

INTERNAL COMPLAINTS POLICY



Internal Complaints Grievances and Dispute Resolution Policy & Practice Manual

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Internal Complaints, Grievances and Dispute Resolution Policy

Primary responsibility: The Chief Executive Officer (“CEO”) manages all complaints, grievances and disputes. If the CEO is the subject of the complaint/grievance/dispute then the Chair of the Governance Committee (“Chair of the GC”) will manage the complaint, grievance or dispute.

6A.1 Purpose

1. This policy is intended to ensure that Carrie’s Place handles complaints/grievances/disputes fairly, effectively and efficiently.
2. This policy ensures compliance with the **Fair Work Act 2010**.
3. Carrie’s Place utilises the current Australian and New Zealand Standard Guidelines for complaint handling in organisations: **AS/NZS 10002:2014**.
4. Carrie’s Place Internal Complaints, Grievances and Dispute Resolution policy and procedure is intended to:
 - a) enable Carrie’s Place to respond to issues raised by complainants making complaints against workers in a timely and cost-effective way;
 - b) provide guidance to Carrie’s Place workers who want to make a complaint, notify a grievance or resolve a dispute;
 - c) provide guidelines to Carrie’s Place workers about internal administrative complaints processes; and
 - d) Provide information that can be used by Carrie’s Place to deliver quality improvements in employment conditions, practice, and services delivery.

6A.2 Scope

1. This policy applies to all workers receiving or managing complaints/grievances/disputes from workers and volunteers, regarding employment conditions, practice, services delivery, management practices, and governance.
2. This policy applies also to all Association members.
3. Ex-employees may be covered by either Ch.6 or Ch.6A, depending on the nature of the complaint/grievance/dispute. The CEO &/or GC will determine which chapter applies.
4. Client and other external stakeholder’s complaints and public interest disclosures are dealt with through separate mechanisms. **Refer Chapter 6.**

6A.3 Organisational commitment

1. Carrie’s Place workers and volunteers have the right to lodge a complaint/grievance/dispute about any aspect of organisational operations.
2. Carrie’s Place encourages and supports workers and volunteers (and their advocates) to



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raise concerns.

3. The same **Guiding Principles** apply to this chapter as apply in **Chapter 6**.
4. This may include lodging a complaint about the behaviour, &/or skills, &/or knowledge, of an individual worker, or a group of workers.
5. This may include lodging a complaint about the behaviour, &/or skills, &/or knowledge, of an individual Governance Committee member, group of members of the GC, or the entire membership of the GC.
6. This may also include lodging a complaint/grievance about the behaviour, &/or skills, &/or knowledge, of any other representative of the organisation.
7. Workers have the right to request a review of any decisions made that may impact upon them. Refer also **Chapter 4A and 4B**.
8. Workers have the right to lodge a complaint/grievance/dispute about a decision that has been made by this organisation, that impacts upon them.
9. All workers must be informed that they have these rights. They will be informed in writing as part of the Induction Process. Workers will also be reminded at Team Meetings and during supervision.
10. All workers will be offered the opportunity to attend annual “in house” “Ethics and Values Training”, which is specific to this organisation, and which will include education on the topics of bullying and harassment, as well as the organisation’s complaint processes.
11. The CEO, or their delegate, will be responsible for designing, coordinating and implementing the training referred to in point 10.
12. All complaint/grievance/dispute investigations must be culturally appropriate. The cultural background of the person lodging a complaint/grievance/dispute must be considered and appropriate sensitivity shown. Refer organisational Statement of Inclusive Practice.
13. A worker can lodge a complaint by speaking or writing to:
 - a) Their immediate supervisor;
 - b) A Program Coordinator or Manager;
 - c) The Chief Executive Officer (CEO);
 - d) A Governance Committee member; and/or
 - e) An External organisation whose purpose is to investigate such matters, such as the NSW Ombudsman, funding bodies, members of parliament etc.



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14. All complaints lodged will be taken seriously, and dealt with in a just and fair manner.
15. Any worker exercising their right to complain/notify a grievance or dispute will not be penalised for making a complaint. If a worker feels victimised for making a complaint, they are encouraged and have a right to report this to the CEO or the Chair of the GC (Refer also **(Chapter 6B Whistleblowing)**).

6A.4 Terms and Definitions

6.4.1 Complaint

Expression of dissatisfaction made to or about the organisation, or an individual worker, or a group of workers, or members of the Governance Committee, about employment conditions, practice, services delivery, or other related matters, or the handling of a complaint where a response or resolution is explicitly or implicitly expected or legally required.

For the purpose of this policy, the term Complaint refers to a complaint, grievance or dispute.

6.4.2 Grievance

The words complaint, grievance and dispute are generally interchangeable. While at law, a grievance is generally a formal statement of complaint, this organisation will treat the words as interchangeable for the purpose of this policy and procedure.

6.4.3 Dispute

A dispute is an unresolved complaint or grievance. Generally, a dispute relates to working conditions and may allege failure by an organisation to comply with legal requirements, particularly employment and award requirements. This organisation will treat the words dispute, complaint, and grievance as interchangeable for the purpose of this policy and procedure.

6.4.4 Worker

For the purpose of this Policy, the term worker refers to current and former employees, the Management team, volunteers and members of the Governance Committee.

6A.5 Initial assessment and investigation of complaints

6A.5.1 Initial review and Response

1. Complaints or concerns about workers must be treated seriously.
2. A complaint may be received verbally or in writing. All verbal complaints or concerns must be documented by the person receiving the information if the person raising the complaint or concern is unable or unwilling to do so. The CEO or Chair of the GC should also complete a

6A.6.2 Complaint Register.



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3. To determine the most appropriate action and process to follow, there should always be an initial review of the complaint which is to be undertaken by the CEO or Chair of the GC. This initial review must take place without delay to determine further action. The initial review is done on the material and details available at the time and prior to information being sought from the worker, the subject of the complaint.
4. The initial assessment seeks to collate the available information and clarify the specifics of the complaint or concern to:
 - a. identify any immediate risk to the safety and welfare of any staff, volunteers, complainants, clients or any other parties that need to be managed immediately;
 - b. determine, as far as possible, the nature and seriousness of the complaint. This includes reviewing the available information to identify:
 - i. what policies, standards or protocols may have been, or have been, allegedly breached or not met;
 - ii. if any workers or any other persons have been, may have been or could be affected or harmed;
 - iii. any internal and external notifications required;
 - iv. If any investigation is required; and
 - v. if further clarification is needed to determine the nature and seriousness of the matter.
 - c. Consider the timing of the advice to the worker, the subject of the complaint.
 - d. Identify who is responsible for ensuring appropriate and regular communication with the worker, the complainant and any other affected parties.
5. When determining if an investigation is required, the CEO or Chair of the GC should first consider the following:-
 - a. Is the issue really an interpersonal dispute between two colleagues which would be best dealt with via conciliation or mediation? If so, regard should be taken to section 10 of the Carrie's Place Constitution.
 - b. Is the issue really about workplace rules or practices?
 - c. Is the issue one that relates to the workplace at all?
 - d. Is the complaint trivial, frivolous, far-fetched or otherwise not worthy of formal consideration?



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- e. Is the complaint vexatious, without merit, or designed solely to inconvenience or annoy another person or the employer?
 - f. How long ago did the alleged conduct occur?
 - g. Is there a risk of widespread or repeated conduct if the alleged conduct is not properly addressed?
 - h. Does the complaint raise concerns about cultural or systemic issues within the workplace?
 - i. Is there a risk to the reputation of Carrie's Place?
 - j. Is there a wider public interest in the matters which have been raised?
 - k. Is it one of a series of complaints about the same person or the same type of conduct?
 - l. Are the facts fairly contained or uncontentious, and the issues small in scope?
6. Anonymous complaints
- a. Anonymous complaints may still need to be managed in accordance with this policy.
 - b. Action taken will depend on the level of detail provided, the ability to obtain further detail and the nature and seriousness of the complaint. Where there is insufficient information or details to make any enquiries or take any action, this should be noted and the complaint filed in a secure and confidential place.
 - c. When assessing action to take in response to an anonymous complaint, the following factors should be considered:
 - i. Any details that can be confirmed or refuted;
 - ii. Contact with any external agency to confirm if they have any information in relation to the complaint;
 - iii. If the complainant is able to be identified and contacted if further clarification of the complaint is required.
7. A complaint about non-work-related conduct or historical conduct still needs to be managed where:
- a. a complaint or concern involves a child-related allegation, charge or conviction;
 - b. the worker has been charged with or convicted of or found guilty of a serious offence which includes but is not limited to a sexual, violent or drug-related offence;



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- c. other information is received which indicates risk to client or staff safety, to Carrie's Place property or the reputation of Carrie's Place or is otherwise relevant to their role.
8. Where a complaint involves criminal conduct by a worker, notification to the NSW Police must always be made and the alleged victim given appropriate support to make their own notification or complaint to the Police. In such cases, the GC must be informed by the CEO within 48 hours. If the allegations are against members of the GC then the CEO must advise those members of the GC who are not the subject of the allegations. For the purpose of this policy, criminal conduct means conduct that breaks a law where a criminal penalty can apply.
9. In these circumstances, advice to the worker should usually be delayed until after consultation with NSW Police.
10. In advising the Worker as to the allegations or complaint, regard should be taken to the following:
 - a. As soon as it is deemed safe and appropriate to do so, the worker should be informed that an issue has been identified. They should be told about the investigation process and access to support services such as the Employee Assistance Program. Any verbal advice must be confirmed in writing. Any decision to delay notifying the worker should be documented and detail the reasons why.
 - b. The timing of advice to the worker should consider such factors as:
 - i. Is immediate risk management action required? If it is, this will necessitate advice being provided to the worker at the time of the action.
 - ii. If the complaint involves alleged criminal conduct, has notification been made to the NSW Police? If no notification has been made, does this need to be done before advice is provided to the worker?
 - iii. Any particular risk, or any other information suggesting the timing of the advice needs to be delayed. For example, a statement has not been obtained from the complainant, further clarification of the complaint or concern is required or other potential evidence needs to be protected before advising the worker.
 - iv. A request from an external agency, such as the Police or Department of Communities and Justice to delay notifying the worker.
 - c. If an external agency has requested delaying the advice to the worker and there are identified safety risks requiring risk management action, this should be conveyed to the external agency along with a timeframe for when the risk management action needs to start and the associated advice to be provided to the worker.



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11. If the worker resigns or leaves prior to the completion of the investigation or enquiries then:-
 - a. The process must still be completed, including making findings and decisions about any action that would have been taken had the worker still been in their position.
 - b. The process must still be fair to the worker, including providing them with an opportunity to respond to their concerns, and any proposed adverse findings and actions that would have been taken had they still been in their role. They must also be advised of any final decisions made in response to the complaint.

6A.5.2 Managing Risks

1. When a complaint is made, a risk assessment must be undertaken, documented and a risk management strategy put in place by the CEO or Chair of the GC. The purpose of a risk assessment is not to determine if complaints or concerns are substantiated but to consider any risks requiring action.
2. The following must be followed in providing advice to the worker about risk management action:
 - a. If, following a risk assessment, a decision is made that administrative action (including suspension) is required; the worker must be advised of the decision, the reason for it, and for how long the action will apply.
 - b. Advice should be provided in writing at the time the decision is implemented and, if not then, it must be within 14 days of the date of making the decision.
 - c. At this time, the worker should also be provided with information about support services, any review options, an appropriate contact person and advice about the investigation process.
3. A worker subject to risk management action may request a review of the risk management measures by application in writing to the CEO or Chair of the GC on the grounds that:
 - a. the risks have not been identified or assessed appropriately; or
 - b. the risks have changed or no longer exist.
4. Action to manage risk arising from a risk assessment must be specific and proportionate to the risks identified.
5. A worker's position must not be permanently filled while that worker is suspended or on alternative work arrangements as a risk management measure.
6. Where risk management action is necessary, consideration should be given to appropriate and available administrative action such as interim alternative arrangements.



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7. If a worker is suspended, regard must be taken to the following:-
 - a. Where the decision to suspend a worker, the risk assessment must show that the potential risk posed by the worker cannot be satisfactorily managed in any other way.
 - b. Periods of suspension should be for as shorter period as possible. However, as the length of suspensions may vary, they must be reviewed at least every 30 days.
 - c. Workers should be provided with support as appropriate during any period of suspension.
 - d. Where a worker is suspended, the payment of a salary at the applicable ordinary time rate (without shift penalties and other allowances) should usually continue.
 - e. Suspension of an employee may only be without pay if so directed by the GC. If a worker is suspended without pay, the worker is entitled to access any paid annual or long service leave entitlements accrued prior to the suspension. While accessing such entitlements, their employment remains suspended.

6A.5.3 Notifications

1. The CEO will report to the GC about complaints and provide details as to anything arising from the risk assessment as well as details of the process to be undertaken with respect to the investigation. The CEO will provide regular updates to the GC (at least every 14 days) about the status of the investigation.
2. Carrie's Place is also subject to a range of external notification obligations which include:
 - a. The NSW Police must be notified if there is alleged criminal conduct;
 - b. Department of Communities and Justice must be advised depending on the seriousness of the allegation.

6A.5.4 Investigation

1. The CEO will decide whether the complaint should be investigated and if an investigation is required will delegate the investigation to a Program Manager (PM), the Governance Committee or an external investigator depending on the seriousness of the complaint (hereinafter referred to as "the investigator"). The PM should be independent of line management in the area the subject of the complaint.
2. If the Complaint involves the CEO, then the Chair of the GC will notify the other GC members and form a subcommittee of the GC to investigate. Alternatively, the GC may engage an external investigator depending on the nature and seriousness of the complaint (hereinafter referred to as "the investigator").



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3. If no investigation is required or deemed appropriate by the CEO or Chair of the GC then proceed to 6A.5.6 of this Policy.
4. The purpose of the investigation is to determine, on the balance of probabilities, if:
 - a. the alleged conduct, behaviour or unsatisfactory performance is substantiated and its impact on the worker's ability to undertake the full responsibilities of their role;
 - b. the substantiated conduct or unsatisfactory performance breached or did not meet expected standards, protocols, relevant policies or legislation;
 - c. there are any extenuating circumstances or contributing factors that may need to be considered.
5. An investigation proceeds and is separate from, any final decision by the CEO or Chair of the GC about findings and the requirement for further action (disciplinary or other).
6. An investigation need only occur following initial review where there is uncertainty about the relevant facts.
7. Before starting an investigation, its terms of reference should be clearly set out. The terms of reference establish the focus and set limits on the investigation. To be able to set the terms of reference, the key issues arising out of the complaint or concern should be first clarified and framed in terms of the alleged misconduct or performance issue.
8. Any investigation or management of a complaint must be completed as expeditiously as possible, without compromising procedural fairness, ideally within 12 weeks (60 working days).
9. Where the completion of the process is delayed beyond 12 weeks or any timeframe previously advised, all key parties should be advised of this in writing.
10. When selecting an investigator, the investigator must have suitable skills and experience, including understanding of the investigation process. They should be objective and impartial, and be seen as such. Any actual or reasonably perceived conflict of interest should be identified and managed.
11. Evidence to be obtained for the investigation may include review of records, incidents, complaints, electronic records, rosters, etc. This is in addition to interviews or statement from relevant parties.
12. When conducting an interview, the investigator is to be guided by the following:
 - a. Before putting the complaint or concern to the worker for response, the investigation should have reviewed all available relevant evidence, including



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electronic records, interviewed or taken statements from any complainants or other parties as relevant.

- b. Reasonable notice of an interview must be given in writing (usually 48 hours). All persons to be interviewed as part of the investigation must be advised that they may have a support person of their choosing present, and that the reasons for the interview and its content must remain confidential.
 - c. The support person does not represent the person being interviewed or advocate or make representations on their behalf. The support person should not be someone who may be involved in the investigation. The support person is required to maintain confidentiality of the complaints and the investigation.
 - d. Records of interview should be taken and kept. Persons interviewed should be provided with a copy of the summary or a record of interview for review and signature as soon as possible.
13. When providing the worker with an opportunity to respond to the concerns, the investigator:
- a. Must give the worker sufficient information about the complaint or concern to allow them to provide a considered response;
 - b. Must give notice to the worker which should state the purpose of the interview and detail the substance of the complaint sufficiently to allow them to provide an informed response;
 - c. May decide to accept receipt of information in a written statement instead of, or in addition to, an interview, however, an interview is usually preferable, particularly where additional detail is required or to explore issues in greater detail.

6A.5.5 Making Findings

1. Following an investigation, the CEO or Chair of the GC must make findings about whether:-
 - a. any aspects of the alleged conduct, performance or behaviour is substantiated;
 - b. any substantiated conduct, performance or behaviour constitutes misconduct, unsatisfactory performance or something else.
 - c. Findings are required in respect of external agencies such as the Ombudsman Office and any associated reporting requirements.
2. Any adverse finding against a worker through this process must be proved to the civil standard, that is, “on the balance of probabilities”. Based on available evidence, it must be more probable than not that the conduct or unsatisfactory performance occurred.



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3. Consistent with the "*Briginshaw v Briginshaw principle*", the more serious the conduct or unsatisfactory performance and, therefore, the more serious the consequences for the worker, the stronger the evidence must be to support an adverse finding.
4. For the purpose of this policy, an adverse finding is one that is unfavourable to the worker.
5. In reaching a finding, information should be assessed in terms of its relevance to the alleged conduct or performance issue, its reliability, its consistency and whether it is corroborated or contradicted by other information.
6. When considering whether the actual alleged conduct or performance is substantiated, the type of finding will depend on the nature of the issue under review or investigation.
7. In all matters it should be considered if:-
 - a. the findings constitute possible unsatisfactory conduct, misconduct or notifiable conduct;
 - b. there are any mitigating practice or system issues and if they need to be addressed to minimise the risk of the conduct or practice re-occurring; and
 - c. there are any aggravating or mitigating factors.
8. Following the investigation, a report should be provided to the CEO or Chair of the GC with findings and facts supporting them.
9. The report should only contain information relevant to the conduct or performance under investigation. All supporting documentation should be made available to be examined by the CEO or of the GC.
10. If following the initial review, it has been determined that the facts are clear and uncontested then the findings arising from the initial review should be set out together with the supporting facts in a report for the CEO or Chair of the GC.
11. The CEO or Chair of the GC should not have any conflict of interest or bias involving the complaint. They must act in an objective and impartial manner and have regard to procedural fairness requirements and risk management.
12. The CEO or the Chair of GC is not to be involved in the investigation. It is their role to:-
 - a. accept or reject the findings from the investigation or initial assessment, to ask the investigator to make further enquiries or otherwise to initiate further enquiries where they are concerned that more information is needed to support findings. Any decision to reject a finding must be documented.
 - b. decide on any action Carrie's Place should take in response to the findings.



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- c. seek a response from the worker before finalising adverse findings or a decision about disciplinary action.
 - d. ensure the worker is advised at the earliest opportunity of a non-substantiated finding.
13. Prior to finalising adverse findings, the CEO or Chair of the GC:-
- a. Must advise the worker that they are proposing to make an adverse finding against the worker and provide the worker with any additional information or raise any concerns about the process or proposed findings. This applies even if the worker has since left Carrie's Place.
 - b. Must provide the worker with relevant information that has been taken into consideration by the CEO or GC. The information should be sufficient to enable the worker to understand fully the basis for the proposed adverse finding. It need not include all information in the possession of the CEO or GC, particularly where material is not relevant to the findings or the interests of a third party needs to be protected.
 - c. Must consider whether it is appropriate to withhold some information from the worker. Such circumstances may include; public interest disclosures, confidential information about third parties or where there may be potential risk to the well-being of the worker or others. The CEO or GC must make a written record of what information is withheld and for what reason.
 - d. Must allow the worker a reasonable time period to respond (14 days unless otherwise agreed).
14. If the response of the worker provides additional information that has not been raised before and may materially affect the findings, the findings should be reviewed accordingly. In some instances, further investigative action may need to take place. In that case, regard should be taken to clause 6A.5.4 of the policy.

6A.5.6 Making decisions about action to be taken

1. The CEO or Chair of the GC must form a view with the appropriate outcome based on the material available. This must be completed even if the worker has since left Carrie's Place.
2. In deciding what outcome is appropriate, consideration should be made to:
 - a. the protection and ongoing safety of Carrie's Place clients;
 - b. the health, safety and well-being of Carrie's Place staff;



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- c. the seriousness of the conduct or performance, including whether there was any harm or injury caused, or there was potential for harm or injury:
 - i. this includes consideration of whether it was a pattern of behaviour or an isolated incident;
 - ii. if appropriate, to what extent it constitutes a breach of Carrie's Place Code of Conduct and any other Carrie's Place policy, any relevant legislation or codes of practice;
 - iii. any action taken by external bodies in relation to the worker;
 - iv. the worker's length of service and previous work history, including the period of time since any similar previous conduct or performance issues;
 - v. any factors that may have contributed to the worker's conduct or performance such as underlying health issue or impairment;
 - vi. any matters raised by the worker about the findings or about the penalty or action that should be taken into account;
 - vii. the impact of the conduct on Carrie's Place and other staff;
 - viii. any other mitigating or aggravating circumstances such as workplace cultural issues or systemic issues or practices.
 - d. Seeking a response from the worker about proposed disciplinary or remedial action.
3. The worker must be provided with an opportunity to respond to any proposed decision about disciplinary or remedial action before any final decision is made, even if they have already left the organisation.
 4. The response to proposed action may be sought at the same time as a response regarding proposed adverse findings.
 5. A reasonable period of time (14 days unless otherwise agreed), must be allowed for a response. Any such response must be considered before a final decision is made about action to be taken.
 6. Any false or vexatious complaints that are made may result in the Complainant being subject to disciplinary action that could result in termination.

6A.5.7 Options for action in response to substantiated findings

1. The following decisions can be made in relation to a substantiated complaint:
 - a. No further action is warranted, reasons may include:



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- i. the conduct or performance did not seriously breach or fall below expected standards;
 - ii. there are mitigating circumstances;
 - iii. low level impairment has been identified but it does not present a risk to client safety and does not affect the worker's ability to perform the inherent requirements of their role and/or is being or has been addressed or appropriately managed by the worker;
- b. Remedial (managerial) action may be relevant, reasons may include:
 - i. While findings of misconduct or unsatisfactory performance were made, disciplinary action is not warranted or managerial action is required in conjunction with disciplinary action;
 - ii. Only some or part of the allegations relating to the conduct were substantiated. While the substantiated conduct or performance does not meet the threshold for misconduct/unsatisfactory performance, the worker's conduct, behaviour or performance still needs to be addressed.
- c. For findings of misconduct Carrie's Place may:-
 - i. Issue a formal warning, stating the improved standard of conduct, behaviour or performance required within a given timeframe, the possible consequences of failing to reach that standard and any help available for the worker to meet their expectations;
 - ii. Terminate the employment of a worker.

6A.5.8 Implementing Decisions and Finalising the Process

1. Carrie's Place must advise the worker of the final findings and decisions in writing. The letter must include any advice to the worker and should generally include information about any notifications to regulatory bodies. Where a worker is required to continue with or resume their role in Carrie's Place, there should be a discussion with them about any support needed.
2. Having regard to confidentiality issues, all persons involved must be advised by Carrie's Place in writing of the outcome of the process insofar as it relates to them.
3. It may be necessary to offer support (such as the Employee Assistance Program) to the worker and other affected staff members, as well as considering any referral for support services, as appropriate, for any other affected person such as the complainant.



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4. Appropriate and sufficiently adequate records of all stages of the process and investigation (including the initial review and any interviews), all communication with the worker and outcomes must be kept on a dedicated and confidential file.

6A.5 Contact Details

5. The Contact details to make a complaint are as follows:-
 - a. Chief Executive Officer - CP.CEO@carriesplace.org.au
 - b. Chair, Governance Committee – chair@carriesplace.org.au

6A.6 Forms

- 6A.6.1 Complaint Record Form
- 6A.6.2 Complaint Register

Document Control

Version History

Version number	Date	Description
0.1	11/07/2016	Document created
1.0	21/12/2016	Final policy approved
1.1	15/08/2018	Changed occurrences of 'GM' to 'CEO'
1.2	25/07/2019	Change to formatting
1.3	7/10/2019	Document revised and circulated for peer-review
1.4	8/10/2019	Document revised and peer-review comments addressed
2.0	10/10/2019	Policy ratified by Governance Committee
2.1	1/11/2020	Policy revised and formatting updated to new template
3.0	10/12/2020	Policy ratified by Governance Committee