STAFF GRIEVANCES AND DISPUTE RESOLUTION

QUALITY AREA 7 | ELAA version 1.0

PURPOSE

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

POLICY STATEMENT

VALUES

Sth Kingsville Preschool 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
- 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, early childhood teachers, educators, staff, students, volunteers at Sth Kingsville Preschool, 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
Conducting oneself in a professional manner and observe appropriate workplace behaviours in line with the *Code of Conduct Policy*	√	√	√	√

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Providing advice, assistance, and support to all parties to a grievance in line with this policy and procedure	√	√		
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 *(Refer to Attachment 1)*	√	√		
Providing a Staff Grievances Register *(refer to Definitions)* and ensuring that grievances are record along with outcomes	√	√		
Ensuring that staff grievances are fully documented, and consider 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 Sth Kingsville Preschool in general	√	√		
Ensuring any grievance is handled in the most appropriate manner at the earliest opportunity in accordance with this Policy and requirements in your relevant industrial instrument (award/agreement). *Refer to clause 10 (Grievance Procedure): Victorian Early Childhood Teachers and Educators' Agreement 2020 (VECTEA).*	√	√		
Informing DE in writing within 24 hours of any grievances alleging that a serious incident *(refer to Definitions)* has occurred at the service or that the Education and Care Services National Law has been breached *(National Law: Section 174, Regulation 176(2)(b))*	R	R		
Notifying the Commission for Children and Young People (CCYP) within 3 business days of becoming aware of a reportable allegation *(refer to Definitions)*, under the Reportable Conduct Scheme *(refer to Definitions) (refer to Child Safe Environment and Wellbeing Policy)*	R	√		
Following processes for responding to and reporting suspected child abuse *(refer to Child Safe Environment and Wellbeing Policy)*	R	R		
Working co-operatively with the approved provider, DE, CCYP or workplace investigator *(refer to Definitions)* 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 engage in the resolution process under this policy in good faith *(refer to Definitions)*			√	√
Respecting the rights of the complainant, the respondent and any other persons involved, and must not victimise any person for raising a grievance or for their involvement in the resolution of a grievance	√	√		
Participating genuinely if an investigation is undertaken and provide 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	√	√		

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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 *(refer to Privacy and Confidentiality Policy)*	√	√	√	√
Engaging independent internal or external investigators as required	√			
Monitoring the grievance as recorded in the Staff Grievances Register *(refer to Definitions)* 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 *(refer to Code of Conduct policy)*	√	√	√	√

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.

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
- Sex Discrimination Act 1984 (Cwlth)
- Education and Care Services National Law Act 2010
- Education and Care Services National Regulations 2011
- Equal Opportunity Act 2010 (Vic)
- Fair Work Act 2009
- Gender Equality Act 2020 (Vic)
- National Quality Standards
- Occupational Health & 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
- Relevant awards/agreements in the Victorian early childhood education and care:
  - Victorian Early Childhood Teachers and Educators Agreement 2020 (**VECTEA**) or its mirror agreements.
  - Professional Community Standard 2021 (**PCS**)
  - Early Education Employees Agreement 2020 (EEEA)

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The most current amendments to listed legislation can be found at:

Victorian Legislation – Victorian Law Today: www.legislation.vic.gov.au
Commonwealth Legislation – Federal Register of Legislation: www.legislation.gov.au
Agreements/awards - Find an enterprise agreement | Fair Work Commission (fwc.gov.au)

DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g., Approved provider, Nominated supervisor, Notifiable complaints, Serious incidents, Duty of care, etc. refer to the Definitions file of the PolicyWorks catalogue.

Complainant: Person who brings the grievance to the attention of Sth Kingsville Preschool under this policy

Staff Grievances 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.

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.

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) *(Refer to Prevention of Harassment and Bullying Policy).*

Grievance procedure: Industrial instruments (awards/agreements) may contain a specific clause which provides for a procedure in managing a Staff Grievance. *Refer to clause 10 (grievance procedure) of the Victorian Early Childhood Teachers and Educators Agreement 2020 (VECTEA).*

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).*

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

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

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

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- any behaviour that causes significant emotional or psychological harm to a child
- significant neglect of a child.

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

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

Staff: Permanent, temporary, or casual employees of Sth Kingsville Preschool

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.

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.

SOURCES AND RELATED POLICIES

SOURCES

- Fair Work Commission for employment conditions

RELATED POLICIES

- Child Safe Environment and Wellbeing
- Code of Conduct
- Compliments and Complaints
- Inclusion and Equity
- Mental Health and Wellbeing
- Occupational Health and Safety
- Occupational Violence and Aggression
- Prevention of Harassment and Bullying
- Privacy and Confidentiality
- Staff Recruitment
- Staffing

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
- notifying 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))*.

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ATTACHMENTS

- Attachment 1: Staff Grievance Dispute Resolution Guidelines

AUTHORISATION

This policy was adopted by the approved provider of Sth Kingsville Preschool on 18-03-2024.

REVIEW DATE: March/2027

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ATTACHMENT 1. – STAFF GRIEVANCE DISPUTE RESOLUTION GUIDELINES

Sth Kingsville Preschool aims to maintain a harmonious work environment. This guideline aims to assist staff and management to resolve staff grievances effectively and to the satisfaction of all concerned.

Sth Kingsville Preschool is committed to addressing staff grievances in a prompt and effective manner. The rights of employees will be respected in the grievance process. Both the employer and employee will abide by their obligations under any relevant industrial award or agreement.

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) (if applicable) 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.

The following guidelines are to ensure that grievances are resolved by discussion between the parties. The employer recognises that, from time-to-time, individual employees may have grievances that need to be resolved in the interest of good relationships.

- 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 because they decide to 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.

Direct Resolution

Staff members who wish to raise a grievance should, in the first instance (feels comfortable and safe to do so), attempt to resolve the issue directly with the person/s involved. The aggrieved person is encouraged to make the person or persons aware that their actions are unwelcome/offensive/intimidating.

Line Management (Nominated Supervisor/Director/Service Leader)

If matters are not resolved, or the staff member is unwilling to raise it with the person/s involved or with the line manager, the staff member should raise their grievance with the next level of management. Staff will move through each level only if they consider that their grievance has not been resolved.

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People and Culture (if applicable)

The People and Culture team have the responsibility to:

- 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 and/or any actions that relate to the Disciplinary Policy
- maintain a dialogue with all parties to the grievance to ensure constructive, respectful, and proactive resolution of any grievances that arise

Approved Provider (e.g the Committee of Management, if applicable)

The Approved Provider has responsibility to:

- be aware of their obligations and responsibilities in relation to handling grievances.
- appoint a grievance sub-committee (if applicable) to manage the grievance investigation process and ensure it is conducted in a fair and transparent manner and without undue delay
- appoint an external and/or independent investigator to conduct the investigation as required
- facilitate satisfactory resolution of the matter between parties and/or engage mediators as required
- review the findings and resolutions for compliance with this policy and/or any actions that relate to the Disciplinary 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.

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

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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).*

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.

Resolution and Documentation

When a grievance is 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.

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