



Staff Complaints and Appeals Policy

1 Purpose

King's Own Institute (KOI) is committed to providing a workplace that is fair and equitable for all staff. This policy sets out the steps taken at KOI to give effect to this commitment, by ensuring that complaints are resolved transparently and consistently and in a timely manner.

KOI's Staff Complaints and Appeals Policy seeks to:

- Ensure the rights of the complainant, the person against whom the complaint is made and KOI are protected when a complaint is made;
- Ensure that KOI processes and procedures enable complaints to be resolved as expeditiously and effectively as possible;
- Ensure that the resolution of complaints follows the standard procedures described in this policy;
- Categorise, collate and report on complaints so that underlying causes can be addressed.

2 Scope

All KOI staff are entitled to access the complaints procedures set out in this policy regardless of the location at which the complaint has arisen.

This policy applies to all staff and contractors engaged by KOI (hereafter referred to as staff).

This policy does not remove the right of any party involved in a complaint to take further action through any other legal remedies available under Australian law.

3 Policy Principles

The following general principles underpin KOI's approach to the resolution of staff complaints:

- KOI is committed to the early and informal resolution of complaints where possible;
- A process is in place for lodging a formal complaint if the matter cannot be resolved informally – this requires a written record of the complaint or appeal to be kept;
- Each complainant has an opportunity to formally present their case and has the right of access to an appeal process at no cost;
- Each party to the complaint may be accompanied and assisted by a support person of their choice at any relevant meetings;
- The complainant is given a written statement of the outcome of a formal complaint, including details of the reasons for the outcome and their right to further appeal;
- KOI has a process whereby independent Council members or persons independent of KOI who are acceptable to the complainant hear appeals arising from the complaints and appeals process or to refer complainants to



external organisations for independent advice where appropriate.

4 Examples of the types of complaints that may be covered by this policy

All staff are expected to act in a professional and respectful manner when interacting with other staff members, students and other persons during the course of work-related activities. Inappropriate actions include, but are not limited to, aggressive actions and arguments, demeaning and derogatory behaviour, direct and indirect sexual references, bias and physical actions that could constitute assault (refer to definitions of “bullying” and “harassment” contained in Section 6). This does not mean that opinions should not be voiced and appropriate performance-related criticism should not be made, rather such communication and actions must be conveyed in a professional and respectful manner.

A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person raising, providing information about, or otherwise being involved in a complaint under this policy.

Matters that may be subject of complaints and appeals under this policy include:

- Victimisation or bullying;
- Harassment or vilification;
- Sexual harassment or assault;
- Discrimination;
- Lack of equal opportunity;
- Any matter that arises from a perception of unfair or inappropriate treatment.

5 Related Documents

The policy should be read in conjunction with:

- Fairness and Equal Opportunity Policy
- Prevention and Resolution of Sexual Harassment and Sexual Assault Policy
- Prevention and Resolution of Bullying, Discrimination and Harassment Policy
- Discipline Policy
- Staff Code of Conduct
- Staff Handbook

The above documents contain examples of circumstances that may justify lodging an informal or formal complaint.

This policy aims to provide clarity on the steps that staff can expect KOI to take if they have any concerns about their treatment in the KOI workplace.

The following NSW and Australian Federal legislation inform this and related policies or any other legislation or regulation that may arise from time to time:

- Australian Human Rights Commission Act 1986
- Anti-discrimination Act 1977
- Age Discrimination Act 2004
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984



- Privacy Amendment (Enhancing Privacy Protection) Act 2012 and the Australian Privacy Principles.

6 Policy Definitions

<i>Staff</i>	A member of staff, both permanent and casual, and contractors engaged by KOI.
<i>Complainant</i>	A person registering a complaint, both informal and formal.
<i>Complaint</i>	An expression of dissatisfaction with an act, decision or omission by a member of KOI staff.
<i>Informal Complaint</i>	A complaint made either verbally or in writing that does not involve submitting a formal written complaint.
<i>Formal Complaint</i>	A complaint made in writing using the Staff Complaints and Grievances form and submitted to the HR Manager (or, where the HR manager is the subject of the complaint, to the CEO).
<i>Assault</i>	Physical interaction between persons that is unnecessary or unwanted, particularly where that physical interaction could be considered to be aggressive and/or threatening.
<i>Bullying</i>	Occurs when an individual or group of individuals repeatedly behaves unreasonably towards another individual or group of individuals, and the behaviour creates a risk to health and safety.
<i>Harassment</i>	Any action taken that is uninvited or unwelcome and interferes with an individual's right to work in a non-threatening environment. It includes any action designed to make any individual feel intimidated, insulted, or humiliated because their race, colour, national or ethnic origin, sex, disability, sexual preference, or some other characteristic specified under antidiscrimination or human rights legislation. Harassment can also happen if someone is working in a "hostile" or intimidating environment. Harassment can include behaviour such as: • Telling insulting jokes about particular racial groups • Sending explicit or sexually suggestive emails • Displaying offensive or pornographic posters or screen savers • Making derogatory comments or taunts about someone's race or religion • Asking intrusive questions about someone's personal life, including sex life
<i>Investigator</i>	A person appointed in accordance with this policy to conduct an investigation.
<i>Appeals</i>	A request for an outcome resulting from a complaint to be reassessed.
<i>Support Person</i>	A person nominated by the staff to be present and provide support to the staff in a meeting. The Support Person can be a friend, colleague, family member, or other representative. The Support Person can take notes but will not at any point during the meeting, verbally contribute, intervene, or disrupt the meeting.
<i>Counsellor</i>	In reference to the Staff Complaints and Appeals Policy – the counsellor is a person the staff chooses to seek counsel in relating to their grievance.

7 Complaints Reporting, Investigation and Resolution Procedure

KOI recognises that misunderstandings or complaints may sometimes arise between staff or between staff and managers. It is important that these issues are acknowledged and resolved as quickly and fairly as possible.

If a staff member has a complaint, KOI will make every reasonable effort to assist the staff member in having the complaint resolved.

A staff member has two options in resolving a complaint, being:

- Attempting to resolve the matter informally – effectively this means that the staff member attempts to resolve the complaint directly with the other staff member without registering a formal complaint. Consideration should be given to the matters covered in Section 7.2.1 below.
- Registering a formal complaint – this means that a formal complaint is made in writing in accordance



with the process set out in Section 7.2.2 below.

A complainant has the option to lodge a formal complaint if they consider that their attempts to resolve the complaint informally have been unsuccessful.

7.1 Who will conduct the process?

If an informal approach as set out in Section 7.2.1 to resolving a complaint is conducted, then the complainant may approach the other staff member directly to explain their concerns without necessarily involving anyone else. However, the complainant has the option to seek counsel from another staff member, their manager or the HR Manager if they consider that obtaining such counsel would be beneficial. The complainant is under no obligation to formally advise the HR Manager unless they wish to do so.

If a formal complaint is lodged, such complaint should be lodged with the HR Manager who will then initiate the process set out in Section 7.2.2.

7.2 Recommended approaches

7.2.1 Informal Complaint approach

If a staff member has a disagreement with another person or people within KOI, or feels they are or have been the victim of discrimination, harassment or bullying, they should consider whether they can resolve the issue using an informal approach.

An informal complaint approach usually involves the complainant discussing the matter or communicating directly with the person who is the subject of the complaint in an effort to resolve the matter.

For example, it might be possible – and sufficient – for the complainant to explain clearly and unambiguously to the person concerned:

- in the case of harassment, that the behaviour in question is not welcome, that it is offensive, makes them feel uncomfortable or interferes with their work;
- in the case of bullying, that the behaviour in question is creating a risk to their health and safety;
- in the case of a complaint, how they feel they have been treated unfairly or unjustly, and how that is affecting them.

The complainant should consider whether an informal approach is possible and appropriate and if they are comfortable to do so. An informal discussion can be worthwhile as the person concerned may be unaware that their behaviour is unacceptable to the complainant, or that it may create a risk to their health and safety.

A complainant has the option to seek counsel from another person, including their direct supervisor or manager or the HR Manager. However, in seeking counsel, both the complainant and the counsellor should familiarise themselves with the content of this policy and consider their options before conducting an informal approach. Both the complainant and the counsellor should consider the seriousness of the complaint before deciding to conduct an informal approach.

In the event that the complaint involving a serious incident, such as sexual harassment, bullying or a criminal act in any form, KOI strongly recommends that a formal complaint is lodged so that due process can be followed and that evidence associated with the complaint can be fully documented. Failure to formally report a serious incident could impact KOI's ability to address the matter in an appropriate and timely manner.

While acknowledging that there are risks associated with adopting an informal approach and that the matter will be "off the record", if the issue is pointed out at an early stage, the situation may be resolved satisfactorily.

If an informal approach is to be attempted, the affected staff member should have raised their concerns within 20 working days of the disagreement or concern arising.



An informal complaint approach may take the form of:

- the complainant having a private meeting with the person concerned without witnesses; or
- the complainant having a meeting with the person concerned which is attended by a witness; or
- the complainant providing written notice to the person concerned that their actions are inappropriate; or
- another method that may be appropriate in the circumstances.

If informal approaches are not possible or effective, the affected person should follow the formal procedure set out below and lodge a formal complaint as soon as possible.

7.2.2 Formal Complaint approach

The complainant should make their formal complaint in writing, using the prescribed Staff Complaints and Grievances form, to the HR Manager setting out the details of the complaint, discrimination, unwanted conduct, bullying, or unfair or unjust conduct. The affected person should lodge the complaint within 20 working days of the disagreement or concern arising, or within 20 working days of an unsuccessful attempt at an informal approach to resolve the concern.

In the event that the formal complaint involves the HR Manager, the formal complaint should be lodged with the CEO who shall either personally manage the complaint resolution process or will delegate this responsibility to an appropriate executive.

After a formal complaint has been lodged in writing, KOI requires the complaint to be investigated. Any person involved in the complaint may be requested provide sufficient information to enable the complaint to be fully investigated.

Investigations will be conducted by a person appointed by KOI and acceptable to the complainant as follows:

- Where a staff member, other than the CEO, a member of the Senior Executive Group or the HR Manager, is the subject of a formal complaint, the investigation should be conducted by either the CEO, a member of the Senior Executive Group or the HR Manager, as appropriate, or an independent investigator acceptable to the complainant. In most instances, the HR Manager will conduct the investigation, but the HR Manager should consult with the CEO if the circumstances of the complaint involve sensitivities, before appointing an appropriate investigator.
- Where the HR Manager is the subject of a formal complaint, the investigation should either be conducted by the CEO or an appropriate investigator acceptable to the complainant appointed by the CEO.
- Where a member of the Senior Executive Group is the subject of a formal complaint, the HR Manager must consult with the CEO to determine whether the investigation should be conducted by the CEO or through the appointment of an appropriate investigator acceptable to the complainant.
- Where the CEO is the subject of a formal complaint, the HR Manager must consult with the Chair of Council to determine how the complaint should be investigated, including who should be appointed as an appropriate investigator acceptable to the complainant.

Persons appointed by KOI as investigators, as described above, may, depending on the circumstances of the formal complaint be the HR Manager, a member (or members) of the Senior Executive Group, the CEO, a member (or members) of the Council, or an independent external person approved by the CEO (or where the CEO is the subject of the complaint, by the Chair of Council) and acceptable to the complainant. In appointing an appropriate investigator, consideration must be given to the potential for conflicts of interest and/or bias in conducting an investigation, and every effort should be made to avoid the potential for conflicts of interest and/or bias.

If a staff member objects to the person KOI nominates to conduct an investigation, they must have reasonable



grounds for doing so and must state them clearly to KOI before the investigation commences. KOI will make reasonable efforts to find an acceptable alternative approach and appoint an investigator acceptable to the complainant.

An investigation will be carried out with all due respect for the rights of both the complainant and the subject of the complaint. This will usually include providing the subject of the complaint with full details of the complaint, to allow them procedural fairness in responding to the complaint.

Wherever possible, formal complaints will be resolved and all parties advised of the outcome within 20 working days of the complaint being lodged with KOI.

It should be noted that wilful misconduct complaints can amount to bullying/harassment in and of themselves.

Confidentiality and privacy requirements will be maintained throughout the process, including during any investigation that may be required. If it is necessary to interview witnesses, the importance of confidentiality and privacy will be made clear to the complainant and witnesses. A breach of confidentiality by any party may be subject to disciplinary action in accordance with this policy.

A formal report must be prepared setting out the result of the investigation, together with recommendations for disciplinary action, if required, which will be submitted to the CEO for consideration and implementation of appropriate actions. In the event that the subject of the complaint is the CEO, the formal report setting out the result of the investigation shall be submitted to the Chair of Council, with actions resulting from the investigation being considered by Council. All decisions regarding the complaint should be formally communicated to the complainant and the person who is the subject of the complaint.

In the event that the complaint involves potential criminal acts, or other acts that are reportable to relevant authorities, KOI will comply with its legal obligation to report such acts and comply with the requirements of any investigations by external parties.

All persons involved with the formal complaint have the right to appeal the decisions made as a result of the investigation in accordance with the procedures set out in Section 8.

7.2.3 Possible outcomes

If, after an investigation, KOI considers that discrimination, harassment or bullying has occurred, or that there has been unfair treatment or a breach of a KOI policy, KOI will take all reasonable steps to resolve the matter. For example, to:

- eliminate the discriminatory behaviour or practice
- redress the unfair treatment
- stop the harassment or bullying from continuing

This action may include:

- the complainant receiving a verbal and/or written apology from the respondent with a commitment to cease the bullying behaviour
- the parties being required to participate in some form of counselling or mediation
- the respondent undertaking training in relation to their behaviour in the workplace
- drawing up a management plan to document agreed or proposed actions by the parties, such as a performance review or performance improvement plan
- relocation or transfer – if it is necessary (and possible) to relocate or transfer one party, KOI will consider allowing one party to choose whether the party wish to remain in their post or be transferred to another location or position
- monitoring - if appropriate, KOI will monitor the situation to ensure that the grievance, discrimination, harassment or bullying has ceased

KOI may also take disciplinary action in line with the Discipline Policy.



Even if the complaint is found not to be valid, KOI may consider other arrangements which mean that the affected party and the subject of the complaint do not have to continue to work together. This might include transferring either the affected party or complainant, or rescheduling work.

8 Appeals Process

8.1 Approach

Complainants and/or persons subject to a complaint have 20 working days from the date of being advised of the outcome of the investigation and the determination of the disciplinary actions if they are dissatisfied with the resolution, or if no resolution has been reached.

Appeal applications must be lodged with the CEO and acknowledged within five working days of the appeal being lodged. If the CEO is lodging the appeal, then the appeal should be submitted to the Chair of Council.

The CEO (or, if the CEO is submitting the appeal, the Chair of Council) will convene a three-person Staff Appeals Committee comprising either persons independent of KOI or independent members of Council (or a combination of both) all of whom who are acceptable to the complainant. Depending upon availability, the independent members of Council who would normally be requested to constitute the Staff Appeals Committee will be the Chair (or Acting Chair) of Council, the Chair of the Audit and Risk Committee and one other independent member of Council, as appropriate.

The Staff Appeals Committee shall determine its own procedures in accordance with the principles of natural justice. The Staff Appeals Committee may conduct hearings, interviews, consider available evidence and procedural compliance, authorise further investigations and seek oral or written submissions from people it believes can assist in its deliberations by way of evidence or expert opinion.

Wherever possible, appeals will be resolved and the outcome reported to the CEO within twenty working days of the appeal being submitted, but the time line may be extended if the Committee believes this to be necessary to allow full and proper consideration of the issues raised.

The CEO will communicate the result of the appeal to all parties to the complaint in writing within five working days of concluding the appeal. This communication will include the right of avenues to any external reporting options that may be available, including those available under Australian law.

8.2 Possible Outcomes

Possible outcomes as a result of the appeal may include the following:

- Uphold the appeal;
- Dismiss the appeal;
- Vary the outcomes of the earlier investigation;
- Recommend changes to existing policies and procedures;
- Recommend additional remedial actions;
- Recommend referral to an appropriate external body.

An appeal may be rejected if:

- No reasonable grounds are stated for the appeal;
- No new or different grounds for the appeal are stated from those already considered during the previous investigation;
- The appeal is lodged outside the time limits stipulated in this policy.



9 Withdrawal

A complainant, at any time in the process, declare that their formal complaint or appeal is withdrawn. Such a declaration must be made in writing to either the HR Manager or CEO. It is not necessary for a complainant to provide a reason for the withdrawal of the formal complaint or appeal.

10 Documentation and Documents

At all stages of the formal complaints and appeals process, reasons and a full explanation in writing for decisions and actions taken will be provided to the parties to the complaint.

The following documentation in support of the complaint and the ensuing investigation will be maintained:

- Written records of all formal complaints, appeals, and outcomes, and will be held in a confidential repository with access only with permission of the CEO;
- Sufficient details of all formal complaints will be recorded in the Staff Complaints Register and whether or not a resolution has been reached.
- The identities of the parties to the complaint will remain confidential and in compliance with the Privacy Amendment (Enhancing Privacy Protection) Act 2012 and the Australian Privacy Principles, or any other relevant legislation or regulation that may arise from time to time.
- A report based on the Staff Complaints Register that is reviewed by the Audit and Risk Committee and the Council at each meeting as part of their oversight of risk management.

11 Confidentiality and Security

All reasonable efforts are taken by the staff and management of KOI to ensure that the principles of privacy, confidentiality, security are maintained throughout the administration of complaints and appeals.

All staff and independent persons designated to access information in relation to complaints will preserve confidentiality in accordance with KOI's Privacy Policy, the Privacy Amendment (Enhancing Privacy Protection) Act 2012 and the Australian Privacy Principles, or any other relevant legislation or regulation that may arise from time to time.

Records relating to complaints will be retained and disposed of in accordance with the Documents and Records Control Policy.

12 Training and Education

The HR Manager must ensure that all new staff members are informed about their responsibilities and rights under this and associated policies at the commencement of employment with KOI.

Periodic refresher training and education programmes should be provided to employees, and at least every three years, to ensure that all staff members understand their obligations and responsibilities in accordance with this and related policies.

13 Roles and responsibilities

The CEO and President has overall accountability for the wellbeing and safety of students and staff engaged in activities conducted by KOI.



The HR Manager is responsible for the carriage of this policy and for staff training on complaints resolution.

The HR Manager will provide a trimester report to the CEO and President and an annual report to the Council on the operation of this policy, types of complaints and responses to them and information and training in relation to this policy.

Document Control

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