



DOBCEL Employee Grievance Policy

Reviewed: November 2020

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Next Review: 2024

Rationale

The Diocese of Ballarat Catholic Education Limited (DOBCEL) is committed to fostering a safe and inclusive workplace where individuals feel safe and supported.

DOBCEL aspires to an authentic and mission inspired workplace in which all employees respect the diverse range of experiences and backgrounds of others.

A robust grievance resolution process creates opportunities for giving and receiving feedback and provides a valuable opportunity for reflection and learning. An effective process for resolving grievances treats people fairly, is timely and provides those involved the opportunity to respond to issues and to present information relevant to the matter to aid resolution.

This policy serves to support employees and through aims to provide for a robust and fair framework to facilitate the resolution of problems, complaints or grievances raised by DOBCEL employees.

Definitions

Complainant: the person(s) lodging the complaint.

Employee: A person employed by DOBCEL.

Grievance: A grievance is any type of problem, concern or complaint related to an employee's work or the work environment. A grievance can be about any act, behaviour, omission, situation, or decision impacting on an employee that the employee believes is unfair or unjustified. A grievance can relate to almost any aspect of employment, for example:

- Safety in the workplace
- Application of an industrial instrument (e.g., the Victorian Catholic Education Multi-Enterprise Agreement)
- Annual performance review or development plan
- Supervision
- Other working relationships

Leadership or the Leader refers to the person that the employee reports to on a day-to-day basis. For school-based employees this is likely to be the **principal**, or for Catholic Education Ballarat employees this is likely to be the **team leader**

Management representative refers to a person appointed by Leadership, such as the Manager HR or Assistant Director People and Development who may assist in the resolution of a grievance.

Procedural Fairness: Procedural Fairness or the rules of natural justice as follows:

- An employee is given a genuine opportunity to make a complaint, and the complaint will be taken seriously and acted on, in accordance with terms of the relevant DOBCEL Employee Grievance Procedure
- The respondent is given sufficient information about the complaint to enable an appropriate response before a decision affecting their interests is made
- Leadership, or appointed management representative must be impartial and not pre-judge an outcome
- Leadership or appointed management representative reviewing the available information, will decide on the balance of probabilities considering the available evidence to determine what is most likely to have occurred

Respondent: The person against whom the complaint has been raised.

Vexatious Claim: Where a Complainant makes frivolous or malicious claim without basis against a Respondent, such as where intentionally false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution.

Victimisation: Victimisation includes any unfavourable treatment of a person who has been involved with a discrimination, harassment, or bullying complaint. In order for complaints to be brought forward, employees must feel secure in the knowledge that DOBCEL's procedures will be followed without fear of detriment.

Policy Statement

DOBCEL will seek to resolve all genuine workplace and employment related employee grievances in accordance with the DOBCEL Employee grievance procedure.

DOBCEL recognises that an employee may not perform to the best of their ability if they believe they are being treated unfairly or are feel aggrieved.

As such DOBCEL will use its reasonable endeavours to:

- encourage employees to come forward with personal grievances;
- resolve grievances in a supportive way, without victimisation or intimidation of any person connected with the grievance;
- ensure fairness, impartiality, and timely resolutions of personal grievances as close as possible to the source of the grievance; and
- ensure Principals and Team Leaders seek to prevent wherever possible, and to resolve personal grievances

Principles

Human dignity

Our common humanity requires respect for and support of the sanctity and worth of every human life. All other rights and responsibilities flow from the concept of human dignity. This principle is deemed as the central aspect of the Church's social teaching. The belief that each life has value is shared with International Human Rights which are universal, inviolable and inalienable.¹

¹ *ibid.*

Subsidiarity in fostering local expressions of the Church's common mission

All people have the right to participate in decisions that affect their lives. Thus, decisions should be made at the most appropriate level, by the people most affected by the decision and by those who exercise responsibility for carrying out the decision. It also means that those in positions of authority have the responsibility to listen to everyone's voice and make decisions according to the common good.² Implementing the principle of subsidiarity supports the interdependence of all decision makers.

Solidarity and synodality involving the breadth of the diocesan community

Synodality involves the active participation of all members of the Church in its processes of discernment, consultation and co-operation at every level of decision-making and mission. Every member of the People of God is involved, though with varied roles and contributions.³

Solidarity, on the other hand, presupposes a commitment to a more just social order and urges each to consider the impact of how they live and interact with others from the point of view of justice. Being in solidarity means recognising others as equals and actively working for their good.⁴

References

- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Anti-Discrimination Act 1991 (Cth)
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Crime and Corruption Act 2001 (Cth)
- Disability Discrimination Act 1992 (Cth)
- 2010 (Cth)
- Fair Work Act 2009 (Cth)
- Human Rights Act 2019 (Cth)
- Occupational Health and Safety Act 2004 (Vic)
- Privacy Act 1988 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)

Related Policies and Procedures

DOBCEL Employee Grievance Procedure

DOBCEL Performance and Development Policy 2020

DOBCEL Prevention of Bullying, Harassment and Discrimination Policy 2020

DOBCEL Whistleblower Protection Policy 2020

Victorian Catholic Education Multi-Enterprise Agreement 2018

² See <https://caritas.org.nz/catholic-social-teaching/subsidiarity>. See also *The Light from the Southern Cross, op.cit.*, 5.2.1. p.41.

³http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_cti_20180302_sinodalita_en.html ¶ 7, 21. See also *The Light from the Southern Cross, op.cit.*, 5.2.3., p.43

⁴ See <https://caritas.org.nz/catholic-social-teaching/solidarity>



DOBCEL Employee Grievance Procedures

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Procedure

Procedure for managing and responding to employee grievance Procedures for Catholic Education Ballarat and school-based employees. This policy and procedure recognises that there is no one universal way of resolving problems, complaints or grievances.

a. Preliminary Steps

Attempt to Resolve the Grievance Directly

If the employee feels comfortable doing so, they should attempt to address the issue directly with the person(s) involved in the grievance. The employee may find the other person was not aware of their grievance, and the matter can be resolved directly.

Report the Grievance to Leadership

If the employee does not feel comfortable talking to the person(s) involved, or they have tried to and it was ineffective in resolving the grievance, the employee should report the grievance in the first instance to their principal/team leader. Where the grievance is about a principal or team leader the employee should report the matter to the Assistant Director People and Development.

After reporting a grievance, the principal/team leader or Assistant Director People and Development will use reasonable endeavours to facilitate an initial meeting with the employee to:

- obtain information about the employee's personal grievance and what they consider will resolve it
- explain how the employee grievance procedure works; and
- decide if they are the appropriate person to handle the grievance. This includes considering whether they have the necessary authority and can deal with the grievance in an impartial manner. If the principal/team leader feels they cannot effectively handle the employee's personal grievance, they must refer the matter to another more appropriate management representative or the Manager HR for advice.

b. Informal Procedure

A range of informal actions can often resolve the grievances. Such actions will depend on the individual circumstances of the grievance. Possible actions include, but are not limited to:

- the principal/team leader or Assistant Director People and Development discussing the issue with the person against whom the complaint is made; and/or
- the principal/team leader or Assistant Director People and Development facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

Many personal grievances are able to be resolved through the informal procedure. However, in circumstances where the principal/team leader or Assistant Director People and Development considers the informal procedure is not appropriate, and the grievance is sufficiently serious, the grievance may be escalated to the next stage – more formal procedures.

c. Formal Procedures

This stage involves a formal investigation of the grievance and a decision about appropriate actions and outcomes. In the first instance, this may be undertaken by the principal/team leader, Manager HR or Assistant Director People and Development, another appointed management representative or an externally appointed investigator.

The investigation generally involves collecting information about the grievance and then making a finding based on the available information. Once a finding is made, the principal/team leader or Assistant Director People and Development, or appointed management representative will make recommendations about the grievance.

d. Appeal

If the employee believes that the formal investigation process was flawed or not procedurally fair, they may appeal the decision to the Manager HR, or if the Manager HR facilitated the process, to the Assistant Director People and Development. If the Assistant Director People and Development facilitated the process, an appeal can be made to the Executive Director Catholic Education.

e. Referral to an External Mediator

Where all parties to the grievance, including Catholic Education Ballarat, agree that mediation may be appropriate in resolving the grievance, the grievance may be referred to an external mediator.

f. Arbitration of Complaint (External)

If the complainant still remains in dispute following all avenues prescribed in this procedure, the complainant, can seek arbitration through external authorities such as the Fair Work Commission, the courts, legal representation, and other government commissions such as Workplace Safety or Human Rights Commissions.

Possible Outcomes

The outcomes will depend on the nature of the grievance and the procedures followed to address the grievance. Where an investigation results in a finding that a person has engaged in conduct in breach of a DOBCEL Policy or other expressly stated employment requirement such as prescribed by Victoria Institute of Teaching (VIT) or Department of Justice (for Working with Children Check), that person may be disciplined. The type and severity of disciplinary action will depend on the nature of the grievance and other relevant factors.

Where the investigation results in a finding that the person complained against has engaged in serious misconduct, this may result in dismissal. Any disciplinary action is a confidential matter between the affected person(s) and DOBCEL as the employer.

DOBCEL may take a range of other non-disciplinary outcomes to resolve a grievance. Examples include, but are not limited to:

- training to assist in addressing the problems underpinning the grievance
- monitoring to ensure that there are no further problems
- implementing a new policy
- requiring an apology or an undertaking that certain behaviour stop; and/or
- changing work arrangements

Documentation

Where considered appropriate, agreed resolutions of grievances arising from the informal procedure may be recorded and signed by all parties. Generally, it will not be necessary to put records of a grievance on an employee's personnel file, unless there is disciplinary action taken as a result of the grievance.

A record of any disciplinary action that is taken arising from a formal investigation will be placed on the personnel file of any person who is formally cautioned or disciplined.

Confidentiality

The principal/team leader and, or, other appointed management representative will endeavour to maintain confidentiality as far as possible. However, it may be necessary to speak with other employees in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the grievance.

All employees involved in the grievance are required to also maintain confidentiality, including the respondent. The complainant may discuss the grievance with a designated support person or representative (who is not an employee employed or engaged by APIC). However, the support person or representative is also required to maintain confidentiality.

If a person breaches confidentiality, they may be disciplined.

Victimisation or Retaliation Claims

Disciplinary action will be taken against any person who victimises or retaliates against a person who has lodged or is involved in a grievance issued under this Policy. Such action may include termination of employment.

Vexatious Claims

Where an employee makes frivolous, vexatious or malicious claims against a respondent, for example, where false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution; depending on the circumstances, disciplinary action may be taken against that individual.

Access to Support and Representation

The complainant, respondent and any witnesses can elect to seek advice and to be accompanied by a support person. A support person's role is to support and advise the employee, ensure procedural fairness is afforded and to assist the employee to articulate their responses and participate as appropriate.

An employee, party to the matter, may utilise confidential, complementary counselling services provided by Converge International at any stage of the process. The contact phone number for this support is 1300 687 327.

APPENDIX: DOBCEL Employee Grievance Procedure - Flowchart

