

Application	Board only
Purpose	This policy describes the responsibilities of the Board for addressing disputes.
References	Whistleblowers Protection Act (2001) (Vic)
Associated policies/procedures	BPM-001 Code of Conduct and Board Responsibilities Policy BPM-003 Board and CEO Relationship Policy
Associated forms	N/A
Thorne Harbour Health	The Victorian AIDS Council Inc (VAC) and the Gay Men's Health Centre Inc (GMHC) are separate legal entities and 'incorporated associations' for the purposes of the <i>Associations Incorporation Reform Act 2012</i> (Vic). Each of VAC and GMHC is overseen by independent volunteer Board members, elected or appointed under the Constitutions for each entity. The entities operate under the trading name of Thorne Harbour Health. Each of VAC and GMHC is registered with the Australian Charities and Not-for-profits Commission. A reference to 'the Board' refers to the collective or committee of Board members of both VAC/GMHC.

Policy scope

This policy describes the responsibilities of the Board for addressing disputes that have a detrimental effect on the performance of the Board and/or reputation of the organisation, and that occurs:

- between Board members (including in relation to the conduct of the President or other officers of the Board);
- between Members and the Board in general;
- between the CEO and a Board member
- between a staff member and the CEO and/or the President.

and that is not covered by:

- the CEO's contract;
- other relevant legislation including the Whistleblowers Protection Act (2001) (Vic).

The scope of this policy does not include conflict that occur at the operational level of the organisation. The Board's delegation to the CEO includes responsibility to address and manage operational level conflict, including grievance and complaints; and it is expected that associated processes will be articulated in operational policy and procedures which are aligned with the underpinning principles of this policy. The CEO may choose to elevate operation grievances and complaints to the Board to inform Board members of a particular issue.

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If there is a dispute between:

- A Member and another Member; or
- A Member and Thorne Harbour Health.

then the provisions of clause 44 of the Constitutions shall be invoked.

This policy does, however, address complaints made in respect of the CEO including by staff.

1. Underpinning principles and understanding of context

The Board believes that:

- transparent Board processes and effective communication, including consultation, are powerful tools for prevention and/or mitigation of harmful conflict;
- application of common sense and the exercise of respect for difference and diversity of opinion can also assist in the mitigation and management of disputes;
- while collegiality and a sense of team camaraderie among the Board and in respect to the CEO/Board relationship are desirable, it is not essential for all Board members and the CEO to 'like' or 'agree with each other in order to perform appropriately in prescribed roles effectively and in accordance with the Board's Code of Conduct;
- robust debate and diverse points of view do not inherently fall into the category of harmful conflict and the Board encourages expression and exploration of diverse views in order to achieve best outcomes for the organisation.

There are a number of pre-existing provisions and practices in place to minimise and manage disputes.

These include:

- the organisation's Constitutions, which provide mechanisms for the removal of a Board member and for removal of members, and for members to call for special meetings of the members when and if needed;
- the Board member Code of Conduct – prospective Board members should be made aware of the code prior to nomination for elections and on election, sign on to the Code (See BPM-001 Code of Conduct and Board Responsibilities Policy);
- the CEO contract, which should always include provision for management of performance and grievance and CEO performance review (See BPM-003 Board and CEO Relationship Policy);
- Board performance review;
- the membership application form endorsed by the Board which makes clear the mission, values and expectations of members as they apply for membership;
- operational level grievance and complaints process about which all staff should be fully informed;
- formal industrial processes;
- other relevant legislation including the Whistleblowers Protection Act (2001) (Vic).

2. Processes for managing complaints

- 2.1 Where a member of staff has a grievance in respect to the CEO, the staff member may contact the President of the Board or, in their absence, or when the matter is perceived to involve the President as well as the CEO, the Vice-President and provide detail of the complaint. No other member of the Board will engage with staff in discussion related to a complaint or grievance at any time.

The President, in consultation with the Vice-President or, if the matter involves the President, the Vice-President in discussion with one other member of the Board, will then determine if the complaint is:

- a matter of disagreement with a legitimate decision of the CEO;
- in any way vexatious.

In these cases, the President or (Vice-President) will indicate to the person making the complaint that this is not a matter for the Board and that they could address the issue by:

- dealing directly with the CEO;
- providing comment through their line manager (if this is not the CEO);
- providing comment through the climate survey;
- utilising the provisions of the operational grievance policy.

The President or, if the matter is addressed by the Vice-President, the Vice-President will keep a record of the complaint and their response, although the matter will not be referred to or discussed with the CEO without the permission of the complainant unless there is a clear risk to the organisation. The President or Vice-President may seek advice or support in relation to such complaints from Board members of the Governance Committee.

If the matter is of a serious nature the President, in consultation with the Vice-President or, when the matter is perceived to involve the President as well as the CEO, the Vice-President in consultation one other member of the Board, will determine:

- the best approach for independent investigation of the complaint and/or grievance and/or to mediation between the parties;
- necessary communication to and/or action in relation to the CEO;
- any necessary protection of the complainant.

The President or, if the matter is addressed by the Vice-President, the Vice-President will keep a record of the complaint and their response and will usually brief one or more of the Board members of the Governance Committee in relation to complaints of this nature.

This provision and limitations to this Board policy will be referenced in the operational grievance policy.

2.2 Where the dispute, grievance or complaint is between Board members and one or more Board member is not behaving in accordance with the Code of Conduct, then the President (providing the President is not party to the dispute) will hold responsibility for intervening:

- initially by speaking to the individual Board members and working with them to act more in accordance with the Code of Conduct and to achieve resolution in the interests of the organisations;
- if necessary, by organising a mediator (consistent with Clause 44 of the Constitutions and/or engaging the full Board in resolving the matter;
- if necessary, by instituting the provisions in the Constitution for removal of the member of the Board.

The President will directly initiate such intervention based on their own perceptions or on consideration of a request made by a Board member.

If the President is a party to the dispute, it is incumbent on them to refer the matter to the Vice-President, who will act using one or more of the options listed above. If the President fails to refer the matter to which they are a party to the Vice-President, another member of the Board may make the request of the Vice-President, or the Vice-President may initiate action. The Vice-President will, at the soonest possible time, inform the President of their intent to act in the interest of resolving the disputes and ensuring best outcomes for the Board and for the organisation as a whole.

- 2.3 Where the dispute is between one or more Board members and the CEO, the Board will rely extensively on the Board member Code of Conduct and performance review, and the CEO contract and performance review and management processes, to mitigate and address issues in the most appropriate and constructive manner. However, there may be times when the CEO experiences conflict or difficulty with an individual member of the Board and they are expected to raise the issue directly with the Board member and, only if satisfactory resolution is not achieved, bring the matter to the attention of the President.

In this circumstance, the President will determine the most appropriate course of action to achieve resolution. If it is the President with whom the CEO has an issue, the CEO is expected to raise the concern directly with the President and, only if it is not satisfactorily resolved, (and with the knowledge of the President) bring the matter to the attention of the Vice-President who will determine the most appropriate course of action to achieve resolution. This process does not preclude or substitute in any way for the legitimate industrial pathways open to the CEO.

If a Board member has a concern or issue in respect to the CEO, they should raise the matter with the President who will determine the most appropriate course of action to achieve resolution.

- 2.4 Where the grievance or complaint is made by a member, the Board will without delay invoke the procedures as described in clause 44 of the Constitutions.

The Governance Committee will maintain a full record of each member complaint, actions and outcomes in respect to the complaint and/or grievance.