



Wesley College

HARASSMENT & DISCRIMINATION PROCEDURE

Procedures to Resolve Harassment and Discrimination Complaints

Principles

In seeking to resolve a complaint, Wesley College will:

- Ensure that as far as possible, grievances and disputes that are raised with the College are managed and resolved by the College;
- Facilitate the timely resolution of grievances and disputes;
- Provide residents with an opportunity to seek a review of decisions or actions in relation to matters affecting their residence; and
- Maintain open and transparent communication with those involved.

Those handling complaints will:

- Clearly identify what support mechanisms and information sources are available to all parties involved in the complaints process;
- Provide opportunities for all parties in the complaints process to receive appropriate feedback on the outcomes of the process; and
- Maintain reasonable records of the complaint and formal discussions regarding the complaint.

This procedure applies to all residents of Wesley College, including temporary residents.

This policy, where appropriate, operates in conjunction with the relevant policies and procedures of the University of Sydney.

Harassment and Discrimination Prevention Policy and Resolution Procedure, 2013

The following anti-discrimination laws listed below at the time of writing also apply to Wesley College, but are in no way exhaustive:

Anti-Discrimination Act 1977 (NSW)

Racial Discrimination Act 1975 (Cth)

Sex Discrimination Act 1984 (Cth)

Disability Discrimination Act 1992 (Cth)

Human Rights and Equal Opportunity Commission Act 1986 (Cth)

Age Discrimination Act 2004 (Cth)

Initial Procedure

Informal procedures emphasise resolution rather than factual proof or substantiation of a complaint.

This approach involves the complainant dealing with the situation themselves or referring it to one of Wesley College's Harassment and Discrimination Advisers to act on their behalf.

Anyone who believes that he or she has been the victim of harassment or discrimination is encouraged to approach Wesley College's Advisers. This is particularly important if:

- The complainant is not sure how to handle the problem themselves, or
- The complainant just wants to talk confidentially about the problem and get some more information about what to do.

How to Complain

All Resident Advisors (RAs) at Wesley College who are approached by someone wishing to discuss a specific instance of possible harassment or discrimination should refer that person to Wesley's Harassment and Discrimination Advisers.

In general, the role of the Harassment and Discrimination Advisor is to:

- Help the person clarify if the behaviour perceived as offensive may have constituted harassment or discrimination
- Explain to the complainant the mechanisms of the complaints procedure within this policy;
- Explain to the complainant the confidentiality provisions of the procedures;
- Encourage the complainant to resolve the matter themselves, if appropriate;
- If not appropriate:
 - explore other possible strategies by which the complainant might resolve the difficulty
 - e.g. Harassment and Discrimination Adviser speaks directly to alleged perpetrator; option of mediation (only appropriate for some cases)
- If the complainant wants to make a formal complaint, the Harassment and Discrimination Adviser refers it to the Master
- Advise the complainant of her/his rights under the relevant legislation including the right to refer the matter to the Anti-Discrimination Board, the Human Rights Commission or the police, as appropriate.

Formal Investigation

Formal resolution procedures are appropriate when:

- Initial attempts at resolution have failed

- There is a dispute over whether the incident took place
- The behaviour in question is repeated after an initial resolution
- The allegations are of a serious nature
- The alleged offender is a senior officer or person
- A person who opted for an initial resolution has been victimised
- The person making the complaint seeks a formal resolution.

When a formal, written complaint is received, the Harassment and Discrimination Adviser refers it to the Master or in the event the complaint is about the Master to the Chairperson who decides whether there will be an internal or external investigation.

An investigation will occur when a formal, written complaint has been received, and/or there is a written report from a staff member or Resident Advisor, and/or when the Master feels that the safety of the community is at risk and/or if a repeat offence has allegedly occurred.

Conduct of Investigations

The aim of an investigation is to determine the facts surrounding the matter or incident that has been reported or identified.

An investigation will be conducted by means of interviews and/or examination of documents, including any form of communication that has transpired (examples include but are not limited to text messages, voice messages and other messages via social media and emails) and records kept by the College and CCTV.

Investigations must be conducted as discreetly as possible.

A person being interviewed may invite another person to be present at the interview as an observer.

An observer may only provide support to the person being interviewed, an observer cannot comment on proceedings or assist the person being interviewed with commentary.

The observer must keep the interview confidential.

Residents have the right to refuse to attend an interview with an investigator.

Sample of the Investigation Process

Step 1

The Master appoints an Investigator and in the case of a complaint against the Master, the Investigator is appointed by Chair of Council.

The Investigator interviews the complainant taking comprehensive notes in order to determine:

- The nature of the incident
- Whether there were any witnesses
- The desired outcome of the complainant.

If the complainant has detailed the complaint in writing, the Investigator will go through the document with the complainant thoroughly, checking all details and taking notes.

The Investigator requests that the complainant:

- Not discuss the matter with others i.e. maintain confidentiality
- Report any further incidents or related victimisation.

The Investigator must stress the importance of confidentiality for all parties, inform the complainant of the process, and provide an approximate timeframe for the completion of the investigation (ideally within 10 - 12 working days).

Step 2

As soon as possible, the Investigator will:

- Interview the respondent and convey the complainant's allegations fully and verbally
- Inform the respondent of their rights and responsibilities and provides them with the opportunity to fully respond (principles of natural justice/procedural fairness)
- Tell the respondent to maintain confidentiality and to avoid any form of retaliation (victimisation).

Step 3

The Investigator interviews witness/es and gathers relevant information as appropriate, taking accurate notes and again stressing the importance of confidentiality for all parties.

Step 4

The Investigator assesses all information.

Step 5

The Investigator makes a finding about whether the complaint has substance and informs the Master of that finding.

Step 6

The Master sees the complainant and the respondent individually and informs them of the finding and what will be happening from this point including possible disciplinary action (see: *Wesley College Discipline Policy*).

Step 7

The Investigator completes a report documenting the allegation, the investigation process, the evidence and the findings.

Where appropriate, the Investigator may discuss with the Master possible disciplinary action or general follow-up action to be taken.

Any disciplinary action implemented is the decision of the Master.

Step 8

The Master monitors activities to ensure that things have returned to normal and no further issues or retaliation of any kind have resulted.

The Master considers whether it is necessary to update policies and/or conduct further training within the Wesley College community.

NB. In the case of criminal matters, these investigation procedures may be varied at the formal direction of the police.

Appeal

The resident has the right to appeal the decision of an investigation.

The appeal must be received in writing to the Master and address the grounds on which the resident believes the investigation and decision were flawed.

The Master will review the processes and provide a decision.

Possible Disciplinary Actions

Matters dealt with under the Wesley College Harassment Policy that require significant intervention or an independent investigation to take place, and which may threaten the reputation of the College or the University will be reported, in general terms, to the University of Sydney for their information.

The timing of such advice will be at the discretion of the Master, in consultation with the Chair.

The disciplinary actions that may be taken by the Master are outlined in the *Discipline Policy*.

References and Links

1. University of Sydney Harassment and Discrimination Prevention Policy and Resolution Procedures
Web link www.sydney.edu.au/policies
2. Wesley College Discipline Policy.

Procedure Review

This Policy is to be reviewed annually by the Wesley College Council (next review 2016).