


Document Title: Child Protection Policy	 EMMANUEL ANGLICAN COLLEGE <i>Learning ~ Living ~ Leading</i>
Section: Child Protection	
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CHILD PROTECTION POLICY

1. Introduction

1.1. General

The safety, protection and wellbeing of all students is of fundamental importance to the College.

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

- a) a duty of care to ensure that reasonable steps are taken to prevent harm to students;
- b) obligations under child protection legislation; and
- c) obligations under work health and safety legislation.

The purpose of this Policy is to summarise the obligations imposed by child protection legislation on the College Council, College staff, contractors and volunteers at the College and to provide guidelines as to how the College will deal with certain matters.

Child protection is a community responsibility.

1.2. Key legislation

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

- a) the Children and Young Persons (Care and Protection) Act 1998 (NSW) No 157 (the Care and Protection Act);
- b) the Child Protection (Working With Children) Act 2012 No 51 (the WWC Act);
- c) The Children’s Guardian Act 2019 No 25 (“Children’s Guardian Act”); and
- d) The *Crimes Act 1900* No 40 (“Crimes Act”)

Other legislation also applies, including the (NSW) *Education Act 1990 No 8* and *Civil Liability Act 2002 No 22*. Collectively, this legislation forms a child protection framework in NSW.

From 1 March 2020, two key NSW government Agencies have responsibility under these Acts. They are the Department of Communities and Justice (DCJ) and the Office of the Children’s Guardian (OCG).

We deal with each below.

1.3. Your obligations to report



While we set out below circumstances in which the legislation requires reporting of particular child protection issues, the College requires you to report any concern you may have about the safety, welfare or wellbeing of a child or young person to the Principal or the relevant leader/coordinator.

If the allegation involves the Principal, you are required to report to the Chair of the College Council.

This obligation is part of the College's overall commitment to the safety, welfare and wellbeing of children.

The Principal has significant pastoral, legal, reporting and compliance responsibilities that cannot be delegated.

1.4 Other policies

Please note that there are a number of other College policies that relate to child protection which you need to be aware of and understand including (but not limited to):

- a) the Code of Conduct which sets out information about the standards of behaviour expected of all employees, contractors and volunteers of the College;
- b) the Work Health and Safety Statement which summarises the obligations imposed by work health and safety legislation on the College and workers; and
- c) the Discrimination, Harassment and Bullying Statement which summarises your obligations in relation to unlawful discrimination, harassment and bullying;
- d) EAC complaints handling policy and procedures; and
- d) the College's Anti-Bullying Policy

1.5 Compliance and Records

The Principal 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 (WWCC) verifications;
- Mandatory reports to the Department of Communities and Justice (DCJ), previously known as Family and Community Services; and
- Reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.



Overview of Policies and Procedures Relating to Child Protection

Staff Responsibilities

All staff are responsible for the safety, wellbeing and welfare of all students and as such are to be proactive in monitoring students, sharing information and reporting concerns to the appropriate staff and external agencies when appropriate.

Staff are to be familiar with the Child Protection Policies, Code of Conduct and any other relevant policies and procedures that support the safety, wellbeing and welfare of students. They should also ensure they understand their legal obligations in relation to Child Protection and Reportable Conduct matters.

The Principal is responsible for ensuring that all staff comply with the Child Protection Policies. The Principal ensures that staff are aware of the policies and procedures relating to Child Protection through their employment induction processes, regularly briefings, ensuring policies and procedures remain current and through professional learning opportunities.

All staff members must read the Child Protection Policy and Code of Conduct and sign the Staff Compliance Record to acknowledge that they have read and understood the policy, expectations and procedures relating to the Code of Conduct, Child Protection Policy and Reportable Conduct. New staff will complete this as part of their induction. All staff will complete this process on an annual basis.

The Administration Officer – Employment is responsible for new staff onboarding provides all new staff with the Employment Pack that includes the Staff Compliance Record and a copy of the relevant policies. The Administration Officer – Employment ensures that all documentation is signed and returned prior to the new employee commencing and advising the Principal if any matters are outstanding.

At year commencement, the Principal will meet with all staff and outline expectations and procedures relating to the Code of Conduct, Child Protection Policy and Reportable Conduct. Staff are to review the Child Protection Policy and Staff Code of Conduct annually. They are available in the Staff Handbook, which can be accessed via the shared Google Drive. All staff, including tutors and casuals will sign the Staff Compliance Record at least once a year to confirm they have read and understand these policies and procedures.

All completed Staff Compliance Checklists from new and existing staff are provided to the Principal's Executive Assistant. Upon receipt of the signed checklist the Principal's Executive Assistant records the date the policy was read on the employee's electronic record in the TASS database and notifies the Principal that the checklist is complete. The original signed checklist is filed in the employee's file which is stored in the Business Manager's office.

The staff will be kept up to date with any amendments to legislation regarding Child Protection and the expectations that arise for employees of the College. This may take place at Staff Meetings, Briefing or as part of Professional Learning opportunities.



Responding to a concern

If a staff member has a concern which is serious but not presenting as an immediate risk of harm, then the staff member is to contact a member of the Executive. The member of the Executive will ensure the Principal or Deputy Principal are informed. A member of the Executive will review the Mandatory Reporters Guide available online at: <https://reporter.childstory.nsw.gov.au/s/mrg>. An appropriate response will be developed based on the feedback from the Mandatory Reporters Guide and discussion between key personnel.

If any staff member feels that a student is at immediate risk of serious or significant harm and the Principal or member of the Executive staff is not contactable or available, they should contact the police (000) and/or the Child Protection Helpline (132 111) directly and then advise the Principal or member of the Executive staff at the College as soon as possible.

For matters that involve student welfare but do not meet the threshold of external reporting, an appropriate school-based plan and response will be developed.

It is always best practice for the person identifying the concern to consult other relevant staff members. In the case of a teacher, this may be another teacher, the appropriate middle leader or a member of the Executive.

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 the 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.

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

Responsibilities of Staff working in Child Related Employment

All staff involved in child related employment must have a current NSW Working with Children Clearance. As part of the recruitment process all potential new staff will be required to provide a current NSW Working with Children Clearance (WWCC).

The Compliance Manager is responsible for maintaining a WWCC register and ensuring that all current staff continue to hold a valid clearance. The Compliance Manager is responsible for ensuring that all new staff hold a valid WWCC prior to commencing employment in a child related role.

The Administration Officer - Employment is responsible for new staff onboarding provides all new staff with the Employment Pack that includes information on obtaining a WWCC. The Administration Officer – Employment ensures that the WWCC advice is provided and verified prior to the new employee commencing and advising the Principal if any matters are outstanding.



The Administration Officer - Employment is responsible for new staff onboarding and verifies the WWCC, for both new and existing staff, via the Office of the Children's Guardian online employer portal and prints a hard copy of the verification check status report. This is reviewed by the Compliance Manager to ensure that the status report confirms that the employee can be engaged in paid child related employment.

An employees WWC number, status of their clearance type and the expiry date is recorded on the employee's electronic record in the TASS database by a member of the Finance Team or by the Business Manager. The expiry date of their current clearance is recorded as an "expiring qualification" which triggers an email alert to be sent to finance@eac.nsw.edu.au. The finance staff remind continuing employees of the expiring date and monitor that the WWCC is renewed before it expires and notify the Principal if the process is not completed before the expiry date.

If at any stage, a current staff member becomes aware that their status may be at risk of being withdrawn or subject to an interim or permanent bar on their Working with Children Clearance, they must report this to the Principal immediately.

All staff are to ensure that they are familiar with the expectation of employee conduct as detailed in the Staff Code of Conduct. A copy of the Staff Code of Conduct is available in the Staff Handbook, which is available via the Google share drive.

Any interaction between staff and students should be open, transparent and without favour. No staff is to form a special or exclusive relation with any child.

On occasion, a staff member may find themselves in a situation, that when taken 'out of context' or 'on face value' could present as reason for others to raise question about their actions e.g. driving a group of young people (including their own child) to a weekend soccer match and one of the young people is a student at the College. In such a case, it is recommended that such an occurrence be brought to the attention of the Deputy Principal. The Deputy Principal will keep a register of such notifications and events.

If a staff member has a concern about their actions or the actions of a colleague in relation to the safety, wellbeing or welfare on a student, they must report their concern the Principal or a member of the College Executive.

If the concern suggests that a child is at immediate risk of serious harm, then either the teacher or Principal will contact the Police and the Child Protection Helpline immediately.

The Principal will seek advice from the Association of Independent Schools' Child Protection Team about matters concerning a staff member that may fit the definition of Reportable Conduct.

Record Keeping

Staff are required to keep appropriate records of issues relating to student welfare, wellbeing and safety. All staff are encouraged to share information electronically using the student database, TASS and the College email. Copies of relevant communications and documents are to be placed on the Student File and/or uploaded to the student records on TASS. This also includes any communication with external agencies.



KEY LEGISLATION

PART A: THE CHILDREN & YOUNG PERSONS (CARE AND PROTECTION) ACT 1998 No 157

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.

NOTE: Any concern regarding the safety, welfare or wellbeing of a student must be reported to Principal or the relevant leader/coordinator.

Who is a mandatory reporter?

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

- a) in the course of their employment, deliver services including health care; welfare, education, children's services and residential services, to children; or
- b) 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 College employees may also be mandatory reporters. If you are not sure whether you are a mandatory reporter, you should speak to the Principal.

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 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 College considers that a report should also be made to the Department of Communities and Justice 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

'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:

- a) firsthand observations of the child, young person or family
- b) what the child, young person, parent or another person has disclosed
- c) 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 wellbeing 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 No 8 —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.

Other Relevant Definitions

Policy definition of significant harm:

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child or young person are present to a significant extent.

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.



In the case of an unborn child, what is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child's birth.

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

Child Abuse and Neglect

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.

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 punishing a child (in a non-trivial way) is a crime.

Emotional abuse or serious psychological harm can occur 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.

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.

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.

What should you do if you consider that a mandatory report is required?

Reporting by the College about these matters to the Department of Communities and Justice (DCJ) and, where necessary, the police, is generally undertaken by the Principal. This is in accordance with best practice principles and is the expectation of the College.



The NSW Mandatory Reporter Guide has been developed to help individuals assess a situation of concern and determine the appropriate course of action. It is available at reporter.childstory.nsw.gov.au or by searching 'Mandatory Reporter Guide' or 'MRG'.

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

However, if there is an immediate danger to the child or young person and the Principal or next most senior member of staff is not contactable you should speak to the Police and/or the Child Protection Helpline (on 132 111) directly and then advise the Principal or next most senior member of staff at the School as soon as possible.

You are not required to, and must not, undertake any investigation of the matter yourself.

You are not to inform the parents or caregivers that a report to the Department of Communities and Justice has been made.

If the Principal reports the matter to the DCJ and confirms this with you, you are not required to make a further report. If the Principal does not confirm to you that the matter has been reported to the DCJ, or advises you that they do not believe the circumstances warrant the matter being reported, then if, having spoken with the Principal, you still consider that a child is at risk of significant harm, you should call the Community Services Child Protection Helpline on 132 111.

You are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with your mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this policy but could expose you to potential civil proceedings for defamation.

What should you do if you have a concern that is below the mandatory reporting threshold?

While the Care and Protection Act outlines a mandatory reporter's obligation to report to the Department of Communities and Justice as an employee of this College, any concern regarding the safety, welfare and wellbeing of a student must be reported to the Principal.

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

Reporting Student to Student Conduct

There are a range of circumstances in which student-to-student conduct may be reportable, either to the DCJ or to the NSW Police.

In the case of mandatory reporting to the DCJ, mandatory reporters are required to report circumstances of problematic sexual behaviour by a student toward another student (that is, conduct outside the bounds of normal sexual behaviour), including child-to-child sexual abuse.

Child-to-child sexual abuse can occur when a student involves another student in sexual activity. It can be physical, verbal or emotional and can include but is not limited to a student:



- Kissing or holding another student in a sexual manner
- Exposing a sexual body part to a student
- Talking in a sexually explicit way
- Making obscene phone calls or remarks to a student
- Sending obscene messages to a student via technology including social media; and/or
- Fondling a student in a sexual manner.

If you have any concern that problematic sexual behaviour by a student towards another student (including child-to-child sexual abuse) is occurring, you must immediately inform the Principal (or delegate). If you are not sure whether the sexual behaviour is problematic, you should report the behaviour to the Principal (or delegate).

The issue of bullying by a student is dealt with in the College's Anti-Bullying Policy and the Student Management System. However, depending on the seriousness and nature of the alleged conduct e.g. physical assault or threats of violence, the matter may also be reportable to the NSW Police. In such instances, you must notify the Principal immediately.

PART B: Working With Children Act

General

The Office of the Children's Guardian (OCG) is responsible for employment screening for child related employment. A Working With Children Check (WWCC) is a prerequisite for anyone in child-related work. It involves a national criminal history check and review of reported workplace misconduct findings. The result of a WWCC is either a clearance to work with children for five years, or a bar against working with children with further applications not able to be made for 5 years. Cleared applicants are subject to ongoing monitoring by the OCG, and any relevant new records which appear against a cleared applicant's name may lead to the WWCC being revoked.

It is the responsibility of the child-related worker to ensure that when they are eligible to apply for a WWCC or when their WWCC is due for renewal that they do so.

Responsibilities

The object of the WWC Act is to protect children:

- (a) by not permitting certain persons to engage in child-related work; and
- (b) by requiring persons engaged in child-related work to have working with children check clearances.

The College is required to:

- (a) verify online and record the status of each child-related worker's WWCC clearance;
- (b) only employ or engage child-related workers or eligible volunteers who have a valid WWCC clearance; and



- (c) advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred to the OCG's Working with Children Check Directorate. It is an offence for an employer to knowingly engage a child-related worker who does not hold a WWCC clearance or who has a bar.

College staff members, contractors and eligible volunteers (including those working at overnight camps) are required to:

- (a) hold and maintain a valid WWCC;
- (b) not engage in child-related work at any time that they are subjected to an interim bar or a bar;
- (c) report to the Principal if they are no longer eligible for a WWCC, the status of their WWCC clearance changes or are notified by the OCG that they are subjected to a risk assessment; and
- (d) notify the OCG of any change to their personal details within 3 months of the change occurring. Failure to do so may result in a fine.

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

All volunteers are required to:

- (a) have a current WWCC;
- (b) to be aware and follow the expectations of conduct expressed in the College Code of Conduct.

Contractors

A contractor is someone engaged by the College to perform specific tasks. Contractors are not employees of the College.

Contractors may include, but not limited to, maintenance and building personnel, consultants, tutors, sports coaches and College cleaners, as well as external education providers (organisations that the College has arranged to deliver a specific course of study that is part of the curriculum to a student or students enrolled at the College). Contractors also include music tutors and other extra-curricular tutors and instructors who are engaged by students and their families directly, rather than the College, but have an agreement with the College to use the facilities.

Working with Children Check Clearance

A Working with Children Check (WWCC) clearance is authorisation under the WWC Act 2012 No 51 for a person to engage in child-related work. An employee will be issued with a number which is to be provided to the College together with their date of birth to verify the status of an employee's WWCC.



Bars

Final bar

This bar is applied based on a decision made by the OCG, following a risk assessment. This person is barred against working with children.

Interim bar

An interim bar is issued to high-risk individuals to prevent them from continuing to work with children while a risk assessment is conducted. An interim bar may be applied for up to 12 months. If an interim bar remains in place for six months or longer, it may be appealed against through the Administrative Decisions Tribunal.

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

Child-related work

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

- (a) early education and childcare including education and care service, childcare centres and other childcare;
- (b) schools and other educational institutions and private coaching or tuition of children;
- (c) religious services;
- (d) residential services including boarding schools, homestays more than three weeks, residential services and overnight camps;
- (e) transport services for children including school bus services, taxi services for children with disability and supervision of school road crossings; and
- (f) counselling, mentoring or distance education not involving direct contact
- (g) children's entertainers/performers interacting with children

Any queries about whether roles/duties engage in child-related work should be directed to the Principal

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 together with their date of birth to verify the status of a staff member's WWCC clearance.



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.

Child-related Worker

A person who has physical contact or face to face contact with children in work outlined under Child Related Work, including schools. This may include volunteer work.

A child-related worker may commence work once they have completed the WWCC application process. An application is completed when the online application form is complete, and the worker's identity has been proven by Service NSW or Council Agency and the fee has been paid (if in paid work).

If you are unclear if your role is child-related you should speak with the Principal.

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 is a person who has a bar preventing them from working with children in child-related work.

It is an offence for an employer to knowingly engage a child-related worker when they do not hold a Check or who has a bar or an interim bar.

It is an offence for an employee to engage in child-related work when they do not hold a Check or have a bar or an interim bar.

Ongoing Monitoring

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

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 or sexual misconduct representing a risk to children and findings of misconduct involving children.

The College is required to advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault, must be referred to the OCG's WWCC Directorate. Information must also



be referred internally to the OCG's WWCC Directorate if it meets the threshold for consideration of an interim WWCC bar, as per section 17 of the WWC Act, pending a formal risk assessment.

The College 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.

PART C: THE CHILDREN'S GUARDIAN ACT 2019 – Reportable Conduct

Section 29 of the Children's Guardian Act requires heads of certain entities, including non-government schools in NSW, to notify the OCG of all allegations of reportable conduct engaged in by, and convictions considered to be reportable conviction 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 by the Principal (Head of Entity).

For the purpose of the Children's Guardian Act: **'Child'** means an individual under 18. An **'employee'** includes employees, contractors (holding or required to hold a working with children check clearance for the purpose of their engagement (work for the school), volunteers engaged to provide services to children (whether or not they require a working with children check clearance to do so), work experience participants, clergy, minister of religion and instructors of religion who provide pastoral or liturgical services. In this part, where there is a reference to an employee it includes all of these persons regardless of whether the particular reference also makes reference to other types of engagements or roles.

Employment includes engagement of a person as a volunteer or contractor taken to be an employee (under the Children's Guardian Act 2019).

Contractor includes:

- A subcontractor, and
- An employee of, or volunteer for, the contractor.

What is reportable conduct?

From 1 March 2020, Reportable conduct is defined as:

- a) 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);
- b) any assault, ill-treatment or neglect of a child;
- c) any behaviour that causes psychological harm to a child whether or not, in any case, with the consent of the child; and
- d) an offence under sections 43B or 316A of the Crimes Act 1900 (NSW), relating to failure to protect a child from child abuse, or a failure to report child abuse)



Examples of indicators of significant emotional or psychological harm include:

- Displaying behaviour patterns that are out of character;
- Regressive behaviour; or
- Anxiety or self-harm

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) 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;

For example:

- i) touching a child in order to attract the child's attention
 - ii) momentarily restraining a child to prevent the child hurting themselves or others
 - iii) touching a child to guide or comfort the child
- c) conduct of a class or kind exempted from being reportable conduct by the Childrens Guardian Act 2019 No 25 under section 30.

The Office of the Children's Guardian

The OCG:

- a) Must keep under scrutiny the systems for preventing reportable conduct by employees of the College and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions.
- b) Must receive and assess notifications from the College concerning reportable conduct or reportable convictions.
- c) Is required to oversee or monitor the conduct of investigations by the College into allegations of reportable conduct or reportable convictions.
- d) 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.
- e) May directly investigate an allegation of reportable conduct or make a determination about a conviction considered to be a reportable conviction against an employee of the College, or the handling of or response to such a matter (e.g. arising out of a report, complaint or notification) if the OCG reasonably believes it is in the public interest to do so; and
- f) May undertake their own investigations of matters involving an employee of the College where the OCG considers it appropriate to do so, including where there is evidence of systemic failure or serious conflict of interests.



Head of Agency

The Head of Agency is the Principal of the College.

Under the Children's Guardian Act, the Principal must ensure that the College has systems in place for:

- a) Preventing and detecting reportable conduct by an employee of the entity
- b) Requiring an employee of the College to give a report, as soon as possible, in relation to a reportable allegation or conviction considered to be a reportable conviction involving an employee of the College.
- c) Enabling a person, other than an employee of the College, to give a report to the Principal of the College about a reportable allegation or conviction considered to be a reportable conviction involving an employee of the College.
- d) Handling or responding to a reportable allegation or conviction considered to be a reportable conviction involving an employee of the College, having regard to principles of procedural fairness.
- e) Receiving, handling and disclosing information relating to reportable allegations, convictions considered to be reportable convictions and information relating to investigations and determinations.
- f) Identifying and dealing with matters relating to the prevention of reportable conduct by employees of the College.

This includes ensuring that they:

1. Are advised of any allegations of reportable conduct against employees
2. Notify the OCG using a 7-day Notification Form (*formerly a Part A notification form*) as soon as possible and no later than seven business days after being made aware of a reportable allegation or conviction (see below)
3. Investigate or arrange for an investigator to investigate the reportable allegation or determine whether the reportable conviction is a reportable conviction and complete the investigation within a reasonable time
4. Provide a (final) Entity report to the OCG after the investigation or determination is completed and within 30 days of receiving the report of the reportable allegation or conviction (or an interim report if this is not possible)
5. As part of completing the 7-day notification form, notify the OCG whether or not the College 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
6. Provide the OCG with any documentary and other information the OCG may from time-to-time request to assist in the OCG's monitoring of the College's response to a notification including its investigation as well as any consideration of whether it is in the public interest that the OCG carry out an investigation.

The OCG may at any time by written notice require information about the College's systems.



Your Obligation to Report – Process for reporting allegations or convictions

Staff Members:

You must report any concerns you may have about any other employee engaging in reportable conduct or any allegation of 'reportable conduct' that has been made to you, to the Principal, including information about yourself. If you are not sure whether the conduct is reportable conduct but consider that it is inappropriate behaviour you must still report it. This includes concerns about a student providing voluntary services to children.

If you are not sure whether the conduct is reportable conduct, but it may be inappropriate behaviour, you must still report it.

The reportable conduct scheme is allegations-based. If an allegation is, on the face of it, a reportable allegation, it must be notified to the Principal irrespective of other factors or information that may suggest that the allegation has no weight. The allegation does not have to be made by a person affected. It may be that a 'rumour' of reportable conduct is sufficient. Always raise these matters with the Principal.

You must also report to the Principal if you become aware that an employee (including you) has been charged with or convicted of an offence (including a finding of guilt without the court proceeding to a conviction) involving reportable conduct, whether in NSW or elsewhere.

If the allegation involves the Principal, you are required to report to the Chair of the College Council, and also directly to the Office of the Children's Guardian.

Under the Children's Guardian Act 2019 No 25, a person who makes or proposes to make a report, in good faith, is protected by law from legal liability and retribution.

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 College's complaint handling procedures.

The College

The Principal, as the Head of Entity 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 from to the OCG within 7 business days of becoming aware of a reportable allegation or conviction against an employee of the entity (unless the Principal has a reasonable excuse). The notification should include the following information:
 - a) that a report has been received in relation to an employee of the College;
 - b) the type of reportable conduct;
 - c) the name of the employee;
 - d) the name and contact details of the College and the Principal;
 - e) for a reportable allegation, whether it has been reported to Police;



- f) if a report has been made the Child Protection Helpline, that a report has been completed; and
 - g) the nature of the Principal's initial risk assessment and risk management action.
- The notice must also include the following, if known to the Principal:
 - 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.

Other relevant definitions regarding Reportable Conduct

Set out below are definitions of the various terms referred to above in relation to reportable conduct, applying from 1 March 2020, found either in the Children's Guardian Act or in fact sheets published by the Office of the Children's Guardian.

1. ***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
 - A child grooming offence
 - Production, dissemination or possession of child abuse material.

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

2. ***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).

3. ***Emotional or psychological harm*** to a child is behaviour or conduct that is intentional or reckless (without reasonable excuse), obviously or very clearly unreasonable and 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 out 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 casual link between the employee's conduct and the significant emotional or psychological harm to the child.
4. *Ill-treatment* captures those circumstances where a person treats a child in an unreasonable and seriously inappropriate, improper, inhumane or cruel 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 and seriously inappropriate manner; making excessive and/or degrading demands on a child; hostile use of force towards a child; and/or pattern of hostile or unreasonable and seriously inappropriate, degrading comments or behaviour towards a child.
5. *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.
- 5a 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:
 - o Involves a gross breach of professional standards, and
 - o Has the potential to result in the death or significant harm to a child.
- 5b 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.
6. *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.
7. *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.



8. *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.
9. *ESOA* 'Employee Subject of the Allegation'.
10. *Reportable Allegation* is an allegation that an employee has engaged in conduct that may be reportable conduct.
11. *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.

Codes of conduct that outline the nature of the professional boundaries which should exist between employees and children/young people can be particularly useful. For employees who either intentionally breach such codes or have demonstrated an inability to apply them appropriately, it may be necessary to provide more detailed written advice about what constitutes appropriate behaviour.

Sexual Misconduct

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

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.

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



2. Investigation Principles

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

- follow the principles of procedural fairness
- inform 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; and
- provide appropriate support for all parties including the child/children, witnesses and the ESOA.

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 ESOA with the opportunity to provide a response to the allegations either in writing or at interview;
- consider relevant evidence and make 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 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.
- Should the final report be unfinished within 30 days, the Principal 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. 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 Principal proposes to take in relation to the reportable allegation or reportable conviction; including if the Principal 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 College's possession, including transcripts of interviews and copies of evidence.

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 the 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.

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.

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 College and
- 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; and
- the disciplinary history or safety of the ESOA and possible risks to the investigation.

The Principal will take appropriate action to minimise risks. This may include the ESOA being temporarily relieved of some duties, being required not have contact with certain students, being asked to take paid leave, or being suspended from duty. When taking action to address any risks identified, the College 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.

2. Ongoing Risk Assessment

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

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.

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); and
- 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; or
- 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 College 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.

5. Disciplinary Action

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

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

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



6. Confidentiality

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

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

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

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

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

PART D: THE CRIMES ACT

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.

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

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

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

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

Any adult, and therefore all staff members, will commit an offence if they know, believe or reasonably ought to know 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.

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 College 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.



APPENDIX 1 – Indicators of Child Abuse (Maltreatment)

Children and young people in need of care and protection may show indicators of harm and maltreatment in their school environment. The following indicators may assist staff who are concerned about students in their care:

Physical Abuse:

Physical abuse is non-accidental injury or pattern of injuries to a student caused by a parent, carer or any other person. It includes, but is not limited to, injuries which are caused by:

- excessive discipline
- severe beating or shakings
- cigarette burns
- attempted strangulation
- female genital mutilation

Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.

Indicators of physical abuse include:

- bruising to the face, head or neck, other bruising and marks which may show the shape of the object that caused it e.g. belt buckle, handprint
- lacerations and welts
- drowsiness, vomiting, fits or pooling of blood in the eyes, which may suggest head injury
- adult bite marks and scratches
- fractures of bones, especially in children under three years old
- dislocations, sprains, twisting
- burns and scalds (including cigarette burns)
- multiple injuries or bruises
- explanation of injury offered by the student is not consistent with the injury
- abdominal pain caused by ruptured internal organs, without a history of major trauma
- swallowing of poisonous substances, alcohol or other harmful drugs

Sexual Abuse:

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

Indicators of sexual abuse include:

- bruising or bleeding in the genital area
- sexually transmitted diseases
- bruising to breasts, buttocks, lower abdomen or thighs



- child or child's friend telling you about it, directly or indirectly
- describing sexual acts
- sexual knowledge or behaviour inappropriate for the student's age
- going to bed fully clothed
- regressive behaviour e.g. sudden return to bed-wetting or soiling
- self-destructive behaviour e.g. drug dependency, suicide attempts, self-mutilation
- student being in contact with a known or suspected paedophile
- anorexia or overeating
- adolescent pregnancy
- unexplained accumulation of money and gifts
- persistent running away from home

Serious Emotional or Psychological Harm

Serious psychological harm can occur where the behaviour of their parent or caregiver damages the confidence and self-esteem of the student, 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 student. This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.

Indicators of psychological abuse or harm include:

- constant feelings of worthlessness about life and themselves
- unable to value others
- lack of trust in people
- lack of people skills necessary for daily functioning
- extreme attention-seeking behaviour
- obsessively eager to please or obey adults
- takes extreme risks, is markedly disruptive, bullying or aggressive
- highly self-critical, depressed or anxious
- suicide threats or attempts
- persistent running away from home

Neglect

Child neglect is the continued failure by a parent/carer to provide a student with the basic things needed for his/her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.



Key indicators of neglect are:

- low weight for age and/or failure to thrive and develop
- untreated physical problems e.g. sores, serious nappy rash and urine scalds, significant dental decay
- poor standards of hygiene i.e. child consistently unwashed
- poor complexion and hair texture
- student not adequately supervised for their age
- scavenging or stealing food with a focus on basic survival
- extended stays at school, public places or other homes
- longs for or indiscriminately seeks adult affection
- rocking, sucking or head banging
- poor school attendance

Domestic or Family Violence

Domestic or family violence is behaviour towards a family member that may include:

- physical violence or threats of violence
- verbal abuse, including threats
- emotional or psychological abuse
- sexual abuse
- financial and social abuse

As family violence can result in one or more forms of child abuse (being neglect, physical or sexual abuse or emotional or psychological harm) physical and behavioural indicators of these types of abuse may also be indicative of a family violence situation. A student's exposure to family violence also constitutes child abuse under the *Family Law Act 1975 (Cth) No 53*.



APPENDIX 2 – How do I respond to a child?

Child protection is everyone's business.

Responding to a Disclosure of Abuse:

Your response to any disclosure of abuse can be the first important step in stopping the abuse and protecting the child from further harm.

Your initial response to a child or young person's disclosure of abuse may vary depending on circumstances and needs. Responses may include implementing protective strategies, engaging appropriate support services or making reports to relevant authorities.

It is important to understand how difficult it can be for a child to disclose abuse or sexual harm. Offenders put a great deal of time and effort into ensuring the child remains silent. Some of the reasons a child may have trouble disclosing include:

- the offender has told them not to tell, often with accompanying threats such as, "they will take you away from your family if you tell"
- they think they will get into trouble
- they feel guilty or ashamed
- they feel that no one will believe them

What Can I Do If a Child Discloses Abuse to Me?

Once a child makes a direct disclosure or allegation regarding their safety or wellbeing, or an adult makes a disclosure regarding a child's safety and wellbeing, the EAC community has a duty of care to take immediate action.

The person to whom the child has disclosed should:

- ✓ Listen carefully to all they say
- ✓ Tell them it is not their fault
- ✓ Let them know you will do everything in your power to ensure that something is done
- ✓ Document the conversation (afterwards, not during the disclosure) – use the child's exact words as best you can
- ✓ Do not force them to talk about it, you are there to listen to what they want to tell you
- ✓ Do not use direct questions
- ✓ Do what you need to do to make the child feel safe
- ✓ Importantly: follow your obligation to report as soon as practically possible to the Principal (or their delegate).



What can I do if I have Concerns?

It can be incredibly hard for a child or young person to disclose. Sometimes their behaviour or words may mean that we become concerned that something has happened. It is important to:

- ✓ Not frighten the child or young person by asking confronting questions
- ✓ Let the child or young person know that you are there for them if they ever need to talk to someone
- ✓ Record your concerns including any behavioural observations or conversations you may have had with the child or young person
- ✓ Importantly: follow your obligation to report as soon as practically possible to the Principal (or their delegate).

REFERENCES

NSW Department of Communities and Justice (DCJ)

<https://www.dcj.nsw.gov.au>

Department of Premier and Cabinet – Keep them Safe – Targeted Early Intervention

www.keepthemsafe.nsw.gov.au

Office of the Children's Guardian

<https://ocg.nsw.gov.au/>

Appendix 2: Courtesy of [Bravehearts](#)