



LINDISFARNE
Anglican Grammar School

Child Protection Policy

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1. RATIONALE

The purpose of this policy is to summarise the obligations imposed by child protection legislation on Lindisfarne Anglican Grammar School, its employees, contractors and volunteers at the School and to provide guidelines as to how the School will deal with certain matters. Child protection is a community responsibility. The safety, protection and well-being of all students are of fundamental importance to Lindisfarne Anglican Grammar School.

Both you and the School have a range of different obligations relating to the safety, protection and welfare of students including:

- A duty of care to ensure that reasonable steps are taken to prevent harm to students
- Obligations under child protection legislation
- Obligations under work health and safety legislation
- Participating in the annual professional development relating to their legal responsibilities relating to child protection, mandatory reporting and school expectations.

Staff members who fail to adhere to this policy may be in breach of their terms of employment.

2. CONSIDERATIONS

There are four key pieces of child protection legislation in New South Wales:

- Children's Guardian Act 2019 (Children's Guardian Act) - sets out the responsibilities of relevant entities to prevent, identify and respond to reportable conduct of employees. This includes Part 3A Child Safe Scheme
- Children and Young Persons (Care and Protection) Act 1998 (NSW) (Care and Protection Act) - sets out the responsibilities of Community Services with regard to child protection
- Child Protection (Working With Children) Act 2012 (NSW) (W/WC Act) - relating to working with children check clearances for all persons at the school engaged in child-related work
- Crime Act 1900 (Crime Act)

Relevant Government Entities

- [NSW Office of the Children's Guardian](#)
- [NSW Department of Communities and Justice](#)
- NSW Government's response to the Wood Special Commission - [Keep Them Safe](#)

3. RELATED POLICIES

- *CODE002 Code of Conduct – Staff* which sets out information about the standards of behaviour expected of all employees, contractors and volunteers of the School;
- *WHSL001 Work Health and Safety Policy* which summarises the obligations imposed by work health and safety legislation on the school and workers;
- *CHIL002 Safe and Supportive Environment Policy* which summarises your obligations in relation to unlawful discrimination, harassment and bullying.

- *PAST005 Anti-Bullying Policy* outlines the school's approach to student bullying

4. CHILD SAFE SCHEME AND THE CHILD SAFE STANDARDS

The Child Safe Scheme gives the Office of the Children's Guardian (OCG) additional powers to monitor and investigate how organisations implement the Child Safe Standards to support the safety and wellbeing of children and young people. Under the Scheme, certain child-related organisations, including in the Education, Early Childhood, Health and Youth Justice sectors, must implement the Child Safe Standards.

The Office of the Children's Guardian is an independent statutory body that promotes the interests, safety and rights of children and young people in NSW. The core functions of the Office of the Children's Guardian include administering Working With Children Checks, Reportable Conduct Scheme and implementation of the Child Safe Standards.

The Child Safe Standards are:

1. Child safety is embedded in organisational leadership, governance and culture.
2. Children participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved.
4. Equity is upheld, and diverse needs are taken into account.
5. People working with children are suitable and supported.
6. Processes to respond to complaints of child abuse are child-focused.
7. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.
8. Physical and online environments minimise the opportunity for abuse to occur.
9. Implementation of the Child Safe Standards is continuously reviewed and improved.
10. Policies and procedures document how the organisation is child safe.

5. COMPLIANCE and RECORDS

The Principal or delegate monitors compliance with this policy and securely maintains school records relevant to this policy, which includes:

- register of staff members who have read and acknowledged that they read and understood this policy
- Working With Children Check clearance (WWCC clearance) verifications
- mandatory reports to the Department of Communities and Justice (DCJ)
- reports of reportable conduct allegations, the outcome of reportable conduct investigations and/or criminal convictions.

6. CHILD PROTECTION

The safety, protection and welfare of students is the responsibility of all staff members and encompasses:

- a duty of care to ensure that reasonable steps are taken to prevent harm to students which could reasonably have been foreseen
- obligations under the child protection legislation.

6.1. Children Protection Concerns

There are different forms of child abuse. These include neglect, sexual, physical and emotional abuse.

Neglect is the continued failure by a parent or caregiver to provide a child with the basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

Sexual abuse is when someone involves a child or young person in a sexual activity by using their power over them or taking advantage of their trust. Often children are bribed or threatened physically and psychologically to make them participate in the activity. Child sexual abuse is a crime.

Physical abuse is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes but is not limited to injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation. Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.

Hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punish a child (in a non-trivial way) is a crime.

Emotional abuse can result in serious psychological harm, where the behaviour of their parent or caregiver damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma.

Although it is possible for 'one-off' incidents to cause serious harm, in general, it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child.

This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.

6.2. Child Wellbeing Concerns

Child well-being concerns are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold, risk of significant harm as detailed in Section 10.1.2.

6.3. Staff Member Concerns

Key legislation requires reporting of particular child protection concerns. However, as part of the School's overall commitment to child protection, all staff are required to report any child protection or child wellbeing concerns about the safety, welfare or wellbeing of a child or young person to the Principal.

If the allegation involves the Principal, a report should be made to the Chairperson of the School Council.

7. TRAINING

7.1. The School

The school provides all staff members with a copy of this policy and will provide all staff members with the opportunity to participate in child protection training annually.

7.2. Staff Members

All new staff members must read this policy and sign the acknowledgement that they have read and understood the policy.

All staff members must participate in annual child protection training and additional training, as directed by the Principal. Training complements this policy and provides information to staff about their legal responsibilities related to child protection and school expectations including:

- mandatory reporting
- reportable conduct
- working with children checks
- professional boundaries.

All staff members must read this policy and acknowledge it as read and understood.

8. WORKING WITH CHILDREN

The WWC Act protects children by requiring persons engaged in child-related work to have WWCC clearance or current application to engage in child-related work. Failure to do so may result in a fine or imprisonment.

The Office of the Children's Guardian (OCG) is determining applications for a WWCC clearance. It involves a national criminal history check and review of reported workplace misconduct findings. The result is either:

- grant a WWCC clearance (generally valid for 5 years), or
- refuse a WWCC clearance (further application cannot be made for 5 years).

In addition, the OGC may impose an interim bar on engaging in child-related work for both applicants and WWCC clearance holders.

WWCC clearance holders are subject to ongoing monitoring by the OGC.

8.1. Responsibilities for Working With Children Checks

8.1.1. Staff Members and Volunteers

Staff who engage in child-related work and eligible volunteers are required to:

- hold and maintain a valid WWCC clearance
- not engage in child-related work at any time that they are subject to an interim bar or bar
- report to the Principal if they are no longer eligible for a Check, the status of their Check changes or are notified by the OGC that they are

- subjected to a risk assessment
- notify the OCG of any change to their personal details within 3 months of the change occurring. Failure to do so may result in a fine.

It is an offence for an employee to engage in child-related work when they do not hold a WWCC clearance or are subject to a bar.

All volunteers are required to:

- To be aware and follow the expectations of conduct expressed in the Lindisfarne Staff Code of Conduct.
- Some volunteers, including parents and close relatives, engaged in high-risk roles may be required to have a WWCC clearance. There are three specific instances when close relatives do need a WWCC when they are volunteering at school or activities: providing personal care for a child with disability, participating in a formal mentoring program or at an overnight camp for children.

8.1.2. The School

The school is required to:

- verify online and record the status of each child-related worker's WWCC clearance
- only employ or engage child-related workers or eligible volunteers who have a valid WWCC clearance
- advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred to the OCG's Working With Children Check Directorate. It is an offence for an employer to knowingly engage a child-related worker who does not hold a WWCC clearance or who has a bar.

8.2. WWCC Clearance

A WWCC clearance is authorisation under the WWC Act for a person to engage in child-related work.

8.2.1. Child-related work

Child-related work involves direct contact by the worker with a child or children, and that contact is a usual part of and more than incidental to the work. Child-related work includes, but not limited to work in the following sectors:

- early education and child care including education and care service, child care centres and other child care
- education schools and other educational institutions and private coaching or tuition of children
- religious services
- residential services, including boarding schools, homestays more than three weeks, residential services and overnight camps

- transport services for children including school bus services, taxi services for children with disability and supervision of school road crossings
- counselling, mentoring or distance education not involving direct contact.

Any queries about whether roles/duties engage in child-related work should be directed to the Principal or the Director of Human Resources.

8.2.2. Application/Renewal

An application or renewal can be made through Service NSW or its replacement agency. The process for applying for or renewing a WWCC clearance with the OCG involves a national police check and a review of findings of misconduct. If the OCG grants or renews a WWCC clearance, the holder will be issued with a number that is to be provided to the School to verify the status of a staff member's WWCC clearance.

8.2.3. Refusal/Cancellation

The OCG can refuse to grant a WWCC clearance or cancel a WWCC clearance. The person is then restricted from engaging in child-related work and not able to apply for another clearance for five years. Employers are notified by the OCG and instructed to remove such persons from child-related work.

8.2.4. Interim bar

The OCG may issue an interim bar, for up to 12 months, to high-risk individuals to prevent them from engaging in child-related work while a risk assessment is conducted. If an interim bar remains in place for six months or longer, it may be appealed through the Administrative Decisions Tribunal.

Not everyone who is subject to a risk assessment will receive an interim bar; only those representing a serious and immediate risk to children.

Interim bars are issued only for risks considered likely to result in a final bar. A final bar is based on a decision made by the OCG, following a risk assessment. This person is barred against working with children.

8.2.5. Disqualified person

A disqualified person is a person who has been convicted, or against whom proceedings have been commenced for a disqualifying offence outlined in Schedule 2 of WWC Act.

A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child related-work.

8.3. Ongoing Monitoring

The OCG will continue to monitor criminal records and professional conduct findings

of all WWCC clearance holders through a risk assessment process.

A risk assessment is an evaluation of an individual's suitability for child-related work.

The OCG will conduct a risk assessment on a person's suitability to work with children when a new record is received, which triggers a risk assessment. This may include an offence under Schedule 1, pattern of behaviour or offences involving violence of sexual misconduct representing a risk to children, findings of misconduct involving children.

8.4. Processes for Reporting to the OCG

Independent Schools are defined as a reporting body by the WWC Act.

The School is required to advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred to the OCG's WWCC Directorate. Information must also be referred internally to the OCG's WWCC Directorate if it meets the threshold for consideration of an interim WWCC bar, as per Section 17 of the WWC Act, pending a formal risk assessment.

The School may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act and the Children's Guardian Act.

8.4.1. Findings of misconduct involving children

The school will report any finding of reportable conduct to the OCG.

When informing an employee of a finding of reportable conduct against them, the School should alert them to the consequent report to the WWCC Directorate in relation to sustained findings of sexual misconduct, a sexual offence or a serious physical assault.

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the school in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of Section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

The School may also be required to provide information to the OCG that is relevant to an assessment of whether a person poses a risk to the safety of children or the OCG's monitoring functions.

9. MANDATORY REPORTING

The Care and Protection Act 1998 provides for mandatory reporting of children at risk of significant harm. A child is a person under the age of 16 years and a young person is aged 16 years or above but under the age of 18, for the purpose of the Care and Protection Act 1998.

Under the Care and Protection Act 1998 mandatory reporters are persons who

- in the course of their employment, deliver services including health care; welfare, education, children's services and residential services, to children
- hold a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of services including health care, welfare, education, children's services and residential services, to children.

All teachers are mandatory reporters. Other school employees may also be mandatory reporters. If you are not sure whether you are a mandatory reporter, you should check with the Principal.

9.1. Reports to Department of Communities and Justice (DCJ)

- A mandatory reporter must, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, report to the DCJ as soon as practicable. The report must include the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.
- In addition, Lindisfarne Anglican Grammar School may choose to make a report to the DCJ where there are reasonable grounds to suspect a young person (16, 17 or 18 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and well-being of the young person.
- A mandatory reporter will meet their obligation if they report to the Principal. This centralised reporting mode ensures that one person in the school has all of the information that may be relevant to the circumstances of a child at risk of significant harm.

9.1.1. Reasonable Grounds

'Reasonable grounds' refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

- first-hand observations of the child, young person
- what the child, young person, parent or another person has disclosed
- what can reasonably be inferred based on professional training and/or experience.

'Reasonable grounds' does not mean that a person is required to confirm their suspicions or have clear proof before making a report.

9.1.2. Significant Harm

A child or young person is 'at risk of significant harm' if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

- the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met
- the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care
- in the case of a child or young person who is required to attend school in accordance with the Education Act 1990, the parents or other caregivers

- have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act
- the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated
 - the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm
 - a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm
 - the child was the subject of a pre-natal report under section 25 of the Care and Protection Act 1998, and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

What is meant by 'significant' in the phrase 'to a significant extent' is that which is sufficiently serious to warrant a response by a statutory authority, irrespective of a family's consent.

What is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well-being.

The significance can result from a single act or omission or an accumulation of these.

9.2. Process for Mandatory Reporting

9.2.1. Staff Members

If you have a concern that a child or young person is at risk of significant harm, you should contact the Principal as soon as possible to discuss whether the case reaches the threshold of 'risk of significant harm' and the steps required to report the matter.

However, if there is an immediate danger to the child or young person and the Principal or next most senior member of staff is not contactable, you should speak to the Police and/or the Child Protection Helpline (13 21 11) directly and then advise the Principal or next most senior member of staff at the School as soon as possible.

Staff members are not required to, and must not, undertake any investigation of the matter. Staff members are not to inform the parents or caregivers that a report to the DCJ has been made.

You are required to deal with all reports regarding safety, welfare or well-being of a student confidentially and only disclose it to the Principal and any other person the Principal nominates. Failure to do so will be a breach of this policy.

9.2.2. The School

In general, the Principal or delegate will report these matters to the DCJ and, where necessary, the police. This is supported by the DCJ in accordance with best practice principles.

9.3. Process for Reporting Concerns About Students

9.3.1. Staff Members

The Care and Protection Act 1998 outlines a mandatory reporter's obligation to report to the DCJ concerns about risk of significant harm. However, to ensure centralised reporting, all staff members are required to report any concern regarding the safety, welfare and wellbeing of a student to the Principal. Staff members who are unsure as to whether a matter meets the threshold of 'risk of significant harm', should report their concern to the Principal regardless.

Staff members are required to deal with all reports regarding the safety, welfare or wellbeing of a student confidentially and only disclose it to the Principal and any other person the Principal nominates.

10. REPORTABLE CONDUCT

Section 29 of the Children's Guardian Act 2019 requires the heads of certain entities, including New South Wales non-government schools, to notify the OCG of all allegations of reportable conduct and convictions involving an 'employee' and the outcome of the School's investigation of these allegations. Under the Children's Guardian Act 2019 allegations of child abuse only fall within the reportable conduct jurisdiction if the involved individual is an employee of the School at the time when the allegation becomes known by the Principal.

Reportable conduct:

- involves a child (under the age of 18 years) at the time of the alleged incident
- involves certain defined conduct as described in the Act (see Section 9.1).

The OCG

- must keep under scrutiny the systems for preventing reportable conduct by employees of non-government schools and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions
- must receive and assess notifications from non-government schools concerning reportable conduct or reportable convictions
- is required to oversee or monitor the conduct of investigations by non-government schools into allegations of reportable conduct or reportable convictions
- must determine whether an investigation that has been monitored has been conducted properly, and whether appropriate action has been taken as a result of the investigation
- may directly investigate an allegation of reportable conduct or reportable conviction against an employee of a non-government school, or the handling of or response to such a matter (e.g., arising out of complaints by the person who is the subject of an allegation)

- may investigate the way in which the School has dealt with, or is dealing with, a report, complaint or notification, if the OCG considers it appropriate to do so

10.1. Reportable Conduct

Under the Children's Act 2019, *reportable conduct* is defined as:

- a sexual offence;
- sexual misconduct;
- an assault against a child;
- ill-treatment of a child;
- neglect of a child;
- an offence under section 43B or section 316A of the Crimes Act 1900; and
- behaviour that causes significant emotional or psychological harm to a child

Reportable conduct does not extend to

- conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards
- the use of physical force that, in all the circumstances, is trivial or negligible and the circumstances in which it has been investigated and the result of the investigation recorded under workplace employment procedures
- conduct of a class or kind exempted from being reportable conduct by the Children's Guardian Act 2019 under Section 30.

10.1.1. Definitions

The following definitions relate to *reportable conduct*:

- **Sexual Offence:** An offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child, such as:
 - sexual touching of a child
 - a child grooming offence. Under the Crimes Act, grooming or procuring a child under the age of 16 years for unlawful sexual activity is classed as a sexual offence. The Crimes Act (s73) also extends the age of consent to 18 years when a child is in a 'special care' relationship. Under Schedule 1 (2) of the WWC Act, grooming is recognised as a form of sexual misconduct.
 - production, dissemination or possession of child abuse material

An alleged sexual offence does not have to be the subject of criminal investigation or charges for it to be categorised as a reportable allegation of sexual offence.

- **Sexual Misconduct:** A reportable allegation of sexual misconduct is an allegation that the employee engaged in any conduct with, towards or in the presence of a child, that may be sexual in nature (but is not a sexual offence). The Act provides the following (non-exhaustive) examples:
 - descriptions of sexual acts without a legitimate reason to provide the

descriptions

- sexual comments, conversations or communications
- comments to a child that express a desire to act in a sexual manner towards the child or another child.

A reportable allegation of sexual misconduct may involve one-off alleged conduct, or an alleged pattern of conduct assessed in totality. Alleged conduct might be assessed as 'sexual in nature' when a reasonable person would consider that it may be:

- unambiguously sexual in nature without a legitimate purpose
- sexual innuendo or have sexual undertones
- engaged in – in whole or in part – for the purpose of sexual gratification
- carried out in other circumstances that make the conduct sexual in nature.

- **Assault against a child:** An assault can occur when a person intentionally or recklessly (ie knows the assault is possible but ignores the risk):
 - applies physical force against a child without lawful justification or excuse, such as hitting, kicking, punching or dragging a child (actual physical force)
 - causes a child to apprehend the immediate and unlawful use of physical force against them such as threatening to physically harm a child through words and/or gestures, regardless of whether the person actually intends to apply any force (apprehension of physical force)
- **Ill-treatment of a child.** Conduct towards a child that is:
 - unreasonable
 - seriously inappropriate, improper, inhumane or cruel.

Ill-treatment can include a range of conduct such as making excessive or degrading demands on a child, a pattern of hostile or degrading comments or behaviour towards a child or using inappropriate forms of behaviour management towards a child.

- **Neglect of a child:** A significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for a child that causes or is likely to cause harm by a person who has care and/or has responsibility towards a child.

Neglect can be an ongoing situation of repeated failure by the caregiver to meet a child's physical or psychological needs, or a single significant incident where the caregiver fails to fulfil a duty or obligation, resulting in actual harm to a child where there is potential for significant harm to a child. Examples of neglect includes:

- failing to protect a child from abuse
- exposing a child to a harmful environment
- failing to seek medical treatment for a child

- **Behaviour that causes significant emotional or psychological harm to a child:** Conduct that is intentional or reckless (without reasonable excuse), obviously or very clearly unreasonable and which results in

significant emotional harm or trauma to a child.

For a reportable allegation involving psychological harm, the following elements must be present:

- an obviously or very clearly unreasonable or serious act or series of acts that the employees knew or ought to have known was unacceptable
 - evidence of psychological harm to the child that is more than transient, including displaying patterns of 'out of character behaviour', regression in behaviour, distress, anxiety, physical symptoms or self-harm
 - an alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.
- **Allegations of sections 316A or 43B offences – NSW Crimes Act 1900:**
A section 316A offence is an offence of concealing a child abuse offence, while a section 43B offence relates to a negligent failure to reduce or remove the risk of a child becoming the victim of child abuse. Similar to the reportable conduct categories of sexual assault and assault, an employee does not need to be the subject of a criminal investigation or charge in connection with these offences for an allegation that an employee committed the offence to require notification to the OCG. However, it needs to be alleged – or assessed based on the allegation and known information – that the elements of the criminal offence may be met by the alleged conduct.

10.1.2. Other Related Definitions

- **Employee** includes:
 - an individual employed by, or in, the School
 - a volunteer providing services to children
 - a contractor engaged directly by the School (or by a third party) where the contractor holds, or is required to hold a W/WCC clearance for the purposes of their work with the School
 - a person engaged by a religious body where that person holds, or required to hold, a W/WCC clearance for the purposes of their work with the religious body.
- **Reportable Allegation:** An allegation that an employee has engaged in conduct that may be a reportable conduct.
- **Reportable Conviction:** A conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.
- **ESOA:** (Employee Subject of the Allegation).

10.2. Process for Reporting of Reportable Conduct Allegations or Convictions

10.2.1. The School

The Principal, as the Head of Relevant Entity (HRE) under the Children's Guardian Act 2019 must:

- Ensure specified systems are in place for preventing, detecting and responding to reportable allegations and convictions

- Submit a 7-day notification form to the OCG within seven business days as of becoming aware of a reportable allegation or conviction against an employee of the School.

The notification must include the following information:

- that a report has been received in relation to an employee of the School
- the type of reportable conduct
- the name of the employee
- the name and contact details of the School and Principal
- for a reportable allegation, whether it has been reported to the Police
- if a report has been made to the Child Protection Helpline, that a report has been made
- the nature of the School's initial risk assessment and risk management action

The notice must also include if known:

- details of the reportable allegation or conviction considered to be a reportable conviction
- the date of birth and working with children number of the employee subject to the report
- the police report reference number if the Police have been notified
- the report reference number if reported to the Child Protection Helpline
- the names of the relevant entities that employ or engage the employee, whether or not directly, to provide a service to children, including as a volunteer or contractor.

- Maximum penalty for failure to notify within 7 business days –10 penalty units.

10.2.2. Staff Members

Any concerns about any other employee engaging in conduct that is considered inappropriate, or reportable conduct, or any allegation of inappropriate or reportable conduct made to an employee or about the employee themselves must be reported to the Principal. Where it is uncertain if the conduct is reportable conduct, but is considered inappropriate behaviour, this must also be reported.

Staff members must also report to the Principal when they become aware that an employee has been charged with or convicted of an offence (including a finding of guilt without the court proceeding to a conviction) involving reportable conduct. This includes information relating to the employee themselves.

If the allegation involves the Principal, the staff member must report to the Chair of the School Council.

10.2.3. Parents, Carers and Community Members

Parents, carers and community members are encouraged to report any conduct that is in their view, inappropriate, reportable or criminal conduct to the Principal. If the allegation involves the Principal, the report is to be made

to the Chair of the School Council. All complaints of this nature should be made in writing to the Principal, or to the Chair of School Council if about the Principal, and marked "Private and Confidential". Alternatively, for a report related to an employee other than the Principal, an appointment can be made to meet with the Principal by contacting the Principal's Executive Assistant.

10.3. Process for Investigating an Allegation of Reportable Conduct

The Principal is responsible for ensuring the following steps are taken to investigate an allegation of reportable conduct.

10.3.1. Initial Steps

Once an allegation of reportable conduct against an employee is received, the Principal is required to:

- determine whether it is an allegation of reportable conduct
- assess whether DCJ or the Police need to be notified (i.e. if reasonable grounds to suspect that a child is at risk of significant harm or criminal offence). If they have been notified, seek clearance from these statutory agencies prior to the School proceeding with the reportable conduct investigation
- notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by DCJ or the Police)
- notify the OCG within 7 business days of receiving the allegation
- carry out a risk assessment and take action to reduce/remove risk, where appropriate
- provide an initial letter to the Employee Subject of the Allegation (ESOA) advising that an allegation of reportable conduct has been made against them and the School's responsibility to investigate this matter under Section 34 of the Children's Guardian Act 2019
- investigate the allegation or appoint someone to investigate the allegation.

10.3.2. Investigation Principles

During the investigation of a reportable conduct allegation the School will:

- follow the principles of procedural fairness
- inform the ESOA of the substance of any allegations made against them, at the appropriate time in the investigation, and provide them with a reasonable opportunity to respond to the allegations
- make reasonable enquiries or investigations before making a decision
- avoid conflicts of interest
- conduct the investigation without unjustifiable delay
- handle the matter as confidentially as possible
- provide appropriate support for all parties, including the child/children, witnesses and the ESOA.

10.3.3. Investigation Steps

In an investigation, the investigator will generally:

- interview relevant witnesses and gather relevant documentation
- the investigator will draft the letter of allegation and the HRE will provide the letter of allegation to the ESOA provide a letter of allegation to the ESOA
- provide the ESOA with the opportunity to provide a response to the allegations, either in writing or at an interview
- consider relevant evidence and make a preliminary finding in accordance with the OCG guidelines
- inform the ESOA of the preliminary findings in writing by the Principal and provide them with a further opportunity to respond or make a further submission prior to the matter moving to final findings
- consider any response provided by the ESOA
- make a final finding in accordance with the OCG Guidelines;
- decide on the disciplinary action, if any, to be taken against the ESOA;
- if it is completed, send a final report to the OCG within 30 days after having received the allegation, as per Section 36 of the Children's Guardian Act 2019
- should the report be unfinished within 30 days, the Principal must provide, at a minimum, an interim report to the OCG within 30 days of having received the allegation, as per Section 38 of the Children's Guardian Act 2019.

Submission of an interim report must include:

- a reason for not providing the final report within 30 days and an estimated time frame for completion of the report
- specific information, including (if known); the facts and circumstances of the reportable allegation; any known information about a reportable conviction; action taken since the OCG received a notification about the reportable allegation or reportable conviction; further action or no further action the Principal proposes to take in relation to the reportable allegation or reportable conviction; the reasons for the action or proposed action or the reasons for not proceeding with further action; other related information prescribed by the regulations; and
- be accompanied by copies of documents in the School's possession, including transcripts of interviews and copies of evidence.

The steps outlined above may need to be varied to meet certain circumstances. For example, if the matter is being investigated by the DCJ or the Police.

An ESOA may have an appropriate support person with them during the interview process. Such a person is there for support only and as a witness to the proceedings and not as an advocate or to take an active role.

10.4. Risk Management Throughout an Investigation of a Reportable Conduct Allegation

Risk management means identifying the potential for an incident or accident to occur and taking steps to reduce the likelihood or severity of its occurrence.

The Principal is responsible for risk management throughout the investigation and will assess risk at the beginning of the investigation, during and at the end of the investigation.

10.4.1. Initial Risk Assessment

Following an allegation of reportable conduct against an employee, the School conducts an initial risk assessment to identify and minimise the risks to:

- the child(ren) who are the subject of the allegation
- other children with whom the employee may have contact
- the ESOA
- the School
- the proper investigation of the allegation.

The factors which will be considered during the risk assessment include:

- the nature and seriousness of the allegations
- the vulnerability of the child(ren) the ESOA has contact with at work
- the nature of the position occupied by the ESOA
- the level of supervision of the ESOA
- the disciplinary history or safety of the ESOA and possible risks to the investigation.

The Principal will take appropriate action to minimise risks. This may include the ESOA being temporarily relieved of some duties, being required not to have contact with certain students, being asked to take paid leave or being suspended from duty. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the ESOA.

A decision to take action on the basis of a risk assessment is not indicative of the findings of the matter. Until the investigation is completed and a finding is made, any action, such as an employee being suspended, is not to be considered to be an indication that the alleged conduct by the employee did occur.

10.4.2. Ongoing Risk Assessment

The Principal will continually monitor risk during the investigation, including in light of any new relevant information that emerges.

10.4.3. Findings

At the completion of the investigation, a finding will be made in relation to the allegation and a decision made by the Principal regarding what action, if any, is required in relation to the ESOA, the child(ren) involved and any other parties.

10.4.4. Information for the ESOA

The ESOA will be advised:

- that an allegation has been made against them (at the appropriate time in the investigation)
- of the substance of the allegation, or of any preliminary finding and the final finding.

The ESOA does not automatically have the right to:

- know or have confirmed the identity of the person who made the allegation
- be shown the content of the OCG notification form or other investigation material that reveals all information provided by other employees or witnesses.

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the School in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of Section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

10.4.5. Disciplinary Action

As a result of the allegations, investigation or final findings, the School may take disciplinary action against the ESOA (including termination of employment)

In relation to any disciplinary action the School will give the ESOA:

- details of the proposed disciplinary action; and
- a reasonable opportunity to respond before a final decision is made.

10.4.6. Confidentiality

It is important when dealing with allegations of reportable conduct that the matter be dealt with as confidentially as possible.

The School requires that all parties maintain confidentiality during the investigation, including in relation to the handling and storing of documents and records.

Records about allegations of reportable conduct against employees will be kept in a secure area and will be accessible by the Principal or the Principal's express authority.

No employee may comment to the media about an allegation of reportable conduct unless expressly authorised by the Principal to do so.

Staff members who become aware of a breach of confidentiality in relation to a reportable conduct allegation must advise the Principal.

11. CRIMINAL OFFENCES

In 2018 the Crimes Act was amended to adopt recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. The new offences can also constitute reportable allegations under the Scheme and are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the Police.

11.1. Failure to Protect Offence (Crimes Act 1900 – NSW)

An adult working in a school, therefore all staff members, will commit an offence if they know another adult working there poses as serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they negligently fail to do so either by acts and/or omissions.

The offence is targeted at those in positions of authority and responsibility working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.

11.2. Failure to Report Offence (Crimes Act 1900 – NSW)

Any adult, and therefore all staff members, will commit an offence if they know, believe or reasonably ought to know a child abuse offence has been committed and fail to report the matter to the Police, without a reasonable excuse. A reasonable excuse would include where the adult has reported the matter to the Principal and is aware that the Principal has reported the matter to the Police.

11.3. Special Care Relationships (Crimes Act 1900 – NSW)

It is a crime in NSW for a staff member, volunteer or contractor to have a sexual relationship with a student where there is a special care relationship. The Act provides that a young person is under an adult's special care if the adult is a member of the teaching staff of the School at which the young person is a student; or has an established personal relationship with the young person in connection with the provision of religious, sporting, musical or other instruction.

The Special Care (sexual intercourse) offence under s73 was supplemented by an additional special care offence involving sexual touching, now under s73A of the Crimes Act. The new offence under s73A will expand special care offences to also apply to non-penetrative sexual touching. The offence will protect children aged 16-17 years from inappropriate sexual contact with teachers and others who have

special care of the child.

12. POLICY ADMINISTRATION

This policy will be reviewed periodically, or in the event of any information or incident that indicates the need for a review, or following relevant legislative or organisational change.

CHIL001 Child Protection Policy	
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Owner	Stuart Marquardt
Position Held	Principal
Approved by the Principal	