NEWCASTLE GRAMMAR SCHOOL

Child Protection Policy

Policy Number (PN): 3.6.1

Last Revised: 31 May 2023

This document was current as at 21/07/2023 13:37 AEST time. Updates to content may have been made since this date. Refer to your policy site for the latest version.

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CHILD PROTECTION POLICY

Newcastle Grammar School is committed to fulfilling its duty of care to all its students by:

- providing them with a learning environment that is safe, supportive and caring.
- seeking to recognise promptly when any of its students are at **risk of significant harm**.
- taking appropriate action to protect its students when the School or its **staff** become aware that its students are at **risk of significant harm**.
- implementing the **Child Safe Standards** in its policies and procedures.

1. Introduction

1.1 Purpose and Scope

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

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

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1.2 Key Legislation

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

1. the *Children and Young Persons (Care and Protection) Act 1998* ("**Care and Protection Act"**);
2. the *Child Protection (Working with Children) Act 2012* ("**WWC Act"**);
3. the *Children's Guardian Act 2019* ("**Children's Guardian Act**"); Part 3A Child safe scheme ("**Children's Guardian Act**")
4. the *Crimes Act 1900* ("**Crimes Act**").

1.2.1 Child Safe Scheme and the Child Safe Standards

The Royal Commission into Institutional Responses to Child Sexual Abuse recommended 10 Child Safe Standards. A detailed Guide for their implementation can be found on the website of the Office of Children's Guardian (OCG) ~ Guide to the Child Safe Standards (nsw.gov.au)

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

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

The Child Safe Standards are—

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

10. Policies and procedures document how the organisation is child safe.

1.3 Related Policies

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

- *3.6.2.3 Staff Code of Professional Conduct Policy* - sets out information about the standards of behaviour expected of all staff members;
- *3.6.2.3 Student Code of Conduct* - sets out information about the standards of behaviour expected of all students;
- *3.6.2.3 Volunteer Code of Conduct* - sets out information about the standards of behaviour expected of all volunteers;
- *3.6.1 Child Protection Reportable Conduct Policy* - sets out information about the obligations to investigate and report allegations of misconduct to the NSW Office of the Children's Guardian;
- *3.4.2 Work Health and Safety Statement* - identifies the obligations imposed by work health and safety legislation on the School and staff members;
- *3.6.2.3 Bullying Prevention and Intervention Policy* and *3.7.1 & 3.7.2 Student Anti Bullying Process* - summarises obligations in relation to unlawful discrimination, harassment and bullying;
- *3.7.1 & 3.7.2 Behaviour Management Policy* - sets out the range and level of responses and consequences for student behaviour;
- *3.6.2.4 Complaints and Grievance Resolution Policy and Procedures* – sets out the steps taken by the School in addressing and resolving complaints; and
- *3.6.2.5.1 Student Wellbeing Policy* - sets out information about monitoring and developing the personal and social wellbeing of students.

1.4 Compliance and Records

The Head of School or nominated delegate monitors compliance with this policy and securely maintains School records relevant to this policy, which includes:

- register of staff members who have read and acknowledged that they have read and understood this policy;
- Working with Children Check (WWCC) clearance verifications;
- mandatory reports to Department of Communities and Justice (DCJ), previously known as Family and Community Services by eReport through the ChildStory Reporter website or by calling the Child Protection Helpline on 132 111; and

- reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

SECTION 1: CHILD PROTECTION & MANDATORY REPORTING OBLIGATIONS

2. Child protection

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

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

2.1 Children Protection Concerns

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

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

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

Physical abuse is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person (including a member of staff). It includes but is not limited to injuries which are caused by excessive discipline including hitting a child anywhere on their body with an object to discipline or punish the child, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation.

· Injuries may include (but are not limited to) 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 can result in serious psychological harm, where the behaviour of their parent, caregiver or any other person, damages the confidence and self-esteem of the child or young person, resulting in 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 caregiver behaviour that is instrumental in defining the consequences for the child.

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

2.2 Child Wellbeing Concerns

Child wellbeing concerns are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold, risk of significant harm in section 5.1.2.

2.3 Staff Member Responsibilities

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

If the allegation involves the Head of School, a report should be made to the Chair of the School Board.

3. Training

3.1 The School

Each year the School provides all staff members with a copy of this policy via *PolicyConnect* (CompliSpace) and requires them to sign that they have read its contents. Staff that cannot access PolicyConnect will be provided with a hard copy. The School provides child protection training annually.

3.2 Staff Members

At the start of each year, and at other suitable points, the School will require all staff members to participate in child protection training, as directed by the Head of School. These include, but are not limited to:

- briefings by NGS Staff
- professional readings
- training by external bodies (e.g. AISNSW)
- online training modules.

The training complements this policy and provides information to staff about their legal responsibilities related to child protection and School expectations, including (but not limited to):

- Mandatory Reporting;
- Reportable Conduct;
- Working with Children Checks; and
- Professional boundaries.

Furthermore, key staff will undertake regular training, relevant to their role. Records are kept of these training events by the PA to the Head of School and the Risk, Compliance and Innovation Manager for future inspection.

3.3 Students

In response to the NSW Child Safe Standards, and in order to promote a child safe culture, Newcastle Grammar School has developed a three-pronged approach to provide students with a forum to learn about and, if necessary, respond to matters relating to Child Protection in a child safe environment. Details are outlined in the **APPENDIX A.**

4. WORKING WITH CHILDREN CHECKS

The Child Protection (Working with Children) Act 2012 ("WWC Act") protects children by requiring a worker to have a working with children's check (**WWCC**) clearance or current application for a WWCC clearance to engage in child related work. Failure to do so may result in a fine or imprisonment.

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

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

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

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

4.1 Responsibilities for Working With Children Checks

4.1.1 Staff Members

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

- hold and maintain a valid WWCC clearance and provide the School with a copy of any updated clearance;
- not engage in child-related work at any time that they are subjected to an interim bar or a bar;
- report to the Head of School if they are no longer eligible for a WWCC clearance, if the status of their WWCC clearance changes or if they are notified by the OCG that they are subjected to a risk assessment; and
- 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:

- be aware and follow the expectations of conduct expressed in the School's Volunteer Code of Conduct;
- sign the Volunteer Declaration to acknowledge they have read, understood and agree to comply with the terms of the Volunteer Code of Conduct; and
- Volunteers engaged in supervising roles are required to have a valid WWCC which has been verified by the School, prior to engaging in any volunteer work.

4.1.2 The School

The School abides by the legislative requirements in s.9AA of the *Child Protection (Working with Children) Act, 2012* regarding the verification and record-keeping of Working with Children Checks:

- the Payroll Officer (Accounts department) collects each child-related worker's WWCC (including those for volunteers in supervising roles);
- these WWCC are then verified online;
- records of the employees' and volunteers' (if applicable) WWCC numbers and verification details are kept securely by the Payroll Officer;

- reminders are sent to staff before their WWCC expires;
- these records are kept during the child-related workers' period of employment at the School and for a period of at least 7 years afterwards.
- As a result, only child-related workers or volunteers (who are required to obtain a WWCC) who have a verified WWCC are employed.

The School will 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 (WWCC Directorate). It is an offence for an employer to knowingly engage a child-related worker who does not hold a WWCC clearance or who has a bar.

4.2 Working With Children Check Clearance

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

4.2.1 Child Related Work

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

- early education and child care including education and care service, child care centres and other child care;
- Schools and other educational institutions and private coaching or tuition of children;
- religious services;
- residential services including boarding schools, homestays more than three weeks, residential services and overnight camps;
- transport services for children including school bus services, taxi services for children with disability and supervision of school road crossings; and
- Counselling, mentoring or distance education not involving direct contact.

Any queries about whether roles/duties engage in child-related work should be directed to the Head of School.

4.2.2 Application/Renewal

An application or renewal can be made through Service NSW or its replacement agency. The process for applying for and renewing a WWCC clearance with the OCG involves a National police check and a review of findings of reportable workplace misconduct[1]. If the OCG grants or renews a WWCC clearance the holder will be issued with a number which is to be provided to the School to verify the status of a staff member's WWCC clearance.

4.2.3 Refusal/Cancellation

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

4.2.4 Interim bar

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

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

4.2.5 Disqualified person

A disqualified person is a person who has been convicted, or against whom proceedings have been commenced for a disqualifying offence outlined in Schedule 2 of the WWC Act. A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child related work.

4.3 Ongoing Monitoring

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

4.3.1 Risk assessments

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

The OCG will conduct a risk assessment on a person's suitability to work with children when a new record is received which triggers a risk assessment. This may include an offence under Schedule 1,

pattern of behaviour or offences involving violence or sexual misconduct representing a risk to children and findings of misconduct involving children.

4.4 Process for Reporting to OCG

4.4.1 The School

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

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

4.4.2 Finding of misconduct involving children

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

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

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

4.4.3 Other information

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

5. MANDATORY REPORTING

The Children and Young Persons (Care and Protection) Act 1998 (“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 but who is under the age of 18, for the purposes of the Care and Protection Act.

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

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

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

5.1 Reports to the Department of Communities and Justice

A mandatory reporter must, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, report to the Department of Communities and Justice (DCJ) as soon as practicable. The report must include the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

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

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

5.1.1 Reasonable grounds

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

- first-hand observations of the child, young person or family;

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

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

5.1.2 Significant harm

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

- the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met;
- the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care;
- in the case of a child or young person who is required to attend school in accordance with the Education Act 1990, the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act;
- the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;
- the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm;
- a parent or other caregiver has behaved in such a way towards the child or young person, that the child or young person has suffered or is at risk of suffering serious psychological harm;
- the child was the subject of a pre-natal report under section 25 of the Care and Protection Act and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

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

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

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

5.2 Process for Mandatory Reporting

Refer to **APPENDIX B** for Child Protection Incident Management Flow Chart

5.2.1 Staff members

Staff members must raise concerns about a child or young person who may be at risk of significant harm with the Head of School as soon as possible to discuss whether the matter meets the threshold of 'risk of significant harm' and the steps required to report the matter.

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

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

5.2.2 The School

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

5.3 Process for Reporting Concerns about Students

5.3.1 Staff members

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

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

SECTION 2: REPORTABLE CONDUCT

6. Reportable conduct

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

Reportable Conduct:

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

The Office of the Children's Guardian (OCG):

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

6.1 Reportable Conduct

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

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

Reportable conduct does not extend to:

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

6.1.1 Reportable Conduct Definitions

The following definitions relate to *reportable conduct*:

Sexual offence: an offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presences of a child, such as:

- sexual touching of a child;
- a child grooming offence;
- production, dissemination or possession of child abuse material.

Definitions of 'grooming', within child protection legislation, is complex. Under the Crimes Act, grooming or procuring a child under the age of 16 years for unlawful sexual activity is classed as a sexual offence. The Crimes Act (s73) also extends the age of consent to 18 years when a child is in a 'special care' relationship. Under Schedule 1(2) of the WWC Act, grooming is recognised as a form of sexual misconduct. The Children's Guardian Act 2019 and this Child Protection Policy reflect these definitions within the context of the Reportable Conduct Scheme (Division 2).

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

Sexual misconduct: conduct with, towards or in the presence of a child that is sexual in nature (but not a sexual offence). The Act provides the following (non-exhaustive) examples:

- descriptions of sexual acts without a legitimate reason to provide the descriptions;
- sexual comments, conversations or communications;
- comments to a child that express a desire to act in a sexual manner towards the child, or another child.

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

Assault: an assault can occur when a person intentionally or recklessly (ie knows the assault is possible but ignores the risk):

- applies physical force against a child without lawful justification or excuse – such as hitting, striking, kicking, punching or dragging a child (actual physical force); or
- causes a child to apprehend the immediate and unlawful use of physical force against them – such as threatening to physically harm a child through words and/or gestures regardless of whether the person actually intends to apply any force (apprehension of physical force).

Ill-treatment: is defined as conduct towards a child that is:

- unreasonable; and
- seriously inappropriate, improper, inhumane or cruel.

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

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

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

child. Examples of neglect include failing to protect a child from abuse and exposing a child to a harmful environment.

Emotional or psychological harm: behaviour that causes significant emotional or psychological harm to a child is conduct that is intentional or reckless (without reasonable excuse), obviously or very clearly unreasonable and which results in significant emotional harm or trauma to a child.

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

· an obviously or very clearly unreasonable or serious act or series of acts that the employees knew or ought to have known was unacceptable, and

· evidence of psychological harm to the child that is more than transient, including displaying patterns of 'out of character behaviour', regression in behaviour, distress, anxiety, physical symptoms or self-harm, and

· all alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.

Reportable allegation: is an allegation that an employee has engaged in conduct that may be reportable conduct

Reportable conviction: means a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.

Employee: of an entity includes:

- an individual employed by, or in, the entity
- a volunteer providing services to children
- a contractor engaged directly by the entity (or by a third party) where the contractor holds, or is required to hold, a WWCC clearance for the purposes of their work with an entity; and
- a person engaged by a religious body where that person holds, or is required to hold, a WWCC clearance for the purposes of their work with the religious body.

ESOA 'Employee Subject of the Allegation'.

6.2 Process for Reporting of Reportable Conduct Allegations or Convictions

6.2.1 Staff members

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

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

If the allegation involves the Head of School, the staff member must report to the Chair of the School Board.

6.2.2 Parents, carers and community members

Parents, carers and community members are encouraged to report any conduct that is in their view inappropriate, reportable or criminal conduct to the Head of School, or their delegate. All such reports will be dealt with in accordance with the School's *Complaints and Grievance Resolution Policy and Procedures.*

6.2.3 The School

The Head of School, 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 Form to the OCG within seven (7) business days of becoming aware of a reportable allegation or conviction against an employee of the School (unless the Head of Entity has a reasonable excuse)

The notification should include the following information:

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

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

- details of the reportable allegation or conviction considered to be a reportable conviction;
- the date of birth and working with children number, if any, of the employee the subject of the report;
- the police report reference number (if Police were notified);
- the report reference number if reported to the Child Protection Helpline;
- 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 seven (7) business days – 10 penalty points.

6.3 Process for Investigating an Allegation of Reportable Conduct

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

6.3.1 Initial steps

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

- determine whether it is an allegation of reportable conduct. This must be done using the NSW Mandatory Reporter Guide (MRG) which is intended to complement mandatory reporters' professional judgement and crucial thinking;
- 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 to the School proceeding with the reportable conduct investigation;
- notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or Police);
- notify the OCG using the 7-Day Notification Form within seven (7) business days of receiving the allegation;
- carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
- provide an initial letter to the ESOA advising that an allegation of reportable conduct has been made against them and the School's responsibility to investigate this matter under section 34 of the *Children's Guardian Act 2019*;

- investigate the allegation or appoint an Accredited Child Protection Investigator to investigate the allegation.

6.3.2 Investigation principles

During the investigation of a reportable conduct allegation, the Head of School or appointed investigator will:

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

6.3.3 Investigation steps

In an investigation the Head of School 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 a preliminary finding in accordance with the OCG guidelines;
- inform the ESOA of the preliminary finding in writing by the Head of Entity and provide them with a further opportunity to respond or make a further submission prior to the matter moving to final findings;
- consider any response provided by the ESOA;
- make a final finding in accordance with the OCG guidelines;
- decide on the disciplinary action, if any, to be taken against the ESOA;
- if it is completed, send the final report to the OCG within 30 days after having received the allegation, as per section 36 of the Children's Guardian Act 2019.

Should the final report be unfinished within 30 days, the Head of Entity must provide, at minimum, an interim report to the OCG within 30 days of having received the allegation, as per section 38 of the Children's Guardian Act 2019.

Submission of an interim report must include:

· a reason for not providing the final report within 30 days and an estimated time frame for completion of the report.

· specific information, including (if known); the facts and circumstances of the reportable allegation; any known information about a reportable conviction; action taken since the OCG received a notification about the reportable allegation or reportable conviction; further action the Head of Entity proposes to take in relation to the reportable allegation or reportable conviction; including if the Head of Entity proposes to take no further action; the reasons for the action taken and the action proposed to be taken or the reasons for the decision to take no further action; other information prescribed by the regulations; and

· be accompanied by copies of documents in the School's possession, including transcripts of interviews and copies of evidence.

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.

6.4 Risk Management Throughout an Investigation of a Reportable Conduct Allegation

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

The Head of School 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.

6.4.1 Initial risk assessment

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

- the child(ren) who are the subject of the allegation;
- other children with whom the employee may have contact;
- the ESOA;
- the School; 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 Head of School will take appropriate action to minimise risks. This may include the ESOA being temporarily relieved of some duties, being required not to have contact with certain students, being asked to take paid leave, or being suspended from duty in line with the appropriate industrial instrument. When taking action to address any risks identified, the Head of School will take into consideration both the needs of the child(ren) and the ESOA.

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

6.4.2 Ongoing risk assessment

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

6.4.3 Findings

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

6.4.4 Information for the ESOA

The ESOA will be advised:

- that an allegation has been made against them (at the appropriate time in the investigation); 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 finding referred to the OCG to request access to the records held by the School in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

6.4.5 Disciplinary action

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

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

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

6.4.6 Confidentiality

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

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

Records about allegations of reportable conduct against employees will be kept in a secure area in the PA to the Head of School's Office and will be accessible by the Head of School or with the Head of Schools' express authority.

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

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

7. 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.

7.1 Failure to Protect Offence (Crimes Act 1900 – NSW)

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

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.

7.2 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 Head of School and is aware that the Head of School has reported the matter to the Police.

7.3 Special Care Relationships (Crimes Act 1900 – NSW)

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

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8 BREACH OF POLICY

It is an expectation of the School that all employees abide by this policy.

Any staff failing to comply with this policy may be subject to corrective action which may include disciplinary action, up to and including termination of their employment.

APPENDIX A

Child Safe Culture – Director of Co-curricular

A Secondary School Child Protection Schoolbox page has been developed to provide students in Years 7-12 a safe source of information, as well as a confidential procedure for reporting abuse. This Schoolbox page has been developed in conjunction with a Newcastle Grammar School community member involved in Child Services, and formerly of the NSW Police Force. The site is administered by the Director of Co-curricular.

This Schoolbox site includes:

· Links to Kids Helpline resources

· A clear tile linking a confidential reporting survey to the email of Deputy Head of School

· Areas to add a number of Child Protection videos of Newcastle Grammar School students filmed in 2020

Child Safe Culture link: https://portal.ngs.nsw.edu.au/homepage/14051?readonly=1

Cyberhound – Deputy Head of School & Head of Student Wellbeing

The School utilises the internet cybersafe platform, Cyberhound. Through this platform, the School is able to monitor, identify and act upon online risk-taking behaviour across the School's network. The platform is designed to capture information across the network by categorising data as possible predatory, cyberbullying, self-harm or inappropriately sexual behaviours, emails, social media posts or internet searches.

This data is reported each day at midnight. An email report of all outcomes is received by the Head of Information Technologies and the Deputy Head of School, and email reports filtered to reflect actions involving students with a specific House are sent to the appropriate Head of House. In this way, each issue identified by the Platform is sent to three members of staff. Once received, appropriate measures are taken to ensure the safety and wellbeing of students, which may include further

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investigations, communication home to inform parents, interventions involving the School psychologists, or, in the case of breaches of the Student Code of Conduct, disciplinary sanctions.

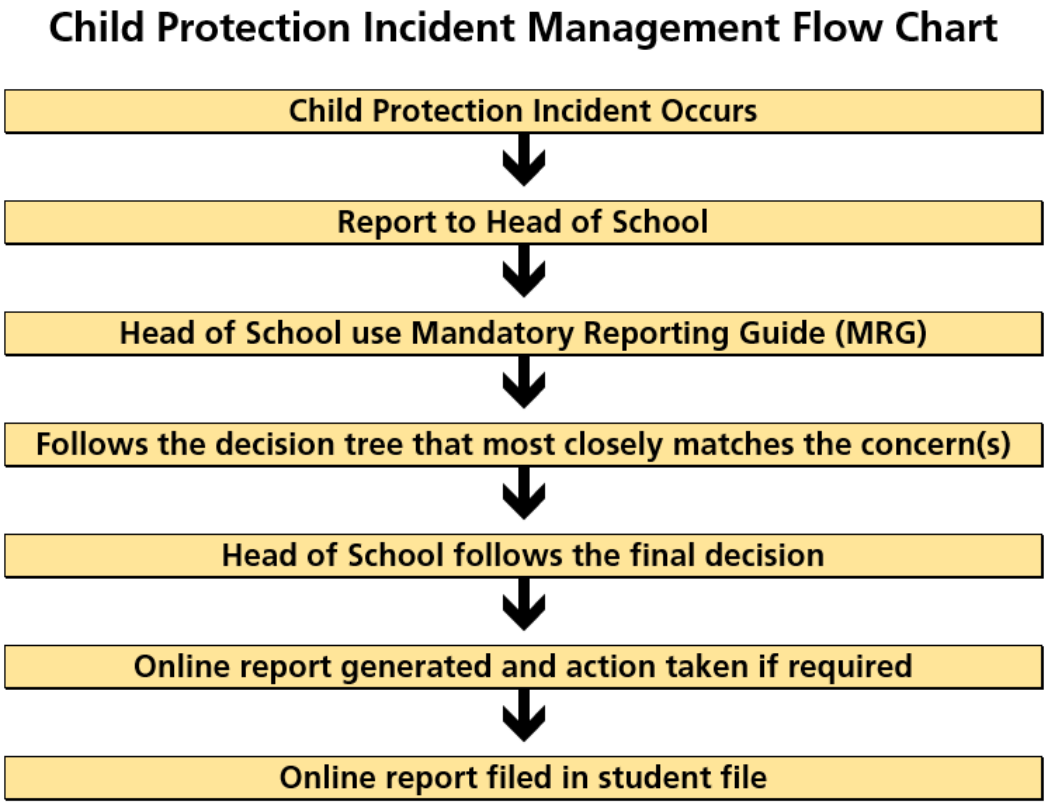
Park Campus Suggestion Box – Head of Student Wellbeing K-6

The Suggestion Box is placed in the Administration Building at Park Campus, and is monitored by the Head of Primary and the Head of Student Wellbeing K-6.

It is frequently used by students for the following reasons:

- highlight an element of their school life that they are currently enjoying;
- suggest something (e.g. a lunch club) that could be implemented;
- highlight an issue (e.g. handball courts) that could be rectified;
- thank a teacher of member of staff;
- raise any issues of concern to them.

APPENDIX B



APPENDIX C

Child Safe Standards

The 10 Child Safe Standards are:

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

The new legislation creates a Child Safe Scheme where schools will be required to implement the Child Safe Standards to improve the safety of children in their care.

The Child Safe Standards will be embedded into the Act as the primary framework to guide child safe practices in New South Wales.

The Child Safe Standards are **principle based** and **outcome focused**, recognising that there must be flexibility in how the standards are implemented, taking into account the organisation's size and resources.

The Child Safe Standards encompass current child safe requirements in schools such as:

- the Working with Children Check
- responding to allegations against employees under the Reportable Conduct Scheme, and
- requirements to report information to Department of Communities and Justice (DCJ) and Police.

CHILD PROTECTION POLICY

Acknowledgement

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

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_____ _____

Signed Dated

REFERENCES

- NSW Department of Communities and Justice www.dcj.nsw.gov.au
- The Office of the Children's Guardian https://ocg.nsw.gov.au/

Further details of obligations of employers can be found in the *Information for Employers* guidelines and/or *Information for reporting bodies* factsheet developed by the OCG found at https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme/reportable-conduct-fact-sheets

[1] An explanation of the WWCC process can be found on the Service NSW website ~ Apply for a Working With Children Check | Service NSW