



## Procedures for Responding to and Reporting Child Safety Incidents or Concerns

The procedures in this section of our Child Safe Policy outlines our practices and procedures for responding and reporting child safety incidents or concerns, both internally and externally, and provide guidance on child protection legal obligations with respect to the reporting of child abuse and other harm.

### **Overview of Procedures for Responding to and Reporting Child Safety Incidents and Concerns**

Child safety incidents or concerns can take many forms. The nature of child abuse and other harm is complex. Abuse or other harm may occur over time and potential indicators of abuse or harm are often difficult to detect. The perpetrator may be a parent, carer, other family member, staff member, Volunteer, Contractor, another adult or even another child or young person. The legal obligations for reporting allegations of child abuse or other harm can vary depending on the circumstances of the child safety incident or concern.

The different definitions of child abuse or other harm and their key indicators are set out in detail in Definitions and Key Indicators of Abuse and Other Harm. Together, they are all referred to as 'child safety incidents or concerns' for the purposes of our Child Safe Policy.

All of the School's procedures for reporting and responding to child safety incidents or concerns are designed and implemented taking into account the diverse characteristics of the School community.

### **Internal Reporting by Students, Parents/Carers and the Community**

There are no limits on how or to whom students at the School can disclose any child safety incident or concern or make a complaint about a staff member, Volunteer or Contractor. The Complaints Handling Policy provides multiple, child-focused pathways, including a pathway for anonymous disclosure, to enable all students to raise child safety incidents or concerns.

Parents/carers, family members and other community members who have child safety concerns about a student at the School are asked to follow the procedures set out in our Child Safe Policy or in our Complaints Handling Policy, which are available on our public website. Child safety incidents or concerns involving the conduct of a staff member, Volunteer or Contractor that are raised by a parent/carer or family or community member will be addressed in accordance with our Complaints Handling Policy, in conjunction with our Child Safe Policy, regardless of how that concern is raised.

### **Internal and External Reporting by Staff, Volunteers and Contractors**

The policies and procedures for members in this section of our Child Safe Policy set out how Staff, Volunteers and Contractors should respond to child safety incidents or concerns. These include procedures for responding to incidents or disclosures of child abuse or other harm, or suspected child abuse or other harm, and simple and accessible procedures for Staff, Volunteers and Contractors to report a child safety incident or concern internally.

These policies and procedures make clear that reporting internally to or consulting with a Child Protection Officer does not change any obligation under legislation to report to an external authority.

## **The School's Response to Internal Reports**

The School will take appropriate, prompt action in response to all child safety incidents or concerns, including all allegations or disclosures of abuse or other harm, that are reported internally to the School, including:

- all matters that meet the required relevant thresholds being reported externally to the Department of Communities and Justice (DCJ), the NSW Children's Guardian or the Police, depending on the issues raised
- the School fully cooperating with any resulting investigation by an external agency
- protecting any student connected to the incident or concern until it is resolved and providing ongoing support to those affected
- taking particular measures in response to child safety incidents or concerns about an Aboriginal or Torres Strait Islander student, a student from a culturally and/or linguistically diverse background or a student with a disability
- securing and retaining records of the child safety incident or concern and the School's response to it.

## **Relevant Policies and Procedures**

This section describes our work systems, practices, policies and procedures for responding to and reporting child safety incidents or concerns both internally and externally. This includes:

- A. Managing Your Initial Response to a Child Safety Incident or Concern
- B. Reporting a Child Safety Incident or Concern Internally
- C. Failure to Protect
- D. Mandatory Reporting to DCJ
- E. Voluntary Reporting to DCJ
- F. Reportable Conduct
- G. Reporting to Police

### **A. Managing Your Initial Response to a Child Safety Incident or Concern**

The following sections outline the procedures you should follow immediately after witnessing or being told about a child safety incident or concern.

These sections also explain the six ways that you may become aware that a student may be experiencing abuse or other harm. Each section sets out strategies, guidelines and requirements for responding to these situations and for assisting students involved.

- Responding to an Emergency
- Preserving Evidence
- Documenting Your Observations and Actions
- Witnessing a Child Safety Incident
- Observation of Abuse or Other Harm Indicators
- Private Disclosure by a Student
- Public Disclosure by a Student
- Third Party Disclosure
- Disclosure by a Former Student
- Support Following Child Safety Incident or Disclosure

## **Responding to an Emergency**

All Staff (teaching and non-teaching), Volunteers and Contractors must act as soon as they witness a child safety incident or form a reasonable belief that a student has just been or is at immediate risk of being abused or harmed.

If a student has just been or is at immediate risk of being harmed you must ensure their immediate safety by:

- separating alleged victims and others involved
- administering first aid
- calling 000 for urgent medical assistance or Police assistance to address immediate health and safety concerns
- briefing the Child Protection Officer to be the future liaison with the Police on the matter.

## **Preserving Evidence**

When an incident of suspected child abuse or harm occurs at the School or at a School event, you must preserve evidence of the incident:

Environment: do not clean up the area and preserve the sites where the alleged incident occurred.

Clothing: take steps to ensure that the person who has allegedly committed the abuse and the child or young person who has allegedly been abused remain in their clothing. If this is not possible, ensure the clothes are not washed, handled as little as possible and stored in a sealed bag.

Other physical items: ensure that items such as weapons, bedding and condoms are untouched.

Potential witnesses: reasonable precautions must be taken to prevent discussion of the incident between those involved in or witnesses of the alleged incident.

## **Documenting Your Observations and Actions**

It is critical that all Staff (teaching and non-teaching), Volunteers and Contractors keep clear and comprehensive notes relating to any incidents, disclosures and allegations of child abuse and other harm. This information may be sought at a later date if there are court proceedings. Your notes may also assist you later if you are required to provide evidence to support your decisions regarding the handling of child safety incidents.

## **Witnessing a Child Safety Incident**

If you witness an incident where you believe a student has been subject to abuse or other harm you must take immediate action to protect the safety of the student/s involved.

Where there is an immediate risk to the health and/or safety of a student, follow the steps outlined in Responding to an Emergency.

The School's other Procedures for Responding to and Reporting Child Safety Incidents or Concerns should then be followed after the immediate health and safety of the student/s involved is ensured.

## **Observation of Abuse or Other Harm Indicators**

The different definitions of child abuse or other harm and their key indicators are set out in detail in Definitions and Key Indicators of Abuse and Other Harm.

The process of identifying child abuse or other harm purely through observation of these indicators can be complex and may occur over time. The complexity is magnified by the fact that many of the key indicators described may also occur as a result of other factors, not related to child abuse or other harm.

If you observe indicators that raise a concern that a student may be experiencing abuse or other harm, you should make written notes of your observations recording both dates and times.

You should also discuss the matter with a School Child Protection Officer. Our Child Protection Officers are able to assist you in clarifying your concerns and managing the next steps.

### **Private Disclosure by a Student**

If a student discloses a situation of abuse or other harm to you privately, you should stay calm and not display expressions of panic or shock.

You should reassure and support the student. You can do this by:

- stating clearly that the abuse or other harm is not the student's fault
- reassuring the student that you believe them
- telling the student that disclosing the matter is the right thing to do.

You should be patient and allow the student to talk at their own pace. When responding you should use the student's language and vocabulary.

Sometimes a student may try to elicit a promise from you that you will not tell anyone about the disclosure. You **must not** make this promise, as you are responsible for reporting the matter both internally and possibly also externally. It is not your role however to investigate the allegation. You should not interrogate the student and pressure them to tell you more than they want to.

When a disclosure is made you must report the matter internally to a School Child Protection Officer as soon as possible and undertake any external reporting requirements.

You should also make written notes of the circumstances of the disclosure recording both dates and times.

Following a disclosure of abuse or other harm by a student, Staff should follow the steps set out in Support Following Child Safety Incident or Disclosure.

### **Public Disclosure by a Student**

Public disclosure occurs where you observe a student disclosing abuse or other harm to another student or group of students.

In this circumstance you should use a strategy of "protective interrupting".

The aim of protective interrupting is to prevent a student from disclosing details of abuse or other harm in front of other students, whilst at the same time providing the student with the opportunity to disclose later, in a safe and confidential manner.

You can do this by:

- asking the student if you can talk privately
- moving the student away from the other students to a quiet space,

and then following the guidelines with respect to Private Disclosure by a Student.

Following a disclosure of abuse or other harm by a student, Staff should follow the steps set out in Support Following Child Safety Incident or Disclosure.

### **Third Party Disclosure**

A third party such as a friend of the student, a family member or the parent/carer of another student may provide you with information relating to a child safety concern/incident.

In this situation you should:

- listen to the person's concerns seeking clarification where required
- thank the person for raising their concern
- advise the person that we have procedures for dealing with situations like this
- advise the person that you will discuss their concerns with the relevant authorities.

As with Private Disclosure, you should reassure and support the person providing the information.

Sometimes a person may try to elicit a promise from you that you will not tell anyone about the allegation. You **must not** make this promise, as you are responsible for reporting the matter.

Remember that it is not your role to investigate the allegation. You should not interrogate the third party and pressure them to tell you more than they want to.

When a third party disclosure is made you must report the matter internally to a School Child Protection Officer as soon as possible and undertake any external reporting requirements.

You should also make written notes of the circumstances of the disclosure recording both dates and times.

In some circumstances, such as when the allegation concerns the conduct of a staff member, a Volunteer or a Contractor, a third party disclosure should be considered a complaint and will need to be managed pursuant to our Child Safe Policy, together with any relevant guidelines set out in our Complaints Handling Policy.

### **Disclosure by a Former Student**

A former student of the School may come forward to a current staff member, Volunteer or Contractor and disclose past abuse or other harm from their time at the School. If you receive a disclosure from a former student about historical abuse or other harm that occurred at the School, you must act.

If the former student is still a child or young person, you must follow the School's Procedures for Responding to and Reporting Child Safety Incidents or Concerns in the Child Safe Policy, specifically the obligations you may have under:

- Reporting a Child Safety Incident or Concern Internally
- Failure to Protect
- Mandatory Reporting to DCJ
- Voluntary Reporting to DCJ
- Reportable Conduct
- Reporting to Police

If the former student is an adult, you must still act. For example, if the disclosure includes an allegation against a current staff member or teacher at the School this may trigger obligations under Failure to Protect to remove the risk of abuse or harm to current students.

When the allegation concerns the conduct of either a current or former staff member, Volunteer or Contractor, a disclosure of historical abuse by a former student should be considered a complaint and will need to be managed pursuant to our Child Safe Policy, together with any relevant guidelines set out in our Complaints Handling Policy.

## **Support Following Child Safety Incident or Disclosure**

Child safety incidents or concerns can cause trauma and significantly impact on the mental health and wellbeing of children and young people. In addition to reporting and referral to the relevant authorities, the School plays a central role in addressing this trauma and has a duty of care to ensure that the students feel safe and supported at School.

### **Support for the student immediately following incident or disclosure**

You should take the following steps to support and assist a student after a child safety incident or a disclosure of child abuse or other harm is made. The range of measures employed will depend on:

- the degree of severity of the situation
- the risk of harm to the student
- the capability and willingness of the parent/carer to protect the student from harm.

After a disclosure is made:

- do not promise the student that you will not tell anyone about the allegation
- do not confront the person believed to be the perpetrator
- reassure the student that it was the right thing to do to tell an adult
- tell the student what you plan to do next
- discuss the matter with one of the School's Child Protection Officers who will assist you in developing additional support strategies for the student
- whenever there are concerns that a student is in immediate danger the Police should be called on 000.

### **Ongoing support for the student and family: the Student Support Plan**

If a student is impacted by a child safety incident or concern, Child Protection Officers will work with the student and their family to develop a Student Support Plan and engage external support services.

Students and parents/carers are also able to contact one of the School's Child Protection Officers to access support.

Support strategies that could be considered for students and/or their families following an incident or disclosure might include offering or organising referrals to internal or external support, such as the School Psychologist, bi-cultural workers and/or translators, or an external support agency and/or child advocacy organisation which specialises in supporting children and young people impacted by abuse or other harm.

When supporting a student with a disability who has been impacted by a child safety incident or concern, the School considers:

- the chronological age, developmental age and cognitive function of the student in order to tailor developmentally appropriate support strategies
- the student's vulnerability to ongoing abuse and other harm when considering the need to make a further report and/or implement further risk mitigation strategies.

When supporting students from culturally diverse backgrounds, including Aboriginal or Torres Strait Islander students, the School provides culturally appropriate support. Where possible the School will work with relevant cultural support groups, ensure that the family's privacy is maintained, and engage an interpreter when communicating with the student's family.

Similarly, when supporting international students who have been impacted by a child safety incident or concern, the School will give consideration to appropriate measures to be taken for the welfare of the student, including additional support where appropriate given that the student's family may not be present to provide support within the home environment.

Students from refugee backgrounds who have been impacted by abuse may also be experiencing trauma, dislocation and loss. Sensitive consideration should be given when determining how to support the student and their family.

### **Support for Former Students**

You should take the following steps to support and assist a former student after a disclosure of past abuse or other harm during their time at School. The range of measures employed will depend on:

- the degree of severity of the situation
- the risk of harm to current students
- if the former student is still a child or young person, the capability and willingness of their parent/carer to support the former student.

After a disclosure is made:

- do not promise the former student that you will not tell anyone about the allegation
- do not confront the person believed to be the perpetrator
- reassure the former student that it was the right thing to do to tell School about the allegation
- tell the former student what you plan to do next
- discuss the matter with one of the School's Child Protection Officers who can assist you in developing additional support strategies for the former student
- whenever there are concerns that there may be immediate danger the Police should be called on 000.

Support strategies that should be considered, in consultation with a Child Protection Officer, for former students following disclosure might include offering or organising referrals to internal or external support, such as the School Psychologist, bi-cultural workers and/or translators, or an external support or advocacy organisation.

### **Support for Staff, Volunteers and Contractors**

Witnessing a child safety incident or receiving a disclosure of abuse or other harm can be a distressing experience for Staff, Volunteers and Contractors involved. The School assists impacted Staff, Volunteers and Contractors to access necessary support.

Refer to our Employee Assistance Program.

The School has also appointed a Child Protection Officer who can support staff members, Volunteers and Contractors when responding to child safety issues and disclosures of abuse or other harm.

## B. Reporting a Child Safety Incident or Concern Internally

Child safety situations can be very complex, not only from the perspective of ascertaining whether abuse or other harm has occurred but also in understanding what steps to take to protect the student/s involved. It is important to remember at all times that the safety and welfare of the student are paramount.

While the Principal delegates certain responsibilities for receiving and managing internal reports to members of the School Staff, the Principal retains ultimate responsibility and accountability for the internal reporting process.

### Obtain Advice

If you suspect that a student may be experiencing abuse or other harm or that their safety may be at risk, but you are unsure whether your concern rises to the levels required for external reporting to the relevant authority, you should immediately raise your concerns with one of the School's Child Protection Officers. The School's Child Protection Officers will be able to assist you in clarifying your concerns and managing the next steps.

### Internal Reporting Procedure

If you know or have **reasonable grounds to suspect** that a student:

- has been, is being or is likely to be abused or otherwise harmed or
- is at risk of significant harm, for any reason,

such that a Mandatory Report or Reporting to Police is required, you must – in addition to reporting externally – report the matter internally to the Child Protection Officer(s) (who are delegates of the Principal).

If the allegations are about the person to whom you would otherwise report internally, you must instead report internally to the Principal or Deputy Principal.

If the child safety incident or concern involves Reportable Conduct by an employee, then you must follow the procedures for Making a Reportable Conduct Report Internally.

You must document your internal report.

In addition to reporting internally, you must also follow any appropriate external reporting procedures listed below.

Reporting the matter internally does not release you from other legal, regulatory or policy reporting obligations that may arise from the child safety concern namely:

- Failure to Protect
- Mandatory Reporting to DCJ
- Voluntary Reporting to DCJ
- Reportable Conduct
- Reporting to Police.

Note also that these external reporting obligations may apply even if the Principal, a Board director, or a Child Protection Officer to whom you have reported internally advises you not to report externally.

## C. Failure to Protect

### SOURCE OF OBLIGATION

#### The Common Law Duty to Protect

The School has a common law duty of care to protect all students from reasonably foreseeable risks while at school or engaging in School activities.

The School expects all Staff, Volunteers and Contractors to act to protect students from reasonably foreseeable risk of harm.

Failure to do this is not only a breach of your duty of care, but may also be, in certain circumstances, a criminal offence.

#### The Criminal Offence of Failure to Protect

Under section 43B of the Crimes Act 1900 (NSW), an adult (aged 18 or over) who works (whether as an employee, Contractor, Volunteer or otherwise) at the School will commit a criminal offence if they:

- **know** that another adult who is engaged in **child-related work** at the School:
  - poses a **serious risk** of committing a **child abuse offence**
  - against a child (aged under 18) who is under the care, supervision or authority of the School, and
- have, by reason of their position, the power or responsibility to reduce or remove that risk, and
- negligently fail to do so.

This criminal offence is colloquially known as 'Failure to Protect', though its full title is 'Failure to reduce or remove risk of child becoming victim of child abuse.'

In the School context, all Staff (whether teaching or non-teaching), Direct Contact Volunteers and Direct Contact Contractors are considered to be engaged in child-related work.

Therefore, this offence means that action **must** be taken:

- by any Staff, Volunteer or Contractor who has to power or responsibility to do so
- to protect students aged under 18
- from a known serious risk of sexual or serious physical abuse that is posed by an adult staff member at the School, a Direct Contact Volunteer or a Direct Contact Contractor.

#### The School's policy – Obligations of Staff, Volunteers and Contractors

Staff, Volunteers and Contractors at the School must comply with their obligations under both the common law duty to protect and the Failure to Protect offence.

To ensure that these obligations are met, it is the School's policy that if you **know** that **any** adult working in **any** capacity at the School:

- poses a serious risk of committing a child abuse offence against a student aged under 18 or
- poses a reasonably foreseeable risk of abuse or other harm to a student,

you **must** take actions to reduce or remove that risk that are within your power or responsibilities to take.

In addition, you must report the matter to the Principal (or the Deputy Principal if the adult who poses the risk is the Principal), or one of the School's Child Protection Officers (who are delegates of the Principal).

You must also follow the appropriate external reporting procedures. In particular, knowledge that an adult working at the School poses a serious risk of abuse or other harm to a student may require:

- Mandatory Reporting to DCJ
- Voluntary Reporting to DCJ
- Reporting of Reportable Conduct
- Reporting to Police

### **Who has the power or responsibility to act to protect students?**

Whether a staff member, Volunteer or Contractor at the School has “power or responsibility to reduce or remove the risk” to the student will depend on their role at the School and on the source of the risk.

In a normal school context, the Principal and members of the School’s Executive Team would always have the necessary degree of supervision, power and responsibility to remove or reduce a risk posed by another adult working at the School.

However, on a day to day basis, and on tours, excursions, or camps, others at the School may have the requisite power and responsibility.

Examples of other people who may have the power and responsibility, by reason of their position, to act could include:

- teachers
- Direct Contact Volunteers or Direct Contact Contractors where they are in a position of supervision.

### **When should action be taken?**

The Failure to Protect offence means that any staff member, Volunteer or Contractor who has the requisite power or responsibility must act when they:

- **know** that there is a **serious risk** that a student or students may become the victim of a **child abuse offence**, and
- the risk is caused by another **person who engages in child-related work for the School**.

In addition, it is the School’s policy that that any staff member, Volunteer or Contractor who has the requisite power or responsibility must act when they:

- **know** that any adult working in any capacity at the School
- poses a foreseeable risk of abuse or other harm to a student.

Action must be taken as soon as the risk becomes known.

### **Actions That Can Be Taken to Reduce or Remove the Risk**

Where any staff member, Volunteer, or Contractor becomes aware that another adult working at School poses a serious risk of committing a child abuse offence, or a foreseeable risk of abuse or other harm, against a student or students under their care, they should immediately:

- take any and all reasonable steps to remove or reduce the risk to the student or students, which may include immediately removing the person from contact with the student or students
- report the matter to the Principal (or the Deputy Principal if the allegation is about the Principal), as soon as practicable
- record the report according to our Record Keeping procedures
- report to external authorities, if appropriate.

Appropriate action that can be taken to protect students from a serious risk of a child abuse offence or a foreseeable risk of abuse or other harm may include, for example:

- a current staff member, Direct Contact Volunteer or Direct Contact Contractor who is known to pose a risk of physical abuse to students being immediately removed from contact with students and reported to external authorities
- a parent who is known to pose a risk of sexual abuse to students not being allowed to attend excursions as a parent helper.

**Whenever there are concerns that a student is in immediate danger call the Police on 000.**

## **KEY DEFINITIONS**

### ***Know***

Knowledge is not defined in the Crimes Act 1900 (NSW). It is likely to be more than holding a tentative belief or mere suspicion. For example, under NSW common law and under Commonwealth criminal law, a person has 'knowledge of' a circumstance if 'he or she is aware that it exists or will exist in the ordinary course of events'.

If a person with the power and responsibility to act, by reason of their position at School, has a suspicion or belief (rather than 'knowledge') that students are at risk of harm from an adult working at the School they should take steps to follow up on that suspicion or belief by investigating further and should raise the issue with a Child Protection Officer.

### ***Reasonably Foreseeable Risk of Harm***

Section 5B of the Civil Liability Act 2002 (NSW) defines a 'foreseeable risk of harm' as a risk that a person knew or ought to have known about.

Whether a risk of harm is reasonably foreseeable is not about the probability of the harm occurring, although the more likely the harm is, the more readily it should be perceived – by a reasonable person – to be a risk. However, harm that is unlikely to occur can still be a risk of harm that should be reasonably foreseeable.

A reasonably foreseeable risk of harm is therefore one that is not far-fetched or fanciful.

### ***Serious Risk***

A serious risk is not defined in the Crimes Act. It is likely that a serious risk would mean that a reasonable person would consider, on the balance of probabilities, that the risk of a child abuse offence being committed against the student to be probable.

A number of factors could contribute to determining if a risk is a serious risk, including:

- the likelihood or probability that a student will become the victim of a child abuse offence
- the nature of the relationship between a student and the adult who may pose a risk to the student
- the background of the adult who may pose a risk to the student, including any past or alleged misconduct
- any vulnerabilities particular to a student which may increase the risk that they may become the victim of a child abuse offence
- any other relevant fact which may indicate a serious risk of a child abuse offence being committed against a student.

A person with the power or responsibility to act, by reason of their position should not wait for a student to be actually harmed before acting.

### **Child Abuse Offence**

The list of child abuse offences that are captured by the Failure to Protect offence is extensive.

It includes sexual offences such as rape, sexual abuse, sexual touching, production of child abuse material, voyeurism and grooming offences or attempts to commit those offences.

It also includes assaults and physical harm, such as wounding or causing grievous bodily harm, assault causing actual bodily harm, assault at a school (whether or not causing actual bodily harm), administering or causing the ingestion of an intoxicating substance, and female genital mutilation.

For more information on what constitutes a child abuse offence, refer to Offences under the Crimes Act 1900 (NSW).

### **Child-related work**

Child-related work, for the purposes of the Failure to Protect offence, has the same meaning as in the Child Protection (Working with Children) Act 2012 (NSW). Therefore, the workers from whom a student must be protected include:

- Board directors
- Members of the Executive Team
- Principal
- All Staff (including teaching and non-teaching Staff)
- Direct Contact Volunteers (other than parents, except in certain circumstances)
- Direct Contract Contractors
- External Education Providers.

## **D. Mandatory Reporting to Department of Communities and Justice (DCJ)**

### **SOURCE OF OBLIGATION**

Section 27 of the Children and Young Persons (Care and Protection) Act 1998 (NSW) requires that Mandatory Reporters must make a report to the Department of Communities and Justice (DCJ) if they:

- Have **reasonable grounds to suspect** that a child (aged under 16) is, or a particular group of children are, **at risk of significant harm**; and
- Those grounds arise during the course of the person's work.

A Memorandum of Understanding (MOU) between the DCJ, Catholic Schools NSW and the Association of Independent Schools of NSW (AISNSW) prescribes certain Mandatory Reporting procedures. The MOU introduces centralised reporting procedures for non-government schools co-ordinated and represented by the CECNSW or AISNSW and those procedures are referenced in this policy.

If a report is made by a Mandatory Reporter in accordance with mandatory reporting obligations, an additional report to the Police under section 316A of the Crimes Act 1900 (NSW) may not be required unless you have further information.

This policy must be read in conjunction with the Definitions and Key Indicators of Abuse and Other Harm, Reporting a Child Safety Concern Internally, Reportable Conduct and Reporting to Police.

## **Who is a Mandatory Reporter?**

In NSW, the following people are Mandatory Reporters:

- anyone who in the course of their professional work or other paid employment delivers health care, welfare, education, children's services, residential services or law enforcement wholly or partly to children
- anyone who holds a management position in an organisation and whose duties 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
- anyone in religious ministry or who provides religion-based activities to children
- all registered psychologists, when providing professional services as a psychologist.

This means that at Loreto Kirribilli, the following persons are taken to be Mandatory Reporters:

- Board directors
- the Principal
- the School's Executive Team
- teachers, including casual or temporary teachers
- all other paid employees at the School who interact with students
- the School nurse
- the School counsellor
- any person in religious ministry (such as clergy) or other religious leadership roles (including voluntary roles)
- any Staff, Volunteers or Contractors who provide religion-based activities to children
- Direct Contact Contractors
- External Education Providers engaged by the School.

It is the responsibility of other Staff, Volunteers, Contractors or members of the School community to check whether they are Mandatory Reporters under child protection legislation.

### **Application to Students aged 16 or over**

Mandatory Reporting to DCJ applies only to concerns about children aged under 16. Therefore reasonable grounds to suspect that a student aged 16 or over may be at risk of significant harm cannot be the subject of a Mandatory Report to DCJ. However, for students aged 16 and 17, these concerns can still be reported to DCJ. For more information, refer to Voluntary Reporting to DCJ.

Knowledge or suspicions of abuse or other harm of a student aged 18 years or older cannot be reported to DCJ. These should instead be reported to the NSW Police if appropriate, provided that the student consents to the report. For more information, refer to Reporting to Police and Information Sharing with Consent.

It is the School's policy that all child safety incidents and concerns involving a student, including those involving students aged 16 and over, must be reported internally. For more information, refer to Reporting a Child Safety Incident or Concern Internally.

### **Reporting by Non-Mandatory Reporters**

If you are not a Mandatory Reporter, you can still make a report to DCJ if you have reasonable grounds to suspect that a child (aged under 16) is or a class of children are at risk of significant harm. See Voluntary Reporting to DCJ.

All School Staff, Volunteers and Contractors who have child safety concerns about a student should notify a School Child Protection Officer as soon as possible to discuss their concerns and next steps. See Reporting a Child Safety Incident or Concern Internally.

Even if you are not a Mandatory Reporter to DCJ under child protection legislation, you may still be required to make an external report to other agencies under other legislation. See Reporting to Police.

### **When to Make a Mandatory Report**

A Mandatory Report must be made when you have **reasonable grounds to suspect** that a child (aged under 16) is, or a particular group of children are, **at risk of significant harm**, and those grounds arose during the course of your work.

Where a Mandatory Reporter has concerns that a child or young person has been or is at risk of being abused or otherwise harmed, the Mandatory Reporter Guide (MRG) must be used to determine whether or not those concerns reach the Risk of Significant Harm (ROSH) threshold.

If your concerns do reach the ROSH threshold, a report must be made as soon as practicable after you consider that you have the required reasonable grounds to suspect the significant risk of harm.

**A Mandatory Reporter must make a report even if you have discussed the matter with one of the Child Protection Officers or the Head of Agency (HOA) and the Child Protection Officer or HOA does not share your belief that a report must be made.**

Additional reports must be made on each occasion where you become aware of any further reasonable grounds for the belief.

### **What if I am unsure if I have a reasonable ground to suspect or if the risk of harm is 'significant'?**

If you are concerned that a student may be experiencing abuse or other harm, or their safety may be at risk, but you are unsure whether your concern rises to the level of 'reasonable grounds to suspect that a child is at risk of significant harm', you should immediately raise your concerns with one of the School's Child Protection Officers.

Our Child Protection Officers are able to assist you in clarifying your concerns and managing the next steps.

Where a Mandatory Reporter has any concerns that a child or young person has been or is at risk of being abused or otherwise harmed, you can use the Mandatory Reporter Guide (MRG) to determine whether or not those concerns reach the Risk of Significant Harm (ROSH) threshold.

### **How to Make a Mandatory Report Internally Under the MOU**

In accordance with the terms of the MOU, where a Mandatory Reporter forms a reasonable belief that a child is at risk of significant harm, they must make a report either directly to DCJ or to the Principal, who will then make the necessary report to DCJ.

Should the allegation involve the Principal, the report is to be made to the Deputy Principal.

The Principal, or the Deputy Principal, must make the required Mandatory Report to DCJ and must provide feedback to the Mandatory Reporter that the report to DCJ has been made. Mandatory Reporters are encouraged to follow up with the Principal if a reasonable time has passed and they haven't received such feedback.

Nothing in the MOU precludes any person at the School, including Mandatory Reporters, from making a report directly to DCJ.

## **Making a Mandatory Report Directly to DCJ**

**Concerns that require immediate attention should be made by calling the DCJ Child Protection Helpline on 132 111 or, if the child is in immediate danger or in a life-threatening situation, by calling the NSW Police on 000.**

When preparing to make a report, all circumstances that supported the decision to report the matter should be readily available to assist DCJ, as well as the following information:

- full name, date of birth (or approximate age), address and phone number of the child or children you are concerned about
- full name (including any known aliases), approximate age, address and phone number of the parents/or carers
- a description of the child and their current whereabouts;
- why you suspect the child is at risk of significant harm (what you have seen, heard or been told)
- whether a language or sign interpreter may be required
- cultural identity, including whether the child identifies as Aboriginal or Torres Strait Islander
- whether support is required for a person with a disability or an Aboriginal agency is involved
- your name and contact details.

Sometimes all of this information will not be known to the reporter. As a minimum, DCJ needs to be able to identify and locate the child.

Additionally, information about the child or young person's reaction to the report should also be provided to enable the DCJ to take into account any view or wish expressed by the child or young person, including their opposition to the report being made.

### **What happens after I make a report?**

The Child Protection Helpline will assess the information that is provided, along with information that may be known to DCJ, to determine whether the child is actually at risk of significant harm.

Mandatory Reporters will be informed of the action that will be taken by DCJ in writing, including whether the report made met the threshold of significant harm and/or whether no further action was recommended.

Mandatory Reporters should note that the MRG is a tool that assists Mandatory Reporters to make an appropriate reporting decision. It is not designed to determine whether the matter constitutes actual risk of significant harm. If a decision is made by DCJ that a report did not meet the ROSH threshold, even though the Mandatory Reporter used the MRG to guide the making of the report, this does not necessarily mean the report should not have been made. Ultimately, every report made that raises a concern that a child or class of children is at ROSH is in their best interests.

Even after a report to the Child Protection Helpline has been made, Mandatory Reporters must continue to respond to the needs of the child within the terms of their work role. This may include making a report to the NSW Police and/or arranging for medical care.

### **Record Keeping about Mandatory Reports**

When a Mandatory Report is made:

- to the Principal, Deputy Principal or their delegate under the MOU, and/or
- to DCJ

in response to a child safety incident or concern, this must be recorded.

However, if the person who made the Mandatory Report does not wish to be identified, there are legislative protections for that person under the Children and Young Persons (Care and Protection) Act 1998 (NSW). The School will take all reasonable steps to de-identify that information in the event that this is necessary.

The Principal is responsible for keeping all child protection records, including records of allegations, investigations and findings made under this policy, up-to-date and secure.

Records are located in the Principal's Office.

## **KEY DEFINITIONS**

### ***Reasonable Grounds to Suspect***

The concept of reasonable grounds to suspect requires you to consider whether another person, when faced with similar information, would also draw the same conclusion. It does not mean reporters are required to be certain, but rather reporters should ensure their concerns are well founded and based on information from a reliable source. There may be reasonable grounds to suspect that a child or young person is at risk of significant harm if:

- a student states they have been physically or sexually abused
- a student states that they know someone who has been physically or sexually abused
- someone who knows the student states that the student has been physically or sexually abused
- a student shows signs of being physically or sexually abused
- the staff member is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on a student's safety, stability or development
- the staff member observes signs of abuse or other harm, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision
- a student's actions or behaviour indicate that they may be at risk of significant harm and the student's parents are unwilling or unable to protect the student.

Grounds for belief include matters of which a person has become aware and any opinions based on those matters.

### ***Risk of Significant Harm (ROSH)***

Significant harm is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the student's safety, welfare or wellbeing.

The risk of significant harm must be as a result of one or more of the following circumstances:

- the child or young person's basic physical or psychological needs are not being met or are at risk of not being met
- the parents/carers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care
- the parents/carers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with the Education Act 1990 (NSW)
- 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/carer 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 physical or psychological harm

- the child was the subject of a pre-natal report (because there were reasonable grounds to suspect that the child could be at risk of significant harm after his or her birth) but the birth mother did not engage successfully with support services to eliminate or minimise that risk.

Additional grounds for making a mandatory report, which are not included in the Children and Young Persons (Care and Protection) Act 1998 (NSW), are listed in the MRG, being 'Danger to Self or Others', 'Relinquishing Care' and 'Unborn Child'. Refer to the MRG for more information on these grounds for making a mandatory report.

The circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person must be present to a significant extent.

'Significant' means that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

Significant harm can result from a single act or omission or an accumulation of these.

To assist in identifying whether a student may be at risk of significant harm, refer to the Definitions and Key Indicators of Abuse and Other Harm.

## E. Voluntary Reporting to Department of Communities and Justice (DCJ)

This policy deals with the reporting of child safety incidents or concerns to the Department of Communities and Justice (DCJ) when that reporting is not legally required under the Children and Young Persons (Care and Protection) Act 1998 (NSW) (the Act). You should make a Voluntary Report to DCJ under this policy only if you do not have an obligation to report under Mandatory Reporting to DCJ.

### SOURCE OF OBLIGATION

Under section 24 of Act 1998, any person (including all members of the School community) may make a report to DCJ if they have **reasonable grounds to suspect** that a child or young person (aged under 18), or a class of children or young persons, are at **risk of significant harm**.

We call this Voluntary Reporting to DCJ.

### Reporting Abuse and Other Harm of Students Over the Age of 16 – the School's Policy

Although Mandatory Reporting to DCJ in NSW applies only to children under the age of 16, Voluntary Reports to DCJ can be made about young people aged 16 and 17 who are at risk of significant harm.

It is the School's policy that, in addition to their Mandatory Reporting obligations, Mandatory Reporters at the School who:

- have reasonable grounds to suspect
- that a young person aged 16 or 17 attending the School
- is at risk of significant harm

**must** make a report to DCJ under section 24 of the Act.

However, wherever possible, this should be done with the consent of the young person.

It is also the School's policy that all child safety incidents and concerns involving a student, including those involving students aged 16 and over, must be reported internally. For more information, refer to Reporting a Child Safety Incident or Concern Internally.

Therefore, any knowledge or reasonable grounds to suspect abuse or other harm to a young person should be reported both internally and to DCJ as soon as practicable.

Knowledge or suspicions of abuse or other harm of a student aged 18 years or older cannot be reported to DCJ. These should be reported to the NSW Police if appropriate, provided that the student consents to the report.

### **Voluntary Reporting by Non-Mandatory Reporters**

Anyone who suspects, on reasonable grounds, that a child or young person is at risk of significant harm can make a Voluntary Report to DCJ. You do not need to prove that the abuse, neglect or grooming has taken place.

If you make a report in good faith, you cannot be held legally liable regardless of the outcome of the report.

Even if you are not a Mandatory Reporter to DCJ under child protection legislation, you may still be required to make an external report to other agencies under other legislation. See Reporting to Police and Reportable Conduct.

### **When to Make a Voluntary Report to DCJ**

It is the School's policy that, where a Voluntary Report is to be made, it must be made without delay as soon as the reasonable grounds to suspect that the child or young person is at risk of significant harm arose. This must be done regardless of any other action you take in relation to the child or young person.

### **What if I am unsure if I have a reasonable ground to suspect or if the risk of harm is 'significant'?**

If you are concerned that a student may be experiencing abuse or other harm, or their safety may be at risk, but you are unsure whether your concern rises to the level of 'reasonable grounds to suspect that a child is at risk of significant harm', you should immediately raise your concerns with one of the School's Child Protection Officers.

Our Child Protection Officers are able to assist you in clarifying your concerns and managing the next steps.

Where a Mandatory Reporter has any concerns that a child or young person has been or is at risk of being abused or otherwise harmed, you can use the Mandatory Reporter Guide (MRG) to determine whether or not those concerns reach the Risk of Significant Harm (ROSH) threshold.

### **How to Make a Voluntary Report**

If you suspect on reasonable grounds that a child or young person is suffering abuse or other harm, or you wish to discuss your concerns about a child or young person, you can call the Child Protection Helpline on 132 111 or 1800 212 936 (24 hours a day, 7 days a week).

If you need to report an offence that requires immediate Police attention, call the Police on 000.

For more information, support or advice on reporting you can contact a School Child Protection Officer, the Principal, or the Child Protection Helpline on 132 111 or 1800 212 936.

## F. Reportable Conduct

### SOURCE OF OBLIGATION

The Children's Guardian Act 2019 (NSW) (the Act) requires the School to investigate and report to the NSW Children's Guardian (Children's Guardian) allegations of Reportable Conduct against 'employees' or any conviction of an 'employee' for an offence involving Reportable Conduct.

### What must be reported?

Under the Act, the School's Head of Entity (HoE) must notify the NSW Children's Guardian of any **reportable allegation** or **reportable conviction** against a staff member, Direct Contact Volunteer or Direct Contact Contractor (known in the Act as an 'employee') of which the HoE becomes aware. The HoE must also notify the NSW Children's Guardian of the outcomes of the School's internal investigation into the matter.

### Reportable Conduct

Please refer to our Complaints Handling Policy and Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct for the School's expectations, systems and procedures for enabling persons to report Reportable Conduct both internally and to the NSW Children's Guardian.

## G. Reporting to Police

### Mandatory Reporting to Police (Failure to Report)

Under section 316A of the Crimes Act, any adult who:

- **knows, believes or reasonably ought** to know that a **child abuse offence** has been committed against another person; and
- **knows, believes or reasonably ought** to know that he or she has information that might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for that offence,

must bring that information to the attention of a member of the NSW Police Force as soon as it is practicable to do so.

We call this Mandatory Reporting to Police.

Failure to report this information to the Police without reasonable excuse is a criminal offence and carries a prison term.

This criminal offence is colloquially known as "Failure to Report," though its full title is "Concealing child abuse offence."

Mandatory Reporting to Police applies to everyone in NSW aged 18 years or over, including all Staff, Volunteers, Contractors and students aged 18 and over at the School.

This policy must be read in conjunction with Definitions and Key Indicators of Abuse and Other Harm, Reporting a Child Safety Concern Internally, Mandatory Reporting to DCJ, and Reportable Conduct.

## **What must be reported?**

Any person aged 18 or over who **knows, believes or reasonably ought to know** that a **child abuse offence** has been committed against another person must report to police any information they have that might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender.

If a report has been made to DCJ in accordance with Mandatory Reporting to DCJ requirements or to the NSW Children's Guardian in accordance with Reportable Conduct requirements, an additional report to the Police will not usually be required.

## **Reasonable Excuse for Not Reporting to Police**

You will not need to report to police if you have a reasonable excuse for not doing so. Under the Act, a reasonable excuse includes:

- believing, on reasonable grounds, that the Police already know the information, or
- making a mandatory report under Mandatory Reporting laws or believing on reasonable grounds that another person has done so
- reporting the information to the NSW Children's Guardian under Reportable Conduct laws or believing on reasonable grounds that another person has done so
- having reasonable grounds to fear for the safety of the person or any other person (other than the offender) if the information were to be reported to the Police
- the information was obtained (received or become aware of) by the person when they were under the age of 18 years
- the alleged victim was an adult at the time that the information was obtained by the person and the person believes on reasonable grounds that the alleged victim does not wish the information to be reported to Police.

Unacceptable reasons for not reporting include if you are concerned about the interests (including the reputation, legal liability or financial status) of:

- the person who may have committed a child abuse offence
- any organisation (such as the School).

## **KEY DEFINITIONS**

### ***Knows, believes or reasonably ought to know***

Knows, believes or reasonably ought to know is not defined in the Act. Under NSW common law, and under Commonwealth criminal law, a person has 'knowledge of' a circumstance if 'he or she is aware that it exists or will exist in the ordinary course of events.'

It would likely be considered that you know, believe or reasonably ought to know that a child abuse offence has been committed if:

- a student tells you that they have been sexually abused or physically assaulted
- a student tells you that they know someone who has been sexually abused or physically assaulted (sometimes the student may be talking about themselves)
- someone who knows the student tells you that the student has been sexually abused or physically assaulted
- signs of sexual abuse or physical assault should or do lead to a belief that the student has been sexually abused or physically assaulted.

### ***Child Abuse Offence***

The list of child abuse offences that are captured by this provision is extensive.

It includes sexual offences such as rape, sexual abuse, sexual touching, production of child abuse material, voyeurism and grooming offences or attempts to commit those offences.

It also includes assaults and physical harm, such as wounding or causing grievous bodily harm, assault causing actual bodily harm, assault at a school (whether or not causing actual bodily harm), administering or causing the ingestion of an intoxicating substance, and female genital mutilation.

### ***Voluntary Reporting to Police***

Although not required by law, it is the School's policy that the following must be reported to police:

- Concerns for a student's immediate safety
- Knowledge or suspicions that a student aged 18 or over is being abused or harmed, but only if the student consents to the report
- Concerns that a student is partaking in illegal activity that is extreme in nature or poses a high risk to the student.

### ***How to Report to Police***

- In emergencies, or if the crime is happening now or has just happened and the suspected offender may still be in the area: call 000
- All other matters: call the Police Assistance Line on 131 444. This line operates 24 hours per day, 7 days per week.