

STAFF GRIEVANCE POLICY

Best Practice – Quality Area 4

PURPOSE

This policy will provide guidelines:

- for the process involved in the managing and responding to staff grievance pertaining to their employment at the service
- to ensure that a consistent and fair approach is taken when managing staff grievances

POLICY STATEMENT

1. VALUES

Athol Road Primary School Kindergarten aims to maintain a harmonious, positive and productive work environment by assisting staff and management to resolve grievances effectively and to the satisfaction of all concerned.

Athol Road Primary School Kindergarten is committed to:

- providing an environment of mutual respect and open communication, where the expression of opinions is encouraged
- complying with all legislative and statutory requirements
- dealing with disputes, complaints and complainants with fairness and equity
- establishing mechanisms to promote prompt, efficient and satisfactory resolution of complaints and grievances
- addressing staff grievances in a prompt and effective manner by resolving complaints fairly, efficiently and in accordance with relative legislation
- maintaining confidentiality at all times.

2. SCOPE

This policy applies to the Approved Provider, Nominated Supervisor, teachers, educators and staff employed at Athol Road Primary School Kindergarten.

3. BACKGROUND AND LEGISLATION

Background

From time to time, individual employees may have grievances relating to their employment that require resolution to maintain positive working relationships and a collaborative working environment. It is recommended that in the first instance, all parties to a grievance should try to resolve the matter directly through discussion and should only then proceed to formal processes if the matter is unable to be resolved

Legislation and standards

Relevant legislation and standards include but are not limited to:

- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Children, Youth and Families Act 2005 (Vic)*
- *Education and Care Services National Law Act 2010: Section 174(2)(b)*
- *Education and Care Services National Regulations 2011: Regulations 168(2)(o) and 176(2)(b)*

- *Information Privacy Act 2000* (Vic)
- *National Quality Standard*, Quality Area 7: Leadership and Service Management
 - Standard 7.3: Administrative systems enable the effective management of a quality service
 - Element 7.3.4: Processes are in place to ensure that all grievances and complaints are addressed, investigated fairly and documented in a timely manner
- *Privacy Act 1988* (Cth)
- *Privacy Regulations 2013*(Cth)
- *Victorian Early Childhood Teachers and Educators Agreement 2016* (VECTEA)

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: <http://www.legislation.vic.gov.au/>
- Commonwealth Legislation – ComLaw: <http://www.comlaw.gov.au/>

4. DEFINITIONS

The terms defined in this section relate specifically to this policy. For commonly used terms e.g. Approved Provider, Nominated Supervisor, Regulatory Authority etc. refer to the *General Definitions* section of this manual.

Complaint: (In relation to this policy) a complaint is defined as an issue of a minor nature that can be resolved promptly or within 24 hours, and does not require a detailed investigation. Complaints include an expression of displeasure, such as poor service, and any verbal or written complaint directly related to the service (including general and notifiable complaints).

Complaints do not include staff, industrial or employment matters, occupational health and safety matters (unless related to the safety of the children) and issues related to the legal business entity, such as the incorporated association or co-operative.

Complaints and Grievances Register: (In relation to this policy) records information about complaints and grievances received at the service, together with a record of the outcomes. This register must be kept in a secure file, accessible only to educators and Responsible Persons at the service. The register can provide valuable information to the Approved Provider on meeting the needs of children and families at the service.

Dispute resolution procedure: The method used to resolve complaints, disputes or matters of concern through an agreed resolution process.

General complaint: A general complaint may address any aspect of the service e.g. a lost clothing item or the service's fees. Services do not have to inform DEECD, but the complaint must be dealt with as soon as is practicable to avoid escalation of the issue.

Grievance: A grievance is a formal statement of complaint that cannot be addressed immediately and involves matters of a more serious nature e.g. the service is in breach of a policy or the service did not meet the care expectations of a family.

Mediator: A person (neutral party) who attempts to reconcile differences between disputants.

Mediation: An attempt to bring about a peaceful settlement or compromise between disputants through the objective intervention of a neutral party.

Notifiable complaint: A complaint that alleges a breach of the Act or Regulation, or alleges that the health, safety or wellbeing of a child at the service may have been compromised. Any complaint of this nature must be reported by the Approved Provider to the secretary of DEECD within 24 hours of the complaint being made (Section 174(2)(b), Regulation 176(2)(b)). If the Approved Provider is unsure whether the matter is a notifiable complaint, it is good practice to contact DEECD for confirmation. Written reports to DEECD must include:

- details of the event or incident
- the name of the person who initially made the complaint
- if appropriate, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant)
- contact details of a nominated member of the Grievances Subcommittee/investigator
- any other relevant information.

Written notification of complaints must be submitted using the appropriate forms, which can be found on the ACECQA website: www.acecqa.gov.au

Serious incident: An incident resulting in the death of a child, or an injury, trauma or illness for which the attention of a registered medical practitioner, emergency services or hospital is sought or should have been sought. This also includes an incident in which a child appears to be missing, cannot be accounted for, is removed from the service in contravention of the Regulations or is mistakenly locked in/out of the service premises (Regulation 12). A serious incident should be documented in an *Incident, Injury, Trauma and Illness Record* (sample form available on the ACECQA website) as soon as possible and within 24 hours of the incident. The Regulatory Authority (DEECD) must be notified within 24 hours of a serious incident occurring at the service (Regulation 176(2)(a)). Records are required to be retained for the periods specified in Regulation 183.

5. SOURCES AND RELATED POLICIES

Sources

- ACECQA: www.acecqa.gov.au
- Department of Education and Early Childhood Development (DEECD) – Regional Office details are available under ‘Contact Us’ on the DEECD website: www.education.vic.gov.au
- ELAA *Early Childhood Management Manual*: www.elaa.org.au
- *The Kindergarten Guide* (Department of Education and Early Childhood Development) is available under *early childhood / service providers on the DEECD website*: www.education.vic.gov.au
- Victorian Early Childhood Teachers and Educators Agreement 2016

Service policies

- *Code of Conduct Policy*
- *Complaints and Grievances Policy*
- *Incident, Injury, Trauma and Illness Policy*
- *Inclusion and Equity Policy*
- *Interactions with Children Policy*
- *Privacy and Confidentiality Policy*
- *Staffing Policy*

PROCEDURES

The Approved Provider is responsible for:

- being familiar with the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*, service policies and constitution, and complaints and grievances policy and procedures
- providing a healthy and positive kindergarten environment that is free from discrimination and harassment

- ensuring that all staff are aware of their rights and responsibilities
- managing grievances in accordance with this policy
- identifying, preventing and addressing potential concerns before they become formal complaints/grievances
- being aware of, and committed to, the principles of communicating and sharing information with service employees, members and volunteers
- responding to all complaints and grievances in the most appropriate manner and at the earliest opportunity
- treating all complainants fairly and equitably
- ensuring that no staff member will suffer any personal or professional disadvantage because they decide to pursue a grievance in accordance with this policy and procedures
- providing a *Complaints and Grievances Register* (refer to *Definitions*) and ensuring that staff record complaints and grievances along with outcomes
- complying with the service's *Privacy and Confidentiality Policy* and maintaining confidentiality at all times (Regulations 181, 183)
- establishing a Grievances Subcommittee or appointing an investigator to investigate and resolve grievances (refer to Attachment 1 – Sample terms of reference for a Grievances Subcommittee/investigator)
- referring notifiable complaints (refer to *Definitions*), grievances (refer to *Definitions*) or complaints that are unable to be resolved appropriately and in a timely manner to the Grievances Subcommittee/investigator
- receiving recommendations from the Grievances Subcommittee/investigator and taking appropriate action.
- following the Grievance process as stated in the VECTEA 2016 – Clause 13, when there is a grievance about the application of the agreement

The Nominated Supervisor, teachers, educators and other staff are responsible for:

- raising grievances in line with this policy
- responding to and resolving issues as they arise where practicable
- maintaining professionalism and integrity at all times
- discussing minor complaints directly with the party involved as a first step towards resolution (the parties are encouraged to discuss the matter professionally and openly work together to achieve a desired outcome)
- informing complainants of the service's *Complaints and Grievances Policy*
- recording all complaints and grievances in the *Complaints and Grievances Register* (refer to *Definitions*)
- notifying the Approved Provider if the complaint escalates and becomes a grievance (refer to *Definitions*), is a notifiable complaint (refer to *Definitions*) or is unable to be resolved appropriately in a timely manner
- providing information as requested by the Approved Provider e.g. written reports relating to the grievance
- complying with the service's *Privacy and Confidentiality Policy* and maintaining confidentiality at all times (Regulations 181, 183)

EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the Approved Provider will:

- regularly seek feedback from everyone affected by the policy regarding its effectiveness
- monitor complaints and grievances as recorded in the *Complaints and Grievances Register* to assess whether satisfactory resolutions have been achieved
- review the effectiveness of the policy and procedures to ensure that all complaints have been dealt with in a fair and timely manner
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required
- notify staff, parents/guardians at least 14 days before making any changes to this policy or its procedures.

ATTACHMENTS

Attachment 1 – Sample terms of reference for a Grievances Subcommittee/Investigator

Attachment 2 – Staff Grievances Procedure

AUTHORISATION

The policy was adopted by the Approved Provider of Athol Road Primary School Kindergarten on 24th June 2020.

REVIEW DATE: 24/06/2022

ATTACHMENT 1

Sample terms of reference for a Grievances Subcommittee/investigator

DATE ESTABLISHED: 26/06/2015

PURPOSE

- A Grievances Subcommittee has been established by the Approved Provider of Athol Road Primary School Kindergarten to investigate and resolve grievances lodged with Athol Road Primary School Kindergarten.

MEMBERSHIP

Three people are nominated by the Approved Provider, and membership must include a minimum of one Responsible Person (refer to *Definitions*).

TIME PERIOD NOMINATED

The Grievances Subcommittee/investigator shall be appointed for 12 months.

MEETING REQUIREMENTS

The subcommittee convenor/investigator is responsible for organising meetings as soon as is practicable after receiving a complaint or grievance.

DECISION-MAKING AUTHORITY

The subcommittee/investigator is required to fulfil only those tasks and functions as outlined in these terms of reference.

The Approved Provider may decide to alter the decision-making authority of the subcommittee/investigator at any time.

BUDGET ALLOCATION

All expenditure to be incurred by the subcommittee/investigator must be approved by the Approved Provider. A request in writing must be submitted by the subcommittee/investigator.

REPORTING REQUIREMENTS OF THE COMMITTEE

- The subcommittee/investigator is required to keep minutes of all meetings held. These are to be kept in a secure file.
- The convenor is required to present a written report to the Approved Provider about the grievance, ensuring that privacy and confidentiality are maintained according to the service's *Privacy and Confidentiality Policy*.

TASKS AND FUNCTIONS OF THE GRIEVANCES SUBCOMMITTEE/INVESTIGATOR

- Responding to complaints in a timely manner
- Investigating all complaints received in a discreet and responsible manner
- Implementing the procedures outlined in Attachment 2 – Dealing with complaints and grievances
- Acting fairly and equitably, and maintaining confidentiality at all times
- Informing the Approved Provider if a complaint is assessed as notifiable

- Keeping the Approved Provider informed about complaints that have been received and the outcomes of investigations
- Providing the Approved Provider with recommendations for action
- Ensuring decisions are based on the evidence that has been gathered

- Reviewing the terms of reference of the Grievances Subcommittee/investigator at commencement and on completion of their term. Suggestions for alterations are to be presented to and approved by the Approved Provider

ATTACHMENT 2

Staff Grievances Procedure

Confidentiality is to be respected at all times. Information about a grievance will not be disclosed or discussed outside of the grievance procedures. A breach of confidentiality may lead to disciplinary proceedings.

A complainant may at any stage choose to take their complaint directly to an external agency such as the Merit Protection Boards, Victorian Equal Opportunity Commission, the Human Rights and Equal Opportunity Commission or the Ombudsman.

A staff member who has commenced a grievance process may withdraw and stop the process at any time without penalty. However, should the grievance relate to a breach of law (for example: discrimination, bullying, safety breach) the Approved Provider/Principal has an obligation to ensure the grievance continues to be managed accordingly.

No staff member will suffer any personal or professional disadvantage because they decide to pursue a grievance in accordance with this policy and procedures.

Employees may elect to have another staff member of their choice present as a witness at any meetings or interviews.

Employees may request attendance of a union representative at meetings when consistent with a relevant Federal Award or industrial agreement.

Until the grievance is resolved, work shall continue as normal, except in circumstances where there may be a breach of law or the health and well-being of the employee is at risk.

Procedure

Step 1: Direct Resolution

In the first instance, where reasonable, a staff member with a grievance should attempt to resolve the issue with the person/s involved in a professional manner.

Step 2: Management

If matters are not resolved, or the staff member is unwilling to raise it with the person/s involved or with the Nominated Supervisor, the staff member should raise their grievance with the Approved Provider/Principal or nominee.

The Approved Provider/Principal may choose to respond to a complaint through an informal process in cases where the complaint is minor, the complainant wishes the matter to be dealt with informally, or the complaint has arisen from lack of or unclear communication.

Formal processes will be used when informal processes haven't been successful, a complainant seeks a formal process, or the Approved Provider/Principal believes the complaint warrants formal investigation.

The Approved Provider/Principal will provide the employee with a written copy of the allegations and give them a reasonable time to provide a response.

Full details regarding formal complaint resolution procedures are contained within the DET 'Local Complaints Resolution Procedures' handbook, and contain the following steps:

- Investigating the complaint including formal interviews, written statements, conveying the details of the complaint to the respondent in writing providing the opportunity for a written response.
- Dismissing or accepting the complaint. Acceptance may involve verbal or written warnings, conciliation, or counselling etc.
- Preparation of a detailed confidential report.

- Monitoring of the situation.

Following the investigation, the Approved Provider/ Principal shall determine whether the matter warrants a formal warning. If unsatisfactory performance continues, a further verbal and written warning may be given. A third occurrence of unsatisfactory conduct may result in the termination of employment.

For matters involving serious misconduct, the Approved Provider/Principal may suspend the employee from duty on normal pay while the matter is investigated.

The School Council president will be kept informed of all complaints.

Step 3: Resolution and Documentation

When a formal grievance is resolved, the relevant parties will be notified accordingly. Where it is considered appropriate to document outcomes of a grievance procedure, it will be placed on the employee's personnel file and a copy given to the employee. Any documentation will be destroyed after a period of 12 months if no longer relevant.