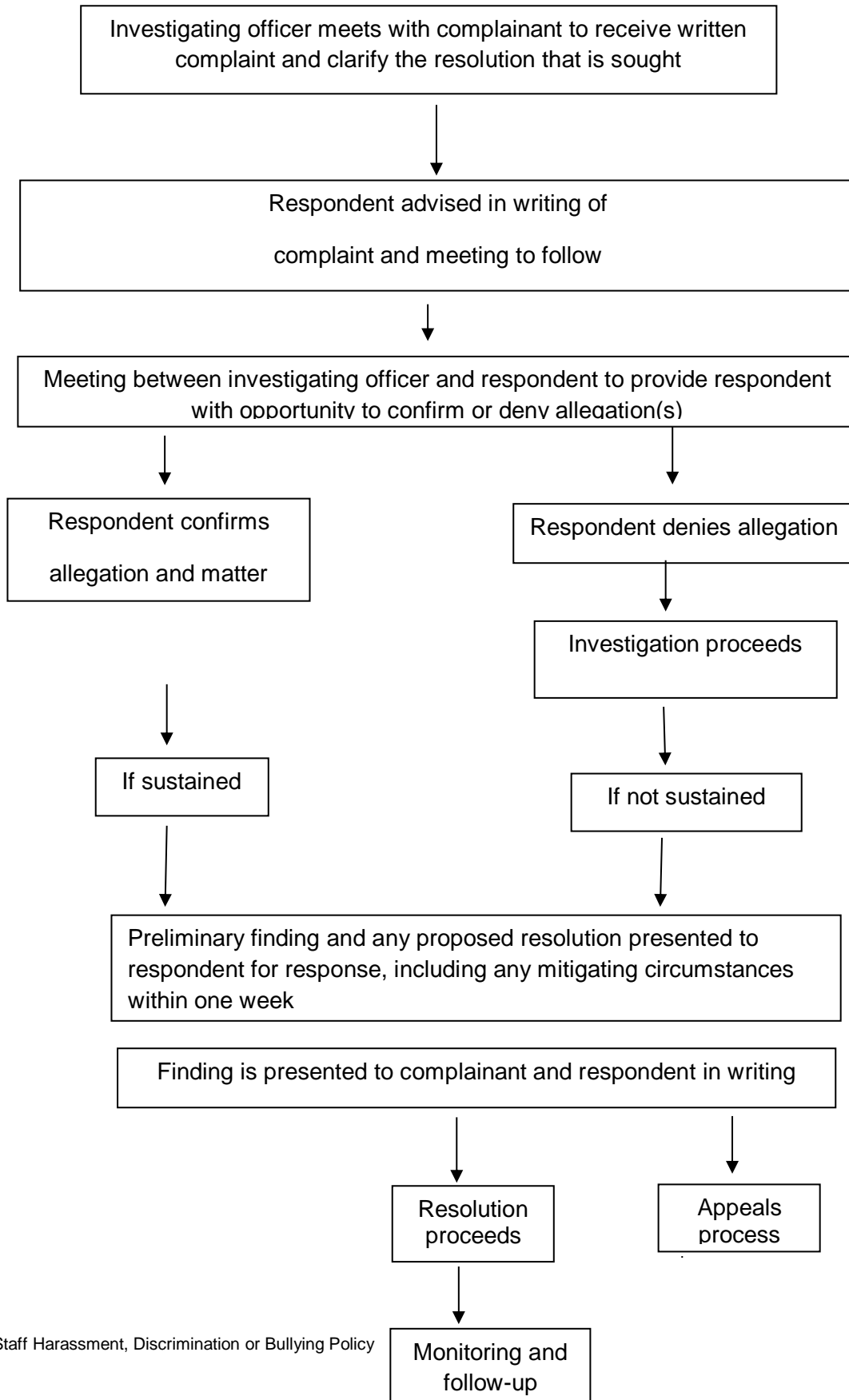
Thank you for your cooperation with this process.

Yours sincerely

INVESTIGATING OFFICER

COMPLAINTS OF HARASSMENT, DISCRIMINATION OR BULLYING

(STAFF MEMBER AGAINST PRINCIPAL)



COMPLAINTS OF HARASSMENT, DISCRIMINATION OR BULLYING (STAFF MEMBER AGAINST ANOTHER STAFF MEMBER)

PROCEDURES

The following procedures are available to all members of staff in West Australian Catholic schools who have complaints of harassment, discrimination or bullying against other staff. Where possible and appropriate, it is desirable to resolve the issue informally or through conciliation. In more serious or persistent cases, investigations will proceed using the formal investigation procedures outlined in Option 2.

OPTIONS AVAILABLE TO PERSONS WITH HARASSMENT, DISCRIMINATION OR BULLYING COMPLAINTS

A staff member may wish firstly to seek confidential advice on how to deal with the situation. This may be from the school-based contact officer, a consultant from the Catholic Education Office of Western Australia (CEWA) the Independent Education Union, a counsellor from the Employee Assistance Program, Equal Opportunity Commission, Human Rights and Equal Opportunity Commission (HREOC) or another appropriate source.

A staff member electing to address a situation personally may later decide to report the matter to the principal or Equal Opportunity Commission 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.

Option 1: Less Serious, intermittent complaint(s) – Dealt with according to the school Harassment, Discrimination and Bullying Policy and Procedures

1.1 Deal with the situation personally

A person who feels they are being harassed, discriminated against or bullied may not wish to file a complaint, but prefer to address the issue themselves by approaching the person(s) concerned in an effort to seek self-resolution. It is recommended that this informal resolution method be employed for the resolution of less serious, intermittent complaint(s). Self-resolution works best if those involved demonstrate goodwill and recognise their mutual rights and needs. It is helpful to focus on the behaviour of the person rather than on their personality by using the following 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.

It is appropriate to inform the person of the complaint 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 through conciliation

A person may not wish to engage in a formal investigation process but seek assistance to resolve behaviour that is not acceptable through conciliation. In addition, if the matter is less serious and not persistent the school-based contact officer may offer conciliation rather than a formal investigation process. Conciliation allows issues to be 'aired' and conflict (or perceived conflict) to be resolved in a non-judgmental and non-disciplinary manner. The conciliator may be a person from the school community, a consultant from CEWA or an external conciliator. The staff member is also entitled to bring a nominated support person with them to such meetings.

Please note that notes regarding the resolution process should be maintained at school level and include all salient details (i.e. day, date, an outline of the allegations, details regarding resolution). It is not necessary to forward these details to CEWA.

If there is no change to the behaviour following conciliation, one of the options below may be followed.

Option 2: Lodge a formal complaint with the Equal Opportunity Commission or with the Human Rights and Equal Opportunity Commission (HREOC)

It is preferable for a complaint to be settled at the local level as opposed to an external agency. However, members of staff who believe they are the victim of harassment, discrimination or bullying have the right to lodge a complaint with the WA Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission. It is incumbent upon the principal and the CEOWA to support the person if they enact this decision.

Option 3: Serious and/or Persistent Complaint(s) –Dealt with by the principal or delegate via a formal investigative pathway.

A staff member alleging serious and/or persistent concerns regarding acts of harassment, discrimination or bullying against them by a staff member must tender details to the principal for formal investigation. In such instances, a meeting between the aggrieved member of staff, the principal or delegate and assistant principal/deputy principal must be convened at the earliest possible time. The staff member is entitled to bring a support person of their choice to all formal meetings. Appropriate support persons include (but are not limited to) a spouse, a work colleague, a union representative or, if necessary, an interpreter.

For all steps detailed below, the principal or delegate must communicate with a consultant from CEWA prior to enacting each stage. All paperwork must contain salient details (i.e. day(s), date(s), an outline of the allegations, meeting transcripts/summaries, summaries of witness testimony, details regarding resolution/punishment applied and copies of all formal letters), be presented chronologically and filed at school level in addition to at CEWA.

The following steps are important and must be adhered to:

Step 1: Principal or delegate meets with staff member (complainant)

Formal complaints of harassment, discrimination or bullying by a staff member may initially be referred to the principal verbally or briefly in writing (e.g. via email). However, it is required that a detailed formal written complaint (including date and signature) be lodged by the complainant to initiate the investigation process.

Upon receipt, the principal or delegate must schedule a formal meeting with the complainant in writing (see Attachment One) and provide them with copies of the school-based Harassment, Discrimination and Bullying Policy and these procedures. As part of these arrangements, the principal or delegate convey that he/she is entitled to attend this meeting with a nominated support person (see detail above). The principal or delegate must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder. Please note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the complainant for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from CEWA.

At the meeting, the principal or delegate allows the complainant to relate the incident or incidents uninterrupted the first time in order to ascertain a broad picture of events. This may unleash strong feelings requiring sensitivity and empathy. After this initial recount, the principal or delegate should attempt to clarify the incident(s) in order to obtain an accurate

Complaints of Harassment, Discrimination or Bullying

written record of events in terms of dates, times, places, witnesses and action taken. The principal or delegate should request the names of people (people who may have seen or heard the behaviour that is objected to, or who have had a similar experience) who may be in a position to assist the investigation. The principal or delegate should also take steps to clarify the resolution sought by the staff member (e.g. an apology, mediation, no ongoing contact with the respondent). However, it is imperative to clarify that such a resolution will depend upon the investigation process and outcomes. Promises regarding outcomes should not be made. The principal or delegate must also explain how the complaint process will proceed and inform the staff member of the anticipated timeline (preliminary finding(s) should be provided within a one month timeframe).

At the conclusion of this meeting, the staff member should be offered counselling through the ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00. It is imperative that the staff member be assured that this service is free, totally confidential, available to him/herself and members of the immediate family and that raw, non-specific statistical data is presented to CEWA.

In the event that the complainant is reluctant to proceed with the complaint process, they should be offered the opportunity to resolve the issue via mediation (facilitated by the principal or delegate). If this offer is accepted, enact the mediation/conciliation process detailed Option 1. Please note that allegations of a criminal nature must be reported immediately to the police.

A statement of the claim summary, the school-based Harassment, Discrimination and Bullying Policy and these procedures must be forwarded to the accused staff member (respondent) as part of the original complaint notification letter (see Attachment 2).

Step 2: Principal or delegate interviews respondent (i.e. the staff member accused of harassment, discrimination or bullying)

The principal or delegate informs the staff member accused of harassment, discrimination or bullying of the tabled allegation(s) and the need for a meeting in writing via the formal letter detailed in Attachment 2. This letter, the school-based Harassment, Discrimination and Bullying Policy and these procedures should be addressed to the staff member and mailed to their home address.

As part of this notification process, the principal or delegate must arrange for the respondent to be accompanied by their nominated support person at all formal meetings. As detailed previously, the principal or delegate must conduct this meeting with a colleague

(preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the respondent for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from CEWA.

During the interview, the principal or delegate:

- informs the respondent about the allegation that has been made, reiterating the statement of allegation provided via letter;
- defines harassment, discrimination or bullying and refers to the school policy and procedures mailed to the personal mailing address;
- conveys the resolution requested by the complainant; and
- provides the staff member with the opportunity to respond to tabled allegations. The staff member may prefer not to respond at this point but to respond in writing or to respond verbally at a later time. Detailed notes should be produced regarding responses.

If the respondent confirms the allegations, the principal or delegate:

- confirms that the staff member desires to resolve the matter; and
- proceeds to an appropriate resolution.

If the respondent denies the allegations, the principal or delegate:

- informs the respondent that the incident will be investigated further and that witnesses may be interviewed;
- assures the respondent of their right to the principles of natural justice;
- asks for the names of people (staff or community members) who may support their position;
- advises that there is to be no retaliatory action against the complainant;
- advises that the issue is to be kept strictly confidential and not to be discussed with persons other than immediate family and nominated support person(s);
- assures that the issues will be dealt with promptly and confidentially;
- informs the respondent of the process and the expected investigation time line; and
- ensures the respondent has adequate support and offers counselling through the ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00.

•
If it is apparent that the complaint may proceed to legal action, the principal or delegate informs the person they have the right to seek legal representation, terminates the meeting. Detailed notes should be made and filed appropriately.

Step 3: Principal or delegate interviews witnesses

The principal or delegate contacts each witness named by the complainant and the respondent and arranges individual interviews. Where witnesses are students, their parent(s)/guardian(s) must be notified prior to the commencement of the meeting and *Complaints of Harassment, Discrimination or Bullying*

invited to attend. As detailed previously, the principal or delegate must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the witness for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from CEWA.

At the start of each interview, the principal or delegate must inform the witness as to why they are being questioned and clarify the position described by both the complainant and the respondent. It is imperative to request that confidentiality be observed and maintained and that repercussions stemming from information provided will not occur. The principal or delegate then proceeds to obtain from the witness an accurate written record in terms of times, dates, places, witnesses and action taken.

Step 4: Resolution

A complaint of harassment, discrimination or bullying may be resolved in various ways depending upon the seriousness of the allegation, whether the complaint is sustained, the desire of the staff member and the nature of the contact between the persons involved.

Following witness interviews, it may be necessary for the principal or delegate to meet again with the complainant and/or the respondent accused of harassment, discrimination or bullying to clarify further information provided by witnesses. For such follow-up interviews, the principal or delegate must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the complainant or respondent for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from CEWA.

Upon completion of the investigative process, the weight of evidence must be assessed to consider if *on the balance of probabilities* the allegation is sustained or not sustained. Evidence will be stronger (given more weight in assessing the case information) if it is reliable, relevant to the inquiry, consistent and corroborated.

A summary report of the investigation findings and proposed actions must be written by the principal or delegate and made available to all parties upon request.

If the complaint is sustained the principal or delegate:

- advises the respondent of the proposed resolution/disciplinary action;
- invites 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(s) arranging an appropriate resolution; and
- confirms the finding(s) in writing to both parties (see Attachments 3 & 4).

Action taken by the principal or delegate or CEWA in the case of a complaint being sustained 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

During the interview process to communicate the determined action, the principal or delegate should make it clear to the respondent that harassment, discrimination or bullying is not tolerated under any circumstances. The sanctions applied are provided in writing with a copy maintained in the respondent's personal file and at CEWA.

If the complaint is not sustained, the principal or delegate:

- informs each party of the finding(s) and the associated reasons for the decision (e.g. there is no evidence to support the complaint, the evidence is inconclusive or the behaviour does not amount to harassment, discrimination or bullying), and
- confirms this information in writing to both parties (see Attachments 3 & 4).

Appeals

In confirming the determination of a complaint, both parties are advised that if dissatisfied with the outcome, either party may lodge an internal appeal in writing to the Director of Catholic Education stating the reason for the objection or externally take the matter to the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission (HREOC).

A written appeal must be lodged within five (5) working days of receiving the letter advising the investigation outcome. The result of the appeal will be conveyed in writing within four (4) weeks or a longer time frame via negotiation.

Follow-up

To ensure that the offensive behaviour has ceased, the principal or delegate must conduct follow-up interviews with both parties after a period of two weeks and again at one month to ensure that the matter has been fully resolved.

Record keeping

Sustained complaints

When a complaint is sustained, a copy of the letter informing the respondent of the outcome of the investigation and the resulting disciplinary action is placed in their personnel file. Duplicate copies of all documentation should be compiled into a chronological file and forwarded to the relevant consultant from CEWA. Required documentation includes:

1. The initial formal letter of complaint (dated and signed by the complainant)
2. The initial interview notes/transcript from the complainant/principal or delegate interview (dated and signed by all parties)
3. The initial letter of notification to the respondent (Attachment 2)
4. Any letters of response from the respondent
5. Letters from legal advisors (if appropriate)/associated legal correspondence
6. The initial interview notes/transcript from the respondent/principal or delegate interview (dated and signed by all parties)
7. Witness interview notes/transcripts (dated and signed by all parties)
8. A summary report of the investigation findings and actions
9. Letters to both parties detailing investigation findings and proposed actions (Attachments 3 & 4)
10. The interview notes/transcript from the complainant/principal or delegate finding and resolution interview (dated and signed by all parties)
11. The interview notes/transcript from the respondent/principal or delegate interview if complaint is sustained (including details of actions – dated and signed by all parties)
12. The follow-up interview notes/transcript from the complainant/principal or delegate interview post-resolution implementation (Weeks two and four – dated and signed by all parties)
13. The follow-up interview notes/transcript from the respondent/principal or delegate interview post-resolution implementation (Weeks two and four – dated and signed by all parties)
14. Other appropriate documentation

Unsustained complaints

Complaints of Harassment, Discrimination or Bullying

(Staff Member against Staff Member)

When a complaint is not sustained, no record of the complaint is included in the personnel file of the person accused.

All documentation listed above must be compiled into a chronological file and forwarded to the relevant consultant from CEWA.

Attachment 1: Initial Letter to Staff Member (Complainant)

Dear [NAME],

I write to acknowledge receipt of the claims you have made against [NAME OF RESPONDENT] pertaining to [GENERAL NATURE OF THE MATTER].

I will be conducting the investigation into the claims and am responsible for determining the finding.

The procedure that will be followed is described in the school-based Harassment, Discrimination and Bullying Policy and the CECWA Harassment, Discrimination and Bullying Procedures and I enclose copies for your information. As outlined in the procedures you may wish to nominate a support person.

I would like to meet with you on [INSERT DATE, TIME AND VENUE] to gain an understanding of your complaint so that a clear statement of the complaint can be obtained. At this meeting there will also be the opportunity to clarify the process, identify person/s who may support your claims and identify the resolution you are seeking.

In facilitating the process, respect for the dignity and reputation of all involved is paramount. Every effort will be made to manage this matter confidentially and any person interviewed will be advised of the necessity to maintain confidentiality.

I appreciate this is a very difficult time for you and I encourage you to use the confidential services of ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00.

If you require further information about the process, please do not hesitate to contact me or [INSERT NAME], a consultant from the *Workforce Relations Team* at Catholic Education Western Australia on (08) 6380 5231.

Yours sincerely

[PRINCIPAL OR DELEGATE]

Attachment 2: Initial Letter to Staff Member (Respondent)

Dear [NAME]

I have received allegation(s) of harassment, discrimination and bullying made against you by [NAME OF COMPLAINANT]. The claim(s) pertain(s) to [DESCRIBE GENERAL NATURE OF COMPLAINT].

I enclose for your information a statement of complaint by [NAME OF COMPLAINANT] and a description of the resolution she/he is seeking.

I will be conducting the investigation into the claims and am responsible for determining the finding.

The procedure that will be followed is described in the school-based Harassment, Discrimination and Bullying Policy and the CEWA Harassment, Discrimination and Bullying Procedures and I enclose copies for your information. As outlined in the procedure you must attend a formal meeting (and possible subsequent meetings). You may also wish to nominate a support person.

I would like to meet with you on [INSERT DATE, TIME AND VENUE] for you to provide your response to the claims that have been made. There will be an opportunity presented at this meeting for you to clarify the process to be followed and provide the name(s) of person(s) who may support your response.

In facilitating the process, respect for the dignity and reputation of all involved is paramount. Every effort will be made to manage this matter confidentially and any person interviewed will be advised of the necessity to maintain confidentiality. Likewise, you are expected to abide by such confidentiality expectations.

I appreciate this is a very difficult time for you and I encourage you access the ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00.

If you require further information about the process, please do not hesitate to contact me or [INSERT NAME], a consultant from the *Workforce Relations Team* at Catholic Education Western Australia on (08) 6380 5231.

Yours sincerely

[INSERT PRINCIPAL OR DELEGATE'S NAME]

Attachment 3: Final Letter to Staff Member (Complainant)

DEAR [NAME]

I write with regard to the outcome of an investigation into claims of harassment, discrimination and bullying made by you against [NAME]. The claims pertained to [DESCRIBE NATURE OF COMPLAINT].

I have reviewed all documentation and considered the findings based on the weight of evidence gathered. I advise that on the balance of probabilities I find that the claims of harassment, discrimination and bullying are [FINDING].

[EXPLAIN REASON FOR THE FINDING]

[IF CLAIM OF BULLYING] In regard to the allegations of bullying, I considered the information presented in the light of the definition in the CEWA Policy Statement *Harassment, Discrimination and Bullying* which describes bullying as *repeated, unreasonable behaviour directed towards a person that will victimise, humiliate, undermine or threaten*.

Thank you for raising your concerns and for your cooperation with the process. I assure you I am addressing the concerns you raise appropriately. I would like to meet with you on [INSERT DATE, TIME AND VENUE] to discuss the specifics of the findings of the investigation and requisite actions.

I appreciate this has been very difficult for you. We have endeavoured to conduct this process ensuring confidentiality and respect for all parties concerned. Please do not hesitate to contact me should you require additional support or further information.

My best wishes for your ongoing work at our school.

Yours sincerely

[INSERT PRINCIPAL OR DELEGATE'S NAME]

Attachment 4: Final Letter to Staff Member (Respondent)

Dear [NAME]

I write in regard to the outcome of an investigation into claims of harassment, discrimination and bullying made against you by [COMPLAINANT]. The claims pertained to [DESCRIBE].

I have reviewed all documentation and considered the findings based on the weight of evidence gathered. I advise that on the balance of probabilities I find that the claims of harassment, discrimination and bullying are [FINDING].

[EXPLAIN REASON FOR THE FINDING]

[IF CLAIM OF BULLYING] In regard to the allegations of bullying, I considered the information presented in the light of the definition in the CEWA Policy Statement *Harassment, Discrimination and Bullying* which describes bullying as *repeated, unreasonable behaviour directed towards a person that will victimise, humiliate, undermine or threaten*.

[IF DISCIPLINE OR SUPPORT INITIATIVES ARE REQUIRED DESCRIBE]

I appreciate this has been very difficult for you. We have endeavoured to conduct this process ensuring confidentiality and respect for all parties concerned. Please advise me of any further support you require.

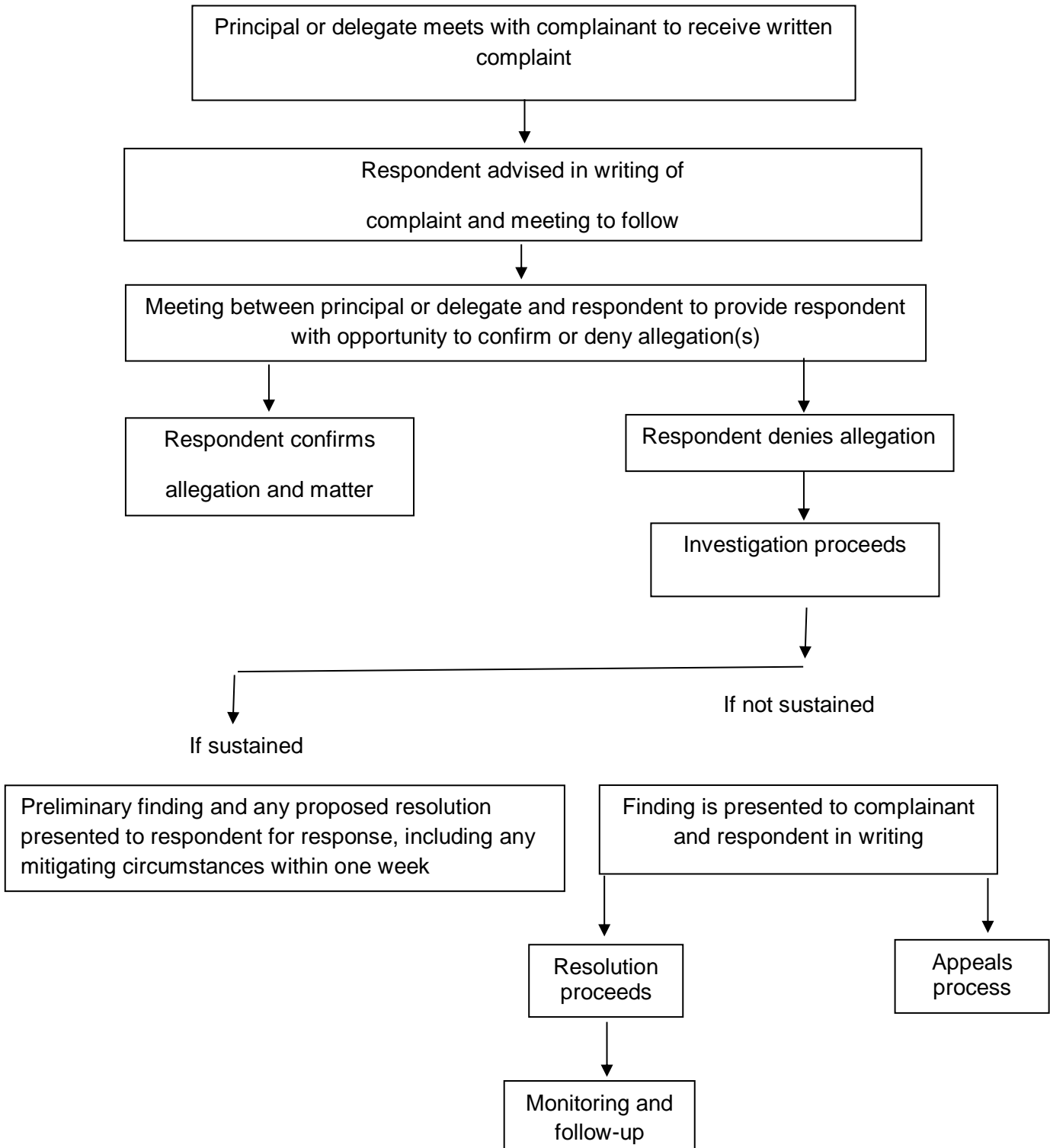
Thank you for your cooperation with this process.

Yours sincerely

[INSERT PRINCIPAL OR DELEGATE'S NAME]

COMPLAINTS OF HARASSMENT, DISCRIMINATION OR BULLYING

STAFF MEMBER AGAINST STAFF MEMBER



COMPLAINTS OF HARASSMENT, DISCRIMINATION OR BULLYING

(STAFF MEMBER AGAINST A STUDENT)

PROCEDURES

The following procedures are available to all members of staff in West Australian Catholic schools who have complaints of harassment, discrimination or bullying against students. In a majority of cases, instances of harassment, discrimination or bullying will be processed using the school's Student Behaviour Management policy and procedures. In more serious or persistent cases, investigations will proceed using the formal procedures detailed below.

OPTIONS AVAILABLE TO PERSONS WITH HARASSMENT, DISCRIMINATION OR BULLYING COMPLAINTS

A staff member may wish firstly to seek confidential advice on how to deal with the situation. This may be from the school-based contact officer, a consultant from the Catholic Education Office Workforce Relations Team, the Independent Education Union, a counsellor from the Employee Assistance Program, Equal Opportunity Commission, Human Rights and Equal Opportunity Commission (HREOC) or another appropriate source.

A staff member electing to address a situation according to the school Student Behaviour Management policy and procedures may later decide to report the matter to the principal, Equal Opportunity Commission or HREOC if dissatisfied with the outcome. Conversely, a staff member commencing a process may elect to withdraw the complaint at any time.

Option 1: Less Serious, intermittent complaint(s) – Dealt with according to the school-based Student Behaviour Management Policy and Procedures

Each school has in place a Student Behaviour Management policy and associated procedures that outline how student misconduct is to be managed. If the matter is less serious and not persistent, the staff member should report the student's conduct to the person responsible on staff and have it addressed as outlined via the policy and procedures.

In addition, the aggrieved staff member may request assistance to resolve unacceptable behaviour via conciliation. The conciliator may be a person from the school community, a consultant from CEWA. Please note that the parent(s)/guardian(s) of the student should be present with their child during the conciliation process. The staff member is also entitled to bring a nominated support person with them to such meetings.

Please note that notes regarding the resolution process should be maintained at school level and include all salient details (i.e. day, date, an outline of the allegations, details regarding resolution/punishment applied). It is not necessary to forward these details to the CEOWA Workforce Relations Team.

Option 2: Lodge a formal complaint with the Equal Opportunity Commission or with the Human Rights and Equal Opportunity Commission (HREOC)

It is preferable for a complaint to be settled at the local level as opposed to an external agency. However, members of staff who believe they are the victim of harassment, discrimination or bullying have the right to lodge a complaint with the WA Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission. It is incumbent upon the principal and the CEOWA to support the person if they enact this decision.

Option 3: Serious and/or persistent complaint(s) – Dealt with by the principal or delegate via a formal investigative pathway

A staff member alleging serious and/or persistent concerns regarding acts of harassment, discrimination or bullying against them by a student (or group of students) must tender details to the principal for formal investigation. In such instances, a meeting between the aggrieved member of staff, the principal or delegate and assistant principal/deputy principal must be convened at the earliest possible time. The staff member is entitled to bring a support person of their choice to all formal meetings. Appropriate support persons include (but are not limited to) a spouse, a work colleague, a union representative or, if necessary, an interpreter.

For all steps detailed below, the principal or delegate must communicate with a consultant from the CEOWA Workforce Relations Team prior to enacting each stage. All paperwork must contain salient details (i.e. day(s), date(s), an outline of the allegations, meeting transcripts/summaries, summaries of witness testimony, details regarding resolution/punishment applied and copies of all formal letters), be presented chronologically and be filed at school level in addition to the CEOWA.

The principal or delegate must ensure that for formal meetings, the student has access to an appropriate support person. The person is usually the student's parent(s) or guardian(s). Interviews (both informal and formal) are not to proceed unless the nominated support person(s) are present. During the planning of the process, the principal or delegate must endeavour to cater for any special circumstances including the need for an interpreter if required and a mutually agreeable venue (e.g. it may be necessary to conduct interviews at an off-site location rather than at school). Such details should be arranged in consultation with the staff member and the parent(s)/guardian(s) of the student.

The following steps are important and must be adhered to:

Step 1: Principal or delegate meets with staff member (complainant)

Formal complaints of harassment, discrimination or bullying against a student by a staff member may be initially be referred to the principal or delegate verbally or briefly in writing (e.g. via email). However, it is required that a detailed formal written complaint (including date and signature) be lodged by the complainant to initiate the investigation process.

Upon receipt, the principal or delegate must schedule a formal meeting with the staff member. As part of these arrangements, the principal or delegate convey that he/she is entitled to attend this meeting with a nominated support person (see detail above). The principal or delegate must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder. Please note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the staff member for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from the CEOWA Workforce Relations Team.

At the meeting, the principal or delegate allows the person to relate the incident or incidents uninterrupted the first time in order to ascertain a broad picture of events. This may unleash strong feelings requiring sensitivity and empathy. After this initial recount, the principal or delegate should attempt to clarify the incident(s) in order to obtain an accurate written record of events in terms of dates, times, places, witnesses and action taken. The principal or delegate should request the names of people (students, fellow staff or community members) who may be in a position to assist the investigation. The principal or delegate should also take steps to clarify the resolution sought by the staff member (e.g. an apology, mediation, no ongoing contact with the student). However, it is imperative to clarify that such a resolution will depend upon the investigation process and outcomes. Promises regarding outcomes should not be made. The principal or delegate must also explain how the complaint process will proceed and inform the staff member of the anticipated timeline (preliminary finding(s) should be provided within a one month timeframe).

At the conclusion of this meeting, the staff member should be offered counselling through the ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00. It is imperative that the staff member be assured that this service is free, totally confidential, available to him/herself and members of the immediate family and that raw, non-specific statistical data is presented to the CEOWA.

In the event that the complainant is reluctant to proceed with the complaint process, they should be offered the opportunity to resolve the issue via mediation (facilitated by the principal or delegate). If this offer is accepted, enact the mediation/conciliation process detailed Option 1. Please note that allegations of a criminal nature must be reported immediately to the police.

A statement of the claim summary, the school based Harassment, Discrimination and Bullying Policy and these procedures must be forwarded to the student (respondent) as part of the original complaint notification letter (see Attachment 1).

Step 2: Principal or delegate interviews respondent (i.e. the student accused of harassment, discrimination or bullying)

The principal or delegate informs the student of the tabled allegation(s) via the formal letter detailed in Attachment 1. This letter, accompanied by the school based Harassment, Discrimination and Bullying Policy and these procedures, should be addressed to the student and mailed to the home address. Prior to this occurring, the principal or delegate must contact the parent(s)/guardian(s) of the student by telephone or in person to detail the allegations and the format of the investigation.

As part of this notification process, the principal or delegate must arrange for the student to be accompanied by their nominated support person, preferably their parent(s)/guardian(s) to all formal meetings. As detailed previously, the principal or delegate must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the staff member for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from the CEOWA Workforce Relations Team.

During the interview, the principal or delegate:

- informs the student about the allegations that has been made, reiterating the statement of allegation provided via letter (i.e. Attachment 1);
- defines harassment, discrimination and bullying and refers to the school based policy and procedures mailed to the home address;
- conveys the resolution requested by the complainant; and
- provides the student with the opportunity to respond to tabled allegations. The student may prefer not to respond at this point but to respond in writing or to respond verbally at a later time. Detailed notes should be produced regarding responses.

If the student confirms the allegations, the principal or delegate:

- confirms that the student desires to resolve the matter, and
- proceeds to an appropriate resolution (including the provision of punitive action as detailed in the school *Behaviour Management* policy and procedures).

If the student denies the allegations, the principal or delegate:

- informs the student that the incident will be investigated further and that witnesses may be interviewed;
- assures the student of their right to the process of natural justice;
- asks for the names of people (fellow students, staff or community members) who may support their position;
- advises that there is to be no retaliatory action against the staff member;
- advises that the issue is not to be discussed with persons other than immediate family and nominated support person(s);
- assures the student and their parent(s)/guardian(s) that the issues will be dealt with promptly and confidentially;
- informs the student and their parent(s)/guardian(s) of the process and the expected investigation time line; and
- ensures the student and their parent(s)/guardian(s) are afforded adequate support.

If it is apparent that the complaint may proceed to legal action, the principal or delegate informs the person they have the right to seek legal representation, terminates the meeting and contacts a consultant from the Workforce Relations Team for further advice. Detailed notes should be made and filed appropriately.

Step 3: Principal or delegate interviews witnesses

The principal or delegate contacts each witness named by the staff member and the student and arranges individual interviews. Where witnesses are students, their parent(s)/guardian(s) must be notified prior to the commencement of the meeting and invited to attend. As detailed previously, the principal or delegate must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the staff member for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from the CEOWA Workforce Relations Team.

At the start of each interview, the principal or delegate must inform the witness as to why they are being questioned and clarify the position described by both the staff member and the student. It is imperative to request that confidentiality be observed and maintained and that

repercussions stemming from information provided will not occur. The principal or delegate then proceeds to obtain from the witness an accurate written record in terms of times, dates, places, witnesses and action taken.

Step 4: Resolution

A complaint of harassment, discrimination or bullying may be resolved in various ways depending upon the seriousness of the allegation, whether the complaint is sustained, the desire of the staff member and the nature of the contact between the persons involved.

Following witness interviews, it may be necessary for the principal or delegate to meet again with the staff member and/or the student accused of harassment, discrimination or bullying to clarify further information provided by witnesses. In the case of a follow-up interview with a student, the parent(s)/guardian(s) must be notified and invited to attend. For such follow-up interviews, the principal or delegate must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder. Again, note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the staff member for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from the CEOWA Workforce Relations Team.

Upon completion of the investigative process, the weight of evidence must be assessed to consider if *on the balance of probabilities* the allegation is sustained or not sustained. Evidence will be stronger (given more weight in assessing the case information) if it is reliable, relevant to the inquiry, consistent and corroborated.

A summary report of the investigation findings and proposed actions must be written by the principal or delegate and made available to all parties upon request.

If the complaint is sustained the principal or delegate:

- advises the student and their parent(s)/guardian(s) of the finding(s) and the proposed resolution/disciplinary action;
- invites further comment or relevant information within one week. If there is no additional information, the matter proceeds to resolution;
- meets with the staff member and informs them of the finding(s) arranging an appropriate resolution; and
- confirms the finding(s) in writing to both parties (see Attachments 2 & 3).

Action taken by the principal or delegate or CEWA in the case of a complaint being sustained may involve any of the following disciplinary action applied to the student (depending on the seriousness of the offence):

- verbal or written apology
- disciplinary letter/official warning
- negotiated behaviour contract
- mediation
- counselling
- changing classes of student
- suspension (internal and/or external)
- negotiated transfer to another school
- exclusion

During the interview process to communicate the determined action, the principal or delegate should make it clear to the student and his/her parent(s)/guardian(s) that harassment, discrimination and bullying are unacceptable. The punishment/sanctions applied are provided in writing with a copy maintained in the student's school file and at CEWA.

If the complaint is not sustained, the principal or delegate:

- informs each party of the finding(s) and the associated reasons for the decision (e.g. there is no evidence to support the complaint, the evidence is inconclusive or the behaviour does not amount to harassment, discrimination or bullying), and
- confirms this information in writing to both parties (see Attachments 2 & 3).

Appeals

In confirming the determination of a complaint, both parties are advised that if dissatisfied with the outcome, either party may lodge an internal appeal in writing to the Director of Catholic Education stating the reason for the objection or externally take the matter to the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission (HREOC).

A written appeal must be lodged within five (5) working days of receiving the letter advising the investigation outcome. The result of the appeal will be conveyed in writing within four (4) weeks or a longer time frame via negotiation.

Follow-up

To ensure that the offensive behaviour has ceased, the principal or delegate must conduct follow-up interviews with both parties (including the parent(s)/guardian(s) of the student) after a period of two weeks and again at one month to ensure that the matter has been fully resolved.

Record keeping

Sustained complaints

When a complaint is sustained, copies of all documentation produced via the investigation process must be placed in the student's school file and the staff member's school-based personnel file. Duplicate copies of all documentation should be compiled into a chronological file and forwarded to the relevant consultant from CEWA. Required documentation includes:

1. The initial formal letter of complaint (dated and signed by the staff member)
2. The initial interview notes/transcript from the staff member/principal or delegate interview (dated and signed by all parties)
3. The initial letter of notification to the student (Attachment 1)
4. Any letters of response from the student and/or parent(s)/guardian(s)
5. Letters from legal advisors (if appropriate)/associated legal correspondence
6. The initial interview notes/transcript from the student and parent(s)/guardian(s)/principal or delegate interview (dated and signed by all parties)
7. Witness interview notes/transcripts (dated and signed by all parties)
8. A summary report of the investigation findings and actions
9. Letters to both parties detailing investigation findings and proposed actions (Attachments 2 & 3)
10. The interview notes/transcript from the staff member/principal or delegate finding and resolution interview (dated and signed by all parties)
11. The interview notes/transcript from the student and parent(s)/guardian(s)/principal or delegate interview if complaint is sustained (including details of actions – dated and signed by all parties)
12. The follow-up interview notes/transcript from the staff member/principal or delegate interview post-resolution implementation (Weeks two and four – dated and signed by all parties)
13. The follow-up interview notes/transcript from the student and parent(s)/guardian(s)/principal or delegate interview post-resolution implementation (Weeks two and four – dated and signed by all parties)

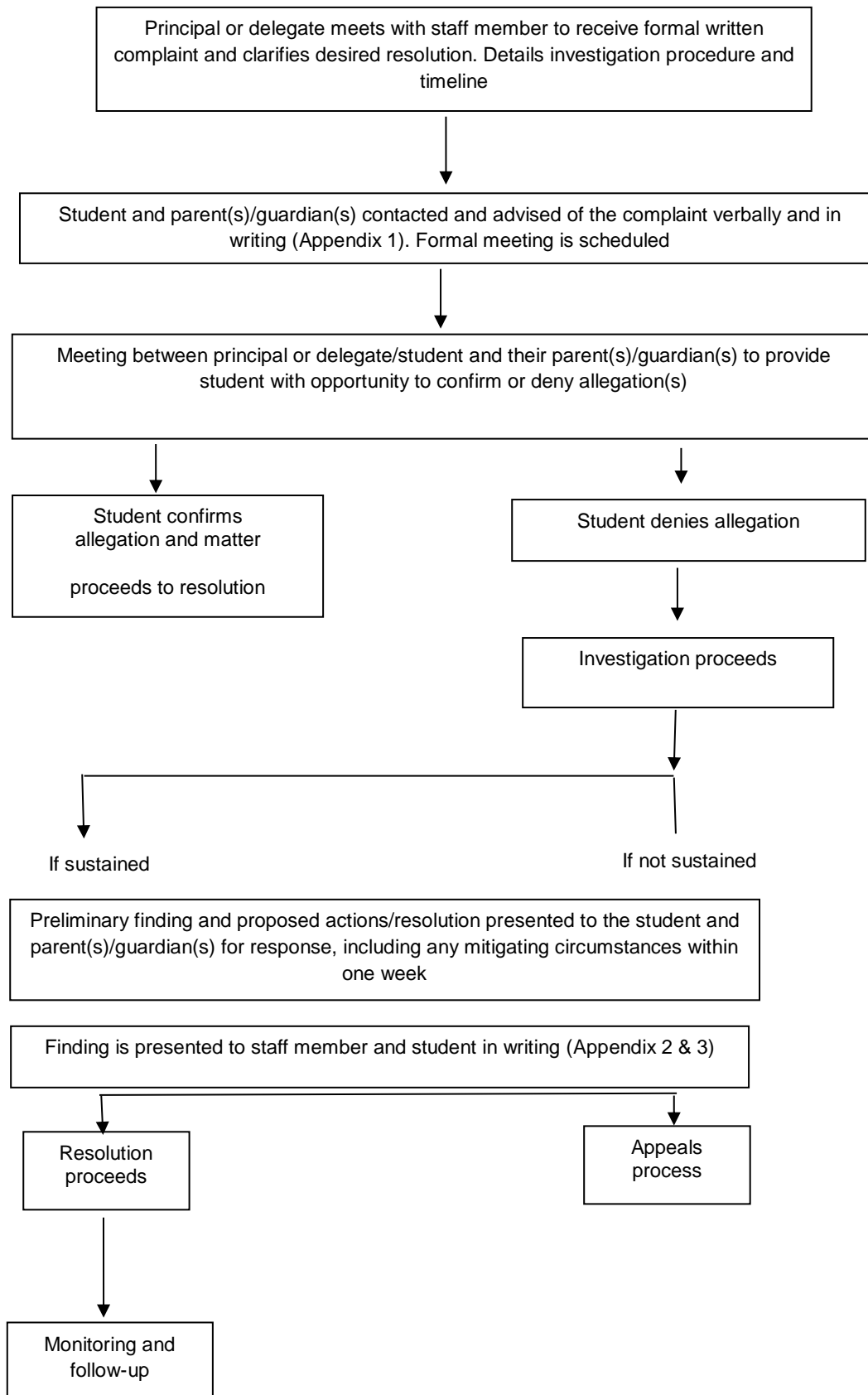
14. Other appropriate documentation

Unsustained complaints

When a complaint is not sustained, no record of the complaint is included in either the student's school file or the staff member's school-based personnel file.

All documentation listed above must be compiled into a chronological file and forwarded to the relevant consultant from CEWA.

**COMPLAINTS OF HARASSMENT, DISCRIMINATION OR BULLYING
(STAFF MEMBER AGAINST STUDENT)**



Attachment 1: Initial Letter to Student (Respondent)

Dear [NAME]

I have received allegation(s) of bullying and harassment made against you by [NAME OF COMPLAINANT]. The claim(s) pertain(s) to [DESCRIBE GENERAL NATURE OF COMPLAINT].

I enclose for your information a statement of complaint by [NAME OF COMPLAINANT] and a description of the resolution she/he is seeking.

I will be conducting the investigation into the claims and am responsible for determining the finding.

The procedure that will be followed is described in the school-based Harassment, Discrimination and Bullying Policy and the CEWA Harassment, Discrimination and Bullying Procedures and I enclose copies for your information. As outlined in the procedure you must attend a formal meeting (and possible subsequent meetings) with your parent(s)/guardian(s).

I would like to meet with you on [INSERT DATE, TIME AND VENUE] for you to provide your response to the claims that have been made. There will be an opportunity presented at this meeting for you to clarify the process to be followed and provide the name(s) of person(s) who may support your response.

In facilitating the process, respect for the dignity and reputation of all involved is paramount. Every effort will be made to manage this matter confidentially and any person interviewed will be advised of the necessity to maintain confidentiality. Likewise, you are expected to abide by such confidentiality expectations.

I appreciate this is a very difficult time for you and I encourage you access the services of our school-based counsellor.

If you require further information about the process, please do not hesitate to contact me or [INSERT NAME], a consultant from Catholic Education Western Australia on (08) 6380 5231.

Yours sincerely

[INSERT PRINCIPAL NAME]

Attachment 2: Final Letter to Staff Member (Complainant)

DEAR [NAME]

I write with regard to the outcome of an investigation into claims of bullying and harassment made by you against [NAME]. The claims pertained to [DESCRIBE NATURE OF COMPLAINT].

I have reviewed all documentation and considered the findings based on the weight of evidence gathered. I advise that on the balance of probabilities I find that the claims of harassment are [FINDING].

[EXPLAIN REASON FOR THE FINDING]

[IF CLAIM OF BULLYING] In regard to the allegations of bullying, I considered the information presented in the light of the definition in the CEWA Policy Statement *Harassment, Discrimination and Bullying* which describes bullying as *repeated, unreasonable behaviour directed towards a person that will victimise, humiliate, undermine or threaten*.

Thank you for raising your concerns and for your cooperation with the process. I assure you I am addressing the concerns you raise appropriately. I would like to meet with you on [INSERT DATE, TIME AND VENUE] to discuss the specifics of the findings of the investigation and requisite actions.

I appreciate this has been very difficult for you. We have endeavoured to conduct this process ensuring confidentiality and respect for all parties concerned. Please do not hesitate to contact me should you require additional support or further information.

My best wishes for your ongoing work at our school.

Yours sincerely

[INSERT PRINCIPAL NAME]

Attachment 3: Final Letter to Student (Respondent)

Dear [NAME]

I write in regard to the outcome of an investigation into claims of bullying and harassment made against you by [COMPLAINANT]. The claims pertained to [DESCRIBE].

I have reviewed all documentation and considered the findings based on the weight of evidence gathered. I advise that on the balance of probabilities I find that the claims of harassment are [FINDING].

[EXPLAIN REASON FOR THE FINDING]

[IF CLAIM OF BULLYING] In regard to the allegations of bullying, I considered the information presented in the light of the definition in the CEWA Policy Statement *Harassment, Discrimination and Bullying* which describes bullying as *repeated, unreasonable behaviour directed towards a person that will victimise, humiliate, undermine or threaten.*

[IF DISCIPLINE OR SUPPORT INITIATIVES ARE REQUIRED DESCRIBE]

I appreciate this has been very difficult for you. We have endeavoured to conduct this process ensuring confidentiality and respect for all parties concerned. Please advise me of any further support you require.

Thank you for your cooperation with this process.

Yours sincerely

[INSERT PRINCIPAL NAME]