



MacKillop College

Policy: Equal Opportunity

Introduction

MacKillop recognises the importance of demonstrating respect for the dignity of each person and of creating an environment where a sense of belonging for all is experienced. These aspirations are central to the wellbeing of individual staff and to a workplace where all staff feel safe and respected.

MacKillop is therefore committed to building and nurturing a workplace that is free from discrimination, sexual harassment and victimisation. All staff share a responsibility for upholding professional standards of conduct and for building and nurturing a workplace where discrimination, sexual harassment and victimisation do not occur. It is therefore expected that staff will refrain from engaging in or condoning such behaviours and practices.

It is also expected that staff who make a complaint, or who may be witnesses to circumstances giving rise to a complaint, will participate fully and confidentially in any investigation and resolution procedures.

This policy and its accompanying procedures are compliant with the legislative framework under which MacKillop operates. MacKillop is guided by the applicable legislation in determining its prevention and intervention measures.

Key terms:

Workplace discrimination

Staff members must not discriminate against others. Workplace discrimination can be either direct or indirect discrimination against a person on the basis of an attribute which is protected under State and Commonwealth anti-discrimination legislation. It is irrelevant whether or not a person intends to discriminate against another person.

Direct discrimination is when someone is treated unfavourably because they have an attribute protected by law. Examples include insulting jokes about a particular racial group or making derogatory comments or taunts about people's age, sexual preference, race or religion.

Indirect discrimination is when a condition, requirement or practice has the effect of disadvantaging people with a particular attribute protected by law and that condition, practice or requirement is not reasonable. An example is the practice of holding a meeting in an upstairs classroom when it could easily be held downstairs and that practice disadvantages a staff member who is mobility impaired and is not able to attend the meeting.

The attributes protected by Commonwealth and State anti-discrimination laws are as follows:

- Age
- Breastfeeding
- Disability (mental or physical)
- Employment activity
- Gender identity
- Industrial activity
- Lawful sexual activity
- Marital status
- Parental/carer status
- Physical features
- Political belief/activity
- Pregnancy
- Race or national extraction
- Religious belief/activity
- Sex
- Sexual orientation and social origin

It is also unlawful to discriminate against someone on the basis of their:

- association with a person with one of the above attributes (for example, treating someone unfavourably because their brother has a disability); or
- perceived attribute (that is, where it is thought that a person possesses an attribute whether they in fact possess it or not)

Victimisation

Staff members must not victimise any other person. Victimisation is subjecting or threatening to subject another person to any detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination or sexual harassment.

What is not discrimination or victimisation?

Discrimination and victimisation should not be confused with reasonable management action in relation to work performance or conduct of a person or a group which is not related to a protected attribute and which may include:

- Setting performance goals, standards and deadlines
- Deciding not to select a staff member for promotion
- Informing a staff member about unsatisfactory work performance
- Informing a staff member about inappropriate behaviour
- Implementing organisational changes
- Feedback on work performance

Sexual harassment

Staff members must not sexually harass others. Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature in relation to another person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be humiliated, intimidated or offended.

Sexual harassment can take many different forms and may include physical contact, verbal comments, jokes, propositions, the display of offensive material or other behaviour which creates a sexually hostile working environment.

Sexual harassment is not behaviour which is based on mutual attraction, friendship and respect. If the interaction is consensual, welcome and reciprocated it is not sexual harassment.

Serious cases of discrimination, sexual harassment or victimisation may also constitute a crime. Workplace discrimination, victimisation and sexual harassment is also against MacKillop's Occupational Health and Safety Policy as it can create an unsafe work environment.

Principles

MacKillop College aims to:

- build and nurture a workplace that is free from discrimination, sexual harassment and victimisation
- implement awareness-raising programs and strategies that heighten staff members' understanding of the impact of their behaviour on others and awareness of their rights and responsibilities
- achieve resolution of complaints of perceived or actual incidents of discrimination, sexual harassment and/or victimisation promptly, endeavouring to ensure that the offending behaviour stops
- respond to complaints or reports of discrimination, sexual harassment and/or victimisation in a sensitive, fair and timely manner

- encourage the reporting of behaviour which is perceived to be in breach of this policy and endeavours to ensure protection of the complainant(s) from any subsequent victimisation

Objectives

MacKillop College is committed to:

- educating the MacKillop College community to understand the inappropriateness of discrimination, sexual harassment and victimisation
- the satisfactory resolution of complaints
- ensuring that our school environment is a safe place for staff and students

Implementation

i) Principal commitment

The principal is responsible for ensuring that:

- the objectives of this policy are integrated into practice
- the correct procedure is followed to resolve complaints
- training is provided for those involved in the complaint resolution process

ii) Staff Commitment

Staff are responsible for ensuring that:

- all persons are treated with respect
- professionalism and confidentiality are observed during the disclosure and resolution of any complaint

This policy works in conjunction with the following policies, procedures, provisions and guidelines:

- MacKillop Occupational Health and Safety Policy
- MacKillop Bullying & Harassment Policy
- MacKillop Equal Opportunity Policy
- MacKillop Equal Opportunity Resolution Procedure
- Victorian Institute of Teaching Code of Conduct

Relevant Legislation -Commonwealth

Workplace Gender Equality Act 2012
Australian Human Rights Commission Act 1986
Disability Discrimination Act 1992
Sex Discrimination Act 1984
Racial Discrimination Act 1975
Age Discrimination Act 2004
Fair Work Act 2009

Victoria

Equal Opportunity Act 2010

Policy last reviewed

September 2013

Signature

Rory Kennedy
(Principal)

Date: dd/mm/yyyy

MacKillop College Procedure for Resolving Equal Opportunity Complaints

These procedures work in conjunction with the MacKillop College Equal Opportunity Policy and other Documents

Procedure for resolving complaints

A complaint can be resolved using informal resolution processes and/or formal resolution processes. The approach taken should reflect the seriousness of the matter. For less serious matters, informal resolution processes should be explored prior to a formal resolution procedure. For more serious matters, or where informal approaches have been unsuccessful, a formal procedure may be appropriate.

For the purposes of complaint resolution processes:

- a person who makes a complaint is a Complainant; and
- a person about whose actions or behaviour a complaint relates is a Respondent.

Informal resolution processes

The informal options open to a Complainant to attempt to resolve a complaint include:

- Speaking directly with the Respondent about their behaviour or actions;
- Reporting the matter to the Deputy Principal/s or Principal for advice, support and/or assistance.

Informal resolution processes do not involve an investigation or making findings based on an investigation. A 'no blame' approach is therefore appropriate for dealing with matters informally.

Speaking directly with the Respondent

In the first instance, if the Complainant feels comfortable about speaking directly with the Respondent, this may be the quickest and easiest way of resolving the matter. The Complainant should address the issue with the Respondent in unambiguous terms and in plain language. If the Complainant does not wish to speak to the Respondent verbally, another option is to address the issue with the Respondent in writing, rather than face to face.

Reporting the matter to the Deputy Principal/s or Principal

If the Complainant does not feel comfortable about approaching the Respondent directly (this may be the case particularly where the Respondent is in a position of authority), the Complainant may prefer to seek the assistance of the Deputy Principal/s or Principal. They can provide information and support to the Complainant and/or Respondent regarding discrimination, harassment or victimisation issues, including options and strategies for resolving the matter.

This may include suggesting that the Complainant speak directly with the Respondent, or where appropriate, and in consultation with the Complainant, the Deputy Principal/s or Principal may approach the Respondent and talk to them informally about the matter.

Other informal resolution options which may also be considered include facilitated discussion, mediation, and entering into mutual agreements on workplace practices.

Referral to formal investigation

Note that at this stage, if a matter raised is sufficiently serious such that a formal investigation is warranted, then the School reserves its right to take appropriate action in the circumstances, including referring the matter to formal internal investigation (see below).

Formal resolution processes – Internal

If a matter is not able to be resolved using informal resolution methods, or for more serious matters a formal process may be appropriate.

Lodging a formal complaint

A formal complaint can be made by a Complainant to the Principal and should be in writing and set out the details of the specific allegations including dates, times, locations, what happened, what was said, witnesses (if any), and steps already taken to attempt to resolve the matter. Wherever possible, it should be supported by relevant documentation.

Note that a complaint may not be pursued if it relates to events that occurred more than 12 months ago.

Initial response

Following receipt of a formal complaint, the Principal will meet with the Complainant to discuss the complaint. This will involve canvassing options for resolution which may include informal resolution processes. In the event that the complaint is to be dealt with formally, the Complainant will be informed of:

- whether and how the complaint will be investigated (e.g. interviews, viewing documents);
- the expected timeframe for any investigation;
- who can be present at investigation interviews;
- what support is available for persons involved in the process;
- the interim measures, if any, that will be implemented to ensure the health, safety and welfare of any person pending the resolution of the complaint, and
- if the complaint raises issues which place the School under a legal obligation to report the matter to law enforcement agencies.

Formal internal investigation

Where appropriate, a formal investigation may be conducted into a complaint. An Investigating Officer will be appointed by the Principal to conduct the investigation. The Investigating Officer is someone who is independent and will conduct the investigation impartially. The Investigating Officer will:

- interview the parties involved, and witnesses if any;
- review relevant evidence, such as emails and other documentary evidence; and
- report to the Principal on whether or not the complaint is substantiated.

Investigation outcomes and action to be taken

If a complaint is substantiated, appropriate action, will be taken which may include:

- An apology;
- Changes to work practices;
- Disciplinary action, including dismissal;
- An undertaking that the behaviour will not be repeated;
- Reversal of an action or decision or substitution of a different action or decision; and/or
- Training.

Assistance may also be offered to a Complainant or other persons involved which may include:

- Counselling;
- Redressing any inequality resulting from the action or decision the subject of the complaint;
- Mentoring and support.

If an investigation is inconclusive (i.e. a complaint cannot be proved due to a lack of evidence) further action may nevertheless be taken which may include counselling, mediation, changed working arrangements and/or conducting training for employees on relevant policies.

Formal complaint – External

A Complainant may choose to seek assistance, information and/or mediation support at anytime during the process from a range of statutory and employee support agencies in Victoria. Information and contact details for the support agencies are outlined in Appendix 2 here.

Each agency will have specific requirements for lodging a complaint and will have varied investigation procedures.

In dealing with complaints, the Principal may seek external advice and assistance from professional mediators, investigators, external agencies and any other appropriate persons.

Confidentiality

Anyone involved in a complaint of discrimination, sexual harassment or victimisation or its investigation, must ensure that the circumstances and facts of the complaint are disclosed only to those people who are directly involved in progressing its investigation and resolution. In particular, it is important that staff who either make a complaint, or who may be witnesses to the circumstances giving rise to the complaint, do not discuss the matter outside the investigation and resolution processes.

Counselling support

In confronting and/or resolving experiences of or allegations of discrimination, sexual harassment or victimisation, a staff member and his/her immediate family members may utilise the services of counselling support at any stage of the process. The School is a member of Access Counselling. The contact phone number for this support is 1300 66 77 00. The Deputy Principal/s or Principal can assist staff to access the service.

Vexatious claims

The School will not deal with complaints that:

- are made anonymously, without sufficient detail being provided so as to allow investigation or resolution of the matter;
- taken at their highest, do not constitute discrimination, sexual harassment or victimisation as defined by this policy.

Where a Complainant 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, then depending on the circumstances, disciplinary action may be taken against a Complainant.

Appendices

Appendix 1: Complaints Procedure Flow Chart

Appendix 2: External Support Agencies

These procedures work in conjunction with the following documents and MacKillop Policies:

Occupational Health and Safety Policy

Bullying & Harassment Policy

Equal Opportunity Policy

VIT Code of Conduct

Relevant Legislation

Commonwealth

Workplace Gender Equality Act 2012

Australian Human Rights Commission Act 1986

Disability Discrimination Act 1992

Sex Discrimination Act 1984

Racial Discrimination Act 1975

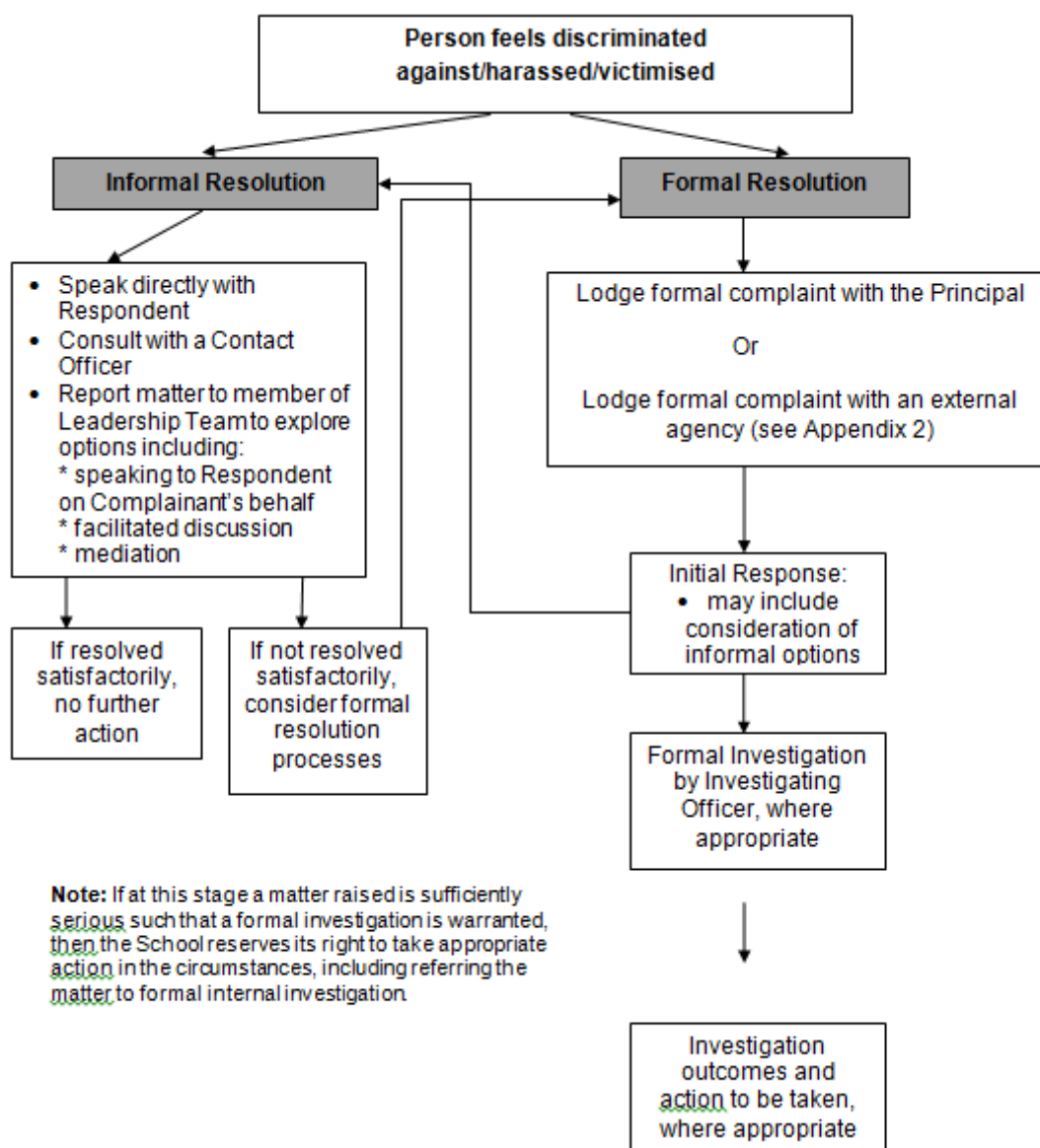
Age Discrimination Act 2004

Fair Work Act 2009

Victoria

Equal Opportunity Act 2010

Appendix 1 Complaints Procedure Flowchart



Access Counselling

The contact phone number is 1300 66 77 00

Appendix 2 Support Agencies

Victorian Equal Opportunity and Human Rights Commission (VEOHRC)

Level 3, 380 Lonsdale Street Melbourne VIC 3000

VEOHRC is the State body that addresses complaints of discrimination, sexual harassment and racial and religious vilification.

For information information@veohrc.vic.gov.au
To make a complaint complaints@veohrc.vic.gov.au
Website www.humanrightscommission.vic.gov.au
Advice Line (03) 9281 7100

Australian Human Rights Commission (AHRC)

Level 3, 175 Pitt Street Sydney NSW 2000

The AHRC is the Commonwealth body that addresses complaints of discrimination and sexual harassment.

For resources education@humanrights.gov.au
To make a complaint complaintsinfo@humanrights.gov.au
Website www.hreoc.gov.au
Advice Line 1300 656 419

Job Watch

Job Watch provides employees with assistance regarding their rights at work. They offer a confidential information line and referral service.

Melbourne residents

Phone 9662 1933

Email jobwatch@jobwatch.org.au

Website jobwatch.org.au

Alternative Dispute Resolution Services (ADRS)

ADRS offer mediation, arbitration and alternative dispute resolution personnel and resources. Such services are contingent on both parties to a conflict being willing to participate and a workplace that is supportive of this approach. The Australian Dispute Resolution website provides the public with a database of service providers.

Website www.ausdispute.unisa.edu.au

Beyondblue

Beyondblue provides people with access to information for depression and anxiety related matters. They can also make referrals to other relevant services.

Phone 1300 224 636

Website www.beyondblue.org.au
