



**All Saints**  
Grammar

# Child Protection Policy

## Rationale:

*All children have a right to feel and be safe whilst they attend school, and on all school related activities.*

## Aim:

*To ensure that children's rights to be safe are maintained and that each child is protected against injury resulting from any form of abuse or risk of harm.*

# 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 wellbeing.

This policy document:

- outlines child protection procedures in line with current legislation
- aims to inform staff of children's rights to be protected
- provides staff with an awareness of what is reportable conduct and their legal obligations as mandatory reporters of risk of harm.

All Saints Grammar is committed to:

- providing training and ongoing in-service for staff
- raising teacher awareness in the area of child protection
- reporting to the Office of the Children's Guardian any reportable conduct allegations
- supporting the Department of Communities and Justice in the investigations of allegations of reportable conduct and neglect and reporting to DCJ
- conducting Working with Children Checks.

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 Acts of Parliament:

- Children and Young Persons (Care and Protection) Act 1998
- Crimes Act 1900
- Child Protection (Working with Children) Act 2012
- Children's Guardian Act 2019

## 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. Mandatory reporting is required by staff only if the concerns arise in the course of their work.

### Section 23

A child or young person is at risk of harm if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence 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. the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- d. 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,
- e. 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 psychological harm.

### Section 27

#### Mandatory reporting (Memorandum of Understanding)

(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.

Note: The Mandatory Reporter's Guide (MRG) is an online tool for Mandated Reporters.

## Crimes Act 1900

- Failure to report child abuse to police or protect a child from abuse is a criminal offence
- Under Section 73 of the Act – Special Care Relationship raises the age of the child to under 18 years
- Under the Act "Failure to Report" (S43b) and "Failure to Protect" (S316A) have now been added as a category under the reportable conduct scheme

## Child Protection (Working with Children) Act 2012

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 may be employed subject to screening being completed as soon as possible after they start 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 Secondary Campus.
- 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.
- The Office of the Children's Guardian provides or revokes Working with Children Checks (WWCC).
- The Head of School can verify a WWCC number online.

## Children's Guardian Act 2019

The role of the Children's Guardian in administering the reportable conduct scheme includes:

- Provide oversight, guidance, and education to relevant entities in fulfilling their obligations under the scheme
- Ensuring appropriate action is taken by a relevant entity

Monitoring a relevant entity's systems for preventing, detecting

and dealing with reportable conduct and reportable convictions.

# Child Safe Scheme and Child Safe Standards

All Saints Grammar are committed to providing a safe environment for children by upholding the Child Safety Standards as expressed by the Office of the Children's Guardian.

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.

## Related School 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):

**Staff 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

**Student Welfare: Anti- Bullying Guidelines** – identifies the school procedures for identifying and addressing bullying at school.

## Compliance and Record Keeping

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

- Annual briefing of staff by the Head of School informing them of their legal obligations in regards to child protection, as mandatory reporters and, the school's procedure for making reports for students who are at risk of significant harm;
- Maintaining a register of staff members who have read and acknowledged that they read and understood this policy;
- Maintaining a register containing all Working with Children Check Clearance (WWCC clearance) verifications and renewals;
- Securely storing any mandatory reports to the Department of Communities and Justice (DCJ); and
- Securely storing any reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

# Definitions

## Head of Relevant Entity

The Head of Relevant Entity 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, a child is a person under 18 years of age.

## Mandatory Reporter

Under the Care and Protection Act, a mandatory reporter is a person who:

- a. in the course of their employment, delivers education and services to children; or
- b. holds a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of services including, education and children's services are mandatory reporters.

## Reportable conduct

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

- a. any sexual offence or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material);
- b. any assault, ill treatment or neglect of a child;
- c. any offence under s43B "Failure to Protect or s316A "Failure to Report" of the Crimes Act 1900; and
- d. 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.
- c. conduct of Class or Kind exempted from being reportable conduct by the Children's Guardian Act under Section 30.

## Reportable allegations

Reportable allegations are:

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

## Assault

Applies physical force against a child without lawful justification

- such as hitting, striking, kicking, punching, or dragging a child (actual physical force).

Physical assault is a hostile act towards a child. The assault occurs regardless of the child or young person's consent. 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 offence

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

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.

## Sexual Misconduct

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;
- sexual exhibitionism;
- watching children undress. For example, in change rooms or toilets when supervision is not required or justified;
- comments to a child that express a desire to act in a sexual manner towards the child, or another child.

Definitions of 'grooming', within child protection legislation, are complex. Under the Crimes Act, grooming or procuring a child under the age of 16 years for unlawful sexual activity is classed as a sexual offence. The Crimes Act (s73) also extends the age of consent to 18 years when a child is in a 'special care' relationship. Under Schedule 1(2) of the Child Protection (Working With Children) Act, grooming is recognised as a form of sexual misconduct.

## Ill Treatment

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

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

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

## Neglect

Neglect is defined by Section 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 or psychological harm

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.

## 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:

- Keeping up to date with legislative obligations for child protection.
- 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.
- 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 whom 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.

## 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 conduct is outlined in the Code of Professional Conduct.



# Roles and Responsibilities

## Head of School

- Report to DCJ the details of students of suspected reportable conduct or at “risk of harm”.
- Establish systems for preventing reportable conduct by employees.
- Handle and respond to allegations of reportable conduct made against an employee.
- Notify the Office of the Children’s Guardian of any reportable conduct allegation or conviction against an employee (notification is to be made within 7 business days of becoming aware of any reportable allegations or conviction against an employee).
- 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 DCJ or police to decide how information will be shared between the agencies.
- Provide an Investigative Report within 30 calendar days after becoming aware of the reportable allegation or conviction or if not complete provide an Interim Report within 30 calendar days after becoming aware of a reportable allegation or conviction, of what action has been taken since the matter was notified and what further action it intends to take.

## Head of Campus

- Review the School’s Child Protection Policy to reflect changes in legislation.
- Review the School’s Child Protection Policy when working with different agencies (AIS, DCJ, OCG).
- Inform staff, new and existing, on professional development courses.
- Discuss with the staff at the first Staff Meeting 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.

## Teacher/School Counsellor

- Implement the School’s Child Protection Policy.
- Interact professionally with students in their care.
- Report immediately to the Head of School, Head of Primary or Head of Secondary, suspected or reported incidences of reportable conduct, or incidences of misconduct.

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

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

- The School provides all staff members with a copy of this policy and will provide all staff members with the opportunity to participate in child protection training annually.
- All new staff members must read this policy and sign the acknowledgement that they have read and understood the policy.
- All staff members must participate in annual child protection training and additional training, as directed by the Head of School. The training complements this policy and provides information to staff about their legal responsibilities related to child protection and School expectations, including:
  - mandatory reporting;
  - reportable conduct;
  - working with children checks; and
  - professional boundaries.

## Parents: Complaints and grievances

- Notify the Head of School of suspected incidents of reportable conduct.

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

- This procedure applies specifically to complaints about reportable conduct/misconduct rather than other types of complaints. The policy is made available on the School website.
- The parent/caregiver will raise this type of complaint, including details to the Head of School or Deputy Head of School in their absence or 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:

1. Acknowledge receipt in writing to the parent/caregiver of the complaint.
2. Determine how the complaint will be responded to.
3. Follow-up by providing details of who will be the point of contact.
4. Identify that if the complaint is investigated the school will periodically update the complainant on the school's progress (as appropriate).
5. Inform the complainant that the complaint has been finalised.

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

# Procedures for Reporting

## Making a report

All employees at All Saints Grammar who have reasonable grounds to suspect that a student is at risk of 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.

## Allegations of reportable conduct against a student

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

## Allegations of reportable conduct against an employee

- Under the Children's Guardian Act 2019, 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 7 business days of the receipt of the allegation to the Office of the Children's Guardian. The allegations will also be reported to DCJ if there is a current concern for the safety, welfare and wellbeing of the child, or to the police.

# Working with Children Check

The WWCC Act protects children by requiring a worker to have a WWCC clearance or current application to engage in child related work. Failure to do so may result in a fine or imprisonment.

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

- grant a WWCC clearance (generally valid for 5 years); or
- 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.

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 OGC of any change to their personal details within 3 months of the change occurring. Failure to do so may result in a fine

All Saints Grammar will:

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

# Mandatory Reporting Procedures

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm. A child is a person under the age of 16 years and a young person is aged 16 years or above but who is under the age of 18, for the purposes of the Care and Protection Act.

1. Reports must be made to the Head of School by staff should concerns exist for the safety, welfare or well-being of a 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;

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

2. The Head of School will decide whether there are reasonable grounds 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.

The Mandatory Reporter Guide Decision Tree may be used to assess the risk of significant harm and the need to report. <https://reporter.childstory.nsw.gov.au/s/mrg>

If it is deemed that there is a significant risk of harm, a report will be made by the Head 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.

3. 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.
4. Staff members are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this policy, but could incite potential civil proceedings for defamation.

In general, the 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.

# Reportable Conduct Procedures

Section 29 of the Children's Guardian Act 2019 requires the Heads of School 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 school at the time when the allegation becomes known by the Head of School.

A child is defined as a person under the age of 18 years at the time of the alleged incident.

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; and
- 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
- 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; or

## Process for reporting reportable conduct allegations or convictions

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

Staff members must also report to the Head of School when they become aware that an employee has been charged with or convicted of an offence (including a finding of guilty 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 Board.

Parents, carer 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 complaint handling procedures.

## 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.

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

1. determine whether it is an allegation of reportable conduct;
2. assess whether the OCG or the Police need to be notified (ie, if reasonable grounds to suspect that a child is at risk of significant harm or a potential criminal offence). If they have been notified, seek clearance from these statutory agencies prior to the School proceeding with the reportable conduct investigation;
3. notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or Police);
4. notify the OCG within 7 business days of receiving the allegation.

The notification should include the following information:

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

The notice must also include the following:

- (a) the date of birth and working with children number, if any, of the employee the subject of the report,
  - (b) the police report reference number (if Police were notified),
  - (c) the report reference number if reported to the Child Protection Helpline,
  - (d) 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.
5. carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
  6. provide an initial letter to the ESOA (employee subject of the allegation) 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; and
  7. investigate the allegation or appoint someone to investigate the allegation.

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

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

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.

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. The school may employ a Third Party to conduct the investigation.

An ESOA may have an appropriate support person with them during the interview process. Such a person is there for support only and as a witness to the proceedings and not as an advocate or to take an active role.

## Risk management throughout an investigation of a reportable conduct allegation

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.

Following an allegation of reportable conduct against an employee, the Head of School will conduct 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. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the ESOA.

A decision to take action on the basis of a risk assessment is not indicative of the findings of the matter. Until the investigation is completed and a finding is made, any action, such as an employee being

suspended, is not to be considered to be an indication that the alleged conduct by the employee did occur.

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

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 or in conjunction with other agencies (DCJ, OCG, Police) regarding what action, if any, is required in relation to the ESOA, the child(ren) involved and any other parties.

The ESOA will be advised:

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

The ESOA does not automatically have the right to:

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

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the 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.

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

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

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

It is important when dealing with allegations of reportable conduct that the matter be dealt with as confidentially as possible. The School requires that all parties maintain confidentiality during the investigation including in relation to the handling and storing of documents and records.

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

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.

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*.

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.

## 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.

## Special Care Relationships (Crimes Act 1900 – NSW)

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

The Special Care (sexual intercourse) offence under s73 was supplemented by an additional special care offence involving sexual touching now under s73A of the Crimes Act. The new offence under s73A will expand special care offences to also apply to non-penetrative sexual touching. The offence will protect children aged 16-17 years from inappropriate sexual contact with teachers and others who have special care of the child.



# References

- i. NSW Department of Communities and Justice (DCJ)  
<https://www.dcj.nsw.gov.au>
- ii. The Office of Children's Guardian (OCG)
- iii. <https://www.kidsguardian.nsw.gov.au>
- iv. NSW Commission for Children & Young People
- v. Department of Premier and Cabinet – Keep Them safe  
[www.keepthemsafe.nsw.gov.au](http://www.keepthemsafe.nsw.gov.au)

Effective: 2011

Reviewed: March 2024



# All Saints Grammar Child Protection Policy

I acknowledge that I have read and understood the All Saints Grammar Child Protection Policy.

Staff member's name: \_\_\_\_\_

Staff member's signature: \_\_\_\_\_

Date: \_\_\_\_\_



# All Saints Grammar

All Saints Grammar School

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