



## Policy No. 6

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# FORMAL COMPLAINTS POLICY

Policy adopted from Nambour Christian College 2011					
GCC Board Approve	August 2011				
REVISED:	25 MAR 14	May 15	13 Sep 2016	15 May 2018	

## 1. Introduction

- (a) There will be times when members of the Gulf Christian College community (staff, students, parents) will wish to question, by way of a Formal Complaint, behaviours of persons or decisions made within the context of the provision of educational services.
- (b) Such a complaint may be raised at any time, but usually will occur after informal efforts have been made to address the issues of concern. Indeed, most complaints will be able to be remedied informally, through communication with staff, including curricular and pastoral, coordinators and College leadership. Appointments can always be made with the College to discuss issues.
- (c) As appropriate, students are also given the opportunity to personally account for their own questionable behaviours which have been reported or caused concern to others. This is done through a face to face discussion process where the student is requested to meet with a relevant senior staff member to discuss issues and outcomes.  
Parents are **not notified** of the Request for Interview with the student (however the student is free to inform them), as the process is designed to allow the students to take responsibility for their behaviour.
- (d) Additionally, other College Policies are in place to address and remedy issues and concerns.

## 2. Definitions

**Allegations** – example of purported conduct/actions of the Respondent toward the Complainant/s.

**Complainant/s** – The person/s who brings the Formal Complaint.

**Respondent** – the alleged offender.

**Support Person** – a person who attends meetings/interviews the Complainant and Respondent as other witness (the support person does not speak as advocate).

**Unacceptable Risk** – an assessment by the Principal/ leadership that the attendance at the school by the Respondent would not be in the best interest of those involved with the Complaint process.

## 3. Scope

This policy covers Formal Written Complaints about any matter, including about alleged College breach of its Privacy and Child Protection Policies. Students over 18 years of age may bring complaints on their own behalf. This policy is to be read in conjunction with other policies directed to the wellbeing of the College ie:

- Child Protection Policy
- Unprofessional Behaviour Policy
- Privacy Policy

## 4. The Law

- Contract Law
- Negligence
- Work Health & Safety Act 2011
- Accreditation (Non-State Schools) Act 2017 and Regulations 7, 15 and 16
- Australian Privacy Principles
- Privacy Amendment (Notifiable Data Breach) Act 2017

## 5. Purpose

This policy exists to provide a clear, transparent **FORMAL POLICY AND PROCEDURE** for parents (personally and on behalf of students) and staff, should they wish to make such a complaint about any matter). The Formal Complaint must be in writing to the Principal/Delegate.

## 6. Principles

This policy and procedure uphold the importance of:

- (a) Natural Justice
- (b) Due Process
- (c) Confidentiality, and
- (d) Prompt Response

### GUIDING PRINCIPLES

- i. It is expected that each person will uphold Christian values and comply with the law, to
  - Value the dignity and respect of the individual
  - Promote the principle of Equal Opportunity
  - Refrain from any behaviours that impinge negatively upon a person's dignity and rights, morale and work effectiveness
  - Contribute to quality of life through respect and tolerance
  - Protect cultural and social diversity, and
  - Engender fairness and respect in relationships.
- ii. **Natural Justice** – The principles of natural justice will apply to decisions made under this policy. The two fundamental principles of natural justice are:
  - Those making a decision are not biased, and
  - Any person who has a complaint against them must be given the opportunity to be heard in response to the specifics of the complaint and to put their side of the matter.
- iii. **Privacy** – Privacy legislation applies to all records generated under this policy.
- iv. **Timely Action** – Matters need to be addressed with reasonable promptness.
- v. **Confidentiality** – A complaint must be treated with the utmost confidentiality. This does not affect the complainant's right to seek external assistance at any time.

It is important when handling a complaint that confidentiality of all parties concerned is respected. Information will be shared only on a 'need to know basis' and as necessary to comply with the requirements of this policy or as required by law. Information will be regarded as confidential if:

  - Information has the 'necessary quality of confidence' in that any unauthorised use would be detrimental to a party, and
  - It was shared or confided under circumstances where there was a special need for trust eg between the Harassment Referral Officer and the complainant, between the Principal and the alleged offender, between Principal and College Leadership.

## 7. Policy Statement

- (a) The College acknowledges the right of parents (personally or on behalf of students) and staff to seek remedy for concerns and problems they consider have arisen out of school management, behaviour, issues, conduct or decisions which cause them to be aggrieved.
- (b) All Formal Complaints will be investigated under this policy.
- (c) Natural justice and confidentiality will be stressed to all who provide information.
- (d) College remedies will be put in place in accordance with Investigation Findings and at the discretion of the Principal/Board.
- (e) College remedies will be additional to any which may arise at Law.

## 8. Responsibilities

- (a) The Board is responsible for the development, adoption and compliance of this policy.
- (b) The Board Chair is available to the Principal for assessing and consulting with the Principal where necessary.
- (c) The Principal is responsible for:
  - the overall management and application of this Policy.
  - modelling appropriate workplace behaviour and practice.
  - responding and managing inappropriate behaviour regardless of whether a Complaint is received.

- having an expectation and encouraging all staff to behave in accordance with the goals and values of the school, and within the principles of equity and anti-discrimination.
  - dealing with Complaints seriously and in accordance with the principles and procedures of this Policy and the Law.
  - widely promoting the wellbeing of staff and students ensuring that this policy forms part of the induction process for new staff.
  - undertaking professional development in support of this policy.
- (d) School staff are responsible for:
- Being familiar and complying with this Policy and Complaint procedure.
  - Maintaining a high standard of behaviour and workplace practice and treating each other with respect and dignity.
  - Refraining from behaviours that may constitute bullying, harassment or discriminatory or unfair practice.
  - Undertaking professional development in support of this policy.

## 9. The Procedures (most usually followed in sequence)

### A. Initial Steps

- (a) The complainant makes the complaint in writing to the Principal or Delegate.
- (b) Another member of staff will be delegated to act as a Complaints/Liaison Manager and will be available to assist the Complainant to particularise the complaint issues so that the alleged offender will have a clear and detailed picture as to what the allegations are to allow for a meaningful response.
- (c) The complaint and any other documentation received by the Principal/Delegate either directly or through the Complaints Manager will be provided to the alleged offender as appropriate and as soon as is available.
- (d) The Principal/Delegate and other senior College staff members (with, as necessary external advice) will decide how best to manage the steps of the Complaint. This may include:
- Handling the complaint under a specific College Policy – if applicable – Privacy Policy – Breach Response.
  - Consideration of the appropriateness of mediation (both parties must be willing and comfortable).
  - Whether it is prudent to engage an external person to investigate the Complaint and to provide a Report and Findings.
  - Whether or not it is necessary to stand the alleged offender down in the interim.

### B. Standing Down

In line with Natural Justice, the Principal/Delegate will

- Schedule a meeting with the alleged offender/Respondent (and support person) promptly to inform him/her of the Complaint and provide details orally (of the nature of the issues) as they are known at the time.
- Provide an overview of the process and timelines.
- This first meeting introduces the Respondent to the reality that the Complaint has been made against him/her. It is an 'information' meeting predominantly.
- The Principal/Delegate will invite the Respondent to respond then and there, if he/she wishes to talk about the situation, but:
  - Inform the Respondent that he/she may be given the opportunity and time to respond fully to the allegations in writing after they are received in a particularized form – including the time to do so.
- The alleged offender/Respondent may or may not make any response at the time of the meeting.
- The Respondent may choose NOT to provide any explanations or response AT ALL regarding the allegations, either orally or in writing.

- If no response is made, then the Investigation proceeds with the information that is available to it by other witnesses. The lack of response from the Respondent must not unnecessarily delay the progress of the investigation.
- If the choice is to make a written response then it must be received by a certain date.

### C. Information provided to the Parties

- The Principal will inform both Complainant and Respondent of the management plan decided upon to address the Complaint then usually follows the following steps:
  - Interviewing witnesses (including those nominated by the Complainant and the Respondent)
  - Assessing substance
  - Findings
  - Investigation Report provided to the Principal/Board
- Both parties are encouraged to have support persons of their choice at all stages of the Investigation proceedings.
- If mediation is to take place, an agreed mediator will be engaged.
  - The mediation will take place – with support persons (support persons, including Union Representatives, do not have a speaking role).
  - Both parties will be required to commit to supporting, in good faith, any outcome arrived at, and
  - Sign what was agreed upon.
  - The matter will thereafter be monitored at set intervals subsequently.
- If an investigation takes place:
  - An outside Investigator may be engaged as Complaints Investigator (to remedy perception of bias).
  - The Investigator will attend the school to interview both parties and other witnesses.
  - The Investigator will liaise with the school and witnesses through the Complaints Liaison Officer (as delegated by the Principal).
  - All interviewed will be requested to sign a Confidentiality Protocol.
  - In the school investigation, names of witnesses and their statements will not be shared with the Parties – only to the Principal and Complaints Manager.
  - All statements/notes taken will be signed as a ‘true record’ of information given.
- The Investigator (whether internal or external) will provide a Report of the Investigation and Findings eg whether or not any of the allegations in the Complaint have been substantiated to the Principal
- The Report will be provided to the Principal
- The Parties will receive a copy of the Report (at the discretion of the Principal)
- The Report is legally privileged to the Principal and Board.

### D. Consequences and Outcomes

- The Principal, at his/her discretion, will decide on the most appropriate outcomes/consequences
- The Principal may meet with each party to inform them of the outcomes decided
- They will also be informed in writing
- The Principal will put in place any outcomes resulting from the decision. These may include disciplinary outcomes for Staff and Students, including:

For Students	For Staff
Apology	Apology
Counselling	Counselling
Suspension	Demotion from position of responsibility
Expulsion	Formal Warning on File
	Show Cause
	Termination

- Disciplinary outcomes will apply to anyone who brings a complaint which is considered vexatious or without any basis

- (f) Anonymous Complaints will be responded to the extent reasonable possible.

## **10. College Initiated Investigation**

There may be times when a Complainant feels unable to or does not want to initiate or continue with any Formal process or Investigation or to bring a Formal Complaint at all. That is their choice.

However, there may also be the circumstance where the concerns raised by that person are assessed as really **College-wide issues** rather than issues affecting one person. If the issues raised are such that the health and wellbeing of staff or students is being adversely affected, the school will initiate its own Investigation into the issues. The College reserves the right to set up an investigation. In the circumstances where the Investigation is School-Initiated, the employee who raised the Complaint will not be named as Complainant. That person will simply be interviewed as one of the witnesses. The College has a duty of care for a safe workplace.

The decision of the Principal marks the end of the Formal Complaint offered by the College. There is no right of Appeal to the College Board although the aggrieved may pursue any external rights available under law.

## **11. Review**

This policy will be reviewed every two (2) years or as required by legislation.

ANNEXURE A

**FORMAL COMPLAINTS FORM**  
For completion by person making complaint

Date: \_\_\_\_\_

The purpose of this form is to collect statistical information about anti-discrimination, sexual harassment and bullying complaints so that this information can be transferred to the Harassment Register. **No identifying information is to be recorded on this form.** A quarterly report is generated from the Harassment Register and forwarded to the Principal/Delegate. Statistical information includes the gender, and employment status of person making complaint and person who is being complained about, and options chosen for resolution.

**DETAILS ABOUT RECEIVING COMPLAINT (For completion by office staff)**

Date of receipt of complaint:	_____
Name of person who received the complaint at the first instance:	_____
The complaint was referred to:	<input type="checkbox"/> The Principal <input type="checkbox"/> The CEO

**INCIDENT DETAILS**

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Name of who finalized this complaint: \_\_\_\_\_

Date of filing: \_\_\_\_\_



ANNEXURE B

**CONFIDENTIALITY PROTOCOL FOR PARTIES AND WITNESSES**

This interview is being conducted by Gulf Christian College into allegation(s) of workplace problems / complaints and will be carried out based on the principles of natural justice and in good faith.

***PLEASE NOTE THE FOLLOWING***

1. True and accurate disclosure and co-operation is essential in establishing the facts.
2. Confidentiality is to be maintained at all times to protect privacy and avoid defamation. Only people required to know the information (Principal and CEO) should be told the details of the alleged problem. No discussion about the fact that there has been an interview or what has been said at the interview must occur.
3. If confidentiality is breached, you could be sued for defamation. The College will regard breaches of confidentiality as serious and may take disciplinary action.
4. You are requested to proceed in a professional manner and observe appropriate workplace behaviours. No “victimisation” of anyone must arise during or after the investigation of this complaint.
5. Concise notes will be taken of what you say and will be shown to you at the end of the interview for accuracy.
6. You can contact your support person / union member at any stage of the process. You have been advised of your right to have a support person present at this or any subsequent interview.

***I have read and understand this protocol.***

Name	Telephone
_____	_____
Signed	Date
_____	_____
Complaints Manager	Date
_____	_____
Signed	
_____	