



South East Network – Youth+ Employee Complaints & Grievance Policy

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Drafted by	Network Principal	Approved by	NP
Responsible person	Network Principal	Scheduled review date	April 2019

Introduction

To support the rights of individuals to achieve their full potential free from Discrimination, Bullying, Harassment, Victimisation and Vilification, Youth+ aims to provide a robust set of principles, responsibilities and procedures associated with preventing and resolving Complaints of this nature made against Youth+ Employees.

In order to assist Employees who are faced with circumstances in which they feel aggrieved, Youth+ also provides a mechanism for Employees to raise a Complaint or Grievance in relation to internal human resources or employment related matters.

Youth+ emphasises a collegial approach to concerns, Complaints and Grievance resolution through informal processes where possible. These processes are designed to lead to a prompt resolution of problems in an expeditious and confidential manner, with access to formal mechanisms for resolving Complaints and Grievances if required.

Purpose

This policy has been designed to ensure the South East Network of Youth+:

- Offers a robust framework for managing and resolving Discrimination, Bullying and Harassment concerns and Complaints against Employees, and
- Provides appropriate mechanisms for Employees to raise a Grievance or Complaint on other employment related matters.

The policy has been implemented in order to foster a safe and inclusive work, teaching and learning environment where individuals feel safe and supported and are able to work effectively, without fear of Discrimination, Harassment, Bullying, Vilification, Victimisation and/or reprisal. This policy complies with all applicable State and Commonwealth laws.

Policy

This policy applies to:

- All Discrimination, Bullying and Harassment concerns and Complaints raised against Employees (including volunteers and placement students) by any employee involved in Youth+ related activities; and
- Grievances raised by Employees in relation to employment related matters.

Youth+ respects the right of all members of the community to have access to a process, which will give full and fair consideration to any complaint grievance that may arise. All feedback and complaints and subsequent follow up actions will be recorded in a school complaints register.

The process described in this policy aims to address in a timely and equitable manner any complaint raised to ensure that the rules of natural justice are followed.

AUTHORISATION

Chloe Hand
Network Principal, Youth+
March 2018



1. Responsibility

It shall be the responsibility of the **Network Principal** (or a delegated authority) to implement this policy and to monitor its performance.

It is the responsibility of the **Head of School/Head of Campus** to ensure that:

- They are familiar with this policy and procedure/s, and follow them accordingly;

It is the responsibility of the **Network Principal** to ensure that:

- All **Heads of Campus/Head of School's** are aware of their responsibilities in regards to this policy; and
- **Heads of Campus/ Head of School's** are given continuous support and guidance to support to implement this policy.

2. Definitions

Bullying -	Bullying occurs where an individual or group of individuals repeatedly behaves unreasonably towards a person or group of persons and that behaviour creates a risk to health and safety.
Complainant-	A person who has made a Complaint against another person
Complaint-	An expression of dissatisfaction made in relation to an action, decision or omission within the responsibility and control of Youth+ and/or a Youth+ staff member, where a response or resolution process is expected wherever possible.
Decision-	A determination made by an Employee, contractor or other authorised delegate in the course of their duties on behalf of Youth+....more
Discrimination-	Occurs when a person or a group of people are treated less favourably than another person or group because of race, colour, national or ethnic origin; gender or marital status; disability; religion or political beliefs; sexual preference; or some other central characteristic. Discrimination may occur when a person is denied the opportunity to participate freely and fully in normal day.
Employee-	A person employed by Youth+.
Formal Complaint	- A Formal Complaint is a written Complaint lodged with the relevant person, which is dealt with through a formal process of Youth+. It may lead to a formal investigation of allegations.
Grievance-	Defined as a concern or Complaint raised by an Employee against a process, action, omission or Decision within the responsibility and control of Youth+ which relates to employment or related internal human resources matters, which has or is likely to have an unreasonable negative impact on the ability of an Employee to undertake their duties.
Informal Complaint-	A Complaint expressed either verbally or in writing to a relevant person which is not dealt with through a formal process of Youth+. It may involve a discussion with relevant parties in order to receive information and explore options on resolving the matter. It does not involve a formal investigation or the determination of evidence.
Mediation-	A process in which parties to a dispute, with the assistance of a neutral third party ('the Mediator'), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The Mediator has no advisory or other determinative role with regard to the content of the dispute or the outcome of its resolution.
Mediator-	An individual with appropriate experience and training appointed by Youth+ to assist the Complainant and Respondent to negotiate a solution which is acceptable to both of them but not to determine what that solution will be.
Respondent-	A member of the Youth+ workforce against whom a Complaint has been made.



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Victimisation- Any unfavourable treatment, or threats of unfavourable treatment against a person as a result of their actual or intended involvement in a complaint. The involvement might include making a complaint, supplying information and producing documents to someone making a complaint or appearing as a witness in a proceeding.

Vilification- The public incitement of hatred, serious contempt or severe ridicule of a person on the basis of the race, religion, sexuality or gender identify of a person or members of a group. It can take several forms including hate-speech, graffiti, websites and the distribution of propaganda or other forms of offensive literature. Vilification includes threatening physical harm to a person.

Workplace Bullying and Harassment –

Workplace Bullying and Harassment, under the Fair Work Act 2009, occurs where an individual or group of individuals repeatedly behaves unreasonably towards an Employee or group of Employees at work, and that behaviour creates a risk to health and safety. Within this definition: Repeated Behaviour refers to the persistent nature of the behaviour and can range in behaviours over time.

3. Principles

Youth+ will take all reasonable steps and actions to ensure that Employees will be treated fairly and with dignity and respect whilst working at Youth+. As part of this approach to providing a fair, safe and productive work environment, consideration of Complaints and Grievances will be dealt with fairly, consistently, promptly and with sensitivity to all parties.

Youth+ will comply with its legal responsibilities in accordance with all relevant legislation.

Youth+ acknowledges that individuals have a legislative workplace right to raise a Complaint or Grievance in accordance with this policy and that these rights are protected from certain unlawful actions including, but not limited to, adverse action. All parties involved in Complaint or Grievance resolution processes are encouraged to participate in good faith and the principles of natural justice and procedural fairness will be observed.

Any breach of confidentiality may result in Disciplinary Action taken in accordance with the provisions of the relevant Youth+ policy or procedure.

Youth+ will not normally investigate anonymous Complaints unless the issues raised within the Complaint are of a serious nature and sufficient information is provided.

All personal information collected under this policy and pursuant procedures will be held and used in accordance with the Youth+ Privacy Policy and Procedure.

4. Employee Discrimination, Bullying and Harassment Complaints against Employees

Discrimination, Bullying and Harassment will not be tolerated at Youth+ under any circumstances and may in fact be unlawful under State or Commonwealth law.

As outlined in EREA's Code of Conduct Policy, individuals are responsible for making themselves aware of and adhering to EREA/Youth+ policies on all forms of Discrimination, Bullying and Harassment.

Complaints of Discrimination, Bullying and Harassment will be treated seriously by Youth+ and will be managed promptly in a thorough and confidential manner ensuring that all individuals, including witnesses, are not victimised.

Youth+ may initiate disciplinary procedure investigations immediately in response to allegations of conduct or behaviour that may be considered misconduct.

Where an individual has raised Discrimination, Bullying and Harassment concerns but does not wish to lodge a Formal Complaint, Youth+ has a responsibility to take these matters seriously and may be obligated to investigate these concerns further where they are considered to be of a serious nature and have the capacity to impact on an Employee or Student's health and safety, or another Employee or Student's health and safety.

Youth+'s procedures and processes for resolving Discrimination, Bullying and Harassment concerns and Complaints are underpinned by the following principles:



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- Individuals making Discrimination, Bullying or Harassment Complaints will be supported by Youth+ to make resolution decisions and to take action to resolve their concerns.
- Complaints will be dealt with as expeditiously as possible with resolution as close as possible to the source.
- Complaints managed under this policy will normally be dealt with and finalised within 28 days, where practicable.
- Complaints will be dealt with promptly and sensitively by the Network Principal/s.
- At any time, an individual may withdraw the Complaint, seek assistance from a Nominated Representative, or lodge a Complaint with an external agency, as appropriate.
- Complaints will be rejected if a preliminary Investigation of the facts indicates that they are found to be frivolous, vexatious, misconceived or lacking in substance.
- Complaints which are made in good faith are not vexatious Complaints, even if the Complaint is not eventually substantiated.
- Individuals are encouraged to raise genuine concerns without fear about unlawful, negligent or improper public sector conduct where they fall within this policy and procedure and are consistent with the definitions in relevant Public Interest/Disclosure legislation in Victoria, Tasmania and NSW.
- Youth+ may initiate disciplinary procedure Investigations immediately in response to allegations of conduct or behaviour that may be considered misconduct or serious misconduct and reserves the right to take disciplinary action against persons who knowingly lodge a vexatious complaint.
- Where required by legislation, Youth+ may notify relevant external agencies and reporting bodies of matters as necessary.

Individuals wishing to lodge a Formal Complaint of Discrimination, Bullying and/or Harassment against an Employee of Youth+ should refer to their concerns directly to the Network Principal/s of the South East Network

4.2 Employee Grievances

A Grievance is typically considered a concern or Complaint raised by an Employee against a process, action, omission or decision within the responsibility and control of Youth+ which relates to employment or related internal human resources matters, which has or is likely to have an unreasonable negative impact on the ability of an Employee to undertake their duties, or similar impact on their career.

Youth+ will maintain a clear and fair process to resolve the Grievances of Employees. In doing so, Youth+ seeks to achieve and maintain a workplace that encourages a productive and harmonious working environment through:

- Frequent discussion between Employees and their Supervisor;
- Cooperation between and amongst Employees of Youth+; and
- The opportunity for the satisfactory resolution of problems and Grievances in a positive and constructive manner.

Youth+ has adopted a three-level Grievance resolution process which emphasises the resolution of the issue at the lowest possible level and can be summarised as:

- First level: Facilitation
- Second level: Mediation
- Third Level: referral to bodies such as the Fair Work Commission.

4.3 Frivolous and vexatious Complaints and Grievances

Where Complaints or Grievances at any stage of an Investigation or process are found to be unsubstantiated, misconceived, frivolous, vexatious or not lawful by reason of a provision contained in legislation, or in breach of this policy, Youth+ may, by notice in writing addressed to the Complainant, dismiss the Complaint.

Employees who deliberately make false or malicious Complaints may be subjected to Disciplinary Action.

5. Procedures

To support the Complaint resolution process, Youth + will:

- Maintain a pool of designated Contact Officers and ensure they are adequately trained;



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- Provide training and professional development opportunities for Employees and Supervisors and education and awareness in relation to Discrimination, Bullying and Harassment Complaint processes;
- Ensure Supervisors and Employees have access to training on their rights and responsibilities in relation to Complaints, including mandatory induction and compliance training;
- Securely archive all documentation pertaining to Complaints according to Youth+ policy and procedure on record keeping and storage
- Maintain a confidential register of Complaints

Supervisors

All staff within leadership positions have an obligation and a responsibility to take all reasonable steps to ensure that no form of Discrimination, Bullying or Harassment takes place in a Youth+ environment, whether this is between Supervisors and Employees, between Employees or between Employees and Students.

This includes ensuring that a culture of unacceptable behaviour is addressed immediately. Individuals should be given clear guidance about what is acceptable and what is not acceptable behaviour in Youth+ environment.

Supervisors have a duty to ensure that they are aware of their responsibilities in the prevention and resolution of Complaints of Discrimination, Bullying or Harassment and to ensure that these Complaints are dealt with in a supportive environment without Victimisation or intimidation of any individual connected with a Complaint during or subsequent to resolution.

It is the primary responsibility of Supervisors to take all reasonable steps to prevent and resolve Complaints raised in their area/s of responsibility. Supervisors need to recognise the early signs of disharmony and to take early, sensitive and positive steps to prevent and resolve Complaints. Supervisors should not wait until an individual makes a Complaint before taking action, and if a Complaint is made, it is a Supervisor's responsibility to assist the individual to resolve the issue.

To support the Complaint resolution process, it is the responsibility of a Supervisor to:

- Inform individuals of the actions they can take if they feel they are being harassed, bullied or discriminated against;
- Inform individuals who are the subject of Discrimination, Bullying or Harassment concerns of their rights and provide them with the relevant Complaint resolution process;
- Inform individuals that Discrimination, Bullying, Harassment, Victimisation and Vilification may, where substantiated, result in the commencement of disciplinary procedures;
- Inform individuals of Contact Officers and their availability;
- Address any Complaint process through consultation with the impacted individual or individuals;
- Ensure that individuals who make a Complaint are not victimised for doing so;
- Ensure that the policies and procedures in relation to the making of a Complaint or resolution are followed;
- Ensure that the matter is handled confidentially and privately;
- Ensure that individuals are sufficiently informed prior to an Investigation, whilst protecting confidentiality;
- Ensure that the environment is supportive of individuals on the completion of any Investigation; and
- Ensure that an individual not be made to feel that they should take certain action, or no action, because of their involvement or interactions with other individuals.

Reasonable Management Action

Supervisors have responsibilities to manage and supervise their Employees and Workplace Bullying and Harassment must not be confused with Reasonable Management Action, carried out in a reasonable manner.

Management action must be reasonable and may include but is not limited to undertaking performance reviews, effectively directing and controlling the way work is carried out, counselling Employees, rostering and allocating working hours and informing Employees particularly with regard to the unsatisfactory performance of duties. Such comment and advice may include critical statements and feedback, along with ongoing monitoring and review of performance.

Similarly, Employees who teach, supervise or support young people also have a responsibility to provide constructive comment on Student performance and progress.

Individuals



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As outlined in the EREA Code of Conduct, employees are responsible for making themselves aware of and adhering to Youth+ policy and procedure on all forms of Discrimination, Bullying or Harassment.

Employees are encouraged to take responsibility and ownership for making decisions on how they would like the concerns to be resolved.

Individuals can access information, support and assistance from Supervisors, Contact Officers, senior staff and Union representatives to determine the resolution option that they would like to progress, inform of their rights, and provide them with the relevant Complaint resolution process. Youth+ will consult with the individual in relation to the processes that will be taken to resolve the concerns raised.

6. Managing Complaints

The Complaint resolution process will be carried out in good faith and Complaints that are frivolous, vexatious, misconceived or lacking in substance will be rejected if a preliminary investigation of the facts indicates this. Youth+ may initiate disciplinary procedure investigations immediately in response to allegations of conduct or behaviour that may be considered misconduct. In some circumstances a Complaint under this procedure may also be regarded as a matter that requires attention under the Public Interest/Disclosure legislation.

Employees wishing to lodge a Formal Complaint of Discrimination, Bullying and/or Harassment against an Employee of Youth+ should do so in accordance with this procedure.

Where an Employee has raised Discrimination, Bullying and Harassment concerns but does not wish to lodge a Formal Complaint, Youth+ has a responsibility to take these matters seriously and may be obligated to investigate these concerns further where they are considered to be of a serious nature and have the capacity to impact on an Employee or Student's health and safety, or another Employee or Student's health and safety.

Employees who require assistance to make a Formal Complaint can be supported by a Contact Officer to do so. A Contact Officer who provides this assistance may not also be part of an investigative team, or involved in initiating Disciplinary Action.

7. Complaint resolution processes

Employees seeking to resolve issues of Discrimination, Bullying and Harassment can initially seek information and support (not counselling) from a Contact Officer.

Individuals are encouraged to report all instances of Discrimination, Bullying or Harassment behaviour, threats of violence and violent acts involving them through the use of these procedures. By not addressing Discrimination, Bullying and Harassment, when and if it occurs, the problem cannot be resolved and other people may be subjected to conduct, which may be unlawful. Discrimination, Bullying and Harassment of any individual is not tolerated by Youth+ on any level.

If a concern is with an immediate Supervisor, the Employee can ask for assistance from that Supervisor's Manager.

8. Stages of Employee Complaint resolution

This procedure outlines the broad stages associated with resolving Complaints associated with Discrimination, Bullying, Harassment, Victimization and Vilification against Employees at Youth+.

There are separate Complaint resolution stages and processes to be followed depending upon the nature of the Complaint.

Normally in resolving Complaints of Discrimination, Bullying and Harassment Youth+ applies a three stage process. The emphasis of this process is to seek resolution as soon as possible with resolution occurring at the lowest possible level. The three stages are as follows:

Stage 1: Initial Action;

Stage 2: Further Advice and Assistance; and

Stage 3: Investigation.

Stage 1 and 2 are informal processes. They allow individuals to make informed Decisions and assist them in resolving the issues. They do not involve a formal Investigation or the determination of evidence. Individuals are encouraged to resolve Complaints between themselves, where possible.

Youth+ maintains a register of Contact Officers who are trained to provide information and support (not counselling) for these procedures. Contact Officers will assist an individual to decide whether the concerns constitute, Discrimination, Bullying or Harassment, advise them of their rights and explore possible options with them.



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Stage 3 is a formal procedure and will normally only be used when the matter cannot be resolved informally. It involves the making of a written Formal Complaint after which an Investigation of the allegation of, Discrimination, Bullying or Harassment occurs and an outcome is then imposed on the parties.

Normally, all Complaints will be progressed through each of the Complaint resolution stages and processes.

However, an individual can lodge an Informal Complaint (verbally or in writing) to start the process, and at any time an Informal Complaint may progress straight to the Network Principal if the allegations pose an immediate risk to the health, safety or wellbeing of any Youth+ member or involve alleged criminal activity by an Employee.

Where the Complaint involves allegations of criminal misconduct, such as assault, theft, sexual assault, rape, indecent exposure, stalking or obscene communication the individual will be informed of their right to report the matter to the police.

Youth+ takes all Complaints seriously and every effort will be made to provide support and assistance to individuals as required.

9. Disciplinary Action

Where Discrimination, Bullying or Harassment is found to have occurred, this may be considered as misconduct or serious misconduct and Disciplinary Action may be commenced against the person against whom the findings were made.

Relevant Policies

EREA Code of Conduct
Social Media Policy
Staff Probation and Annual Review Policy
Privacy Policy
Child Safety Policy and Code of Conduct

Relevant Legislation

Australian Human Rights Commission Act 1986
Disability Discrimination Act 1992
Equal Opportunity (Commonwealth Authorities) Act 1987
Fair Work Act 2009
Racial Discrimination Act 1975
Racial Hatred Act 1995
Sex Discrimination Act 1984



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