

LOCAL COMPLAINTS RESOLUTION PROCEDURE

1. Overview

- 1.1 The Scout Association has a responsibility to ensure that high standards of conduct are maintained by all uniformed members. These standards are reflected in the Scout Promise and Law and the Code of Conduct for Adults in Scouting.
- 1.2 These guidelines provide advice to District Commissioners (DCs) and others in the management and resolution of complaints made by youth, parents, other members of the scouting community, or leaders in relation to any action or decision which they consider to be unfair, unreasonable, inappropriate or a breach of the Code of Conduct.
- 1.3 In the interests of maintaining a productive scouting environment it is essential that DCs use local complaints resolutions procedures, where appropriate, for resolving complaints. In the case of serious misconduct by a uniformed member, the DC should immediately contact the Region Commissioner (RC) for advice.
- 1.4 **Serious misconduct** is most likely to relate to allegations of:
- Sexual offences
 - Criminal charges
 - Other serious incidents

A sexual offence or sexual harassment can include inappropriate touching of youth, leaders or members of the public and inappropriate verbal comments. Allegations of sexual harassment may constitute a criminal offence. Alleged sexual offences against children or young persons may involve contact with Department of Human Services.

Examples of **serious incidents** include:

- Harassment of other leaders, youth or the public
- Serious negligence
- Behaviour which endangers others
- Striking a youth member, other leader or member of the public, or otherwise inflicting pain
- Alcohol or drug misuse

2 Managing Complaints

- 2.1 These local complaints resolution procedures provide a framework for managing complaints within the District. Complaints made against a leader should be dealt with promptly.
- 2.2 Complaints may arise from:
- Allegations of unlawful discrimination
 - Allegations of unlawful harassment, including sexual harassment
 - Unprofessional conduct and/or unsatisfactory performance of leaders
 - A particular incident

- 2.3 If the DC observes, or becomes aware of, unacceptable conduct, he or she may choose to address the matter through the use of these procedures even though no formal complaint has been made. It is incumbent on all Adults in Scouting to act where unacceptable conduct is observed or brought to their attention.
- 2.4 The implementation of these local complaints resolutions procedures should:
- Reinforce that the District will treat all complaints seriously
 - Ensure all complaints are dealt with in a fair, consistent and transparent manner
 - Highlight occurrences of unacceptable and inappropriate behaviour and the need for preventative strategies in particular areas
 - Prevent the unnecessary escalation of a situation.
- 2.5 It is important that the local complaints resolutions procedure is documented properly in the event that the complaint is not resolved and other courses of action are taken.
- 2.6 Upon receiving a complaint the DC will assess the nature of the complaint and form a view regarding the appropriate course of action.

3. Local Complaints Resolution Procedures

- 3.1 The procedures encompass both **informal** and **formal** action.
- 3.2 Many concerns expressed to the DC by parents, youth, leaders or other members of the community are most appropriately dealt with at an informal level. The DC will need to make an assessment about whether the concern or complaint requires the use of a formal process or whether informal resolution is appropriate.

4. Informal Process

- 4.1 The DC may choose to respond to a complaint through an informal process in cases where:
- The complaint is of a minor nature
 - The complainant wishes the matter dealt with informally
 - The complainant has arisen from lack of unclear communication
- 4.2 Informal resolution of a complaint may involve talking to one or more of the parties. The complainant may wish to deal with the situation themselves but may seek advice as to possible strategies to resolve the matter. The complainant may ask the DC, or another person to speak to the respondent on their behalf. The DC, or other person, may then privately convey the complainant's concerns, listen to the response of the respondent and respond accordingly.
- 4.3 Providing a written response to the complainant outlining the action taken, and the outcome of this action is advisable (See Appendix A – "*Sample response to complainant*"). Documentation of an informal process can, however, be minimal. Where an informal process of complaints resolution is not successful, and the complainant wishes to pursue the matter, the DC should implement the formal process.

5 Formal Process

- 5.1 The formal process comprises the following steps
- Investigating the complaint

- Determining the appropriate action
- Preparing a report
- Monitoring the situation

6. Investigating a Complaint

6.1 Commencement of a formal complaints resolution process requires the DC to arrange for the investigation of the complaint to determine whether or not it has substance.

6.2 This involves:

- Interviewing the complainant and recording the details of their statement (see Appendix B – *‘Report of a complaint’*).
- Where possible, requesting a written statement from the complainant setting out details of the complaint.
- Conveying the details of the complaint to the respondent in full and providing the opportunity for the respondent to reply (preferably in writing).
- Interviewing the respondent
- Interviewing any witnesses, or other persons, who may be able to assist in clarifying the complaint
- Where possible, requesting a written statement from witnesses
- Keeping written accounts of all interviews (see Appendix C – *‘Record of Interview pro-forma’*).

7. Determining Appropriate Action

7.1 Following the investigation and on receipt of the report from the investigating officer, the DC should determine whether the complaint has any substance and make a decision about further action, if any. In addition to the information reported in Step 1, this assessment should also take into consideration:

- The circumstances and context of the complaint
- The absence of evidence where it should logically exist

7.2 In making a decision, the DC should consider all available evidence. The DC should be satisfied, so far as is reasonably possible, of the facts of the situation and make a decision based on this assessment.

8. Dismissing a Complaint

8.1 The DC may determine that a complaint does not have substance and dismiss it. In this case the DC should clarify any misunderstandings. This may involve:

- Acknowledging different perspectives
- Reminding those involved of expected standards of conduct
- Monitoring the situation carefully

8.2 A written response outlining the decision and the reasons for it should be provided to both the complainant and the respondent.

9. Accepting a Complaint

9.1 Where the DC determines that serious misconduct has occurred the RC should be contacted for further advice that may result in the suspension of the uniformed member from all Scouting activities.

- 9.2 Where it is assessed that minor breaches of the Code of Conduct and/or Scout Law & Promise have occurred the DC may initiate a process of conciliation to attempt to resolve the issue at the District level.
- 9.3 The object of conciliation is to assist the parties to achieve resolution of the complaint using the following principles:
- Encouraging willingness in parties to acknowledge circumstances and develop solutions
 - Identifying and working from areas of common understanding
 - Identifying scenarios and alternative responses and behaviours
 - Ensuring an effective mechanism for communication where there is difficulty with inter-personal relationships.

10. Outcome

- 10.1 Through conciliation a resolution may be achieved which is mutually acceptable to both parties and in the best interests of scouting.
Eg:

- The offering of an apology
- The undertaking that inappropriate behaviour will be changed
- Clarification of expectations of appropriate conduct
- Setting up mentor support/counselling
- Implementing a formal period of monitoring
- Issuing a warning in relation to the consequences of continued unsatisfactory conduct

- 10.2 Where resolution is not achieved through conciliation the DC shall refer the matter to the RC.

11. Preparing a Report

- 11.1 After making and acting on a decision, a confidential report must be prepared by the DC. This should be done immediately after the complaints procedure has been completed.

- 11.2 The report should include a summary of the local complaints resolution procedure undertaken, including timelines and the outcome. The report should include any other relevant documents as attachments. Such attachments might include:

- A written statement from the complainant/s setting out the complaint/s.
- A written response from the respondent/s to the complaint/s, if this has been provided
- Written witness statements
- Any other relevant documentation that contains the substance of the complaint
- Documentation of any assistance provided to the complainant and/or respondent

(See Appendix D – ‘*Sample report on Complaint Resolution*’).

- 11.3 The report should be stored securely as a record of action taken to resolve the complaint. In those cases where further action in relation to the complaint is implemented the report will form part of the documentation for the new process.

12. Monitoring the Situation

- 12.1 The DC should continue to monitor the outcome of a local complaints resolution procedure. A proactive approach should be maintained in implementing the Code of Conduct for Adults in Scouting and the Scout Law & Promise.

13. Appeals

- 13.1 Where any party is dissatisfied with processes or decisions made at the local level they should be advised that they may request that the matter be reviewed by the RC.

14. Fairness

- 14.1 The DC must ensure that a complaint is dealt with in a way which is both procedurally and substantively fair. Principles of natural justice which must be observed in managing the local complaints resolution procedures are:

- The right of each party to be heard
- The right of each party to be treated fairly
- The right of the respondent to know the allegation(s) being made against him/her and who made them
- The right of the respondent to have a witness present when he/she is informed of the complaint and at any subsequent meetings
- The right of the respondent to respond to the allegation(s) made against him/her
- The right of both parties to an interviewer and decision maker who act fairly and in good faith.

15. Confidentiality

- 15.1 All persons involved in the complaints procedure should be advised of the importance of maintaining confidentiality.
- 15.2 Allegations of harassment and discrimination carry the risk of defamation if confidentiality is breached. Defamation may occur when a person's reputation is lowered in the estimation of his/her peers. It is not defamatory for an individual to make a complaint in good faith through the proper channels. However, the complaint should only be discussed with those who have official responsibility for dealing with it. A claim that defamation has occurred may be defended on the basis that a person's reputation was damaged only as a result of a fair and accurate report.

16. Protection from Victimisation

- 16.1 Victimisation occurs when a person is subjected to or threatened with, any detriment for his/her involvement, whatever that may be, in a complaints process. It should be made clear to all parties that victimisation is not tolerated and will be dealt with accordingly. Victimisation should not be confused with the natural consequences of a properly applied complaints procedure. A person who claims the application of these procedures to be victimisation should be counselled about due process.

17. Vexatious Complaints

- 17.1 Some complaints may be determined to be vexatious or malicious in nature. Where the DC determines that this is the case, the complaint should be dismissed and the complainant counselled about his/her action in lodging a complaint.

Attachments

- Appendix A - Sample response to complainant
- Report of a Complaint
- Record of Interview Pro-Forma
- Sample report on Complaint Resolution

Appendix A - Sample response to complainant

Date

Dear

Thank you for raising your concern/s in relation (*insert nature of concern raised*). I appreciate you raising this issue with me.

The Scout Association members undertake to uphold the Scout Law & Promise in their lives both in and out of Scouting and in addition leaders uphold a Code of Conduct for Adults in Scouting (copy attached).

I wish to inform you that I have taken the following action to address your concern (*insert action taken e.g.*

- *I have counselled the leader about the inappropriateness of his/her behaviour*
- *I have appointed an independent investigator to follow up the complaint and to report to me. When the investigation is finished I will inform you of the actions I propose to take).*

Should you wish to discuss your concern/s further please contact me.

Yours in Scouting

[Signature]

District Commissioner

Appendix B - Report of a Complaint

<ul style="list-style-type: none">Name: <i>[Insert name of complainant]</i>
<ul style="list-style-type: none">Date of Incident/s :
<ul style="list-style-type: none">Subject of complaint/s: <i>[Insert name of person who is the subject of the complaint/s]</i>
<ul style="list-style-type: none">Nature of complaint: <i>[Insert type of complaint e.g. harassment, breach of Code of Conduct, negligent behaviour]</i>
<ul style="list-style-type: none">Description of incident
<ul style="list-style-type: none">Other witnesses to Incident
Signed: <i>[Investigating/interviewing Officer]</i>
Date:

Appendix C - Record of Interview Pro-forma

<ul style="list-style-type: none"> • Name of respondent
<ul style="list-style-type: none"> • Name of complainant
<ul style="list-style-type: none"> • Date of meeting
<ul style="list-style-type: none"> • Subject of meeting
<ul style="list-style-type: none"> • Persons present
<ul style="list-style-type: none"> • Issues Discussed
<ul style="list-style-type: none"> • Decision/s or further action
<p>Signed:</p> <p style="margin-left: 40px;"><i>[Convenor of meeting]</i></p> <p>Date:</p>

Appendix D - Sample report on Complaint Resolution

**Confidential
Report in Relation to Local Complaints Procedure**

Name of complainant/s:
Name of respondent/s:
Date:
1. Statement (summary) of situation / incident
2. Chronological outline of procedures followed during the process
3. Details of any assistance and support provided to complainant and /or the respondent
4. Other relevant details relating to the complaint (if any)
5. Outcome
6. Attachments <i>Attachment 1 - Statement from complainant/s setting out the complaint</i> <i>Attachment 2 - Response from the respondent/s to the complaint (if this has been provided)</i> <i>Attachment 3 - Witness statement/s</i> <i>Attachment 4 - Any other relevant documentation</i>
Signed: <i>[District Commissioner]</i>
Date: