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# Complaints Procedure for Non-compliance with Brisbane Catholic Education's Student Protection Processes

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## **INTRODUCTION**

Brisbane Catholic Education (BCE) is committed to ensuring that all staff comply with their responsibilities as detailed in the Brisbane Catholic Education Student Protection Processes (BCE Student Protection Processes). BCE is responsible for ensuring that it has a written complaints procedure to address allegations of non-compliance with the BCE Student Protection Processes in accordance with the *Education (Accreditation of Non-State Schools) Regulation 2001*.

BCE takes all allegations of non-compliance with the BCE Student Protection Processes seriously. A person may lodge a complaint as described in this procedure, where they believe that a staff member has not complied with the BCE Student Protection Processes.

This complaints procedure provides a process for managing complaints alleging non-compliance with the BCE Student Protection Processes by staff members.

## **GENERAL GUIDANCE**

### ***Principles and Values***

The safety of children in our schools is paramount.

All complaints made under this procedure, will be dealt with promptly and fairly and in the manner described in this procedure.

In dealing with the complaint, it will be addressed in an objective and sensitive manner giving due consideration to the reputation and dignity of the persons concerned, and that any staff member who is subject to a complaint is afforded the fundamental principles of natural justice within a fair and transparent process. Where a complaint has been delegated to the Area Supervisor/Principal, he/she must ensure that the complaint is dealt with in a way that is both procedurally and substantively fair. All parties must attempt to complete the process in a timely manner.

### ***Initial Assessment***

Upon receiving a *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes*, the Area Supervisor will assess the nature of the complaint and form a view regarding the appropriate course of action (see further details in section 5 of this procedure). The Area Supervisor is the complaint manager and, in appropriate circumstances if the Principal is not the subject of the complaint, may delegate some responsibilities for management of the complaint to the Principal.

### ***Reasonable Suspicions of Sexual Abuse/Likely Sexual Abuse or Harm/Risk of Harm or inappropriate behaviour towards a student by a staff member***

If at any time in assessing the complaint, the Area Supervisor/Principal forms the view that the complaint involves an allegation or reasonable suspicion of sexual abuse of a student or likely sexual abuse of a student, the Area Supervisor/Principal must immediately make a Mandatory Report to police as described in Section 5 of the BCE Student Protection Processes.

If at any time, the Area Supervisor/Principal forms the view that the complaint involves an allegation or reasonable suspicion of harm/risk of harm to a student, the Area Supervisor/Principal must consider the appropriate response to be made under Sections 6 and 7 of the Student Protection Processes.

If at any time, the Area Supervisor/Principal forms the view that the complaint involves an allegation or reasonable suspicion of inappropriate behaviour towards a student by a staff member, the Area Supervisor/Principal must consider the appropriate response to be made under Sections 10 and 11 of the Student Protection Processes.

Advice is available from the BCE Student Protection Team regarding any student protection processes.

### ***Risk Assessment***

After receiving a *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes*, the Area Supervisor will take immediate steps to ensure that a risk assessment is carried out to determine if the student is safe and implement a support strategy if required.

### ***Support Person***

Staff members are entitled to involve a support person in any meetings between the staff member and the Area Supervisor/Principal arising out of this procedure. The Area Supervisor/Principal must advise the staff member of their right to a support person. The person may be another staff member, friend, family member or representative of their union. The respondent may choose not to have a support person present.

### ***Pastoral Care and Support***

Pastoral care and support will be offered by the Area Supervisor/Principal to the student and their parents, the staff member against whom the allegation has been made and any others directly involved. The welfare and best interests of any student involved will be paramount and advice may be sought from the BCE Student Protection Team about appropriate support.

BCE provides the Employee Assistance Program to give free and confidential counselling to staff members who require support. All staff are encouraged at any time to access the Employee Assistance Program or seek other counselling support. Staff may access the Employee Assistance Program on 1800 808 374.

### ***Confidentiality and Documentation***

All persons involved in a complaint must observe confidentiality unless otherwise authorised or required to disclose information. The Area Supervisor/Principal must advise all parties to the complaint and witnesses to keep the details of the investigation confidential.

Documentation relating to the complaint must be stored in the dedicated complainant folder located on SharePoint.

### ***Identity of Complainant/Witnesses***

Where the complainant advises that they wish to remain anonymous, the Area Supervisor/Principal needs to establish why the complainant does not want their identity disclosed. In this respect, the Area Supervisor/Principal will need to manage the concerns of the complainant while ensuring there is an appropriate balance in fairness to all parties concerned. In most cases, it is not possible for the complainant to remain anonymous due to the right of the respondent to natural justice and to know the full extent of the allegation being made against him/her.

In managing complaints involving students as witnesses, disclosure of identity of the student is to be balanced with the principle of what is in the best interests of the student.

## ***Interpretation***

The meaning of any terms in this procedure will have the same meaning as in the BCE Student Protection Processes (see section 1.10 'Definitions' of the BCE Student Protection Processes).

## **RECEIVING A COMPLAINT ABOUT NON-COMPLIANCE WITH BRISBANE CATHOLIC EDUCATION STUDENT PROTECTION PROCESSES**

If a person wishes to make a complaint, they must complete a *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* form and send that form (by mail or electronically) to the Director – Employee Services. A *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* form can be found on the school portal or BCE public website. Details for the Director – Employee Services and the dedicated in-box where the form may be submitted, is found on the *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* form.

Where someone contacts BCE to make a complaint (for example, by telephoning or emailing the Executive Director, School Service Centre, School, BCE Office or the Principal) and it appears to the staff member to whom the initial contact is made that the complaint relates to non-compliance with the BCE Student Protection Processes, that staff member must try and assist the person to ensure that they are provided with information about how to access the *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* form. For example, the person could email the link to the *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* form to the person or send them a hard copy of the *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* form for completion.

To remove any doubt, except in extraordinary circumstances, a complaint that the BCE Student Protection Processes have not been complied with by a staff member will not be handled or assessed until a *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* has been completed and sent to the Director-Employee Services. Assistance should be provided to enable completion of the form.

## **MANAGING A COMPLAINT ABOUT NON-COMPLIANCE WITH BRISBANE CATHOLIC EDUCATION STUDENT PROTECTION PROCESSES**

### ***Delegation by Director – Employee Services/School Service Centre Director/Area Supervisor***

When the Director-Employee Services receives a completed *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes*, the Director-Employee Services will, in most instances, delegate the responsibility to manage the complaint through the relevant School Service Centre Director to the Area Supervisor. A copy of the *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* will be given to the Manager of Professional Standards and Student Protection.

Where an allegation is made against a staff member who is a cleric or a member of a religious order, or who was a cleric or a member of a religious order at the time of the alleged behaviour, the Director – Employee Services will ensure that the relevant church authority is informed when it is appropriate to do so.

As soon as the Area Supervisor is aware that a complaint has been made, the Area Supervisor must assess the nature of the complaint and form a view regarding the appropriate course of action. The Area Supervisor may contact the Manager of Professional Standards and Student

Protection for advice in making this assessment. If the complaint relates to a staff member, who is not the Principal, the Area Supervisor may delegate the responsibility to manage the complaint to the Principal of the relevant staff member and the Area Supervisor should assist the Principal in assessing and managing the complaint.

## **PROCEDURE FOR HANDLING COMPLAINTS ABOUT NON-COMPLIANCE WITH BRISBANE CATHOLIC EDUCATION STUDENT PROTECTION PROCESSES**

The complaints process comprises the following steps:

- Step 1            Receiving the completed Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes and clarifying the complaint
- Step 2            Assessing evidence including the response of the respondent to the complaint
- Step 3            Determining appropriate actions to resolve or respond to the complaint.

### ***Step 1 – Receiving the completed Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes form and clarifying the complaint***

The commencement of a complaints procedure requires the Area Supervisor/Principal to establish the precise details of the complaint and seek a response in order to determine the appropriate outcome by undertaking the following actions.

- The Area Supervisor/Principal must acknowledge receipt of the *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* in writing to the person who made the complaint. Writing may include email.
- The Area Supervisor/Principal must establish the precise nature of the complaint. This may involve reviewing the *Record of Complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes* and clarifying the information with the complainant.
- The Area Supervisor/Principal must provide to the staff member and complainant an indicative timeline for the process and how the examination of the issues will proceed. If subsequently the timeline needs to be varied, the Area Supervisor/Principal must advise the parties of this along with the reasons for the variation. Area Supervisors/Principals should always consider the impact of any delay on the fairness of the process, as well as the welfare of the other parties to the complaint.
- Other relevant matters should be considered by the Area Supervisor/Principal to assist in clarifying the complaint. This may involve examining information contained in the Student Protection Case Management System and other documentation, requesting a written statement from any witnesses or other persons and where necessary, interviewing those people.
- All written accounts of interviews must be kept, confidentially, by the Area Supervisor/Principal and uploaded to the dedicated complaint folder on SharePoint.

## ***Step 2 – Assess the evidence including the response of the respondent to the complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes***

Following completion of Step 1, the Area Supervisor/Principal should obtain and assess the evidence in order to decide whether the complaint has substance and determine the appropriate outcome to the complaint. In obtaining information from the respondent the following should be observed.

- The Area Supervisor/Principal must provide to the staff member a full summary of the complaint in writing and an opportunity for the staff member to provide a response in writing. The staff member will normally be given a minimum of five (5) working days and a maximum of ten (10) working days to respond to allegations, depending on the nature, seriousness and complexity of the allegations. It is preferable that the written summary of the complaint be provided to the staff member in person. The Area Supervisor/Principal should include in the written summary of the complaint, information regarding who made the complaint, when it was received and the specific allegations together with advice to the staff member regarding confidentiality.
- A staff member may provide their response in person or in writing to the Area Supervisor/Principal. Where a staff member is invited to provide a written statement but does not do so, this does not prevent the investigation of the complaint proceeding. Staff members should be informed of the implications of not providing a response, for example, that the matter will progress without their version of events, as would be set out in a written response, being considered.
- The Area Supervisor/Principal must provide the opportunity for the respondent to have a support person present during all meetings as part of this process. The respondent may choose not to have a support person present.
- If the Area Supervisor/Principal considers it necessary or appropriate in the circumstances, he/she should provide the opportunity for the staff member to meet with the Area Supervisor/Principal in person to clarify matters in the response and to provide them an opportunity to comment on any further relevant evidence including contradictory information. In examining the complaint, the Area Supervisor/Principal will need to have regard to the considerations and criteria to be applied in Step 2 as detailed below.

In addition to the information listed in Step 1, this assessment should take into consideration:

- whether the weight and reliability of the evidence demonstrates that there is substance to the complaint;
- the circumstances and context of the complaint;
- whether evidence was presented by the parties and witnesses in a credible and consistent manner; and
- the absence of evidence where it should logically exist.

If, following the assessment of the evidence, it appears the substance of the complaint is more serious than first anticipated or new evidence or allegations arise, the Area Supervisor/Principal must refer the matter to the Director – Employee Services to be considered under a misconduct process. The Manager of Professional Standards and Student Protection should be contacted for advice at this stage. In some cases, the Director Employee Services may determine that it is

appropriate to conduct an investigation into the allegations. Where appropriate and as determined by the Director – Employee Services, a person external to BCE may be appointed to conduct the investigation.

### ***Step 3 – Determining the appropriate outcome for the complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes***

Following Step 2, the Area Supervisor/Principal will determine the appropriate action as a result of the complaint.

#### ***Where a complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes lacks substance***

If an Area Supervisor/Principal has determined that a complaint lacks substance, or is fictitious or vexatious, the Area Supervisor/Principal should clarify any misunderstandings and deal with the issues.

This may involve:

- acknowledging different perspectives; and/or
- monitoring the situation.

#### ***Where a complaint about Non-Compliance with Brisbane Catholic Education Student Protection Processes is substantiated***

Where the Area Supervisor/Principal determines that a complaint does have substance and that a staff member has failed to make a required report, the Area Supervisor/Principal must immediately action the submission of the relevant report and contact the Manager of Professional Standards and Student Protection to obtain advice about the appropriate response to the non-compliance.

After consultation with the Manager of Professional Standards and Student Protection, the Area Supervisor/Principal may determine to take one or more of the following actions:

- recommending suitable counselling, whether personal or performance based counselling;
- clarifying expectations of appropriate conduct;
- recommending completing or redoing a training course in Student Protection;
- recommending measures to promote understanding and compliance with the Student Protection Processes within the school, including the Area Supervisor/Principal discussing the Student Protection Processes at staff meetings and checking staff understanding of the Student Protection Processes;
- conducting a review of the effectiveness of systems within the school to implement the Student Protection Processes;
- issuing a caution in relation to the consequences of future behaviour which is not in compliance with the Student Protection Processes and placing a copy on the staff member's personal file, along with the other documentation;

- implementing a period of monitoring;
- referring for professional development;
- referring the staff member to BCE's Employee Assistance Program; and/or
- other appropriate action.

The Area Supervisor/Principal will be responsible for ensuring that the chosen course of action is implemented.

A written response outlining the resolution outcome and the reasons for it should be provided to the staff member. This should include:

- whether the complaint has substance;
- the reasons for the decision;
- the source of information relevant to the decision; and
- any action to be taken as a result of the decision.

### ***Notifying the complainant***

At the conclusion of the complaints process the Area Supervisor/Principal must provide a written response to the complainant informing them of the conclusion of the process and the nature of any remedial action that has been taken to comply with the Student Protection Processes. Where appropriate, and taking into account confidentiality and privacy considerations, the response may broadly outline the key findings. In some situations, it may not be appropriate to inform the complainant about the details of the action taken against the staff member as that information is personal information between the employer and the staff member. Any disciplinary action is confidential.