



3.6.1 Child Protection

Policy, Procedures and Guidelines

Updated April 2019

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Introduction

Schools are responsible for the care, protection, development and education of children. This is achieved by ensuring that a safe, caring and nurturing environment is provided for its students. All Saints Grammar is firmly committed to the belief that children have the right to feel safe at all times. The abuse or neglect of children can have a wide effect on them which may impact on their education, their physical and psychological well-being.

This policy document

- outlines child protection procedures in line with current legislation
- informs staff of children's rights to be protected and their legal obligations as mandatory reporters of child abuse and neglect
- outlines staff responsibilities for child protection and processes that staff must follow in relation to child protection matters legal obligations

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.

All Saints Grammar is committed to:

- providing training and ongoing inservice for staff
- raising teacher awareness in the area of child protection
- reporting to the Ombudsman any reportable conduct allegations
- supporting the Department of Family and Community Services in the investigations of allegations of reportable conduct and neglect and reporting to FACS
- investigating and reporting class or kind exemptions to the AIS
- conducting the New Working with Children Check with all new staff and ensuring all current staff have an up to date Working with children Check.

All Saints Grammar is committed to the prevention and investigation of reportable conduct and the protection of children. This commitment means that the interest and welfare of children are our prime consideration when any decision is made about suspected cases of abuse or neglect.

All Saints Grammar is committed to giving support to families and employees. Staff have a right to perform their duties in the confidence that any allegation will be investigated and managed in regard to procedural fairness and appropriate support and will be conducted in a timely manner.

Legislation

All people looking after children and young people have a responsibility to provide a safe environment. The legal context is set out in the following child protection legislation in New South Wales:

- the Children and Young Persons (Care and Protection) Act 1998
- the Child Protection (Working with Children) Act 2012
- the Ombudsman Act 1974
- the Commission for Children and Young Persons Act 1998
- the Crimes Act 1990

Children and Young Persons (Care and Protection) Act 1998

This Act includes the requirements for mandatory reporting. In this legislation a child is defined as being under 16 years of age 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. Mandatory reporting is required by staff only if the concerns arise in the course of their work.

Section 23

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

- a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
- b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,
- c) in the case of a child or young person who is required to attend school in accordance with the [Education Act 1990](#)—the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,
- d) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- e) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
- f) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm,
- g) the child was the subject of a pre-natal report under section 25 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.

Note: Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.

Section 27

Mandatory reporting (Memorandum of Understanding – Attachment A)

(1) This section applies to:

- a) a person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and
- b) a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children.

(2) If:

- a) a person to whom this section applies has reasonable grounds to suspect that a child is at risk of harm, and
- b) those grounds arise during the course of or from the person's work,
- c) the person must, as soon as practicable report to the Director-General the name, or a description, of the child and the grounds for suspecting that the child is at risk of harm.

Ombudsman Amendment (Child Protection and Community Services) Act 1998; Ombudsman Act 1974

This legislation deals with reports of reportable conduct by employees.

A report to the Ombudsman is required to be made by the Head of Agency when an employee of the school is implicated in any allegation, or reportable conduct or neglect. This applies to allegations about the employee's behaviour in all situations including the home and non-school related activities.

In *Section 25A* of the Ombudsman Act, reportable conduct means:

- a) assault (including sexual assault) of a child, or
- b) ill treatment or neglect of a child, or
- c) exposing or subjecting a child to behaviour that psychologically harms the child, whether or not, in any case, with the consent of the child.

The role of the Ombudsman's office is to monitor the investigation and provide guidelines for conducting the investigation.

The Commission for Children and Young Persons Act 1998

In this legislation a child is defined as being under 18 years of age. The Commission for Children and Young People is the agency responsible for screening employees in independent schools.

Under the Commission for Children and Young People Act, all new employees must have:

- a relevant criminal record check
- a check of relevant Apprehended Violence Orders
- a review of relevant disciplinary proceedings the applicant may have had in previous employment

All recruitment advertising and information packages will contain relevant information on the legislative requirements, including the employment screening process.

Child Protection (Working with Children) Act 2012

The WWCC Act protects children by requiring a worker to have a Working with Children's Check clearance or current application to engage in child related work. Failure to do so may result in a fine or imprisonment. The Office of the Children's Guardian (OCG) is responsible for determining applications for a 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)
- refuse a WWCC clearance (further applications cannot be made for 5 years)

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

Working With Children

At All Saints Grammar:

- All preferred applicants for child-related employment must declare when asked to do so whether they are a Prohibited Person (Working With Children Check).
- The School completes relevant pre-employment screening of preferred applicants before they start work (Working With Children Check). If for some reason this is not reasonably practical, the person will be employed only subject to screening being completed as soon as possible but prior to the commencement of their work.
- All forms for the Working with Children Check will be collected at the interview stage. Successful applicants will have their Working with Children Check stored in their respective Staff File in the Office at the High School by Mary Epsimaris who will also maintain a register.
- No teaching staff will be permitted to teach prior to the School receiving the Working with Children Check clearance.
- Staff will be notified several months in advance if their Working with Children Check expiration date is coming up by Mary Epsimaris or Peter Collins (Business Manager) so they may renew. Renewal applications cannot be submitted until three months before the expiry date.
- Volunteers, outside tutors and any external providers are required to complete a Working with Children Check or have their Working with Children Check forwarded by their respective organisation to the School.

Responsibilities for working with children checks

Staff members

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

- hold and maintain a valid WWCC clearance
- not engage in child-related work at any time that they are subjected to an interim bar or a bar
- report to the Head of School if they are no longer eligible for a WWCC clearance, the status of their WWCC clearance changes or are notified by the OGC that they are subjected to a risk assessment; and
- notify the Children's Guardian 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 staff Code of Conduct.

The school is required to:

- verify online and record the status of each child-related worker's Check;
- only employ or engage child-related workers or eligible volunteers who have a valid Check; and
- report sustained findings of serious physical assault or sexual misconduct findings involving children made against child-related workers or volunteers to the OGC.

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

Screening Procedures

The School maintains procedures for various categories of workers. These are outlined below:

Paid employees

All paid employees (casual, part-time and full-time) of the School are required to obtain and maintain a valid WWCC clearance. It is a condition of employment at All Saints Grammar for an employee to obtain and maintain a WWCC clearance during their employment.

Each new employee's WWCC number and date of birth must be submitted to the Business Manager or Finance Management officer for verification of the WWCC before the employee commences employment.

The following staff members are responsible for informing paid employees of their requirement to obtain a WWCC number and for providing the name, number and date of birth to the Business Manager or Finance Management Officer for online verification before the commencement of the employee's employment:

Head of School	Permanent Teaching staff – Full-time and Part-time
Business Manager	Permanent Support staff – Full-time and Part-time
Administration Coordinator	Casual teaching staff (K-12)
Business Manager	Casual Cocurricular staff (K-12)

Contractors and Volunteers

All Contractors and Volunteer workers (Eg: Cleaners, Plumbers, Electricians, ASPA, Classroom Volunteers etc) of the School are required to obtain and maintain a valid WWCC clearance. It is a condition of entry to All Saints Grammar School's properties for workers to obtain and maintain a WWCC clearance for entry to the School.

Each worker must supply to the Business Manager or Finance Management officer their WWCC number and date of birth for verification of the WWCC before the Worker commences work on site.

The following staff members are responsible for informing Contractors and volunteers of their requirement to obtain a WWCC number and for providing the name, number and date of birth to the Business Manager or Finance Management Officer for online verification before the commencement of the employee's employment:

Maintenance Manager	Contractors
Deputy Head of Primary	Volunteer Workers
Deputy Head of Secondary	Volunteer Workers

Records

It is the responsibility of the Business Manager or Finance Management Officer to verify all WWCC numbers. The Business Manager or Finance Management Officer will email the results of the verification to the staff member responsible for obtaining the WWCC number from the worker.

The verification must only be completed online on the OCG website. All Saints Grammar will not accept the worker's notification letter or email as proof of their clearance.

The School maintains records (electronic and/or hard copy format) that include the following information:

- Full name
- Date of birth
- WWCC number
- Verification date

- Verification outcome (clearance, barred, interim barred or not found)
- Expiry date of the WWCC number
- Status of the worker (paid or volunteer)

The following staff members are responsible for maintaining an electronic and/or hard copy record of the above information:

Business Manager or Finance Management Officer for:

- Teaching staff (K-12) – Full-time and Part-time
- Support staff (K-12) - Full-time and Part-time
- Casual teaching staff (K-12)
- Casual Cocurricular staff (K-12)
- Contractors
- Volunteers

Application/Renewal

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

Refusal/Cancellation

The OCG can refuse to grant a working with children check 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 OGC and instructed to remove such persons from child-related work.

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.

Disqualified person

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

Risk assessments

A risk assessment is an evaluation of an individual's suitability for child-related work. The OCG will conduct a risk assessment on a person's suitability to work with children when a new record is received which triggers a risk assessment. This may include an offence under Schedule 1, pattern of behaviour or offences involving violence of sexual misconduct representing a risk to children, findings of misconduct involving children or notification made to the OCG by the Ombudsman.

Process for reporting to OCG

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

The school is required to notify the OCG sustained findings of serious physical assault or sexual misconduct findings involving children made against child-related workers or volunteers to the OGC. The school may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act.

Finding of misconduct involving children

The school will report to the OCG when a sustained finding has been made against an employee that they engaged in:

- sexual misconduct committed against, with or in the presence of a child, including grooming of a child; or
- any serious physical assault of a child.

The school will advise the person that the OCG has been notified of a finding of misconduct involving children. The WWC Act enables a person who has a sustained finding referred to the OCG under the Act to request access to the records held by the school in relation to the finding of misconduct involving children once final findings are made. The entitlements of a person to access information in terms of section 46 of the CPWWC Act is enlivened when a finding of misconduct involving children has been made. A request for records should be made directly to the OCG.

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

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:

- Code of Conduct - sets out information about the standards of behaviour expected of all staff members;
- Work Health and Safety Statement - identifies the obligations imposed by work health and safety legislation on the school and staff members;
- Discrimination, Harassment and Bullying Statement - summarises obligations in relation to unlawful discrimination, harassment and bullying;
- Complaint Handling Procedures – provides the steps taken by the school in addressing complaints; and
- School's Anti-Bullying Policy - sets clear guidelines of expected behaviours.

Definitions

Head of Agency

The Head of the Agency is the Head of School. Heads of Campus must report all allegations and incidences, as well as progress reports on any situations relating to these to the Head of School as they occur.

Child and Young Person

Under the Children and Young Persons (Care and Protection) Act 1998, a child is a person who is under the age of 16 and a young person is a person aged 16 or 17.

Under the Commission for Children and Young People Act 1998, the Child Protection (Prohibited Employment) Act 1998, the Ombudsman's Amendment (Child Protection and Community Services) Act 1998, a child is a person under 18 years of age.

Reportable conduct

Reportable conduct is:

- a) assault (including sexual assault) of a child, or
- b) ill treatment or neglect of a child, or
- c) exposing or subjecting a child to behaviour that psychologically harms the child, whether or not, in any case, with the consent of the child.

Reportable conduct does not extend to:

- a) conduct that is reasonable for the purposes of 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 circumstances, is trivial or negligible, but only if the matter is investigated and the result of the investigation recorded under workplace employment procedures, or
- c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA of the Ombudsman Act 1974.

A list of indicators of Reportable Conduct and Neglect are outlined in Attachment C.

Reportable allegations

Reportable allegations are:

- a) allegations of reportable conduct against a person
- b) allegations of misconduct that may involve reportable conduct

Physical abuse

Physical abuse refers to assault and/or non-accidental injury and/or to a child by a parent, caregiver or another person. It includes harm or injuries that are caused by excessive discipline, severe beating or shaking, bruising, lacerations or welts, burns, fractures or dislocations, female genital mutilation, attempted suffocation or strangulation and death.

Physical assault is a hostile act towards a child. The assault occurs regardless of the child or young person's consent. Assault can include pushing, shoving, throwing objects, spitting, hitting, smacking, and threatening behaviour (either verbal or action). Actual physical harm does not have to occur in order for an assault to have occurred, i.e. the child does not need to be hurt or injured. Even if the person did not intend to make contact with the child, it may still constitute an assault if the circumstances indicate the act may have been reckless (i.e. being a reasonably foreseeable consequence of their action).

Sexual abuse

Child sexual abuse is any sexual act or sexual threat imposed on a child. Sexual abuse refers to the involvement of children in sexual acts where the child is exploited. Adults or adolescents who perpetrate child sexual abuse exploit the dependency and immaturity of children. Coercion, which may be physical or psychological, is intrinsic to child sexual abuse and differentiates such abuse from consensual peer sexual activity.

It can include genital exposure, exposure to prostitution or involvement in prostitution, exposure to pornography, the threat of sexual abuse or assault and the deliberate exposure of a child to the sexual behaviours of others.

Neglect

Neglect is defined by s.26 of the Children (Care and Protection) Act. It states: a person, whether or not the parent of the child, who without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child in his or her care, is guilty of an offence.

Child neglect occurs where a child is harmed by the failure to provide the basic physical and emotional necessities of life. Neglect may also be evident in, or arise from, the inadequate supervision of a child, such as a child being left unattended in a car, home or other places.

Emotional abuse

Emotional abuse encompasses a range of behaviours that harm a child. It is a behaviour by a parent or caregiver which can destroy the confidence of a child resulting in significant emotional deprivation or trauma. It involves impairment of a child's social, emotional, cognitive, intellectual development and/or disturbance of a child's behaviour.

It can involve excessive or unreasonable demands above the capacity of a child's developmental level, or failure to provide an environment which encourages a child's physical, emotional, and social development.

Emotional abuse can include scapegoating, rejection, humiliation and verbal abuse. It can include the deliberate failure to respond appropriately to threats of self-harm or suicide. Emotional abuse can also be said to include the use of language to ridicule or intimidate a child, or the use of language to humiliate or denigrate a child or their family.

Domestic violence

Domestic violence is violence, abuse and intimidatory behaviour perpetrated by one person against another in a personal, intimate relationship. Domestic violence occurs between two people in which one has power over the other causing fear, physical and/or psychological harm. Domestic violence has a profound effect on children and constitutes a form of reportable conduct. Children and young people can be affected by being exposed to violence in the parental relationship, by becoming victims of violence, or a combination of the two.

Misconduct

Misconduct that may involve reportable conduct includes inappropriate behaviour with regard to:

- language
- touching (even if not sexual)
- relationship that breaches standards of professional conduct or community standards
- use of power relationships
- breach of Professional Code of Conduct (Attachment B)

Procedural Fairness

The Head of School or person conducting the investigation should be mindful of the principles of procedural fairness. Information on the employee's rights, the maintenance of confidentiality and the opportunity to respond to allegations should be an integral part of the process.

Prevention

Child protection is a broad responsibility. It involves more than responding once an allegation has been made. It involves minimising the possibility of reportable conduct occurring in the first place.

Preventative steps taken at All Saints Grammar include:

- acting professionally at all times and displaying exemplary behaviour
- having guidelines that define appropriate and inappropriate behaviour
- clearly defining each person's role within the School
- notifying the Head of School if they suspect any reasonable grounds of reportable conduct
- including key elements of child protection within the School curriculum eg. PDHPE, drama performances
- implementing thorough employment procedures that identify people who are not suitable to work with children through reference checking, pre-employment screening
- providing information to families and the community on the child protection strategies adopted by the School
- raising the awareness of the general community about child protection and communicating information to who concerns should be reported
- training staff in best practices to ensure a safe environment and providing staff with further training through professional development programs in the area of child protection
- adhering to the School's Professional Code of Conduct

All Saints Grammar is committed to staff training on child protection issues. This includes the provision of training to all new staff once they commence employment.

- Annual training is conducted by Thomas Psomas (Head of Student Wellbeing and Accredited Child Protection Investigation Officer through the AIS)
- Training is held during our PreK-12 Professional Learning Sessions at All Saints Grammar
- Any staff who are not present at the Training Session are informed of their obligations by the Head of each Campus
- Any new staff throughout the school year are informed by the Head of each Campus during their induction
- When there is new legislation or changes to Child Protection Policy arise this is communicated through Staff Meetings by the Head of each Campus or the Head of Student Wellbeing

Code of Professional Conduct

The behaviour expected of All Saints Grammar staff is that of a professional person.

- Exercise professional judgement when determining circumstances where you may be alone with a student. It is good practice to have another student nearby.
- When conducting interviews alone with a student in a room it is good practice to have the doors open.
- Exercise disciplinary or pastoral actions with students in a professional manner.
- Students must not be contacted outside school hours. The development of a social relationship with parents of students outside school hours may interfere with disciplinary processes.

A clear list of All Saints Grammar's expectations in regards to the School's Code of Professional Conduct is outlined in Attachment B. The School's Code of Conduct reinforces Child Protection responsibilities of staff.

Roles and Responsibilities

Head of School

- monitor compliance with this policy and maintains school records relevant to this policy
- maintain register of staff members who have read and acknowledged that they read and understood this policy
- maintain register of Working with Children Check verifications
- mandatory report to Family and Community Services
- establish systems for preventing reportable conduct by employees
- handle and respond to allegations of reportable conduct made against an employee
- notify the Ombudsman of any reportable conduct allegation or conviction against an employee (notification is to be made within 30 days of receipt of any allegation of reportable conduct against an employee)
- notify the Ombudsman whether or not any disciplinary or other action will be taken in relation to the employee the subject of the allegation
- conduct internal independent investigations in regards to any allegations of reportable conduct
- if there is more than one investigation, the School needs to liaise with FACS or police to decide how information will be shared between the agencies
- provide letters to the parties involved advising them of the final determination

Deputy Head/Head of Student Wellbeing

- review the School's Child Protection Policy to reflect changes in legislation
- review the School's Child Protection Policy when working with different agencies (FACS, Ombudsman, AIS)
- inform staff, new and existing, on professional development courses
- discuss with the staff at the beginning of each year the School's Child Protection Policy and the responsibilities of teachers
- inform new staff members during their induction of the School's Child Protection Policy and the requirements of teachers
- liaise with the Head of School on Child Protection matters

Teachers

- implement the School's Child Protection Policy
- interact professionally with students in their care
- report immediately to the Head of School, any child protection or child wellbeing concerns about the safety, welfare or wellbeing of a child or young person
- all new staff must read this policy and sign the acknowledgement that they have read and understood the policy
- participate in annual child protection training or any additional training as directed by the Head of School

Parents

- notify the Head of School of suspected incidents of reportable conduct

The following procedures for handling complaints about misconduct or reportable conduct are in place for parents/caregivers:

- these procedures are for stakeholders including parents and carers to raise a complaint about staff misconduct or reportable conduct
- this process applies specifically to complaints about reportable conduct/misconduct rather than other types of complaints
- information about what misconduct/reportable conduct means (detailed in the Child Protection policy)
- the parent/caregiver will raise this type of complaint, including details:
 - to the Head of School or Deputy Head of School in their absence
 - to the Head of Campus when appropriate

- in writing preferably
- complaints raised will take into consideration the confidentiality of all parties

Once a complaint is received the School will:

- acknowledge receipt in writing to the parent/caregiver of the complaint
- determine how the complaint will be responded to
- follow-up by providing details of who will be the point of contact
- identify that if the complaint is investigated the school will periodically update the complainant on the school's progress (as appropriate)
- inform the complainant that the complaint had been finalised.

There may be limitations under the Ombudsman's Act and privacy legislation regarding disclosure of information about an investigation and the outcome of an investigation.

Procedures for Mandatory Reporting

Making a report

All employees at All Saints Grammar who have reasonable grounds to suspect that a student is at risk of significant harm, has been abused or neglected or is at risk of abuse or neglect, are required to inform the Head of School, even against the wishes of the child.

- If the Head of School is off campus inform the Deputy Head of School/Head of Student Wellbeing and e-mail the Head of School.
- If the concerns involve an allegation against an employee, the Board must be informed. (Allegations against the Head of School should be made to the Board).

Risk of significant harm to a student

- The Head of School is responsible for reporting risk of significant harm to FACS (and where necessary the police) when staff report risk of significant harm to the Head of School. They decide whether to report based on using the Decision Tree of the NSW Mandatory Reporter Guide
- In situations where the Head of School agrees that there are reasonable grounds to suspect that a child is at risk of significant harm, the Head of School will report to FACS. 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
 - 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.

- In situations where the Head of School concludes that there are no current concerns that a child is at risk of significant harm, the Head of School will decide whether to inform FACS.
- The Head of School will inform the staff member who raised the concern whether or not an official report was made. 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 FACS has been made.
- All documentation regarding reporting is to be kept in a Restricted Access File.

Allegations of reportable conduct against an employee

Part 3A of the Ombudsman Act requires the heads of certain agencies, including non-government schools in New South Wales, to notify the New South Wales Ombudsman of all allegations of reportable conduct and convictions involving an employee and the outcome of the School's investigation of these allegations. Under the Ombudsman Act allegations of child abuse only fall within the reportable conduct jurisdiction if the involved individual is an employee of the relevant agency at the time when the allegation becomes known by the head of agency.

- any employee, whether or not employed in connection with work or activities that relates to children, and any individual engaged by the agency to provide services to children (e.g. contractors, volunteers, work experience participants, clergy, ministers of religion and instructors of religion who provide pastoral or liturgical services); and
- involves a child (a person under the age of 18 years) at the time of the alleged incident; and
- involves conduct that meets the definition of reportable conduct as defined in the act.

The Ombudsman:

- 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 (eg arising out of complaints by the person who is the subject of an allegation); and
- may undertake 'own motion' investigations of non-government schools where the Ombudsman considers it appropriate to do so, including where there is evidence of systemic failure or serious conflict of interests.

Under the Ombudsman Act *reportable conduct* means:

- 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);
- any assault, ill-treatment or neglect of a child; and
- any behaviour that causes psychological harm to a child whether or not, in any case, with the consent of the child.

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
 - 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; or conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA.
- Under the Ombudsman Amendment (Child Protection and Community Services) Act 1998, the School is responsible for investigating an allegation of reportable conduct against an employee.
 - All allegations against employees that involve reportable conduct or misconduct that may involve reportable conduct will be reported within 30 days of the receipt of the allegation to the Ombudsman. The allegations will also be reported to FACS if there is a current concern for the safety, welfare and wellbeing of the child, or to the police.

Allegations of behaviours of a particular Class or particular Kind against an employee

- The School is responsible for investigating behaviours of a particular Class or of a particular Kind against an employee.
- Class or Kind Matters involve low level physical assault only. They include first time allegations of physical assault, first time allegations of unreasonable restraint or excessive force to restrain a child, behaviours where no harm or injury resulted, behaviours that involved no kicking or punching with force, behaviours involving the use of objects where there was no potential to harm or injure the child, no intention to harm or injure the child and no undue force employed.
- If Class or Kind Matters are investigated by an accredited investigator (Thomas Psomas - Head of Student Wellbeing) they will not be reported to the Office of the Ombudsman but will be reported to and referenced by the AIS.
- The Head of School will store securely and under restricted access all documentation regarding investigations permanently.
- All documentation regarding reporting is to be kept in a Restricted Access File by the Head of School.

Investigation Process

Upon the receipt of an allegation of reportable conduct against an employee, the Head of School is responsible for carrying out an initial risk assessment prior to the investigation of the allegation. The purpose of the risk assessment is to identify and minimise any risks.

In conducting any investigation into allegations of reportable conduct the following principles are followed:

- all investigations should be conducted in an impartial, independent and objective manner and be open and transparent
- a high level of confidentiality must be maintained throughout the investigation phase
- the employee against whom an allegation has been made should be told promptly and be given the right to reply to the allegation
- at the conclusion of the investigation preliminary findings should be made
- the employee should be told of the preliminary findings and given the opportunity to respond
- relevant disciplinary proceedings are taken as a consequence of the findings arising from the investigation

Full details of the investigation process are provided in the *Association of Independent Schools and the NSW/ACT Independent Education Union's Recommended Protocols for Internal Investigative and Disciplinary Proceedings*.

Note: 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.

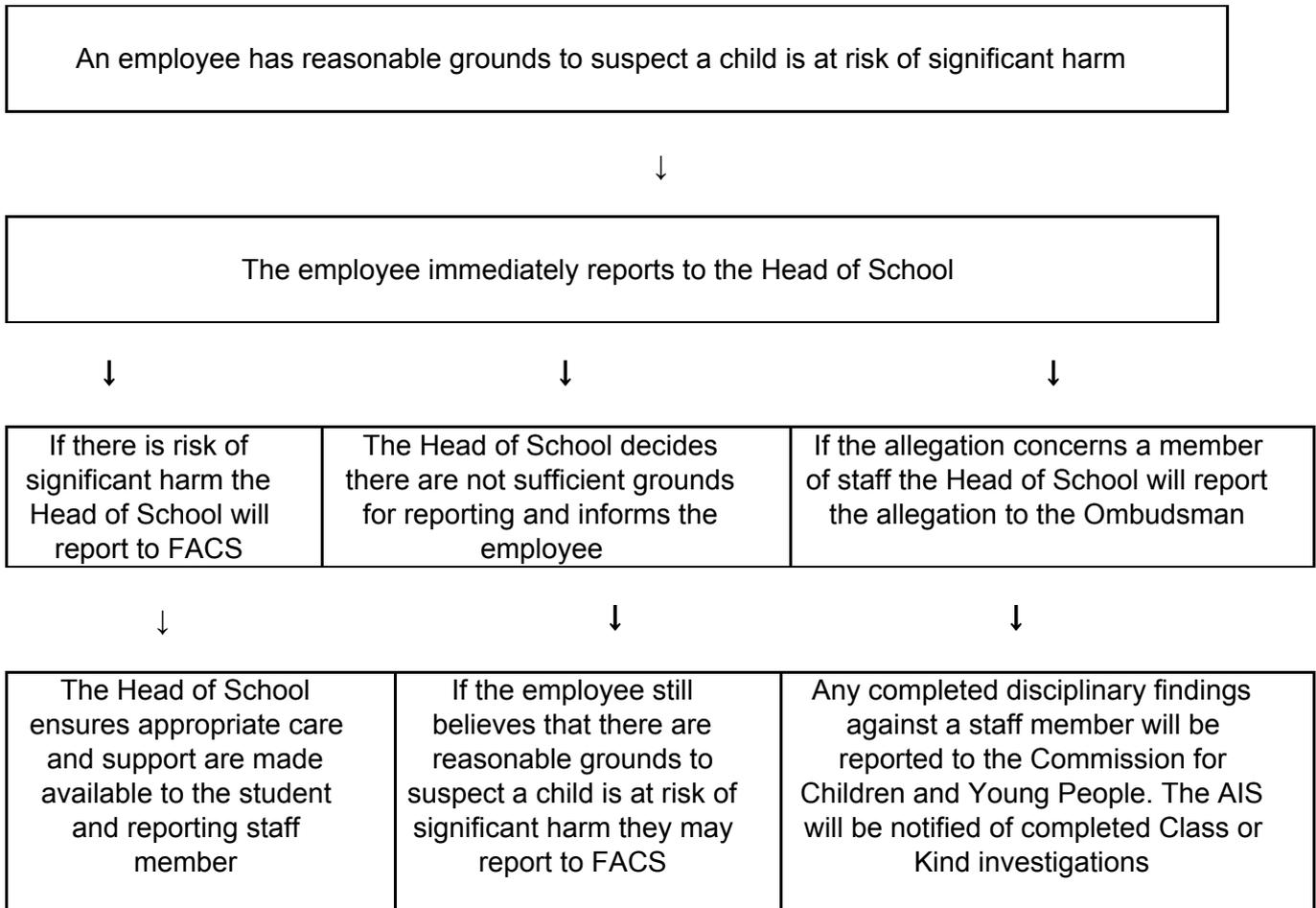
Rights of All Parties

- The decision making processes which are in place ensure the safety and wellbeing of children and employees while the investigation is being conducted.
- All aspects of an investigation into an allegation of reportable conduct against an employee will be thoroughly documented and the documentation kept in a Restricted Access File.
- Any allegation or conviction of reportable conduct against an employee will be passed onto the Ombudsman.
- Employees will be afforded procedural fairness in the event of an allegation being made against them by having the allegation assessed and acted on impartially, fairly and reasonably. This also means that before completing an investigation of an allegation of reportable conduct against an employee, the Head of School will inform the employee of the substance of any allegation against them and provide the employee with a reasonable opportunity to put their case forward.
- Appeal or review mechanisms are afforded to the employee if they are dissatisfied with the process or the outcome of the investigation.
- The employer is committed that they will act fairly and without bias, conduct an investigation without undue delay, ensure the case is not investigated or determined by someone with a conflict of interest, and ensure the outcome is supported by evidence.
- All Saints Grammar will support students who have experienced abuse or neglect, and support staff who have allegations made against them through referral or provision of information about counselling or other community health care services. Support will also be available for the person making the allegation.

Appendix

- Memorandum of Understanding (Attachment A)
- Code of Professional Conduct (Attachment B)
- Indicators of Reportable Conduct and Neglect (Attachment C)

Overview for reporting suspected cases of children at risk of significant harm



Acknowledgement

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

Signature:

Date: