




Investigations Unit
**Policy for Managing
Complaints/Reports about
Teachers**

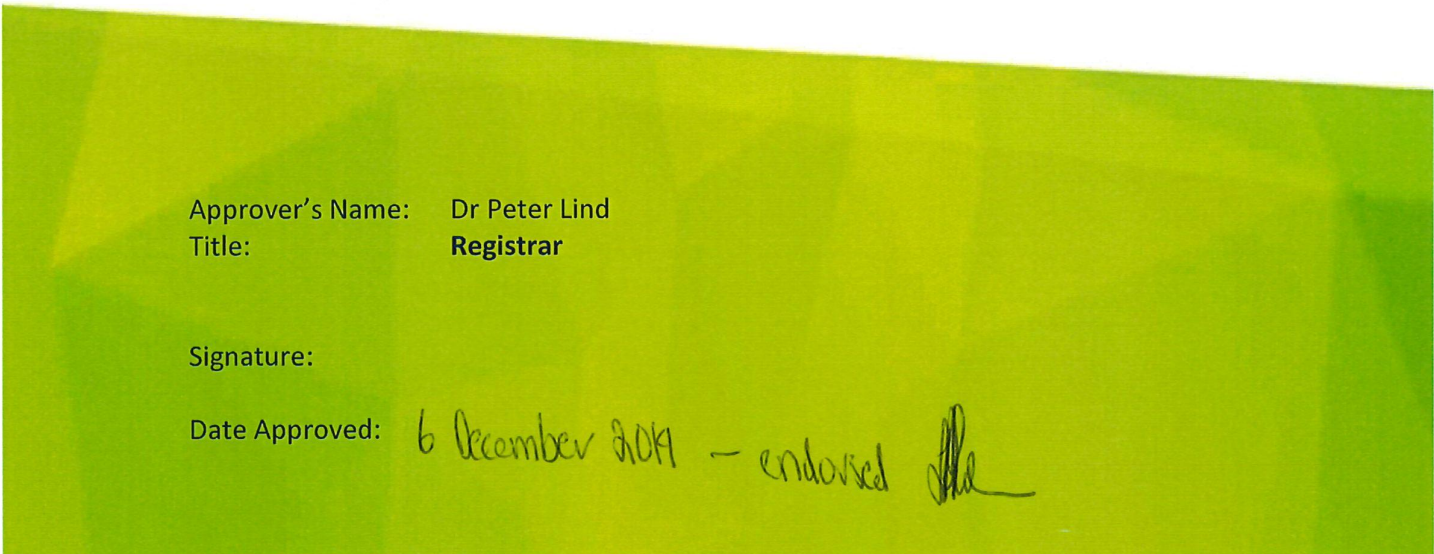
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Policy for Managing Complaints/Reports about Teachers

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Policy for Managing Complaints/Reports about Teachers

1 Purpose

The Teachers Registration Board of South Australia (the Board) recognises that the efficient, timely and effective management of complaints is integral to the continued public confidence in the Board.

The Board is committed to embedding the principles and practices of the Australian/New Zealand Standard Guidelines for complaint management in organisations (AS/NZS 10002:2014) into the planning, design, operation, maintenance and improvement of the complaints management system.

2 Objective

This policy details the overarching process for the management of complaints made to the Board by members of the public regarding the conduct, capacity or competence of teachers and persons granted a Special Authority to Teach.

The objectives of this policy are to provide a clear, transparent and responsive complaints management process.

3 Context

3.1 Background

The Board is established under the *Teachers Registration and Standards Act 2004* (the Act) and has legislated responsibility for the registration of all teachers in South Australia.

The object of the Act is to establish and maintain a teacher registration system and professional standards for teachers to safeguard the public interest in there being a teaching profession whose members are competent educators and fit and proper persons to have the care of children (Section 4 of the Act).

The Board must have the welfare and best interests of children as its primary consideration in the performance of its functions (Section 7 of the Act).

3.2 Registrar's Role

The Act confers on the Registrar an independent statutory role as 'complainant'; the Registrar is required to investigate grievances and concerns and to exercise prosecutorial discretion. In discharging this investigative and prosecutorial role the Registrar acts independently of the Board but within the principles of administrative law, the provisions of the Act, the policies of the Board and other relevant legislation. It is preferable the Registrar investigate and lay any formal Complaint to avoid any suggestion the Board is acting as both prosecutor and judge in proceedings.

As such the Registrar is responsible for assessing/investigating complaints made regarding the conduct, capacity or competence of teachers and to refer any matters of serious concern to the Board.

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3.3 Legal Authority

Pursuant to the *Teachers Registration and Standards Act (2004)*, the Board may hold an Inquiry to determine whether the conduct of a teacher constitutes proper cause for disciplinary action (s35(1)), or hold an Inquiry to determine whether a teacher's capacity to teach is seriously impaired by an illness or disability affecting the person's behaviour or competence as a teacher (s38(1)).

There is proper cause for disciplinary action against a teacher if:

- (a) the teacher has improperly obtained registration as a teacher; or
- (b) the teacher has been guilty of unprofessional conduct; or
- (ba) a working with children check has not been conducted in relation to the teacher within the preceding 5 years; or
- (c) the teacher is not a fit and proper person to be a registered teacher; or
- (d) the teacher's registration or other authority to teach has been suspended, cancelled or otherwise withdrawn by another teacher regulatory authority (s33(1)).

Unprofessional Conduct means:

- (a) a contravention of this Act or the repealed provisions; or
- (b) a contravention of a condition of registration as a teacher under this Act or the repealed provisions; or
- (c) incompetence; or
- (d) disgraceful or improper conduct (s3).

4 Policy Statement

4.1 Complaint Definition

A complaint is a notification to the Board, within the scope of this policy (refer point 5) regarding a registered teacher, or previously registered teacher.

4.2 Commitment

The Board is committed to assessing/investigating complaints falling within the remit of the Board.

The Board is committed to its independent role in fairly and thoroughly conducting investigations having regard to the public interest, the teaching profession and interests of teachers and children.

The Registrar has overall responsibility for ensuring that complaints are assessed/investigated fully, impartially and within reasonable timeframes.

At all times during an assessment/investigation and any subsequent disciplinary proceedings, the principles of natural justice and procedural fairness will be adhered to.

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4.3 Complaint Principles

The Board will utilise the following guiding principles to manage complaints:

- **Objectivity and Fairness:** Any person lodging a complaint will be treated fairly and with respect and will not be adversely affected as a result of making a complaint. Complaints will be dealt with impartially and in an unbiased and equitable manner in accordance with the principles of natural justice.
- **Accessibility:** information about how complaints may be made and how they are managed will be easily accessible to the public. There will be multiple avenues for making a complaint in writing and special needs or vulnerable clients will be recognised and assisted.
- **Responsiveness:** the Board will acknowledge each complaint in a timely, clear and informative manner and will prioritise in accordance with the level of the issue raised. Any person lodging a complaint will be provided with opportunities to respond, progress reports, and where possible, the likely outcome of their complaint and reasons for decision.
- **Privacy and Confidentiality:** the complaint and any personal information obtained through the process will be managed sensitively and confidentially in accordance with the Board's legislative and procedural requirements and employee's ethical obligations.

4.4 Conflict of Interest

As per the Public Sector Code of Ethics, all employees of the Board will avoid involvement with any matter which may potentially be regarded as a conflict of interest. Where it is apparent a conflict of interest may occur, the employee will immediately cease any involvement in the matter and refer it to their line manager.

5 Scope

5.1 Matters in scope

The Board can only receive, assess and investigate complaints in relation to current and formerly registered teachers where the following is alleged:

- (a) improperly obtained registration as a teacher; or
- (b) serious unprofessional conduct (e.g. resulting in termination of employment or criminal charges); or
- (c) is not a fit and proper person to be a registered teacher; or
- (d) whose teacher's registration or other authority to teach has been suspended, cancelled or otherwise withdrawn by another teacher regulatory authority; or
- (e) whose capacity to teach is seriously impaired by an illness or disability affecting the person's behaviour or competence as a teacher.

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5.2 Matters not in scope

In many cases, concerns a person may have about a teacher can be resolved appropriately by discussing them with the teacher's employer. Before a complaint is lodged with the Board, individuals are encouraged to contact and speak with the:

- principal or person in charge of the education setting;
- governing body of the education setting; or
- authority that employs the teacher.

5.3 Other Matters

An assessment/investigation conducted by the Board is independent of investigations undertaken by the South Australia Police, Department for Education, Catholic Education Office, the Association of Independent Schools of SA, Department of Human Services Screening Unit or any other employer or statutory authority.

Alleged conduct of a teacher which may constitute criminal behaviour should be reported to the South Australia Police as soon as possible by the person initiating the complaint. Where the alleged conduct has or is likely to cause harm to, or places children at risk, the matter must be referred to the Child Abuse Report Line on telephone 131 478.

6 The Complaint Management Process

6.1 Complaint Management

The Board will receive, manage, assess, allocate, investigate, respond, record and report all complaints in relation to currently and formerly registered teachers. The Manager Investigations has responsibility for maintaining a register of complaints.

All information obtained during the assessment/investigation of a complaint and any subsequent disciplinary proceedings will be dealt with in the strictest confidence and only used in accordance with the provisions of section 53 of the Act and the Board's [Information Management Policy](#).

6.2 Making a Complaint¹

Any member of the public has the right to make a complaint to the Board about the conduct of a teacher. In many cases, concerns about a teacher can be resolved appropriately by discussing them directly with the teacher's employer. Wherever possible the employer should be given the opportunity to deal with the complaint in the first instance.

Where it is not possible for the teacher's employer to resolve the complaint, a complaint may be lodged with the Board. Initial advice regarding complaints can be obtained from the Board's Investigation Unit, however a person lodging a complaint will be asked to submit a formal complaint in writing for the matter to proceed further.

¹ Pursuant to sections 24, 37 and 39 of the Act, there is a requirement on the teacher and the employer of teachers to report certain matters to the Board. These obligations do not fall within the scope of this policy.

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To lodge a complaint, the [Complaint form](#) should be used and this is available on the Board's website. Alternatively, a complaint may be provided by email or letter which details the allegations, using the questions contained within the complaint form as a guide as to what information to provide.

All written complaints should be marked 'Private & Confidential' and forwarded to the Board by post, via email or in person.

Where the person lodging a complaint is unable to submit the complaint in writing or requires assistance in lodging the complaint, they may contact the Board on telephone +61 8 8253 9700 for assistance. Board employees will provide all assistance reasonably necessary to submit the complaint.

6.3 Acknowledgement and Preliminary Assessment of Complaint

Following receipt of a formal complaint, the Registrar will acknowledge receipt of the complaint to the person lodging the complaint and notify the teacher who is subject of the complaint in writing, within 7 days of receipt of the complaint (refer to Appendix A).

A preliminary assessment of all complaints will be made by the Registrar or a member of the Investigation Unit with consideration to the following criteria:

- nature and severity of the complaint;
- health and safety implications;
- complexity;
- impact on the individual, the profession, the general public or the organisation;
- potential to escalate;
- the need and possibility of immediate action;
- the time that has elapsed since the alleged events occurred.

Further information from the person lodging the complaint, school or other organisation may be requested to assist the Registrar with the preliminary assessment.

The Registrar will make a determination as follows:

- the complaint is assessed as appropriately dealt with at the school level;
- the complaint is assessed as not valid, trivial or vexatious;
- the complaint requires further investigation.

Any person lodging a complaint will be notified of the progress and/or outcome of their complaint within 14 days of the decision whether to further investigate or not.

6.4 Investigation of Complaint

If the Registrar determines an investigation is warranted, the teacher who is subject of the complaint will be informed in writing that an investigation has commenced. This notification outlines the nature of the complaint and advises the teacher that the principles of natural justice will apply.

Investigations are conducted by the Board's Investigations Officers in accordance with the Board's Investigation Unit procedures.

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Timeframes to investigate the complaint will vary due to a range of factors, including:

- complexity and nature of the complaint;
- the length of time taken to obtain relevant information from other agencies;
- the number of parties involved in the complaint;
- availability of the person lodging a complaint, the teacher and witnesses;
- the extent of material requiring review and consideration;
- the emergence of unexpected additional information obtained through the investigation process.

Complaints involving complex circumstances may require significant time to investigate. In these circumstances the investigating officer will provide the person lodging a complaint with regular updates of the progress.

6.5 Complaint Outcomes

If sufficient evidence is found to substantiate the allegations raised in the complaint, the Registrar may refer the matter to the Crown Solicitor's Office (CSO) for further legal advice and consideration of the laying of a [formal complaint](#) before the Board.

Further information regarding the conduct of investigations and conduct of an Inquiry can be found at [Information Sheet - Matters Pursuant to Part 7 of the Act](#).

Where, after consideration of all available information including the advice of the CSO, the Registrar determines not to lay a formal Complaint, a Letter of Advice or a Warning Letter may be sent to the teacher.

The Board has no mechanism to resolve complaints through a conciliation process. Complaints which are of a minor nature can normally be resolved at a school or employer level.

On completion of an investigation, any person lodging a complaint will be advised in writing of the outcome.

6.6 Review of Decision

If the person lodging a complaint is dissatisfied with the outcome, they are invited to write to the Registrar within 30 days of notification of the outcome of the investigation, providing reasons as to their dissatisfaction. The Registrar will consider the dispute and prepare a written response within 30 days of receipt.

If a registered or formerly registered teacher is dissatisfied with a decision of the Board as a result of a complaint against them, they have the right of appeal to the Administrative and Disciplinary Division of the District Court.

6.7 Unreasonable Conduct of Any Person Lodging a Complaint

The Board recognises that all members of the public have the right to make complaints and to have their complaint considered objectively and professionally within applicable legislative provisions.

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On occasion, a person lodging a complaint can act in ways which:

- are unreasonably persistent;
- involve unreasonable demands;
- exhibit a lack of cooperation;
- demonstrate unreasonable arguments.

Unreasonable conduct by any person lodging a complaint can result in a large drain on the resources of the Board. Unreasonable conduct by a person lodging a complaint must be managed to maintain efficiency in the use of Board resources.

The Board acknowledges that the nature or the method of approach by the person lodging a complaint should not influence the consideration of the issues raised.

The Board has an obligation to provide staff with a safe workplace. Staff do not have to tolerate abuse, threats, aggression or other unreasonable conduct by any person lodging a complaint.

The Board has developed an Unreasonable Complainant Procedure to provide guidance to staff in the management of unreasonable conduct by any person lodging a complaint.

7 References and Links

Teachers Registration and Standards Act 2004:

<http://www.legislation.sa.gov.au/LZ/C/A/TEACHERS%20REGISTRATION%20AND%20STANDARDS%20ACT%202004.aspx>

Teachers Registration Board of South Australia, Information Management Policy:

http://www.trb.sa.edu.au/sites/default/files/Infor-Sheet_Information-Management-Policy.pdf

Teachers Registration Board of South Australia, Obligation to Report:

<http://www.trb.sa.edu.au/obligation-conduct>

Teachers Registration Board of South Australia, Unreasonable Complainant Procedure

Teachers Registration Board of South Australia, Information Sheet Complaints:

http://www.trb.sa.edu.au/sites/default/files/Info-Sheet_Complaint.pdf

Teachers Registration Board of South Australia, Complaint Form:

http://www.trb.sa.edu.au/sites/default/files/Form_Complaint.pdf

Teachers Registration Board of South Australia, Formal Proceedings:

<http://www.trb.sa.edu.au/formal-proceedings>

Teachers Registration Board of South Australia, Information Sheet Matters Pursuant to Part 7 of the Act:

https://www.trb.sa.edu.au/Info-Sheet_Matters-Pursuant-to-Part-7-Act

APPENDIX A

TRBSA COMPLAINT PROCESS

