

QIEU POLICY

**HANDLING OF COMPLAINTS AGAINST
EMPLOYEES**

1.0 Preamble

1.1 QIEU acknowledges that parents, students and staff have a right to raise concerns and have them addressed by the appropriate member of staff. Complaints should be handled objectively and with sensitivity, and not in a reactive and subjective manner.

Unfortunately many schools have no published policy on dealing with complaints against employees. Most of these schools have no negotiated process pertaining to how complaints might be dealt with in a fair and transparent way which gives cognisance to the legal obligation of the school in relation to its duty of care to the student but also that guarantees procedural fairness and natural justice to the employee. In the absence of such a policy the school is vulnerable to individual complaint and runs the risk of reacting in a resource intensive way and being inconsistent in its treatment of individual complaints.

The most desirable outcome in cases of complaints against employees is:

- (i) the determination about whether there has been any unsatisfactory/inappropriate practice or action, as early as possible and in the fairest and most objective manner possible;
- (ii) the implementation of any necessary changes designed to bring about better educational, pastoral or administrative outcomes, as appropriate;
- (iii) the achievement of reconciliation between the parties based on open and transparent processes which afford both employee and complainant natural justice;
- (iv) the establishment of a renewed confidence in the employee-complainant relationship based on attempting to achieve a win-win situation where concerns have been aired, tested and, if demonstrated to have substance, agreed processes and procedures are implemented by the parties and reviewed over an agreed time line. At the end of the process a document be produced which identifies the mutually agreed outcomes and processes and a letter be sent to the employee indicating the matter is now resolved.

QIEU position

QIEU believes that all schools should have well-developed policies and procedures for the handling of parental, student and staff complaints and that these policies and procedures are available to, understood and adhered to by employing authorities, staff, parents and students.

Policy and procedures for the handling of parental, student and staff complaints should be underpinned by the principles and procedures outlined in this policy if they are to afford the parties natural justice and procedural fairness.

2.0 Principles

- 2.1 While parents, students and staff may from time to time raise concerns or complaints relating to a an employee, not all matters will need to be raised with the staff member concerned if, after initial investigation the matter proves to be unfounded, vindictive or the complainant is not prepared to follow agreed process in documenting their complaint. Complaints not raised with the staff member concerned at the time must not be relied upon in any future disciplinary proceedings or professional contexts. If a record of a complaint is to be kept in a personal file the staff member must be informed of the complaint and provided with documentation stating the matter was investigated and it had been determined the employee had no case to answer.

However, where, in the professional judgement of the Principal or other Senior Staff member, there is a need for a complaint to be addressed or acted on. The employee must be informed of the complaint in writing.

- 2.2 Employees are entitled to know the details of the complaint against them, including the name of the person raising the complaint, the specific details of the complaint, and be given the opportunity to respond prior to any action being taken in response to the complaint.

It is unprofessional and a denial of natural justice for the name of the complainant and the details of the complaint to be withheld from the employee concerned. Such withholding of key information does not afford the employee an appropriate and adequate opportunity to respond to and address the complaint.

In cases of alleged sexual or physical abuse of students where the Police and /or Children's Services are involved, the Principal shall follow the advice of these agencies in respect to the timing etc of raising the complaint with the member of staff concerned. However, as soon as the matter is raised with the staff member they should be advised of the seriousness of the allegation and be given the opportunity to seek industrial/legal advice prior to any interview.

- 2.3 Where there are meetings of the employee concerned with the Principal, parents/students or other appropriate staff in relation to the complaint, the teacher or other staff member concerned should be told, in writing and with sufficient notice, the purpose of the meeting and who will be attending the meeting.

The employee concerned must be given the opportunity to be accompanied by a QIEU representative, legal representative or a person of their choice. The status of the accompanying person is that of advisor who may engage in the meeting and have the right to request a caucus as necessary.

- 2.4 The employee concerned and their advisor should be involved in discussions about the resolution of the concern and any actions arising from the complaint, especially where this involves commitments/correspondence to the complainant.

3.0 Procedures for the Handling of Complaints

Where, in the professional judgement of the Principal or appropriate senior staff member who has received the complaint, there is a need for a complaint to be addressed, the teacher or staff member concerned must be informed and involved.

3.1 Step 1 - Redirection to Teacher/Staff Member Concerned

Provided the complaint does not relate to allegations of serious misconduct of sexual, physical or emotional abuse, in the first instance, the parent, student (if appropriate) or staff member who has made the complaint should be requested by the Principal or other senior staff member who receives the complaint, to commit the concern to paper, providing sufficient detail for the employee, against whom the complaint has been made, to understand the nature and context of the complaint.

The employee should then be given the option of responding in writing or attending a meeting with the complainant with a view to determining whether, in the light of agreement over the detail of the concern and the appropriateness of the actions of the employee in the context of the incident, resolution in terms of 1.1 sections (i) to (iv) can be achieved.

At any time the complainant may withdraw the allegation and seek reconciliation consistent with 1.1 (iii).

3.2 Step 2 – Further Discussion Necessary

If, following redirection to the employee concerned, the complainant does not feel the matter to be resolved, and further raises the concern with the Principal or other Senior staff member (as appropriate), the Principal will either:

- (a) discuss the matter further with the complainant, and where the concern is based on misinformation, misunderstanding or is vexatious or misconceived, clarify the matter with the parent or student.

In this instance, the employee concerned should be informed that the complainant further discussed the matter with the Principal or Senior Staff member (as appropriate), and the outcome of the Principal's discussion with the complainant; or

- (b) discuss the matter further with the complainant, and where the Principal (or other senior staff member, as appropriate) forms the view that the concern is not vexatious nor misconceived, nor based on misinformation/ misunderstanding, will discuss the concern with the teacher or other staff member concerned.

Such discussions, meetings and actions arising out of the complaint should be carried out in accordance with the Principles outlined in Section 2.0 of this Policy.

3.3 Matters resolved to the satisfaction of the complainant but not the satisfaction of the employee

Where the employee feels aggrieved at the outcome of the process they may access the grievance procedure as outlined in the relevant Certified Agreement.

4.0 Record Keeping

- 4.1 Records of the complaint, the process for handling the complaint and any outcomes should be kept. Where the complaint is found to be vexatious or based on misinformation etc, any record pertaining to the complaint or handling of the complaint should be kept in a file separate from the personnel files of employees and marked investigated and found to be vexatious.

Where a complaint is addressed or acted on, a copy of any reports related to the handling of the complaint must be given to the employee concerned. Employees must have access to the files kept on them by the school.

5.0 Grievances

- 5.1 If an employee believes that the process of handling the complaint and/or the outcome of the complaint have been unfair and/or inappropriate, they have the right to pursue grievance procedures identified in their relevant Certified Agreement. In such situations the employee and their advisor should be granted access to all file notes.

6.0 Role of QIEU

- 6.1 QIEU will provide advice, support and direct representation, if requested, to QIEU members in relation to all aspects of this policy whether they are the employee about whom a complaint is made, or the person who makes the complaint.
- 6.2 In the case of both parties, i.e. the complainant and the employee about whom the complaint is made, being members of the union, QIEU will assign a separate QIEU officer to provide advice, support and representation to ensure that the principles and practices outlined in this policy are carried out in the handling of the complaint.