

Kulkarriya Community School

West Kimberley WA



Complaints Management 2024

1. Introduction

The Western Australian *School Education Act 1999* includes a standard, applicable to Non-Government Schools that relates to *'the response to, and recording of, complaints and disputes at schools.'* Sec 159(1)(k). This standard is reflected in the The Non-Government Schools' Registration Standards and Requirements along with advisory information in relation to its satisfaction.

The implementation of an effective concerns and complaints policy and procedure would serve to:

- provide access to an open and responsive complaints' handling process;
- ensure that complaints are dealt with in an expeditious and fair manner and do not escalate unreasonably;
- enhance the school's ability to resolve complaints in a consistent, systematic and responsive manner;
- enable and encourage staff to improve their skills in complaints' handling;
- provide the school with helpful information to assist in the identification of trends and eliminate causes of complaints; and
- provide a basis for continual review and analysis of the complaints' handling process, the resolution of complaints and improvement.

A **concern** is the expression of a worry, something that has made a person troubled or anxious about an issue and is expressed at a 'first level' ie to a class teacher at the classroom door or by telephone or email directly to the relevant staff member. Depending on the nature of the concern, it can often be resolved at this 'first level' in a more informal manner. NB: It would be prudent nonetheless for the teacher or staff member concerned to make and file a brief note regarding the issue and interaction in case of future escalation.

A **complaint** is an "expression of dissatisfaction made to an organisation, related to its products, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected" (as defined by the *Australian Complaint Handling Standard ISO AS 10002-2006*). Within a school this would usually equate to an expression, in writing, of protest, objection, dissatisfaction with a real or perceived problem, accusation, or criticism and is usually dealt with in a formal manner. Irrespective of whether the complaint was first expressed as a concern, it would be expected to be in the form of a written communication, a letter or email, addressed directly to the relevant staff member, their superior, the Principal or the Chair of the school's governing body.

A complaint may be made if a complainant thinks that the school or someone has, for example:

- done something wrong;
- failed to do something it/they should have done; or
- acted unfairly or impolitely.

A complaint may be made about the school as a whole, about a particular school activity, about an individual member of staff or about one or more students.

Concerns and complaints treated as constructive suggestions can facilitate rectification and improvement and may prevent cause for further complaint. Even an unjustified complaint may indicate an area that can be improved.

A **dispute** would usually be viewed as an argument or disagreement and may be the result of a pursued unresolved complaint.

These guidelines do not cover complaints from members of staff about aspects of their work. It would be appropriate for each school to develop a procedure for internal complaints that is agreed by the governing body, Principal and staff.

2. The school and legislation

As well as the requirement for schools to satisfy the standard in the School Education Act 1999 related to the response to and recording of complaints (Section 159(1)(k), there are also imperatives associated with referencing and implementing a disputes and mediation process within a school’s constitution, whether it be an incorporated association or a registered company limited by guarantee.

Where a school’s association is drawn from the school’s community (parents and staff), it is very important that the dispute and mediation process described in the constitution is mirrored in the school’s Complaints and Disputes policy. Please see below for the relevant legislation (*Schools that are incorporated under different Acts should check the requirements of the Act relevant to their constitution*):

Legislation	Reference	Relevance
School Education Act 1999 Standard	S 159(1)(k)	The response to, and recording of, complaints and disputes at schools.
Incorporated Associations Act (2015)	Schedule 1(18)	<p>A procedure for dealing with any dispute under or relating to the rules:</p> <ul style="list-style-type: none"> (a) between members; or (b) between members and the incorporated association. <p><i>Please note that any unresolved disputes between members of an incorporated association and incorporated associations and their members can be heard by the State Administrative Tribunal (SAT);'</i></p> <p>A link to the current Model Rules containing a sample Disputes and mediation clause is available on the AISWA website, under the 'Governance' tab. NB: The current clause indicates a timeframe within which the first meeting regarding a dispute should be held and further indicates a timeframe within which a mediator would be engaged. It is not necessary to adopt these suggested timeframes, schools can determine these for themselves. However, schools will need to be mindful that timeframes (if any) indicated in the disputes resolution process section of their Complaints and Disputes policy and procedure document are then reflected in the relevant clause in its constitution. Please click here to access the Incorporated Association Model Rules.</p>

3. An Open Approach - Climate and Culture

Problems can arise if it is believed that the school is not open to the receipt of concerns. It is better to have a direct complaint to a member of staff than to have parents sharing their dissatisfaction with others. Parents like to feel valued and involved with the school and they should be encouraged to voice their concerns. Schools could ask themselves is there evidence that:

- the school is open to listening to expressions of concerns and complaint; and
- this is communicated through a well publicised policy, procedure and flowchart (on the school's website, in the Parents' Handbook etc) with encouragement to follow the school's dedicated process?
- staff are appropriately and adequately trained in dealing with concerns and complaints?

A gentle expression of concern, or a simple query, may grow into a dispute or confrontational matter if it is felt that the matter has been brushed aside. Issues that have the potential to become difficult may be diffused if they are handled well at the initial stage.

Procedures need to be flexible enough to handle both formal complaints and the informal raising of issues, keeping in mind that sometimes serious issues may be raised in an informal and friendly way and apparently trivial issues in an adversarial manner. Complaints against members of staff, in particular, need to be handled sensitively. Procedures must therefore also be in place for appropriate action when a matter remains unresolved or cannot be resolved quickly. The school will need to determine and communicate what it believes to constitute formal and informal matters.

3.1. Reducing Anxiety

The school can reduce the anxiety of a complainant by taking the matter seriously and dispelling uncertainty about how the complaint will be handled. This can be achieved by:

- acknowledging complaints immediately or at most within the timeframe stated in the school's policy document (usually within five (5) days);
- confirming the nature of the complaint and what is concerning the complainant;
- providing an assurance that the school takes the matter seriously; and
- keeping the complainant informed on what is happening in relation to the concern or complaint and, if a more detailed response is needed, the date by which it will be received. The issue should be dealt with as quickly as possible.

3.2. Confidentiality

It is essential that any complaint is treated in a respectful and confidential manner.

Parents often seek an assurance of confidentiality before expressing their concerns. If, for example, they wish to discuss a particular member of staff they may fear that their child will suffer in some way because they have complained.

It should be made clear to all concerned that it is the school's policy that complaints made by parents will not rebound adversely on their children and similarly that complaints raised by students will not rebound on them or on other students.

The question of confidentiality should be discussed sensitively and on an individual basis with the parents and the school's policy should be carefully explained.

Members of staff should be told about complaints that might be damaging to their reputation. Training will help staff to deal not only with complaints that are made to them, but also complaints that are made about them. Schools should be prepared to provide support for staff against whom a complaint is made. This may involve a colleague who is not involved in the complaint.

If there is a situation involving the Police, the Principal, or if unavailable, the next most senior staff member must take responsibility for action to be taken within the school and the governing body Chair should be informed as soon as possible. At this stage, depending on the circumstances, it would also be important to fulfil the school's requirement to submit a Critical Incident Report to the Department of Education.

3.3. Anonymous Complaints

Anonymous complaints may be where there is no name or address supplied, or where the complainants say that they do not wish to be identified.

Complainants should be encouraged to give their names and should be given reassurance on the issue of confidentiality. If they persist in wishing to remain anonymous, it is at the Principal's discretion as to what action, if any, should be taken, depending on the nature of the complaint.

Anonymous complaints should be recorded in the complaints log as, over time, they may contribute to an identifiable pattern.

4. Concerns and Complaints' Handling

The Non-Government Schools' Registration Standards and Requirements suggest that a school's policy and procedure should be clear, open and accessible and would include the following requirements:

- Confidentiality
- Prompt written acknowledgement of the complaint
- Action taken within stated timeline
- Procedural fairness for all parties
- Formal examination and investigation of the complaint and/or areas of disputation by an authorised person
- Substance of the complaint provided to the subject of the complaint
- Chairperson of the governing body informed, where appropriate
- Action being taken communicated to the complainant
- Clear record kept of the complaint, the action taken and the outcome
- Involvement where necessary of a third party within the school community or an independent arbiter
- Referral, where required, to an external authority such as the CPFS or the Western Australian Police Service for advice or immediate action
- Written report given to the complainant
- Action evaluated and procedures reviewed.

4.1. Training

Given the diverse nature of complaints, schools should ensure that thorough training, all staff, including support staff, know how to carry out their responsibility to support and implement the school's policy. Training should cover:

- the complaints' procedure;
- communication skills, such as listening, questioning and calming;
- handling complaints, negotiation and mediation skills;
- skills in observing, recording and reporting; and
- the benefits of handling complaints well and the consequences of handling them badly.

4.2. Lines of Approach

It is up to the school as to the lines of approach, as long as there is a clear procedure, communicated to all and adherence is encouraged/required. It may be appropriate that all members of staff are encouraged to deal with parental concerns that lie within their area of responsibility.

If approached about a matter that lies outside their responsibility, staff should refer the person to the policy and advise them of the next step.

In some schools, the policy may require that concerns and complaints are directed to a nominated member of senior staff or to the Principal.

Some complainants will wish to go straight to the Principal with their concerns, and this should be respected. However, it should be explained that the Principal might not be able to respond until he/she has consulted the staff that can help and/or are involved.

Serious complaints should be shared with the Chair of the school governing body by the Principal. There may be certain circumstances, such as complaints about the Principal, where it will be necessary for the complainant to write directly to the Chair, whose address should be readily available.

Some schools may require that written responses to complaints are approved by the Principal or senior staff prior to being sent.

4.3. Procedural Fairness

Procedural fairness is concerned with the procedures used by a decision maker rather than the actual outcome reached. It requires a fair and proper procedure be used when making a decision.

The rules of procedural fairness require:

- a hearing appropriate to the circumstances;
- lack of bias;
- evidence to support a decision;
- inquiry into matters of dispute.

(Reference: Ombudsman Western Australia – Guidelines on Complaints Handling – Revised 2016: <http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Effective-handling-of-complaints-made-to-your-organisation.pdf>).

The duty to act fairly requires that:

- the decision maker must have an open mind (free from bias) when reading/listening to what is said by both parties; and
- people whose interests will be affected by the decision must have the chance to give response before the decision is made, but after all important information has been gathered.

4.4. Resolution

Satisfaction for a complainant may come from any of the following:

- knowing that changes have been made and that matters will be different in future;
- knowing that the school is now alert to a possible problem;
- feeling that their concern has been considered seriously;
- an outcome which may be different from the one they sought, but which they perceive to be well-considered;
- a considered letter;
- an apology.

If time is needed to investigate/consider the complaint then the complainant should be kept informed of its progress, in writing, giving the assurance that the issue has been understood and the matter is being dealt with.

Following an appropriate investigation, the school should offer a response, for example to correct the problem and prevent it happening in the future. However, schools need to be aware that they are not obliged to give complainants explicit information on what action has been taken, but rather provide an assurance that action has been taken. This is especially important when the matter involves a staff member. Outlining the resolution, to the degree considered appropriate by the school and in the interests of satisfying the complainant, should help prevent misinformation being circulated in the school community.

4.5. Recording

It is important to maintain an effective **register of complaints** and log of concerns as:

- it provides information should there be legal action in the future;
- patterns may be identified that indicate a need for action;
- it provides information for reporting, by the Principal, to the School governing body as required.

The register/log should contain the following information:

- date when the issue was raised and to whom it was raised;
- name of complainant and relevant parties involved;
- brief statement of issue;
- member of staff handling the issue;
- name of the person/member of staff responsible for reviewing any decision made;
- brief statement of outcome including date of resolution/outcome; and
- location of detailed file (if applicable).

Confidential files on all complaints should be maintained and kept together and cross-referenced with other files as necessary. The files should contain simple but clear notes of all communication with the complainant. This includes friendly chats and telephone conversations, as misunderstandings easily arise. There should be a clear statement of what is concerning the complainant. The notes can be agreed with the complainant.

Records concerning students need to be kept for seven (7) years after the student reaches 18 years of age. However, in today's increasingly litigious environment, many schools are electing to retain records for a much longer period.

5. Disputes

Most complaints can be resolved if approached positively. However, a pursued unresolved complaint may become the subject of a dispute for a variety of reasons including the nature of the original complaint, the way in which it was handled, or possibly because the parent perceives the school to have 'closed ranks' against him or her.

Pursued, unresolved complaints/disputes are usually taken to the school's governing body Chair, the Conciliation Committee (if the school has one) and/or as a last resort and if both parties agree, an independent arbiter. *(Please see Appendix A – Flowchart for relevant wording).*

5.1. Referral to the Chair of the school governing body

In some cases the procedure will be that the Principal refers the matter to the Chair of the school's governing body and advises the complainant that this is the next step in the process. However, a situation may arise where the complainant is unhappy with the Principal's response, in which case the complainant should be able to write directly to the Chair.

The Chair should discuss the matter fully with the Principal and be provided with relevant documentation. If a briefing is required from a member of staff, this should occur in the presence of the Principal.

The Chair should respond to the complainant, notifying them that he/she is reviewing the matter, asking them if they wish to add anything further and providing a date by which they may expect a response.

The Chair's response should be clear and detailed, and should offer a meeting if the complainant remains troubled.

5.2. Meeting with the Chair of the School Governing Body

If a meeting is requested, the Chair would offer to meet the complainant at a time convenient to them. Those involved are:

- the Chair of the school governing body;
- the Principal and, at the most, one other member of staff; and
- the complainant.

The complainant should be permitted to bring with them a supportive friend who is not involved with the complaint. Legal representation would be discouraged at this stage.

The Chair, after questioning and listening to the complainant and the Principal, may be able to find a solution. If this is not possible, and the complainant wishes to take the matter further, the Chair could consider the Conciliation Committee (if the school has one) or engaging an independent arbiter.

5.3. Referral to a Conciliation Committee

Schools may wish to establish a Conciliation Committee. Protocols for its operation may include:

- the Convenor is a governing body member, other than the Chair;
- there are up to four other members, of whom at least two are governing body members;
- three members, including the Convenor, constitute a quorum for an individual case;
- members are committed to keeping the proceedings of the Committee confidential and to operating in a fair and objective manner – their aim is to conciliate; and
- In accepting appointment, members accept that they may never be called upon to meet.

The Chair of the school governing body, in consultation with the Principal, decides when to refer a complaint to the Conciliation Committee, and invites the Convenor to call a meeting.

The Chair has no further involvement until the Convenor reports back at the end of the Committee's deliberations.

5.4. Meeting with the Conciliation Committee

Those involved in the meeting are:

- the Committee members, including the Convenor;
- the Principal, and possibly a key member of staff; and
- the complainant, who is invited to bring a supportive friend, as for the meeting with the Chair of the school governing body.

5.5. Meeting Procedure

Sufficient time should be committed to the meeting.

The complainant and the Principal should be asked in advance whether there are any papers they would like to have considered at the meeting, bearing in mind the need for all to keep the proceedings confidential. The papers are copied and distributed before the meeting, allowing due consideration by all parties of any written statement submitted by any party.

The Convenor emphasises that he or she is concerned to reach a positive conclusion and invites first the complainant, then the Principal to speak. After this, the Convenor encourages questions and general discussion.

The Convenor may find it helpful at some point to invite the Principal, the complainant and their friend to withdraw from the discussion for a time, leaving the Committee alone.

If more time is required, it may be necessary to convene a second meeting. If so, Committee members must commit themselves to attend, as continuity is essential.

If a positive solution is reached, the Convenor should summarise the outcome and confirm the nature of the agreement before ending the meeting. The agreement should be recorded, copied and circulated as soon as possible.

At the end of the Committee's deliberations, the Convenor makes a full report to the Chair of the school governing body and informs the complainant that this is being done. The Chair would expect to endorse the Committee's decision.

5.6. Referral to an Arbiter

As a final step in the disputes and complaints procedure, **if appropriate**, schools could use an independent arbiter to review the process that has been implemented to that stage and to assist in the facilitation of a resolution. The process around the use of an independent arbiter would be determined by the content of the Disputes and mediation information in the school's constitution. It is usual practice for the arbiter to be:

- Agreed by both parties*
- Remunerated by both parties (if appropriate)
- Assured both parties will accept the arbiter's decision.

5.7. Further Action

At all stages of a complaints' resolution process the complainant should be reminded that they can seek legal advice if they wish, especially at the point where the school has done all it can to reach a resolution.

6. Students' Complaints

It is well recognised *that 'empowering children and young people to understand their rights, to report problems and concerns and effectively support them to address the issue raised is critical. Taking children and young people seriously if they raise a matter of concern and ensuring that staff and volunteers have appropriate training and processes to ensure that such matters are dealt with effectively'*¹ is of paramount importance.

One of the ways in which a school can ensure that their students' *views are heard, their rights respected and their safety and wellbeing prioritised is to build a complaints system that is accessible and responsive to the needs of children and young people.*² **The principles that apply to parental complaints should also be applied to complaints and concerns from students.** There are, however, differences in approaches. One important difference from the handling of parental complaints is that students should be able to raise concerns with any member of staff with whom they feel comfortable, whether it is the form teacher, a member of the support staff, Boarding School staff or the School Counsellor.

Complaints that appear trivial still need to be handled seriously. Young people may test the complaints procedures on relatively minor issues before finding the confidence to raise something painful, such as bullying.

If the issue is a painful one, or if exploration of it is taking time, a student may need support from another student or from an adult. Students should be encouraged to choose a person with whom they feel comfortable to provide support.

Schools should decide if the student's parents are to be informed or involved and at what point in the process this should take place.

In more complex situations, once the matter is resolved, the outcome should be discussed with the student by a member of staff. To make sure that it is fully understood, a written record may be shared.

In situations where it is believed that the matter needs to be referred on to an external authority it is essential that, at an appropriate time, the staff member explains this to the student, from the

¹ Taken from Summary – [Creating Child Safe Organisations Report on Consultation with Children and Young People June 2015](#). WA Commissioner for Children and Young People

² WA Commissioner for Children and Young People – [Complaints Guidelines](#)

perspective of being in the best interests of the student's welfare and safety. Please also note that in most cases, parents will be required to give formal written approval if a non-school employee is to be involved with their child. It is very important that this sort of situation is handled sensitively and in a supportive manner and that the staff member follows the school's policy and fulfils all applicable legal obligations.

There are a variety of reasons why children and young people may not report concerns, eg:

- not believing their problem is big enough to warrant an 'official' complaint;
- not understanding they are allowed to make a complaint or how to go about it;
- concern about not being believed;
- fear of getting into trouble or getting others into trouble;
- embarrassment or shame;
- worry about confidentiality and privacy;
- fear of repercussions and that things will get worse (especially about bullying).

Students need to be given a good understanding that the school is receptive to complaints, how to complain and how complaints are handled. A positive and open culture for disclosure of all concerns, Personal and Social Education programs and the school's Protective Behaviours curriculum are major contributors in not only teaching students how they may support and act as mentors to others, but also in encouraging them to understand that their views matter and to voice concerns.

7. Policy and Process Review

As well as ensuring regular review of the school's policy and procedure it is just as important to review how complaints have been handled, at regular intervals, including monitoring anonymous complaints that may not be able to be addressed but nonetheless can be discretely investigated.

A review would include the scope, clarity and effectiveness of communication, by the school, about the available process, during an actual situation, at the point of resolution and any required follow up as well as the ease and usefulness of the process, from the user's perspective. It would further include reviewing the effectiveness of staff induction, training and communication of updates in this area.

Finally a thorough review is only of benefit if there is a response of taking action to improve and enhance the policy and process which will not only leave complainants feeling respected, if not always satisfied, but also position the school and its reputation as being fair and accountable.

Please see the website of the Ombudsman of Western Australia for more guidance and information on [Complaints Handling](#) and the very useful associated [Complaints' Handling Checklist](#).

APPENDIX A

Parent Complaint Flow Chart

This is a very simplified flow chart. A school’s flow chart may include additional school staff titles that could be contacted, relevant to the type of concern or complaint and should be designed to make it easy for a complainant to follow the process.

