

## **COMPLAINTS AGAINST REGISTERED TEACHERS**

The *Education and Training Reform Act 2006* gives the Victorian Institute of Teaching (the Institute) the power to investigate complaints against registered teachers. The complaint must relate to a registered teacher's misconduct, serious misconduct, serious incompetence or lack of suitability to teach (suitability includes fitness to teach, which relates to character, reputation and conduct **and** whether the teacher is physically and mentally able to teach).

Many complaints about a teacher will be able to be resolved by the school. The person who wishes to make the complaint (known as a complainant) should speak to the teacher or the principal of the school about the matter before approaching the Institute. In government schools it may also be appropriate for the complainant to contact the Regional Director of the relevant regional office of the Department of Education and Early Childhood Development and, in Catholic schools, to contact the relevant Diocesan Director of Catholic Education.

If the complaint cannot be resolved at the school level a complaint about a registered teacher may be lodged with the Institute.

### **HOW TO MAKE A COMPLAINT**

The complainant should complete a *Complaint Form* which can be obtained by contacting the Institute (see the contact details below).

If a complaint is made against a teacher, sufficient information must be provided by the complainant to show **evidence** which substantiates the complaint.

Copies of the *Complaint Form* and any documents the complainant provides to the Institute may be given to the teacher if the matter proceeds to a hearing.

### **INQUIRING INTO A COMPLAINT**

The Institute may decide not to inquire into a complaint if a complainant does not provide evidence to support the complaint or the matters complained of do not meet the threshold of misconduct, serious misconduct, serious incompetence or lack of suitability to teach.

If the Institute decides to commence an inquiry, the first step will usually be an investigation. The Institute may decide, however, to conduct an informal hearing or a formal hearing without conducting an investigation if either of these is considered more appropriate.

The Institute must in writing notify the teacher, the employer of the teacher and the complainant of its determination to inquire or not to inquire into the complaint.

### **The investigation**

The Institute conducts an investigation to gather relevant information about a complaint. This may involve talking to the teacher, to the complainant and to any witnesses who may have more information about the complaint, such as other teachers or students.

The Institute may delegate its power to conduct an investigation to an officer employed by the Institute, an investigator retained by the Institute or to the employer or the nominee of the employer of the teacher. In the case of government schools the employer is the Department of Education and Early Childhood Development. In the Catholic sector, an investigation may be delegated to the Catholic Education Office of Melbourne.

The investigation will be conducted as quickly as practicable having regard to the nature of the matter being investigated and the Institute will endeavour to complete the investigation within six to eight weeks. If additional time is required, all relevant persons will be notified. After the investigation the Institute will consider the report provided by the investigator and decide whether any further action is required. Further action may include referring the matter to a panel hearing. If the matter proceeds to a hearing, the teacher and the complainant will be advised of the nature of the complaint and the date, time and place of the hearing.

### **The informal hearing**

On 1 January 2011, the Institute was given amended powers to conduct informal hearings.

An informal hearing panel must consist of three persons or more of whom one must be a member or former member of the Council and another must be a registered teacher. The teacher who is the subject of the hearing is entitled to be present at the hearing, to be accompanied by another person and to make submissions but is not entitled to be legally represented. The proceedings are not open to the public.

An informal hearing panel may make findings about misconduct (serious misconduct will be referred to a formal hearing panel and health issues to a medical panel).

If it makes a finding of misconduct, an informal hearing panel has the power to caution, reprimand or impose conditions on a teacher, including counselling or further education.

## **The formal hearing**

On 1 January 2011, the Institute was given amended powers to conduct formal hearings.

A formal hearing panel must consist of three persons or more of whom one must be a member or former member of the Council and another must be a registered teacher. The teacher who is the subject of the hearing is entitled to be present at the hearing, to be legally represented and to make submissions. The proceedings are open to the public unless the panel determines that they should be closed. A formal hearing may be closed if the evidence being given by a witness to the panel is of an intimate, personal or financial nature. The identity of a complainant cannot be published or broadcast and if the hearing is closed, the panel may decide that the identity of witnesses should not be published or broadcast. Notice of the formal hearing is published in the law notices.

The Institute publishes a de-identified version of all decisions and reasons of formal hearing panels on the Institute's website at <[www.vit.vic.edu.au](http://www.vit.vic.edu.au)> under Conduct.

A formal hearing panel may make findings about misconduct, serious misconduct, serious incompetence and fitness to teach (health issues will be referred to a medical panel).

If it makes any of these findings, a formal hearing panel has power to:

- caution;
- reprimand;
- impose conditions including counselling or further education;
- suspend registration for the period and subject to the conditions, if any, specified in the determination;
- cancel registration; and
- disqualify the teacher from applying for registration within a specified period if the teacher's registration is cancelled.

Formal hearing procedures are similar to those of a court but the rules of evidence do not apply. The Institute may engage a barrister to assist the panel. A teacher may be self-represented or have legal or union representation.

## **The decisions and the reasons**

The decisions and the reasons made following the informal and formal hearings will be sent to the teacher and the complainant within 28 days of the decisions being made. The employer will be advised of the outcome of the hearing.

A registered teacher who disagrees with the decision of the panel has three months to request a review by the Victorian Civil and Administrative Tribunal.

### **FURTHER INFORMATION**

The Institute also has other information and brochures available on:

- an employer taking action against a teacher
- the informal hearing process
- the formal hearing process
- the medical panel hearing process
- appeals to the Victorian Civil and Administrative Tribunal
- witnesses
- sexual offences
- indictable offences
- the rules of natural justice

### **CONTACTS**

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