

The Liberal Party of Australia (SA Division)

Complaints and Dispute Resolution Policy

As adopted by the State Executive on 20 January 2020

INTRODUCTION

1. In late 2018 the Liberal Party of Australia commissioned former Federal President, Chris McDiven AM, and former Federal Director, Brian Loughnane AO, to conduct a review of the processes for the handling of complaints and dispute resolution to ensure that the Party has rigorous and confidential processes to deal with concerns and complaints from party members, including Members of Parliament.
2. The Review examined the existing procedures that are currently in place in each Division as well as the relevant sections of each Division's constitution.
3. The Review examined the best practice for the handling of complaints. These include, but are not limited to:
 - the process of how complaints against a party member or volunteer are made and to whom;
 - the methodology of each State Division to consider and resolve disputes and complaints; and
 - for complaints that indicate the possibility of a criminal offence, the steps that should be taken to alert appropriate authorities.

SCOPE

4. Subject to paragraph 11, this Policy applies to all staff, contractors, members, volunteers and representatives of the Liberal Party of Australia and its State and Territory Divisions (collectively, LPA).
5. This Policy applies to on-site, off-site or after-hours work, meetings and social functions convened by LPA or its associated bodies or committees, and LPA conferences and campaign events which individuals may attend as a result of their Liberal Party of Australia membership or duties.
6. Although the LPA cannot require compliance with this Policy by its staff, contractors, members, volunteers and representatives in activities unrelated to the LPA, everyone is encouraged to consider this Policy when dealing with others in any capacity.
7. It should also be noted that this Policy is not intended to override applicable legislation.
8. Staff members of Members of the upper and lower houses of the federal, state and territory parliaments, or of ministers, who have a complaint relating to their employment should refer the matter to their employer, being the relevant Parliament or government department.
9. This Policy does not operate as a term of any contract of employment or service, unless agreed by the employer and the employee.

COMPLAINT AND DISPUTE RESOLUTION PROCEDURES

10. The Liberal Party of Australia is committed to ensuring that all allegations of misconduct are dealt with promptly, confidentially, and in accordance with the principles of procedural fairness for all parties involved.

11. State and Territory Divisions are responsible for establishing and applying processes and procedures for dealing with complaints and disputes, including complaints and disputes relating to the *National Code of Conduct*. This Policy sets out a best practice complaints and dispute resolution policy to guide State and Territory divisions in establishing, enhancing and applying their relevant processes and procedures.

12. References in this policy to a State Director include any Party official designated or delegated to perform the duties of a State Director under this policy.

CONFIDENTIALITY

13. It is important to note at the outset that some complainants may ask that the complaint be kept confidential. This may limit the ability to investigate it. The State Director must endeavour to maintain confidentiality as far as possible. However, it may be necessary for the State Director to speak with other members in order to determine what happened, to afford fairness to those against whom the complaint has been made and to resolve the complaint.

14. All members involved in the complaint must also maintain confidentiality, including the member who lodges the complaint. Spreading rumours or gossip may expose members to a defamation claim. Further damages claims may also arise.

CRIMINAL CONDUCT

15. Any allegation of criminal conduct is very serious, and the complainant should immediately refer the matter to the police.

16. If a member is convicted of a criminal offence, the relevant State or Territory Division may take steps to expel the member in accordance with the Division's Constitution.

MAKING A COMPLAINT

17. Complaints may only be made under this Policy by and against:

- (a) an employee or contractor of the Party;
- (b) a member of the Party who is currently financial, or a volunteer; or
- (c) members of the upper and lower houses of the federal, state and territory parliaments;

each of whom are collectively referred to in this Policy as "members".

18. Staff members of Members of the upper and lower houses of the federal, state and territory parliaments, including ministers, who are not also members of the Party, are specifically excluded from the operation of this policy.

19. Conduct which is in breach of the National Code of Conduct, or which is unlawful, should not be ignored.

20. Making a formal complaint about a matter in a Party workplace or about the conduct of another member or volunteer is a serious matter, particularly if the conduct is unlawful.

21. If a member makes an unfounded complaint or a false complaint in bad faith (e.g. making a complaint where there is no foundation for the complaint), that member may be disciplined in accordance with the Division's Constitution and may be exposed to a defamation claim.

22. This Policy sets out the recommended complaint and dispute resolution procedure for dealing with complaints and disputes about or between members. The procedure has numerous options available to suit the particular circumstances of each individual situation.

A. Confront the issue

23. If a member feels comfortable doing so, they should address the issue with the person concerned. A member should identify the alleged offensive behaviour, explain that the behaviour is unwelcome and offensive and ask that the behaviour stop. It may be that the person was not aware that their behaviour was unwelcome or caused offence.

24. This is not a compulsory step. If a member does not feel comfortable confronting the person, or the member confronts the person and the behaviour continues, the member should report the issue to the State Director of the Division either by way of an informal complaint, or a formal complaint.

B. Informal complaint procedure

25. Under the informal complaint procedure there is a broad range of options for addressing the complaint. The procedure used to address the issue will depend on the individual circumstances of the case. Possible options include, but are not limited to:

- the State Director discussing the issue with the person against whom the complaint is made; and/or
- the State Director facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

26. The informal complaint procedure is more suited to less serious allegations that, if founded, would not warrant disciplinary action being taken.

C. Formal complaint procedure

27. Formal complaints should preferably be in writing, and provide details of the complainant and the alleged conduct of which complaint is made.

28. If a formal complaint is made to the State Director, the State Director must decide, depending on the nature of the complaint, how it should be handled.

29. There will be generally be two options:

- Formal investigation by the State Director; or
- Referral to a Complaints and Dispute Resolution Committee.

Formal investigation

30. Formal investigations may be conducted by another employee of the Division (but only if the complaint is not a work place complaint) or by a third-party investigator appointed by the State Director.

31. An investigation generally involves collecting information about the complaint and then making a finding based on the available information as to whether or not the alleged behaviour occurred. Once a report is received from the investigator, the State Director must make a recommendation or decision about resolving the complaint.

Referral to a complaints and dispute resolution committee

32. The State Director, upon receiving a formal complaint, may decide that it is best resolved by referral to a Complaints and Dispute Resolution Committee (CDR Committee) established under this Policy.

33. In that case, the State Director must, within seven days of receiving the complaint, refer the complaint to the CDR Committee and provide a copy of the complaint to the member against whom the complaint is made (the respondent).

34. The Chair of the CDR Committee must set a date and venue for an initial meeting and must advise, in writing, both the complainant and the respondent of the date, time and venue.

35. The Chairperson or one member of the CDR Committee nominated by the Chairperson must conduct the initial meeting and must decide based on the particulars provided in the complaint if the matter should proceed. If they decide the complaint should proceed, the matter is referred to the whole CDR Committee for full consideration of the complaint.

36. The CDR Committee must ensure procedural fairness is accorded to both the complainant and the respondent.

FORMAL COMPLAINT INVESTIGATION AND REVIEW

37. By way of general guidance, the following steps may be taken by the State Director or CDR Committee in investigating any formal complaint:

- an independent third party may be appointed for the purpose of investigating the complaint. Consideration should be given as to whether the investigator should be engaged by the Division's external lawyers in order to preserve legal professional privilege;
- the complainant may be asked to provide written details of the complaint or may be interviewed, with a support person or adviser if required;
- the complainant may be required to provide an affidavit or statutory declaration verifying on oath or affirmation the truthfulness of the complaint;
- relevant details of the complaint must be conveyed to the respondent;
- the respondent must be allowed a period of time in which to respond;
- the respondent may be asked to provide written details of the response to the complaint or may be interviewed, with a support person or adviser, if required;
- the respondent may be asked to provide an affidavit or statutory declaration verifying on oath or affirmation the truthfulness of the response to the complaint;
- if there is a dispute over facts, other relevant evidence may be gathered and witnesses may be interviewed;
- any report prepared by an investigator as to the facts of the complaint must be confidential and must not be provided to the complainant or the respondent;
- the State Director or the CDR Committee must take the report into account in determining or making recommendations as to the outcome of the complaint.

ALTERNATIVE DISPUTE RESOLUTION

38. The State Director and the CDR Committee must endeavour to facilitate settlement of any dispute, if possible, by, for example:

- assisting all interested parties to resolve the issue themselves;
- appointment of an independent mediator to facilitate resolution;
- agreeing the outcome of the complaint with the State Director or CDR Committee.

POSSIBLE OUTCOMES

39. The possible outcomes will vary in type and severity, and will depend on the nature of the complaint and the procedure followed to address the complaint. They may also depend on the provisions of the Division's Constitution. Possible outcomes include:

- counselling;
- requiring a formal apology;
- a formal warning;
- changing work arrangements;
- termination of employment;
- censure;
- suspension; or
- expulsion.

FORMATION OF THE CDR COMMITTEE

40. It is recommended that each Division form a CDR Committee, or similar, for the purposes of this policy. The Committee should comprise 5 members and a quorum of at least 3 members of the Division (noting that an odd number of members is preferable for the purpose of decision making) none of whom should be a member of the State Executive.

41. State Executive should appoint members of the CDR Committee and its Chairperson by motion in accordance with the Division's Constitution.

42. Depending on and subject to the provisions of the Division's Constitution, the CDR Committee should be conferred with the power to:

- investigate any complaint referred to it by the State Director;
- make determinations regarding the National Code of Conduct so far as is relevant to the complaint; and
- make determinations as to the outcome of the complaint, or at the least make recommendations to the State Director as to what should be the outcome of the complaint.