

# Managing Employment Concerns



**An employer who has a concern(s) regarding an employee shall follow the managing employment concerns process under clause 13 of the Victorian Catholic Education Multi Enterprise Agreement 2013 (VCEMEA).**

## Procedural and substantive fairness to apply

The principles of procedural and substantive fairness shall underpin the application of the Managing Employment Concerns procedures.

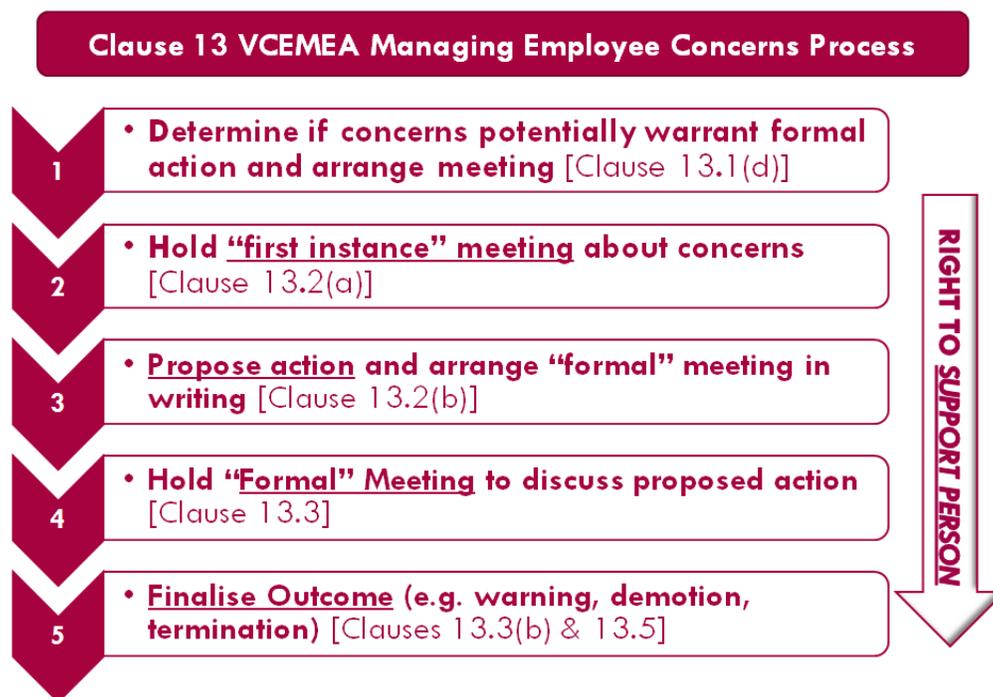
An employee shall, at all stages of this process, have the right to be accompanied by a union representative or other support person nominated by them, whose role is to support and advise the employee, ensure natural justice is afforded, assist the employee to articulate their responses and participate as appropriate.

## When do I follow the process?

The procedures under the Managing Employment Concerns clause must be followed prior to terminating employment (other than for reason of genuine redundancy), issuing a warning, or taking any other disciplinary step.

Under the provisions of the *Victorian Catholic Education Multi Enterprise Agreement 2013 (VCEMEA)*, a Concern means a concern or concerns which would warrant the taking any of the actions (Employee Improvement Plan our Outcome) and includes concerns regarding an employee's performance and/or conduct and/or capacity.

The process is as follows:





## Concerns

An employer who has a concern(s) regarding an employee shall, in the first instance, hold discussions about the concern(s) with the employee or take every reasonable step to do so.

Following the completion of this process, if an employer still has concern(s) the employer must advise the employee of the intent to take no further action in this instance, or advise the employee in writing of:

- the employer's concern(s) including the detail of any complaints or allegations;
- proposed date, time and place of the Formal Meeting to discuss the concern(s); and
- the possible course of action of the employer.

The possible course of actions of the employer may be one or more of the measures prescribed under the Employee Improvement Plan. If an employee Improvement Plan (EIP) is the proposed action, a draft of the EIP shall be provided at this time.

Whether the employee is directed not to attend the workplace (on pay), or to perform alternate duties, or to do or refrain from doing any other thing, the period for which this will occur will be advised. In compelling circumstances such a direction may be given prior to the issue of the written advice. Details of a proposed investigation, if any, must also be provided.

## Outcomes

Before making a decision to take one of the steps under the VCMEA, the employer must advise the employee of the reason for and the proposed course of action and provide the employee with an opportunity to respond.

Outcomes could include:

- no further action
- the employee being issued with a warning
- the employer may terminate the employee's appointment to a nominated Position of Leadership (including a Deputy Principal appointment which is not an ongoing Deputy Principal appointment)
- may terminate the employee's employment (on notice, or summarily) in accordance with the termination of employment provisions of the VCMEA.

## Potential criminal conduct

Where allegations against an employee which are being handled under this clause are also the subject of a criminal investigation or criminal proceedings, the employer is not required to delay or cease the process under this clause but the employer may exercise its discretion to do so.

## References

- *Victorian Catholic Education Multi Enterprise Agreement 2013* (clause 13)