

**Education
Standards
Board**



Government
of South Australia

School Complaints Management Policy



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1. Overview

This policy outlines how complaints made to the Education Standards Board (ESB) about the provision of education services by a registered school are assessed and managed in accordance with the Education and Early Childhood Services (Registration and Standards) Act 2011 (State Act) and the Standards for Registration and Review of Registration of Schools in South Australia (Standards).

2. Scope

Complaints are managed in line with this policy when an individual expresses dissatisfaction with a school about:

- education services provided
- health, safety, and welfare of students
- non-compliance with the Standards, including but not limited to:
 - the way a complaint was handled by the school
 - school governance.

Some types of complaints fall outside our legislative responsibility and may be referred to a relevant government agency or organisation. These include, but are not limited to:

- school fees and charges
- school zoning
- individual teachers.

This policy does not apply to a teacher in respect of a matter that would constitute a proper cause for disciplinary action against the teacher under the *Teachers Registration and Standards Act 2004*.

3. Definitions

Term	Definition
Board	The Education and Early Childhood Services Registration and Standards Board of South Australia established under the State Act.
Complaint	An expression of dissatisfaction where a response or resolution is expected or legally required.
Complainant	The individual who made the complaint.
Delegate	Role within the ESB allocated to consider triage assessment recommendations.
ESB	The agency that supports the Board is called the Education Standards Board and is commonly referred to as the ESB.
Investigation / Inquiry	A formal and systemic inquiry to establish facts about an incident, complaint, or alleged non-compliance.
Out-of-scope complaint	A complaint not within the ESB's legislative responsibility.
Preliminary assessment	Assessment conducted by the Registrar to determine the seriousness of a complaint.
Registrar	A position with legislative powers and functions under the State Act and as delegated by the Board. The Registrar is also the Chief Executive of the agency.

Term	Definition
Respondent	<p>The person/entity against whom the complaint is made. In the context of this policy, the respondent may be:</p> <ul style="list-style-type: none">• a registered school• a person who is a member of the governing authority of a registered school• a person who occupies a position of authority in an incorporated or trustee services provider; or• a responsible authority for a registered school.
School	<p>A South Australian school registered by the Education Standards Board in accordance with the State Act and Standards.</p>
School governing body	<p>A structure that governs a school.</p>
Serious Complaint	<p>For the purposes of this policy and in accordance with section 30(2) of the State Act, to be a Serious Complaint, it must:</p> <ol style="list-style-type: none">a. constitute a proper cause for disciplinary action under section 60 of the State Act if proven; andb. be of such seriousness that the complaint should be the subject of a complaint laid under section 62.
Seriousness	<p>If the subject matter is so serious that the matter should be referred to the Board to consider laying a complaint under Section 62.</p>
Triage	<p>Evaluation of a complaint undertaken by the Triage Officer to make an assessment as to what action should be taken to manage the complaint.</p>
Triage Officer	<p>The ESB employee triaging the complaint and making a recommendation to the delegate.</p>

4. Legislative and policy context

This policy supports the requirements of:

- *Education and Early Childhood Services (Registrations and Standards) Act 2011 (State Act)*
- Education and Early Childhood Services (Registrations and Standards) Regulations 2011 (State Regulations)
- Standards for Registration and Review of Registration of Schools in South Australia (Standards)
- Education Standards Board Complaints and Feedback Management Framework

Specifically, the following sections under the State Act:

- Section 8 – Responsible authorities
- Section 9 – Objects and principles
- Section 30 – Complaint made directly to Board to be referred to school
- Section 35 – Powers of Board in relation to witnesses etc
- Section 36 – Principles governing proceedings
- Section 43 – Registration on schools register
- Section 54 – Registration of review
- Section 57 – Board may require more information
- Section 60 – Cause for disciplinary action
- Section 62 – Inquiries by Board as to matters constituting grounds for disciplinary action
- Section 65 – Register of prohibition orders
- Section 67 – Further provisions as to proceedings before Board
- Section 72 – Right of appeal to District Court

5. Confidentiality / Information disclosure

In assessing the complaint, the Triage Officer asks the complainant if they wish for their identity be kept confidential. If a complainant wishes to remain anonymous, this may affect our ability to investigate the complaint and/or the school's ability to respond to the complaint and may affect the complaint outcome.

Section 87 of the State Act sets out our obligations in relation to confidentiality of personal information obtained through administration of this Act.

Our employees are bound to comply with the Code of Ethics for the South Australian Public Sector.

Information may only be disclosed to parties outside of the ESB in accordance with the State Act and in line with the exceptions described in clause 10 of the Department of the Premier and Cabinet Information Privacy Principles Instruction.

We may disclose information in accordance with State Freedom of Information legislation.

6. Detail

This policy applies when a complaint is lodged to the ESB. This policy has been developed with regard to the objects and principles set out under section 9 of the State Act and forms part of our Complaints and Feedback Management Framework, adopting its principles and concepts.

We recognise that schools have requirements under the Standards and their own systems and policies for how they manage and respond to a complaint. Complaints of a serious nature are routinely managed by schools.

Complaints can also be made to the relevant responsible authority of the school. As set out under section 8 of the State Act, responsible authorities include:

- Department for Education
- South Australian Commission for Catholic Schools Incorporated (Catholic Education South Australia)
- Lutheran Schools Association (Lutheran Education SA, NT & WA); and
- Seventh Day Adventist Schools SA Trust (Adventist Education).

Note that the Minister for Education, Training and Skills, Department for Education and the Association of Independent Schools of South Australia do not have powers to directly intervene in complaints relating to the operations of a non-government school.

Where an individual believes their complaint is a Serious Complaint (as defined by this policy) and wishes to make a complaint to the ESB, they may do so:

- on the website by following the relevant link for the complaint type
- by sending an email to ESB.schools@sa.gov.au; or
- by calling 1800 882 413.

If the South Australian Police are involved in investigating a complaint, they will be the lead investigator. We will undertake necessary safeguarding if required. Our involvement in the matter will be determined on a case-by-case basis.

We have regard to the processes already undertaken by the school and relevant responsible authority of the school when assessing a complaint and to our assessment and management of a complaint being informed by our engagement with the school.

We are committed to communicating with all parties throughout the process, including prompt acknowledgement of receipt, information about expected timeframes, detailed outcomes, and avenues of review.

■ 6.1 Triage assessment

This section describes the processes for assessing and determining a complaint when received by the ESB. A process map summarising each step is provided at Appendix 1.

6.1.1 Complaint triage

In line with our Complaints and Feedback Management Framework, receipt of a complaint is acknowledged within three working days using the complainant's preferred communication method.

The Triage Officer gathers and evaluates evidence to triage the complaint and make a recommendation to the delegate for endorsement. The Triage Officer considers:

- a. information provided by the complainant
- b. the school's compliance history; and
- c. if the complaint may be defined as a Serious Complaint.

The Triage Officer must consider if the complaint may meet the tests to be defined as a Serious Complaint in accordance with section 30(2) of the State Act. To be a Serious Complaint, the complaint must:

- a. constitute a proper cause for disciplinary action under section 60 of the State Act if proven; and
- b. be of such seriousness that the complaint should be the subject of a complaint laid under section 62.

Causes for disciplinary action

Proper causes for disciplinary action against respondents are set out under section 60 of the State Act.

The causes relate to improperly obtaining school registration, contravention of conditions, contravention, or failure to comply with obligations under the State Act, fitness and propriety, and misconduct.

Triaging seriousness of the complaint

When triaging the seriousness of a complaint, the Triage Officer uses the Risk Assessment Matrix at Appendix 2 and considers the following factors:

- The nature and extent of harm or potential harm to students (physical or emotional).
- The impact to students.
- The conduct and behaviour displayed by the school.
- Remedial action undertaken by the school.
- The school's compliance with the Standards and/or State Act.
- Compliance history of the school.
- Risk of non-compliance in the future.
- Frequency of the complaint.
- Any other relevant mitigating or aggravating circumstances.

The level of seriousness is determined by the risk assessment rating outcome. Complaints assessed as High or Extreme are considered to meet the seriousness threshold and satisfy section 30(2)(b).

6.1.2 Triage recommendation

On completion of the triage process, the Triage Officer makes a recommendation to the delegate, to undertake one of three actions:

1. Complaint referred to another agency or organisation
2. Complaint referred back to the school to be dealt with under section 30(1) of the State Act; or
3. Complaint escalated to the Registrar to make a preliminary assessment as to whether the complaint is a Serious Complaint.

The delegate reviews the triage assessment to ensure the correct course of action has been recommended and either:

1. endorses the triage recommendation; or
2. recommends an alternate action.

Complaints which appear to constitute a proper cause for disciplinary action and are assessed as High or Extreme seriousness are escalated to the Registrar, by way of an internal brief.

The Triage Officer takes the action instructed by the delegate.

■ 6.2 Preliminary determination

6.2.1 Preliminary assessment

For complaints referred to the Registrar, the Registrar considers the triage outcome and conducts a preliminary assessment to determine whether the complaint may meet the threshold to be considered a Serious Complaint.

As part of their assessment, the Registrar may seek legal advice and/or require a preliminary investigation to be undertaken to obtain further information about the matter.

Under section 57 of the State Act, as delegated by the Board, the Registrar may conduct a preliminary investigation to seek further information from the complainant and/or the school to inform the preliminary assessment.

6.2.2 Outcome of preliminary assessment

Complaint assessed not to be a Serious Complaint

For complaints that the Registrar assesses not to be a Serious Complaint for the purposes of this policy, the Registrar informs the delegate of their determination and what action is to be taken. This may include:

1. Referring the complaint to another agency or organisation.
2. Referring the complaint back to the school (and responsible authority where relevant) to be dealt with under section 30(1) of the State Act.
3. Requiring a review of registration under section 54 of the State Act.

Complaint assessed to be a Serious Complaint

For complaints assessed as a Serious Complaint, the Registrar informs the delegate of their determination and instructs the Governance Officer to convene a special meeting of the Board.

Once the preliminary assessment is finalised, the complainant, respondent, and responsible authority (where relevant), are informed of the outcome.

If the complaint is referred to another agency, organisation or the school to be dealt with in accordance with their procedures, the complainant will receive:

- A response that addresses the aspects of their complaint, including action taken and reasons for the decision.
- Details for referral to other agencies (if applicable).
- Options available to them for review of the decision (see: 7.1 Internal review).

The school's governing body and responsible authority (where relevant), will receive:

- Details of the complaint (including identity of complainant if permission for disclosure is given).
- Instruction to manage the complaint in accordance with the school's procedures (if referred to the school).
- If assessed as a Serious Complaint by the Registrar, notification of this preliminary assessment, and explanation as to why, and next steps.

6.2.3 Board consideration of preliminary determination

Following instruction from the Registrar to convene the Board to inform board members of the Serious Complaint, the Governance Officer arranges a special meeting of the Board to be held in accordance with the Board's Terms of Reference. The special meeting of the Board is held within ten business days.

If the Board agrees with the Registrar's preliminary determination that the complaint is a Serious Complaint and would constitute grounds for disciplinary action, the Board must direct the Registrar to lay a complaint under section 62(1) of the State Act so proceedings can commence. The complaint is laid during the meeting.

The Board instructs the Governance Officer to arrange a meeting for proceedings to commence within ten business days and provides direction to the Registrar to obtain any additional information required for consideration and/or invite parties to appear before the Board.

If the Board does not consider the complaint to be a Serious Complaint that would constitute grounds for disciplinary action, the Board instructs the Registrar to refer it to another agency, organisation, or the school to be dealt with in accordance with their procedures and the matter is closed.

The complainant, respondent, and responsible authority (where relevant) are informed accordingly.

■ 6.3 Management of Serious Complaints

6.3.1 Proceedings before the Board

Within ten business days of the complaint being laid before the Board, proceedings will commence for the Board to conduct an inquiry into the subject matter of the complaint under section 62, to determine whether the matter constitutes grounds for disciplinary action.

As required under section 36, the Board will act according to the principles of natural justice and ensure procedural fairness and keep the parties to the proceedings properly informed as to the progress and outcome of the proceedings.

As part of the proceedings, under section 35, the Board may require a person to appear before the Board, or to produce documents, records, or equipment.

Under section 67, the complainant is entitled to be present at the hearing of the proceedings.

If, after conducting the inquiry, the Board is not satisfied that there is proper cause for disciplinary action against the respondent, the complaint is referred to the school and responsible authority (where relevant) to be dealt with under section 30(1) of the State Act.

If, after conducting their inquiry, the Board is satisfied on the balance of probabilities that there is proper cause for disciplinary action against the respondent, the Board may, by order, do one or more actions set out under section 62.

6.3.2 Outcome of the proceedings

Following conclusion of the Board's proceedings, the complainant, respondent, and responsible authority (where relevant) are informed of the outcome and any compliance and enforcement actions applied as a result, including options available to them for review of the decision.

7. Complaints review

■ 7.1 Internal review

If the complainant is dissatisfied with the complaint outcome and it was not assessed by the Registrar in the first instance, they may request an internal review be conducted by the Chief Executive through completion of a Complaints and Feedback form or via email to the ESB Feedback inbox, in line with our Complaints and Feedback Management Framework.

The respondent is not able to seek an internal review where the Board decides to impose conditions on a school's registration or endorsement of registration under Part 7 of the State Act.

■ 7.2 External review

Under section 72(1)(e), an appeal can be made to the District Court against a decision made by the Board in proceedings under Part 7 of the State Act.

An appeal under this section against a decision may be made:

- a. in the case of a decision made in disciplinary proceedings—by the complainant or the respondent in the proceedings in which the decision was made;
- b. in the case of a decision under section 66—by the applicant or a person entitled to be heard in the proceedings.

Under section 72(3)(b), an appeal must be instituted within 28 days after the date of the decision appealed against.

8. Monitor and review

We monitor school complaints received for trends, occurrences and the nature of concerns raised. All school complaints that are within scope of this policy contribute to a school's overall compliance history.

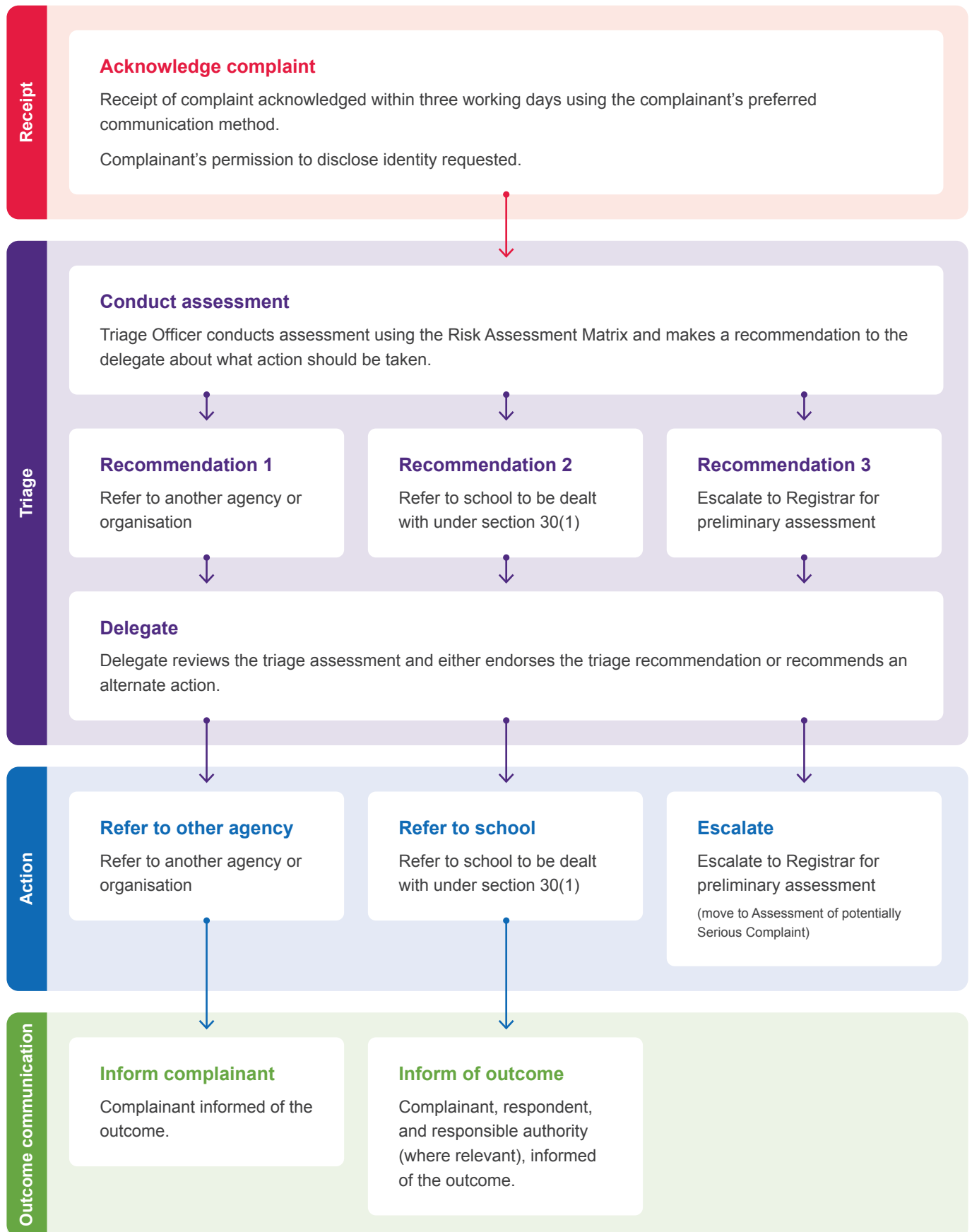
9. Documentation

We retain all records of the complaint and the management process undertaken, including triage records, the outcome of the risk assessment, the outcome of the Registrar's preliminary assessment and any recommendations and decisions made.

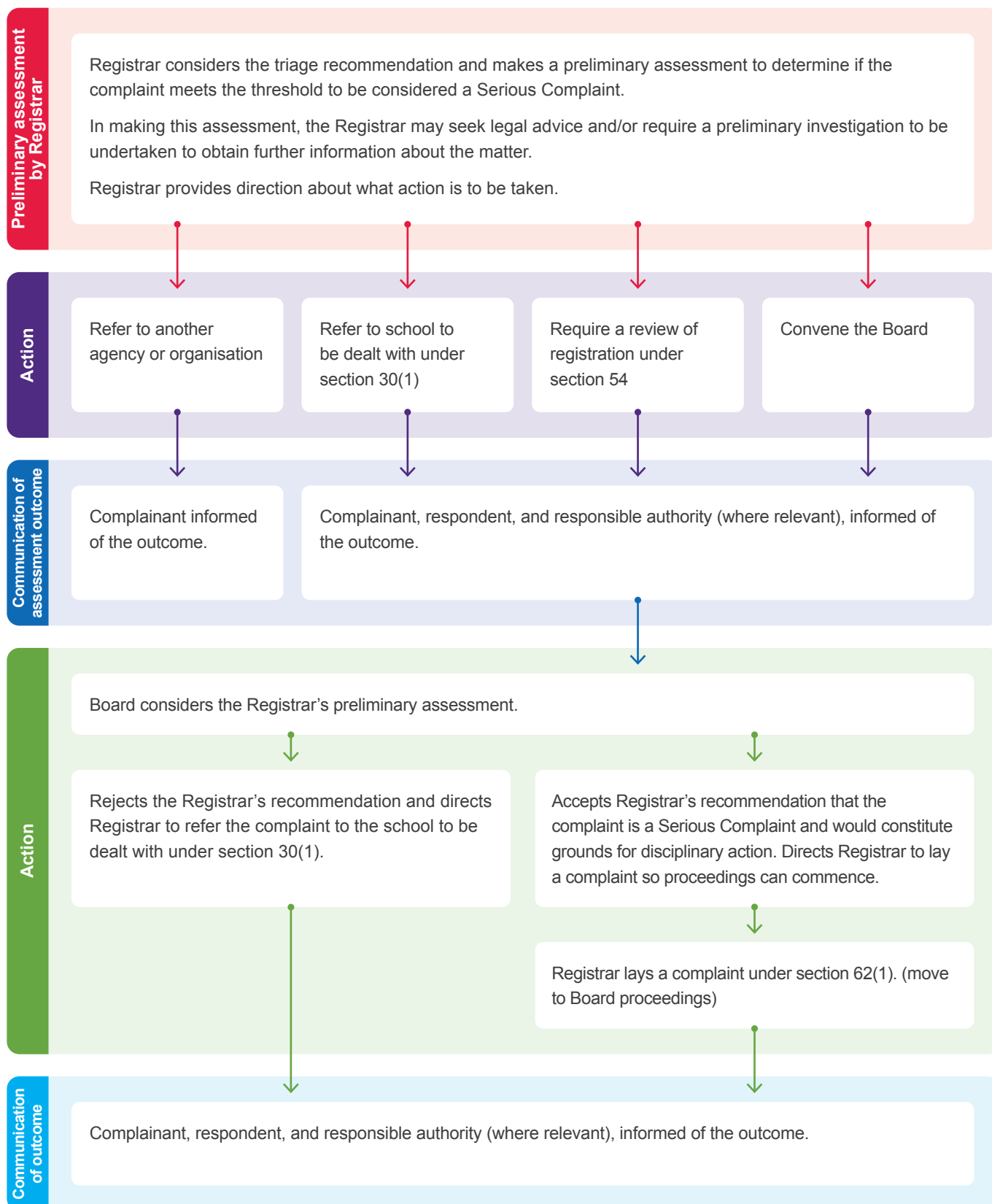
A register of complaints is maintained, and all complaints received are recorded on the register.

Appendix 1 — School complaints management process map

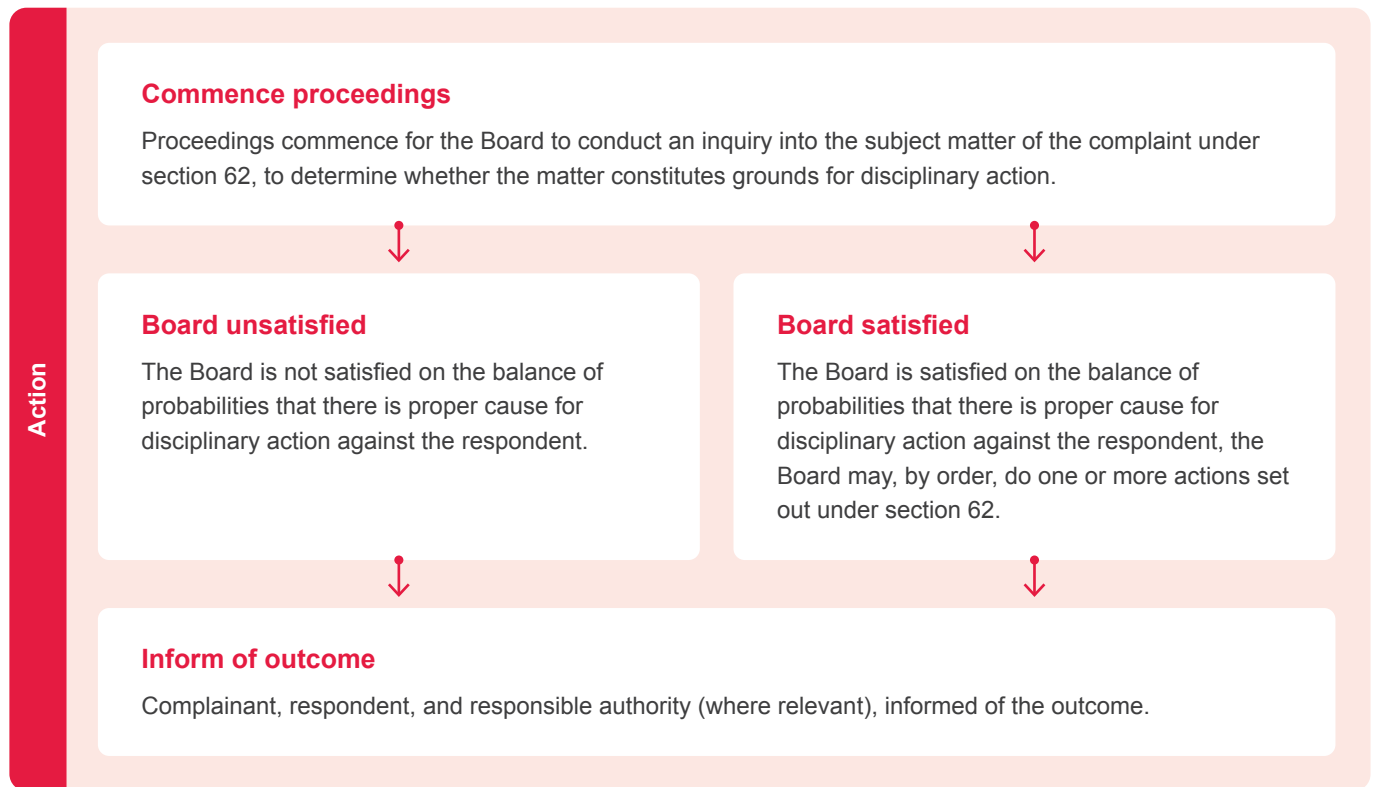
Initial complaint assessment



Assessment of potentially Serious Complaint



Board proceedings to manage Serious Complaint



Appendix 2

Risk assessment matrix

The level of seriousness is determined by the risk rating outcome. Information received about the complaint will be assessed in line with the policy.

		Likelihood				
		Rare Very unlikely – the event may only ever occur in exceptional circumstances.	Unlikely Improbable – the event is conceivable, however, not likely to occur in normal circumstances. No evidence of previous incidents.	Possible Potential – the event is not generally expected to occur but may at some time.	Likely Probable – the event will probably occur at some stage based on evidence of previous incidents.	Almost certain Very likely – the event expected to occur in most circumstances.
Consequences	Catastrophic	Moderate	High	High	Extreme	Extreme
	Major	Moderate	Moderate	High	High	Extreme
	Moderate	Low	Moderate	Moderate	High	High
	Minor	Very low	Low	Moderate	Moderate	Moderate
	Insignificant	Very low	Very low	Low	Low	Moderate



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