

# Investigations guideline

## Purpose

This guideline describes the recommended steps to be taken in investigations conducted by Toowoomba Catholic Schools (TCS), to ensure that investigations are dealt with in accordance with the principles of natural justice and procedural fairness.

The guideline is underpinned by the principles that investigations should be

- **timely** - investigations should be conducted as promptly as possible
- **thorough** - all appropriate lines of inquiry are followed and considered
- **fair** - all parties have a fair hearing
- **focused on resolution** for all parties.

## To whom it applies

All schools/colleges and the Toowoomba Catholic Schools Office (TCSO) may follow this guideline. The guideline also applies to investigations involving volunteers.

## Related legislation, policies, frameworks, procedures

- [Employment policy](#)
- [Addressing workplace bullying and harassment procedure](#)
- [Addressing sexual harassment, discrimination, victimisation and vilification procedure](#)
- [Disciplinary action procedure](#)
- [Resolution of complaints procedures - employees](#)
- [Student Protection processes and guidelines](#)

## Guideline

### Level 1 investigations

1. A Level 1 investigation will be conducted where all of the following criteria are met.
  - a. A complaint, allegation or report (in any form) is received which alleges conduct or behaviour by a staff member, principal or volunteer (the respondent) that contravenes the TCS Code of Conduct or any TCS policy, procedure or guideline.
  - b. The alleged conduct, if proven, would warrant either no or low-level disciplinary action only.
  - c. The principal, or Director: People and Engagement Services (Director: PES) considers the matter could be dealt with effectively at the local level.
2. Level 1 investigations may also result from one or more allegations of minor behaviour or conduct by the respondent. This may include, but is not limited to
  - a. lateness for or poor attendance at work
  - b. taking long breaks
  - c. excessive personal phone calls during work time
  - d. inappropriate comments at work
  - e. poor attitude towards work colleagues/students/parents/visitors
  - f. minor grievances
  - g. minor incidents as defined by the Student Protection processes and guidelines.
3. Level 1 investigations (apart from those resulting from allegations against principals) will be coordinated locally by principals, managers and supervisors in consultation with Professional Standards.

4. Professional Standards must be contacted at the outset of any Level 1 investigation to provide further information and/or assistance.
5. Resolving Level 1 investigations is the responsibility of the principal, manager or supervisor (or nominated person where the allegation is against the principal), however advice can be sought at any time from Professional Standards to help formulate a plan to effectively address the issue.
6. Strict confidentiality shall be maintained at all times.
7. If the allegation is against a principal, the Director: PES will determine the appropriate person to conduct the assessment and intervention at the school level.
8. A Level 1 investigation will generally commence with a 'private conversation', where the concerns are raised by the principal, manager, supervisor or nominated person with the respondent.
9. In the private conversation in a Level 1 investigation, the following points should be addressed.
  - a. the detail of the allegations against the respondent
  - b. the response from the respondent – noting that the respondent may need more time to provide a response
  - c. confidentiality in terms of information sharing
  - d. that the respondent can access the Employee Assistance Program (EAP)
10. A respondent may admit to allegations made against them. Where this occurs, the inappropriate behaviour will then be addressed through documented management guidance and/or correction.
11. Conciliation/mediation may be provided if desired by the complainant.
12. Should the respondent deny or contest the allegation/s against them, the principal, manager or supervisor (or nominated person where the allegation is against the principal) must decide whether further information gathering is required or whether management guidance will suffice.
13. The decision regarding whether and how further information should be gathered will depend on factors such as the seriousness of the allegation/s, the attitude of the complainant/s, any records held in relation to the respondent and the likelihood of the allegation/s being able to be substantiated given the circumstances.
14. Where the assessment deems further action is warranted, the principal, manager or supervisor (or nominated person where the allegation is against the principal) will formulate a plan to address any inappropriate behaviour or conduct and provide support as required. This may include mediation and/or conciliation, management correction and guidance, or escalation to a higher level if warranted.
15. The resolution of all Level 1 investigations must be documented and provided to Professional Standards. Documentation must include
  - a. the details and circumstances of the reported matter
  - b. the action taken by the principal, manager or supervisor (or nominated person where the allegation is against the principal) to assess the matter, and
  - c. the outcome.
16. The outcome should also document the respondent's account of the incident, state whether or not the behaviour alleged has been admitted to or not by the respondent, and clear details of the advice/guidance that has been provided to the respondent.
17. The outcome should also indicate if the behaviour alleged is assessed to be contrary to the TCS Code of Conduct or any other relevant policy, procedure or guideline.

18. At the completion of the Level 1 investigation and following review of the matter by the Manager: Professional Standards, the respondent will be formally advised of the outcome by the principal, manager or supervisor, which should occur in writing.
19. Where the matter is not able to be resolved through a Level 1 investigation, consideration will be given to undertaking a higher-level investigation.
20. Where a student is involved, their parent/legal guardian is to be advised in writing of the completion of the investigation unless there are extraordinary reasons why this should not occur, in which case the reasons should be endorsed by Professional Standards and then documented.
21. Any other complainants (including students) are also advised of the completion of the investigation.
22. All documentation should be kept on a confidential file at school level, or at the TCSO if the report concerns the principal or a staff member of TCSO.
23. A copy of all documentation is also to be submitted to Professional Standards and stored securely.

## **Level 2 investigations**

1. A Level 2 investigation will be conducted where any of the following criteria are met.
  - a. a complaint, allegation or report (in any form) has been received which alleges conduct or behaviour by a staff member, principal or volunteer (the respondent) that contravenes the TCS Code of Conduct or any TCS policy, procedure or guideline, and the alleged conduct, if proven, would warrant formal disciplinary action which may range from a formal warning to termination of employment
  - b. the alleged conduct constitutes repeated instances of conduct that has been previously addressed as Level 1 investigations
  - c. a conflict of interest or other circumstances exist such that it is not reasonable that the matter is dealt with at the school level
2. Level 2 investigations commence once allegation/s amounting to serious performance, behaviour or conduct concerns by a staff member, principal or volunteer are received. This may include, but is not limited to
  - a. instances where the Director: PES determines further action is required following a Queensland Police Service (QPS) investigation
  - b. discrimination, bullying or harassment
  - c. failing to follow a reasonable and lawful direction from a principal, manager or supervisor
  - d. verbal or physical abuse
  - e. improper use of finances or other workplace resources (motor vehicle, internet, etc)
  - f. endangering others through irresponsible or negligent actions
  - g. using or threatening physical violence
  - h. serious neglect of duty
  - i. deliberate damage to workplace property
  - j. being under the influence of alcohol, drugs or other prohibited substance
  - k. professional misconduct as defined by the Student Protection processes and guidelines
  - l. conduct causing harm or risk of harm to a student
  - m. repeated instances of minor conduct that has not been corrected through the Level 1 investigation process.
3. Where a Level 2 investigation is determined, the following steps should be followed as appropriate to the particular circumstances of the allegation/s.

#### **4. Step one: initial considerations**

- 4.1. Level 2 investigations commence with notification to Professional Standards as the intake point, which may involve the use of a prescribed form eg Student protection report.
- 4.2. The Manager: Professional Standards will consult with relevant personnel and approve an investigation plan. The investigation plan will document the following considerations.
  - a. a summary of initial allegations and scope for the investigation
  - b. nominate an appropriate person to investigate the allegation/s (the 'investigator'), ensuring that there are no issues of bias or conflict of interest
  - c. a risk assessment to determine if it is appropriate for the respondent to be suspended while the investigation is occurring; this risk assessment will include consideration of
    - i. the seriousness of the respondent's alleged behaviour, such that it could possibly lead to dismissal
    - ii. whether the respondent would represent a danger to themselves or others if left in the workplace and
    - iii. whether the respondent will tamper with or remove evidence relevant to the investigation if left in the workplace
  - d. if the person is a volunteer, they may be excluded from the school until the matter is resolved and any contact with the school will be with the explicit approval of the principal
  - e. whether the suspension/exclusion will be made known to staff and if so, then a communication plan will be developed
  - f. whether the alleged conduct meets mandatory reporting requirements to the Queensland Police Service, Queensland College of Teachers or other authority
  - g. a summary of available evidence, including proposed witnesses where relevant
  - h. other information that may be relevant to the investigation
- 4.3. If the Manager: Professional Standards determines that an actual or perceived conflict of interest exists in undertaking the role of decision maker for the outcome of the investigation, or is otherwise unable to undertake this role, then the Manager: Professional Standards will nominate a suitable delegate.

#### **5. Step two: informing the respondent**

- 5.1. The Director: PES or delegate (usually the respondent's line manager) shall, as soon as practicable, arrange for a private conversation to be held to inform the respondent that an allegation has been made against them, the general nature of the allegation and that an investigation is being conducted.

During the private conversation, the respondent will be advised that they will receive a letter detailing the allegation/s and will have an opportunity to respond in due course. The respondent will be advised that they do not have to provide a response during the private conversation.

- 5.2. If the respondent is an employee, they will be reminded of the confidential counselling services available to all employees through the Employee Assistance Program (EAP).
- 5.3. Confidentiality requirements will be discussed with the respondent during the private conversation.

#### **6. Step three: informing parents/legal guardians (where applicable)**

- 6.1. If the allegation/s relates to a student at the school, the parent/legal guardian of the student/s central to the allegation/s will be contacted by the Director: PES or delegate and the following issues discussed.
  - a. that an allegation has been made and is being investigated
  - b. how it is being investigated

- c. parents'/legal guardians' permission for student/s to be interviewed
- d. parents'/legal guardians' views, concerns and support needs
- e. communication process for the parent/legal guardian to be updated about the investigation and other related issues
- f. the need for confidentiality

6.2. If the context and nature of the allegation involves other students (eg other students named as witnesses) and they also need to be interviewed, the above guidelines relating to parents/legal guardian will be followed.

6.3. Where the allegation does not involve a student, the investigation moves to Step four.

## **7. Step four: information gathering – witness interviews, review of documentation and supporting material**

7.1. The investigator will gather all relevant information and conduct witness interviews within the scope of the investigation.

7.2. Witnesses will be advised that they may have a support person present if they elect to do so, however this is not necessarily required.

7.3. Witnesses will be advised of confidentiality requirements by the investigator.

7.4. It may be necessary to conduct more than one interview with a witness.

## **8. Step five: information gathering – respondent response**

8.1. In the course of the investigation, the respondent will be provided with the specific details of the allegation/s in an investigation letter and will be asked to provide a response to the allegation/s in an interview with the investigator within a reasonable timeframe.

8.2. Prior to the interview, the respondent will be advised that they are able to have a support person and/or employee representative present.

8.3. In addition to the interview, the respondent may elect or be required to provide a written response to the allegation/s.

8.4. The respondent will be advised that they are able to access a copy of the interview notes or recording (as applicable).

8.5. It may be necessary to conduct more than one interview with the respondent.

## **9. Step six: the investigation report and findings**

9.1. At the conclusion of the investigation, the investigator will provide a written report outlining the outcome of the investigation to the Director: PES for their review and endorsement of findings.

9.2. Depending on the outcome of the investigation, one of the following decisions will be made.

- a. if the allegation/s are deemed to be without substance, the Unsubstantiated allegation/s section of this guideline will apply
- b. if the allegation appears to be substantiated, the Substantiated allegation/s section of this guideline will apply
- c. if the allegation is not able to be substantiated, the Allegation/s that are not able to be substantiated section of this guideline will apply

- 9.3. Any decision relating to the release of information to the community about the allegation/s will be actioned only after consideration and/or consultation with key stakeholders (ie respondent, complainant and principal).
- 9.4. If the allegation/s relates to a student at the school, at the completion of the investigation and following review of the matter by the Director: PES or nominated delegate, the parent/legal guardian of the student concerned is to be advised of the completion of the investigation unless there are extraordinary reasons why this should not occur, in which case the reasons should be documented.
- 9.5. Any other complainants (including students) are also advised of the completion of the investigation.

### **Unsubstantiated allegation/s**

1. When the Director: PES or nominated delegate receives a report regarding the outcome of an investigation which indicates the allegation/s are unsubstantiated, the following will occur.
  - a. The Director: PES or delegate will advise the complainant that the investigation has been finalised.
  - b. Where the complainant is a student, the Director: PES or delegate will advise the student's parents/legal guardians that the investigation has been finalised.
  - c. Where the allegation is against a staff member or volunteer, the Director: PES or delegate will also advise the principal that the allegation/s were unsubstantiated.
  - d. A summary of the allegation and outcome will be provided to the respondent by the Director: PES or delegate in writing and retained confidentially at TCSO.
  - e. No detail will be placed on the employee's file.
  - f. TCS will take all reasonable steps to support the respondent.
2. At the school, the pastoral care of the respondent will be monitored by the principal.
3. Where the allegation was against a staff member or principal, they will be reminded of the confidential counselling services already available to all employees through the EAP.
4. It may be appropriate for the Director: PES or delegate to provide educative direction and counselling for the complainant (or disciplinary action where the person is an employee) if the complaint is proven to be a vexatious, knowingly false or an exaggerated allegation.

### **Substantiated allegation/s**

1. Where allegation/s are substantiated on the relevant evidentiary test (ie balance of probabilities) and relate to staff members or principals, the Director: PES will, in writing, and if appropriate in a meeting with the respondent, communicate the outcome of the investigation and any actions the Director: PES requires. Depending on the facts of each matter, these actions may include, but are not limited to
  - a. further training
  - b. a Disciplinary Action Improvement Plan (DAIP) and/or a Performance Improvement Plan (PIP)
  - c. a letter of warning
  - d. recommendation to the Executive Director for dismissal, or in the case of a volunteer – exclusion from Toowoomba Catholic Schools.
2. Where further disciplinary action is considered, the Disciplinary action procedure will be followed.
3. In all cases, the pastoral care of student/s and staff will be monitored and support provided where required.

## **Allegations that are not able to be substantiated**

1. From time to time, the result of an investigation may be that the allegation/s are not able to be substantiated. This will occur in circumstances where there is insufficient evidence to either substantiate or unsubstantiate the allegation/s under the relevant evidentiary test.
2. When the Director: PES or nominated delegate receives a report regarding the outcome of an investigation which indicates the allegation/s are not able to be substantiated, the following will occur.
  - a. The Director: PES or delegate will advise the complainant that the investigation has been finalised, unless further evidence comes to hand.
  - b. Where the complainant is a student, the Director: PES or delegate will advise the student's parents/legal guardians that the investigation has been finalised
  - c. Where the allegation is against a staff member or volunteer, the Director: PES or delegate will also advise the principal that the allegation/s were not able to be substantiated.
  - d. A summary of the allegation and outcome will be provided to the respondent by the Director: PES or delegate in writing and retained confidentially at the TCSO.
  - e. TCS will take all reasonable steps to support the respondent.
3. At the school, the pastoral care of the respondent will be monitored by the principal. Where the allegation was against a staff member or principal, they will be reminded of the confidential counselling services already available to all employees through the EAP.

## **Allegations where the investigator is not able to make a finding**

In situations where the investigation is not able to be completed, for example where an employee resigns early in the investigation process, a finding may not be made due to incomplete information.

## **Investigations involving registered teachers**

1. When TCS deals with an allegation of harm caused, or likely to be caused, to a child because of the conduct of a relevant teacher, the Director: PES or delegate will, as soon as practicable, notify the Queensland College of Teachers in accordance with the requirements of section 76 of the Education (Queensland College of Teachers) Act 2005.
2. As soon as practicable after TCS stops dealing with the allegation for any reason, the Director: PES or delegate will give notice to the Queensland College of Teachers as to the outcome of TCS's dealing with the allegation, in accordance with the requirements of section 77 of the Education (Queensland College of Teachers) Act 2005.

## **Authority**

The Investigations guideline is the responsibility of the Director: People and Engagement Services. Any changes to this guideline can only be made with approval from the Director: People and Engagement Services or the Executive Director: Catholic Schools.

## **Version control and change history**

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