



St Peter's College  
ADELAIDE, AUSTRALIA

## **EQUAL OPPORTUNITY & ANTI DISCRIMINATION POLICY**

# **Equal Opportunity & Anti Discrimination Policy**

**Document Number: HR005 002 Ver 4**

## EQUAL OPPORTUNITY & ANTI DISCRIMINATION POLICY

**POLICY OWNER: Director of Human Resources**

### PURPOSE:

The purpose of this policy is to articulate the School's commitment to the principles of equal opportunity and anti-discrimination.

### SCOPE:

In keeping with its values the School provides a positive, equitable environment in which all staff and students are treated fairly. It is committed to providing an environment where students and staff can work effectively without fear of discrimination or harassment.

### ALIGNMENT TO SCHOOL STRATEGIC PLAN:

Our Preferred Future – The Strategic Plan for St Peter's College – 2015 to 2018 underpins this policy & procedure.

### REFERENCES:

The relevant Acts which are binding on the School are:

- The Race Discrimination Act 1975 (Commonwealth)
- The Sex and Age Discrimination Legislation Amendment Act 2010 (Commonwealth)
- The Human Rights and Equal Opportunity Commission Act 1986 (Commonwealth)
- Equal Opportunity for Women in the Workplace Act 1999 (Commonwealth)
- The Disability Discrimination Act 1995 (Commonwealth)
- The Equal Opportunity Act 1984 (South Australia)

The School is committed to supporting and upholding the principles underlying the following U.N. Conventions:

- The Convention on the Rights of the Child (the "RC Convention")
- The Convention against Discrimination in Education (the "DE Convention").

The Convention on the Rights of the Child (the "RC Convention") is an "international instrument relating to human rights and freedom". Article 3(1) provides that in "all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child will be a primary consideration".

The Convention against Discrimination in Education (the "DE Convention") has as its purpose the elimination of discrimination on the basis of race, colour, sex, language, religion, political opinion and other opinion, national or social origin and economic condition at birth, in the field of education.

### POLICY:

The Council of Governors and the Headmaster are totally committed to providing all staff and students with a working and learning environment free from discrimination.

In its responsibility for all members of the School community, the School aims to:

- Ensure that there is no discrimination against any group of students or staff, in access to School facilities;

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- Establish and maintain mechanisms within the School to deal with complaints concerning discrimination;
- Ensure that all School policies, procedures and official documentation and publications accord with equal opportunity principles and are amended as necessary to accord with these principles.

The School will not tolerate discrimination against any student or staff member in relation to access to the School facilities and services. Its policies and guidelines aim to ensure that discrimination does not occur.

Managers and supervisors have a particular responsibility to ensure that the workplace is free from discrimination and discriminatory harassment, and that relevant policies and guidelines with regard to the resolution of complaints are followed.

Students and staff will be informed of the processes and procedures relating to the handling of complaints of discrimination and discriminatory harassment.

South Australian and Federal anti-discrimination laws prohibit discrimination. Unlawful discrimination will not be tolerated under any circumstances. Disciplinary action will be taken against any member of staff who breaches the policy and this may result in termination of employment.

St Peter's College has a separate policy dealing with Sexual Harassment. This policy should be seen as separate, yet complimentary to this Equal Opportunity/Anti Discrimination Policy.

In accordance with equal opportunity law, the Council of Governors and the Headmaster of St Peter's College will take all reasonable steps to:

- foster an environment where all members of the School Community are treated with dignity, courtesy and respect;
- implement training and awareness-raising strategies to ensure that everyone knows their rights and responsibilities;
- encourage reporting of inappropriate behaviour and provide an effective procedure for resolving complaints in a sensitive, fair and timely manner and as confidentially as possible;
- comply with all reporting requirements for the Australian Government Workplace Gender Equality Agency;
- provide equal opportunities in employment for all employees;
- ensure student rules on matters such as harassment and use of the School's computer network prohibit any conduct that would be regarded as offensive or which treats people in a discriminatory manner;
- ensure position descriptions require staff to conduct themselves in a way that is compliant with equal opportunity legislation;

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- provide equality of opportunity between persons of different sex, age, marital status, race and other specified attributes;
- prevent victimisation of employees and students who intend to make a complaint, or have complained about discrimination, or who are involved in the processing of a complaint in any way (giving evidence, supporting the complainant, supplying information, etc.);
- prevent discrimination against employees and students;
- act in accordance with the laws relating to discriminatory requests for information; and
- promote appropriate standards of conduct at all times.

### Attributes in which Discrimination is Prohibited

Discrimination occurs if a person treats, or proposes to treat, someone with an attribute less favourably than the person treats or would treat someone without that attribute, or with a different attribute, in the same or similar circumstances. The following are the attributes on the basis of which discrimination is prohibited:

- age
- trade union and industrial activity
- lawful sexual activity/sexual orientation
- marital status
- impairment including a physical, psychiatric or intellectual disability, it also includes someone with HIV/AIDS or Hepatitis C
- spent and irrelevant criminal record
- physical features
- political belief or activity
- pregnancy
- race, colour or nationality
- religious belief or activity
- sex
- status as a parent or carer
- personal association, whether as a relative or otherwise with a person who is identified by reference to any of the above attributes
- breastfeeding (includes the act of expressing milk)

Discrimination may be direct or indirect – both are against the law.

Direct discrimination means treating someone unfairly or less favourably because of one of the personal characteristics listed above or because of their association with someone identified with one of those characteristics.

Indirect discrimination happens when a rule, practice or policy appears to be neutral, but in effect has a disproportionate impact on a particular group. It arises with practices which are fair in form and intention but discriminatory in impact and outcome.

Managers and supervisors have a particular responsibility to ensure that the workplace is free from discrimination and discriminatory harassment, and that

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relevant policies and guidelines with regard to the resolution of complaints are followed.

Students and staff of the School will be informed of the processes and procedures relating to the handling of complaints of discrimination and discriminatory harassment.

### Victimisation

Victimisation is an offence under both the Commonwealth and the South Australian Equal Opportunity legislation. In summary, section 86 of the South Australian Act states:

- it is unlawful for a person to commit an act of victimisation
- a person commits an act of victimisation against another person (the victim) if he or she treats the victim unfavourably on the grounds the victim has:
  - ~ brought proceedings under the Act against any person, or
  - ~ given evidence or information in any proceedings under this Act, or
  - ~ made allegations that the victim or some other person has been the subject of an act that contravenes the Act, or
  - ~ reasonably asserted the victim's right or the right of some other person to lodge a complaint or take any other proceedings under the Act, or
  - ~ otherwise done anything under or by reference to the Act, or on the ground he or she knows that the victim intends doing any of those things, or suspects that the victim has done, or intends to do, any of those things.

Unfavourable treatment on the grounds that a person:

- ~ has made a false allegation
- ~ has not acted in good faith

does not constitute an act of victimisation.

## COMPLAINTS PROCEDURE

St Peter's College has an established grievance process to deal with complaints according to the requirements of the Commonwealth and State Acts governing equal opportunity and discrimination.

### Principles

Complaints occur from time to time and the School is committed to an effective resolution in a positive atmosphere. The following sets out the process by which serious complaints can be addressed in a confidential, expeditious and sensitive way.

Positive resolution arises out of a clear understanding of the School's policies and procedures, good communication, an agreed method of resolution and appropriate seriousness given to the complaint and towards the complainant.

Positive resolution involves good record-keeping during the process of hearing a complaint and respect at all times for appropriate confidentiality.

It is in the common interest to manage resolution of any conflict by means which neither disrupt nor damage the School's optimum operation.

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### Commitment

St Peter's College is committed to:

- Providing a working and learning environment that is safe, fair and just.
- Promoting positive personal relationships.
- Minimising the incidence of conflict that might give rise to a complaint.
- Supporting the right of every member of the School community to have his or her complaint lodged, listened to, addressed fairly and dealt with as soon as possible.
- Attempting to resolve complaints in a non-threatening manner in a respectful and supportive way, with natural justice and procedural fairness.
- Meeting its moral and legal obligations (e.g.: Mandatory Reporting).
- Maintaining high levels of communication and record keeping.
- Providing adequate training and support for people with responsibility to investigate and mediate on complaints.

### Process

This process applies to all students, parents, and members of staff of St Peter's College.

In addition to this process the School has a Child Protection Policy with a stated Code of Conduct and Reporting Process.

The process provides for the resolution of complaints. A complaint can arise from any of the following:

- A behaviour, act or perceived intention by a member of the School community (staff, parent, volunteer or student) which has, or is likely to have a significant and serious negative impact on another member of the School community to undertake his or her duties, work or studies at St Peter's College.
- Conflict of interest.
- Serious discriminatory or unprofessional behaviour or conduct by school staff, parents or students.
- Breach of School policy.

#### Lodging a Complaint

The following principles will apply to the lodging of a complaint:

- The health, safety and well being of all members of the School community remain the highest priority
- People are entitled to lodge a complaint
- Complaints should be lodged in good faith and without frivolous, malicious or vexatious intent
- The complaint will be heard promptly and will be taken seriously
- The right to complain will be affirmed and the complainant will not be pressured in any way

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- Allow staff to recognise and refer a complaint that needs to be dealt with by a more senior member of staff, such as a Senior Manager or, if necessary, the Headmaster
- The School will make every reasonable effort to ensure a person lodging a complaint will not be treated unfairly or victimised because of the grievance
- All resolution policies and processes acknowledge and value different perspectives and will operate under the principles of impartiality, promptness and protection from victimisation
- The complainant will be reminded that this policy does not remove the right of any person lodging a complaint to proceed to an external body or authority.

### Internal Resolution

The School supports wherever possible an informal, amicable and equitable resolution of a serious complaint through discussions, mediation and/or conciliation to achieve an agreed course of conduct and behaviour aimed at enabling all parties to continue at the School free from harassment and retribution.

Complainants are encouraged to firstly, and where practicable, seek to resolve a complaint informally. Formal procedures for the resolution of a complaint will normally be invoked when a matter cannot be resolved by informal means.

A formal complaint should be made in writing to the Director of Finance & Administration, the Director of Human Resources, Director of Learning & Teaching Excellence, Head of Junior School, Deputy Headmaster / Head of Senior School. It would normally be dealt with in the following manner:

- Discussing the complaint in a private location.
- Allowing the complainant to tell the whole story.
- Affirming the right to complain.
- Acknowledging his or her concerns.
- Appropriate notes of each key point will be taken, repeating them to the complainant and asking whether they represent an accurate record of the allegations.
- Show empathy with the complainant's emotion, but reserve the right to request the complainant to be civil or terminate the interview.
- Avoiding immediate judgements or debate, or becoming defensive or angry in the early stages of discussion.
- The complainant will be asked what he or she wishes to achieve in terms of resolution.
- Options will be explored and a plan of action devised.
- The issue of confidentiality will be raised.
- Who should be informed about the complaint will be discussed.
- The student and staff member's interest will be uppermost.

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- Offer time to the complainant to reconsider.
- Implementation of the agreed action. The complaint will be investigated to work out whether it is more likely the behaviour happened than not and, if so, how serious it is.
- A response will be given within the timeline set and the decision will have reasons given.
- Where the complaints officer is satisfied that a complaint of unacceptable behaviour is false and either malicious, vexatious or mischievous, serious consideration will be given to disciplinary or administrative action against the complainant.
- If the complaint is not resolved to the satisfaction of the complainant via the means outlined in this policy, the complainant may choose to take no further action, or to refer the complaint to the Headmaster.
- The Headmaster will attempt to resolve the serious complaint using the means outlined in this policy. If the action taken by the Headmaster is unable to resolve the complaint, the complainant may choose to take no further action, or to refer the matter to outside authorities.

As far as possible, complainants are encouraged to seek resolution through conciliation within the School.

Communication and resolution processes should always be based upon parties acting in good faith, exercising good judgement, being honest and open and focussing on the issue and not the person.

Each complaint is to be dealt with on its particular circumstances and merits and any settlements reached through the process will not constitute any binding precedent for future cases.

In dealing with the complaint, informally or formally, every reasonable effort should be made to ensure that natural justice is afforded to all parties.

This means in practical terms:

- Subject to any duty of care or other legal obligations, respondents should normally be informed of all allegations and the basis for and the specific circumstances which give rise to the complaint.
- The right of all parties to be heard and to put their case.
- Investigations must be undertaken thoroughly and expeditiously.
- Only matters relevant to the complaint under consideration should be taken into account.
- As far as possible or appropriate, confidentiality will be respected and maintained by all parties throughout the resolution process, except where persons required on a needs to know basis because they are dealing with the complaint, advising how it should be handled or providing information such as witness statements or where legal requirements require that matters are to be reported.

It is recognised that the application of the principles of procedural fairness can vary, depending upon the context and nature of the complaint and the nature of the response sought.

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<b>Documentation</b>	<p>Each party to a complaint is entitled to personal and professional advice, support and representation. This may involve approaching and confiding in a trusted friend, colleague or a representative or advisor from a union or professional association.</p> <p>While the detail and formality of record keeping may vary according to each issue, appropriate documentation should be maintained.</p> <p>Records will need to be kept if further disputation occurs or in the case of future legal action. Details such as dates, names, contacts, statements, relevant files, staff involved and outcomes should be recorded.</p> <p>Records should be kept in the locked files in the Human Resources Department.</p>
<b>Anonymous Complaints</b>	<p>Complaints from an anonymous source will be taken seriously and investigated as practicably as possible. However, it is difficult to undertake a thorough investigation and resolution if the complainant cannot be identified or does not want information to be passed to the relevant people. Complainants are therefore encouraged to identify themselves.</p>
<b>Confidentiality and Mandatory Reporting</b>	<p>The School will treat a complaint with respect and sensitivity. However, a complainant should not assume communications with the School, or any documents supplied to the School, will necessarily be kept confidential. Although the School will endeavour to deal with complaints with appropriate discretion, the School reserves the right to disclose details of the matter to other persons who, in the School's opinion, need to know them in order to facilitate the resolution of the complaint.</p> <p>In such cases as Mandatory Reporting the matter will be reported to the relevant authorities.</p>
<b>Withdrawing a Complaint</b>	<p>A complaint can be withdrawn at any stage. If a complaint is withdrawn, the matter will be deemed to be closed.</p>
<b>Referral to Outside Bodies</b>	<p>Where a serious complaint is not or cannot be resolved within the School, the parties may seek assistance from outside professional agencies or judicial bodies in order that a further attempt can be made to resolve the matter.</p>
<b>Referral of a Complaint to the Council of Governors</b>	<p>As a general rule the Chairman of the Council of Governors and members of the Council of Governors are not directly involved in the first instance with the receipt, investigation or resolution of a serious complaint other than grievances within the School Council itself.</p> <p>In some circumstances the Headmaster will discuss a serious complaint with the Chairman of the Council of Governors. This contact must be made only via the Headmaster or Director of Finance and Administration. If necessary, the matter will be referred to the School Council if additional strategies or policies consistent with the Risk Management Plan of the School are required.</p>

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### RESPONSIBILITIES

Headmaster	Committed to providing all staff and students with a working and learning environment free from discrimination.
Senior Leadership Team Member	Have a responsibility to ensure that the workplace is free from discrimination and discriminatory harassment, and that relevant policies and guidelines with regard to the resolution of complaints are followed.
Direct Manager	Has a responsibility to ensure that the workplace is free from discrimination and discriminatory harassment, and that relevant policies and guidelines with regard to the resolution of complaints are followed.
Staff Member	Make themselves aware of and abide by the policy. If lodging a complaint follow the procedure outlined in this policy.
Human Resources	Provide advice and support to staff members, and Managers in relation to equal opportunity and anti discrimination issues.

The Director of Human Resources is responsible for promulgating this policy and procedure to all relevant staff.

### COMMUNICATION:

This policy and procedure will be available on the School's Information System - Keystone.



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