

1. Rationale

In Catholic education, Christ is the foundation. All members of the Catholic education community are committed to reflecting Gospel values in everyday activities and personal encounters. The harassment of, unlawful discrimination against, victimisation or bullying of any person within Catholic education is contrary to the Gospel and the vision for Catholic education.

‘Catholic schools offer a genuine educational choice in our pluralistic society. Catholic schools make a distinctive contribution to the provision of educational excellence in Western Australia. They do so within the context of Catholic teaching and practice’ (Mandate, para 6).

‘Respect for the human person considers the other ‘another self.’ It presupposes respect for the fundamental rights that flow from the dignity intrinsic to the person’ (CCC 1944).

2. Definitions

2.1. Harassment

- 2.1.1.** Harassment is unwelcome and unwanted conduct that discriminates against, humiliates, offends or intimidates another person, including bullying, belittling, threatening, victimising and abusive behaviour, and which is based on any of the discrimination factors including gender, race, disability and age.
- 2.1.2.** Sexual harassment is any unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome, sexually-orientated behaviours. A person is taken to have sexually harassed another if they have made an unwelcome request for sexual favours or have engaged in other unwelcome conduct of a sexual nature; and
- the object of the advance has been disadvantaged in some manner regarding his/her employment or work; or
 - the object of the advance believes that rejection or refusal of the advance/proposal/request/suggestion would disadvantage him/her in any way in connection with his/her employment or work.
- 2.1.3.** Sexual harassment can take many different forms and includes physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment. If the interaction is based on mutual attraction and is consensual, welcomed and reciprocated, it cannot be construed as sexual harassment.
- 2.1.4.** Racial harassment is any threat, abuse, insult, taunt or other offensive behaviour directed at a person’s race or characteristic that relates generally to their race, such as nationality, ethnic background, colour, language proficiency (or lack thereof) or physical feature(s). As is the case for sexual harassment, racial harassment applies to people who believe they have been disadvantaged in some way because they have made it clear that they objected to such behaviour or who reasonably held a belief that they might have been disadvantaged if they pursued this course of action.

2.1.5. Disability harassment is defined as discrimination or harassment against a person on the basis of one or more of the following characteristics:

- total or partial loss of the person's bodily or mental function
- total or partial loss of part of the body
- the presence in the body of organisms causing disease or illness
- the presence in the body of organisms capable of causing disease or illness
- the malfunction, malformation or disfigurement of a part of the person's body
- a disorder or malfunction that results in the person learning differently from a person without the disorder or malfunction
- a disorder, illness or disease that affects a person's thought processes, perception of reality, emotions or judgement or that results in disturbed behaviour and includes a disability that:
 - a) presently exists
 - b) previously existed but no longer exists
 - c) may exist in the future
 - d) is imputed to exist.

2.1.6. All other forms of unwanted and unwelcome behaviour on grounds covered by anti-discrimination legislation are dealt with as unlawful discrimination.

2.2. Discrimination

2.2.1. Unlawful discrimination means treating one person less favourably than another, in the same or similar circumstances, on any of the grounds detailed in the Equal Opportunity Act 1984 (WA).

These include:

- disability
- race
- sex/gender
- pregnancy
- marital status
- political conviction
- impairment
- family responsibility or status
- age
- religion
- gender reassignment.

Discrimination may be direct or indirect as follows:

2.2.2. Direct discrimination occurs when a person receives less favourable treatment by comparison to another person in the same or similar circumstances as themselves on any of the grounds covered by anti-discrimination legislation. This includes discrimination that applies because of a characteristic that applies, or is assumed to apply, to the group to which that person belongs.

2.2.3. Indirect discrimination occurs when any rule, policy or practice is implemented that is not reasonable in the circumstances and which may, in effect, have a negative impact on a particular person or group of people.

2.2.4. Catholic schools are exempt from the discrimination provisions in the context of the employment of a staff member as detailed under the Equal Opportunity Act 1984 where such discrimination occurs in good faith to avoid injury to the religious susceptibilities of adherents of that religion.

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2.3. Victimisation

2.3.1. Victimisation, which is unlawful under State legislation, is defined as any unfavourable treatment or threat of unfavourable treatment of a person because they have made, intend to make or have been involved in levelling a complaint of harassment or discrimination against a colleague.

2.4. Workplace Bullying

2.4.1. Due to the effect on the safety and health of employees and others at the workplace, bullying is unlawful under the Occupational Safety and Health Act 1984 and where bullying involves assault or threat of assault, it may be referred to the police for investigation and resolution.

Bullying is generally defined as the tormenting of others via verbal, electronic, physical or more subtle methods of coercion such as manipulation. It may include one or more behaviours over time and involve one or more recipients.

Workplace bullying is repeated unreasonable or inappropriate behaviour directed towards a worker, or group of workers, that creates a risk to health and safety. Workplace bullying also involves misuse of power, be it actual or perceived, and may include subtle or obvious behaviours.

2.4.2. There are two main types of workplace bullying:

a) Overt bullying may include, but is not limited to:

- the use of abusive, insulting or offensive language
- behaviour or language that frightens, humiliates, belittles or degrades, including criticism, that is delivered via yells and screams
- derogatory comments about a person's appearance, lifestyle or their family
- teasing or repeatedly making a person the brunt of pranks or practical jokes
- deliberate attempts to isolate a worker(s) from others
- spreading destructive gossip and rumours about a person(s)
- physical assault or threats.

b) Covert bullying may include, but is not limited to:

- setting unreasonable timelines for task completion or constantly changing deadlines
- constantly setting tasks that are below or beyond a person's skill level
- ignoring or isolating a person
- deliberately denying access to information, consultation or resources required for task completion.

3. Scope

This policy applies to all employees of the Mazenod Community.

4. Principles

- 4.1. Mazenod College has a legal and ethical responsibility to put in place procedures and processes that aim to create workplaces free from harassment.
- 4.2. Harassment is unlawful under Federal and State legislative provisions, not only during school hours or in the school grounds, but in any work-related context including conferences, work functions, school camps or field trips.
- 4.3. An employer may be held vicariously liable for conduct that constitutes harassment unless they can show that they have taken all reasonable steps to prevent inappropriate behaviour occurring and managed incidents promptly.
- 4.4. A school may be held vicariously liable for the conduct of:
 - an individual staff member or group of staff members
 - a student or group of students over the age of 16 (only relates to sexual harassment as per the Australian Government Sex Discrimination Act 1984)
 - a student or group of students (only relates to workplace bullying or violence as per the Occupational, Safety and Health Act 1984)
 - a visitor or group of visitors.
- 4.5. The employer shall act in a timely manner upon being made aware of any instance of harassment.
- 4.6. Harassment constitutes misconduct which may result in disciplinary measures being initiated, including termination of employment.
- 4.7. The principles of natural justice shall be applied in all investigations of complaints of harassment. Therefore, all investigations shall be conducted in a fair, unbiased and transparent manner and all parties shall be kept fully informed of the progress of the investigation.
- 4.8. A concern or complaint that is determined to have been levelled with the intention of upsetting, annoying, undermining, slandering or to achieve retribution against others may be deemed malicious or vexatious and appropriate action taken.
- 4.9. Those in a supervisory/leadership role in the workplace have a legal right and responsibility to monitor workflow and to manage workplace behaviour and performance.
- 4.10. All staff have a responsibility to ensure that they do not promote or engage in behaviour that could constitute harassment and are encouraged to seek advice and report any incidents of such behaviour so that a process of resolution can be initiated.
- 4.11. All those involved in a situation of harassment share a responsibility to attempt to resolve issues in a non-adversarial manner.
- 4.12. Confidentiality is vital at all times when dealing with complaints of harassment.

5. Procedures

- 5.1. If a staff member witnesses any act(s) that fall within this policy, the matter should be reported to either the Harassment Officer or a member of the College Leadership team.
- 5.2. If a staff member is a victim of any act(s) that fall within this policy, the matter should be reported to either the Harassment Officer or a member of the College Leadership Team.
- 5.3. The Harassment Officer's name is located in the Staff Handbook, which is updated annually.

5.4. Staff Member against other members of staff

The following procedures apply to all staff members in West Australian Catholic schools who have complaints of harassment, unlawful discrimination, victimisation or bullying against other staff.

For the purpose of these procedures, a reference to the term harassment will include harassment, unlawful discrimination, victimisation or bullying and a reference to a principal includes his or her delegate.

Where possible, it may be appropriate to resolve issues informally or through conciliation. However, in more serious or persistent cases of harassment, a formal process may be more appropriate.

A staff member may wish to seek information on the appropriate process from:

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- the school-based Contact Officer
- a consultant from the Catholic Education Office of Western Australia (CEOWA) Employment and Community Relations Team
- their Union
- Equal Opportunity Commission, Human Rights and Equal Opportunity Commission (HREOC) or another appropriate source.

A staff member electing to address a situation informally may later decide to refer the matter to the principal or Equal Opportunity Commission if dissatisfied with the outcome. Conversely, a staff member commencing a process may elect to withdraw the complaint.

A staff member experiencing harassment is advised to keep a record of what happened, including times, dates, witnesses, if any, and what was said and done.

5.5. Informal Resolution

5.5.1. Self-Resolution

A staff member who feels they are being harassed may not wish to file a complaint, but prefer to address the issue themselves by approaching the other staff member(s) concerned in an effort to seek self-resolution. It is recommended that this informal resolution method be employed for the resolution of less serious, intermittent complaint(s). Self-resolution works best if those involved demonstrate goodwill and recognise their mutual rights and needs. It is helpful to focus on the behaviour of the person rather than on their personality by using the following guidelines:

- maintain eye contact
- speak clearly and firmly
- describe clearly the action/behaviour that is objected to
- state that you want the behaviour to stop
- do not confuse your message by ending with a smile or apology
- keep repeating your basic message, if the person denies, argues or tries to excuse the behaviour.

It is appropriate to inform the person of the complaint in writing. If there is no change to the behaviour or the matter is unresolved, the staff member may choose to follow one of the options below.

5.5.2. Conciliation

A staff member may not wish to engage in a formal investigation process but seek assistance to resolve behaviour that is not acceptable through conciliation. In addition, if the matter is less serious and not persistent the school-based Contact Officer may offer conciliation rather than a formal investigation process. Conciliation allows issues to be 'aired' and conflict (or perceived conflict) to be resolved in a non-judgmental and non-disciplinary manner. The conciliator may be a person from the school community, a consultant from the CEOWA Employment and Community Relations Team or an external conciliator. The staff member is also entitled to bring a nominated support person with them to such meetings.

Records of the resolution process should be maintained at school level and include all salient details (i.e. day, date, an outline of the allegations, details regarding resolution). It is not necessary to forward these details to the CEOWA Employment and Community Relations Team.

If there is no change to the behaviour following conciliation, one of the options below may be followed.

5.6. Formal Complaint to the Equal Opportunity Commission or Human Rights and Equal Opportunity Commission (HREOC)

It is preferable for a complaint to be settled at the local level as opposed to an external agency. However, staff members who believe they are the victim of harassment, have the right to lodge a complaint with the WA Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission. It is incumbent upon the principal and the CEOWA to support the decision of the staff member if they choose to make a complaint.

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5.7. Formal Referral to the Principal

A staff member alleging serious and/or persistent concerns regarding acts of harassment against them by a staff member must tender details to the principal for formal investigation. In such instances, a meeting between the aggrieved member of staff, the principal and assistant principal/deputy principal must be convened at the earliest possible time. The staff member is entitled to bring a support person of their choice to all formal meetings. Appropriate support persons include (but are not limited to) a spouse, a work colleague, a union representative or, if necessary, an interpreter.

For all steps detailed below, the principal must communicate with a consultant from the CEOWA Employment and Community Relations Team prior to enacting each stage. All records must contain salient details (i.e. day(s), date(s), an outline of the allegations, meeting transcripts/summaries, summaries of witness testimony, details regarding resolution/appropriate disciplinary measures and copies of all formal letters), be presented chronologically and filed at school level in addition to at the CEOWA.

The following steps are important and must be adhered to:

5.7.1. Written Complaint

Formal complaints of harassment by a staff member may initially be referred to the Principal verbally or briefly in writing (e.g. via email). However, it is required that a detailed formal written complaint (including date and signature) be lodged by the staff member (complainant) to initiate the investigation process.

5.7.2. Meeting with staff member (complainant)

- Upon receipt of the formal written complaint, the principal must schedule a formal meeting with the staff member (complainant) in writing (see Attachment One) and provide them with copies of the school based Harassment, Discrimination and Bullying Policy and these procedures.
- As part of these arrangements, the principal must convey to the staff member (complainant) that he/she is entitled to attend this meeting with a nominated support person (see detail above).
- The principal must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder.
- Please note that it is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the staff member (complainant) for signing.
- As detailed above, copies of all relevant records must be kept on file and forwarded to the relevant consultant from the CEOWA Employment and Community Relations Team.
- At the meeting, the principal allows the staff member (complainant) to relate the incident or incidents uninterrupted the first time in order to ascertain a broad picture of events. This may unleash strong feelings requiring sensitivity and empathy.
- After this initial recount, the principal should attempt to clarify the incident(s) in order to obtain an accurate written record of events in terms of dates, times, places, witnesses and action taken. The principal should request the names of people (people who may have seen or heard the behaviour that is objected to, or who have had a similar experience) who may be in a position to assist the investigation.
- The principal should also take steps to clarify the resolution sought by the staff member (complainant) (e.g. an apology, mediation, no ongoing contact with the respondent). However, it is imperative to clarify that such a resolution will depend upon the investigation process and outcomes. Promises regarding outcomes should not be made.
- The principal or delegate must also explain how the complaint process will proceed and inform the staff member of the anticipated timeline (preliminary finding(s) should be provided within a one month timeframe).
- At the conclusion of this meeting, the staff member should be offered counselling through the ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00. It is imperative that the staff member be assured that this service is free, totally confidential, available to him/herself and

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members of the immediate family and that raw, non-specific statistical data is presented to the CEOWA.

- In the event that the staff member (complainant) is reluctant to proceed with the complaint process, they should be offered the opportunity to resolve the issue via conciliation (facilitated by the principal). If this offer is accepted, enact the /conciliation process detailed above.
- Please note that allegations of a criminal nature must be reported immediately to the police.
- A statement of the claim summary, the school based Harassment, Unlawful Discrimination, Victimization and Bullying Policy and these procedures must be forwarded to the accused staff member (respondent) as part of the original complaint notification letter (see Attachment 2).

5.7.3. Meeting with staff member (respondent)

- The principal informs the staff member (respondent) accused of harassment, of the tabled allegation(s) and the need for a meeting in writing via the formal letter detailed in Attachment 2. This letter, the school based Harassment, Unlawful Discrimination, Victimization and Bullying Policy and these procedures should be addressed to the staff member's home address.
- As part of this notification process, the principal must arrange for the staff member (respondent) to be accompanied by their nominated support person at all formal meetings.
- As detailed previously, the principal must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder.
- It is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the staff member (respondent) for signing.
- As detailed above, copies must be kept on file and forwarded to the relevant consultant from the CEOWA Employment and Community Workforce Relations Team.
- During the interview, the principal:
 - informs the staff member (respondent) about the allegation that has been made
 - defines harassment and refers to the school policy and procedures mailed to the staff member
 - conveys the resolution requested by the staff member (complainant), and
 - provides the staff member with the opportunity to respond to the tabled allegations. The staff member may prefer not to respond at this point but to respond in writing or to respond verbally at a later time. Detailed notes should be produced regarding responses.
- If the staff member (respondent) confirms the allegations, the principal:
 - confirms that the staff member (respondent) desires to resolve the matter, and
 - proceeds to an appropriate resolution.
- If the staff member (respondent) denies the allegations, the principal:
 - informs the staff member (respondent) that the incident will be investigated further and that witnesses may be interviewed
 - assures the staff member (respondent) of their right to procedural fairness asks for the names of people (staff or community members) who may support their position
 - advises that there is to be no retaliatory action against the staff member (complainant)
 - advises that the issue is to be kept strictly confidential and not to be discussed with persons other than immediate family and nominated support person(s)
 - assures that the issues will be dealt with promptly and confidentially
 - informs the staff member (respondent) of the process and the expected investigation time line
 - ensures the staff member (respondent) has adequate support and offers counselling through the ACCESS Employee Assistance Program, Ph: (08) 1300 66 77 00
 - if it is apparent that the complaint may proceed to legal action, the principal or should inform the staff member (respondent) of their right to seek legal representation and should then terminate the meeting
 - detailed notes should be made and filed appropriately.

5.7.4. Witness interviews

- The principal contacts each witness named by the parties and arranges individual interviews.
- Where witnesses are students, their parent(s)/guardian(s) must be notified prior to the commencement of the meeting and invited to attend.
- As detailed previously, the principal must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder.
- It is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the witness for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from the CEOWA Employment and Community Relations Team.
- At the start of each interview, the principal must inform the witness as to why they are being questioned and clarify the position described by both the parties. It is imperative to request that confidentiality be observed and maintained and that repercussions stemming from information provided will not occur. The principal then proceeds to obtain from the witness an accurate written record in terms of times, dates, places, witnesses and action taken.

5.7.5. Resolution

- A complaint of harassment may be resolved in various ways depending upon the seriousness of the allegation, whether the complaint is sustained, the desire of the staff member (complainant) and the nature of the contact between the persons involved.
- Following witness interviews, it may be necessary for the principal to meet again with the staff member (complainant) and/or the staff member (respondent) accused of harassment to clarify further information provided by witnesses.
- For such follow-up interviews, the principal must conduct this meeting with a colleague (preferably an assistant/deputy principal) who fulfils the dual role of witness to proceedings and minute recorder.
- It is imperative that these notes (including all salient details) are transcribed immediately post-meeting and forwarded to the parties for signing. As detailed above, copies must be kept on file and forwarded to the relevant consultant from the CEOWA Employment and Community Relations Team.
- Upon completion of the investigative process any evidence in relation to the allegations must be assessed on the balance of probabilities. Evidence will be given more weight in assessing the case information if it is reliable, relevant to the inquiry, consistent and corroborated.
- A summary report of the investigation findings and proposed actions must be written by the principal and made available to all parties upon request.

If the complaint is sustained the principal:

- advises the staff member (respondent) of the proposed resolution/disciplinary action
- invites further comment or relevant information within one week. If there is no additional information, the matter proceeds to resolution
- meets with the staff member (complainant) and informs them of the finding(s) arranging an appropriate resolution
- confirms the finding(s) in writing to both parties (see Attachments 3 & 4).

Action taken by the principal or CEOWA in the case of a complaint is sustained may involve any of the following depending on the seriousness of the offence:

- verbal or written apology
- disciplinary letter/official warning
- mediation
- counselling
- compensation if disadvantage has occurred (for example, re-crediting leave)
- removal of the harasser or bully from the department shared with the staff member complainant
- redeployment

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- grievance procedure to address improper conduct of an employee
- termination of employment.

During the interview process to communicate the determined action, the principal should make it clear to the staff member (respondent) that harassment is not tolerated under any circumstances. The sanctions applied are provided in writing with a copy maintained in the staff member's (respondent) personnel file and at the EOWA.

If the complaint is not sustained, the principal:

- informs each party of the finding(s) and the associated reasons for the decision (e.g. there is no evidence to support the complaint, the evidence is inconclusive or the behaviour does not amount to harassment, discrimination or bullying); and
- confirms this information in writing to both parties (see Attachments 3 & 4).

5.8. Appeals

In confirming the determination of a complaint, both parties are advised that if dissatisfied with the outcome, either party may lodge an internal appeal in writing to the Provincial stating the reason for the objection or externally take the matter to the Equal Opportunity Commission or the Human Rights and Equal Opportunity Commission (HREOC).

A written appeal must be lodged within five (5) working days of receiving the letter advising the investigation outcome. The result of the appeal will be conveyed in writing within four (4) weeks or a longer time frame via negotiation.

5.9. Follow-up

To ensure that the offensive behaviour has ceased, the principal must conduct follow-up interviews with both parties after a period of two weeks and again at one month to ensure that the matter has been fully resolved.

5.10. Record Keeping

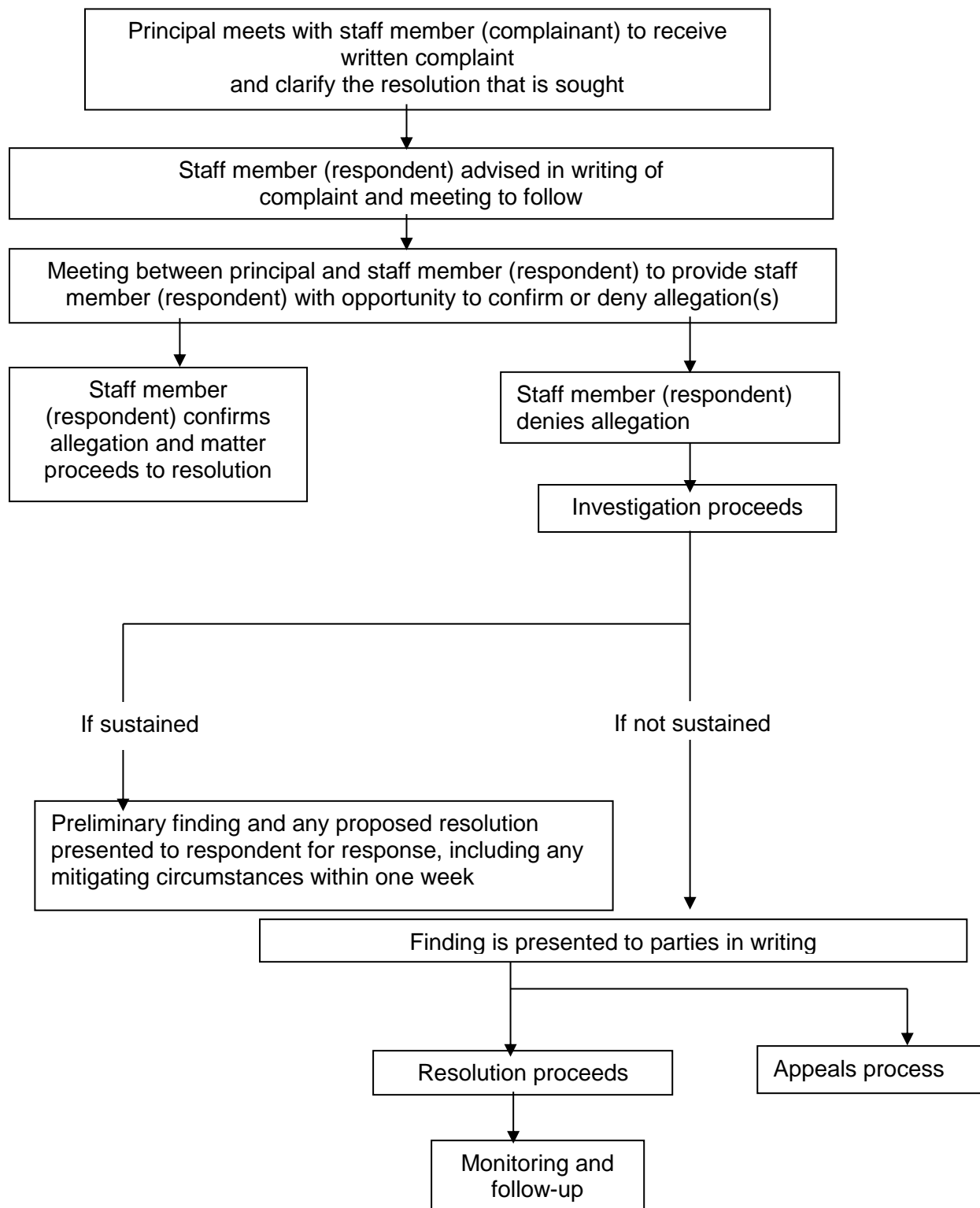
Full records of a complaint and the resulting action taken must be retained in the party's personnel files regardless of whether the complaint has been sustained or dismissed. Such records include a copy of the letter informing the staff member (respondent) of the outcome of the investigation and the resulting disciplinary action. Duplicate copies of all documentation should be compiled into a chronological file and forwarded to the relevant consultant from the CEOWA Employment and Community Relations Team and should include:

- the initial formal letter of complaint dated and signed by the staff member (complainant)
- the initial interview notes/transcript from the staff member (complainant)/principal interview (dated and signed by all parties)
- the initial letter of notification to the staff member (respondent) (Attachment 2)
- any letters of response from the staff member (respondent)
- letters from legal advisors (if appropriate)/associated legal correspondence
- the initial interview notes/transcript from the staff member (respondent)/principal interview (dated and signed by all parties)
- witness interview notes/transcripts (dated and signed by all parties)
- a summary report of the investigation findings and actions
- letters to both parties detailing investigation findings and proposed actions (Attachments 3 & 4)
- the interview notes/transcript from the staff member (complainant)/principal finding and resolution interview (dated and signed by all parties)
- the interview notes/transcript from the staff member (respondent)/principal interview (including details of actions – dated and signed by all parties)
- the follow-up interview notes/transcript from the staff member (complainant)/principal interview post-resolution implementation (weeks two and four – dated and signed by all parties)
- the follow-up interview notes/transcript from the staff member (respondent)/principal interview post-resolution implementation (weeks two and four – dated and signed by all parties)
- other appropriate documentation.

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6. Documentation and Process

6.1. COMPLAINTS OF HARASSMENT, UNLAWFUL DISCRIMINATION, VICTIMISATION OR BULLYING - STAFF MEMBER AGAINST OTHER MEMBERS OF STAFF



7. Related Documents

Mazenod College Staff Handbook

Code of Conduct

8. Review History

Year	Reviewed by:	Amendments / Review
2015	CLT	Policy released
2015	CLT	Review
2018	CLT	Reformatting