



Complaints & Grievances Policy

Purpose

This policy will provide guidelines for:

- Receiving and dealing with complaints and grievances at the **St. Kevin's Out of Hours School Care**
- Investigating complaints and grievances
- Procedures to be followed in an attempt to resolve complaints and grievances to the mutual satisfaction of those involved.

Refer to Quality Improvement and Accreditation System (QIAS), Quality Practices Guide 2005, Principles 1.6, 2.1, 2.2, 2.3, 7.1, 7.2.

Note: This policy does not deal with complaints relating to staff industrial or employment matters. The relevant awards provide information on the management of such instances.

Policy statement

1. Values

St. Kevin's Out of Hours School Care is committed to:

- Providing an environment of mutual respect and open communication, where the expression of opinions is encouraged
- Considering situations from all perspectives and responding in a manner that promotes an environment conducive to collaborative problem-solving
- Fairness and equity in dealing with disputes, complaints and complainants
- Compliance with all legislative and statutory requirements
- Establishing mechanisms to promote prompt, efficient and satisfactory resolution of complaints and grievances
- Maintaining confidentiality at all times.

2. Scope

This policy applies to the staff, parents/guardians, students on placement and the committee of **St. Kevin's Out of Hours School Care**.

3. Background and legislation

Complaints or grievances may be received from anyone who comes in contact with **St. Kevin's Out of Hours School Care**, such as parents/guardians, staff, committee members, volunteers, students, local community and other agencies.

The difference between a grievance and a complaint is whether the subject matter relates to the child, the staff members' employment or the constitution.

In most cases, dealing with complaints and grievances will be the responsibility of the committee of management, and all complaints need to be assessed as to whether they are a **general or a notifiable complaint** (refer to Definitions of this policy).

When a complaint has been assessed as 'notifiable', the committee will still be required to investigate and take any actions deemed necessary, as well as respond to requests and assist with any investigation by the Department of Education and Employee workplace relations (DEEWR).

There may be occasions when the complainant reports the complaint directly to the DEEWR. If DEEWR then notifies the committee about a complaint they have received, the committee would still have responsibility for investigating and dealing with the complaint as outlined in this policy, alongside a potential investigation by DEEWR.

Direct complaints to DEEWR about a children's service

Complaints provided directly to the DEEWR provide immunity to the notifier. The notifier cannot be disclosed unless the notifier provides their written consent to the DEEWR, or a court grants leave for this to occur.

DEEWR will investigate any complaints it receives, in which it is alleged that the health, safety or wellbeing of any child within the children's service may have been compromised, or there may have been a contravention of the Education and Care Services National Regulations 2011 or the Victorian Children's Services Regulations 2009.

Relevant legislation includes but is not limited to:

- *Associations Incorporation Act 1981*
- *Children, Youth and Families Act 2005*
- *Child Wellbeing and Safety Act 2005*
- *Children's Services Act 1996*
- Education and Care Services National Regulations 2011
- Children's Services Regulations 2009 (CSR)
- *Health Records Act 2001*
- *Information Privacy Act 2000*
- *Privacy Act 1988* (Cwlth)
- *Charter of Human Rights and Responsibilities Act 2006* (Vic.).

4. Definitions

Complaint: An expression of displeasure, such as poor service, and includes any verbal or written complaint directly related to the children's service (includes general and notifiable). This excludes complaints relating to staff industrial or employment matters, occupational health and safety matters (unless related to the safety of the children) and issues related to the legal business entity, such as the incorporated association or cooperative.

Department of Education and Employee workplace relations (DEEWR): federal government responsible for the licensing and regulation of out of hours school care.

Dispute resolution procedure: The method used to resolve complaints, disputes or matters of concern through an agreed resolution process.

General complaint: A general complaint may address any aspect of the centre, for example a lost clothing item; the centre's fees. Centres do not have to inform the DEECD, but the complaint must be dealt with as soon as practicable to avoid escalation of the issue or increased risk.

Grievance: A grievance is a formal statement of complaint generally against an authority figure such as a legal business entity, such as an incorporated association, body corporate, or church. The centre's constitution/model rules will outline the procedures for dealing with grievances.

Industrial grievance: This refers to a complaint by an employee about action which the employer has taken or is contemplating taking in relation to the employee (refer to relevant awards/agreements and staff policies to confirm the process for dealing with these grievances).

Licensee: A legal entity which holds a licence to operate a children's centre under the *Education and Care Services National Regulations 2011*.

Mediator: One that mediates, especially one that reconciles differences between disputants.

Mediation: An attempt to bring about a peaceful settlement or compromise between disputants through the objective intervention of a neutral party.

Nominee and primary nominee: A nominee is a person who has been assessed as 'fit and proper' and nominated by the licensee to manage or control the children's centre in the absence of the licensee. There can be many nominees but only one primary nominee.

Notifiable complaint: A notifiable complaint is a complaint that alleges a breach of the Act or Regulations, or alleges that the health, safety or wellbeing of a child at the centre may have been compromised. Any complaint of this nature must be reported by the proprietor to the secretary of DEEWR within 48 hours after the complaint has been made. ECSN regulations 176

Proprietor: This includes the owner of the centre and any person who manages or controls the children's service. The term proprietor includes the licensee, the primary nominee and the nominee(s) of a licensed centre. (Refer to the Licence, displayed in the main entrance of the centre).

5. Sources and related centre policies

Sources

- DEECD, *Children's Services Guide*
- *KPV Employer Management Manual 2006*
- Incorporated Association Act 1981 Model Rules
- Centre's constitution
- Relevant industrial awards/agreements

Centre policies

- Inclusion and equity
- Behaviour guidance
- Code of conduct
- Communication
- Privacy
- Program participation

Procedures

The committee is responsible for:

- Being familiar with the Education and Care Services National Regulations 2011, Children's Services Regulations 2009, the *Children's Services Act 1996*, centre policies and the constitution, complaints/grievance procedures and relevant awards
- Identifying, preventing and addressing potential concerns before they become formal complaints/grievances
- Ensuring that the name and telephone number of the committee member to whom complaints and grievances may be addressed are displayed prominently at the main entrance (ECSN regulations 173)
- Ensuring that the address and telephone number of the Regional Office of the DEECD are displayed prominently at the main entrance (ECSN regulations 173)
- Advising parents/guardians and any other new members of **St. Kevin's Out of Hours School Care** of the complaints and grievances policy and procedures upon enrolment

- Ensuring that this policy is available for inspection at the centre at all times (regulations)
- Notifying parents/guardians within twenty-eight days of making any changes to this policy or contact persons (ECSN regulations)
- Being aware of, and committed to, the principles of communicating and sharing information with their employees, members and volunteers
- Responding to all complaints and grievances in the most appropriate manner at the earliest opportunity (ECSN regulations)
- Notifying the DEEWR by telephone, within forty-eight hours, followed by written notification as soon as practicable, after a complaint is made if the complaint alleges the health, safety or wellbeing of any child being cared for or educated by **St. Kevin's Out of Hours School Care** may have been compromised or there has been a contravention of the ECSN, CSA or CSR regulations
- Treating all employees, members and volunteers equitably and fairly
- Recording minor complaints, which will provide valuable information to the committee for meeting the needs of families and children the community (a record book must be kept secure and can be copies of emails or notes etc)
- Complying with the centre's privacy policy and maintaining confidentiality at all times (ECSN regulations).
- Ensuring a user friendly version of the complaints policy is in the handbook and families can access the full policy by asking at the centre
- Establishing a complaints and grievances subcommittee to be elected as required. A maximum of three committee members (one of whom should be an office bearer of the committee) should form the sub-committee to investigate the complaint/grievance, and members will depend on the complaint and any privacy issues or conflicts of interest (refer to [Attachment 5](#), 'Sample terms of reference for a complaints and grievances subcommittee')

The subcommittee is responsible for:

- Implementing the procedures for managing a complaint as outlined in [Attachment 1](#), 'Dealing with complaints'
- Implementing the procedures for managing a grievance as outlined in [Attachment 3](#), 'Dealing with grievances'
- Referring to relevant awards and staff related policies for procedures to follow in relation to industrial grievances.

The staff are responsible for:

- Responding to and resolving issues as they arise where possible/practicable (ECSN regulations).
- Maintaining professionalism and integrity at all times
- Raising any complaints directly with the party involved as a first step towards resolution (the parties are encouraged to discuss the matter professionally and openly work together to achieve a desired outcome)
- Notifying the licensee representative if they feel the complaint to be a reportable complaint (ECSN regulations)
- Dealing with situations in which an issue is unable to be resolved by:
 - o Referring the issues to the complaints and grievances subcommittee contact person as soon as practicable
 - o Providing the complainant with the contact number of the complaints and grievances subcommittee contact person if they wish to speak with someone immediately

o Informing the nominated complaints and grievances subcommittee contact person as soon as practicable if a complaint has been referred to them

- Working with the committee as required and providing information requested by the committee; for example, written reports related to the complaint/grievance
- Complying with the centre's Privacy policy and maintaining confidentiality at all times (ECSN regulations)
- Working cooperatively with the committee and the DEEWR in any investigations related to complaints or grievances about the **St. Kevin's Out of Hours School Care**, programs or staff
- Recording minor complaints and passing them onto the committee of management.

The parents/guardians are responsible for:

- Communicating (preferably in writing) any concerns relating to the management or operation of the centre as soon as practicable
- Raising a complaint, directly with the person involved, in an attempt to resolve the concerns without recourse to the complaints and grievance procedures
- Raising any unresolved issues or concerns with the centre's management, via a staff member or the complaints and grievances subcommittee contact person
- Maintaining complete confidentiality at all times
- Cooperating with requests to meet with the complaints and grievances subcommittee and/or provide relevant information when requested in relation to complaints and grievances

Evaluation

In order to assess whether the policy has achieved the values and purposes, the committee will be responsible for:

- Monitoring complaints/grievances, including minor complaints, as recorded in the Minor Complaints Record Book and assessing whether satisfactory resolutions have been achieved
- Taking into consideration feedback on the policy from staff, parents/guardians and committee members.
- Reviewing the effectiveness of the procedures outlined in this policy to ensure that all complaints have been dealt with in a fair and timely manner.

Attachments

- [Attachment 1](#): Dealing with complaints
- [Attachment 2](#): Complaints policy flow chart
- [Attachment 3](#): Dealing with grievances
- [Attachment 4](#): Mediation
- [Attachment 5](#): Template terms of reference for the complaints and grievances subcommittee

Authorisation

This policy was adopted by the **St. Kevin's Out of Hours School Care** committee of management at a committee meeting on **25th June 2012**.

Review date: June 2014

Attachment 1 - Dealing with complaints

When a complaint is received, the person to whom the complaint is addressed will:

- Inform the complainant of the Complaints and grievances policy of the centre
- Encourage the complainant to attempt to resolve the complaint with the person directly, or to submit their complaint in writing to make the terms or basis of any complaint as clear as possible
- Comply with the centre's Privacy policy in regard to all meetings and discussions in relation to a complaint.

Assessment of the complaint

The complaints and grievances subcommittee chairperson will organise a meeting of the subcommittee as soon as possible to assess the complaint/grievance and commence investigation procedures.

If a complaints and grievances subcommittee does not exist, the president—or in the president's absence, the vice-president—will organise a meeting of the committee as soon as possible to establish a complaints and grievances subcommittee (refer to the constitution/model rules for the procedures for calling a special committee meeting). If this is not possible within forty-eight hours of receiving the complaint, the person who has received the complaint must inform the licensee representative of the complaint. The licensee representative will be responsible for assessing whether the complaint is a notifiable complaint.

If the complaint is notifiable, either the licensee representative or the complaints and grievances subcommittee chairperson will be responsible for notifying the DEEWR. This can be by phone, within 48 hours and followed up with a written report as soon as practicable

A written report needs to include:

- Details of the event or incident
- The name of the person who initially made the complaint
- If relevant, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant)
- Any other relevant information
- Contact details of a nominated member of the complaints and grievances subcommittee.

If the subcommittee or licensee representative is unsure if the complaint is a notifiable complaint, it is good practice to contact DEEWR for confirmation.

Complaints and grievances subcommittee responsibilities and procedures

The responsibilities and procedures required of the complaints and grievances subcommittee in the event of a complaint include:

- Any member of the subcommittee who is personally involved in the complaint must stand aside from the investigation and subsequent processes
- Meet to deal with the complaint/grievance as soon as possible
- Consider the nature and the details of the complaint/grievance
- Identify which policies (if any) the complaint/grievance involves; for example, a complaint about unhygienic equipment would also include the Hygiene policy
- Inform the committee if their involvement is required under other centre policies or the centre's constitution; for example, a complaint that alleges a child was mishandled by a staff member will require involvement by DEEWR and the staffing subcommittee who may need to refer to the centre's Staff counselling and discipline policy

- If it is a notifiable complaint, inform the complainant of the requirements to notify the DEEWR of the complaint and outline the role the DEEWR may take in investigating the complaint
- Maintain appropriate records of the information and data collected, including minutes of meetings, incident reports and copies of relevant documentation relating to the complaint/grievance
- Respect the confidential nature of information relating to the complaint/grievance. The committee and the subcommittee will handle any complaint/grievance in a discrete and professional manner. All written information relating to complaints/grievances will be stored securely in compliance with the Privacy policy of the centre.

Investigating the complaint/grievance and gathering relevant information

When investigating the complaint/grievance and gathering relevant information, the complaints and grievances subcommittee will:

- Meet with individual witnesses, and give right of reply to the person against whom the allegations are made in relation to any accusation or information relating to an alleged incident. The person whom the allegations are made has the right to a support person at any meetings.
- Offer the complainant the opportunity of meeting with the subcommittee to discuss the complaint and provide additional information where relevant
- Nominate a committee member to inform the complainant of the procedures for dealing with the complaint/grievance if the complainant does not take up the opportunity to attend a meeting
- Document the time, date and details of conversations and followed up with a letter outlining information discussed
- Be available to meet with DEEWR staff if required and provide additional information as requested
- Review relevant information and documents. It is a good idea to start one document for collecting all information and then turn this into a final report detailing the investigation and details of the investigation
- Obtain any other relevant information or documentation that will assist in trying to resolve the complaint/grievance; for example, if the complaint relates to child-to-staff ratios, copies of the staff roster and attendance records will need reviewing
- Seek advice, where appropriate, from individuals and organisations that may be able to assist in resolving the complaint/grievance (any cost in seeking advice will require prior approval by the committee).

Following the investigation

Once the investigation of the complaint/grievance is complete, the complaints and grievances subcommittee will:

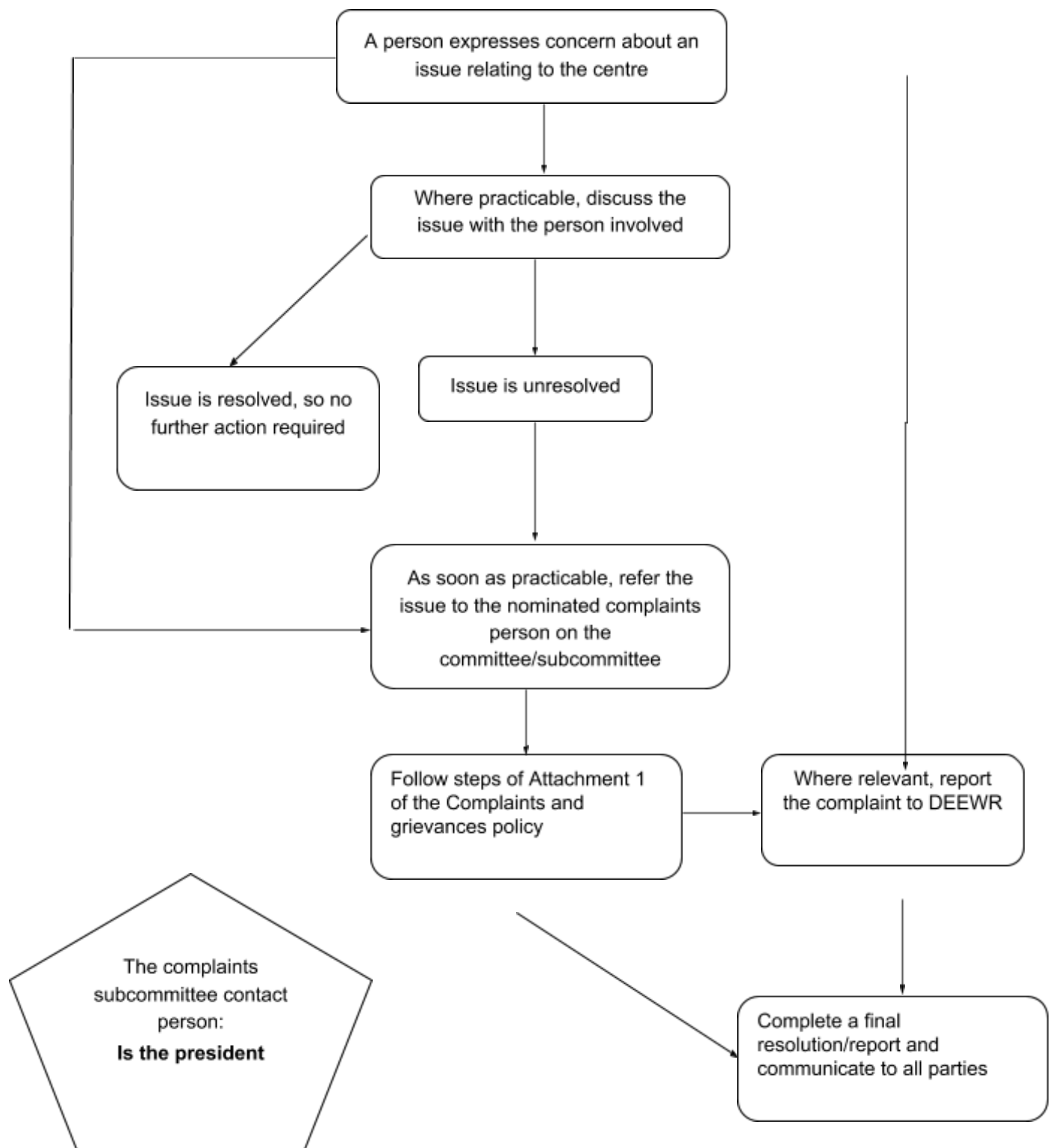
- Endeavour to resolve the complaint/grievance by mutual agreement of the parties involved
- Meet to discuss the information gathered and determine further action, including possible recommendations to be presented to the committee of management
- Seek advice and information from organisations with relevant expertise in relation to the nature of the complaint/grievance
- Ensure that any recommendations or actions are in accordance with relevant legislation and funding requirements, including but not limited to:
 - o *Education and Care Services National Regulations 2011*
 - o *Associations Incorporation Act 1981*
 - o Industrial awards and agreements

- o *DEWWR's Child Care Management System for accredited agencies, as provided by , procedures and funding criteria update*
- Report outcomes that may include relevant information gained in investigations and consultations to the committee and, where required, provide any recommendations for consideration by the committee
- Inform the committee on the involvement of DEEWR and the outcomes of any investigation by DEEWR.

The committee will review the report and any subcommittee recommendations and will be responsible for making decisions on the action to be taken (if any), including relevant review mechanisms. The complaints and grievances subcommittee will then:

- Advise the complainant and other relevant parties of any decisions the committee has made relating to the complaint/grievance
- Follow up to ensure the parties involved are satisfied with the outcome and monitor progress on recommendations (if any) made by the subcommittee/committee.

Attachment 2 - Complaints policy flow chart



Attachment 3 - Dealing with grievances

The rules of an incorporated association constitute the terms of a contract between the association and its members. A breach of the rules does not give rise to a breach of the *Associations Incorporation Act 1981* (The Act). Disputes are civil matters to be resolved by the parties involved, and every endeavour should be made by the parties involved to resolve a dispute.

Incorporated associations must comply with the *Associations Incorporation Act (1981) Model Rules for an Incorporated Association, Disputes and Mediation Procedures*.

Legal proceedings should only be considered if all other avenues to resolve a dispute have failed. Consumer Affairs Victoria does not have the jurisdiction to intervene in disputes under the rules.

Members who lodge a grievance, either against the association or another member, have the right to due process and a fair hearing. There are several options available to assist in resolving these grievances:

A grievance may be addressed through the application of the grievance procedure that must be contained in the association's rules. If an incorporated association has not provided for a grievance procedure in its rules, the procedure set out in the Model Rules applies. These procedures provide a process that is intended to manage grievances without delay, in a conciliatory, respectful and effective manner.

If all efforts to settle the grievance have failed, an application may be made to the Magistrates Court under Section 14A of the Act. The Court may make an order, giving directions for the performance and observance of the rules of the incorporated association or to enforce the rights or obligations of the incorporated association and members.

The Dispute Settlement Centre of Victoria may be approached to conduct mediation.

Industrial/staff grievances must be dealt with according to the relevant award/agreement.

A staffing subcommittee could be given authority to deal with such grievances.

Mediation

Many disputes can be resolved through communication and negotiation, which can help to reduce costs, delays and legal action. The Dispute Settlement Centre of Victoria provides a free service, and can offer advice and tips for dealing with matters yourself. The centre also provides neutral, objective mediators to help you resolve disputes of any size or complexity.

Mediation is a process in which a neutral person (the mediator) helps people to negotiate with each other to resolve their dispute.

- Mediation is confidential.
- Everyone involved in the dispute comes together for a face-to-face meeting.
- The mediator runs the process, but the people in dispute decide what they want to talk about.
- The mediator helps identify issues and possible options.
- The people in dispute work out a solution with the help of the mediator.
- Mediators do not impose a decision.

What is the Dispute Settlement Centre of Victoria?

The Dispute Settlement Centre of Victoria (DSCV) is a program of the Department of Justice, Victoria, that provides a confidential dispute resolution service throughout Victoria. The centre has been operating since 1987 and has assisted in resolving thousands of disputes through mediation and the Dispute Advisory Service.

The DSCV can act in a preventative role, working with the organisation to identify potential causes of dispute and to develop ways to prevent future conflict. The DSCV panel of neutral, objective mediators can also manage existing conflict situations, large or small.

What types of disputes does the DSCV handle?

The DSCV deals with a wide range of disputes, including:

- Civil actions before the Magistrates and County and Supreme Courts
- Neighbourhood disputes, including problems with fences, trees and noise
- Disputes involving bodies corporate, clubs and incorporated organisations, workplaces, shared households, family (excluding family law matters), accident damage to motor vehicles, planning issues, environmental issues, trader - trader disputes and commercial matters.

The contact details for the DSCV are:

Dispute Settlement Centre Victoria
4/456 Lonsdale St
Melbourne VIC 3000
Tel: 03 9603 8370
Tel: 1800 658 528 (toll free for regional callers)
Email: dscv@justice.vic.gov.au

Attachment 4 - Template terms of reference for a complaints and grievances subcommittee

DATE ESTABLISHED:

Purpose

A complaints and grievances subcommittee has been established by the **St. Kevin's Ormond OHSC** committee of management to perform tasks and functions related to any complaints or grievances regarding the **St. Kevin's Ormond OHSC**.

Membership

Three committee members are nominated by the committee of management and documented in the meeting minutes. The membership must include a minimum of one executive member.

Convenor

The convenor can be the president, vice-president or other person as nominated by the subcommittee.

Time period nominated

The complaints and grievances subcommittee shall operate for the term of the committee unless otherwise instructed by the committee.

Meeting requirements

The subcommittee convenor is responsible for organising meetings as soon as practicable after receiving a complaint or grievance.

Decision-making authority

The subcommittee is required to fulfil only those tasks and functions as outlined in these terms of reference.

The committee may decide at a committee meeting to alter the decision-making authority of the subcommittee.

Budget allocation

Expenditure must be approved by the committee at the monthly committee meetings. A request in writing must be submitted by the subcommittee.

Reporting requirements to the committee

- The subcommittee is required to keep minutes of any meetings held. These are to be kept in a secure file.
- The convenor is required to present a written report to the monthly committee meetings, ensuring that privacy and confidentiality are maintained.

Tasks and functions of the complaints and grievances subcommittee

- Responding to complaints in a timely manner
- Investigating all complaints received in a discreet and responsible manner
- Implementing the procedures outlined in [Attachment 1](#), 'Dealing with complaints'
- Implementing the requirements of the **St. Kevin's Ormond OHSC** constitution or Associations Incorporation Act - Model rules in relation to any grievances

- Referring any grievances of an industrial nature to the staffing subcommittee
- Acting fairly and maintaining confidentiality at all times
- Informing the licensee representative if a complaint is assessed as notifiable
- Keeping the committee of management informed about complaints that have been received, the outcomes of its investigations and providing recommendations for action
- Ensuring decisions are based on the evidence that has been gathered.

This information should be reviewed by the complaints and grievance subcommittee at the commencement and on completion of their term. Any alterations to this document will need to be presented and approved by the committee of management.