



Grievance Procedure

All Clinical Pastoral Education Centres including provisional ones are required by the NSWCCPE Inc to have in place before conducting courses a grievance procedure which has been approved by the NSWCCPE Inc Executive Committee.

The Complainant has the right to use this procedure should their grievance not be resolved by the Centre procedure. Should this procedure not resolve the complaint then the next step is to use the formal Complaints Procedure outlined in this Handbook.

Terminology

Grievance.

A grievance is any type of problem, concern or complaint related to the Clinical Pastoral Education Unit being undertaken. A grievance may be about any act, omission, situation or decision that is thought to be unfair, discriminatory or unjustified.

Complainant.

The person who has made the complaint.

Respondent.

The person against whom the complaint has been made.

Resolved.

'Resolved' may mean that the process is completed in line with the principles of natural justice. It is recognised that the parties may not, in all cases, be satisfied with the outcome or feel that their problem is resolved.

This grievance procedure requires:

- The complainant shall have first tried to resolve the complaint directly with the respondent.
- The complainant shall have failed to resolve the complaint by direct negotiation or have felt that she/he could not for good reasons have done so.
- That the complainant shall have approached the supervisor of the Unit about the complaint and it has not been resolved.
- That the complainant shall have approached the Centre Director about the complaint and it has not been resolved.

- That the complainant shall have approached the Centre Director's manager about the complaint and it has not been resolved.
- That the complainant shall have approached the Centre's appropriate body such as the Human Resources and the complaint has not been resolved.
- That the complainant has chosen at some stage in the process to bring the complaint to the NSWCCPE Inc.

The complaint will be made to the President of the College.

On receipt of the complaint the President will refer the complainant to the Chair of the NSWCCPE Inc Professional Ethics Committee.

The Chair of the Professional Ethics Committee shall:

- determine if she/he is the right person to deal with the complaint
- if the Chair of the Professional Ethics believes it is inappropriate for her/him to hear the complaint the Chair shall arrange for another member of the Professional Ethics Committee to hear the complaint. This person shall do what the Chair is required to do about the complaint.
- if the Chair is satisfied that she/he can proceed the procedure shall be explained to the complainant including what are the possible outcomes.
- the Chair can decide to involve another member or members of the Professional Ethics Committee in the investigation of the complaint.
- the Chair shall explain what other options are available to them if they are not happy with this process or its outcome. This includes using the College's Complaints Procedure.
- the Chair shall take a written record of the complaint.
- the Chair shall talk to the respondent or respondents separately and impartially to hear their side of the story.
- the Chair shall then discuss with the complainant what the respondent(s) said and determine what action should be taken to resolve the complaint.
- the Chair shall ensure that whatever has been agreed actually happens.

Rights and Responsibilities.

The Complainant's Rights and Responsibilities.

- to be provided with information regarding their rights and responsibilities under the

Occupational Health and Safety and Anti discrimination legislation.

- to seek counselling without making a formal complaint.
- to withdraw from the grievance at any stage, although the complainant may be advised that the Professional Ethics Committee will continue to pursue the complaint if the matter is considered serious or impacts on the organisation's duty of care.
- to pursue the grievance through alternative channel (such as the Antidiscrimination Board).
- to identify desired outcomes.
- to be informed of all decisions and progress made, with consideration given to the privacy of other parties.
- to know that no steps will be taken to resolve or review a grievance without the complainant's knowledge, with consideration given to the privacy of all parties.
- to raise their concerns or grievances at an early stage and providing as much information as possible to assist in the effective resolution of the grievance.
- to have an observer of their choosing present at any meetings that the complainant attends relating to the grievance.
- to place comment on the discipline/counselling file that contains the record of their involvement.
- not to make malicious or vexatious complaints.
- access to record of meetings in which they attended to enable them to agree that they are an accurate and true record.

The Respondent's Rights and Responsibilities.

- to be provided with information regarding their rights and responsibilities under the Occupational Health and Safety and Antidiscrimination legislation.
- to be provided with protection against any vexation or malicious complaints.
- to be informed promptly, in writing, of the details of the grievance, the allegations and by whom they have been made.
- to have an opportunity and sufficient time to respond to the grievance.
- to seek advice.

- to be afforded the presumption of innocence until proven otherwise.
- to be informed of all decisions and progress made, including the evidence found against them.
- to provide as much information as possible to assist in the effective resolution of the grievance.
- to have an observer of their choosing present at any meetings that they attend relating to the grievance.
- to have access to records of meetings which they attended to enable them to agree that they are an accurate and true record.
- to place comment on the discipline/counselling file that contains the record of their involvement.

Investigation of a Grievance.

An investigation will be conducted where there are inconsistencies between the allegations made by the complainant and the response to these allegations by the respondent and where either party does not wish to participate in mediation or where mediation is not an appropriate option.

The aim of an investigation will be to determine whether evidence exists that substantiates the allegations that have been made.

The following principles should apply to investigations:

- Any investigation process will be based on the principles of natural justice for all parties.
- The Chair of the Professional Ethics Committee should have sufficient knowledge of the subject area or type of issue to be able to carry out the investigation.
- the main role of the person conducting an investigation will be:
 - to collect evidence and facts, locating originals of all relevant documents, and
 - obtaining copies for inclusion in a report.
 - to store all documents securely during the investigation
 - to ensure that all the investigation is carried out in a confidential manner.
- An investigation process may involve the interviewing of witnesses in the event of

conflicting statements between the complainant and the respondent. **In** these cases, the need for confidentiality should be stressed.

Documentation

Persons conducting a grievance are responsible for recording detailed information on the procedure undertaken to resolve a grievance. This information should be kept separately from records that deal with the content of the grievance.

At any stage during the resolution of a grievance or in the future these records of the procedure undertaken to resolve a grievance may be required to be produced. This information can also be used to evaluate the procedure following an unsatisfactory outcome.

Appeals

An unsatisfied complainant can ask the President of the NSWCCPE.Inc to review the decision of the Chair of the Professional Ethics Committee if the procedure set out in these rules have not been followed or believe the outcome is unfair.

If the President thinks that the grievance was handled properly no further action will be taken.

If the President thinks that the grievance was not handled properly the President will arrange for another independent person to review the complaint.

An unsatisfied complainant can proceed to use the NSWCCPE Inc Complaints Procedure

Outcomes

Possible outcomes of the procedure are:

- a written apology.
- any of the outcomes listed in clause 15.19 of the NSWCCPE Inc Complaints Procedure.



Complaints Procedure.

It is the policy of the NSWCCPE Inc that any person making a complaint or being complained about should be treated in a sensitive and caring manner and according to the principle of natural justice.

Any person wishing to make a complaint against a supervisor or any other person involved in one of the NSWCCPE Inc's registered Centres programmes or activities shall contact the President of the NSWCCPE Inc. The President will indicate to that person that there may be a number of ways to make a complaint depending on who the person is about whom the complaint is made. For example, a complaint may be made to the NSWCCPE Inc, to church courts if the person is ordained or employed by a church or to the civil courts. The NSWCCPE Inc will respect the prospective complainant makes.

In the event of the complaint being against the President the person shall contact the Secretary of the NSWCCPE Inc who shall undertake the role of the President in this procedure.

The President shall meet that person as soon as possible. The person wishing to make the complaint may have a support person present. The purpose of this meeting is to discuss the process of the investigation and the estimated time frame. The person is to be given a clear understanding verbally and in writing of the steps to be taken and the roles and responsibilities of the respective participants. The President shall ensure that all persons involved in the process shall receive a copy of this protocol.

The person making the complaint shall be requested to submit, in writing, to the President a detailed account of the allegations. This account shall be signed and dated and shall include the complainant's wishes regarding the outcome of the process. The complainant shall be informed that only the members of the panel and the respondent shall have access to this statement of complaint.

The President shall, as soon as possible after receiving the written complaint, advise the respondent of the allegation and the process that will be followed. That person will also be given a copy of this protocol.

The President shall take all necessary steps to ensure the safety of the complainant and other persons who may be at risk. This may involve suspending a programme pending the outcome of the investigation.

The President shall convene a panel.. The President shall nominate the convener of the panel and the number members that shall be deemed a quorum. The panel shall conduct a formal investigation of the complaint. The complainant will be informed, in advance, of the identity of the panel members. The panel shall interview the complainant and the purpose of the interview shall be made clear to the complainant prior to it being conducted.

The President shall endeavour to ensure that all persons constituting the panel have an understanding of the principles of investigative interviewing.

The panel of interviewers shall include the Convener and two other persons who have agreed to be available *for* the investigation, at least one of whom shall be of the opposite sex to the complainant. At least two members of the panel must be present *for* the investigation to proceed. The following could also be present if the complainant chooses:

a sexual assault worker, or

a support person. who shall act only in the role of an observer. As the investigation does not purport to be a 'legal' enquiry, the support person shall not be a legally qualified person.

An observer is obliged to keep the whole matter confidential and can take no part in the investigative process, other than to offer emotional support to the complainant,

In the case of sexual assault, a sexual assault worker shall act to provide support to the complainant and provide information as to the nature of sexual assault to the members of the panel.

The Convener shall tape record all interviews conducted by the panel. The recordings shall be kept under strict control by the Convener so that confidentiality is assured. The complainant, witness or respondent as the case may be shall be given a copy of the recording of their interview with the panel, if so desired.

The complainant shall be informed that no persons, other than those on the interviewing panel, will have access to the tape recording. (However, if the complainant chooses to make a complaint to the police and the matter is pursued through the courts, the complainant shall be informed that the recording can be subpoenaed by the court).

Following the interview with the complainant, the panel will interview any witnesses it deems necessary and any nominated by the complainant. It may also interview any witness to the event who presents of their own volition. If appropriate and requested a Sexual Assault Worker or a support person may be present *for* these interviews.

The panel shall then interview the respondent. The procedures followed and advice given shall be as above, with the exception that a Sexual Assault Worker and the complainant will not be present. The respondent shall be entitled to have a support person present acting in the role of an observer.

Following the above interviews, the panel of interviewers will make a decision as to the action they believe should occur and present this in writing to the Executive Committee. The Executive Committee may wish to take legal advice on the wording of the letters to be sent to the complainant and respondent. The outcome of shall be communicated to them as soon as is possible.

Should either the complainant or the respondent initiate legal action this process is suspended pending the outcome of those legal proceedings.

Recommendations that the panel may make to the Executive Committee are;

In the case of a person other than a supervisor that recommendation may be:

- there is no case to answer,
- that a warning be given,
- that a reprimand be given,
- that the trainee be removed from the course,

In the case of the complaint being against a supervisor that recommendation may be one or a combination of the following;

- there is no case to answer,
- required to work with another supervisor mutually agreed upon by the Supervisor, the respondent and the NSWCCPE Inc.
- required to be in supervision with a supervisor mutually agreed upon by the Supervisor, the Respondent and the NSWCCPE Inc.
- suspension of accreditation for a period,
- removal of accreditation.
- withdrawal of Centre Registration.

If the panel finds a complaint proven it will seek legal advice at that time on its obligation to report the outcome to other bodies to which the respondent may belong. Where such an obligation is established it shall be discussed with the respondent.

The decision of the panel shall be final.

Any appeal against this decision will be in the civil courts

People who have been involved in and affected by this investigation shall be offered a list of names of suitable professionals for support and debriefing.

At its discretion, the NSWCCPE Inc may, on the recommendation of the investigating panel, offer to pay for a limited number of session of professional help for those involved in the investigation.

At the conclusion of the proceedings all records shall be retained in a secure place by the convener for a period of not less than six years, following which, apart from any resolution of the Executive Committee, they shall be destroyed.