



Complaints Policy & Process

Policy to support NAG 5 Health & Safety

Outcome statement

All complaints, concerns and incidents are attended to promptly, respectfully and professionally and seek to bring effective resolution to all parties concerned.

Scoping

In order to maintain a safe and comfortable environment for all students, staff and visitors, an accessible procedure for handling complaints and grievances will be implemented and maintained to provide an open and fair way of resolving issues and will comply with all relevant legislation.

Delegations

The board delegates to the principal full responsibility of ensuring processes are in place and operating effectively and adequately. In the event of a complaint or grievance concerning the principal, the responsibility lies with the board.

Expectations and limitations

In the course of dealing with a concern / complaint, the principles of natural justice will apply at all times.

In complying with the policy, the principal shall not fail to:

- implement and maintain robust procedures to meet the policy requirements
- ensure that the process for complaints or grievances is clearly communicated
- Communicate throughout the process that a support person/s welcome to attend at any point in the concern / complaint process.
- report to the board as follows:
 - o When receiving a complaint, the board must ensure that the complainant has previously followed the school's concerns and complaints procedure and that the complaint has been escalated to board level correctly.
 - o Should the board receive a complaint regarding the principal or determine that any policy violation may have occurred, the board in the first instance will consider whether this may be dealt with in an informal manner (as per the employment agreement provisions that apply to the principal).
 - o Where the board considers the degree and seriousness of the concern or any violation sufficient to warrant initiating a disciplinary or competency process, the board shall seek the support and advice in the first instance from an NZSTA adviser or other legal advice to ensure due process is followed.

Procedures/supporting documentation

Parent/whānau concerns and complaints procedure

Staff concerns and complaints procedure

Board investigation process and guidelines

Monitoring

The principal shall maintain a register of complaints and resolutions and report to the board at least quarterly per annum outlining numbers of complaints, resolution success figures and any areas of concern for board deliberation.

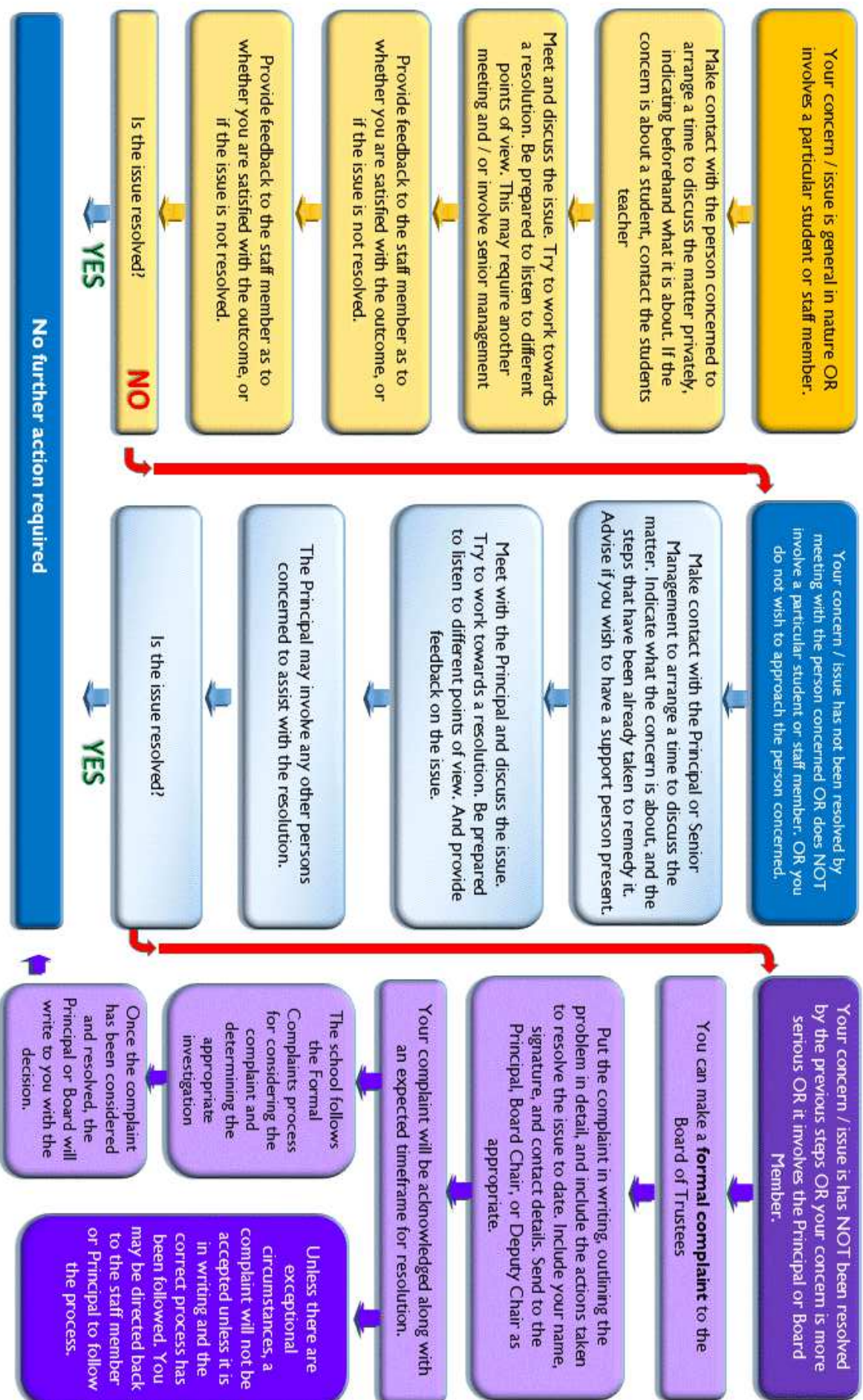
Legislative compliance

Pukekohe High School Concerns & Complaints Process

A support person / people may be brought into this process for either party at anytime

Most concerns can be resolved informally by discussions with people concerned.

Stage 1: Resolution Between Parties - Flow Chart



Stage 2: Resolution through the Board- Board Checklist

Once a letter of complaint has been received, the board chair should ensure the following process is followed:

Board Process

1. Ensure the process has been followed as outlined in the concerns and complaints procedure or is a genuine complaint against the Principal or board.
2. Verify with the Principal that any staff (or others) identified in the complaint are aware of the situation and that there has been discussion and attempts to reconcile.
3. If the complaint or action is employment related or has potential industrial relations implications, contact the NZSTA employment advisory and support centre. For all other complaints, contact the NZSTA governance advisory and support centre. Additional legal advice should also be sought to clarify expected actions.
4. Alert the school's insurance broker.
5. Acknowledge the letter of complaint within 7 days and advise the board process, or redirect the complainant to principal, syndicate leader or staff member as appropriate. Report to the board without names or detail at the next meeting.
6. Once confirmed as a complaint, forward it confidentially to all trustees for consideration & decision regarding the possible need for formal investigation through **Board of Trustees Investigation Process**
7. Board request to principal to present full written report outlining all actions taken, advice received, meetings held and justified decisions made.
8. Board determines whether the above fully satisfies them of full and fair process. If so, the board supports the principal and advises the complainant.
9. If not satisfied, the board meets and discusses in committee, determines whether to formally meet the complainant and delegates responsibility to trustee(s) as deemed appropriate.
10. Board delegates meet with the complainant and discuss the complaint more fully, verifies, investigates and clarifies. Support persons should be confirmed as welcome to attend.
11. Board delegates report back to full board and recommend actions/decisions.
12. Board takes appropriate actions, records and formally minutes decisions.
13. Board advises the complainant in writing of its provisional decisions and factors considered in reaching them, within 15 school days of complaint receipt, unless otherwise agreed by all parties. Complainant is given opportunity to comment before the board's final decision is reached and given.

Note:

Issues of a serious matter, eg allegations of physical abuse, may require a special meeting of the board to be called.

All letters addressed to the chairperson of the board are for the **whole board**. The chairperson cannot decide independently as to what action will be taken.

Resolution or dismissal of the complaint must not be discussed before all the information is to hand.

Conflict of interest will be determined on a number of issues, including whether the complaint involves the actions of any trustee.

The board must exercise caution when dealing with complaints regarding staff, particularly in relation to confidentiality and processes to ensure the principles of natural justice are met. It is advisable to contact the regional NZSTA personnel/industrial adviser or other legal advice in such cases. The board will need to consider the relevant staff disciplinary policies, employment contracts, and expert advice from the NZSTA adviser or other legal advice.

Board of Trustees Investigation Process- Board Checklist

Not all complaints require a Board led formal investigation but, all written complaints will be disclosed to the person concerned at the earliest opportunity, either as part of a preliminary or informal process or together with an explanation of

the process for investigation and resolution of the complaint.

- If the formal complaint does not justify a formal investigation, the principal or board will consider the issues raised and all of the relevant information, and provide the complainant with a written response.
- If the Principal and Board decides that the formal complaint does justify a formal investigation, then subject to the privacy of the person or people concerned, they will be informed about the investigation process and the expected timeframes, and provided with written confirmation when the matter is concluded.

Relevant collective employment agreement provisions for dealing with complaints about staff members must be observed, including protecting the staff member's dignity and mana, advising them of their right to seek support and representation before responding to complaints, and giving them a reasonable opportunity to take that advice.

The NZ School Trustees Association (NZSTA) or legal counsel will be contacted for advice before proceeding to investigate. The school's insurer should be notified early in the process and kept informed of progress. Consultation with external agencies will be undertaken as appropriate (e.g. Oranga Tamariki – Ministry for Children, and/or police) to ensure any actions do not undermine other investigations.

The Employment Relations Act provides for confidential resolution of employment disputes in certain circumstances, the terms of which are usually recorded in a settlement agreement.

The school will not include in any settlement agreements any terms which would be inconsistent with the school's statutory obligations, including the Teaching Council's mandatory reporting requirements, or when they would be contrary to a culture of child protection, such as when the conduct at issue concerns the safety or wellbeing of a child.

Board members with a potential conflict of interest will not take part in the investigation. If the complaint is against the principal or the principal has had significant involvement in the alleged events giving rise to the complaint, the principal will not take part in the investigation process.

The following general guidelines will assist in conducting an investigation. They are directed at complaints made against staff members, but can be adapted as appropriate to apply to any complaints about students, parents, the principal, board member, or any other person, and to reflect the nature of the matters under investigation.

Board Investigation Process		
Step	Actions	Responsibility
1.	<p>Conduct a preliminary assessment of the complaint, which may include hearing from the party complained of, and determining whether a formal and/or informal investigation is appropriate.</p> <p>If the complaint is serious and relates to matters which could justify the staff member's suspension, take advice from NZSTA or the school's lawyer and follow the contractual suspension process.</p> <p>Determine the scope of the investigation, and level of board involvement (if any).</p> <p>If the principal will not be responsible for investigating the complaint, consider appointing a board member or board subcommittee to investigate the complaint and determine the facts; and whether to delegate (by board resolution) the responsibility to make decisions as to the outcome to that board member or subcommittee.</p> <p>Consider, depending on the seriousness of the issue or any potential conflicts of interest, whether an independent or specialist investigator should be appointed to make preliminary fact findings for the board's consideration.</p> <p>Consider carefully if any investigator or other person involved in the investigation or decision making (including any staff member or student representative) has a potential conflict of interest or potential for bias. Consider and decide how to best manage or mitigate that conflict or potential for bias, including where necessary removal from the investigation or decision-making process.</p> <p>Note that the board cannot delegate decision-making responsibility to non-board members. It is prudent to provide the investigator with clear terms of reference including that you are not looking for any recommendations on what you have to do next, just fact-finding, including, on</p>	Principal and/or the Board Chair

	<p>the balance of probabilities, the investigator's view of disputed factual issues. Be aware of school policy and legislative requirements, including that if the complaint involves a child, permission to interview the child must be obtained and consideration should be given to appointing an investigator with some expertise in interviewing children and young people.</p>	
2.	<p>Inform the school's insurance company of the complaint and steps taken to resolve it. This is a strict insurance policy requirement to maintain cover in any matter that might involve a claim on the school's insurance. The school's insurers will usually require boards to follow advice from NZSTA or the school's lawyer in dealing with any matters which could lead to disciplinary action against a staff member.</p>	
3.	<p>Inform the staff member involved that an investigation is planned, and the scope of the investigation. Include, if applicable, the identity of any independent investigator, and confirm (in writing) that they are entitled to seek union or legal advice and representation. Remind them that they may also bring a support person or whānau member to any meeting. Consider the vulnerability of a person subject to a complaint and offer them practical support.</p> <p>Continue to ensure the complainant is kept informed of progress in the process, without disclosing any details or findings.</p>	
4.	<p>Provide the staff member complained about with a letter explaining the specific concerns, attaching all of the relevant information, and outlining any potential disciplinary outcome. Give the staff member a reasonable opportunity to consider the allegations and take independent advice before they provide their written and/or oral response to the complaint.</p> <p>Seek NZSTA or legal advice in preparing your correspondence with the staff member and about running any meetings.</p>	
5.	<p>Complete and take comprehensive notes on relevant inquiries and interviews. Meeting and interview notes should be provided to the interviewee for their comment and confirmation. Note that taping of meetings and interviews is permitted, provided you advise the other party of your intention to do so and make a copy available to them.</p> <p>Be aware that employees are entitled to copies of all information relating to them personally. Seek legal advice if unsure about the disclosure of information, or contact the Privacy Commission or Ombudsman's Office</p>	Investigator/ investigating committee
6.	<p>Make detailed notes of all discussions, interviews, questions, and answers. The notes should record the facts related to the investigation rather than opinions or comments which could be taken to suggest the outcome had been predetermined. Disclose the notes to the other party.</p>	
7.	<p>Consider the staff member's responses and all other relevant information, reach a determination on the balance of probabilities about any disputed facts, and decide whether or not the complaint has been substantiated.</p> <p>Prepare a draft report for the staff member's comment if required to do so by the terms of reference, and then finalise the investigation report.</p>	
8.	<p>Brief the board in-committee on the scope and outcome of the investigation and its findings.</p>	Investigator (if they do not have delegated authority to make the decision as to outcome)
9.	<p>Determine any next steps including whether any disciplinary action may be appropriate.</p> <p>Provide the staff member with a copy of the investigation report and a letter either concluding the process or explaining the next steps, including identifying the specific concerns, and the options being considered with regard to any proposed disciplinary action together with the reasons those options may be appropriate in the circumstances. Invite the staff member (through their representative if applicable) to respond at a meeting and/or in writing to the report's findings and to the specific concerns, and to comment on any disciplinary options being considered.</p>	Decision maker (board investigator or sub-committee, the full board, or the principal)

	If a meeting is held, ask any relevant questions but confine them to issues already identified. This is not an opportunity for either party to raise any new matters. Appoint a good note taker.	
10.	<p>Following the meeting, or on receipt of the staff member's written response, consider whether any further investigation may be required, then make your decision as to factual matters (recording how you arrived at the decision) and the reasons for any disciplinary consequences.</p> <p>Depending upon the seriousness of the situation you may need to take a day or two to consider all of the relevant information before making a final decision.</p> <p>Inform the staff member of the decision. If this is done at a meeting rather than by letter it must be confirmed in writing.</p>	
11.	Report to the board in-committee.	Investigator (if they do not have delegated authority to make the decision as to outcome)
12.	<p>Report back to the complainant(s), reassuring them as far as possible while considering confidentiality and any requirements of collective agreements, of the steps undertaken to resolve their concern, and facilitate any further steps which may be required to provide satisfactory closure.</p> <p>Ensure ongoing support for the complainant and the person being complained about during and after the investigation. If the complainant is not satisfied, the board chair should advise the complainant of further avenues, e.g. Human Rights Commission, Ombudsman, Ministry of Education, ERO, Privacy Commissioner.</p>	
13.	File in a register of complaints and concerns about in and out of school behaviour and keep for 'in-committee'. Hold all recorded minutes securely	
14.	Determine whether a report needs to be made to the <u>Teaching Council</u> , in compliance with the mandatory reporting requirements.	