

## Guidance for developing a Complaints Policy/Process for an ECE Service

This guidance is in two parts:

1. General guidance on handling complaints
  2. Specific guidance on developing a complaints policy
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### Part 1 Handling Complaints

This guidance is based on information on the Ministry of Education's *Educational Leaders* website. (<http://www.educationalleaders.govt.nz>)

#### ***When you receive a complaint***

##### **a. Listen**

- Let the complainant have their say. Make it clear that you have heard the complaint. Say something like, "Thanks for letting me know. I'll follow this up and get back to you by ....." Name a time that is easy to achieve and contact the complainant with your progress report towards resolution of the issue.
- Make the complainant feel that you value their coming to you. Do this even if they are angry. Remain calm even if what is being said seems unfair. You are the one in control of the situation.
- Write down the specifics of the complaint. You might need to get the complainant to pause while you gather things to write with.
- Check back that you have the details right. If it seems appropriate, ask them to write down the complaint as well, so that you can compare what you have written with what they said. Keep this written documentation safe, as you may need it later.

##### **b. Investigate**

- Depending on the nature of the complaint, you will probably not need to respond straight away, other than to thank the complainant for letting you know. However, if you deem the complaint to be 'serious' (for example if it involves the safety of a child or staff member), you may need to take immediate action before you can begin an investigation. This may involve the removal of a person, or contacting external support. Do not assume blame on anyone's part until you have gathered all the facts.
- Make a judgment call about the time you need to give to dealing with this complaint. Is it something that you can leave for a little while, or something that requires 'nipping in the bud' now? Ask yourself what the consequences of not dealing with the complaint immediately are likely to be.
- It is possible that the complainant will want an instant response. Reassure them that you will give them a response as soon as you have had time to consider it. Use this time to assess the gravity of the complaint, and then you can prioritise it. Don't leave dealing with it for too long, though. Small issues can grow out of all proportion if they are not dealt with smartly. The priority

scale you might use will probably be: *now, later today, tomorrow or the day after*, rather than next week.

### c. Inform where necessary

- Let everyone (who needs to) know what is going on. Any staff member who is the subject of a complaint must be told about it and any likely investigation of it as soon as the complaint is received.
- Keep those who are affected informed about what is happening (especially if the investigation takes longer than expected). Clear communications will help people to feel confident that you are handling the situation appropriately.
- Taking too long to act invites speculation and encourages those who don't need to know to become involved.

### d. Get advice

- Be aware of where you can receive support for managing complaints. This might be:
  - Any ECE member group you belong to,
  - An employer support organisation (eg Employers and Manufacturers Association, EMA),
  - Your local Chamber of Commerce or small business support group,
  - The Employment Relations Service of the Ministry of Business, Innovation and Employment. (<http://www.dol.govt.nz/er/> )
  - The Ministry of Education.
- For more serious complaints involving staff that may develop into a competency or disciplinary situation it is advisable to ensure you are well informed of the legal processes you need to follow.
- Procedure must be strictly followed or you might find yourself in an employment-related situation. There are many examples of employment related case law where the court has found in favour of the employee as a result of a failure of the employer to follow a fair process.

### ***When you have the evidence***

- **Keep a record of everything.**
- Consider all possible resolutions and possible unintended outcomes. You might want to discuss these with a trusted colleague.
- Meet with the complainant to convey your decision or to discuss the options for resolving the issue.
- If the complaint involves two parties (that is, one person complaining about another person) you might need to decide whether to bring the parties together to try to achieve a resolution. Depending on the seriousness of the complaint, you might need assistance to plan and manage this process. Again, use one of the services available to you. However, in more difficult cases this may not be an option.
- Make a decision. Acknowledge any 'errors' made, if necessary. Ask the complainant whether he/she is happy with the outcome. If not, offer further options that may be taken.
- Follow up with a letter to the complainant detailing the discussion, the agreement (if any) you have reached, and the intended actions.

### ***Is it a complaint?***

- It is not always obvious when someone is making a complaint, so be alert to this possibility. Ask, “Are you making a complaint?” and make a note of the response you receive. Complaints can be made in the form of 'softly presented' expressions of concern about something or someone. These can often be missed by busy principals and grow in seriousness. If this happens, a complainant could justifiably say, “I asked you to do something about this 6 months ago!” However, you don’t want to be over-reactive, so seeking clarification at an early stage is important.
- If it seems ‘tricky’, don’t hope it will just go away. It won’t.

### **Involving your executive committee or board (where one exists)**

If the complaint is made to you, use your judgment. Try to achieve resolution at the lowest level possible.

If you think things might escalate, advise the executive/board chair of the measures you’re taking so that he/she will not suddenly be surprised by what has become a major concern. You may also need to alert the service’s insurer if the complaint is ‘high level’ - for example, if it could become a personal grievance case.

If the complaint is made to the executive/board, it’s not your decision. You will play whatever role the executive/board requires of you. For example, you might be asked to gather and pass on the evidence. If you collect and present the evidence, natural justice says you should not be involved in any judgment – let the executive/board make the decision.

If the complaint is about you, the executive/board must handle it without your involvement, but with your knowledge.

## **Part 2 Developing a Complaints Policy**

Policy documents may follow a variety of different formats. Your Complaints Policy/Process might include:

<p>Rationale or Commitment Statement</p>	<p>This outlines why you need this policy. It might include statements such as:</p> <ul style="list-style-type: none"> <li>• We are committed to positive, supportive and low-key resolution of concerns and complaints.</li> <li>• We will follow current employment legislation and best practice for employers, in addition to the requirements of the collective agreement in place for our staff (if there is one).</li> </ul>
<p>Policy Scope</p>	<p>This identifies the areas covered by this policy and its related procedures. For example:</p> <ol style="list-style-type: none"> <li>Low level concerns</li> <li>Complaints</li> </ol> <p>You should identify who is covered by the policy – employees?</p>

	<p>Volunteers? Committee or Board members? Management team? etc</p> <p>You may also want to refer to related policies/procedures such as your:</p> <ol style="list-style-type: none"> <li>i. Employee Competency Policy/procedures, and</li> <li>ii. Disciplinary Policy/Procedures – serious misconduct, warnings, dismissal.</li> <li>iii. Child Protection Policy/Procedures</li> </ol>
<p><b>Definitions</b></p>	<p>You may find it helpful to define any terms you are going to use in your policy/procedures so that everyone is clear how these apply.</p> <p>For example:</p> <p>A <b>concern</b> is any <b>low-level query or statement</b> by a parent/caregiver, employee or other individual which relates to an employee, a teaching or management practice or decision, or other aspect of the service's policies or operations.</p> <p>This is most likely to be resolved by discussion, clarification, information or very low-level corrective measures only – not disciplinary action.</p> <p>A <b>complaint</b> is a <b>more serious statement</b> made by a parent/caregiver, employee or other individual which relates to an employee, a professional or management practice or decision, or other aspect of the service's policies or operations that has not met that person's expectations for some reason.</p> <p>A complaint is more likely to require corrective measures or disciplinary action.</p>
<p><b>Guiding Principles</b></p>	<p>Whilst the detailed steps in your procedures will form the guide to managing concerns and complaints, flexibility may be needed in your approach to suit differing sets of circumstances. In such a situation, you may find it helpful to have a set of principles which can be used to guide actions and decisions in those cases.</p> <p>For example, this might include statements such as:</p> <ol style="list-style-type: none"> <li>i. Confidentiality – this will be maintained as far as possible except where it would breach natural justice</li> <li>ii. Preservation of interpersonal and working relationships</li> <li>iii. Respect for the dignity and mana of the employee and complainant</li> <li>iv. Quick response</li> <li>v. Listening and seeking to understand before taking action</li> <li>vi. Keeping to agreements – not changing agreements without consultation</li> <li>vii. Flexibility – the processes can be adapted to meet the requirements of an individual situation – while still meeting all legislative and contractual requirements.</li> <li>viii. Impartiality – the procedures will be fair and equitable</li> <li>ix. Consistency – similar actions for similar situations</li> <li>x. Low key resolution – discussion, coaching, counselling, not discipline</li> </ol>

	<ul style="list-style-type: none"> <li>xi. Direct communication – talking face-to-face, not letters and memos</li> <li>xii. Supportive action – the focus is on positive resolution, not punishment.</li> <li>xiii. Employees and/or complainants may seek family, whanau, professional and/or union support where this is available.</li> </ul>
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<p>Procedures</p>	<p>Consider the following:</p> <ul style="list-style-type: none"> <li>• Who will handle concerns/complaints about different employees, management positions, volunteers, committee or board members?</li> <li>• Will the process be different depending on who makes the complaint? Eg a parent or a staff member.</li> <li>• What will the basic course of investigation be?</li> <li>• What will be documented?</li> <li>• How will progress and results be communicated?</li> <li>• What should a complainant do if they are unsatisfied with the results of any investigation?</li> <li>• Must complaints be in writing? How will you support people to put their complaints in writing? If a complaint does not have to be in writing, how will you protect people against mischievous complaints that are not “owned” by the complainant?</li> <li>• How will you protect confidentiality for all parties?</li> <li>• Best practice is to allow any employee (or person being complained about) to have a witness or support person of their own choosing present at any meeting to discuss a complaint.</li> <li>• You might find it helpful to develop a flow chart or decision-tree which represents your concerns/complaints process in action.</li> <li>• Your process might include, for example, some of the following steps for a complaint received from a parent:             <ol style="list-style-type: none"> <li>1. Centre Manager discusses the concern/complaint with appropriate people to clarify the issue and agree the course of action to be taken.</li> <li>2. For low level concerns, the course of action may be as simple as discussions between the teacher/s and the concerned person. No formal documentation would generally be required.</li> <li>3. For more serious concern, or written complaints, the Centre Manager should acknowledge the complaint in writing and provide a copy of this policy to the complainant, assuring them of confidentiality and outlining the steps that will be taken.</li> <li>4. If the complaint is about a teacher, the teacher should be informed of the complaint as soon as possible (before any investigation begins). Best practice is to provide a copy of the written complaint, or at a minimum, a written record detailing the complaint. The teacher should be provided with a copy of the policy and reminded that they can have a support</li> </ol> </li> </ul>
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	<p>person/witness present during any discussion.</p> <ol style="list-style-type: none"> <li>5. All meetings related to the complaint should be documented. The documentation could be in the form of a file note including the date, which was present, a brief summary of any discussion investigation, action, remedy, and outcome. Copies of meeting documentation should be provided to all parties present at the meeting, to ensure the record is correct. In more serious matters, you may wish to get copies of the records signed by all parties to confirm them as true and correct record.</li> <li>6. Once a preliminary course of action has been determined, the Centre Manager (or relevant person) should contact the complainant and discuss the outcome of the investigation. Their feedback should be sought on whether or not that course of action will resolve the complaint.</li> <li>7. In finalising any investigation, a document should be kept of the action that has been agreed.</li> <li>8. Provide the complainant and the teacher with a letter confirming the steps taken, and action agreed to provide resolution, plus any follow up actions that have been agreed.</li> <li>9. Agree what documentation will be kept on file.</li> <li>10. If the issue is not resolved at the end of any action plan, determine what your next steps will be. This may be moving into competency or disciplinary procedures as determined by those policies.</li> </ol> <ul style="list-style-type: none"> <li>• If the investigation confirms more serious issues, your Complaints Policy will need to link to your competency and disciplinary procedures. See GMA7 for guidance on this topic.</li> <li>• You may also find it helpful to link your Complaints Policy to your Child Protection Policy.</li> </ul>
<p>Information for parents/whānau</p>	<ul style="list-style-type: none"> <li>• Parents/whānau need to know who to contact if they have a concern or complaint about your service.</li> <li>• You also need to advise them that they can contact your local Ministry of Education office, and provide them with those contact details.</li> <li>• You may want to display a simple notice, along with your licence and list of teaching staff, which identifies the key people to contact and the details. The notice should also tell them how they can access a full copy of your complaints policy.</li> </ul>
<p>Sources of Guidance</p>	<p>The following links provide guidance for schools which may also be of help to ECE services:</p> <p><a href="http://www.minedu.govt.nz/NZEducation/EducationPolicies/Schools/StanddownsSuspensionsExclusionsExpulsions/PartTwo/Section3ActionsOfLastResort/ManagingComplaints.aspx">http://www.minedu.govt.nz/NZEducation/EducationPolicies/Schools/StanddownsSuspensionsExclusionsExpulsions/PartTwo/Section3ActionsOfLastResort/ManagingComplaints.aspx</a></p> <p><a href="http://www.educationalleaders.govt.nz/Managing-your-school/Guides-for-managing-your-school/Dealing-with-complaints">http://www.educationalleaders.govt.nz/Managing-your-school/Guides-for-managing-your-school/Dealing-with-complaints</a></p>