

# Seventh-day Adventist Schools (WA) Ltd

## Policy for Handling Complaints and Appeals

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### *Roles, Responsibilities and Processes*

#### **1 Rationale**

Seventh-day Adventist Schools (WA) Ltd trading as Adventist Christian Schools Western Australia (ACSWA) is committed to the continuous improvement of its Schools' curriculum planning and delivery, teaching and learning capabilities and the development and delivery of its other programs and events. This commitment is in harmony with Adventist Schools Australia's Child Protection policy which states that:

*"3.1.1 Schools' Companies will develop systems for the adaptation, innovation and continuous improvement of policies and procedures that includes... (e) systems to implement recommendations from the review of internal incidents, complaints, investigations and audits that relate to policy and procedures."*

*A continuous improvement culture relies on better practice processes for handling complaints. It is inevitable within any educational community that complaints will arise. Poor mechanisms for addressing complaints only marginalises community members leaving them with a sense of frustration and alienation. Good complaints handling mechanisms allow the complainant to be heard and for the school to listen and implement improvements. As such the Schools' company and its schools welcome complaints and are committed to the process of complaints handling to maintain school community support and build loyalty.*

*As a Christian Educational community modelled on the teachings of Christ the school is committed to conflict resolution in an effort to restore relationships and clear-up any misunderstanding. This is evident in Jesus' admonition in Matt 18:15 "If another believer sins against you, go privately and point out the offence. If the other person listens and confesses it, you have won that person back."*

Complaints handling guidelines are based on the following principles:

1. complaints will be dealt with impartially.
2. complaints will be dealt with confidentially.
3. the process must be transparent.
4. the process is easily accessible through a variety of methods.
5. extra assistance is available for those more vulnerable.
6. unreasonable complainant behaviour is managed professionally.
7. the school will seek all available and necessary evidence on which to base its decision.
8. a decision on the complaint will be done on the evidence available.

Any decision made by ACSWA or its schools is open to appeal. This appeals process provides an internal mechanism for appeal. Appeals to external bodies are also available to members of the school community (see p.30).

## 1 Aims

This Guideline aims to:

1. Create a school culture where complaints are seen as positive and provide an opportunity to correct misunderstandings, poor service delivery and re-establish a working relationship.
2. Deal with complaints impartially.
3. Deal with complaints confidentially.
4. Create transparency in the complaints handling process.
5. Ensure that vulnerable complainants are supported through the process.
6. Ensure that procedural fairness is afforded all parties involved in the complaints process.
7. Ensure that complaints handling staff are protected from unreasonable complainant behaviour and that this is managed professionally.
8. Ensure that records about the complaint and its handling are maintained.
9. Ensure that the complaints handling process is completed in a timely way.
10. Ensure that the decision about the complaint is made on the relevant evidence gathered and the result is communicated to complainant.
11. Report allegations of investigable conduct to AdSAFE Ltd on the receipt of the allegation and the finding and any employment action on the conclusion of the investigation.
12. For teachers, report allegations of serious misconduct to the Teacher Registration Board of WA within 30 days of the action when a sustained finding has been reached at the conclusion of an investigation that results in the teacher being:
  - a) being suspended at the educational venue; or
  - b) being dismissed from teaching at the educational venue; or
  - c) resigning from the educational venue; or
  - d) no longer teaching at, or being moved from the educational venue.
13. For teachers, report to the Teacher Registration Board of WA within 30 days of the action where in the opinion of ACSWA the investigation finding calls into question the teacher's competency to be employed as a teacher that results in the teacher:
  - a) being suspended at the educational venue; or
  - b) being dismissed from teaching at the educational venue; or
  - c) resigning from the educational venue; or
  - d) no longer teaching at, or being moved from the educational venue.

## 2 Basis of Complaint

Not all conduct by a person can form a legitimate basis for complaint. Appropriate staff conduct is outlined in a number of sources. These are:

1. Australian and State legislation including legislation about child protection, discrimination, bullying and harassment, work health and safety, privacy and business practices.
2. An employer's Staff Code of Conduct, Enterprise Agreement or relevant Award, and employment contract.
3. A school's Student Code of Conduct, policies and guidelines.

While stakeholders are free to make complaints, complaints about conduct not related to these above matters may not be considered legitimate and as such investigated.

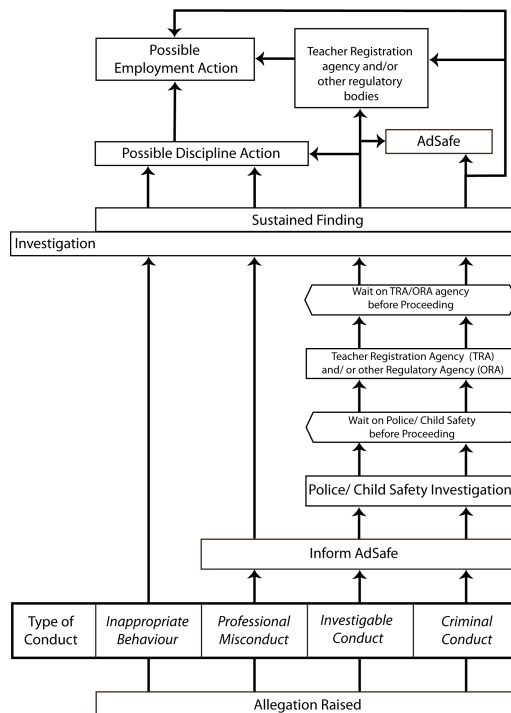
The following table outlines the types of staff conduct relevant to complaints handling .

Type of conduct	Definition
Inappropriate Behaviour	Conduct contrary to the expectations set out in the School's Policies, Guidelines and Handbooks
Professional Misconduct	Conduct contrary to the Staff Code of Conduct
Investigable Conduct	<p>A. Investigable Conduct is defined as allegations of:</p> <ol style="list-style-type: none"> <li>1. Reportable Conduct for jurisdictions where a Reportable Conduct Scheme exists</li> </ol> <p>and may further include if not already applicable:</p> <ol style="list-style-type: none"> <li>2. any sexual offence or child sexual misconduct committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material); and</li> <li>3. any physical, psychological, emotional or spiritual abuse or neglect of a child; and</li> <li>4. any sexual offence or adult sexual misconduct committed against, with or in the presence of an adult; and</li> <li>5. any physical, psychological, emotional or spiritual abuse or neglect of a vulnerable person.</li> <li>6. any form of domestic violence.</li> </ol> <p>B. Investigable Conduct is conduct that if alleged must:</p> <ol style="list-style-type: none"> <li>1. be reported to AdSAFE Ltd in addition to any other reporting obligations for the jurisdiction; and</li> <li>2. have the findings and recommendations of the investigation reviewed and implemented by AdSAFE Ltd and the wider church.</li> </ol> <p>C. Investigable Conduct is alleged conduct that must be investigated where the investigation:</p>

Type of conduct	Definition
	<p>1. is overseen by AdSAFE Ltd to ensure procedural fairness and confidentiality for all related parties;</p> <p>2. uses the Police or an external independent investigator; and</p> <p>3. is funded by the relevant church company or affiliated entity.</p> <p>D. Investigable Conduct is conduct committed against a child or vulnerable person by:</p> <p>1. an “employee” as defined by the applicable Reportable Conduct Scheme if it exists in the jurisdiction.</p> <p>or</p> <p>2. An employee, volunteer (including a religious leader or office holder), contractor who works with children or member of a local church, church company or affiliated entity presently or at the time of the allegation and who is presently over the age of 18.</p> <p>E. Investigable Conduct is conduct that is alleged to have occurred recently or historically by a then:</p> <p>1. adult or,</p> <p>2. child towards a child where there is a significant age difference, power imbalance or evidence of coercion.</p>
Criminal Conduct	Any criminal act

The following diagram gives an overview of the process that will be followed in addressing the complaint.

Figure 1: Investigations into alleged improper staff conduct



### 3 Definitions

Term	Definition
AdSAFE Ltd	<p>Organisation set up by the SPD that is concerned with physical and sexual abuse of children and vulnerable persons on its property or by its employees, persons in leadership or volunteers holding positions. This is done by:</p> <ol style="list-style-type: none"> <li>1. safeguarding the organisation by the development and implementation of policy and providing training for persons with responsibility who interact with children and vulnerable persons.</li> <li>2. supporting survivors and their families</li> <li>3. coordinating independent investigations into allegations</li> <li>4. managing known offenders and persons of concern</li> <li>5. providing advice about safeguarding measures, support and risk mitigation</li> </ol>
Adult Sexual Misconduct	<p>Conduct that includes one or more of the following</p> <ol style="list-style-type: none"> <li>1. Sexually explicit comments and other overtly sexual behaviour towards a vulnerable person</li> <li>2. Sexual harassment</li> <li>3. Sexual exploitation</li> <li>4. Sexually inappropriate behaviour</li> </ol>
Adventist Christian Schools Western Australia (ACSWA)	<p>The trading name for Seventh-day Adventist Schools (Western Australia) Ltd.</p>
Adventist Schools Australia (ASA)	<p>The Education Department of the Australian Union Conference of the Seventh-day Adventists Church. This Department provides strategic direction and support to the Schools' Companies across Australia.</p>
Allegation	<p>All complaints raised will be treated as allegations until the investigation returns a final finding</p>
Appeal	<p>A request to someone in authority to reconsider a previous decision. Appeals are usually made to the supervisor of the original decision maker.</p> <p>Appeals are considered on the basis of:</p> <ol style="list-style-type: none"> <li>1. A fair hearing wasn't granted before the decision was made.</li> <li>2. The decision maker showed bias.</li> <li>3. Not all the evidence was considered.</li> <li>4. The decision was unfair</li> </ol>

<b>Term</b>	<b>Definition</b>
Appellant	A person or group of persons who appeals against a decision made by the school
Child	a person under 18 years of age
Child Sexual Misconduct	Conduct toward a child that includes one or more of the following <ol style="list-style-type: none"> <li>1. Crossing professional boundaries</li> <li>2. Sexually explicit comments and other overtly sexual behaviour towards a child</li> <li>3. Grooming behaviour</li> </ol>
Complaint	An expression of dissatisfaction about the school's action or lack of action or about the standard of a service, whether the action taken or the service provided was by the School itself or a body acting on behalf of the School.
Complainant	The parties who are making the complaint
Criminal Conduct	Any criminal act
Crossing professional boundaries	includes behaviour outside a familial context that can reasonably be construed as involving an inappropriate and overly personal or intimate: <ol style="list-style-type: none"> <li>1. relationship with;</li> <li>2. conduct towards; or</li> <li>3. focus on;</li> </ol> a child or young person, or a group of children or young persons.
Domestic violence	the violence, abuse and intimidation between people who are or have been in an intimate relationship. The perpetrator uses violence to control and dominate the other person. Allegations of Domestic Violence may include the following conduct: <ol style="list-style-type: none"> <li>1. emotional abuse</li> <li>2. physical assault</li> <li>3. sexual assault</li> <li>4. verbal abuse</li> <li>5. financial abuse</li> <li>6. psychological abuse</li> <li>7. isolating a partner from friends and family</li> <li>8. stopping a partner from practicing his or her religion.</li> </ol>

<b>Term</b>	<b>Definition</b>
Emotional Abuse	Means acts or omissions in relation to a child where the child has suffered, or is likely to suffer, significant emotional harm to his or her wellbeing or development.
Employee	For the purpose of this guideline an 'employee' includes employees, contractors, volunteers, trainee teachers, work experience participants, ministers of religion, and chaplains who are engaged at schools. In this guideline where there is a reference to an employee it includes all of these persons.
Enquiry	Request for further information
Grievance	A grievance is another term used for a complaint generally raised by an employee about the conduct of another employee including senior administrative staff in the organisation
Grooming behaviour	where there is evidence of a pattern of conduct that is consistent with preparing or desensitising the alleged victim for sexual activity, and that there is no other reasonable explanation for it.
Director of Education	Required to: <ol style="list-style-type: none"> <li>1. set up systems within the Company to ensure that they are advised of any investigable allegations or convictions against their employees.</li> <li>2. ensure that allegations of investigable conduct are reported to AdSAFE Ltd, investigated and that the investigation is properly conducted resulting in a written report with recommended findings.</li> <li>3. ensure that as the result of the investigation findings appropriate action is taken and these are reported to AdSAFE Ltd and other agencies as required.</li> </ol>
Inappropriate Behaviour	Conduct contrary to the expectations set out in the School's Policies, Guidelines and Handbooks
Investigable Conduct	A. Investigable Conduct is defined as allegations of: <ol style="list-style-type: none"> <li>1. Reportable Conduct for jurisdictions where a Reportable Conduct Scheme exists;</li> </ol> and may further include if not already applicable: <ol style="list-style-type: none"> <li>2. any sexual offence or child sexual misconduct committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material); and</li> </ol>

Term	Definition
	<p>3. any physical, psychological, emotional or spiritual abuse or neglect of a child; and</p> <p>4. any sexual offence or adult sexual misconduct committed against, with or in the presence of an adult; and</p> <p>5. any physical, psychological, emotional or spiritual abuse or neglect of a vulnerable person.</p> <p>6. any form of domestic violence.</p> <p>B. Investigable Conduct is conduct that if alleged must:</p> <ol style="list-style-type: none"> <li>1. be reported to AdSAFE Ltd in addition to any other reporting obligations for the jurisdiction; and</li> <li>2. have the findings and recommendations of the investigation reviewed and implemented by AdSAFE Ltd and the wider church.</li> </ol> <p>C. Investigable Conduct is alleged conduct that must be investigated where the investigation:</p> <ol style="list-style-type: none"> <li>1. is overseen by AdSAFE Ltd to ensure procedural fairness and confidentiality for all related parties;</li> <li>2. uses the Police or an external independent investigator; and</li> <li>3. is funded by the relevant church company or affiliated entity.</li> </ol> <p>D. Investigable Conduct is conduct committed against a child or vulnerable person by:</p> <ol style="list-style-type: none"> <li>1. an “employee” as defined by the applicable Reportable Conduct Scheme if it exists in the jurisdiction.</li> </ol> <p>or</p> <ol style="list-style-type: none"> <li>2. An employee, volunteer (including a religious leader or office holder), contractor who works with children or member of a local church, church company or affiliated entity presently or at the time of the allegation and who is presently over the age of 18.</li> </ol> <p>E. Investigable Conduct is conduct that is alleged to have occurred recently or historically by a then:</p> <ol style="list-style-type: none"> <li>1. adult or,</li> <li>2. child towards a child where there is a significant age difference, power imbalance or evidence of coercion.</li> </ol>
Natural Justice	Another term for procedural fairness
Neglect	<p>Neglect includes either an action or inaction by a person who has care responsibilities towards a child. This includes:</p> <ol style="list-style-type: none"> <li>1. Supervisory neglect</li> <li>2. Carer Neglect</li> <li>3. Failure to protect from abuse</li> </ol>



Term	Definition
	4. Reckless acts or failure to act
Person subject of complaint (PSOC)	The person about which the complaint is made
Person subject of a sustained finding (PSSF)	At the conclusion of an investigation that makes a final finding that is sustained for the purposes of this guideline the person subject of Complaint will be referred to as the person subject of a sustained finding (PSSF)
Physical Abuse	any act by which a person intentionally inflicts unjustified use of physical force against a child or vulnerable person. Abuse can also occur if a person causes a child or vulnerable person to reasonably fear that unjustified force will be used against them.
Procedural Fairness	<p>The rules or principles of procedural fairness have developed to ensure that decision- making is fair and reasonable. The Principles of Procedural fairness are:</p> <ol style="list-style-type: none"> <li>1. The right to a fair hearing. This includes: <ol style="list-style-type: none"> <li>a) The right to know the detail of the allegation before having to prepare a response.</li> <li>b) The right to give a response before any decision is made.</li> <li>c) The right to sufficient time to prepare a submission.</li> <li>d) The right of reply to a decision</li> </ol> </li> <li>2. An unbiased decision maker. This excludes from the decision making anyone who: <ol style="list-style-type: none"> <li>a) has brought the complaint</li> <li>b) has a vested interest in the outcome.</li> <li>c) has a conflict of interest.</li> <li>d) played a part in the investigation</li> </ol> </li> <li>3. Evidence to support a decision. <ol style="list-style-type: none"> <li>a) The decision should be made only on: <ol style="list-style-type: none"> <li>i) evidence relevant to the matter</li> <li>ii) evidence to which there is proof</li> <li>iii) the balance of probabilities as a burden of proof. This means that to make a finding there is more evidence for the allegation than against.</li> </ol> </li> <li>b) The investigation should make every effort to gather evidence relating to matters in dispute</li> </ol> </li> </ol>

<b>Term</b>	<b>Definition</b>
Professional Misconduct	Conduct contrary to the Staff Code of Conduct.
Psychological abuse	is conduct that is obviously or very clearly unreasonable and results in significant emotional harm or trauma to a child or vulnerable person. There needs to be a proven causal link between the inappropriate behaviour and the harm, and the harm must be more than transient.
Harm	<ol style="list-style-type: none"> <li>1. Harm, to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.</li> <li>2. It is immaterial how the harm is caused.</li> <li>3. Harm can be caused by— <ol style="list-style-type: none"> <li>a) physical, psychological or emotional abuse or neglect; or</li> <li>b) sexual abuse or exploitation.</li> </ol> </li> <li>4. Harm can be caused by— <ol style="list-style-type: none"> <li>a) a single act, omission or circumstance; or</li> <li>b) a series or combination of acts, omissions or circumstances.</li> </ol> </li> </ol>
Sexually explicit comments and other overtly sexual behaviour towards a child	<p>a type of behaviour including but not limited to:</p> <ol style="list-style-type: none"> <li>1. sexualised behaviour with or towards a child (including sexual exhibitionism)</li> <li>2. inappropriate conversations of a sexual nature</li> <li>3. comments that express a desire to act in a sexual manner</li> <li>4. unwarranted and inappropriate touching involving a child</li> <li>5. personal correspondence and communications (including emails, social media and web forums) with a child in relation to the adult’s romantic, intimate or sexual feelings for a child</li> <li>6. exposure of children to sexual behaviour of others including display of pornography</li> <li>7. watching children undress in circumstances where supervision is not required and it is clearly inappropriate.</li> </ol>
Sexually explicit comments and other overtly sexual behaviour towards a vulnerable person	<p>a type of behaviour including but not limited to:</p> <ol style="list-style-type: none"> <li>1. sexualised behaviour with or towards a vulnerable person (including sexual exhibitionism)</li> <li>2. inappropriate conversations of a sexual nature</li> <li>3. comments that express a desire to act in a sexual manner</li> </ol>

Term	Definition
	<ol style="list-style-type: none"> <li>4. unwarranted and inappropriate touching involving a vulnerable person</li> <li>5. personal correspondence and communications (including emails, social media and web forums) with a vulnerable person in relation to the adult's sexual feelings for a vulnerable person</li> <li>6. exposure of a vulnerable person to sexual behaviour of others including display of pornography</li> </ol>
Sexual Exploitation	Refers to any form of sexual contact or invitation to sexual contact with whom there is a pastoral or supervisory relationship, whether or not there is consent and regardless of who initiated the contact or invitation. It does not include such contact or invitation within a marriage.
Sexual Harassment	Means unwelcomed conduct of a sexual nature, whether intended or not, where the person reasonably feels in all circumstances offended, belittled or threatened. Such behaviour may consist of a single incident or several incidents over a period of time.
Sexually Inappropriate Behaviour	Means sexual behaviour which would be regarded by right-thinking members of the Church as being inconsistent with the standards of sexual behaviour to be observed by Church Workers, volunteers or attendees.
Sexual Offence	The term 'sexual offence' encompasses all criminal offences involving a sexual element that are 'committed against, with or in the presence of a child' or adult.
Spiritual Abuse	<p>means the mistreatment of a person by actions or threats when justified by appeal to God, faith or religion. It includes:</p> <ol style="list-style-type: none"> <li>1. using a position of spiritual authority to dominate or manipulate another person or group;</li> <li>2. using a position of spiritual authority to seek inappropriate deference from others;</li> <li>3. using a position of spiritual authority to isolate a person from friends, family members and the church community; and</li> <li>4. using biblical or religious terminology to justify abuse.</li> </ol>
South Pacific Division of the Seventh-day Adventist Church (SPD)	A division of the world wide Seventh-day Adventist Church that incorporates Australia, New Zealand, Papua New Guinea and the Islands in the South Pacific

Term	Definition
Vulnerable Person	an adult in need of special care, support, or protection because of age, disability, cultural background or risk of abuse or neglect.

## 4 Responsibilities

### 4.1 Director of Education

The Director of Education is responsible to:

1. develop and maintain a positive complaints handling culture within the organisation valuing good complaints handling as an opportunity to improve the organisation and its systems and complainants as an excellent source of customer feedback.
2. ensure that the complaint handling system is adequately resourced.
3. ensure that good complaint handling staff are selected and trained.
4. ensure that community members have ready access to information on how to lodge a complaint.
5. ensure that the staff orientation program includes training on complaints.
6. ensure that a system for complaint handling record keeping is established and maintained in each school.
7. develop systems for handling unreasonable complainant behaviour in a professional manner.
8. receive formal complaints or allegations of alleged Criminal Conduct, Investigable Conduct and Professional Misconduct made against employees from the Principal or others.
9. inform AdSAFE Ltd, and where applicable the Teacher Registration Board of WA of the allegations raised in 8 above and seek advice from AdSAFE Ltd on how to handle the investigations into alleged Criminal Conduct, Investigable Conduct and Professional Misconduct.
10. consult where appropriate with the Principal on the most appropriate course of action in handling complaints of Professional Misconduct not being overseen by AdSAFE Ltd and complaints of Inappropriate Behaviour.
11. appoint a senior staff member to investigate complaints raised in 10 above.
12. for investigations not being overseen by AdSAFE Ltd, receive and review the investigation report from the investigator and make the preliminary findings.
13. for investigations not being overseen by AdSAFE Ltd, communicate the preliminary findings to the complainant and give an opportunity to the complainant to respond to these findings.
14. for investigations not being overseen by AdSAFE Ltd, review the complainant response and determine the investigation's final findings.

15. for investigations not being overseen by AdSAFE Ltd, inform AdSAFE Ltd, and where applicable the Teacher Registration Board of WA of the outcome of the investigation.
16. Inform the Teacher Registration Board of WA of any employment action taken where, in the opinion of the Schools' Company, calls into question the teacher's competency to be employed as a teacher.
17. ensure that all recommendations from investigations are implemented in a timely way.

#### **4.2 The Principal**

The Principal is responsible to:

1. develop and maintain a positive complaints handling culture within the school valuing good complaints handling as an opportunity to improve the school and its systems and complainants as an excellent source of customer feedback.
2. ensure that a child focused complaints handling process is implemented in the school as outlined in Section 5.5.
3. identify and train senior staff who are capable of engaging with complainants well and investigating formal complaints on behalf of the school.
4. ensure all staff understand their role in the complaints handling process.
5. set up and monitor a formal complaints management log ensuring that complaints are handled in a timely way.
6. maintain and monitor the school's systems for handling unreasonable complainant behaviour ensuring that complaints handling staff are adequately trained and supported.
7. intervene when a complainant's behaviour is inappropriate or causing harm to staff.
8. receive complaints from members of the school and wider community.
9. report complaints or allegations of alleged Criminal Conduct, investigable conduct, Professional Misconduct and Inappropriate behaviour made against employees immediately to the Director of Education.
10. for investigations not being overseen by AdSAFE Ltd, consult with the Director of Education on the most appropriate course of action in handling a complaint.
11. encourage employees, students, parents and community members to keep the complaints raised confidential.
12. cooperate with any investigation.

#### **4.3 School Staff**

School Staff are responsible to:

1. report to the principal if parents or other community members complain about the school.
2. if the complaint is about the Principal, report the complaint to the Director of Education.

3. report allegations of Criminal Conduct, investigable conduct and Professional Misconduct about staff that are known but don't form part of a complaint to the Principal or Director of Education.
4. when asked by the principal, assist a complainant as a support person or as an advocate.
5. keep the matter confidential.
6. cooperate with any investigation.

#### **4.4 School Complaints Handling Staff**

School complaints handling staff consist of senior staff members who have received appropriate training in working with complainants and investigating complaints, and front office staff who received calls that could potentially involve complaints.

School Complaints Handling Staff are responsible to:

1. handle complainants in a professional manner at all times.
2. seek further training when needed.
3. be familiar with the school's Complaints and Appeals guidelines.
4. provide the complainant any information and assistance needed in lodging the complaint and during the complaint handling process.
5. arrange for extra support if needed for vulnerable community members.
6. follow internal guidelines and processes.
7. be familiar with the school's core business and processes.
8. maintain complaints handling records.
9. monitor your own wellbeing and that of your colleagues and seek assistance if a complainant becomes difficult.

#### **4.5 Students, Parents and School Community Members**

Students, parents and other community members are responsible to:

1. discuss any complaint with the Principal or lodge the complaint in one of the approved methods.
2. if the complaint is related to the Principal, report the complaint to the Director of Education.
3. keep the matter confidential.
4. cooperate with any investigation.

#### **4.6 The Investigator**

The investigator is responsible to:

1. stand down from the role if there is a perceived conflict of interest with parties involved in the investigation or with the material of the allegation.
2. assess and manage risk throughout the investigation and in particular the risk to the:
  - a) victim/s

- b) other students at the school
  - c) PSOC
  - d) school
  - e) investigation
3. arrange for ongoing support and counselling for the victims and their families, witnesses and the PSOC and monitor this ongoing support.
  4. seek and record advice from AdSAFE Ltd, consultants and external agencies where appropriate.
  5. clarify the allegation by interviewing the complainants.
  6. classify the complaint and notify all required external agencies including where appropriate the Police, Child Safety and AdSAFE Ltd of the investigation.
  7. ensure that the investigation is conducted using the principles of procedural fairness.
  8. prepare a letter of allegation for the PSOC.
  9. maintain investigation records including an investigation log, an investigation plan, interview plans, a file of documented evidence and interview recordings if applicable.
  10. interview victims and witnesses seeking corroborating evidence to statements made.
  11. meet with the Person Subject of Complaint to:
    - a) inform them in writing of the receipt of the complaint.
    - b) provide them with access to support services.
    - c) provide them with a detailed letter of allegation including what potential disciplinary action could be taken if the complaint is sustained.
    - d) stand them down if needed and provide them with further instructions on duties and communications with victims and students.
    - e) provide an opportunity for the PSOC to meet and provide a response.
    - f) inform them of their right to bring a support person to this meeting.
  12. meet with the PSOC to listen to their response.
  13. Where necessary share with the complainant evidence gathered that counters the complaint and seek a response.
  14. weight the evidence gathered in a report and recommend preliminary findings to the complaint and make recommendations of changes to the school's policies and guidelines if applicable.
  15. present the report to the Director of Education.

## **5 Commitments made by ACSWA and its schools**

### **5.1 Commitment to Procedural Fairness**

ACSWA is committed to following the rules of procedural fairness in its decision-making. The rules or principles of procedural fairness have developed to ensure that decision-making is fair and reasonable. The principles of procedural fairness are:

1. The right to a fair hearing. This includes:
  - a) The right to know the detail of the allegation before having to prepare a response
  - b) The right to give a response before any decision is made
  - c) The right to time to prepare a submission
  - d) The right of reply to a decision
2. An unbiased decision maker. This excludes from the decision making anyone who:
  - a) has brought the complaint
  - b) has a vested interest in the outcome
  - c) has a conflict of interest
  - d) played a part in the investigation
3. Evidence to support a decision.
  - a) The decision should be made only on:
    - i) evidence relevant to the matter
    - ii) evidence to which there is proof
    - iii) the balance of probabilities as a burden of proof. This means that to make a finding there is more evidence for the allegation than against
  - b) The investigation should make every effort to gather evidence relating to matters in dispute.

### **5.2 Commitment to a Confidential Process**

ACSWA and its schools are committed to ensuring that outside of the person/s raising the complaint, the person subject of the complaint (PSOC), the witnesses who assist with the investigation and the investigators that:

1. the allegation
2. the investigation
3. any details and evidence collected in the investigation
4. the alleged victims, and
5. the identity of the PSOC all be kept confidential

All parties involved in the investigation will be asked to keep all matters relating to the investigation confidential.

While ACSWA and its schools makes this commitment, it should be understood that some incidents may have enough witnesses or are observed publically that prior to the school becoming aware of the complaint a large number of the wider school community have been made aware of the situation. In this case the school can only encourage its



community to allow the investigation to proceed without further public discussion of the incident.

### **5.3 Commitment to Balancing Interests**

When allegations are raised there are a number of competing interests. ACSWA is committed to balancing the interests of the following groups:

1. The needs of the complainant to be heard and for confidentiality, justice, restitution and closure.
2. The needs of the wider community for the prosecution of the investigation to deliver a finding and for the timely implementation of the recommendations from the investigation.
3. The needs of the person subject of the complaint for procedural fairness, confidentiality and closure.

### **5.4 Commitment to Continuous Improvement**

It is only natural for organisations to view failures in service delivery as being the work of rogue employees who have operated contrary to its policy and procedure. While this might be the case in some circumstances, it should be acknowledged that some failures in service delivery might be due to systemic failures in the statement of policy, its implementation and the communication of this policy and guidelines to staff. For this reason, ACSWA is committed to developing and maintaining a continuous improvement culture in its schools. The investigation process and the implementation of any recommendations mentioned in 5.3.2 above is an important element to this end.

### **5.5 Commitment to a Complaint Handling Process that is Child Focused**

In accordance with the principles of Are You Listening? Guidelines for making complaints systems accessible and responsive to children and young people (June 2013, Commissioner for Children and Young People, Western Australia), ACSWA is committed to ensuring that each school has in place a complaint handling process that is child focused.

At the minimum, this should include that:

1. Students are acknowledged as service users.
2. Students are made aware of their right to make a complaint by means and in language which take into account their age, language background and other relevant factors.
3. Students can choose how to make a complaint, including by speaking to someone face to face.
4. The school creates opportunities for students to give feedback and discuss their experiences.
5. The complaints process and possible outcomes are outlined in a publication or publications which are developmentally suitable for and appealing to the students of the school, including by illustrations or other visual material.
6. The school enables an advocate to complain on behalf of a student and, when that occurs, makes sure the student can participate directly to the extent he or she wishes.

7. Students are provided with an advocate, independent from the complaint investigation and management processes, when they do not have one.
8. A student's complaint is promptly acknowledged.
9. Staff handling students' complaints, and those reviewing the outcome of a complaint, have training in working with children.
10. Understanding, helpfulness and responsiveness is demonstrated towards student complainants.
11. Students' understanding of information provided about the complaints process is checked.
12. Student complainants are given choices about how they wish to be kept informed about the progress of their complaint.
13. The policy provides appropriately for confidentiality and obtaining the students' consent in relation to the complaint.
14. Student complainants are made aware of the limits of confidentiality as the process progresses.
15. Staff are trained in the school's complaints procedures, particularly as they apply to student complaints.
16. An annual review of process leading to improvement.
17. Complaints that raise potential child wellbeing concerns should be prioritised, and referrals made to appropriate authorities.

## **5.6 Commitment to Ongoing Support**

The raising of complaints and allegations is an extraordinary event that may be accompanied by trauma and hurt. For this reason, ACSWA is committed to the ongoing support of the alleged victims. The School may have available access to in-school counselling services and the investigator will encourage the victims to make use of these resources or if needed organise for access to external counselling services if there is no school counsellor.

This is also true for the person subject of complaint. ACSWA is committed to supporting the ongoing wellbeing of staff through access to counselling services. This can be either internal or external independent counselling services.

The aim of an investigation is to provide a fair finding based on the evidence gathered. The process of gathering evidence can be hampered by the emotional state of victims, witnesses and the PSOC. To enhance the evidence gathering process it is in the interest of the investigation to provide access to counselling and support during this process.

In addition to counselling support access to a support person for the victims, witnesses and the PSOC is helpful. This provides someone to discuss concerns, ask questions, seek clarification and provide counsel. For young children this could be a parent or teacher. For adults this could be a spouse or close friend. The assigned support person needs to agree to maintain confidentiality and preferably not be part of the school community. While it is not necessary for the support person to attend interviews it is useful to give another person's perspective on what was discussed.

## 5.7 Recognition of the Right to Appeal

ACSWA and its schools recognises the right of any individual with a material interest in a decision to appeal against that decision.

## 6 Implementation

### 6.1 The School's Complaints Culture

1. The Principal will develop and maintain a positive complaints handling culture within the school by:
  - a) annually training staff on the value of good complaints handling as an opportunity to improve the school and its systems and complainants as an excellent source of customer feedback.
  - b) training staff in the orientation program on how to handle complaints.
  - c) appoint and train senior staff members to the role of complaints management and investigations.
  - d) training complaints handling staff on how to handle unreasonable complainant behaviour.
  - e) provide adequate resources to the complaints handling processes.
  - f) ensuring that information about how to make a complaint and how the school will handle that complaint are readily available to members of the school and wider community.
2. The Principal will prepare a report quarterly on the quantity and timeliness of complaints handling.
3. The Director of Education will report annually to the governing body on complaints handling within the organisation.

### 6.2 Record Keeping

1. The Principal will establish a complaints log for all complaints for the school showing the Date received, Complainant Name, PSOC name, Description of the complaint, the assigned investigators name, final finding, and the date completed.
2. The complaints log will remain confidential with access given only to complaints handling staff.
3. The Director of Education will ensure that a secure and confidential location will be set up to store the records of all investigations into complaints about employee conduct. These will be kept for at least 30 years.
4. At the conclusion of the investigation, the investigation report, all evidence gathered and any relevant correspondence related to the investigation will be securely filed. The Director of Education will ensure that only authorised persons will have access to these records.
5. If ACSWA ceases to exist, the records will be transferred to AdSAFE Ltd.

### 6.3 Enquiries

1. Members of the school and wider community who have concerns are encouraged to seek further information about this concern in the form of an enquiry to the

staff member involved. Enquiries can be made by phone, email, by letter or in person.

2. A staff member may redirect an enquiry to a colleague who has more knowledge of the matter. When this occurs the staff member should acknowledge the receipt of the enquiry and indicate to whom the enquiry has been reassigned.
3. Staff should send confirmation of the receipt of an enquiry within 24 hours and either provide a response at that time or indicate when a response can be expected.
4. The enquirer should be notified of any further unexpected delays.
5. The staff member should respond in a timely way providing the detail and the rationale for any decision made.
6. Generally, a response should not take more than three working days.

#### **6.4 The receipt of a complaint**

1. Staff, students, parents and members of the school's community with concerns that they wish to raise as a complaint may do so by phone, email, letter or in person and should lodge the complaint with the Principal.
2. Alternatively, students, parents and members of the school's community with concerns that they wish to raise as a complaint may do so by phone, email, by letter or in person with the Director of Education.
3. All allegations of conduct that would be classified as Criminal, Investigable or Professional misconduct that becomes known by a staff member must be reported to the Principal or Director of Education.
4. The Principal must refer all complaints or allegations in 3 above to the Director of Education.
5. The Director of Education must notify and seek advice from AdSAFE Ltd on all allegations of Criminal, Investigable or Professional misconduct.
6. AdSAFE Ltd will arrange an independent investigator for all matters deemed as serious and oversee the investigation.
7. The Director of Education will consult with the Principal on the most appropriate course of action in handling any formal complaints not overseen by AdSAFE Ltd and appoint a senior staff member to investigate.
8. If the complaint alleges criminal conduct the matter will be reported to the police immediately and any investigation suspended until the Police give approval for it to continue.
9. If the complaint alleges harm or neglect to a child the matter should be reported to *Child Protection and Family Support* immediately and any investigation suspended until *Child Protection and Family Support* give approval for it to continue.
10. The Director of Education may use the findings from any external investigation in (4) or (5) above as a basis for a finding for the complaint.
11. The Principal or Director of Education should send confirmation of the receipt of a formal complaint within 24 hours and indicate when a response can be expected.

12. Investigation into the formal complaint should commence within 5 working days and generally a finding should be concluded within a further 5 working days.

### **6.5 Support for complainants with disadvantage**

1. The Principal should be aware of the possibility of vulnerable or disadvantaged community members and arrange assistance that may include providing someone who throughout the complaints handling process could:
  - a) complete the complaint forms, read and explain documents.
  - b) assist by acting as a translator.
  - c) act a support person.
  - d) act as an advocate.
2. The person receiving a formal complaint will inquire whether the school can offer any assistance to the complainant with accessing the complaints handling processes.

### **6.6 Appointment of an Investigator**

1. All allegations of Criminal Conduct will be referred to police to investigate. If the police choose not to proceed the matter should be referred to AdSAFE Ltd for advice.
2. The Director of Education will refer all investigable conduct allegations to AdSAFE Ltd for oversight. AdSAFE Ltd will engage an appropriate external investigator and manage the investigation process. AdSAFE Ltd may choose to investigate allegations of criminal conduct where the police choose not to investigate.
3. The Director of Education or AdSAFE Ltd will appoint a suitable investigator to investigate a formal complaint. This will be dependent on nature of the complaint. Typically:
  - a) Complaints about student inappropriate behaviour will be investigated by a senior staff member from the school.
  - b) Staff inappropriate behaviour and less serious Professional Misconduct allegations might result in a senior staff member from the school being appointed as the investigator.
  - c) Serious Professional Misconduct allegations might result in a trained internal investigator being appointed.
  - d) Serious Professional Misconduct and Investigable Conduct allegations might result in a trained external independent investigator being appointed with oversight from AdSAFE Ltd.
4. The proposed investigator, on reviewing the particulars of the allegation, the victims and the PSOC needs to declare that he or she is without bias and has no perceived conflict of interest. If later in the investigation a perceived bias or conflict of interest becomes apparent the Director of Education needs to be notified immediately. If the conflict of interest is evident, the Director of Education will appoint a new investigator.
5. The investigator will do a risk assessment on the PSOC continuing in their role and if the risk is unacceptable the investigator will meet with the PSOC and:
  - a) provide a letter informing them of the receipt of a complaint.
  - b) stand the PSOC down usually on full pay while the investigation proceeds.

- c) provide directions on alternative duties.
- d) provide instructions on confidentiality, counselling support and ongoing communications with groups at the school.

## 6.7 The Investigation Process

1. The investigator will do a risk assessment and establish a risk management plan over the course of the investigation reviewing the risk to the following parties:
  - a) the complainant and/or victim/s
  - b) other students at school
  - c) the school and its ongoing operations
  - d) the PSOC
  - e) the investigation and its ability to deliver a finding
2. If unclear the investigator will clarify the complaint raised.
3. If the allegations constitute criminal conduct or later in the investigation, it becomes apparent that the conduct is criminal, the investigator will assist the Director of Education by notifying the police and cease investigating until given the all clear by the police to continue.
4. If the allegations constitute investigable conduct or later in the investigation, it becomes apparent that the conduct is investigable the investigator will assist the Director of Education by notifying AdSAFE Ltd and the Teacher Registration Board Western Australia.
5. The investigator will keep an investigation log noting the ongoing activities of the investigation.
6. The investigator will prepare an investigation plan to:
  - a) identify and plan a response to all reporting obligations
  - b) identify and check the availability of possible support services for victims, witnesses and the PSOC
  - c) identify possible facts in dispute from the allegations and include within the interview plans questions that might corroborate these facts.
  - d) identify possible sources of evidence that could assist the investigation
  - e) develop other possible scenarios that could explain the allegations raised and include within the interview plans questions that might test these alternate scenarios.
7. The investigator will seek permission to interview all potential student witnesses from the parent / guardian:
  - a) requesting that the investigation be kept confidential.
  - b) introduce themselves as investigator, their appointment and role, giving the context of the investigation and its importance to the school.
  - c) offering for the witness to have a support person in the interview if desired.
  - d) requesting permission for the interview to be recorded if applicable.
  - e) explaining the interview process and the types of questions that will be asked.
8. The investigator will request an interview with potential witnesses:
  - a) requesting that the investigation be kept confidential.

- b) introduce themselves as investigator, their appointment and role, giving the context of the investigation and its importance to the school.
  - c) offering for the witness to have a support person in the interview if desired.
  - d) requesting permission for the interview to be recorded if applicable.
  - e) explaining the interview process and the types of questions that will be asked.
  - f) explaining all the possible ways a witness can respond to questions asked in the interview.
9. The form of evidence gathered in the investigation will depend on the seriousness of the allegation. Evidence can be taken by:
- a) verbal responses to questions in an interview with notes taken by the investigator.
  - b) written statement.
  - c) verbal responses to questions in an interview electronically recorded with the recording converted to a written synopsis or full transcript.
10. For interviews electronically recorded permission needs to be granted by all parties for the recording to take place. For students, parental permission is also required. When permission is not granted the investigator should seriously consider the use of a recording secretary to assist during the interview.
11. For serious matters that will be recorded the investigator will finalise an interview plan for each witness interviewed that includes a script that:
- a) States the date and time.
  - b) Introduces the role of the investigator, the investigation and the importance of the witness to the investigation.
  - c) seek permission from the witness to be interviewed.
  - d) seek permission from the witness and support persons to record the interview (if applicable).
  - e) inform the witness that they are free to stop the interview at any time.
  - f) discuss the role of the support person in the interview.
  - g) if the witness is 12 years of age or younger establish that the witness can distinguish between “truth” and “lies”.
  - h) inform the witness that there are four ways to answer questions. If the witness doesn’t know the answer to the question they should state “I don’t know the answer to that question”. If the Witness doesn’t understand the question they should state “I don’t understand the question! Could you rephrase it?” If the witness knows the answer to the question but doesn’t want to answer the question they should state “I don’t want to answer the question!” (Witness is free to remain silent). If the witness knows the answer to the question and is happy to answer they can just tell the investigator what they know.
  - i) check if they have any questions before proceeding.
  - j) lists the questions that need to be asked.
  - k) reminds the participants of the need for confidentiality.
  - l) states the closing time and the fact that the recording will be stopped.
12. At the conclusion of an interview the investigator should:
- a) ask the participants if they have any questions.

- b) remind them that support in the form of counselling is available.
  - c) inform them of how the investigation will proceed and whether they are likely to hear about the outcome.
  - d) provide them with the contact details of the investigator encase they remember anything further or have questions.
13. As soon as the detail of the complaint/s become clear a letter of allegation should be drafted including as much detail of allegation as possible. This should however not include the identity of the person raising the allegation. The letter of allegation should include a reference to the school documents, Staff Code of Conduct or Teacher Registration Board Western Australia Code of Conduct that describes the related expected conduct. The letter should:
- a) be addressed from the investigator and be on plain paper.
  - b) include a reference to any previous documents given to the PSOC on this matter.
  - c) include an introduction to the investigator and how he or she was appointed.
  - d) include a list of the allegations.
  - e) mention that no decision has been made yet.
  - f) provide further directions to the PSOC including the expectation that the investigation and all related matters be kept confidential.
  - g) If applicable outline the any external agency involvement with the investigation.
  - h) propose a date, time and location for the investigator to meet with the PSOC to take a response.
  - i) provide an opportunity for the PSOC to suggest an alternative date, time and location for the meeting.
  - j) suggest that the PSOC could provide a written response instead of or as well as attending an interview.
  - k) provide details about how to access ongoing counselling support.
  - l) suggest the possibility of bringing a support person to the proposed interview.
  - m) indicate how the investigation will proceed after the PSOC provides a response including when a preliminary letter of finding could be expected.
14. The investigator should seek advice from the Director of Education as well as external consultants such as the Association of Independent Schools WA on the draft letter of allegation.
15. The letter of allegation should be given to the PSOC in a meeting with the investigator.
16. The PSOC should be given an opportunity to bring a support person to the meeting.
17. If the allegations are series the PSOC generally should be stood down on full pay while preparing a response to allegations, to seek advice and to benefit from counselling support if desired.
18. Electronic recordings may be converted to transcripts or synopses depending on the seriousness of the allegations. Less serious investigations my use written statements from students as part of the evidence gathered.



19. The investigator will prepare a written report weighing the evidence gathered for each allegation drawing conclusions and recommending a finding. The investigator may also make recommendations to the school or ACSWA for some systemic adjustments to its policy, guidelines and processes. The written report should include as appendices copies of the evidence gathered.
20. If corroborated evidence is gathered that is contrary to that given by the Complainant or Victim/s the investigator may inform them of this evidence and provide an opportunity for a response.
21. Based on the report the investigator will prepare a letter of preliminary finding for the PSOC. This letter should be addressed from the Director of Education, be on letterhead and include:
  - a) thanking the PSOC for providing a response and for their cooperation with the investigation if applicable.
  - b) the preliminary findings.
  - c) a statement indicating that the findings are preliminary and that the PSOC has an opportunity to further respond.
  - d) how and when the PSOC should respond to the letter.
  - e) what the process is after the receipt of a response.
  - f) what the likely outcome would be for the PSOC if the preliminary finding becomes the final findings including the likely employment action.
  - g) If applicable indicate ACSWA's obligation to report to the Teachers Registration Board of Western Australia of any relevant misconduct findings.
22. For Investigable Conduct allegations the preliminary finding could be one of the following:

<b>Finding</b>	<b>Description</b>
sustained	a finding that the conduct occurred
not sustained	there is some evidence of weight however there is insufficient evidence available to reasonably establish that the alleged conduct did occur
false	where inquiries into the matter show reportable conduct or an act of violence did not occur
not investigable conduct	where inquiries into the matter show the conduct was not investigable

23. For all other allegations types the preliminary finding could be one of the following:

<b>Finding</b>	<b>Description</b>
sustained	a finding that the conduct occurred
not sustained	there is some evidence of weight however there is insufficient evidence available to reasonably establish that the alleged conduct did occur

24. The report and the draft letter of preliminary finding should be submitted to AdSAFE Ltd or the Director of Education for review.

## **6.8 Decision making**

1. The Director of Education will receive and review the report and its recommended findings and where necessary examining the evidence gathered. As decision maker the Director of Education may wish to adjust the recommended findings based on a different view of the evidence gathered and how it is weighted. If this is the case the Director of Education may decide to consult with the investigator and argue a different position. The report will need to be suitably adjusted to reflect the change. The Letter of Preliminary finding may then need to be redrafted.
2. The Letter of Preliminary finding is usually given to the PSOC in a meeting. This allows for any further clarification and questions. However if the PSOC is happy it can be sent via email or post.
3. On or after the deadline for the PSOC's response the Director of Education will review any response to see if it materially changes any of the findings. If this is the case the finding should be revised with an addendum attached to the report indicating the additional material provided by the PSOC and how this has changed the finding/s.
4. A letter of final finding should be drafted and sent to the PSOC. This should include:
  - a) thanking the PSOC for providing a response and for their cooperation with the investigation if applicable.
  - b) the final findings.
  - c) a proposal to meet separately to discuss discipline or employment action if applicable.
  - d) If applicable an indication that the Schools' Company has an obligation to report to the Teacher Registration Board of Western Australia these relevant misconduct findings.
5. A letter outlining the final finding and any related recommendations for adjustments to school guidelines and procedures should be drafted and sent to the complainant.

## **6.9 Post investigation follow-up**

1. If the employee's misconduct meets the criteria of Serious Misconduct as defined in the appropriate AWARD the Director of Education may summarily dismiss the employee.
2. If required the Director of Education will meet with the person subject of a sustained finding (PSSF) to discuss any proposed discipline or employment action. This proposed action should be presented as being ACSWA's preliminary view.
3. The Director of Education may consider the following table when considering discipline action. If applicable the PSSF may be asked to provide an apology.

<b>Decision</b>	<b>Explanation</b>	<b>Corrective Action</b>
Complaint justified	Behaviour or decision is outside the policy, guidelines or processes of the school	The staff member concerned should send an apology.
Complaint justified	Behaviour or decision is within the policy, guidelines or processes of the school but poorly communicated	The staff member concerned should send an apology. The implementation of the policy should be edited to prompt staff on more effective methods to communicate in the future
Complaint justified	Behaviour is within the policy, guidelines or processes of the school however is an unforeseen and inappropriate outcome of these documents.	Apology may be issued by the Principal. The policy should be revised to ensure the unintended event does not occur in the future
Complaint unjustified	Behaviour is within the policy of the College and has been adequately explained to the relevant parties	N/A

4. The PSSF should be given some time to respond to this preliminary view.
5. Once the deadline for a response has expired the Director of Education will review the response if any made by the PSSF. The Director of Education will then make the final decision on discipline or employment action.
6. The Director of Education will notify AdSAFE Ltd and Teacher Registration Board of Western Australia of the conclusion of an investigable conduct investigation and state what employment action was taken with the case.
7. The Director of Education will notify the Teacher Registration Board of Western Australia of any employment action taken where, in the opinion of ACSWA, the teacher's competency to be employed as a teacher is called into question.

#### **6.10 Right to Appeal**

1. The PSSF has the right to appeal a finding made in an investigation into a complaint. This appeal should be made to ACSWA Board Chair and should follow ACSWA's guidelines on Complaints and Appeals.
2. If the investigation conducted was responding to an allegation of investigable conduct the PSSF is entitled to ask the AdSAFE Ltd to review the investigation and findings if the employee believes the investigation was unfair, biased, incomplete or suffered some other deficiency giving rise to an incorrect finding.
3. ACSWA has reporting obligations to the Teacher Registration Board of Western Australia at the conclusion of the investigation. The PSSF is entitled to ask the Teacher Registration Board of Western Australia to review the matter.

4. A PSSF who has been dismissed and believes that the dismissal was unfair has the right to appeal to the Fair Work Commission by making an unfair dismissal application. This should be done within 21 days of the dismissal.

## **7 Appeals**

Anyone with a concern about a decision made by ACSWA or one of its schools is welcome to appeal the decision. Decisions made by individual staff members and groups such as school committees are open to appeals.

Decisions about a teacher's professional judgement generally can't be appealed.

### **7.1 The basis for appeal**

A decision made by the school can be appealed on two grounds.

1. the process of making the decision was not procedurally fair.
2. the decision itself was not fair in that it is counter to the School's philosophy, policies, guidelines or processes.

#### ***Procedural Fairness***

ACSWA and its schools is committed the principles of procedural fairness in its decision making processes. These are:

1. The right to a fair hearing which includes the right:
  - a) for a person to know the detail of an allegation before being expected to respond.
  - b) for time to prepare a response.
  - c) to respond before the decision is made.
  - d) to right of reply to a decision.
2. The right to an unbiased decision maker. This excludes from the decision making process anyone who:
  - a) has brought the complaint.
  - b) has a vested interest in the outcome.
  - c) has a conflict of interest.
  - d) played a part in the investigation.
3. Evidence to support a decision.
  - a) The decision should be made only on:
    - iv) evidence relevant to the matter.
    - v) evidence to which there is proof.
    - vi) the balance of probabilities as a burden of proof. This means that to make a finding there is more evidence for the allegation than against.
  - b) The investigation should make every effort to gather evidence relating to matters in dispute.

#### ***Unfair decisions***

A school decision may appear to be counter to a school's philosophy, policy, guidelines or documented procedures. In this case there is a perception of the decision being unfair because of an inconsistent application of these principles.

## 7.2 The Appeals process

1. Staff, students, parents and members of the school's community with concerns about a decision have the right to appeal the decision.
2. An appeal can be made by phone, email, by letter or in person and be addressed to the Principal and state the original decision and the grounds on which the appellant wishes to appeal.
3. The Principal will send confirmation of the receipt of an appeal within 24 hours and indicate when a response can be expected.
4. Work on appeals should commence within 5 working days and the decision on the appeal should generally not take more than a further 5 working days.
5. The decision on an Appeal will be made by a review panel consisting of a group or individual as outlined in the following table:

For decisions originally made by...	The Appeal will be reviewed by... The Review Panel
A Teacher	The Teacher's Head of Department or Head of School
A Head of Department or Head of School	The Principal
The School Administration	The School Council
The Principal	The School Council or Director of Education
The School Council	The Director of Education
The Director of Education	The Chairman of the Schools' Company Board

6. The Principal will notify the Director of Education of the receipt of an appeal.
7. The Principal and Director of Education will consult and appoint the most appropriate Review Panel and if the review panel is a group, a Review Panel Secretary.
8. The Review Panel Secretary will prepare the materials for the group to review before making the decision.
9. If the review is to be done by an individual that person will act as the review panel secretary and the review panel.
10. The review panel secretary may contact parties to the original decision to clarify any matters relating to the appeal.
11. The review panel secretary will collect all records relating to the original decision.
12. The process of review may include:
  - a) a check of the information gathered for completeness. This may involve further collation if anything is missing.
  - b) a review of the original decision comparing it with the appropriate philosophy, policies, guidelines and processes outlined in the school

documents. Decisions counter to existing policy or procedure may be overturned.

- c) the review panel will check the decision making process to see if procedural fairness was used in all aspects of that process. Decisions made without procedural fairness may be overturned. Alternatively, if the review panel believes a fair decision is still possible, the original decision maker may be asked to start the process again this time ensuring procedural fairness.
13. The review panel will make a preliminary finding on the appeal. This will generally take the form...
- Because of the following reasons....
- (list of evidence relied on) ...
- The review panel....
- Overturns the original decision....
- or
- Upholds the original decision....
- or
- Directs the decision maker to remake the decision applying procedural fairness to the process
14. This preliminary finding will be shared with all parties that have a material interest in the decision setting a deadline for a response.
15. The response should address new evidence that may not have been considered.
16. The review panel will review all responses and make a final finding on the appeal.
17. The Review Panel will notify the appellant in writing and may choose to meet with them to explain the decision. The panel will also inform the appellant of any recommendations it has made for changes to the school's policies, guidelines and processes resulting from the appeal.

### **7.3 Right to appeal to external parties**

If the appellant is still not happy with the decision there are external bodies who provide oversight to ACSWA and its schools to which they may appeal. These bodies include:

1. Department of Education and Training – Role of Director General

The Director General of the Department of Education is responsible for ensuring that the school observes the registration standards, including the standard about its complaints handling system. Any student, parent or community member is entitled to contact the Director General with concerns about how the school has dealt with a complaint. Information is available on the Department of Education website. While the Director General may consider whether or not the school has breached the registration standards, she does not have the power to intervene in a complaint or override the school's decision.

2. School Curriculum and Standards Authority for matters relating to assessment and curriculum delivery.
3. Fair Work Commission for matters relating to staff remuneration, workplace bullying and dispute resolution.
4. Overseas Student Ombudsman for matters relating to overseas student agreements and reporting on compliance with visa conditions.
5. The Australian Human Rights Commission for matters relating to discrimination, harassment and bullying.
6. Office of the Australian Information Commissioner for matters relating to privacy and the use of your personal and sensitive information.
7. Consumer Protection WA for matters related to disputes about fee payments.
8. AdSAFE Ltd for matters related to investigable conduct if the employee believes the investigation was unfair, biased, incomplete or suffered some other deficiency giving rise to an incorrect finding.

It should be noted that most of these agencies will expect that an appellant would have first used the internal school complaints and appeals process prior to seeking the external agencies' assistance.

<b>Document Controls</b>	
Document Name	Seventh-day Adventist Schools (WA) Ltd Policy for Handling Complaints and Appeals Roles, Responsibilities and Processes  ComplaintsAppealsGuidelines-RRP-WA.docx
Status	Ratified by ACSBOD 30 June 2021
Version	3
Created	16 October 2017 (Murray Chapman, AdSAFE Ltd)
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Change Log	DV3 Updated definition of Investigable Conduct Included definitions of: Child Vulnerable Person Sexual Offence Child Sexual Misconduct Adult Sexual Misconduct Sexual Exploitation Sexual Harassment: Sexually Inappropriate Behaviour: Crossing professional boundaries Sexually explicit comments and other overtly sexual behaviour towards a child Sexually explicit comments and other overtly sexual behaviour towards a vulnerable person Grooming behaviour Emotional Abuse: Physical Abuse: Spiritual Abuse: Psychological abuse: Neglect: Domestic violence:
Acknowledgements	A better practice guide to complaints handling, Commonwealth Ombudsman, Date of publication: April 2009 <sup>[1]</sup> <sub>[SEP]</sub> Publisher: Commonwealth Ombudsman, Canberra, Australia  <i>Are You Listening? Guidelines for making complaints systems accessible and responsive to children and young people.</i> Date of publication: June 2013. Publisher: Commissioner for Children and Young People, Western Australia