



## COMPLAINTS & ALLEGATIONS POLICY 2024

### Rationale

- As a registered and accredited school in NSW, it is essential to ensure compliance with the New South Wales Education Standards Authority (NESA Registered and Accredited Individual Non-government Schools NSW Manual – January 2019, 3.11.4) and that the school have in place and implement policies and procedures in relation to complaints and grievances, with specific reference to processes for raising and responding to matters of concern identified by staff, students and / or parents. This includes complaints or allegations of staff misconduct and reportable conduct.
- Christadelphian Heritage College Sydney is committed to resolving complaints, grievances and allegations in a way which reflects Godly principles, respects the dignity of each individual, promotes harmonious relationships with all members of the community and complies with relevant legislation.

### Aim

- CHCS will respond promptly and professionally to all complaints and allegations, ensuring procedural fairness. This policy will be used in reference to the requirements of the Child Protection Policy and other relevant legislation.

### Implementation

This policy outlines the procedures that need to be followed so as to achieve the aim. The college will make this policy publicly available on the CHCS website and inform all staff members of its content.

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# Types of Complaints or Allegations

## Overall Policy

Complaints, suggestions and other feedback made to CHCS are welcomed. They help staff to meet expectations, remedy problems and assist with procedural fairness. The concerns of CHCS employees are also important. Procedures to enable concerns to be dealt with quickly and fairly are part of sound management practice. They help to improve communication and trust, motivation and effectiveness.

## Coverage

A suggestion or complaint can be lodged by any person who is a user or potential user of CHCS services including a student, a parent or caregiver, an employer or other community member who uses or could use the services of CHCS, any staff member, contractor or volunteer in a location where College services are provided. The suggestion or complaint can be about any aspect of the service provided or not provided, the conduct or decisions of staff or students, or about workplace practices, policies or procedures.

## Contacts

Routine enquiries: Office staff, staff member – contact telephone number (02) 9826 2116

More serious complaints:

- The Principal, Executive team, contact telephone number (02) 9826 2116; or by mail to 110 Cross Street, Kempers Creek 2178 or email [office@hcs.nsw.edu.au](mailto:office@hcs.nsw.edu.au).
- Chairman of the College Board can be contacted by email at [chairman@hcs.nsw.edu.au](mailto:chairman@hcs.nsw.edu.au).

# **Complaints or Allegations Concerning Alleged Serious Breach of Legislation, Policy, Procedure or Contract**

## **Relevant Legislation**

Where a breach of legislation is punishable by law, that legislation may set out the arrangements for investigation (which may involve police action) and any penalty which may be imposed. Where there is a serious breach of policy or procedure by staff, disciplinary action will be appropriate. The Legislative Acts, regulations, awards and determinations covering the employment of staff also govern disciplinary action against staff.

## **Related policies and resource documents**

- Acts, Regulations, awards or determinations relating to the employment of the alleged offender
- CHCS Code of Conduct
- CHCS Policies and procedures

## **Policy statement**

To protect the public interest, safeguard resources, and protect the reputation and integrity of CHCS and staff, it is important that CHCS takes action on conduct that may be in breach of legislation, policy, procedure or contract. While minor breaches can be dealt with in a number of ways, alleged serious breaches by staff need to be investigated.

## **Coverage**

Anyone, including staff, students, parents, caregivers and other community members, can lodge a complaint. The complaint can only be about CHCS staff and others who are involved in CHCS on a voluntary or contractual basis. The complaint can be about conduct that allegedly is in breach of legislation or CHCS policy.

Where the conduct of contractors is the subject of a complaint, this conduct is usually dealt with through the terms of the contract.

Where the conduct of volunteers is the subject of complaint, the conduct may be addressed through police action, civil action or removal of the volunteer from the College; or by the agreement of the volunteer to change their conduct. This would depend on the severity of the breach.

Suggestions or complaints about a policy or procedure can be lodged with the staff member responsible for that policy or procedure. A complaint about a member of staff can be lodged with the Principal or Executive team. In the case of staff complaints about other staff, the complainant should make the complaint to one of the Executive team. Where the person being complained about is the Principal then the complaint should be lodged with the Executive team or, if serious, with the Chairman of the College Board.

## Contacts

Routine enquiries: Office staff – contact telephone number (02) 9826 2116

More serious complaints:

- The Principal or Executive team – contact telephone number (02) 9826 2116; or by mail to 110 Cross Street, Kemps Creek 2178 or email [office@hcs.nsw.edu.au](mailto:office@hcs.nsw.edu.au).
- The Chairman of the College Board – [chairman@hcs.nsw.edu.au](mailto:chairman@hcs.nsw.edu.au)

## Complaints or Allegations Concerning Protection and Support of Children and Young People

### Relevant Legislation

- *Children and Young Persons (Care and Protection) Act 1998*
- *Ombudsman Act 1974 as amended by the Ombudsman Amendment (Child Protection and Community Services) Act 1998*
- *Child Protection (Prohibited Employment) Act 1998*
- *Commission for Children and Young People Act 1998 and the Crimes Act 1900.*
- *Children’s Guardian Act 2019*

### Policy statement

CHCS policy on Protecting and Supporting Children and Young People sets out the College’s responsibilities as a service provider and an employer (see Child Protection Policy).

### Coverage

Any person, including staff, students, parents or caregivers, can lodge a suggestion, complaint or allegation. Complaints or allegations can be made about any staff member, contractor, volunteer, or other person associated with CHCS. The complaint or allegation can be about misconduct or reportable conduct that places a child or young person at risk of harm, or any aspect of the College’s policies, procedures and programs related to protecting children and young people from harm. The person should lodge their suggestion, complaint or allegation with the College Executive team.

## Contacts

**Routine enquiries:** Office staff – contact telephone number (02) 9826 2116, or by email to [office@hcs.nsw.edu.au](mailto:office@hcs.nsw.edu.au) or mail to 110 Cross Street, Kemps Creek 2187.

**More serious complaints:** Any staff member who receives a complaint must refer it to the Principal or Executive team who will contact the NSW Department of Communities and Justice and the Police if appropriate. If the person complained of is no longer employed in the College, then the Principal will contact the appropriate authorities.

Where the subject of the complaint is the Principal, the complaint should be made to the Chairman of the College Board at [chairman@hcs.nsw.edu.au](mailto:chairman@hcs.nsw.edu.au), or directly to NSW Department of Communities and Justice or the Police.

# Complaints or Allegations Concerning Anti-Discrimination

## Relevant Legislation

- *NSW Anti-Discrimination Act 1977*
- *Racial Discrimination Act 1975 (Commonwealth legislation)*
- *Racial Hatred Act 1995 (Commonwealth legislation)*
- *Sex Discrimination Act 1984 (Commonwealth legislation)*
- *Disability Discrimination Act 1992 (Commonwealth legislation)*

## Policy statement

CHCS rejects all forms of harassment, vilification and unlawful discrimination. CHCS will ensure that all students and staff are aware of the types of discrimination that are against the law in NSW.

## Coverage

A person with a grievance or a person representing them can make a complaint about discrimination associated with a college activity. The complaint can be about any person associated with CHCS or an activity undertaken by the college. This includes any CHCS staff member, employee, volunteer, student or person employed as a contractor on behalf of the college. The complaint can be about conduct that is unlawfully discriminatory.

## Contacts

- School Executive team – contact telephone number (02) 9826 2116, or by email to [office@hcs.nsw.edu.au](mailto:office@hcs.nsw.edu.au) or by mail at 110 Cross Street, Kemps Creek 2178.
- The NSW Anti-Discrimination Board (ADB)
- The Human Rights and Equal Opportunities Commission (HREOC).

Suggestions or complaints about anti-discrimination policies or procedures should be made to the Principal. Complaints or allegations about a person's conduct should be made to the Principal or a delegated officer. Where the subject of the complaint is the Principal, then the complaint should be made to the Chairman of the College Board.

# Making Suggestions, Complaints or Allegations

## Procedures to Achieve Resolution

If a complaint or allegation is about misconduct or reportable conduct that concerns the protection of children and young people or any conduct, which, if sustained, could amount to a crime or breach of discipline, then any attempt to resolve the matter through negotiation should **not** be commenced.

Attempts should be made to resolve all other matters before a complaint is lodged. Therefore, prior to lodging a formal complaint, it would be desirable that the person should raise their concern with the relevant staff member at an appropriate time and place, and seek resolution. Unless the matter was between two staff members, it would be appropriate for the person to make an appointment with the relevant staff member through the school office.

However, there may be exceptional circumstances that may preclude the interview process. These may be because the allegation is of such a serious matter that it needs to be immediately drawn to the attention of an executive member of staff or government agency; or that either of the parties involved is fearful or feel intimidated by the other.

In attempting to resolve a matter before a complaint is lodged, either party would have the right to invite someone to support them during the resolution process. It would be important that both parties participate in this process with the purpose of identifying the problem and in a spirit of conciliation work together so as to resolve it. Resolution may require compromise on both sides.

If both parties are willing it may, for the purposes of accuracy, be best to have the attempt to resolve the matter recorded electronically, or at least to have minutes taken. During the interview process it is important that the parties:

- state the cause of their concern
- exchange facts and beliefs
- clarify events
- listen to each other
- apologise for any conduct that may have distressed the other party
- explain their point of view
- consider the other person's point of view
- recognise that this is an opportunity to change conduct that is perceived as unsuitable or is hurtful to another.

If the interview has been recorded or minutes taken a transcript of the recording or a copy of the minutes should be made available to those directly involved. If the interview does not succeed in resolving the problem, a complaint may be lodged.

## **Lodging a suggestion, complaint or allegation**

A suggestion, complaint or allegation can be made orally or in writing e.g. email or letter. It is important that the person lodging the suggestion, complaint or allegation feels that they have effectively communicated it. If the suggestion, complaint or allegation is relayed orally then it should be recorded in some way (such as by an oral recording taken with approval of those involved, or by a typed or written record). The intent of the matter would then be communicated back to the person lodging the suggestion, complaint or allegation to ascertain whether it has been accurately understood. The college will strive to assist the person, especially those with special needs, in this communication process.

CHCS would prefer that complainants include their name and signature. However, if the complainant would prefer to submit an anonymous suggestion, complaint or allegation, it must be understood that the usual negotiation process cannot be followed, and that any investigation of the substance of a complaint or allegation may fail for want of the ability to clarify matters or seek further detail from the complainant. Anonymous suggestions, complaints or allegations will be considered on the basis of the information provided, and any other facts uncovered during this consideration.

### **When should a matter be taken to the College Board?**

The normal process of lodging a suggestion, complaint or allegation is to make it known to the Principal or the Principal's delegated officer. If the matter requires an investigation, the Principal will inform the College Board of the investigation's findings, including any disciplinary actions, taking into consideration the college's Privacy Policy. If, however, the complaint involves the Principal directly or the complainant is unhappy with the process followed by the college, then the matter may be communicated by any means to the Chairman of the College Board. Further appeals may be made to the Association of Independent Schools and/or the NSW Education Standards Authority (NESA).

### **What should happen if the complaint is against the Board or a Board Member?**

If an allegation is received concerning a Member of the College Board that is a reportable matter, the Principal will take the appropriate steps in accordance with the CHCS Child Protection Policy. If the complaint is made concerning a Board Member's performance, attitude or conduct, the matter will be investigated by the Chairman of the Board. If the accusation is substantiated and is considered serious, it will be considered by the Board and appropriate disciplinary action taken. If the complaint is against the Board Chairman or the entire Board, then the matter will be investigated by the Principal. If the accusation against the Board Chairman is substantiated, the Principal will raise the matter with the whole Board for them to consider the appropriate response. If a substantiated allegation is made against the entire Board, then the Principal will call for a special meeting of the Members of the School for them to decide on appropriate action.

All investigations should follow CHCS Policy which means an emphasis on procedural fairness. The person making the complaint or allegation will be informed of College policy and process which includes the right to have the matter considered by another authority if the person is unsatisfied with the process.



## Assessing suggestions, complaints and allegations

The staff member who receives the suggestion, complaint or allegation needs to assess it to determine which procedure applies and the relevant personnel to follow through. The options are:

- **IMPROVEMENT of COLLEGE POLICIES & PROCEDURES** - when the suggestion, complaint or allegation has to do with the way the college operates. These need to be presented to the Principal, management team or person in charge of the area of responsibility.
- **NEGOTIATION** – applied if the allegation is **not** about a serious breach of legislation, policy, procedure or contract. These need to be presented to the Principal, Executive team or person in charge of the area of responsibility. Staff members involved in any matters of reportable conduct should not undertake negotiation.
- **INVESTIGATION** - applied if the complaint about a person is about an alleged **serious** breach of legislation, policy, procedure or contract. Only an accredited member of staff may undertake an investigation in this context.

### Assessing the Seriousness of Suggestions, Complaints and Allegations

The following are to be the procedures followed by the college if a suggestion, complaint or allegation is received.

1. If the complaint or allegation is about conduct concerning the protection of children and young people or any misconduct which, if sustained, could amount to a crime or breach of discipline, then negotiation should **not** be commenced.
2. If the complaint or allegation involves suspected risk of harm to a child or young person, then the College will follow the CHCS Child Protection Policy, and refer the matter to the Principal or delegated officer. The Principal or delegated officer will notify the NSW Department of Communities and Justice and, on advice from this Department, the Police. The staff member is required to ascertain that the Principal or delegated officer has informed the relevant authorities, and, in the absence of such information, is required to make the notification to the NSW Department of Communities and Justice (and, if so advised, the Police) themselves and to advise the Principal or delegated officer as soon as possible that this notification has been made. If the child or young person is a student not currently enrolled in CHCS, the Principal will inform the Principal of that child's school (if known) of the allegation and the notification.
3. If the complaint or allegation involves suspected misconduct or reportable conduct related to child abuse by a staff member (including contractors and volunteers) against a child or young person, then the Principal must be informed. The Principal or delegated officer will inform the appropriate authorities of this conduct, including the Office of Children's Guardian.
4. If the complaint or allegation involves the following, then the Principal or delegated officer will contact the police:

- prohibited weapons or a threat to the safety of any person
  - possession or use of an illegal drug
  - a crime against an individual (unless the individual or their representative contacts the police)
  - a crime against the college (e.g. theft, fraud or forgery resulting in loss to CHCS)
  - a crime against an associated body (e.g. student association or Parents and Friends' Association), and it is a "serious offence" (i.e. punishable by imprisonment for five years or more, which includes theft) then persons who know or believe an offence has been committed must report this to the police.
5. If the complaint or allegation is about other alleged misconduct which could lead to disciplinary action if substantiated, it must be referred to the Principal.
  6. If the complaint or allegation is about a breach of legislation by a person (such as a breach of legislation covering discrimination, OH&S, or any other legislation with which the college must comply), and the breach is considered serious, it must be referred to the Principal.
  7. If the complaint or allegation concerns a student's conduct, then the CHCS Student Discipline Policy must be followed. If the misconduct has taken place at TAFE then reference will need to be made to the TAFE NSW Student Discipline Policy, and any action taken by TAFE.

## Improving Policies & Procedures

If anyone believes that they have been the victim of procedural unfairness, then the College will need to review its policies and procedures to consider whether the suggestion, complaint or allegation is legitimate. This review may include the following:

- Seeking more information from the complainant in regard to the initial complaint as well as the way that matter was handled
- Ascertaining compliance with current college policies
- Ascertaining compliance with current government legislation.

The review should find that either due process was followed and that the policies were in accordance with current legislation regarding best practice; or that the policies or practices were lacking and required change. In either case, the college should seek to resolve the problem and, if at fault, an appropriate apology should be given. Should the review discover the need for modification of policy or practice, then the following should be considered:

- policy development or revision
- process improvement (i.e. changes to procedures and workplace practices)
- program review
- a form of school or staff development
- expert assistance, staff development or performance improvement
- improved implementation (e.g. issuing updated documentation or reminders)
- other action to ensure that any similar matter is handled appropriately in future.

In some cases, neither remedy nor changes to systems will be possible because the matter is covered by legislation or other College policy, or due to resource limitations.

At the end of the process the findings of the review should be shared with the complainant. If appropriate, the complainant may have been invited by the College to be part of the review team. If the complainant is still unhappy with the process then they should be invited to take the matter up with the College Board, the Association of Independent Schools or the NSW Education Standards Authority (NESA).

## Negotiation

If a matter does not relate to a serious misconduct or reportable conduct, then CHCS will strive to resolve conflict through the process of negotiation. This will require both parties coming together with a mutual desire to resolve the difficulty. A solution will be sought through either direct contact or through other means of communication. A solution must be decided upon and agreed to. If agreement is not possible then external mediation may be required.

Note that where a complaint is anonymous, or the complainant requires that their identity not be revealed to the respondent, negotiation is not possible.

When negotiating a resolution, the following process should be followed by the Principal or delegated officer:

- Ensure that the complaint is in writing (whether written by the complainant or a college representative). CHCS will strive to render assistance to allow any person to communicate their concern.
- Treat the complaint confidentially and inform the complainant as to the College's Privacy Policy.
- Acknowledge the complaint in writing within five working days of receipt of the complaint, and including an outline of the process that will be followed and inviting any clarification of the process.
- Notify respondent of the complaint within five working days of receipt of the complaint (this may be an individual or the College Board). Do this at an appropriate time, being sensitive of the needs, roles and responsibilities of the respondent. Arrange a mutually convenient time to meet and provide the details of the complaint along with other relevant policies that have bearing on the matter. Inform the respondent of the need to respond to the Principal or delegated officer in writing within ten days. Advise them of the College's policies on Procedural Fairness and the need for confidentiality by all involved. Inform them that they have the right to have a support person with them during any meetings, and provide any other support, which may be necessary at other times.
- Obtain a written response within ten working days of notifying the respondent. This should be copied for the complainant unless it contains information that could breach privacy, jeopardize any other investigation or inflame the conflict. If the response contains such material a different response should be negotiated or a summary excluding this material should be provided by the respondent.
- Gather all relevant information, such as copies of legislation, policies, correspondence, eyewitness accounts, professional reports, and student records. Note that these will need to be vetted so as to avoid biased viewpoints and also carefully read for patterns of conduct or inconsistencies.
- Arrange a meeting(s) or other communication(s) so as to expedite the negotiation process. An interpreter may be needed to facilitate communication. The parties will be informed of their right to have a support person in attendance as an observer.
- Consider whether a mediation service is appropriate.

- Strive to achieve resolution within ten working days of receipt of the written response from the respondent. This can only happen if agreement is reached, whether this agreement is to a resolution of the conflict, a compromise or the suggestion of another course of action. If an agreement cannot be achieved, then the Principal or delegated officer must make a decision on the outcome of the negotiation and any further action.
- Document and notify all involved parties.
- Implement any improvements to policies and procedures identified during the negotiation process.

If the complainant or respondent can show that the procedure is not being used correctly, they can raise the matter with a higher authority prior to the resolution or decision. This higher authority could be the Principal, a member of the Executive team, the College Board or a government authority.

Either party will have a right to appeal the decision to the Principal, a member of the Executive team, or the College Board.

The negotiation process can be stopped at any time if any of the following occur:

- Either party feels that they cannot or will not proceed with the process.
- The matter involves child protection or other alleged misconduct conduct that could lead to disciplinary action if substantiated.
- The matter relates to non-negotiable matters dictated by legislation.
- The complaint or allegation is found to be without substance, malicious or misinformed.
- In the opinion of the Principal or delegated officer, one of the parties is not committed to finding a negotiated resolution.

## Investigation

All investigations must be fair. The investigator must therefore be qualified, understand all relevant policies and procedures, have no conflict of interest and be able to demonstrate that they completed the investigation process competently.

The investigator collects evidence, conducts interviews as necessary and presents the evidence for and against a particular conclusion. The investigator must communicate their findings and if appropriate, make recommendations for further action including possible disciplinary action.

1. Person receiving the complaint or allegation refers the matter to the appropriate person as soon as possible. If the complaint or allegation is about a child protection matter, then the Child Protection Policy procedures must be followed.
2. An investigator will be appointed by the Principal or the College Board. The investigator must fulfil all conditions outlined above.
3. If the complaint or allegation has been made to more than one person then one individual should be appointed by the Principal to address the suggestion, complaint or allegation. If the complaint has already been considered, then a review of the process and decision will be made and the relevant parties informed of any new or further action.
4. The investigator will need to:
  - Ensure that the complaint is in writing (whether by the complainant or a college representative). CHCS will strive to render any necessary assistance to a person to enable them to communicate their concern.
  - Confirm that investigation is the appropriate procedure and prepare an investigation plan.
  - Acknowledge the complaint in writing within five working days of receipt of the complaint outlining the process that will be followed and inviting any clarification of the process.
  - Assess whether the respondent (if a staff member) needs to be assigned alternate duties in consultation with college executive. If the respondent is assigned to other duties, they will need to be notified of the reason(s) for this action.
  - Monitor progress and advise the complainant of the action being taken.
5. If the complaint has been anonymously lodged, then the investigator will decide whether an investigation is possible. If not, then decisions and actions will be recorded and filed.
6. If the investigator can proceed with the investigation, then:
  - Identify the issues (either from the record of the complaint, suggestion or allegation, or through a recorded interview of the complainant). The complainant does not have a right to be involved in the process beyond this point. The respondent is not necessarily informed of the content of the complaint or allegation at this stage as not all issues will yet be identified.

- Collect documentary evidence, which may include letters, memos, hard copy of e-mails and computer-based files, timetables, photographs, diaries, invoices, and time sheets.
- Obtain witness statements, which should be written or typed, signed and dated. The investigator may need to provide assistance for this to happen (such as assistance with typing or translation).
- Interview respondent(s) and document their responses (e.g. in a record of interview) or obtain a signed and dated statement from the respondent(s). The respondent can be required to attend an interview during an investigation, but they have a right not to answer questions put to them. In the event that a respondent does not answer a question during interview, the interviewer has the option of providing the question in writing or of continuing the investigation without this response. The notification given to the respondent of the interview will vary according to the risk that evidence will be destroyed or witnesses intimidated. The respondent may have a support person during interview to provide them with advice and support. Interviews of respondents during the investigation phase are not part of the disciplinary procedure. However, the investigation report can be used in some parts of any subsequent disciplinary process.
- Prepare report including findings, conclusions and recommendations for further action. The report should include all relevant findings, including the evidence both for and against a particular conclusion. If the evidence is confusing or contradictory, the investigator must consider each issue and determine what, if anything can be concluded. A finding must be made for each separate allegation or complaint. A conclusion may be that there is no case to answer. The rationale for any conclusion must be clear. Recommendations may include actions relating to remedy, improvement of policies or procedures, referral for police action, referral for disciplinary action, or other management action.
- File report and distribute it to any appropriate authorities.

7. At the conclusion of the investigation the investigator will:

- Consider and refer recommendations to those at the college who can adjust policies or practices.
- Notify complainant in writing providing reasons for the decision reached, taking care to protect the privacy of the respondent. If the outcome is not finalised, notify the complainant of progress and ensure that there is a process in train to notify the respondent of the outcome when the matter is finalised.

## Anonymous Complaints

Anonymous complaints or allegations must be received and forwarded for investigation in the case of:

- allegations of reportable conduct
- alleged breaches of legislation (including the Crimes Act), policies, procedures or contracts or other alleged misconduct which could lead to disciplinary action if substantiated (or the termination of a contract for a casual employee or contractor).

The investigator will determine whether the investigation is possible according to the amount of specific information provided in the anonymous allegation, and whether the facts can be established by means outside of an interview with the anonymous complainant by either examining documents or obtaining statements from persons named in the allegation.

Although it may not be possible to resolve the matter due to the fact that the negotiation process may not be possible, the information gleaned from such an investigation may lead to valuable insight into ways that the college policies and procedures may be improved.

Confidentiality is still important when dealing with an anonymous suggestion, complaint or allegation, for there may be individuals mentioned in the anonymous allegation.

Alternatively, the identity of the complainant may well become known if confidentiality is breached, potentially causing further distress and conflict.

## Confidentiality and Privacy

CHCS will strive to maintain the rights of the individual in matters of confidentiality and privacy. These matters are dealt with in detail in the CHCS Privacy Policy. They extend to all parties in the negotiation and investigation process – complainant(s), respondent(s), investigator(s) and witnesses.

Only those who genuinely need to know will have access to the details of a suggestion, complaint, allegation or the processes of an investigation. The information released will be limited to their specific area of responsibility. Those that have been made aware of particular information will be included in the notes of the investigation report.

A complainant might identify themselves but ask that their identity be withheld. This request should be respected at all times. Note however, that there is a limit to the areas where the identity of a complainant can be withheld, and that can never be guaranteed, as there are situations (e.g. during disciplinary or court procedures) where procedural fairness requires that the respondent must be supplied with information that identifies the person who has given evidence against them.



## Procedural Fairness

Procedural fairness, also known as natural justice, applies in situations where a decision is to be taken which could have a detrimental effect on the rights, interests or legitimate expectations of an individual. All those involved in the negotiation and investigation process should strive to provide this consideration. There are two parts to procedural fairness, the right to be heard and the right to an impartial decision.

All involved have the right to know what the complaint or allegation is about, how the process will work and the consequences of the process. They also have the right to be able to respond to the issues. For this right to be able to respond to be fair, time must be provided to allow the response to be made, as well as the offer of support made (whether this is the presence of a support person at the interview or that of an interpreter).

All those involved also have the right for the negotiation or investigation process to be conducted by an investigator who is knowledgeable of due process, not guilty of conflict of interest and free of known bias towards one or all of the parties.

## Preventing Victimization

Victimization of any person for making a complaint or allegation is unacceptable. The college must put into place procedures so as to stop possible victimisation of anyone who makes a complaint or any witnesses involved in the process. Some of these procedures may include:

- **Anonymity** – Although it would be preferable for the purpose of negotiating a resolution not to have an anonymous complaint, these will be accepted and considered as outlined in this document.
- **Confidentiality** – The identity of a person making a complaint or allegation should not be disclosed to anyone unless they have a right to know. This is possible according to the investigation process outlined in this document. A complainant's identity cannot be withheld if the investigation process would normally be preceded by negotiation.
- **Freedom of Information (FOI) Exemption** for all material which relates to a protected disclosure. Other FOI exemptions may apply to material obtained in confidence.
- **Education** – Staff should be made aware that it is CHCS policy to support persons making suggestions, complaints or allegations.
- **Warnings** – Where the Principal becomes aware that detrimental action may occur or may be occurring, he or she should immediately advise those who may be responsible of the consequences of their conduct and instruct them to refrain from such activities which could be interpreted as detrimental action.
- **Disciplinary action** – The taking of detrimental action substantially in reprisal for the making of a complaint or allegation can be grounds for disciplinary action. If disciplinary action is considered essential by the Principal, then the Chairman of the College Board will be informed of the action and the reason for this action. This

behaviour may also be a criminal offence. The penalty for the latter can be fines and imprisonment.

## **False and Malicious Complaints and Allegations**

If a complaint or allegation cannot be substantiated because of a lack of evidence, then the process report will indicate that there was insufficient evidence to be able to draw a certain conclusion as to the accuracy of either case in regard to the matter. If, however, during the investigation process evidence is discovered that demonstrates that the complaint or allegation is false then the conclusion will clearly state this. The complainant will be advised of this evidence and subsequent conclusion and reconciliation sought between the parties by using the negotiation process.

If, during the investigation process, it is discovered that there is evidence of malicious intent on the part of the complainant, then the complainant will be rebuked for the misdemeanour and an apology sought for the respondent through the negotiation process.

Where a student makes a complaint or allegation that is both false and malicious, action may be taken under the relevant student discipline policy. Use of discipline procedures should only occur where there is evidence that the student knew the complaint or allegation was false before lodging it.

## **Appeals**

If a complainant is not satisfied with either the adequacy of the procedure or the outcome of the process, they can further their concerns by communicating this dissatisfaction to a higher authority (another Executive team member, the Principal or the Chairman of the College Board).

It will be the responsibility of this authority to evaluate whether the original investigation followed the processes outlined in this document or any other relevant policy or legislation; review all relevant material that formed part of the original investigation and, if necessary, make any further inquiries. They will decide whether the first finding's decision(s) will need to be put on hold pending the appeal's finding. The investigator should strive to conclude the appeal within ten working days of receipt of the complaint. The investigator must then advise parties in writing of their decision along with the reasons for it and outline any further action they consider is necessary.

If the complainant continues to be dissatisfied, they may raise the matter with a higher authority. The College will provide advice on the appropriate higher authority in such a case.

## Disciplinary Action

The grounds for disciplinary action are set out in the AIS Award, college contract and the CHCS Code of Conduct under which a person is employed. These grounds relate to the position of responsibility held by the person.

A person employed by the college may be disciplined on the grounds of one or more of the following:

- misconduct (which generally involves deliberate acts involving, for example, acts in breach of policy or the code of conduct, theft, physical assault, emotional abuse, or sexual harassment)
- disobedience of a lawful order
- negligence
- carelessness
- inefficiency or ineffectiveness
- improper or disgraceful conduct (which can encompass acts performed outside of the workplace and could include for example the elements of a criminal offence).

Any disciplinary action will be made by the Principal after consultation with the Chairman of the College Board, except where the Principal is the one being disciplined in which case it will be the sole responsibility of the College Board. Where the police are involved, it is usual for the police action to be completed (at least to a certain stage) before disciplinary action is commenced. In some cases, the college will also wait for court action to be completed before disciplinary action is commenced.

## Records

Suggestions, complaints or allegations that lead to changes of policies, practices or procedures should be kept for future reference as a matter of course, although there is no legal requirement to keep these records for a prescribed period of time.

All suggestions that lead to a negotiation or investigation should be kept in perpetuity. These should be kept in a secure storage area with strictly restricted access. All electronic and hard copy files should be backed up off site in another secure location.

In the case of disciplinary action, information is placed on a restricted access file, which is separate from the personal file for that staff member. Proven charges are placed on the staff member's personal file.

All staff must observe the information protection principles outlined in the CHCS Privacy Policy.

## ACCOUNTABILITIES

Position	Accountabilities
Principal	
Board Chair	To be informed or Involved if Principal has conflict of Interest

## AWARENESS

Principal will always be made aware of investigation and Board to be informed.

## DEFINITIONS

Term	Definition
Nil	

## REFERENCES

Documents that should be referred to in conjunction with this Policy are listed below:

Document Type	Title
Legislation	
Code of Practice	
Standards	Guide to the Child Safety Standards 2023
Other Policies	Child Protection, Code of Conduct
Guide	Reporting Obligations and Processes: A handbook for child-related organisations 2022
Forms	

## DOCUMENT CONTROL

### 1. Ownership and Approval

Role	Name	Position title	Date
Author	Melissa Sharman	Principal	25/3/2024
Approver	Board	Board	25/3/2024

### 2. Review

Stage	Date
Original Policy	20/02/2002
Policy revised	20/02/2018
This review	25/03/2024
Next review	25/03/2027