

Investigation Guidelines

Rationale

Luther College is committed to conducting investigations in a fair, sensitive, timely and confidential manner. These guidelines set out the process for such investigations to ensure this commitment is met. These guidelines should be read in conjunction with the related policies set out at the end of these guidelines.

Application

Where a complaint or grievance arising under the Complaints and Grievances Policy or the Positive Workplace Policy cannot be informally resolved, an investigation conducted in accordance with these Guidelines may be required. The College may also decide to conduct an investigation of its own volition.

The College is responsible for determining whether or not a workplace investigation is appropriate in the circumstances. There may be instances where an investigation is not appropriate and can be dealt with in a more informal or alternative manner.

These guidelines are intended to provide general guidance around the investigation process only. There may be circumstances, where certain steps are changed, added or removed depending on what is considered necessary.

The College has the discretion to amend, vary or replace these Guidelines at any time.

Considerations

Investigation Timeframe

The College is committed to conducting formal investigations in a timely and efficient manner, relative to the nature of the matter being investigated. The College will endeavour to complete investigations as quickly as possible, noting that in some cases investigations may take some time to complete, including because of their complexity, the number of witnesses and the availability of the Complainant, Respondent and witnesses for interviews.

The College will keep the Complainant and Respondent informed of the progress of an investigation and give an indication as to approximate timeframes for particular steps in the process where possible. The College will endeavour to provide an update on a fortnightly basis. Where there is no new information to report or progress in the investigation a longer period between progress updates may be appropriate.

The Complainant or Respondent is welcome to contact the Director of People and Culture (or other nominated College contact conducting the investigation) at any time to inquire as to the progress of an investigation.

Confidentiality

Any person involved in an investigation or who is aware of a complaint (including, without limitation, any witnesses involved in an investigation) must keep the details confidential and not discuss them with others at the College or associated with the College except where the Director of People and Culture or the Principal has provided express prior written consent to do so.

The investigator will maintain confidentiality as far as reasonably possible. However, the investigator may choose not to maintain confidence where this would compromise procedural fairness for other persons involved in the investigation.

Breaching confidentiality is a serious breach of these Guidelines and may lead to disciplinary action for employees, including termination of employment.

All investigation participants are required to be honest and to act in a respectful and courteous manner throughout the investigation.

Victimisation

A person must not victimise another person, or subject them to any form of detriment for raising a complaint or grievance or participating in an investigation in any capacity, or planning to do so. If any investigation participant feels they are being victimised this should be raised with the Director of People and Culture immediately (or other College contact with conduct of the investigation).

Working arrangements

The College will determine whether any party to the investigation that is an employee should be stood down while the investigation is on foot. The College will also consider whether any change to working arrangements is required.

Support persons

The Complainant, Respondent and witnesses may wish to bring a support person to any meetings held during an investigation. A support person is present for moral support only and is not to speak on behalf of or to represent the relevant person. Support persons are also required to maintain confidentiality. We ask that these requirements are explained to the support person before they attend any meeting.

Procedurally fair

All investigations will be conducted in a procedurally fair manner and according to the principles of natural justice.

Investigation Framework

Phase 1 - Complainant

1. The College receives notice of a complaint or grievance that may require investigation. The Complainant will be required to provide details of the complaint or grievance, preferably in writing, if this has not already occurred. A written complaint or grievance should include the following information:
 - the full names of both the Complainant and Respondent;
 - the Complainant's contact details;
 - the nature and details of the complaint, including dates, times, and any witnesses – it should be as specific as possible;
 - include reference to any previous attempts to resolve the matter; and
 - the Complainant's desired outcome or suggestions for resolution.
2. If an anonymous complaint is received, the College will determine how to deal with it. It may be that a lack of specificity and/or no identifiable source means that it cannot be investigated.

The College will acknowledge receipt of the complaint or grievance as soon as possible. This acknowledgement will come from the College's representative with internal carriage of the investigation and the person who will be your contact point at the College during the investigation, noting that you may also be required to liaise with an external investigator.

3. The College will consider the complaint or grievance and determine whether a formal investigation under these Guidelines is required. If a formal investigation is required, the College will determine whether use of an internal or external investigator is appropriate. The investigator is required to familiarise themselves with all College policies relevant to the investigation.
4. The investigator will meet with the Complainant to conduct an interview in relation to the complaint or grievance.
5. Nothing prevents the College from conducting a formal investigation into any issue, without a complaint or grievance having been raised.

Phase 2 – Respondent and Witnesses

6. The Respondent will be provided with details of the allegations in writing and be requested to attend a meeting with the investigator to respond to the allegations. In some circumstances, the Respondent may elect to respond to the allegations in writing.

7. The investigator will identify all witnesses that are relevant to the complaint and determine whether they should be interviewed. Where appropriate witnesses will be interviewed and will be notified of the relevant allegations in writing prior to the interview.
8. The investigator can determine the order of interviews. In some circumstances, it may be appropriate to interview witnesses before the Respondent.
9. There may be occasions where the Complainant, Respondent or witnesses need to be interviewed more than once. This will be at the discretion of the investigator.
10. The investigator will consider whether any other information should be considered, such as documents.

Phase 3 – Review of evidence and findings

11. The investigator will consider all relevant evidence gathered in the course of the investigation.
12. The investigator will determine whether the allegations can be substantiated based on the evidence on the balance of probabilities. The investigator may be required to provide the College with a written report – this would not be made available to investigation participants.

Phase 4 – Delivering findings and outcomes to the Complainant and Respondent.

13. The College will assess the investigator's findings and determine the appropriate outcome. Where an investigation relates to an employee's conduct, outcomes may include a warning or termination of employment. Disciplinary processes must be consistent with the *Lutheran Education (Victorian Schools) Multi Enterprise Agreement 2018*, as varied or replaced from time to time.
14. The College will invite the Complainant and the Respondent to separate meetings to advise them of the findings and outcomes of the investigation as appropriate.
15. The College will contact any witnesses to advise that the investigation has concluded and to thank them for their participation.
16. At the time the Complainant, Respondent and witnesses are contacted they should be reminded of their confidentiality obligations.

Any queries relating to these Guidelines can directed to the Director of People and Culture of the College.

Related Policies

Staff Professional Code of Conduct

Managing Complaints and Grievances Policy

Managing Complaints and Grievances Procedure

Positive Workplace Policy

Positive Workplace Procedure

Positive Workplace Supplement

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