



Discrimination, Harassment & Bullying Policy

St Bernard's College is committed to a culture of "zero tolerance" for child abuse. We promote a culture that prioritises the safety and wellbeing of all young people and continue to respond positively and proactively to Ministerial Order 1359 in relation to related policies, procedures, strategies, risk mitigation and our responsiveness to emerging issues. St Bernard's College is committed to the establishment of a culturally safe environment in which the diverse and unique identities and experiences of Aboriginal and Torres Strait Islander young people are respected and valued.

Rationale

St Bernard's College recognises the importance of demonstrating respect for the dignity of each person and of creating an environment where a sense of belonging for all is experienced. These aspirations are central to the wellbeing of individual staff and to a workplace where all staff feel safe and respected.

Aims

The College is committed to building and nurturing a workplace that is free from discrimination, harassment, bullying and victimisation. It is important that all staff share a responsibility for upholding professional standards of conduct and for building and nurturing a workplace where discrimination, harassment, bullying and victimisation do not occur. It is therefore expected that staff will desist from engaging in or condoning such behaviours and practices.

This policy and its accompanying procedures are compliant with the legislative framework under which the College operates. The College is guided by the applicable legislation in determining its prevention and intervention measures.

Definitions

Respondent: the person who is alleged to have engaged in conduct inconsistent with this policy.

Complainant: means the person who made the complaint, or in the case of complaints made on behalf of another person, the person who is alleged to have been the subject of bullying, harassment or discrimination.

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

Policy Statement

Discrimination, harassment or bullying against employees, students, contractors, volunteers or visitors by any member of the College community is unacceptable and contrary to the College Policy. Discrimination, harassment and bullying may:

- create an intimidating, hostile or distressing work or study environment;
- adversely affect the health and performance of a person or groups of employees;
- lead to increased absenteeism, reduced employee productivity and motivation;
- result in the loss of experienced and skilled employees through resignation;
- adversely affect a person's recruitment, level of appointment, promotion and progression

Principles

- The College is committed to building and nurturing a workplace that is free from discrimination, harassment, bullying and victimisation.
- The College is committed to implementing awareness-raising programs and strategies that heighten staff members' understanding of the impact of their behaviour on others and awareness of their rights and responsibilities.
- The College aims to achieve resolution of complaints of perceived or actual incidents of discrimination, harassment, bullying and/or victimisation promptly. The College will endeavour to ensure that the offending behaviour stops.
- The College aims to respond to complaints or reports of discrimination, harassment, bullying and/or victimisation in a sensitive, fair and timely manner.
- The College encourages the reporting of behaviour which is perceived to be in breach of this policy and will endeavour to ensure protection of the complainant(s) from any subsequent victimisation.

Values

It is expected that staff will uphold the values underpinning the EREA Charter and comply with the law, to:

- Uphold the dignity and respect for the individual;
- Promote the principle of equal opportunity;
- Refrain from any behaviours that impinge negatively upon a person's dignity and rights, morale and work effectiveness;
- Contribute to quality of life through respect and tolerance;
- Protect cultural and social diversity; and
- Engender fairness and respect in relationships.

Natural Justice

The principles of natural justice and procedural fairness will apply to processes applied and decisions made under this policy.

Unlawful Discrimination

Discrimination is treating, or proposing to treat, someone unfavourably because of a personal characteristic protected by the law, such as sex, age, race or disability. Workplace discrimination can be either direct or indirect discrimination against a person on the basis of an attribute, which is protected under State and Commonwealth anti-discrimination legislation (see full list below). It is irrelevant whether or not a person intends to discriminate against another person.

Direct discrimination is when someone is treated unfavourably because they have an attribute protected by law. Examples include insulting jokes about a particular racial group or making derogatory comments or taunts about people's age, sexual preference, race or religion.

Indirect discrimination is when a condition, requirement or practice has the effect of disadvantaging people with a particular attribute protected by law and that condition, practice or requirement is not reasonable. An example is the practice of holding a meeting in an upstairs classroom when it could easily be held downstairs and that practice disadvantages a staff member who is mobility impaired and is not able to attend the meeting.

The attributes protected by State and Commonwealth anti-discrimination laws are as follows:

- Age;
- Breastfeeding;
- Disability (mental or physical);
- Employment activity;
- Gender identity;
- Industrial activity;
- Lawful sexual activity;
- Marital status;
- Parental/carer status;
- Irrelevant criminal records;
- Social origin;
- Medical record;
- Physical features;
- Physical or mental disability;
- Political belief/activity;
- Pregnancy;
- Race or national extraction;
- Religious belief/activity;
- Sex; and
- Sexual orientation and social origin;

It is also unlawful to discriminate against someone on the basis of:

- their association with a person with one of the above attributes (for example, treating someone unfavourably because their brother has a disability); or
- their perceived attribute (that is, where it is thought that a person possesses an attribute whether they in fact possess it or not).

Victimisation

Staff members must not victimise any other person. Victimisation is subjecting or threatening to subject another person to any detriment because they have asserted their rights under equal opportunity law, made a complaint, helped someone else make a complaint, or refused to do something because it would be discrimination, harassment or bullying.

Harassment

The College is committed to providing all employees with a harassment-free work environment.

Harassment is a form of discrimination. It consists of unwelcome, embarrassing, unsolicited, offensive, abusive, belittling or threatening behaviour directed at an individual or group because of some real or perceived attribute such as a person's ethnicity, sexuality, or disability in circumstances which a reasonable person, would have anticipated that the person harassed would be offended, humiliated or intimidated.

Harassment can be any one or more of the following:

- verbal comments or abuse eg persistent jokes or innuendos of a sexual nature
- swearing
- bullying
- Stalking
- a demand or inappropriate request for sexual/romantic favours
- crude jokes, derogatory comments, offensive messages or phone calls
- graffiti with racial overtones
- name calling, physical threats and offensive gestures
- campaigns of hate and silence
- persistent or intrusive enquiries into someone's private life, sexuality, or physical appearance
- leering, patting, pinching, touching
- displays of offensive screen savers, calendars, posters, pictures, graffiti or objects

If such behaviour makes an employee feel offended, humiliated or intimidated, then harassment and/or discrimination is occurring in the workplace and immediate action is required.

Harassment can occur on the basis of any of the grounds of discrimination.

○ **Sexual Harassment**

Sexual harassment is any unwanted, unwelcome or uninvited behaviour of a sexual nature in relation to another person in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be humiliated, intimidated or offended.

Sexual harassment can take many different forms and may include:

- physical contact including touching, patting, pinching, kissing or embracing someone, deliberately brushing up against someone, sexual assault and rape;
- verbal comments including insults or taunts of a sexual nature, offensive jokes, suggestive comments about someone's appearance or body, persistently inviting someone out, intrusive questions about a person's private life, requests for sexual favours;
- non-verbal actions including leers, stares, displays of sexually explicit material such as posters, magazines or screen savers, offensive body and hand movements, sending sexually explicit emails or texts messages, suggestive letters and drawings, including email, indecent exposure, stalking, and inappropriate advances on social networking sites.

It is not considered sexual harassment when a person welcomes or invites another person's attention. However, what may be socially acceptable may not be appropriate professional behaviour in the workplace.

○ **Racial Harassment**

Racial Harassment occurs when a person or group uses discriminatory remarks, behaviours or practices to show racial intolerance against a co-worker or their colour, descent, culture, language or religion. Racial harassment is found in many forms including:

- Abusive, threatening or insulting words and behaviour;
- Deliberate exclusion from conversations;
- Displaying abusive writing and pictures;
- Insensitive jokes related to race; and
- Pranks.

Bullying

Workplace Bullying is defined as repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety.

Bullying includes the following elements:

- Unreasonable behaviour, which is behaviour that a normal person would consider to be unreasonable when considering the circumstances surrounding the behaviour. Unreasonable behaviour includes victimizing, humiliating, intimidating or threatening another person.
- Repeated behaviour, which refers to the persistent nature of the behaviour and can involve a range of behaviours over time
- It occurs in the workplace
- It is intimidating, threatening or insulting and
- It creates a risk of psychological or physical harm.

Single incidents of unreasonable behaviour do not constitute workplace bullying but can present a risk to health and safety and will not be tolerated by the College.

Workplace Violence

Violence and aggression include: verbal and emotional abuse or threats; and physical attack to an individual or to property by another individual or group. The impact of violence on a victim depends on the severity of the violence, his or her own experiences, skills or personality.

Violent acts include:

- Verbal abuse, in person or over the telephone
- Written abuse
- Harassment
- Threats
- Ganging up, bullying and intimidation
- Physical or sexual assault
- Armed robbery
- Malicious damage to the property of staff or the College

Workplace violence may not always be a critical or extreme situation from the outset. It sometimes follows a pattern of escalating behaviour – from agitation, expressed anger or

frustration and intimidating body language, to verbal/written abuse and threats, physical threats, or assault. Violence can be internal to the organisation or from external sources.

The complaints procedure should be followed in the event of a complaint of workplace violence, however in a severe instance of violence you are required to immediately remove yourself from the situation and report the instance to the HR manager or Principal. The same potential outcomes described in the procedure will apply.

What is not discrimination, harassment, bullying or victimisation

Discrimination, harassment, bullying and victimisation should not be confused with reasonable management action in relation to work performance or conduct of a person or a group which is not related to a protected attribute and which may include:

- setting performance goals, standards and deadlines.
- deciding not to select a worker for promotion.
- informing a worker about unsatisfactory work performance.
- informing a worker about inappropriate behaviour.
- implementing organisational changes.
- feedback on work performance.

Responsibilities

• Responsibilities of the College

The College has a duty of care to ensure the health, safety and wellbeing of staff, contractors, volunteers, visitors and students. This means that all reasonable steps to prevent harassment, discrimination and bullying in the workplace need to be taken. The College is therefore required to actively implement precautionary measures such as policies, procedures and training to minimise the risk occurring.

In exercising its responsibilities in this regard, the College:

- develops, implements and advises on policies and procedures;
- holds supervisors and staff to the relevant responsibilities; and
- conducts training of supervisors and staff.

• Responsibilities of Team Leaders and Managers

All team leaders and managers have a responsibility to:

- a. ensure the Harassment, Bullying and Discrimination Policy is adhered to; and
- b. take appropriate action in circumstances where they become aware of existing or possible harassment, bullying or unlawful discrimination.

Supervisors and managers are empowered to act to prevent and address issues that could be discrimination, harassment and bullying. This includes:

- **Early intervention**, which relates to actions taken to prevent discrimination, harassment and bullying and promote a harmonious and respectful workplace;
- **Informal resolution** - the process for dealing with grievances at a local informal level by the supervisor or manager (refer to *Procedures for resolving complaints* section below);

- **Formal grievances**, which generally relate to serious issues where it is possible that disciplinary action, could result from the investigation. The supervisor or manager's role is to support the work area during this process (refer to *Procedures for resolving complaints* section below).

- **Responsibilities of Staff Members**

It is the responsibility of all staff members to help prevent discrimination, harassment and bullying in the workplace by:

- recognising and valuing the skills and talents of others;
- respecting cultural and social differences among colleagues and students;
- treat other staff, contractors, volunteers and students fairly and equitably with courtesy and respect as defined in the EREA Code of Conduct.

As a supervisor or manager, these are the expectations you should have of the behaviour of staff members in your work area and regularly communicate and reinforce these.

Procedure for resolving complaints

A complaint can be resolved using informal resolution processes and/or formal resolution processes. The approach taken should reflect the seriousness of the matter. For less serious matters, informal resolution processes should be explored prior to a formal resolution procedure.

For more serious matters, or where informal approaches have been unsuccessful, a formal procedure may be appropriate.

For the purposes of complaint resolution processes:

- A person who makes a complaint is a Complainant; and
- A person about whose actions or behaviour a complaint relates is a Respondent.

- **Informal resolution processes**

The informal options open to a Complainant to attempt to resolve a complaint include:

- speaking directly with the Respondent about their behaviour or actions;
- consulting with a Contact Officer for advice, support and assistance; and/or
- reporting the matter to a member of the Leadership Team for assistance.

Informal resolution processes do not involve an investigation or making findings based on an investigation. A 'no blame' approach is therefore appropriate for dealing with matters informally.

a) Speaking directly with the Respondent

In the first instance, if the Complainant feels comfortable about speaking directly with the Respondent, this may be the quickest and easiest way of resolving the matter. The Complainant should address the issue with the Respondent in unambiguous terms and in plain language. If the Complainant does not wish to speak to the Respondent verbally,

another option is to address the issue with the Respondent in writing, rather than face to face.

b) Consulting with a Contact Officer

If the Complainant does not feel comfortable about approaching the Respondent directly (this may be the case particularly where the Respondent is in a position of authority), the Complainant may prefer to seek the assistance of a Contact Officer. A Contact Officer can provide information and support to the Complainant and/or Respondent regarding discrimination, harassment or victimisation issues, including options for resolving the matter. Contact Officers do not take any action on behalf of the staff member such as approaching the Respondent or conducting mediation.

c) Reporting the matter to a member of the Senior Leadership Team

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

Where appropriate, and in consultation with the Complainant, the member of the Leadership Team may approach the Respondent and talk to them informally about the matter.

Other informal resolution options which may also be considered include facilitated discussion, mediation, and entering into mutual agreements on workplace practices.

• Referral to formal investigation

Note that at this stage, if a matter raised is sufficiently serious such that a formal investigation is warranted, then the College reserves its right to take appropriate action in the circumstances, including referring the matter to formal internal investigation (see below).

a) Formal resolution processes – Internal

If a matter is not able to be resolved using informal resolution methods, or for more serious matters a formal process may be appropriate.

b) Lodging a formal complaint

A formal complaint can be made by a Complainant to the Principal and should be in writing and set out the details of the specific allegations including dates, times, locations, what happened, what was said, witnesses (if any), and steps already taken to attempt to resolve the matter. Wherever possible, it should be supported by relevant documentation. Note that a complaint may not be pursued if it relates to events that occurred more than 12 months ago.

c) Initial response

Following receipt of a formal complaint, the Principal will meet with the Complainant to discuss the complaint. This will involve canvassing options for resolution which may include informal resolution processes. In the event that the complaint is to be dealt with formally, the Complainant will be informed of:

- Whether and how the complaint will be investigated (e.g. interviews, viewing documents);
- The expected timeframe for any investigation;

- Who can be present at investigation interviews;
- What support is available for persons involved in the process;
- The interim measures, if any, that will be implemented to ensure the health, safety and welfare of any person pending the resolution of the complaint; and
- If the complaint raises issues which place the College under a legal obligation to report the matter to law enforcement agencies.

d) Formal internal investigation

Where appropriate, a formal investigation may be conducted into a complaint. An Investigating Officer will be appointed by the Principal to conduct the investigation. The Investigating Officer is someone who is independent and will conduct the investigation impartially. The Investigating Officer will:

- Interview the parties involved, and witnesses if any;
- Review relevant evidence, such as emails and other documentary evidence; and
- Report to the Principal on whether or not the complaint is substantiated.

e) Investigation outcomes and action to be taken

If a complaint is substantiated, appropriate action, will be taken which may include:

- An apology;
- Changes to work practices;
- Disciplinary action, including dismissal;
- An undertaking that the behaviour will not be repeated;
- Reversal of an action or decision or substitution of a different action or decision; and/or
- Training.

Assistance may also be offered to a Complainant or other persons involved which may include:

- Counselling;
- Redressing any inequality resulting from the action or decision the subject of the complaint;
- Mentoring and support.

If an investigation is inconclusive (i.e. a complaint cannot be proved due to a lack of evidence) further action may nevertheless be taken which may include counselling, mediation, changed working arrangements and/or conducting training for employees on relevant policies.

f) Formal complaint – External

A Complainant may choose to seek assistance, information and/or mediation support at anytime during the process from a range of statutory and employee support agencies in Victoria. Information and contact details for the support agencies are outlined in Appendix 2.

Each agency will have specific requirements for lodging a complaint and will have varied investigation procedures.

In dealing with complaints, the Principal may seek external advice and assistance from professional mediators, investigators, external agencies and any other appropriate persons.

Confidentiality

Anyone involved in a complaint of discrimination, harassment, bullying or victimisation or its investigation, must ensure that the circumstances and facts of the complaint are disclosed only to those people who are directly involved in progressing its investigation and resolution. In particular, it is important that staff who either make a complaint, or who may be witnesses to the circumstances giving rise to the complaint, do not discuss the matter outside the investigation and resolution processes.

Counselling support

In confronting and/or resolving experiences of or allegations of discrimination, harassment, bullying and victimisation a staff member and his/her immediate family members may utilise the services of counselling support at any stage of the process. The College is a member of ACCESS, an Employee Assistance Program (EAP). The contact phone number for ACCESS is 1300 66 77 00. Brochures are available in the staff rooms or from the Human Resources Manager.

Vexatious claims

The College will not deal with complaints that:

- are made anonymously, without sufficient detail being provided so as to allow investigation or resolution of the matter;
- taken at their highest, do not constitute discrimination, harassment, bullying or victimisation as defined by this policy.

Where a Complainant makes frivolous, vexatious or malicious claims against a Respondent, for example, where false or misleading information is provided, relevant information is withheld, facts are distorted or there is no demonstrated commitment to resolution, then depending on the circumstances, disciplinary action may be taken against a Complainant.

Breach of the Policy

Breach of this policy may have the following consequences:

- disciplinary action, up to and including termination of employment.
- the complainant receiving an oral or written apology from the respondent with a commitment to cease the inappropriate behaviour;
- the parties being required to participate in some form of counselling, mediation or conciliation;
- the respondent undertaking training in relation to their behaviour; and
- devise a management plan to document agreed or proposed actions by the parties.

Appendices

Appendix 1: Complaints Procedure Flow Chart

Appendix 2: External Support Agencies

Related Policies

- College Anti-Bullying Policy
- EREA Code of Conduct
- Victorian Teaching Profession Code of Conduct issued by the Victorian Institute of Teaching

- Occupational Health & Safety Policy

Relevant Legislation

- Workplace Gender Equality Act 2012
- Australian Human Rights Commission Act 1986
- Disability Discrimination Act 1992
- Sex Discrimination Act 1984
- Racial Discrimination Act 1975
- Age Discrimination Act 2004

Commonwealth

- Fair Work Act 2009

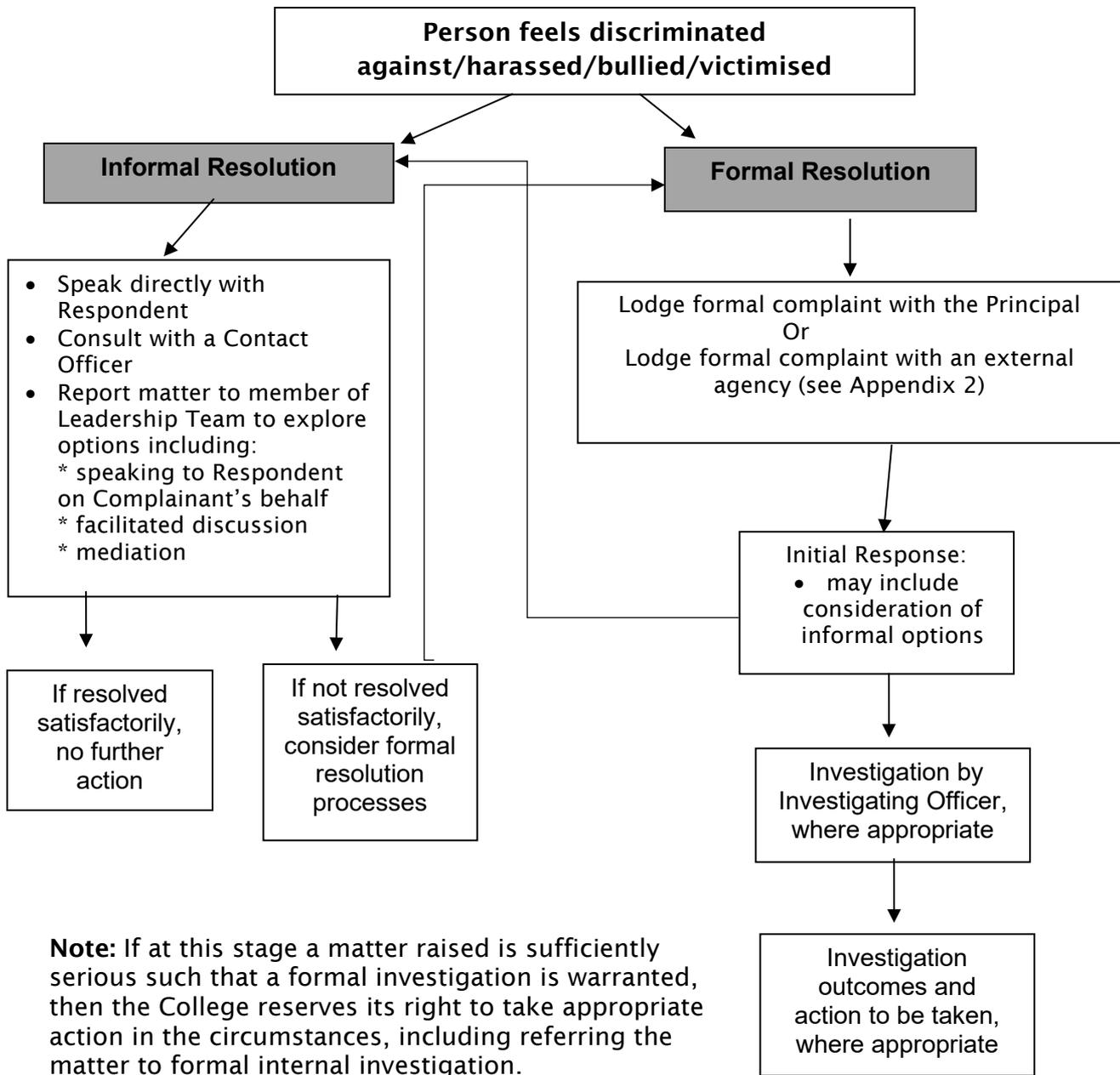
Victoria

- Equal Opportunity Act 2010

Policy Review

First Approved:	June 2014
Last Reviewed/Amended:	March 2021
Principal and Ratification Date:	March 2021
Next Review Date:	March 2023

**Appendix 1
Complaints Procedure Flowchart**



Note: If at this stage a matter raised is sufficiently serious such that a formal investigation is warranted, then the College reserves its right to take appropriate action in the circumstances, including referring the matter to formal internal investigation.

CONTACT OFFICERS:

Michael Davies – Principal
Therese Wilson – Deputy Principal

Appendix 2

Support Agencies

Victorian Equal Opportunity and Human Rights Commission (VEOHRC)

Level 3, 380 Lonsdale Street Melbourne VIC 3000

VEOHRC is the State body that addresses complaints of discrimination, sexual harassment and racial and religious vilification.

For information information@veohrc.vic.gov.au
To make a complaint complaints@veohrc.vic.gov.au
Website www.humanrightscommission.vic.gov.au
Advice Line (03) 9281 7100

Australian Human Rights Commission (AHRC)

Level 3, 175 Pitt Street Sydney NSW 2000

The AHRC is the Commonwealth body that addresses complaints of discrimination and sexual harassment.

For resources education@humanrights.gov.au
To make a complaint complaintsinfo@humanrights.gov.au
Website www.hreoc.gov.au
Advice Line 1300 656 419

Job Watch

Job Watch provides employees with assistance regarding their rights at work. They offer a confidential information line and referral service.

Melbourne residents Phone: 9662 1933

Email jobwatch@jobwatch.org.au
Website jobwatch.org.au

Alternative Dispute Resolution Services (ADRS)

ADRS offer mediation, arbitration and alternative dispute resolution personnel and resources. Such services are contingent on both parties to a conflict being willing to participate and a workplace that is supportive of this approach. The Australian Dispute Resolution website provides the public with a database of service providers.

Website www.ausdispute.unisa.edu.au

Beyondblue

Beyondblue provides people with access to information for depression and anxiety related matters. They can also make referrals to other relevant services.

Phone 1300 224 636
Website www.beyondblue.org.au

ACCESS

The College is a member of ACCESS, an Employee Assistance Program (EAP). ACCESS provide staff with a confidential, solution focussed counselling serviced paid by the College. The program is designed to offer an effective means of assisting employees with problems relating to job performance and personal well-being.