



Complaints Resolution Policy and Procedures

1. Object

- 1.1 Part 3.6.2 of the *Registered and Accredited Individual Non-Government Schools (NSW) Manual* requires Newington College to have in place and implement policies and procedures in relation to complaints or grievances, with specific reference to processes for raising and responding to matters of concern identified by students and parents.
- 1.2 The College is a child safe organisation. This policy and procedures form part of the College's child safe practices and implement the Child Safe Standards.
- 1.3 The College is committed to providing a safe and positive learning and working environment that is based on mutual respect. The College encourages open communication between staff, students, parents, alumni, visitors and members of the public, and views complaints as an opportunity to identify areas for improvement, and to enhance the quality of its services and the experience of its students.
- 1.4 This object of this policy and procedures is to:
 - (a) outline the general principles for making complaints; and
 - (b) prescribe the College's process for the resolution of complaints from students, parents, alumni, volunteers, student teachers, visitors and members of the public.

2. Application

- 2.1 This policy and procedures applies to complaints by students, parents, alumni, volunteers, student teachers, visitors and members of the public about College related conduct.
- 2.2 This policy does not apply to complaints by staff. Staff complaints are handled in accordance with the College's [Staff Complaints Resolution Policy and Procedures](#).

3. Definitions

- 3.1 In this policy:

assault

means:

- actual physical force, such as hitting, pushing or shoving; and
- apprehension of physical force, such as using words or gestures that lead a person to apprehend physical force.

Whether conduct constitutes assault will depend on the context and the circumstances. Injury is not an essential element of assault, and the existence of an injury does not necessarily mean that there was an assault.



bias	means preference or prejudice for or against a complainant or respondent.
Child Safe Standards	means the NSW Child Safe Standards prescribed in the <i>Children’s Guardian Act 2019</i> (NSW).
College	means Newington College, as represented by the authorised delegates of the Council.
Council	means the Council of Newington College, established by section 1 of the <i>Newington College Council Act 1922</i> .
Council member	means a member of the Council, elected in accordance with section 9 of the <i>Newington College Council Act 1922</i> .
College-related conduct	means any conduct that is related to the College, including conduct that: <ul style="list-style-type: none"> relates to the College, its activities, or its students, staff, volunteers, contractors, external education providers or student teachers; occurs during or relates to the performance of duties for the College; occurs while representing the College, or while wearing clothing or using equipment that clearly identifies a person as being associated with the College; occurs on or in connection with College grounds; occurs at or in connection with a College function or event; or occurs using, or is facilitated by, College ICT resources or other College equipment.
complainant	means a student, parent, alumnus, visitor or member of the public who makes a complaint in accordance with this policy and procedures.
conciliation	means a confidential voluntary process where an independent third party facilitates a discussion between the parties, providing expert advice and suggesting options for resolving the complaint.
conflict of interests	means a conflict between a person’s private or external interests and their duties as a delegate of the College.
external education provider	means any organisation that the College has engaged to deliver a specified course of study that is part of the curriculum, to a student or students enrolled at the College. The delivery of such a course may take place on College premises or elsewhere.
Head of Campus	means the Deputy Preparatory Schools & ELC or Head of Lindfield Preparatory School, as appropriate.
investigator	means a person engaged to conduct an investigation in accordance with clause 9.
mediation	means a confidential voluntary process where a neutral third party acts as a mediator between the parties, to facilitate a discussion and assist them to identify options for resolving the complaint.



negotiation	means a process by which a solution or agreement is developed through discussions or correspondence with another person.
parent	means one or more parents, guardians or carers of a student enrolled at the College.
respondent	means a person whose conduct is the subject of a complaint.
sexual offence	means any criminal offence involving a sexual element that is committed against, with, or in the presence of a child, including: <ul style="list-style-type: none"> • sexual touching; • sexual assault; • aggravated sexual assault; • possession, dissemination or production of child pornography or child abuse material; • using children to produce pornography; • grooming or procuring children under the age of 16 for unlawful sexual activity; or • deemed non-consensual sexual activity on the basis of special care relationships, including student/teacher relationships.
staff or staff member	means the College's permanent, temporary and casual teaching and non-teaching staff.
student teacher	means a person who is undertaking a teaching placement at the College as part of their tertiary education, and who teaches under the supervision of a teacher.
teacher or teaching staff	means permanent, temporary and casual staff with teaching commitments.
support person	means a person who accompanies a complainant or respondent to a meeting or interview to provide physical and emotional support. A support person is not permitted to advocate on behalf of a complainant or respondent.

3.2 A reference in this policy and procedures to a code of conduct, policy or procedures is a reference to the code of conduct, policy or procedures as amended or replaced by the College from time to time.

4. Meaning of complaint

4.1 A complaint is any problem or concern (however described) about College-related conduct that requires the involvement of a staff member, including complaints about:

- (a) alleged harassment, bullying or discrimination, made in accordance with the College's **Student Diversity and Equality of Opportunity Policy**;
- (b) an alleged breach of privacy, made in accordance with the College's **Privacy Policy**;
- (c) an alleged breach of the College's **Student Code of Conduct**;
- (d) an alleged breach of the College's Staff **Code of Professional Conduct**;
- (e) an alleged breach of the College's **Third Party Code of Professional Conduct**;

- (f) an alleged child abuse or protection issue;
- (g) alleged historical child sexual abuse; or
- (h) a student's education, housing or co-curricular activities.

4.2 General inquiries, feedback and comments (including on social media) will generally not be regarded as a complaint.

5. General principles

- 5.1 The College will seek to resolve all complaints sensitively, promptly, confidentially and with a minimum of disruption, while following the principles of procedural fairness.
- 5.2 Although the complainant's wishes will be considered, the College's response to a complaint will be governed by the seriousness of its subject matter and the facts alleged.
- 5.3 In some limited circumstances, the College may need to investigate a complaint against the complainant's wishes, to ensure their safety or the safety of other members of the College community, or to meet its legal obligations.
- 5.4 The College will inform the complainant before commencing an investigation into their complaint.
- 5.5 Other than in exceptional circumstances, students aged less than 18 years of age should ask a parent to make a complaint to the College on their behalf. The College will involve the student in the resolution of the complaint as appropriate, taking into account the student's best interests and the need to prioritise their safety and wellbeing.
- 5.6 Assistance may be sought from the Headmaster, Deputy Headmaster or Head of Campus, as relevant, at any time.
- 5.7 Complainants and respondents will be permitted to bring a support person to any meeting.
- 5.8 The College will handle complaints about child protection and child abuse in accordance with its **Reportable Conduct Procedures** and its **Child Protection Incidents Procedures**.

6. Informal resolution

- 6.1 Where appropriate, the College will seek to resolve issues quickly and informally, at the lowest possible level, through consultation and negotiation with the parties.
- 6.2 Informal resolution is not appropriate for complaints concerning alleged criminal conduct, including child abuse, assault and sexual offences.

7. Making a complaint

- 7.1 A person whose issue is unable to be resolved through informal resolution, or where informal resolution is inappropriate, can make a complaint to the Deputy Headmaster, the Deputy Pastoral (K-12) or the Head of Campus, as relevant.
- 7.2 Complaints about the Headmaster should be made to the Chair of the Council, who may refer the complaint to an appropriately qualified and independent nominee. In that event, the Chair of the Council or their nominee will perform the functions prescribed in clauses 8 and 9 of this policy.
- 7.3 Complaints may be made orally or in writing. A written complaint will be required if an investigation is needed.

- 7.4 Where a complaint is made by a person with a disability, or whose first language is not English, the College will ensure that the complainant has appropriate support through caregivers, translators or other support people.

8. Assisted resolution

- 8.1 Where it is appropriate to the type of complaint, and taking into account the wishes of the complainant, the Deputy Headmaster, Deputy Pastoral (K-12) or Head of Campus, as relevant, or their nominee may attempt to resolve the complaint through assisted resolution. This may include, but is not limited to:
- (a) helping the parties clarify a misunderstanding;
 - (b) an apology;
 - (c) facilitated discussion, including mediation or conciliation;
 - (d) an agreed plan of action to avoid future issues; or
 - (e) implementing awareness-raising or educational sessions about behaviour.
- 8.2 Assisted resolution does not involve an investigation or formal decision by the College about what has happened, or what the consequences should be.
- 8.3 Assisted resolution is not appropriate for complaints concerning alleged criminal conduct, including child abuse, assault and sexual offences.
- 8.4 The College will keep a confidential record of the outcome of any assisted resolution process.

9. Formal resolution

- 9.1 If assisted resolution is unsuccessful, or inappropriate due to the nature of the complaint, the Deputy Headmaster, Deputy Pastoral (K-12) or Head of Campus, as relevant, or their nominee may formally resolve the complaint by conducting an independent investigation.
- 9.2 When deciding whether an investigation is appropriate, the Deputy Headmaster, Deputy Pastoral (K-12), Head of Campus, or their nominee will take into account:
- (a) whether attempts at assisted resolution have failed or are inappropriate;
 - (b) whether there is a dispute as to the facts;
 - (c) when the conduct is alleged to have occurred;
 - (d) whether the alleged conduct is serious (for example, whether it involves alleged criminal conduct, or is alleged to have impaired the reasonable freedom of a student to participate in the life of the College);
 - (e) whether the alleged conduct has been repeated after an assisted resolution process;
 - (f) whether the respondent is in a position of power or authority;
 - (g) any risk to the health and safety of members of the College community and/or members of the public; and
 - (h) the wishes of the complainant.
- 9.3 The Deputy Headmaster, Deputy Pastoral (K-12), Head of Campus, or their nominee may engage an independent internal or external person to conduct the investigation on their behalf.

- 9.4 The investigator may determine their own procedures, but must conduct the investigation in accordance with the principles set out in this policy and procedures.
- 9.5 Investigations into alleged serious misconduct by students must be conducted in accordance with the College's **Student Discipline Policy and Procedures**.
- 9.6 Investigations into alleged serious misconduct by staff must be conducted in accordance with the College's **Staff Discipline Policy and Procedures** and any relevant contractual or industrial requirements.
- 9.7 At the conclusion of the investigation, the investigator will provide the Deputy Headmaster, Deputy Pastoral (K-12), Head of Campus or their nominee with a written report that sets out their findings of fact (with written reasons) and any breaches of policy, and make recommendations for resolving the complaint.
- 9.8 The Deputy Headmaster, Deputy Pastoral (K-12), Head of Campus, or their nominee will take the investigation report and any other relevant considerations into account when deciding how to resolve the complaint. They may decide, as appropriate, to:
- (a) take no further action;
 - (b) issue a warning to a student, staff member, volunteer, contractor or external education provider;
 - (c) require a staff member, volunteer, contractor or external education provider to undertake counselling or training;
 - (d) require a student to undertake counselling or to participate in a behaviour management plan in accordance with the College's **Pastoral Care Policy**;
 - (e) recommend to the Headmaster that he take disciplinary action, including (as relevant) suspension, expulsion, termination of employment or termination of contract;
 - (f) implement any necessary change to bring about improved educational, pastoral or administrative outcomes; or
 - (g) take any other action considered appropriate in the circumstances.
- 9.9 The Deputy Headmaster, Deputy Pastoral (K-12), Head of Campus, or their nominee will meet with and provide written notice to the complainant and the respondent informing them of the outcome of the complaint.
- 9.10 The College will keep a confidential record of the outcome of any formal resolution process.

10. Opportunity to be heard

- 10.1 The investigator will ask the complainant to describe their complaint in detail, usually in writing, and to provide any documents relevant to the complaint.
- 10.2 The investigator will:
- (a) provide the respondent with the allegations in sufficient detail to ensure that they understand them; and
 - (b) ensure that the respondent has a reasonable period of time in which to respond to the allegations and any relevant information, and to provide any relevant documents.
- 10.3 Complainants and respondents will be permitted to bring a support person to any meeting with the investigator.

11. Timeliness

- 11.1 The College will address complaints in a timely manner. It will inform all parties in writing of the reasons for any delay, and of the projected timeframe for resolution of the complaint.
- 11.2 An investigator must take reasonable steps to conduct the investigation as promptly as possible. The investigator will inform all parties in writing of the reasons for any delay, and of the projected timeframe for finalisation of the investigation.

12. Impartiality

- 12.1 The College will resolve complaints in a manner that is free from actual or reasonably perceived bias and conflict of interests.
- 12.2 An investigator must not have an actual or reasonably perceived conflict of interests or bias in regard to any of the parties to the complaint or its subject matter.
- 12.3 If the Deputy Pastoral (K-12) or Head of Campus, as relevant, has or may be perceived to have a conflict of interests or bias in regard to the complaint or its subject matter, the complaint will be referred to the Deputy Headmaster.
- 12.4 If the Deputy Headmaster has or may be perceived to have a conflict of interests or bias in regard to the complaint or its subject matter, the complaint will be referred to the Headmaster.

13. Confidentiality

- 13.1 The College will keep information about a complaint confidential, except where the disclosure of information is necessary to:
- (a) obtain a response from the respondent;
 - (b) conduct an investigation;
 - (c) ensure the safety and wellbeing of students, staff, volunteers, contractors, external education providers, student teachers, visitors and members of the public; or
 - (d) meet the College's legal obligations.
- 13.2 Subject to clauses 13.3 and 13.4, complainants and respondents must keep confidential:
- (a) the identity of the complainant, the respondent and participants in the resolution or investigation of a complaint;
 - (b) the information provided or collected during the resolution or investigation of a complaint;
 - (c) the fact that a complaint has been made; and
 - (d) any report, outcome or determination of a complaint.
- 13.3 Complainants or respondents may disclose the information in clause 13.2 in order to:
- (a) report a crime;
 - (b) report a child protection issue to the Department of Family and Community Services; or
 - (c) make a complaint to the NSW Anti-Discrimination Board or Australian Human Rights Commission.

- 13.4 Complainants or respondents may disclose the information in clause 13.2 to obtain support or advice from:
- (a) their immediate family members;
 - (b) a qualified counsellor or psychologist;
 - (c) their union representative or lawyer; or
 - (d) the Police.

14. Anonymous and confidential complaints

- 14.1 In most circumstances, a complainant will need to provide their name.
- 14.2 Subject to the College's legal obligations, and the requirements under its **Reportable Conduct Procedures** and **Child Protection Incidents Procedures**, the College will not act on anonymous or confidential complaints, unless:
- (a) the complaint relates to a College policy or procedure generally, and not to an individual respondent;
 - (b) it is not necessary for the respondent to be aware of the identity of the complainant in order to properly respond to the complaint; or
 - (c) there is independent documentary or other evidence supporting the complaint and the allegation can be tested fairly.
- 14.3 The College will advise complainants that, subject to clause 14.2 and in the interests of procedural fairness, the respondent will need to be notified of the complaint.

15. No victimisation

- 15.1 The College does not tolerate victimisation.
- 15.2 A person must not victimise or otherwise subject another person to detrimental action as a consequence of that person:
- (a) making a complaint;
 - (b) providing information about a complaint; or
 - (c) supporting a person who has made a complaint.
- 15.3 Victimisation may result in disciplinary action, including (as relevant) suspension, expulsion, termination of employment or termination of contract.

16. Vexatious complaints

- 16.1 The College does not tolerate vexatious or malicious complaints.
- 16.2 A person must not make a vexatious or malicious complaint.
- 16.3 For the purposes of this policy and procedures, a complaint will be considered vexatious or malicious if the person makes it:
- (a) knowing it to be false; and

- (b) for the primary purpose of damaging the College or the person against whom the complaint is made.

16.4 Making a vexatious complaint may result in disciplinary action, including (as relevant) suspension, expulsion, termination of employment or termination of contract.

17. Appeals

17.1 A complainant or respondent may appeal against a decision made in accordance with this policy and procedure.

17.2 An appeal may only be made on one or more of the following grounds:

- (a) the investigation was procedurally unfair because the investigator:
- (i) showed bias or had a conflict of interests;
 - (ii) failed to give the complainant a reasonable opportunity to explain their complaint, or to provide relevant documentation;
 - (iii) failed to take into account relevant information;
 - (iv) took into account irrelevant information; or
- (b) new relevant information has become available that was not available or known to the complainant or the respondent at the time of the investigation and could reasonably be expected to affect the decision.

17.3 Appeals by students found guilty of serious misconduct must be handled in accordance with the College's **Student Discipline Policy and Procedures**.

17.4 Appeals by staff found guilty of serious misconduct must be handled in accordance with the College's **Staff Discipline Policy and Procedures** and any relevant contractual or industrial requirements.

17.5 All other appeals will be handled in accordance with this policy and procedures.

17.6 Any appeal must be made in writing to the Headmaster within 5 working days of the notice referred to in clause 9.9, setting out the grounds for the appeal by reference to clause 17.2.

17.7 If the Headmaster has a conflict of interests in regard to the appeal or its subject matter, the appeal will be referred to the Chair of the Council or their nominee, who will perform the functions of the Headmaster under this clause 17.

17.8 The Headmaster will not be considered to have a conflict of interests or to be biased solely because he has previously been made aware of or been consulted about the complaint.

17.9 The Headmaster may uphold or dismiss an appeal. If the Headmaster dismisses the appeal, the original decision will stand. If the Headmaster upholds the appeal, he may make a new decision about the outcome of the complaint.

17.10 At the conclusion of the appeal, the Headmaster will provide written notice to the complainant and the respondent informing them of the outcome of the appeal, including reasons.

18. Interim measures

- 18.1 Notwithstanding any clause in this policy and procedures, in order to minimise the potential for harm to any person, the Headmaster or Deputy Headmaster, as relevant, may temporarily:
- (a) move a staff member, volunteer or contractor into alternate duties;
 - (b) restrict a staff member, volunteer, contractor or external education provider's access to particular classes;
 - (c) restrict a parent, staff member, volunteer, contractor, or external education provider's access to specified buildings, facilities or accommodation;
 - (d) prohibit a parent, staff member, volunteer, contractor, or external education provider from speaking to or approaching another person (including by social media, email, letter or through a third party); or
 - (e) suspend a staff member, volunteer, contractor or external education provider from work, for such period, and on such terms, as the Headmaster or Deputy Headmaster considers appropriate.
- 18.2 A decision to take interim measures should not:
- (a) influence the findings of any investigation process; or
 - (b) be interpreted as anticipating or revealing the outcome of any investigation process.
- 18.3 Interim measures must be reasonable and proportionate, having regard to:
- (a) the nature and seriousness of the complaint;
 - (b) the nature of the position occupied, or role performed by the person; and
 - (c) any disciplinary history.
- 18.4 Interim measures may be taken summarily, and the Headmaster or Deputy Headmaster:
- (a) is not required to provide a hearing to the person before making a decision; and
 - (b) may inform themselves in relation to any matter in any manner that they think fit.
- 18.5 Once taken, interim measures will continue to apply until they:
- (a) are revoked or varied by the Headmaster or Deputy Headmaster; or
 - (b) expire in accordance with their terms.
- 18.6 The Headmaster or Deputy Headmaster must, within 24 hours of imposing interim measures:
- (a) notify the person of the imposition of interim measures, and the reason for the interim measures; and
 - (b) provide a copy of, or an electronic link to, these procedures.
- 18.1 The Headmaster or Deputy Headmaster may take interim measures against a student in accordance with the College's **Student Discipline Policy and Procedures**.

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19. Support

- 19.1 The College recognises that complaint resolution processes can be stressful and upsetting.
- 19.2 Students requiring confidential psychological support may access free counselling through the student counsellors.
- 19.3 Staff requiring confidential psychological support may access free counselling through the College's Employee Assistance Program (EAP). All staff are entitled to 6 x 1 hour sessions per year. For access to the EAP, contact Access Programs Australia Limited Level 8, 75 Castlereagh Street, Sydney, NSW, 2000; www.accesseap.com.au; phone 1800 818 728 (24 hours).

20. Record keeping

- 20.1 All records collected, generated or used as part of the resolution of a complaint under this policy and procedures will be stored confidentially in a secure location, in accordance with the College's [Privacy Policy](#).
- 20.2 Subject to this clause 20 and clause 13.1, access to information about a complaint will be restricted to College staff that have a need to access and use the information in order to meet their responsibilities under this policy and procedure.
- 20.3 Nothing in this policy and procedures prevents the College from obtaining such internal or external professional or legal advice as the College considers necessary to respond to or manage a complaint.

Notes

Complaints Resolution Policy and Procedures

Date approved: 25 March 2020

Date amended: 25 February 2021

1 December 2022 (non-substantive amendments)

18 April 2023 (non-substantive amendments)

Date commenced:

Related documents:

[Privacy Policy](#)

[Staff Complaints Resolution Policy and Procedures](#)

[Staff Discipline Policy and Procedures](#)

[Student Code of Conduct](#)

[Student Discipline Policy and Procedures](#)

[Student Diversity and Equality of Opportunity Policy](#)

[Third Party Code of Conduct](#)

[Child Protection Incidents Procedures](#)

Reportable Conduct Procedures

Guiding Principles for Responding to Civil Claims involving Allegations of Child Sexual Abuse

7-12
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Discover.
what's possible

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