



FOR RUDOLF STEINER EDUCATION LTD.

## **Child Protection Policies**

Care and Protection of Children and Young People Policy

Reportable Conduct Policy

Working With Children Compliance Policy

To be provided to all new staff at time of employment induction.  
All changes and updates to be uploaded to website and all current staff to be notified.

**EMPLOYEE ACKNOWLEDGEMENT**

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

\_\_\_\_\_

Signed

\_\_\_\_\_

Date

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## CHILD PROTECTION

### Care and Protection of Children and Young People Policy

Drafted/Rev By:	Education Manager College of Teachers	Status:	Current
Responsibility:	Management Team	Scheduled review Date:	June 2016

#### 1.0 INTRODUCTION

This Policy sets out roles and responsibilities of Mumbulla School employees in relation to child protection including training, reporting on safety, and supporting children and young people, as well as monitoring, evaluation and reporting requirements.

This policy applies to all employees of Mumbulla School for Rudolf Steiner Education.

#### 2.0 PURPOSE

- To understand the important role of educators in supporting the safety and wellbeing of children and young people.
- To identify problems that may put the safety, welfare or wellbeing of children or young people at risk of significant harm.
- To ensure that all Mumbulla employees realise that they have a duty of care to report risk of significant harm concerns about children and young people, within their roles, and to provide support to children and young people.
- To understand that child protection reforms (Chapter 16A of the Children and Young Persons Care and Protection Act) introduce an obligation for government and non-government agencies to coordinate decision making and delivery of services.

#### 3.0 POLICY

##### 3.1 GENERAL

Mumbulla School recognises that care and protection for children and young people is a shared responsibility. It begins with parents, but when statutory support becomes necessary, it is not the sole responsibility of Family and Community Services (FACS) but a collective responsibility.

*Keep Them Safe: A shared approach to child wellbeing provides the framework for parents, schools, communities, government and non-government agencies to work together to support children and families.*

## 3.2 DEFINITIONS

**Mandatory Reporter.** Under the Care and Protection Act persons who:

1. in the course of their employment, deliver services including health care, welfare, education, children's services and residential services, to children; or
2. 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, are mandatory reporters.

**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 speak to the Education Manager or a member of the Management Team.

**Mandatory Reporting Threshold (Age Threshold). 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 FACS as soon as practicable, the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

In addition, while not mandatory, the School considers that a report should also be made to FACS 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 well-being of the young person.

**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:

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

'Reasonable grounds' does not mean that you are required to confirm your suspicions or have clear proof before making a report.

### **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:

- a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
- b) 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,

- c) 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,
- d) the child or young person has been, or is at risk of being, physically or sexually abused or ill- treated,
- e) 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,
- f) 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,
- g) 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.

**For more detailed information and definitions in relation to Mandatory Reporting please refer to the *Mandatory Reporting Procedure Document*.**

### **3.3 RELEVANT LEGISLATION**

Key legislation:

- Children and Young Persons (Care and Protection) Act 1998;
- Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009;
- Commission for Children and Young People Act 1998;
- Crimes Act 1900,

Other relevant legislation:

- Ombudsman Act 1974,
- Education Act 1990

### **3.4 RESPONSIBILITIES AND DELEGATIONS**

#### **3.4.1 Management Responsibilities**

##### **3.4.1.1 Reporting**

- To use appropriate tools to inform decision making, such as the online Mandatory Reporter Guide, professional judgment or specialist advice, where there are concerns about risk of harm
- To determine whether concerns about the safety, welfare or wellbeing of children or young people constitute risk of significant harm and, if they do, report these to FACS

- To seek advice from FACS where there is uncertainty about whether concerns amount to risk of significant harm
- To contact FACS about the safety, welfare and wellbeing of children and young people where:
  1. there are concerns about risk of harm, that do not meet the threshold of significant harm but are not trivial
  2. the Mandatory Reporter Guide (MRG) indicates this should be done
  3. a case has been reported to FACS and did not meet the risk of significant harm threshold
  4. there is an observable pattern of cumulative harm that does not meet the threshold of significant harm.

#### **3.4.1.2 Supporting children and young people**

To establish effective systems in the workplace for:

- child protection concerns to be identified in the course of the work of staff, reported and action taken, where appropriate, so vulnerable children and young people are supported
- reasonable steps to be taken to coordinate decision making and coordinate services to children and young people and their families with other local service providers, if required
- collaborative work with other agencies for the care and protection of children and young people in ways that strengthen and support the family and in a manner that respects the functions and expertise of each service provider
- to exchange relevant information to progress assessments, investigations and case management as permitted by law
- to use best endeavours in responding to a request for a service from FACS provided that the request is consistent with school responsibilities and policies.

#### **3.4.1.3 Training**

- To ensure all staff have participated in an initial child protection induction and an update during the past year
- To ensure all staff are aware of the indicators of abuse and neglect of children and young people
- To ensure all staff are aware of their obligation to advise the Education Manager of concerns about the safety, welfare and wellbeing of children and young people that arise during the course of their work
- To ensure that all staff are aware of their mandatory obligation to report suspected risk of significant harm and of the procedures for doing so



### **3.4.2 Employees Responsibilities**

#### **3.4.2.1 Reporting**

- To adhere to mandatory procedures for conveying risk of harm concerns to the Education Manager (Child Protection Nominee).
- To adhere to mandatory procedures for reporting risk of significant harm to FACS.
- To ensure, where they have reported any risk of significant harm concerns to the Education Manager, that the Education Manger has reported those concerns to FACS.
- To report directly to FACS if they believe the Education Manager has not reported risk of significant harm concerns to FACS, and they still have concerns about risk of significant harm
- To ensure that any relevant information that they become aware of, subsequent to a report being made to FACS or following contact with the Child Wellbeing Unit, is provided to FACS or the Child Wellbeing Unit respectively. If the additional information forms concern about risk of significant harm a report must be made to FACS.

#### **3.4.2.2 Supporting children and young people**

- To cooperate with reasonable steps to coordinate service delivery and decision-making with other relevant service providers
- To avoid undertaking any investigation of the circumstances giving rise to a report where risk of significant harm has been reported, without the express prior approval of the relevant Community Services case officer
- To inform students, including apprentices or trainees, of their right to be protected from abuse and of avenues of support if they have concerns about abuse.

#### **3.4.2.3 Training**

- To participate in a child protection induction and in annual updates. This includes all staff – management, teaching and non-teaching staff, part-time, temporary and casual staff and those who join during the year

### **3.5 MONITORING, EVALUATION AND REPORTING REQUIREMENTS**

**3.5.1** The Education Manager and Administration must maintain a workplace register of staff participation in annual updates and of inductions of new staff, or they must sight individual records of staff inductions. This applies to all staff including non-teaching staff, part-time, temporary and casual staff.

**3.5.2** A record is to be kept of reports to FACS as confirmation that mandatory reporting requirements have been met. The report reference number should be recorded.

**3.5.3** A copy of the record is to be provided to the Education Manager as appropriate. The record and related papers are to be retained by the Education Manager in secure storage and kept confidential. These records are to be provided to any successor.

**3.5.4** If serious safety issues remain after a report has been made to, and accepted by, FACS, the Management Team may consider taking further action including directly contacting the Police.

**4.0 RESPONSIBILITIES**

All staff are responsible for ensuring that the requirements of this policy are met and the correct procedures are followed appropriately. (Refer to Section 3.4 above).

The Education Manager is responsible for acting as the Child Protection Nominee, reporting to FACS and record keeping.

**5.0 RELATED POLICIES AND OTHER DOCUMENTS**

- Child Protection Policy - Reportable Conduct
- Code of Conduct - Care and Protection of Children and Young People
- Procedure for Mandatory Reporting
- Procedure for Allegations of Reportable Conduct against Employees
- Procedure for Information Exchange

**6.0 AUTHORISATION**

Education Manager on behalf of the Management Team

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Name	Signature	Date
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## CHILD PROTECTION

### REPORTABLE CONDUCT POLICY

*(Deals with Allegations against Employees in the Area of Child Protection)*

Drafted/Rev By:	Education Manager College of Teachers	Status:	Current
Responsibility:	Management Team	Scheduled review Date:	June 2016

#### 1.0 INTRODUCTION

This policy outlines Mumbulla School's legislative responsibilities in relation to reportable conduct and demonstrates our commitment to protecting the safety and wellbeing of our students and to supporting the work of employees working with children and young people within the school and playgroup.

Mumbulla acknowledges that we hold a duty of care to children, and that people who care for children must act in the best interests of the child and take all reasonable steps to ensure each child's safety and wellbeing.

This policy applies to all employees of Mumbulla School for Rudolf Steiner Education. An 'employee' includes all employees, contractors, volunteers, work experience participants and teacher trainees. In this document where there is reference to an employee it includes all of these persons.

#### 2.0 PURPOSE

As an employer, Mumbulla has a responsibility to:

- respond to all allegations of a child protection nature specifically related to the actions of an employee and ensure appropriate action is taken in relation to the finding, including disciplinary action;
- report to the Ombudsman all reportable allegations or convictions of a child protection nature made against an employee within 30 days of the Head of Agency becoming aware of such allegations or convictions; and
- report to the Commission for Children and Young People the names of employees for whom it has completed relevant employment proceedings.

### 3.0 POLICY

#### 3.1 GENERAL

At Mumbulla the safety, welfare and wellbeing of children and young people within the school and playgroup are paramount. When responding to allegations against employees, Mumbulla also has a responsibility to ensure its employees are treated with procedural fairness and the rights of each individual are respected during an investigation and any applicable disciplinary process. This policy:

- reflects the legislative responsibility of Mumbulla to respond to allegations of a child protection nature against employees (as defined in this policy), report to the NSW Ombudsman, the Department of Family and Community Services (FACS), and the Commission for Children and Young People (CCYP); and
- supports the New South Wales Interagency Guidelines for Child Protection Intervention, 2000 edition, revised 2005, including participation in joint actions with the FACS, NSW Health Department and Joint Investigation Response Teams (JIRTs).

#### 3.2 DEFINITIONS

For the purposes of the Ombudsman Act and this policy the following definitions apply:

**Allegation:** An allegation against an employee might involve behaviour that is reportable conduct or behaviour that is exempt from notification to the Ombudsman but is required to be investigated by the school.

**Child:** Includes all children and young people up to 18 years.

**Conviction of Reportable Conduct:** This means any conviction of a person, in NSW or elsewhere, of an offence involving reportable conduct, and includes a finding by a court that a charge for such an offence is proven even though the court does not proceed to a conviction.

**Employee:** An employee is any person who is employed by the school, whether or not they are employed to work directly with children. An 'employee' includes all employees, contractors, volunteers, work experience participants, teacher trainees, clergy and ministers of religion. In this document where there is reference to an employee it includes all of these persons

**Exempt Behaviours:** Allegations against employees that are exempt from notification to the Ombudsman are:

1. Conduct that is reasonable for the purposes of 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; or
2. The use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the results of the investigation recorded under workplace employment procedures, or

3. Conduct of a class or kind exempted from being reportable conduct by the Ombudsman under S.25CA

**Head of Agency (HOA):** The 'head of agency' at Mumbulla is the Education Manager.

**Internal Investigation of an Allegation:** This involves a process where the Education Manager (HOA) causes an investigation to take place in which the designated investigator:

- Gathers all relevant facts
- Makes a decision as to whether an allegation is sustained or not
- Provides information to assist any relevant employment proceedings.

**PSOA:** The PSOA is the Person Subject of an Allegation.

**Reportable Allegation:** An allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct and must include:

- Identification of a person who is a current employee of the agency
- An alleged offence or description of offending behaviour that meets the definition of reportable conduct
- A person who was a child at the time of the alleged offence or behaviour described.

All allegations of reportable conduct must be reported to the Ombudsman.

**Reportable Conduct:**

- Any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material), or
- Any assault, ill treatment or neglect of a child, and
- Any behaviour that causes psychological harm to a child.

Whether or not, in any case, with the consent of the child.

### 3.2.1 Other relevant definitions

Set out below are definitions of the various **terms referred to above** in relation to reportable conduct.

**Behaviour that causes psychological harm to a child** is behaviour that is obviously or very clearly unreasonable and results in significant harm or trauma to a child. There needs to be a proven causal link between the inappropriate behaviour and the harm, and the harm must be more than transient.

**Child** is a person under the age of 18 years for the purposes of the Ombudsman Act.

**Ill-treatment** captures those circumstances where a person treats a child in an obviously or very clearly improper manner. The focus is on the alleged conduct rather than the actual effect of the conduct on the child.

Ill-treatment can include disciplining or correcting a child in an obviously unreasonable or inappropriate manner; making excessive and obviously unreasonable demands on a child; malevolent acts towards children; and inappropriate and hostile use of force against a child.

**Neglect** includes either an action or inaction by a person who has care responsibility towards a child. The nature of the employee's responsibilities provides the context against which the conduct needs to be assessed. Types of neglect include:

***Supervisory neglect:***

- An intentional or reckless failure to adequately supervise a child that results in the death of, or significant harm to, a child, or
- An intentional or reckless failure to adequately supervise a child or a significantly careless act or failure to act, that:
  - Involves a gross breach of professional standards, and
  - Has the potential to result in the death or significant harm to a child

***Carer neglect:***

- Grossly inadequate care that involves depriving a child of the basic necessities of life: such as the provision of food and drink, clothing, critical medical care or treatment, or shelter.

***Failure to protect from abuse:***

- An obviously or very clearly unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child.

***Reckless act (or failure to act):***

- A reckless act, or failure to act, that:
  - Involves a gross breach of professional standards, and
  - Has the potential to result in the death of, or significant harm to, a child.

**Physical Assault** is any act by which a person intentionally inflicts unjustified use of physical force against another. An assault can also occur if a person causes another person to reasonably apprehend that unjustified force is going to be used against them. Even if a person who inflicts physical harm or causes another person to reasonably apprehend physical harm does not actually intend to inflict the harm or cause fear, they may still have committed an assault if they acted 'recklessly'.

'Recklessness' in this context relates to circumstances when the person ought to have known that their actions would cause a person physical harm or cause them to fear injury.

Assaults can include hitting, pushing, shoving, throwing objects or making threats to physically harm a child.

**Misconduct Sexual** has two categories which include:

- crossing professional boundaries, and
- sexually explicit comments and other overtly sexual behaviour.

The alleged conduct must have been committed against, with or in the presence of a child.

### **Crossing professional boundaries**

Sexual misconduct including behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate:

- relationship with;
- conduct towards; or
- focus on;

a child or young person, or a group of children or young persons.

The School's code of conduct outlines the nature of the professional boundaries which should exist between employees and children/young people.

### **Sexually explicit comments and other overtly sexual behaviour**

Behaviour involving sexually explicit comments and other overtly sexual behaviour which can constitute sexual misconduct. Some forms of this behaviour also involve crossing professional boundaries. This conduct may include:

- a) inappropriate conversations of a sexual nature
- b) comments that express a desire to act in a sexual manner
- c) unwarranted and inappropriate touching
- d) sexual exhibitionism
- e) personal correspondence (including electronic communications such as e-mails and text messages) with a child or young person in relation to the adult's sexual feelings for a child or young person
- f) exposure of children and young people to sexual behaviour of others including display of pornography
- g) watching children undress. For example, in change rooms or toilets when supervision is not required or justified.

**Sexual Offences** encompasses all criminal offences involving a sexual element that are 'committed against, with or in the presence of a child'. These offences include (but are not limited to) the following:

- a) indecent assault
- b) sexual assault
- c) aggravated sexual assault
- d) sexual intercourse and attempted sexual intercourse
- e) possession/ dissemination/ production of child pornography or child abuse material
- f) using children to produce pornography
- g) grooming or procuring children under the age of 16 years for unlawful sexual activity
- h) deemed non-consensual sexual activity on the basis of special care relationships

### 3.3 LEGISLATIVE REQUIREMENTS

LEGISLATION	PURPOSE
<b>Ombudsman Act 1974</b>	All government departments, public authorities and certain non- government agencies in NSW are required to respond to allegations against employees and to notify the Ombudsman of reportable allegations or convictions
<b>Commission for Children and Young People Act 1998</b>	Agencies are required to use the new WWCC Guidelines to screen people who apply to work in child-related positions in their organisation. Notify CCYP of relevant employment proceedings.
<b>Child Protection (prohibited employment) Act 1998</b>	Employees, who work in certain unsupervised child related positions, are required to complete a 'Prohibited Employment Declaration ' and to declare if he/she is a 'prohibited person'.
<b>Children and Young persons (Care and Protection) Act 1998</b>	Mandatory reporters are required to report to the "Child Protection helpline" of Community Services any children and/or young people whom they suspect to be at 'risk of significant harm'. <i>Refer to Child Protection Policy – Care and Protection of Children and Young People</i>

### 3.4 THE ROLE OF THE OMBUDSMAN

Reportable allegations and convictions are to be notified to the Ombudsman within 30 days of the Daily Operations Manager becoming aware of such allegations or convictions. The Collegiate Chair will conduct, or cause to be conducted, investigations (which can include preliminary or other inquiries and assessments) into all allegations or convictions and take appropriate action as a result. This includes reporting the outcome of the investigation into a reportable allegation or conviction to the Ombudsman's Office.

The Ombudsman's child protection role is to:

- a) 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;
- b) receive and assess notifications from non-government schools concerning reportable conduct or reportable convictions;



- c) oversee or monitor the conduct of investigations by non-government schools into allegations of reportable or reportable convictions;
- d) 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;
- e) 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); and
- f) undertake 'own motion' investigations of non-government schools where the Ombudsman considers it appropriate to do so, including where there is evidence of systemic failure or serious conflict of interests.

### **3.5 PREVENTATIVE STRATEGIES & PROCEDURES**

**Mumbulla considers the protection of children and young people to be paramount. The following preventative strategies are in place within the school:**

- Developing and reviewing strategies to minimize reportable conduct occurring.
- Clearly defining each person's role within the organization.
- Ensuring that all staff, volunteers, outside tutors and external providers are informed of their obligations under the Child Protection (Prohibited Employment) Act 1998.
- Providing training for employees to promote best practices and to ensure a safe environment for children and employees.
- Requiring all employees to acknowledge their receipt and understanding of Mumbulla's Child Protection Policy as part of their induction process.
- Implementing thorough employment procedures that identify people who are not suitable to work with children through reference checking, pre-employment screening and detailed questioning at interviews.
- Requiring all volunteers, outside tutors and external providers to complete the Working with Children Check Declaration stating that they are not prohibited from working with children.
- Requiring visiting parent volunteers and all other outside visitors to the school to sign in and out, issuing nametags, and informing them of the policy in relation to avoiding situations where they are alone in an enclosed space with children.
- Providing information to families and the community on the child protection strategies that have been adopted by the school
- Raising awareness in the general community about child protection by displaying brochures, or other means of communication

### **3.6 ROLES & RESPONSIBILITIES**

The Management Team must ensure this policy and all related procedures are readily accessible to all employees and are incorporated into the initial child protection training provided at induction and annual child protection updates for all employees.

The Management Team must be aware of the reporting requirements associated with allegations of a child protection nature and concerns about risk of harm to children.

As Head of Agency (HOA) the Education Manager is responsible for ensuring systems are in place for the recording of and responding to all allegations or convictions against an employee, including matters that are required to be notified to the Ombudsman. The Education Manager or reporting staff member has the following responsibilities:

- Recording the allegation
- Notifying the Ombudsman as soon as possible and no later than thirty days after being made aware of an allegation.
- Reporting to the 'Child Protection Helpline' (FACS) or the police, if necessary.
- Conducting a risk assessment.
- Investigating an allegation or causing an allegation to be investigated.
- Responding to an allegation concerning the head of agency, manager or supervisor (note that allegations concerning the HOA should be investigated by an independent investigator).
- Responding to a reportable allegation against an employee where the conduct occurred outside work hours.
- Undertaking relevant employment proceedings (if any) in relation to the employee who has had an allegation of reportable conduct made against them.
- Notifying the Ombudsman whether or not the School plans to take disciplinary or other action in relation to an employee who is the subject of a reportable allegation or conviction, and the reasons for taking or not taking any such action as soon as practicable.
- Providing the Ombudsman with any documentary and other information as the Ombudsman may from time to time request to assist in the Ombudsman's monitoring of an investigation.
- Notifying the CCYP of completed relevant employment proceedings, and
- Determining the action that may be taken if it is found, at the end of investigation, that an employee has made an allegation that has been found to be false and malicious.

### **3.7 WHEN AN ALLEGATION OF REPORTABLE CONDUCT IS MADE**

#### **3.7.1 Initial Steps**

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

- a) determine on face value whether it is an allegation of reportable conduct;
- b) assess whether FACS or the Police need to be notified (ie, if reasonable grounds to suspect that a child is at risk of significant harm or criminal offence);

- c) notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by FACS or the Police);
- d) notify the Ombudsman within 30 days of receiving the allegation;
- e) carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
- f) investigate the allegation or appoint someone to investigate the allegation.

### **3.7.2 Investigation Principles**

When investigating an allegation of reportable conduct, the School will:

- a) be mindful of the principles of procedural fairness;
- b) inform the person subject of the allegation (PSOA) of the substance of any allegations made against them and provide them with a reasonable opportunity to respond to the allegations;
- c) make reasonable enquiries or investigations before making a decision;
- d) avoid conflicts of interest;
- e) conduct the investigation without unjustifiable delay;
- f) handle the matter as confidentially as possible; and
- g) provide appropriate support for all parties including the child/children, witnesses and the PSOA.

### **3.7.3 Investigation steps**

In an investigation the Head of Agency and/or appointed investigator will generally:

- a) interview relevant witnesses and gather relevant documentation;
- b) provide a letter of allegation to the PSOA;
- c) interview the PSOA;
- d) consider relevant evidence and make a preliminary finding in accordance with the NSW Ombudsman guidelines;
- e) inform the PSOA of the preliminary finding and provide them with an opportunity to respond;
- f) consider any response provided by the PSOA;
- g) make a final finding in accordance with the NSW Ombudsman Guidelines;
- h) decide on the disciplinary action, if any, to be taken against the PSOA;
- i) apply the NSW Commission for Children and Young People (CCYP) Guidelines and decide if the matter is reportable to CCYP; and
- j) send the final report to the Ombudsman and report to the CCYP (where required).

The steps followed in the investigate process will be guided by the “Recommended Protocols for Internal Investigative and Disciplinary Proceedings, 2001” (IEU/AIS) as updated from time to time (See Appendix 2.)

The steps outlined above may need to be varied on occasion to meet particular circumstances. For example it may be necessary to take different steps where the matter is also being investigated by Community Services or the NSW Police.

A PSOA 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.

### **3.8 RISK MANAGEMENT**

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 Education Manager (HOA) 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.

#### **3.8.1 Initial Risk Assessment**

The Education Manager (HOA) is responsible for conducting an initial risk assessment, including an assessment of the safety of the child/ren concerned. The purpose of this risk assessment is to identify and minimize risk to:

- The child(ren) who are the subject of the allegation;
- Other children with whom the employee may have contact;
- The PSOA;
- 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 PSOA has contact with at work;
- The nature of the position occupied by the PSOA;
- The level of supervision of the PSOA the disciplinary history or safety of the PSOA and possible risks to the investigation

The Education Manager (HOA) will take appropriate action to minimise risks. This may include the PSOA being temporarily relieved of some duties, being required not to have any contact with certain students, or being suspended from duty. When taking action to address any risks identified, the School will take into consideration both the need so of the child/ren and the PSOA.

#### **3.8.2 Ongoing Risk Assessment**

The Education Manager (HOA) will continually monitor risk during the investigation including in the light of any new relevant information that emerges.

#### **3.8.3 Risk Management at the Conclusion of the Investigation**

At the completion of the investigation, a finding will be made in relation to the allegation and a decision made by the Head of Agency regarding what action, if an, is required in relation to the PSOA, the child/ren involved and any other parties.

### **3.9 INFORMATION PROVIDED TO THE PSOA**

The PSOA will be advised:

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

The PSOA does not automatically have the right to:

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

Under the Commission for Children and Young People Act (CCYP Act) once the 'relevant employment proceedings' have been completed a PSOA can seek access to the records held by the School on their 'relevant employment proceedings' (see Part C section 3).

### **3.10 DISCIPLINARY ACTION**

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

In relation to any disciplinary action the School will:

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

### **3.11 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 Head of Agency or with the Head of Agency's express authority.

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

If you become aware of a breach of confidentiality in relation to a reportable conduct allegation you must advise the HOA.

### **3.12 SUPPORT AVAILABLE TO ALL PARTIES**

An allegation of reportable conduct is a serious matter. An investigation into a reportable allegation or conviction can be daunting for all parties. The following actions serve to help children, families, persons the subject of allegations and other employees feel supported:

- Allocating one contact person, the Education Manager (HOA) to whom all inquiries are directed.
- Ensuring that all parties are aware of the importance of maintaining confidentiality
- Keeping all parties informed of progress (as appropriate, ensuring the investigation is not compromised)
- Reassuring the person making the allegation that they have done the right thing by reporting it
- Ensuring, as far as possible, that the person making the allegation is not subject to harassment, victimisation or threats in retribution
- Offering the PSOA the opportunity to have a support person present during investigative and disciplinary interviews
- Giving information about counseling or other support services

### **3.13 REVIEWING THIS POLICY**

The Education Manager (HOA) will review the policy annually using a self-assessment checklist as supplied by the Ombudsman.

## **4.0 RESPONSIBILITY**

The Education Manager is responsible for undertaking the role of the Head of Agency (HOA) enforcing the policy within the school and reviewing the policy in accordance with the Ombudsman's requirements. All staff are responsible for abiding by the policy.

## **5.0 RELATED DOCUMENTS**

- Child Protection Policy - Care and Protection of Children and Young People
- Child Protection Policy - Compliance with the CCYP Act
- Procedure for Mandatory Reporting
- Procedure for Information Exchange

## **6.0 AUTHORISATION**

Education Manager on behalf of The Management Team

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Name

Signature

Date



## CHILD PROTECTION

### CCYP COMPLIANCE POLICY

*(Deals with employment screening for child related employment)*

Drafted/Rev By:	Education Manager College of Teachers	Status:	Current
Responsibility:	Management Team	Scheduled review Date:	June 2016

#### **1.0 INTRODUCTION**

The Commissioner for Children and Young People (CCYP) is responsible for employment screening for child related employment. The names of employees who have been the subject of completed relevant employment proceedings are reported to the CCYP unless the matter is determined to be not reportable conduct.

The CCYP keeps a database of relevant employment proceedings that has two categories.

- Category One is used in pre-employment screening processes.
- Category Two is not used in pre-employment screening processes unless the conduct reported appears to be part of a pattern of relevant conduct by the employee.

#### **2.0 PURPOSE**

The purpose of this policy is to clearly set out the school's obligation to:

- a) conduct Working With Children Checks; and
- b) notify the CCYP of relevant employment proceedings.

#### **3.0 POLICY**

##### **3.1 WORKING WITH CHILDREN CHECKS**

###### **3.1.1 The School's obligations**

The School is required to:

- a) ask all preferred applicants to declare they are not a 'prohibited person' (as defined); and
- b) verify a Working With Children Check of preferred applicants in paid child relation employment.

The School must verify a Working With Children Check before employing someone in paid child related employment and before engaging some volunteers. Existing employees may be checked if they are recruited to a new position with a different range of child related contact.



The Working with Children Check is conducted by an Approved Screening Agency. The Working With Children Check cannot be completed without the applicant's consent.

There are three types of records considered in the Working With Children Check: relevant criminal records, relevant apprehended violence orders (AVOs) and relevant employment proceedings.

The School will notify the CCYP of the details of a person whose application for child related employment has been rejected as a result of a Working With Children Check.

### **3.1.2 Prohibited persons**

It is an offence for a prohibited person to apply for or attempt to obtain, undertake or remain in child related employment in any capacity, whether paid, volunteering or self-employed.

All preferred applicants for child related employment must declare they are not a prohibited person.

It is an offence for an employer to engage anyone in child related employment without requiring them to disclose whether they are a prohibited person.

A prohibited person is someone who is a registrable person as defined in the Child Protection (Offenders Registration) Act 2000 or has been convicted of one of the following offences:

- a) murder of a child;
- b) serious sex offence, including carnal knowledge;
- c) child-related personal violence offence (an offence committed by an adult involving intentionally wounding or causing grievous bodily harm to a child);
- d) indecency offences punishable by imprisonment of 12 months or more;
- e) kidnapping (unless the offender is or has been the child's parent or carer);
- f) offences connected with child prostitution;
- g) possession, distribution or publication of child pornography; or
- h) attempt, conspiracy or incitement to commit the above offences.

A conviction includes a charge proven in court. It includes a finding that the charge is proven, or that a person is guilty, even though the court does not proceed to a conviction. Dismissed charges and pending charges for these offences do not make someone a prohibited person.

### **3.1.3 Volunteers or Students on placement**

All volunteers or students on placement working with children must sign in at the Front Office and receive a visitor badge that must be visible at all times while on school grounds. Volunteers engaged in some high risk roles must have a Working With Children Check.

## **3.2 RELEVANT EMPLOYMENT PROCEEDINGS**

### **3.2.1 Notification obligation**

Section 39 of the CCYP Act requires the School to notify the CCYP of relevant employment proceedings. Relevant employment proceedings is a completed disciplinary proceeding where

the School has found some evidence that 'reportable conduct' occurred, or an act of violence was committed by an employee in the course of employment and in the presence of a child.

The School is not required to report:

- a) conduct where it has found that the reportable conduct or act of violence did not occur or the allegations about the conduct were false, vexatious or misconceived; or
- b) conduct which is exempted from notification under a Class or Kind Agreement with the CCYP.

Completed disciplinary proceedings also include processes which have been completed through the actions of the employee, ie where an employee voluntarily terminates their employment before the School finalises the disciplinary process.

The School will advise an employee that the CCYP has been notified of a relevant employment proceeding involving them.

Under the CCYP Act an employee may request access to the records held by the School on their relevant employment proceedings.

### **3.2.2 Reportable Conduct**

Broadly, under the CCYP Act reportable conduct includes *(note that there are slight differences of definition between different pieces of child protection legislation)*:

- a) any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child; or
- b) any child pornography offence or misconduct involving child pornography; or
- c) any child-related personal violence offence; or
- d) an offence of filming for indecent purposes committed against, with, or in the presence of, a child under section 21G or 21H of the Summary Offences Act 1988; or
- e) any assault, ill-treatment or neglect of a child; or
- f) any behaviour that causes psychological harm to a child, and in any case whether or not the child consents

Reportable conduct does not extend to:

- a) 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, or
- b) conduct that is exempted from notification by a Class or Kind Agreement; or
- c) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures.

### **3.2.3 Categories**

There are two tiers of relevant employment proceedings:

**Category One** is where the investigation finds reportable conduct occurred or an act of violence took place.

**Category Two** is where the investigation finds some evidence that reportable conduct or an act of violence occurred, but the finding is inconclusive.

**Category One** matters trigger an estimate of risk when the person has a Working With Children Check.

**Category Two** matters are only considered in an estimate of risk if there are additional relevant records for the person.

#### **4.0 RESPONSIBILITY**

The Education Manager is responsible for undertaking the role of the Head of Agency (HOA) and ensuring that working with children checks take place in accordance with the requirements of the legislation.

The Educational Administrator is responsible for verifying working with children checks and other related employment screen processes.

All staff are responsible for abiding by the policy.

#### **5.0 RELATED DOCUMENTS**

- Child Protection Policy - Care and Protection of Children and Young People
- Child Protection Policy - Reportable Conduct
- Procedure for Mandatory Reporting
- Procedure for Information Exchange

#### **6.0 AUTHORISATION**

The Education Manager on behalf of The Management Team

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Name

Signature

Date

















