

BEACONSFIELD KINDERGARTEN INC.

STAFF GRIEVANCE POLICY

Best Practice – Quality Area 7

PURPOSE

The purpose of this document is to provide an avenue through which staff, students, volunteers and their managers can resolve work-related grievances as they arise. This policy will provide guidelines for:

- receiving and dealing with complaints and grievances amongst staff at Beaconsfield Kindergarten
- procedures to be followed in investigating such complaints and grievances.

Please note that complaints or grievances related to employment conditions are not covered by this policy as this is provided in the industrial agreement.

POLICY STATEMENT

VALUES

Beaconsfield Kindergarten Inc. is committed to:

- providing an environment of mutual respect and open communication
- establishing mechanisms to promote fast and efficient resolution of workplace issues
- complying with all legislative and statutory requirements, including under any relevant industrial award or agreement
- dealing with workplace grievances with fairness and equity
- treating information in relation to workplace grievances with sensitivity
- maintaining privacy and confidentiality at all times.

SCOPE

This policy applies to the Approved Provider, Persons with Management or Control, Nominated Supervisor, Persons in Day-to-Day Charge, educators, staff, students on placement and volunteers at Beaconsfield Kindergarten Inc., including during offsite excursions and activities

RESPONSIBILITIES	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	Early childhood teacher, educators, and all other staff	Contractors, volunteers, and students
R indicates legislation requirement, and should not be deleted				
Conducting oneself in a professional manner and observing appropriate workplace behaviours in line with the <i>Code of Conduct Policy</i>	√	√	√	√
Providing advice, assistance and support to all parties to a grievance in line with this policy and procedures	√	√		

Being aware of their obligations and responsibilities in relation to handling grievances	√	√	√	√
Identifying, preventing and addressing potential problems before they become formal grievances	√	√		
Developing a staff grievances and dispute resolution procedure (<i>Refer to Attachment 1</i>)	√	√		
Providing a Staff Grievances Register (<i>refer to Definitions</i>) and ensuring that grievances are record along with outcomes	√	√		
Ensuring that staff grievances are fully documented, and considering employee wishes in determining the appropriate steps and actions	√	√		
Ensuring all decisions relating to staff practices are made with consideration given to the ramifications for the individual, as well as for Beaconsfield Kindergarten [Company] in general	√	√		
Ensuring any grievance is handled in the most appropriate manner at the earliest opportunity in accordance with this policy and requirements in the relevant industrial instrument (award/agreement). Refer to clause 10 (Grievance Procedure): <i>Victorian Early Childhood Teachers and Educators' Agreement 2020</i> (VECTEA).	√	√		
Informing DE in writing within 24 hours of any grievances alleging that a serious incident (<i>refer to Definitions</i>) has occurred at the service or that the <i>Education and Care Services National Law</i> has been breached (<i>National Law: Section 174, Regulation 176(2)(b)</i>)	R	R		
Notifying the Commission for Children and Young People (CCYP) within three business days of becoming aware of a reportable allegation (<i>refer to Definitions</i>), under the Reportable Conduct Scheme (<i>refer to Definitions</i>) (<i>refer to Child Safe Environment Policy</i>)	R	√		
Following processes for responding to and reporting suspected child abuse (<i>refer to Child Safe Environment Policy</i>)	R	R		
Working cooperatively with the approved provider, DE, CCYP or workplace investigator (<i>refer to Definitions</i>) in any investigations related to staff grievances		√	√	√
Ensuring all employees and volunteers are treated fairly and without fear of intimidation	√	√		
Attempting to resolve any issues through their immediate supervisor and through internal processes at the earliest opportunity			√	√
Raising a grievance and engaging in the resolution process under this policy in good faith (<i>refer to Definitions</i>)			√	√
Understanding that a grievance lodged under this policy may be withdrawn at any time without penalty, unless it related to a notifiable complaint	√	√	√	√
Respecting the rights of the complainant, the respondent and any other persons involved, and not victimising any person for raising a grievance or for their involvement in the resolution of a grievance	√	√		
Participating genuinely if an investigation is undertaken and providing truthful answers when required			√	√
Maintaining a dialogue with all parties to the grievance to ensure constructive, respectful and proactive resolution of any grievances that arise	√	√		
Acting fairly and ensuring conclusions reached are based on a fair and due process that relate to relevant evidence involving all parties to the grievance	√	√		
Maintaining confidentiality throughout the process (<i>refer to Privacy and Confidentiality Policy</i>)	√	√	√	√

Engaging independent internal or external investigators as required	√			
Monitoring the grievance as recorded in the Staff Grievances Register (<i>refer to Definitions</i>) to assess whether satisfactory resolutions have been achieved	√	√		
Analysing complaints, concerns and safety incidents to identify causes and systemic failures to inform continuous improvement	√	√		
Maintaining professionalism and integrity at all times (<i>refer to Code of Conduct Policy</i>)	√	√	√	√

BACKGROUND AND LEGISLATION

Background

Staff grievances refer to complaints or concerns raised by employees regarding their work environment, conditions, treatment or other employment-related matters. Grievances can arise from a variety of issues, including but not limited to conflicts with colleagues or supervisors, unfair treatment, discrimination, harassment, policy violations, workload concerns, or disputes over compensation and benefits.

When employees feel aggrieved, they may choose to voice their concerns formally through the organisation's grievance process. The purpose of a staff grievance process is to provide a structured mechanism for employees to express their dissatisfaction, seek resolution and address any perceived injustices or violations of their rights. All parties to a complaint or grievance should try to resolve the matter informally through discussion, proceeding to formal processes only if this does not succeed. The enterprise agreement and industry awards in operation at the time will provide further guidance on the process to be followed.

Legislation and standards

Relevant legislation and standards include but are not limited to:

- *Age Discrimination Act 2004*
- *Australian Human Rights Commission Act 1986*
- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Disability Discrimination Act 1992 (Cth)*
- *Education and Care Services National Law Act 2010*
- *Education and Care Services National Regulations 2011*
- *Equal Opportunity Act 2010 (Vic)*
- *Fair Work Act 2009 (Cth)*
- *Gender Equality Act 2020 (Vic)*
- *Human Rights and Equal Opportunity Commission Act 1986 (Cth)*
- *National Quality Standards*
- *Occupational Health and Safety Act 2004 (Vic)*
- *Privacy and Data Protection Act 2014 (Vic)*
- *Racial and Religious Tolerance Act 2001 (Vic)*
- *Racial Discrimination Act 1975*
- Reportable Conduct Scheme
- *Sex Discrimination Act 1984 (Cth)*
- *Racial Discrimination Act 1975 (Cth)*
- Victorian Early Childhood Teachers and Educators Agreement 2020 (VECTEA)

DEFINITIONS

The terms defined in this section relate specifically to this policy. For commonly used terms e.g. Approved Provider, Nominated Supervisor, Regulatory Authority etc. refer to the General Definitions section of this manual.

Complainant: Person who brings the grievance to the attention of Beaconsfield Kindergarten under this policy.

Dispute: A state of disagreement over an issue or group of issues between an employer and its employees.

Dispute resolution procedure: The method used to resolve complaints, disputes or matters of concern through an agreed resolution process. Industrial instruments (awards/agreements) contain specific procedures in dealing with disputes that arise in relation to a grievance investigation, or a matter arising under its terms. Refer to clause 13 (dispute resolution) of the *Victorian Early Childhood Teachers and Educators Agreement 2020* (VECTEA).

Good faith: Includes acting truthfully and confidentially throughout the resolution process, not attempting to submit an anonymous grievance, and not making frivolous or vexatious grievances.

Grievance procedure: Industrial instruments (awards/agreements) may contain a specific clause which provides for a procedure in managing a staff grievance. Where the grievance does not relate to matters covered under the industrial agreement, the procedures contained in Attachment 1 should be followed.

Harassment: Includes, but is not limited to, unwanted, unwelcome behaviour that is offensive, embarrassing, intimidating or humiliating.

Mediation: An attempt to bring about a peaceful settlement or compromise between disputants through the objective intervention of a neutral party.

Mediator: A person (neutral party) who attempts to reconcile differences between disputants.

Staff grievance: A formal complaint raised by an employee against a fellow employee, manager or the employer. Employees usually file grievances for workplace harassment, workplace bullying, discrimination, nepotism, concerns regarding team management or regarding terms of the employment (i.e. workplace entitlements).

Staff Grievance Register: (In relation to this policy) records information about complaints received at the service, together with a record of the outcomes. This register must be kept in a secure file, accessible only to responsible persons and approved providers to protect complainant anonymity and to uphold professionalism. The register can provide valuable information to the approved provider on meeting the needs of children and families at the service.

Reportable allegation: any allegation that an employee, volunteer or student has committed child abuse (refer to *Child Safe Environment Policy*).

Reportable Conduct Scheme: Aims to improve oversight of how organisations respond to allegations of child abuse and child-related misconduct by their workers and volunteers. There are five types of 'reportable conduct':

- sexual offences committed against, with or in the presence of a child
- sexual misconduct committed against, with or in the presence of a child
- physical violence against, with or in the presence of a child
- any behaviour that causes significant emotional or psychological harm to a child
- significant neglect of a child.

Respondent: Person or entity whose behaviours, actions or decisions are the subject of the grievance.

Sexual harassment: Under the *Sex Discrimination Act 1984* and the *Equal Opportunity Act 2010*, sexual harassment refers to unwanted, unwelcome behaviour of a sexual nature that is offensive, embarrassing,

intimidating or humiliating. Sexual harassment can involve physical contact or suggestive behaviour or comments, propositioning and unnecessary and/or unwelcome familiarity.

Unreasonable behaviour: Means behaviour that a reasonable person, having regard to all of the circumstances, would expect to victimise, humiliate, undermine or threaten.

Workplace bullying: Repeated, unreasonable behaviour directed towards an employee, or group of employees, that creates a risk to health or safety.

Workplace investigation: The purpose of a workplace investigation is to thoroughly examine the allegations, determine the truth, and make informed decisions regarding appropriate actions, including disciplinary measures or corrective actions. The investigation process involves gathering evidence, interviewing relevant individuals, reviewing documents or records, and assessing the credibility of the information provided. The investigator remains impartial and objective throughout the process, ensuring a fair and unbiased examination of the situation.

Workplace investigator: An external individual who is responsible for conducting impartial and objective investigations into workplace incidents, complaints or alleged misconduct. They are typically appointed by an employer/approved provider or assigned by a designated authority within the organisation to gather relevant information, interview witnesses, review evidence, and make findings and recommendations based on their investigation.

SOURCES AND RELATED POLICIES

Sources

- [Fair Work Commission](#) for employment conditions

Related policies

- *Child Safe Environment Policy*
- *Code of Conduct Policy*
- *Compliments and Complaints Policy*
- *Inclusion and Equity Policy*
- *Mental Health and Wellbeing Policy*
- *Occupational Health and Safety Policy*
- *Privacy and Confidentiality Policy*
- *Staff Counselling and Discipline Policy*
- *Staff Health and Wellbeing Policy*
- *Staffing Policy*

EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the Approved Provider will:

- regularly seek feedback from everyone affected by the policy regarding its effectiveness
- review the effectiveness of the policy and procedures to ensure that all complaints have been dealt with in a fair and timely manner
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required
- notify all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures unless a lesser period is necessary due to risk (*Regulation 172(2)*)

ATTACHMENTS

- Attachment 1: Staff Grievance Dispute Resolution Guidelines

AUTHORISATION

This policy was adopted by the Approved Provider of Beaconsfield Kindergarten Inc. on 31st July 2018.

REVIEW DATE: 17/06/2024

REVIEW FREQUENCY: Two-yearly

NEXT REVIEW DUE: June 2026

ATTACHMENT 1

Staff Grievance Dispute Resolution Guidelines

These guidelines should be read in conjunction with the grievance procedure in your relevant industrial award or agreement (if applicable). Refer to Clause 10 (Grievance Procedure) in the *Victorian Early Childhood Teachers and Educators Agreement 2020* (VECTEA).

To avoid any perceived conflict of interest, if the approved provider (including nominated supervisors/directors/management teams or committee members) are personally involved in issues as a complainant, or in allegations of discrimination, they will stand aside from participation in Compliant subcommittees or procedures related to the investigation or management of complaints. The service or organisation will ensure that all complaints/grievances, regardless of whether they are of a major or minor nature, will be treated seriously and an investigation carried out fairly, efficiently, and expeditiously.

KEY PRINCIPLES

- Listen to the complainant. Obtain a chronology of events (who, what, why, when, how, etc).
- Offer the complainant assistance (such as counselling through an Employee Assistance Program) or a way to get home safely if they are visibly upset.
- Confidentiality is to be respected all times. Information about a grievance will not be disclosed or discussed outside of the grievance procedures, except as required by law.
- A staff member who has commenced a grievance process may withdraw and stop the process at any time without penalty.
- No staff member will suffer any personal or professional disadvantage if they pursue a grievance in accordance with this policy and procedures.
- Employees may elect to have a support person of their choice present as a witness at any meetings or interviews. This may be a union representative if this is consistent with a relevant federal award or industrial agreement.
- Until the grievance is resolved, work shall continue as normal unless there is a clear threat to any employee's health or safety.

STEP 1: DIRECT RESOLUTION

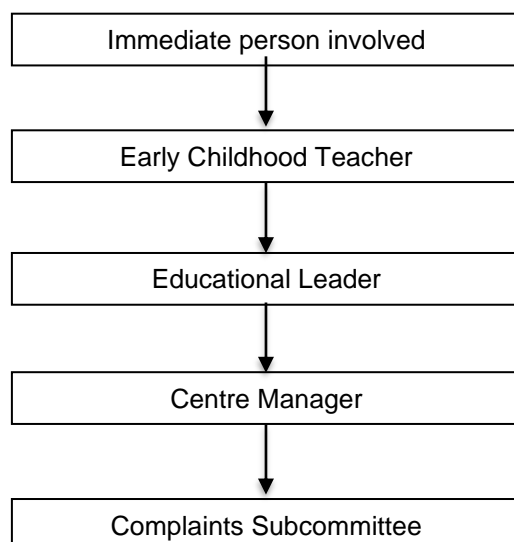
Staff members who wish to raise a grievance should, in the first instance, attempt to resolve the issue directly with the person/s involved. Staff members should be specific when issues are raised with or about another staff member and are encouraged to have suggestions available to support positive resolution.

Where a grievance is raised in writing (e.g. via email) and is not resolved promptly, staff are encouraged to hold a face to face meeting to resolve the matter. Repeated emails about the issue should be avoided; however, written documentation may be brought to a meeting to aid the conversation.

A meeting should be organised by contacting the person/s involved in to request a meeting to discuss the matter. Issues to be raised in the meeting should be briefly stated in the written communication. The respondent should reply within two business days, and where possible should make themselves available for a meeting within three business days.

STEP 2: LINE MANAGEMENT

If the matter is not resolved, or the staff member is unwilling/unable to raise it with the person/s involved, the staff member should raise their grievance with the next level of management as set out below. Staff will move through each level only if they consider that their grievance has not been resolved, unless the person listed is a party to the matter, in which case the grievance may be taken directly to the next level of management. However, at any stage, management may escalate the grievance further if they believe it is necessary.



If the grievance reaches the Centre Manager and/or Complaints Subcommittee, an investigation may be conducted. The subcommittee will consist of at least three members of the Executive Committee, and will include the Centre Manager unless the Centre Manager is a party to the grievance. If an investigation is conducted:

- it should commence within one week of the grievance being lodged
- all parties to the grievance may be requested to participate in the investigation process, including the complainant, the respondent and any witnesses.

Any investigation will be treated with strict confidentiality to protect all parties involved.

Complaints Subcommittee

The Complaints Subcommittee will:

- provide advice, assistance, and support to all parties to a grievance in line with this policy and procedure
- afford confidentiality for all parties involved in the grievance
- facilitate satisfactory resolution of the matter between parties
- manage the grievance investigation process and ensure it is conducted in a procedurally fair and transparent manner and without undue delay
- appoint an external and/or independent investigator to conduct the investigation as required
- engage mediators as required
- review the findings and resolutions for compliance with this policy
- maintain a dialogue with all parties to the grievance to ensure constructive, respectful and proactive resolution of any grievances that arise

Investigating a Grievance

If it is not possible to resolve the grievance through discussions with relevant parties expeditiously, conduct a formal investigation into the grievance.

Procedural fairness and transparency are critical in a workplace investigation (*refer to Definitions*).

Maintaining procedural fairness means that you can:

- protect the interests of the participants in the investigation
- enhance the credibility of the investigation process
- rely on the investigation (and your findings) when making employment decisions
- defend your employment decisions in a court or tribunal.

The following list includes recommendations to ensure that a workplace investigation is procedurally fair. The investigator should ensure that:

- the respondent is aware of all the allegations made against them in sufficient detail

- the respondent is allowed a reasonable opportunity, including adequate time, to respond to each of the allegations
- the investigation is carried out in a reasonable time frame
- all participants are given the opportunity to have a support person in the interviews pertaining to the investigation
- all participants are required to maintain confidentiality and sign a confidentiality agreement
- the investigator has no personal interest or bias in the matter being investigated
- all participants are given the opportunity to respond to any contradictory evidence
- the investigator makes reasonable and diligent enquiries to ensure that there is sufficient evidence before making findings on the balance of probabilities.

The Importance of Impartiality

It is critical to ensure that the person responsible for carrying out an investigation is impartial. The investigator must not have a vested interest in the outcome of the matter. It's important to consider:

- whether the use of an external investigator is necessary to ensure impartiality
- whether any conflicts of interest need to be disclosed (e.g. if any individuals are friends outside the workplace)
- whether the investigator has handled any previous disciplinary matters.

If there is the possibility that a person's employment will be terminated if the allegations are proven as part of an investigation, then you should seriously consider the use of an external investigator to ensure that your investigation and the process followed will stand up in any potential court proceeding.

Dispute Resolution

Should a grievance not be resolved in a manner which is satisfactory to the complainant or respondent, then either party may enact the dispute resolution provisions of their relevant award or industrial agreement. An employee who is a party to the dispute may appoint a representative for these purposes. Refer to Clause 13 (Dispute Resolution) in the *Victorian Early Childhood Teachers and Educators Agreement 2020* (VECTEA).

STEP 3: RESOLUTION AND DOCUMENTATION

When a grievance has proceeded past Step 1 and is subsequently resolved, the relevant parties will be notified accordingly. Where it is considered appropriate to document outcomes of a grievance procedure, it will be placed on the employee's personnel file and a copy given to the employee.

All documents related to the grievance will be kept confidential and shall not be produced or made available for inspection, except on instruction from a relevant authority consistent with the service's privacy policy. If appropriate, the subcommittee will report (within the confidential terms of the investigation) back to the Committee of Management on completing the investigation.