

# ST EUPHEMIA COLLEGE



## PREP – YEAR 12

**CHILD PROTECTION  
POLICY AND PROCEDURES  
2023**

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The following abbreviations are used throughout this document.

CPWWCC	refers to the Child Protection Working with Children's Check
DCJ	refers to the Department of Communities and Justice
DPPS	refers to the Deputy Principal Primary School
HOE	refers to the Head of Relevant Entity, in this case the Principal
HSA	refers to the High School Administrator
OCG	refers to the Office of the Children's Guardian
WWCC	refers to Working with Children's Check
ESOA	refers to employee subject of allegation

## **1. INTRODUCTION**

### **1.1 Purpose and scope**

This Policy sets out staff responsibilities for child protection and processes that staff must follow in relation to child protection matters. This Policy applies to all staff members, which includes employees, contractors and volunteers.

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

### **Introduction**

The safety, protection and wellbeing of all students is of fundamental importance to Saint Euphemia College. The College is committed to providing a safe and secure environment for all its students and is committed to understanding and fully implementing all legislation applicable to the care and protection of children and young people. Saint Euphemia has zero tolerance for child abuse and supports child protection. Within its Christian context, Saint Euphemia College values the unique and immeasurable worth of each child and seeks to nurture and promote the wellbeing and development of each student who comes into its care.

Saint Euphemia College accepts its duty of care to the children and young people within the College and seeks to diligently uphold all its duty of care obligations through educating and supporting staff, students and the school community in appropriate and safe dealings with students.

Saint Euphemia College places high priority on the exercise of procedural fairness and natural justice, and on the support of students and employees involved in matters of reportable conduct.

### **1.2 Key legislation**

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

- the Children and Young Persons (Care and Protection) Act 1998 (“Care and Protection Act”);
- the Child Protection (Working with Children) Act 2012 (“WWC Act”);
- the Children’s Guardian Act 2019 (“Children’s Guardian Act”)
- Part 3A Child safe scheme (“Children’s Guardian Act”)
- the Crimes Act 1900 (“Crimes Act”).

#### **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.

### 1.3 Related policies

There are a number of other School Policies that relate to child protection that staff members must be aware of and understand including (but not limited to):

- Code of Conduct - sets out information about the standards of behaviour expected of all staff members
- Work Health and Safety Statement - identifies the obligations imposed by work health and safety legislation on the School and staff members
- Discrimination, Harassment and Bullying Statement - summarises obligations in relation to unlawful discrimination, harassment and bullying
- Complaint Handling Procedures – provides the steps taken by the School in addressing complaints
- Student Welfare – sets out information about the expected behaviour of students and other issues that affect the welfare of the student.

### 1.4 Compliance and records

The Principal or their 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 have read and understood this Policy.
- Working with Children Check clearance verifications.
- mandatory reports to the Department of Communities and Justice (DCJ), previously known as the Family and Community Services.
- reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

## 2. CHILD PROTECTION

The safety, protection and welfare of students are the responsibility of all staff members and encompass:

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

### 2.1 Child 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.

## **2.2 Child wellbeing concerns**

Child wellbeing 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 in section 6.2.2.

## **2.3 Staff member responsibilities**

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 Deputy Principal Primary School who will be responsible for notifying the President of the Board of Directors.

# **3. RECRUITMENT**

## **3.1 Recruitment procedures**

Saint Euphemia College adopts robust recruitment procedures to ensure child safety through pre-employment screening including, but not limited to the following:

- a. The recruitment section of the College website provides a statement of Saint Euphemia College’s commitment to child protection, that preferred candidates will be screened in accordance with the requirements of the WWC Act, and that prohibited persons are ineligible to apply for employment
- b. By conducting interviews and referee checks of applicants for employment
- c. The College’s website publishes a copy of this policy
- d. By following the College’s Working with Children Check procedures
- e. It is a condition of employment at Saint Euphemia College that all staff obtain and maintain a valid Working with Children Check clearance prior and during their employment.
- f. Saint Euphemia College will not employ or continue to employ a person in child-related work that is known, or there is reasonable cause to believe that the person:
  - a. is not a holder of a Working with Children Check clearance, or
  - b. is subject to an interim bar.

# **4. TRAINING**

## **4.1 The School**

The School provides all staff members with a copy of this Policy and Procedures and provides all staff members with the opportunity to participate in child protection training annually.

Staff register their attendance by signing an attendance sheet during inservices conducted by AIS consultants or during inservices led by Senior School Executives. Teachers who are absent during Child Protection related meetings are provided with the reading material by the DPPS and HAS and further inserviced by a delegated authority. These registers are kept in the ‘Staff Meetings’ folder located in DPPS and HAS’ offices.

For online courses, teachers complete the assigned modules and evaluate their learning using their eTAMS account. Additionally, completion of online courses is checked through the AIS portal by the DPPS and the HSA. Teachers who have not completed the required online courses are asked to complete these and their

completion is monitored by the DPPS and the HSA. These registers are kept in the 'Inservice' folder located in DPPS and HAS' Offices.

## **4.2 Staff members**

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

All staff members must participate in annual child protection training and additional training, as directed by the Principal/Delegated Authority. The training compliments this Policy and Procedures and provides information to staff about their legal responsibilities related to child protection and School expectations, including:

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

## **5. WORKING WITH CHILDREN**

The WWC Act protects children by requiring an employee to have a Working with Children Check (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 responsible for determining applications for a WWCC clearance. It involves a national criminal history check and review of reported workplace misconduct findings. The result is either to:

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

In addition, the OCG 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 OCG.

### **5.1 Responsibilities for Working with Children Checks**

#### **5.1.1 Staff members**

Staff members who engage in child related work and eligible volunteers (including those volunteers working at overnight camps) are required to:

- hold and maintain a valid WWCC clearance
- not engage in child related work at any time that they are subjected to an interim bar or a bar
- report to the Principal if they are no longer eligible for a WWCC clearance, the status of their WWCC clearance changes or are notified by the OCG 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 a condition of employment at the College that staff obtain and maintain a valid WWCC clearance.

It is the responsibility of the staff member to renew their WWCC prior to expiry. The staff member is responsible for paying for the cost of the WWCC. The College will not reimburse staff.

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

All volunteers are required to be aware of, and follow, the expectations of conduct expressed in the school staff Code of Conduct.

Volunteers who are not otherwise exempt under the WWCC Act and are involved in child-related work are required to hold and maintain a valid WWCC clearance. The school may also require volunteer staff to sign the 'Volunteer Statutory Declaration'.

### **5.1.2 The School**

Once in receipt of a Curriculum vitae from a prospective applicant, the School is required to:

- verify online and record the status of each child-related worker's WWCC clearance. Online verification is the responsibility of the Principal, Deputy Principal Primary School or Business Manager.
- record the status of each child related worker's Check (Appendix 2)
- 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 where 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 Directorate (WWCC 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.

The School may also choose to randomly recheck the status of its staff by verifying all or part of the staff cohort.

## **5.2 Working with Children Check clearance**

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

### **5.2.1 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 is not limited to work in the following sectors:

- early education and childcare including education and care service, childcare centres and other childcare
- 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 or duties of those engaged in child related work should be directed to the Principal.

### **5.2.2 Application/Renewal**

An application or renewal can be made through Service NSW or its replacement agency. The process for applying for and 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 which is to be provided to the School to verify the status of a staff member's WWCC clearance.

### **5.2.3 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.

### **5.2.4 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 to 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 will do so.

### **5.2.5 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.

## **5.3 Ongoing monitoring**

The OCG will continue to monitor criminal records and professional conduct findings of all WWCC clearance holders through a risk assessment process.

### **5.3.1 Risk assessments**

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 and findings of misconduct involving children.

## **5.4 Process for reporting to OCG**

### **5.4.1 The School**

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 WEWCC bar, as per Section 17 of the WWC Act, pending a formal risk assessment.

The Principal is responsible for making such notifications.

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.

#### **5.4.2 Finding 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 under the Act 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 access information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

#### **5.4.3 Other information**

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.

### **6. MANDATORY REPORTING**

#### **6.1 Who is a Mandatory Reporter?**

The Care and Protection Act 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 who is under the age of 18, for the purposes of the Care and Protection Act.

Under the Care and Protection Act mandatory reporting applies to persons who:

- in the course of their employment, deliver services including health care, welfare, education, children's services and residential services, to children and young persons
- 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 and young persons, are mandatory reporters.

All teachers are mandatory reporters. Other staff members may also be mandatory reporters. Any queries about whether other staff members are mandatory reporters should be directed to the Principal.

#### **6.2 Reports to Communities and Justice**

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 Department of Communities and Justice (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, the School may choose to make a report to DCJ where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and wellbeing of the young person.

In the independent school sector a mandatory reporter will meet their obligation if they report to the Principal at the School. This centralised reporting model ensures that a person in the School has all of the information that may be relevant to the circumstances of the child at risk of significant harm and addresses the risk of the School not being aware of individual incidences that amount to cumulative harm.

Where, for any reason, a staff member who raises a mandatory report concern is unable to satisfy themselves that the matter has been reported to the DCJ, the staff member has a duty to report the name, or a description of the student, and the grounds for suspecting that the student is at risk of significant harm to the DCJ as soon as practicable.

### **6.2.1 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:

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

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

### **6.2.2 Significant harm**

A child or young person is 'at risk of significant harm' if current concerns exist for the safety, welfare or wellbeing 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 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 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 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 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 wellbeing.

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

### **6.3 Process for mandatory reporting**

#### **6.3.1 Staff members**

Staff members must raise concerns about a child or young person who may be at risk of significant harm with the Principal as soon as possible in order to ascertain whether the matter meets 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 is not contactable, then either of the DPPS or the HSA of the School should be contacted. If these people are not available, the staff member will contact the Welfare Coordinator High School or the Senior Coordinator Primary School. If none of the persons listed are contactable, the staff member should contact 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 permitted to inform the parents or caregivers that a report to DCJ has been made.

Staff members are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this Policy, but could incite potential civil proceedings for defamation.

#### **6.3.2 The School**

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

### **6.4 Process for reporting concerns about students**

#### **6.4.1 Staff members**

The Care and Protection Act outlines a mandatory reporter's obligation to report to 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 with confidentiality and only disclose it to the Principal and any other person the Principal nominates.

The College has additional support services which may be accessed depending on the circumstances involved. For example, referral to the school counsellors, chaplains, senior staff and services external to the school. In the first instance, all of these services should be accessed through the Principal.

### **6.5 Records of Mandatory Reports**

Records about mandatory reports are kept securely by the school counsellor in the student's file, or by the Primary Deputy Principal and are only accessible by the Principal, Primary Deputy Principal, Welfare Coordinator, or with the Principal's express authority.

## **7. REPORTABLE CONDUCT**

Section 29 of the Children Guardian Act 2019 requires the Heads of Entities, including non-government schools in New South Wales, 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 relevant entity at the time when the allegation becomes known to the Head of Entity.

Reportable Conduct:

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

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 (eg arising out of complaints by the person who is the subject of an allegation)
- may investigate the way in which a relevant entity has dealt with, or is dealing with, a report, complaint or notification, if the OCG considers it appropriate to do so.

### **7.1 Reportable conduct**

Under the Children's Guardian 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 (failure to protect) or section 316A(failure to report) of the Crimes Act 1900
- behaviour that causes significant 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 was used have been investigated and the result of the investigation has been recorded in accordance with appropriate procedures.

### 7.1.1 Definitions

The following definitions relate to *reportable conduct*:

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;
  - production, dissemination or possession of child abuse material.

Definitions of ‘grooming’, within child protection legislation, are complex. 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. The Children’s Guardian Act 2019 and this Child Protection Policy reflect these definitions within the context of the Reportable Conduct Scheme (Division 2).

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

- **Sexual misconduct:** conduct with, towards or in the presence of a child that is sexual in nature (but 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.

Note – crossing professional boundaries comes within the scope of the scheme to the extent that the alleged conduct meets the definition of sexual misconduct. That is, the conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence).

- **Assault:** 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, striking, kicking, punching or dragging a child (actual physical force); or
  - 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:** is defined as conduct towards a child that is:
  - unreasonable; and
  - seriously inappropriate, improper, inhumane or cruel.

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

- **Neglect:** defined as 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 a caregiver to meet a child's physical or psychological needs, or a single significant incident where a caregiver fails to fulfill a duty or obligation, resulting in actual harm to a child where there is the potential for significant harm to a child. Examples of neglect include failing to protect a child from abuse and exposing a child to a harmful environment.

- Behaviour that causes significant **emotional or psychological harm** to a child is 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, and
  - 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, and
  - An alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.
- **Reportable allegation** is an allegation that an employee has engaged in conduct that may be reportable conduct.
  - **Reportable conviction** means a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.
  - **Employee** of an entity includes:
    - an individual employed by, or in, the entity
    - a volunteer providing services to children
    - a contractor engaged directly by the entity (or by a third party) where the contractor holds, or is required to hold, a WWCC clearance for the purposes of their work with an entity; and
    - a person engaged by a religious body where that person holds, or is required to hold, a WWCC clearance for the purposes of their work with the religious body.
  - **ESOA** (Employee Subject of the Allegation).

## 7.2 Process for reporting of reportable conduct allegations or convictions

### 7.2.1 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 the 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 Deputy Principal Primary School who has the duty to report to the President of the Board of Directors.

### **7.2.2 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 or their delegate. All such reports will be dealt with in accordance with the School's Complaint Handling Procedures.

### **7.2.3 The School**

The Principal, as the HOE under the Children's Guardian Act 2019, must:

- ensure specified systems are in place for preventing, detecting and responding to reportable allegations or convictions
- submit a 7-day notification form to the OCG within 7 business days of becoming aware of a reportable allegation or conviction against an employee of the entity (unless the Head of the Entity has a reasonable excuse). (Appendix 3)

The notification should include the following information:

- (a) that a report has been received in relation to an employee of the School
- (b) the type of reportable conduct
- (c) the name of the employee
- (d) the name and contact details of School and the Head of Entity
- (e) for a reportable allegation, whether it has been reported to Police
- (f) if a report has been made to the Child Protection Helpline, that a report has been made
- (g) the nature of the relevant entity's initial risk assessment and risk management action.

The notice must also include the following, if known to the Head of Entity:

- (a) details of the reportable allegation or conviction considered to be a reportable conviction
  - (b) the date of birth and working with children number, if any, of the employee the subject of the report
  - (c) the police report reference number (if Police were notified)
  - (d) the report reference number if reported to the Child Protection Helpline
  - (e) the names of other 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.

## **7.3 Process for investigating an allegation of reportable conduct**

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

### **7.3.1 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 (ie, if reasonable grounds to suspect that a child is at risk of significant harm or a potential 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 or caregivers (unless to do so would be likely to compromise the investigation or any investigation by DCJ or Police)
- notify the OCG within 7 days of receiving the allegation (Appendix 3)
- carry out a risk assessment and take action to reduce/remove risk, where appropriate and provide an initial letter to the 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.

### **7.3.2 Investigation principles**

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

- follow the principles of procedural fairness (Appendix 6)
- 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.

### **7.3.3 Investigation steps**

In an investigation, the Principal or appointed investigator will generally:

- interview relevant witnesses and gather relevant documentation
- provide a letter of allegation to the ESOA  
provide the PSOA with the opportunity to provide a response to the allegations either in writing or at Interview
- consider relevant evidence and make a preliminary finding in accordance with the OCG guidelines
- inform the ESOA of the preliminary finding 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 the final report to the OCG within 30 days after having received the allegation, as per section 36 of the Children's Guardian Act 2019. (Appendix 5)
- should the final report be unfinished within 30 days, the Head of Entity must provide, at 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. (Appendix 4)

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 the Head of Entity proposes to take in relation to the reportable allegation or reportable conviction; including if the Head of Entity proposes to take no further action; the reasons for the action taken and the action proposed to be taken or the reasons for the decision to take no further action; other 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. (Appendix 4)

The steps outlined above may need to be varied on occasions to meet particular circumstances. For example, it may be necessary to take different steps where the matter is also being investigated by DCJ or 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.

#### **7.4 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.

##### **7.4.1 Initial risk assessment**

Following an allegation of reportable conduct against an employee, the Principal 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
- required not to have contact with certain students
- asked to take paid leave
- 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.

#### **7.4.2 Ongoing risk assessment**

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

#### **7.4.3 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.

#### **7.4.4 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 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.

#### **7.4.5 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
- a reasonable opportunity to respond before a final decision is made.

#### **7.4.6 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 in the Administration Office and will be accessible by the Principal or the Principal's authorised delegate.

No employee may comment to the media about an allegation of reportable conduct unless expressly authorised by the Principal to do so. (Refer to the Critical Incidents Policy and Procedures)

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

## **8. 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 are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the police.

### **8.1 Failure to protect offence (Crimes Act 1900 - NSW)**

An adult working in the School, therefore all staff members, will commit an offence if they know another adult working there, poses a 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 acts of omissions.

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

### **8.2 Failure to report offence (Crimes Act 1900 - NSW)**

Any adult, therefore, all staff members, will commit an offence if they know, believe or reasonably ought to know that a child abuse offence has been committed and fail to report that information to 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.

### **8.3 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.

## 9. Acknowledgement

I \_\_\_\_\_ have read, understood and agree to comply with the terms of this Child Protection Policy.

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Dated

## 10. **APPENDICES**

The following documents are attached to this policy:

1. Volunteer Statutory Declaration and Consent and Undertaking Form
2. Procedures for Verification of WWCC
3. The Investigative Process
4. Procedural Fairness

## REFERENCES

NSW Family and Community Services

[www.community.nsw.gov.au](http://www.community.nsw.gov.au)

NSW Ombudsman

[www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

The Children's Guardian (formerly the NSW Commission for Children and Young People)

[www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)

Department of Premier and Cabinet – Keep Them Safe

[www.keepthemsafe.nsw.gov.au](http://www.keepthemsafe.nsw.gov.au) (click subheading Mandatory Reporter Guide which leads to Childstory)

Further details of obligations of employers can be found in the *Information for Employers* guidelines and/or *Information for reporting bodies* factsheet developed by the OCG found at [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)

## 10. APPENDICES

### 10.1 Appendix 1 – Volunteer Statutory Declaration



#### STATUTORY DECLARATION UNDER THE OATHS ACT 1900 (NSW)

Under section 40A of the *Child Protection (Working with Children) Act 2012*

First name:.....Surname.....

Previous names:.....

Date of birth ..... ☐ Male ☐ Female

Place of Birth.....

Street address:.....

Suburb ..... State ..... Post Code: .....

Occupation .....

I do solemnly and sincerely declare that:

1. I am in child-related work or applying to be in child-related work within the meaning of the NSW *Child Protection (Working with Children) Act 2012*, but am exempt from the requirement to hold a working with children check clearance under the *Child Protection (Working with Children) Regulation 2013* at the time of the making of this declaration.
2. I have not been refused a working with children check clearance under the *Child Protection (Working with Children) Act 2012* (this declaration may be made if a clearance was subsequently granted to you).
3. I have not had a working with children check clearance cancelled under the *Child Protection (Working with Children) Act 2012* (this declaration may be made if the clearance was surrendered by you, a clearance was subsequently granted to you, or the cancellation was overturned on review).
4. I am not currently subject to an interim bar on engaging in child-related work under the *Child Protection (Working with Children) Act 2012*.
5. I have not been convicted of an offence, or subject to a finding of guilt for an offence or a finding that the charge for an offence is proven, where the offence was committed as an adult in New South Wales or elsewhere and was an offence of the following kind:
  - (a) a sexual assault or intercourse offence;
  - (b) the common law offence of rape or attempted rape;
  - (c) an indecent assault offence;
  - (d) a sexual servitude offence;
  - (e) observing a person engaged in a private act, for the purpose of obtaining sexual arousal or sexual gratification (voyeurism);
  - (f) filming another person engaged in a private act or filming another person's private parts, for the purpose of obtaining, or enabling another person to obtain, sexual arousal or sexual gratification;
  - (g) installing a device, or constructing or adapting the fabric of a building, for the purpose of facilitating the observation or filming of a child, with the intention of enabling any person to commit an offence referred to at (d)-(e) above;
  - (h) murder of a child;
  - (i) manslaughter of a child (other than as a result of a motor vehicle accident);
  - (j) intentional wounding or causing grievous bodily harm to a child who was three or more years younger than me;
  - (k) a child prostitution offence;
  - (l) an offence involving an act of indecency with or towards a child;
  - (m) procuring or grooming a child under 16 years of age for unlawful sexual activity;
  - (n) using a child for the production of child abuse material, or producing, disseminating, possessing or importing child abuse material;
  - (o) possessing or importing child pornography;
  - (p) offences relating to the use of a postal or similar service for child pornography material or child abuse material;
  - (q) offences relating to the use of a postal or similar service involving sexual activity with a child under 16;
  - (r) publishing indecent articles;
  - (s) an offence of kidnapping a child, unless a parent or carer of the child at the time of the offence;
  - (t) a forced labour or deceptive recruiting for labour or services offence, where the victim was a child;
  - (u) intentional or reckless infliction of grievous bodily harm on a child, during or after the delivery of the child;
  - (v) intentionally abandoning or exposing a child under the age of seven;
  - (w) bestiality;
  - (x) an offence an element of which is an intention to commit one of the above offences; or
  - (y) an offence of attempting, or of conspiracy or incitement, to commit one of the above offences.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1900*.

Signature [of declarant]..... Date.....

Declared at: [place].....

## STATUTORY DECLARATION UNDER THE OATHS ACT 1900 (NSW)

Under section 40A of the *Child Protection (Working with Children) Act 2012*



This declaration was signed in the presence of an authorised witness, who states:

I, *[name of authorised witness]* .....

Position: *[qualification of authorised witness]*.....

Certify the following matters concerning the making of this statutory declaration by the person who made it:  
*[please cross out the text that does not apply]*

1. I saw the face of the person *OR* \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. I have known the person for at least 12 months *OR* \*I have confirmed the person's identity using an identification document and the document I relied on was

Describe identification document relied upon .....

.....  
Signature of authorised witness

.....  
Date

.....  
Position of authorised witness

### Note:

To complete the statutory declaration process the applicant must also complete the Consent and Undertaking to the Statutory Declaration.

## Consent and Undertaking Form

### Consent attached to Statutory Declaration to be used for audit purposes under Section 40A *Child Protection (Working with Children) Act 2012*

I ..... declare that I am the person named in the attached Statutory Declaration.

I am aware that providing false information in a statutory declaration is a serious offence.

I consent to the Children's Guardian or a person approved by the Children's Guardian obtaining and considering my criminal records from any jurisdiction (if any) and such other records or other information as may be permitted by the *Child Protection (Working with Children) Act 2012* for the purpose of verifying the information provided in the attached Statutory Declaration in accordance with section 40A of that Act.

I acknowledge that the Office of the Children's Guardian or a person approved by the Children's Guardian may provide information in the attached Statutory Declaration to the Australian Criminal Intelligence Commission (ACIC), an Agency of the Commonwealth of Australia, and the Australian Police Agencies for the purposes of a Working with Children Check, which includes a National Police History Check.

I acknowledge that any information provided by me in the attached Statutory Declaration relates specifically to the purpose of obtaining a Working with Children Check for the purpose of verifying the information provided in the attached Statutory Declaration.

I consent to:

- ACIC disclosing personal information about me to the Australian Police Agencies;
- the Australian Police Agencies disclosing to ACIC, from their records, details of convictions and outstanding charges, including findings of guilt or the acceptance of a plea of guilty by a court, that can be disclosed in accordance with the laws of the Commonwealth, States and Territories and, in the absence of any laws governing the disclosure of this information, disclosing in accordance with the policies of the Australian Police Agency concerned;
- the ACIC providing the information disclosed by the Australian Police Agencies to the Office of the Children's Guardian or a person approved by the Children's Guardian in accordance with the laws of the Commonwealth.

I acknowledge that information released as part of the National Police History Check obtained from ACIC will be released in accordance with the Spent Convictions Schemes (see below)

I understand that there may be exclusions from the Spent Convictions Schemes in the information that may be released.

I acknowledge that any information provided by the Australian Police Agencies or the ACIC, relates specifically to the purpose of verifying the information provided in the attached Statutory Declaration. ACIC's privacy officer can be contacted on (02) 6268 7000 or by e-mail to [privacy@acic.gov.au](mailto:privacy@acic.gov.au) or in writing to GPO Box 1573 Canberra City ACT 2601.

I acknowledge that the Office of the Children's Guardian or a person approved by the Children's Guardian may obtain information or documents for the purpose of verifying the information provided in the attached Statutory Declaration from:

- ACIC;
- NSW Police;
- the Director of Public Prosecutions, whether or not those documents are subject to legal professional privilege or other restrictions of disclosure;

- Courts; and
- Government agencies and other persons holding information about me.

I acknowledge that personal information that I provide in the attached Statutory Declaration may be disclosed to the Office of the Children's Guardian or a person approved by the Children's Guardian (including contractors or related bodies corporate) located in Australia for administrative purposes.

The OCG privacy officer may be contacted on General phone: 02 8219 3600 or by e-mail to [kids@kidsguardian.nsw.gov.au](mailto:kids@kidsguardian.nsw.gov.au) or in writing to **Attn: Director Business and Executive Support Office of the Children's Guardian** Suite 1, Level 13, 418A Elizabeth St SURRY HILLS NSW 2010

I acknowledge that it is usual practice for an applicant's personal information to be disclosed to Australian Police Agencies for them to use for their respective law enforcement purposes including the investigation of any outstanding criminal offences.

I acknowledge that the Office of the Children's Guardian will be informed if the information provided in my Statutory Declaration is inaccurate.

I acknowledge that the Office of the Children's Guardian may disclose such information to:

- my employer;
- NSW Police or other Australian Police Agencies;
- the Ombudsman;
- any other investigative agency that the Children's Guardian considers appropriate;
- the Department of Family and Community Services;
- the Director of Public Prosecutions;
- a court or tribunal;
- an approved interstate screening agency;
- the Minister of Family and Community Services;
- the Office of the Information and Privacy Commissioner;
- any other person approved by the Information and Privacy Commissioner and prescribed in the *Child Protection (Working with Children) Regulation 2013* (NSW).

I understand that I may withdraw my consent but may only do so by:

- Ceasing any paid or unpaid child-related work, and;
- Making a written request to have my Working with Children Check Clearance cancelled

If I do not have a Working with Children Check Clearance, I understand that to withdraw consent in relation to my application for a Working With Children Check Clearance, I may only do so by:

- Ceasing any paid or unpaid child-related work, and;
- Making a written request to withdraw my application

I understand I can request to have my Working with Children Check clearance cancelled or my application withdrawn by writing to:

**Working With Children Check**  
Office of the Children's Guardian  
Suite 1, Level 13, 418A Elizabeth St  
SURRY HILLS NSW 2010  
Email: [check@kidsguardian.nsw.gov.au](mailto:check@kidsguardian.nsw.gov.au)

Signature

Date

(Part VIIIIC of the Crimes Act 1914 (Cth); Criminal Records Act 1991 (NSW); Criminal Law (Rehabilitation of Offenders) Act 1986 (QLD); Spent Convictions Act 2009 (SA); Spent Convictions Act 1988 (WA); Criminal Records (Spent Convictions) Act 1992 (NT); Spent Convictions Act 2000 (ACT); Annulled Convictions Act 2003 (TAS); Victoria Police Information Release Policy).

Undertaking to accompany Statutory Declaration to be used for audit purposes under section 40A of the *Child Protection (Working with Children) Act 2012*

I provide with this Statutory Declaration certified copies of identity documents equal to or greater than 100 points as outlined in the requirements for identity verification at:

<https://www.acic.gov.au/files/npcs-proof-identity-requirements>

First Name:.....Surname.....

Previous names:.....

Date of birth ..... ☐ Male ☐ Female

Street address:.....

Suburb .....State .....Post Code: .....

My Drivers Licence Number is: ..... ☐ I do not have a Drivers Licence

I currently hold a passport issued by the .....Government

Passport Number ..... ☐ I do not have a current passport

In addition to the address provided, I have lived at the following Australian addresses in the past five years

☐ I have not lived at another Australian address in the past five years.

Street address:.....

Suburb .....State .....Post Code: .....

Street address:.....

Suburb .....State .....Post Code: .....

**Undertaking under section 40A of the *Child Protection (Working with Children) Act 2012***

I undertake, as a condition of my continuing to perform child-related work (including volunteering) for **<employer name>**, that I will notify **<employer name>** of:

- (a) any refusal to grant me a working with children check clearance under the NSW *Child Protection (Working with Children) Act 2012*;
- (b) the cancellation of any working with children check clearance I may hold under the NSW *Child Protection (Working with Children) Act 2012*;
- (c) the imposition of an interim bar under the NSW *Child Protection (Working with Children) Act 2012* that prevents me from engaging in child-related work that requires a working with children check clearance; and
- (d) any conviction imposed on me for an offence, or finding that I am guilty of an offence, or finding that the charge for an offence against me is proven, where the offence is of the kind referred to in the attached Statutory Declaration.

.....  
Signature

.....  
Date

## 10.2 Appendix 2 – Procedures for Verification of WWCC

### Introduction

A Working with Children Check (WWCC) is a mandatory requirement for people who work or volunteer in child related work. This clearance must be obtained prior to the commencement in a child related role. It involves a national criminal history check and a review of findings of workplace misconduct.

All workers who have direct (physical or face to face) contact with children need a WWCC clearance to work in a child related role.

### Verification

Before commencing their role at the School, the School must verify the WWCC clearance with the Office of Children's Guardian (OCG) to ensure that it is valid and current.

- The Deputy Principal Primary School or the High School Administrator will be responsible for checking WWCCs, by logging onto the Office of Children's Guardian <https://wwccemployer.ocg.nsw.gov.au> and typing in the name, the date of birth of the employee and the WWCC number provided. The DPPS or HSA then receives an email from the OCG confirming the status of the employee.
- The DPPS or HSA will print the email as verification and keep a copy of current WWCC clearances on file in their offices.

### Verification outcomes

The possible verification outcomes are:

- a clearance to work with children
- the application requires risk assessment
- an autobar or refusal which means the employee cannot work in a child related role.

The WWCC is valid for five (5) years.

### Record Keeping

For auditing purposes the School must keep these records for seven (7) years.

The School must include the following information in table format.

- Full name (including first, middle and last name)
- Date of birth
- Commencement of Employment
- WWC number
- Verification date (the date you verified them)
- Verification outcome (clearance, barred, interim barred or not found)
- Expiry date (when the WWC number expires)
- Status of the worker (paid or volunteer)



Office of the  
Children's Guardian

Reportable  
Conduct Scheme

## 7-Day Notification Form

### Part 4 *Children's Guardian Act 2019*

\* = compulsory in all cases

\*\* = compulsory when known

#### 1. Notification Details

1.1 Date or date range of alleged incident, if known:

1.2 Date head of relevant entity (HRE) aware of reportable allegation:

1.2.1 Source of the report/allegation:  Choose an item.

1.3 \* If this notification is made more than 7 business days after the HRE became aware of the reportable allegation, please state the reasons:

If longer than 50 words please attach a separate word document with this form

#### 2. Details of Relevant Entity

2.1 \* Name of relevant entity:

2.2 Type of relevant entity:  Choose an item.

2.3 \* Head of relevant entity (HRE) or approved delegate details

2.3.1 \* Name:

2.3.2 Job title:

2.3.3 \* Contact details

2.3.3.1 Tel:

2.3.3.2 Email:

2.4 Is the contact person different to HRE or approved delegate: Choose an item.

2.4.1 Name and job title:

2.4.2 Contact details

2.4.2.1 Tel:

2.4.2.2 Email:

### 3. Head of Relevant Entity (HRE) – Mandatory Considerations and Authorisation

3.1 Click here to confirm that the HRE or approved delegate has given consideration to mandatory factors specified at section 40(3) of the *Children's Guardian Act 2019*: ☐

### 4. Details of Employee the Subject of Notification

Note, you can only notify multiple employees in one notification if they are the subject of a reportable allegation arising from the same incident (if more than 1 attach separately)

How many employees are the subject of this notification?: Choose an item.

#### Employee (if more than one employee please provide the following details in a separate attachment)

4.1 \* Name of employee:

4.2 \*\*DOB (or age at time of alleged incident):

4.3 Gender: Choose an item.

4.4 Employee's place of employment within relevant entity:

4.4.1 Employee job title:

4.4.2 Employment status: Choose an item.

4.4.3 If the person was engaged/contracted through a third party, please name the third party:

4.5 Employee requires or otherwise holds a WWCC for their employment with this entity:

Choose an item.

4.5.1 \*\*WWCC #:



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4.6 \*\*The employee has other child-related work (including as a volunteer or contractor who is required to hold a WWCC for the purpose of the engagement): Choose an item.

4.6.1 \*\*If yes, please provide the details (including the name and contact details, if known, of the other entities that employ or engage the person in child-related work):

If longer than 50 words please attach a separate word document with this form

4.7 Is the employee aware of the allegation? Choose an item.

## 5. Details of reportable allegation/s or conviction considered to be a reportable conviction

5.1 \* Primary allegation type: Choose an item.

5.2 \* Secondary allegation type: Choose an item.

5.3 Details of alleged victim if known (if there is more than one alleged victim, please provide details in a separate notification form or attachment):

5.3.1 Name:

5.3.2 DOB (or if not known, age):

5.3.3 Gender:

5.3.4 Aboriginal or Torres Strait Islander: Choose an item.

5.3.5 Culturally and linguistically diverse: Choose an item.

5.3.6 Parental responsibility to Minister: Choose an item.

5.3.7 If child has disability, please state nature:

5.4 \*\*Provide the details of all reportable allegations/convictions as currently known:

If longer than 50 words please attach a separate word document with this form

5.5 \* Allegation has been reported to police by relevant entity: Choose an item.

5.5.1 \*\*If yes, police report reference #, if known:



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5.6 \* Allegation has been reported to police by other:

5.6.1 If yes, police report made by:

5.7 \* Allegation has been reported to the Child Protection Helpline by relevant entity:

5.7.1 \*\*If yes, Helpline report reference #, if known:

5.8 \* Allegation has been reported to the Helpline by other:

5.8.1 If yes, Helpline report made by:

## 6. Details of Initial Risk Assessment and Risk Management Action

6.1 \* Initial risk assessment is:

6.2 Explain risk assessment:

If longer than 50 words please attach a separate word document with this form

6.3 \* Initial risk management action taken:

6.4 Reason for initial risk management action:

## 7. Other Information

Please provide any other information you consider relevant to this notification:

If longer than 50 words please attach a separate word document with this form

Note: If you have documentation you consider relevant to this notification, please email it with information linking it to this notification (max. 25MB) to: [7day@kidsguardian.nsw.gov.au](mailto:7day@kidsguardian.nsw.gov.au) or mail to Reportable Conduct Scheme, Office of the Children's Guardian, Locked Bag 5100, Strawberry Hills 2012 NSW.

**Submit**

Please note: if using webmail some users may not have the required technical support to use the submit button. We suggest saving this form on your system as a PDF and attaching it to a direct email to [7day@kidsguardian.nsw.gov.au](mailto:7day@kidsguardian.nsw.gov.au)



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## 10.4 Appendix 4 - 30 Day Interim Report Form



Office of the  
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Reportable  
Conduct Scheme

# 30-Day Interim Report Form

## Part 4 Children's Guardian Act 2019

Heads of relevant entities (HRE) must submit an interim report on reportable allegations if:

- 30 calendar days have passed since the HRE became aware of the reportable allegation,
- The HRE has not been required to defer or suspend the investigation (by written notice from the Children's Guardian or on advice from the Commissioner of Police or the Director of Public Prosecutions),
- The Children's Guardian has not given the HRE written notice exempting the HRE from commencing or continuing the investigation, and
- The Entity Report is not ready to submit and no extension has been provided by the Children's Guardian.

**Please ensure you provide the required information\*, either in the fields provided or by attaching relevant documentation:**

- 1 Relevant entity name:
- 2 Your reference and/or employee name:
- 3 OCG reference:
- 4 \*All known facts and circumstances of the reportable allegation or conviction:  
 Or: Information is attached ☐
- 5 \*Action taken since the reportable matter was notified to the Children's Guardian:  
 Or: Information is attached ☐
- 6 \*The reasons for the action taken.  
 Or: Information is attached ☐
- 7 \*Further action proposed to be taken:  
 Or: Information is attached ☐
- 8 \*The reasons for proposed action:  
 Or: Information is attached ☐

9. If no further action has been taken, list reasons for the decisions:

Or: Information is attached ☐

10 All information requested in the 7-day notification form that was not provided with the initial notification:

Or: Information is attached ☐

11 \*Reason/s the investigation is not completed within 30 days:

Or: Information is attached ☐

12 \*An estimated timeframe for completion of the entity report:

Or: Information is attached ☐

13 \*Copies of relevant documents, including transcripts of interviews and copies of evidence:

Copies are attached ☐

14 Information provided to alleged victim(s) and/or parent or care?: Yes ☐ or No ☐

If yes, please provide the details or if no, please provide the public interest reasons for non-disclosure.

#### Person submitting entity report

Name:

Title:

Note: If you have documentation you consider relevant to this notification, please email it with information linking it to this notification (max. 25MB) to: [30day@kidsguardian.nsw.gov.au](mailto:30day@kidsguardian.nsw.gov.au) or mail to Reportable Conduct Scheme, Office of the Children's Guardian, Locked Bag 5100, Strawberry Hills NSW 2012.

**Submit**

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## 10.5 Appendix 5 - Entity Report Form



Office of the  
Children's Guardian

Reportable  
Conduct Scheme

# Entity Report Form

## Part 4 Children's Guardian Act 2019

Once the head of entity is satisfied that the investigation has been concluded, they must, as soon as practicable, provide the Office of the Children's Guardian with an Entity Report unless the Guardian has given a written exemption or the head of the relevant entity has a reasonable excuse. Where it is considered that there is a reasonable excuse for not providing an entity report, heads of relevant entities are asked to provide the Guardian with an outline of their reasons, so the Guardian may determine whether to provide a written exemption.

One or more findings in this entity report is a finding (ie, a sustained finding) of sexual offence, sexual misconduct or serious physical assault:

Yes ☐ or No ☐

Under Section 56 of the Children's Guardian Act 2019, when the head of a relevant entity makes a finding that an employee engaged in reportable conduct that is a sexual offence, sexual misconduct or serious physical assault, the Children's Guardian must report the finding to the Working with Children Check Unit of the Office of the Children's Guardian.

**Please ensure you provide the required information\*, either in the fields provided or by attaching relevant documentation:**

1 Relevant entity name:

2 Your reference or employee name:

3 OCG reference (including if the Children's Guardian consented to an extension):

4 \*The facts and circumstances of the reportable allegation or conviction:

Or: Information is attached ☐

4.1 Date entity first informed employee of reportable allegation:

4.2 Date entity informed employee of preliminary findings or (if no preliminary findings were made) the findings:

5 \*The findings for all reportable allegations (or determination of reportable conviction), including whether a finding of reportable conduct was made:

Or: Information is attached ☐

5.1 For the purposes of the Working With Children Check was there a finding of reportable conduct?

Yes ☐ or No ☐

5.1.1 If Yes, select which type(s) of reportable conduct

Sexual misconduct ☐ A sexual offence ☐ A serious physical assault ☐

5.1.2 Employee's Name

5.1.3 Employee's date of birth

5.1.4 Employee's WWCC number

5.2 For the purposes of the Working With Children Check the Employer's registration number

6 \*An analysis of the evidence (with reference to the mandatory considerations at Division 6 of Part 4 of the Children's Guardian Act 2019):

Or: Information is attached ☐

7 \*The rationale for each finding (on the balance of probabilities):

Or: Information is attached ☐

8 \*The action that has been or will be taken, including remedial or disciplinary action in relation to the employee; any referral of information; changes to systems or policies; other action; no action:

Or: Information is attached ☐

9 \*The reasons for the action taken or for not taking further action:

Or: Information is attached ☐

Under Section 56 of the Children's Guardian Act 2019, when the head of a relevant entity makes a finding that an employee engaged in reportable conduct that is a sexual offence, sexual misconduct or serious physical assault, the Children's Guardian must report the finding to the Working with Children Check Unit of the Office of the Children's Guardian.



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10 \*Any other information the Guardian has required in writing in relation to the reportable allegation/s or the entity's response:

Or: Information is attached ☐ or N/A ☐

10.1: Provide dates of all periods during which the investigation was suspended or exempted from progressing and the reasons:

10.2: If the investigation took > 6 months to complete, please list any factors that contributed to the length of time the investigation took (such as complexity, difficulty locating witnesses, victim or employee wellbeing, difficulty/delay obtaining third party information, entity inexperience with reportable conduct investigations, resourcing in entity, or any other factors):

The Children's Guardian is required to report publicly on investigations not completed within 6 months.

11 \*Copies of all relevant documents, including transcripts of interviews and copies of evidence (excluding copies of documents already provided to the Reportable Conduct Directorate):

Copies are attached ☐

12 Information provided to alleged victim(s) and/or parent or carer?: Yes ☐ or No ☐

If yes, please provide the details or if no, please provide the public interest reasons for non-disclosure.

#### Person submitting entity report

Name:

Title:

Note: If you have documentation you consider relevant to this notification, please email it with information linking it to this notification (max. 25MB) to: [entityreport@kidsguardian.nsw.gov.au](mailto:entityreport@kidsguardian.nsw.gov.au) or mail to Reportable Conduct Scheme, Office of the Children's Guardian, Locked Bag 5100, Strawberry Hills 2012 NSW.

Submit

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Under Section 56 of the Children's Guardian Act 2019, when the head of a relevant entity makes a finding that an employee engaged in reportable conduct that is a sexual offence, sexual misconduct or serious physical assault, the Children's Guardian must report the finding to the Working with Children Check Unit of the Office of the Children's Guardian.



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## 10.6 Appendix 6 – Procedural Fairness

### Procedural Fairness

Procedural fairness is a basic right of all when dealing with authorities. Procedural fairness refers to what is sometimes described as the ‘hearing rule’ and the ‘right to an unbiased decision.

The ‘hearing rule’ includes the right of the person against whom an allegation has been made to:

- know the allegation related to a specific matter and any other information which will be taken into account in considering the matter
- know the process by which the matter will be considered
- respond to the allegation
- know how to seek a review of the decision made in response to the allegations

The ‘right to an unbiased decision’ includes the right to:

- impartiality investigation and decision-making processes
- an absence of bias by a decision maker.