

# MacKillop College

## Policy: Workplace Equal Opportunity Policy

### Rationale

MacKillop College (the College) 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.

The College is therefore committed to building and nurturing a workplace that is free from discrimination, sexual harassment and victimisation. It is important that 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 desist 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 the College operates. MacKillop College is guided by the applicable legislation in determining its prevention and intervention measures.

### Principles

- the College is committed to building and nurturing a workplace that is free from discrimination, sexual harassment and victimisation
- the College is committed to implementing 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
- the College aims to achieve resolution of complaints of perceived or actual incidents of discrimination, sexual harassment and/or victimisation promptly. The College will endeavour to ensure that the offending behaviour stops
- the College aims to respond to complaints or reports of discrimination, sexual harassment and/or victimisation in a sensitive, fair and timely manner

- the College encourages the reporting of behaviour which is perceived to be in breach of this policy and will endeavour to ensure protection of the complainant(s) from any subsequent victimisation.

## **Responsibilities**

**Staff and Contractors** – All persons who work on college grounds, including contractors, are required to comply with this policy in relation to the treatment afforded to other staff and contractors and to potential employees (i.e. job applicants) during selection and recruitment processes.

**Contact Officers** – A Contact Officer is a staff member (Leadership) who is trained in and responsible for being a contact point for staff with concerns about whether they may have been discriminated against, sexually harassed or victimised. A Contact Officer is able to provide staff with information on discrimination, sexual harassment and/or victimisation; clarify any questions or concerns a person may have and provide advice on the options that are available for dealing with discrimination, sexual harassment and/or victimisation.

## **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 (see full list below). 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 State and Commonwealth 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
- their 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 worker for promotion
- informing a worker about unsatisfactory work performance
- informing a worker 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.

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

### **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
- consulting with a Contact Officer for advice, support and assistance and/or
- reporting the matter to a member of the Leadership Team for 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.

## **Consulting with a Contact Officer**

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 a Contact Officer. A Contact Officer can provide information and support to the Complainant and/or Respondent regarding discrimination, harassment or victimisation issues, including options for resolving the matter. Contact Officers do not take any action on behalf of the staff member such as approaching the Respondent or conducting mediation.

## **Reporting the matter to a member of the Leadership Team**

The Complainant may report the matter to a member of the Leadership Team who can assist with exploring resolution strategies. This may include suggesting that the Complainant speak directly with the Respondent or to approach a Contact Officer for advice and support.

Where appropriate, and in consultation with the Complainant, the member of the Leadership Team 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 College 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 using the College's complaints process 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 College 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 or professional learning

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.

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 or sexual harassment victimisation a staff member and his/her immediate family members may utilise the services of counselling support at any stage of the process. The College is a member of Access EPA (Employee Assistance Program). The contact phone number for this support is 1800 81 87 28. The College Contact Officers can assist staff to access the service.

## **Vexatious claims**

The College 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.

## **Implementation**

### **i) Principal commitment**

The principal is responsible for ensuring that:

- the objectives of this policy are integrated into practice
- that complaints are satisfactorily investigated and resolved

### **ii) Staff commitment**

The staff is responsible for ensuring that:

- they comply with this policy and relevant procedures

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

- College Policy: Anti-Bulling and Harassment 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

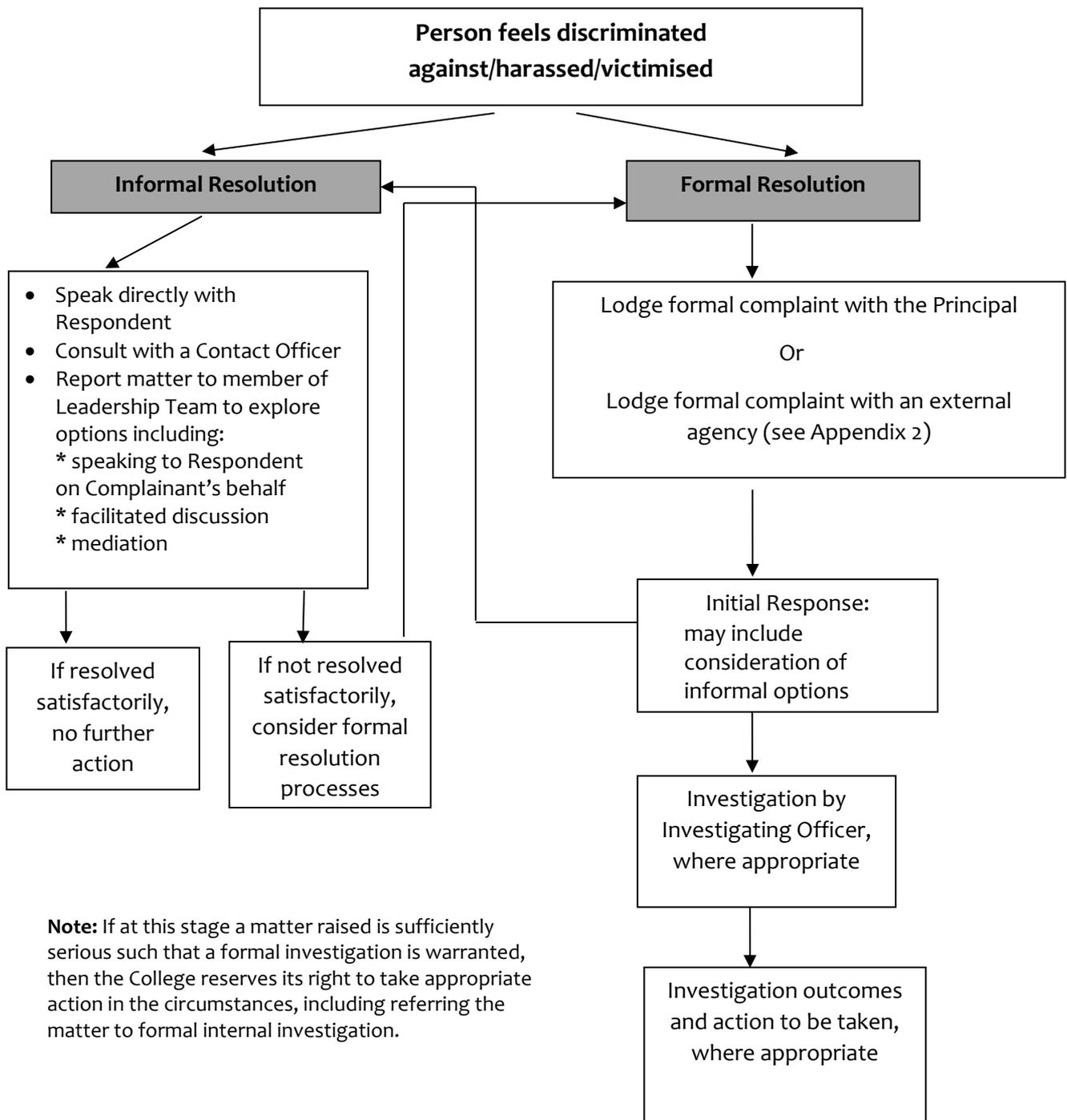
Rory Kennedy  
(Principal)

Date: 2019

## Appendix 1

### Workplace Equal Opportunity Complaints Procedure Flowchart

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**CONTACT OFFICERS:**

Anna Marazita – Deputy Principal of Student Wellbeing

Troy Rickard – Deputy Principal of Catholic Identity

Note: The College provides support with AccessEAP



The contact phone number is **1800 818 728**.

## Appendix 2

### Support Agencies

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#### 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](mailto:information@veohrc.vic.gov.au)

To make a complaint [complaints@veohrc.vic.gov.au](mailto:complaints@veohrc.vic.gov.au)

Website [www.humanrightscommission.vic.gov.au](http://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](mailto:education@humanrights.gov.au)

To make a complaint [complaintsinfo@humanrights.gov.au](mailto:complaintsinfo@humanrights.gov.au)

Website [www.hreoc.gov.au](http://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](mailto:jobwatch@jobwatch.org.au)

Website [jobwatch.org.au](http://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](http://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](http://www.beyondblue.org.au)