

Policy Name:	Child Safe Complaints and Appeals	
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1. PURPOSE

To ensure Living & Learning Pakenham (LLP) has appropriate procedures in place for receiving, documenting and handling complaints and appeals and that the processes are child focused, understood by children, young people and their families, and are culturally safe for Aboriginal, Torres Strait Islander and culturally and linguistically diverse (CALD) children.

2. SCOPE

This policy applies to all staff, volunteers, participants and activities undertaken by LLP.

3. DEFINITIONS

Aboriginal	The term Aboriginal in this policy is inclusive of Aboriginal and Torres Strait Islander peoples.
Allegation	An assertion that something has happened – can range from relatively minor assertions (e.g. that a staff member was rude) to something more serious (e.g. that a child or young person is being abused by a staff member).
Appeal	A process for requesting the review of an official decision made.
Child	An individual who is under the age of 18 years old.
Child Abuse	<p>All forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.</p> <p>Different types of child abuse and neglect have different features. The main subtypes of child abuse and neglect are:-</p> <ol style="list-style-type: none"> 1. Physical abuse 2. Emotional abuse 3. Neglect 4. Sexual abuse 5. Grooming 6. Exposure to family violence
Complaint	An expression of dissatisfaction related to one or more of the following:

	<ul style="list-style-type: none"> • A general complaint about the services provided, or dealings with individuals. • Allegations of abuse or misconduct by:- <ul style="list-style-type: none"> ○ Staff, volunteers or other individuals associated with LLP, ○ Another child or young person at LLP. • The handling of a prior concern. • Disclosures of abuse or harm made by a child. • The conduct of a child at LLP. • General concerns about the safety of a group of children or activity.
Complainant	The person who formally lodges a complaint or appeal.
Concern	Any potential issue that could impact negatively on the safety and wellbeing of children.
Cultural Safety	<p>An environment that is safe for people: where there is no assault, challenge or denial of their identity, of who they are and what they need. It is about shared respect, shared meaning, shared knowledge and experience, of learning, living and working together with dignity and truly listening.</p> <p><i>For more information on cultural safety see the Aboriginal and Torres Strait Islander cultural safety framework for the Victorian health, human and community services sector.</i></p>
Mandatory reporting	Where a legislative requirement is placed on an individual to report known or suspected cases of child abuse and neglect to a nominated government department or agency (typically the child protection authority).
Misconduct	Conduct which is a departure from the accepted standards of the role (as per policies and procedures) performed by an employee or volunteer which is intentional or seriously negligent.

4. POLICY

LLP encourages and welcomes the reporting of concerns, responds to complaints promptly, thoroughly and fairly and takes immediate action to protect children at risk. At all times, LLP undertakes to support all affected parties, including staff, volunteers, children and their families throughout the entire process. No one will be penalised or suffer adverse consequences for making a complaint.

LLP is committed to ensuring that all people, including children and young people, inclusive of Aboriginal and Torres Strait Islander peoples and those from a CALD background, feel safe and respected. To achieve this, LLP fosters an open culture that supports safe disclosures about risks of harm to children and young people, with consideration of their cultural safety.

LLP takes all child safety complaints seriously and strives to be as transparent as possible throughout the complaints process while respecting the privacy of all parties. All personal information obtained throughout the complaints process will be treated in accordance with relevant legislation.

LLP has an easy to understand complaint-handling system flowchart that children and young people, staff, volunteers and families can use. This flowchart is to be strategically placed in the communal area of the building and on the LLP website.

Communicating this policy to children, young people and their families

A flowchart which outlines the process of making a complaint, which is easily understood by children and young people, families, staff and volunteers will be placed in the LLP communal space and any areas which may be used by children. It will be made available in hard copy and/or electronic copy to families who have children enrolled in LLP programs.

Children engaged in programs and activities at LLP will be informed of their rights in respect to safety and complaint processes.

Types of Complaints

General Complaint

A general complaint may address any aspect of LLP's service, for example, the activities provided and general operations. The complaint must be dealt with as soon as is practicable to avoid escalation of the issue.

Misconduct

Misconduct captures a broad range of unacceptable behaviours that are not necessarily criminal.

General Misconduct is behaviour that is inconsistent with employee obligations or duties; a breach of LLP policy or procedure, Code of Conduct; or generally unacceptable or improper behaviour.

A "one-off" incident occurring as the result of an innocent mistake or poor judgement does not necessarily amount to misconduct unless it has serious consequences, or becomes a continual behaviour even after the person has been made aware that the behaviour is unacceptable.

Criminal Conduct

Criminal conduct means conduct that breaks a law where a criminal penalty can apply.

A report **MUST** be made to police if:

- A child's safety, health or welfare is at risk.
- There is an allegation of abuse or harm of children by adults or by other children.
- The child is in immediate danger.
- The complaint involves an allegation or disclosure of any criminal conduct.

Reporting to Authorities

Any concern for the safety or wellbeing of a child or young person, should immediately be reported to the CEO. All allegations of suspected criminal conduct will be reported to Victoria Police. There also may be additional reporting requirements for certain individuals as required by legislation. These are outlined in policy 4.7 Child Safety and Wellbeing.

The Process

Making a Complaint

Children, young people and families will be encouraged to raise concerns and make complaints. A complaint may be received in person, by phone or email. Complaints may be made to the CEO, the program co-ordinator or another trusted adult. All LLP staff and volunteers will be aware of the complaint handling process.

It is recognised that children are more likely to report abuse or concerns if they feel their views will be heard and valued and where they understand the process. It is therefore important that all children who come forward with a complaint are:-

- Taken seriously.
- Are listened to respectfully without judgement and bias.
- Treated with courtesy and respect.
- Received without making assumptions, or pre-judging the subject of the complaint or the outcome.
- Given sufficient time to explain their complaint in their own words.
- Provided with appropriate support and assistance.
- Asked what they need to feel safe and involved in the process.
- Have their expectations managed and the next steps explained to them.
- Advised that other people may need to be told certain things about their experience to be able to help them and keep them and other young people safe, otherwise what they have communicated will be private.

Recording Complaints

Complaints will be recorded in the Complaints Register along with the response made and outcomes. Information that should be recorded includes:-

- A summary of the complaint.
- Categorisation of the key complaint issue.
- Details about the complainant affected.
- The person to whom the child or young person initially disclosed their concerns.
- Details about the person who is the subject of the complaint.
- The identity of the key personnel involved.
- Details as to any report to Victoria Police or other government department.
- Details about the investigation process.
- Key steps taken to involve and support the child / young person.
- The key complaint outcomes.
- Any outstanding undertakings or follow-up action required.

Responding to a Complaint

LLP will assess the complaint and determine the appropriate action to be taken including what support will be provided to the parties involved.

The CEO will assess the risk to others at the Centre and take appropriate action without delay when a complaint is raised to ensure the safety of other children. In the absence of the CEO, should the safety concerns be urgent, a nominated senior officer will manage the complaint and any immediate risk.

The complaint process and what will happen next will be explained to the complainant. If the complainant is a child, they will be invited to involve a trusted family member/other adult to support them. A complainant will be encouraged to ask questions and LLP will respond to any concerns.

A plan for addressing the complaint will be established including what evidence needs to be collected. Any complaint which involves an allegation of criminal conduct or creates a suspicion of criminal conduct, will be reported to Victoria Police and if applicable, Department of Families, Fairness and Housing Child Protection Unit.

If a report has been made to the Police and/or Child Protection Authorities, LLP should communicate with the relevant authority prior to initiating an internal investigation. This will ensure that the internal investigation does not compromise any criminal or child protection investigations.

If the incident relates to misconduct, the CEO will conduct the investigation and if required, report to the relevant authority. If there is any real or perceived conflict of interest, the Board President can be contacted directly and will ensure that any investigation is conducted independently.

The timing of a response to a complaint will be proportionate to the seriousness of the incident. The complainant will be kept informed on the progress of the investigation with updates provided regularly.

Informal Resolution

Where possible, LLP will aim to resolve complaints with as little formality and delay as possible. A general complaint may be appropriately dealt with through early resolution without the need for a formal evidence-based investigation. Complaints which may be suitable for informal resolution are where:-

- The complaint, based on the available information – seems to have arisen from a misunderstanding or miscommunication.
- The complaint relates to an issue with a gap in service provision that can be easily resolved without the need for any investigation.
- The complainant is willing to sit down and discuss the matter informally.

Investigation of alleged misconduct or criminal conduct

Where misconduct has occurred, a formal in-house investigation will take place, as per policy 4.13 Investigations.

In-house investigations must be child-focused to ensure that the child or young person affected has the opportunity to be heard and their concerns investigated and addressed. The child or young

person's rights will be safeguarded throughout the investigation process. As part of an initial response, consideration must be given to:

- Whether all child safety concerns and other risks have been identified and immediately addressed.
- If the matter should be reported to the Victoria Police and/or the Department of Families, Fairness and Health.
- Whether there is evidence that needs to be immediately secured (e.g. emails, downloads, CCTV footage) or protected to preserve a subsequent criminal, child protection or LLP investigation being compromised.
- Whether LLP has received clearance from the relevant authority to proceed with an internal investigation.

Procedural Fairness

Procedural fairness and transparency are crucial to protecting the interests of the participants in the investigation, enhancing the credibility of the investigation process and relying on the investigation when making employment decisions. It is critical to ensure that the person carrying out the investigation is impartial and does not have a vested interest in the outcome of the matter. It is important to consider whether the use of an external investigator is necessary to ensure impartiality or whether any conflicts of interest need to be disclosed.

To ensure that an investigation is procedurally fair, it is important that:

- The subject of the complaint is aware of all the allegations made against them in sufficient detail.
- The subject of the complaint is allowed a reasonable opportunity and adequate time to respond to each of the allegations.
- The investigation is carried out in a reasonable time frame.
- All participants are given the opportunity to have a support person in the interviews pertaining to the investigation.
- All participants are required to maintain confidentiality and sign a confidentiality agreement.
- The investigator has no personal interest or bias in the matter being investigated.
- All participants are given the opportunity to respond to any contradictory evidence.
- The investigator makes reasonable and diligent enquiries to ensure that there is sufficient evidence before making findings on the balance of probabilities.

If there is a possibility that a person's employment will be terminated, if the allegations are proven as part of an investigation, then LLP will consider the use of an external investigator to ensure that the investigation process can stand up in any potential court proceeding.

Disciplinary Action

Where a member of staff or volunteer is the subject of a complaint, the CEO will determine if immediate action should be taken. At all times, the CEO will act in accord with the Fairwork Act 2009, National Employment Standards (NES) and the Neighbourhood Houses and Adult Community Education Centres Collective Agreement 2010.

Where allegations of serious misconduct or criminal acts are proven, proportionate disciplinary action will be taken.

Maintaining Confidentiality

People can understandably have concerns about confidentiality and privacy when they want to make a complaint. LLP will act in accord with all Victorian Privacy legislation when managing a complaint. LLP will keep information obtained in the complaints process confidential unless required to disclose information by law, or if it is appropriate in particular circumstances for it to be shared to promote the safety and wellbeing of children and young people.

Communicating the Findings

Once an investigation is completed and/or outcome decided, relevant staff, volunteers, parents, carers and children will be notified of the outcome of an investigation; any disciplinary action taken, and review and update of policies where necessary. In doing so, LLP will take into account any relevant privacy and confidentiality considerations.

Appeal Process

If the complainant or the subject of the complaint is not happy with the outcome or handling of the complaint, LLP will provide the option of an internal review of a decision or outcome.

An internal review will be conducted by a senior member of staff and/or Board Director who was not involved in the original handling of the complaint.

A review will consider:

- The process adopted in the original complaint and whether it was fair and adequate to address all issues raised.
- The basis for the decision/outcomes, including the available evidence to support it, and whether the decision/outcome was properly explained to the complainant or to the subject of the complaint.

The reviewer may:

- Uphold the original decision.
- Change the decision.
- Refer the matter back for further investigation of issues raised or for alternative dispute resolution options to be explored.

Where a complaint has been referred to an external agency for investigation, e.g. Victoria Police, a complainant or the subject of a complaint must seek a review through the external agencies appeal process.

Record Keeping

LLP will keep complete and accurate records of all incidents, responses and decision-making relevant to child safety and child wellbeing for a period of 40 years and operate in accord with LLP policy 2.4 Record Retention and Archiving.

LLP ensures that all records are:-

- Maintained appropriately in a clear, logical and secure manner.
- Dealt with in accordance with the relevant law or policy such as the Privacy Act 1988 (Cth).
- All complaint records are dated and signed where appropriate.
- Clearly identify who created the record and approved any recommended action.
- Preserved in a suitable physical and/or digital environment that ensures records are not subject to degradation, loss, alteration, corruption or deletion.

- All documents are retained for minimum 7 years, except for child safety related records which are stored for minimum of 40 years.
- Secure from unauthorised access.
- Stored securely in a locked filing cabinet (physical records).
- Stored in a password-protected file (digital records).
- Available for individuals who have a right to access records which contain their personal information.

Continual Improvement

LLP will collect, analyse and review complaints data and general feedback, to identify trends and systemic issues. Data collected about complaints will be used to improve services and enhance child safety.

Responsibilities

The Board

- Ensure that a complaints register is in place.
- Monitor the register as part of the Child Safety and Wellbeing standing agenda item at each board meeting.
- Ensure that this policy and any other child safety and wellbeing policies and procedures are regularly reviewed.
- That all child safety and wellbeing policies and procedures comply with current legislation.

The CEO

- Communicate this policy to staff and volunteers and ensure that it is adhered to.
- Ensure everyone at LLP knows what to do, and who to go to when making a complaint.
- Ensure staff are aware of barriers that may exist for some children and young people in making a complaint.
- Communicate with children and families who make a complaint and notify them of the process and the outcomes.
- Manage risks to children when a complaint is raised.
- Ensure that any complaints, concerns, incidents or significant breaches of policy are analysed to identify causes or systemic weaknesses and implement any required improvement/s.
- Commence disciplinary processes and investigations as required.
- Ensure that children, families, communities, staff and volunteers are engaged in the review of processes and provide feedback on review outcomes.
- Review complaints data and general feedback to improve services and enhance child safety.

Staff and Volunteers

- Comply with this policy and understand the complaints handling process.

This policy has been informed by stakeholder consultation and is the complaints flowchart will publicly available on the LLP website. Any feedback from the community will be recorded and a response sent outlining what action has been taken.

5. RELATED PROCEDURES & DOCUMENTS Client Complaint Form

Client Complaints Register

Living & Learning Child Safe Code of Conduct including Statement of Commitment to Child Safety

Complaints Information Summary Sheet

6. RELATED POLICIES

- 2.4 Record Retention and Archiving
- 2.5 Whistleblower
- 4.7 Child Safety and Wellbeing
- 4.13 Investigations
- 5.19 Staff Grievance and Dispute Resolution
- 7.6 Access and Equity

7. RELATED LEGISLATION AND GUIDANCE DOCUMENTS

- Children’s Health and Wellbeing Act 2009
- Privacy Act 1988
- Information Privacy Act 2000
- Fairwork Act 2009
- National Employment Standards (NES)
- Charter of Human Rights and Responsibilities Act 2006
- Children, Youth and Families Act 2005
- Equal Opportunity Act 1995 (Vic.)
- A Guide for creating a Child Safe Organisation
- Neighbourhood Houses and Adult Community Education Centres Collective Agreement 2010.