

# Child Protection Policy

Authorisation Date: 08/2024

OSG Document Code: POL\_NSW\_OP\_Child Protection Policy.V1.6

Region: New South Wales

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<b>OSG Document Code</b> POL_NSW_OP_Child Protection Policy.V1.6	<b>Authorisation Date</b> 1 <sup>st</sup> March 2018	<b>Next Review Date</b> June 2025
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<b>Associated Documents</b> POL_NSW_HR_Complaint Handling for Staff Misconduct and Reportable Conduct Policy & Procedure PRO_NSW_OP_Working With Children Check Verification Child Protection Declaration METF032 Campus Induction Checklist		

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## 1. INTRODUCTION

Upon commencement of employment at OneSchool Global NSW and all 12 Independent Schools, this policy is provided to all staff and they are required to comply with this policy at all times during their employment.

Child protection issues are complex and sensitive. There is a need for individuals who interact with children and young people to understand their responsibilities when child protection issues arise. The focus of OneSchool Global NSW's duty of care is the protection of children and young people at its various schools across Australia.

OneSchool Global NSW recognises the importance of adopting preventative measures to protect children and young people at schools. When a school becomes aware of a child at significant risk of harm, alleged reportable conduct or an incident or allegation of abuse, the procedures set out in this policy must be followed by staff in a professional manner.

OneSchool Global NSW also recognises that there is a risk that staff or OneSchool Global NSW could be harmed by mischievous or irresponsible allegations or by hasty action; therefore, the procedures set out must be followed to protect the reputation of all involved.

## 2. PURPOSE

The purpose of this policy is to ensure that OneSchool Global NSW and its staff meet all legislative requirements with respect to child protection and that all possible actions are taken to ensure the safety and wellbeing of children and young people at its schools across Australia.

OneSchool Global NSW is committed to providing a safe environment where the voices of children and young people can be heard.

Particular attention will be paid to the cultural safety of Aboriginal children and children from culturally and/or linguistically diverse backgrounds, as well as the safety of children with a disability.

## 3. GUIDING PRINCIPLES

OneSchool Global NSW supports the following child protection principles:

- Take a preventative, proactive and participatory approach to child protection
- Engage suitable individuals to work with children
- Act in accordance with OneSchool Global NSW's duty of care to protect children from harm
- Take all reasonable steps to ensure the safety of children in its control
- Foster a culture of openness that supports all persons to safely disclose risks of harm to children
- Provide guidance on appropriate conduct towards children
- Act in the best interests of children in its control at all times
- Ensure that children are comfortable to raise issues concerning their safety
- Report suspected abuse, neglect or mistreatment promptly to the appropriate authorities
- Share information appropriately and lawfully with other organisations where the safety and wellbeing of children or young people is at risk
- Respect diversity in cultures while keeping child safety paramount
- Value and empower children to participate in decisions which affect their lives

In addition we support the 10 National Child Safety Principles:

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes to respond to complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

## 4. SCOPE

This policy covers situations where:

- A child or young person is found to have injuries (such as bruises, welts, fractures, burns, bites, lacerations etc)
- An allegation has been made or a suspicion held that a harmful act has occurred to a child at a school
- A concern is held by a staff member or other person that a child is at risk of injury
- A staff member or other person witnesses a child being injured by another person
- A child complains of having been subjected to inappropriate or harmful action at school

## 5. ROLES AND RESPONSIBILITIES

### Schools

Should a school need to respond to allegations involving child protection issues, the procedures followed by the school will be in accordance with all applicable local legislation as set out in Annexure A attached.

This policy and associated procedures will be amended from time to time to take into account amendments to applicable legislation. OneSchool Global NSW has responsibilities to various Government agencies in meeting its legal obligations.

In dealing with child protection matters a school's management team will liaise with relevant authorities as well as, seek advice from the police, OneSchool Global NSW's solicitors and the Association of Independent Schools (AIS) where required.

### School Principal

The School Principal's child protection role is to:

- ensure that all teaching and non-teaching staff, as well as volunteers receive regular (at least annual) training in respect to this policy and their obligation under the policy and the law. The School Principal delegates to the District Principal the responsibility for regular reminders to all stakeholders. This information is conveyed by:
  - a staff information session at the opening staff conference or initial state staff meeting
  - regular staff reminders on child protection and reportable conduct

- webinars for staff
- email reminders on key areas such as recognition of key characteristics of grooming by adults and of vulnerable behaviours in children and young people
- updates on any changes to legislation or school policy or procedure relating to child protection
- ensure that teaching and non-teaching staff, as well as, volunteers not only comply with the School's "Code of Conduct" that is attached as Annexure B which outlines appropriate and inappropriate behaviour to assist staff and others but acknowledge in writing that they have read and understood the Code of Conduct.
- ensure that systems are in place for recording and responding to all allegations or convictions against an employee.
- respond to allegations raising issues of child protection in his/her role as "Head of Entity"
- notify relevant agencies of reportable conduct allegations and convictions within the required timeframes.
- respond to allegations or arrange for a response from an appropriate senior staff member
- ensure that any investigations into allegations or convictions are taken along with appropriate action as a result, including compliance with reporting obligations
- report to the Department of Communities and Justice any child which is considered to be at risk of significant harm and to assist that agency with its investigations

### The Office of the Children's Guardian (OCG NSW)

The OCG's child protection role is to:

- Conduct employment screening for child related employment in accordance with the Child Protection (Working with Children) Act 2012 (NSW).
  - A Working With Children Check (NSW) is a prerequisite for individuals engaging in child-related work which involves a national criminal history check and review of reported workplace misconduct findings.
  - The result of a check is either a clearance to work with children for five years, or a bar against working with children.
- Engage in ongoing monitoring for any relevant new records which appear against a cleared applicant's name may lead to the Check being revoked.
- Receive notification of sustained findings of serious physical assault and sexual misconduct and convictions involving children against employees.
- Assess OneSchool Global NSW's child protection systems that seek to prevent and respond to allegations and convictions of reportable conduct against employees;
- Monitor OneSchool Global NSW's investigations into allegations of reportable conduct against an employee, and if necessary, undertake direct investigations into such allegations;
- Respond to complaints about any response by OneSchool Global NSW to an allegation or conviction of reportable conduct against an employee.

### Department of Communities and Justice

DCJ has child protection role to:

- Investigate allegations of child protection issues notified by District Principal of a school where a child is considered to be at risk of harm

### State Administration

#### State Administration Manager

- The Child Protection required training, notifications, compliance evidence and reminders are recorded on a central smartsheet that can be found on the School's Governance Dashboard.

## Compliance Coordinator

- The Working with Children check required verification, monitoring, compliance evidence and reminders are recorded on a central smartsheets that can be found in the School WHS System and SELT Dashboard.
- During internal audits review the school staff meeting minutes to ensure that Child Protection is being raised and discussed regularly.

## Staff

- Teaching staff, as mandated employees under relevant legislation, must report children at risk of significant harm by raising their concerns to the District Principal (who is in turn obliged to inform DCJ).
- All School staff must report to the District Principal any situation where:
  - they are aware that there has been an allegation of reportable conduct; or
  - they have formed a belief on reasonable grounds that a child is in danger of being subject to reportable conduct; or
  - a child is at risk of significant harm.
- School staff must not investigate allegations or suspicions of reportable conduct.
- Staff must not discuss allegations raised with the District Principal
- Staff are obligated to disclose allegations of reportable conduct raised by a student.
- 7.2 Failure to report offence
  - Any adult, and therefore all staff members, will commit an offence if they know, believe or reasonably ought to know that a child abuse offence has been committed and fail to report that information to Police, without a reasonable excuse. A reasonable excuse would include where the adult has reported the matter to the District Principal and is aware that the District Principal has reported the matter to the Police.
- 7.1 Failure to protect offence
  - Under the new 43B of the Crimes Act (1900), an adult working in a school, therefore all staff members, will commit an offence if they know another adult working there poses as serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they negligently fail to do so either by acts and/or omissions.
  - This offence is targeted at those in positions of authority and responsibility working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.
- Pursuant to section 73 of the Crimes Act (NSW) a teacher may be sentenced to imprisonment of up to eight years if they engage in sexual intercourse with a student between 16 and 18 years of age.
- Staff must not make any contact with parents or caregivers regarding the notification unless specifically authorised to do so.
- Staff may be required to provide a detailed account of any matter regarding reportable conduct about which they have been notified. The confidentiality of such a report will be maintained unless otherwise required by a Court Order.
- Information relating to any matter of reportable conduct will need to be recorded in a signed statement.

## 6. DEFINITIONS

### 6.1 Allegation

An allegation is a complaint or incident of reportable conduct which includes any matter brought to a school's attention by an aggrieved person that falls within the parameters of this policy but is exempt from notification to the Children's Guardian but is required to be investigated by the school.

## 6.2 Allegation - Reportable Conduct

An allegation of reportable conduct is a complaint against an employee of behaviour that must be notified to the Children's Guardian.

## 6.3 Apprehended Violence Order

An Apprehended Violence Order (other than an interim order) made by a Court under the Crimes Act 1900, or an interstate restraint order made on the application of a police officer or other public official for the protection of a child (or a child and others).

## 6.4 Behaviour that causes Psychological Harm

Behaviour that causes psychological harm is conduct that is unreasonable and results in significant emotional harm or trauma to a child where there is a proven causal link between the inappropriate behaviour and the harm, and the harm is more than transient.

## 6.5 Behaviour that does not constitute reportable conduct

Allegations against employees, that are exempt from notification to the Children's Guardian, are:

- a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or
- b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
- c) conduct of a class or kind exempted from being reportable conduct by the Children's Guardian Act under section 30.

Examples of conduct that would not constitute "reportable conduct" include:

- touching a child in order to attract a child's attention to guide a child or to comfort a distressed child
- teacher raising his or her voice in order to attract attention or to restore order in the classroom
- conduct that is established to be accidental
- providing appropriate medical care to a child who is hurt
- not providing supervision where this was for good reason, and for a short period of time and where the risk of harm was reasonably perceived at the time to be low
- actions found to have been appropriate physical contact in classes such as sport, drama, dance etc.

## 6.6 Chapter 16A – Sharing of Information

Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 allows information to be exchanged between prescribed bodies despite other laws that prohibit or restrict the disclosure of personal information, such as the Privacy and Personal Information Protection Act 1998, the Health Records and Information Privacy Act 2002 and the Commonwealth Privacy Act 1988.

The object is to facilitate the provision of services to children and young persons by agencies that have responsibilities relating to the safety, welfare or wellbeing of children and young people.

Chapter 16A allows for the exchange of information between prescribed bodies without Community Services involvement.



A prescribed body includes:

- NSW Police Force
- a State government department or a public authority
- a government school or a registered non-government school or a TAFE
- a public health organisation or a private health facility
- an accredited adoption service provider
- a designated agency
- a registered agency
- a children's service
- any other 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.

## 6.7 Child

A child includes all children and young people up to 18 years of age.

## 6.8 Conviction of Reportable Conduct

This means any conviction of a person, in NSW or elsewhere, of an offence involving reportable conduct, and includes a finding by a court that a charge for such an offence is proven even though the court does not proceed to a conviction.

## 6.9 Disqualified Person

The Children's Guardian must not grant a working with children check clearance to the following persons ("disqualified persons"):

- a) a person convicted before, on or after the commencement of relevant legislation of a specified offence specified, if the offence was committed as an adult,
- b) a person against whom proceedings for any such offence have been commenced, if the offence was committed as an adult, pending determination of the proceedings for the offence.

## 6.10 Employee

An employee is any person who is employed by OneSchool whether or not they are employed to work directly with children.

## 6.11 DCJs

DCJS means NSW Department of Communities and Justice.

## 6.12 False Allegation

A false allegation is one where it is determined that the alleged conduct did not occur.

## 6.13 Grooming Behaviour

Grooming behaviour is considered a form of sexual misconduct and is behaviour consistent with persuading a child or group of children that they have a 'special' relationship, for example by:

- spending inappropriate special time with a child
- providing inappropriate gifts
- showing special favour to certain children
- inappropriately allowing a child to overstep rules
- asking a child to keep the relationship to themselves.
- undressing in front of a child

- encouraging inappropriate physical contact (even where it is not overtly sexual)
- talking about sex
- 'accidental' intimate touching
- extending a relationship outside of School
- engaging in personal communication (including emails, telephone calls, text messaging, social media and web forums) that explores sexual feelings or intimate personal feelings with a child

For the purposes of notification to the OCG, grooming behaviour constitutes a form of sexual misconduct and is notifiable.

#### 6.14 Head of Entity

Head of Entity is the School Principal of a school, delegated to OneSchool NSW District Principal.

#### 6.15 Internal Investigation of an Allegation

Process where a school:

- gathers relevant facts
- makes a decision as to whether an allegation is sustained or not, and
- provides information to assist any relevant employment proceedings

#### 6.16 Mandatory Reporting

Mandatory reporting of a child or young person at risk of significant harm requires individuals employed in certain employment positions to notify DCJs if they suspect (using their professional judgment and training) that a child or young person is at significant risk of harm.

- Mandatory reporting required where a person who, in the course of his or her professional work delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and
- the person holds a management position 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, and
- the person has reasonable grounds to suspect that a child is at risk of significant harm, and
- those grounds arise during the course of or from the person's work

#### 6.17 Malicious

Malicious means an allegation that is intended to cause distress to the person against whom the allegation was made.

#### 6.18 Misconceived

Misconceived means an investigation has concluded that while the allegation was made in good faith, a misunderstanding on behalf of the person making the allegation occurred.

#### 6.19 Neglect

Neglect occurs when a child is harmed by the failure of a person whose job includes care responsibilities towards a child, to provide basic physical and emotional necessities of life, including adequate food, nursing, clothing, medical attention or lodging.

#### 6.20 Not Able to Make a Finding

Not able to make a finding means a finding that is not sustained.

## 6.21 Notifiable Circumstances

Notifiable circumstances means any fact and/or circumstance and/or allegation and/or notification of verbal advice of direct or indirect connection or attempt of abuse which may identify a current or former employee, current or former volunteer or current or former third party.

## 6.22 Not Sustained

Not sustained means a conclusion of insufficient evidence to establish that the alleged conduct did or did not occur.

## 6.23 Office of Children's Guardian (OCG)

The OCG is responsible for providing or declining working with children clearances to applicants.

## 6.24 Physical Assault

Physical assault must include all three of the following elements:

- it is an act committed on or towards a child; and
- it involves either the application of force to a child or an act that causes a child to think that immediate force will be used on them; and
- it is either hostile or reckless (a reckless act is one where the person foresees the likelihood of inflicting injury or fear and ignores the risk).

Actual physical harm does not have to occur in order for an assault to have taken place, i.e. the child does not have to be injured.

Physical contact which is an inevitable part of everyday life does not amount to an assault.

## 6.25 Reportable Allegation

An allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct and must include:

- identification of a person who is a current employee of the school
- an alleged offence or description of offending behaviour that meets the definition of reportable conduct
- a person who was a child at the time of the alleged offence or behaviour described.

All allegations (including anonymous allegations) of reportable conduct must be reported to the Children's Guardian.

Complaints that form the basis of less serious allegations i.e. non reportable conduct, will be dealt with in accordance with the relevant school policy and the school's other legal obligations.

## 6.26 Reportable Conduct

- any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- any assault, ill-treatment or neglect of a child, or
- any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.

## 6.27 Risk Assessment

It is the analysis of the facts and circumstances known to the District Principal when he is made aware of allegations of reportable conduct to determine whether any measures need to be taken for the safety and welfare of all concerned.

## 6.28 Risk of Significant Harm

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) parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education,
- d) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- e) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
- f) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm,

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

## 6.29 Sexual Offence

The term 'sexual offence' encompasses all criminal offences involving a sexual element that are 'committed against, with or in the presence of a child'.

These offences include (but are not limited to) the following:

- indecent assault
- sexual assault
- aggravated sexual assault
- sexual intercourse and attempted sexual intercourse
- possession/ dissemination/ production of child pornography or child abuse material
- using children to produce pornography
- grooming or procuring children under the age of 16 years for unlawful sexual activity
- deemed non-consensual sexual activity on the basis of special care relationships.

All cases involving a sexual offence would also involve sexual misconduct.

## 6.30 Sexual Misconduct

The term 'sexual misconduct' includes conduct that does not necessarily equate to a criminal offence.

For sexual misconduct to constitute reportable conduct, the alleged conduct must have been committed against, with or in the presence of a child.

There are three categories of sexual misconduct in addition to sexual offences:

- crossing professional boundaries
- sexually explicit comments and other overtly sexual behaviour, and
- grooming behaviour (see definition above).

Sexual misconduct includes behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate:

- relationship with;
- conduct towards; or
- focus on;

a child or young person, or a group of children or young persons.

In the area of 'crossing professional boundaries', particular care should be exercised before making a finding of sexual misconduct.

The Code of Conduct outlines the nature of the professional boundaries which should exist between employees and children/young people.

Sexual misconduct includes a broad range of sexualised behaviour with or towards children. While it is not possible to provide a complete and definitive list of unacceptable sexual conduct involving children, the following types of behaviour give strong guidance:

- sexualised behaviour with or towards a child (including sexual exhibitionism)
- inappropriate conversations of a sexual nature
- comments that express a desire to act in a sexual manner
- unwarranted and inappropriate touching involving a child
- personal correspondence and communications (including emails, social media and web forums) with a child or young person in relation to the adult's romantic, intimate or sexual feelings for a child or young person
- exposure of children and young people to sexual behaviour of others including display of pornography
- watching children undress in circumstances where supervision is not required and it is clearly inappropriate.

### 6.31 Special Care Relationships

Teachers along with certain other staff are included in the definition of special care relationships in Section 73 of the Crimes Act 1900 (NSW).

### 6.32 Spent Conviction

Those offences included on a person's criminal record which, because of the passage of time and legislative preconditions have been met, are no longer to be considered in any administrative decision making.

Sexual offences can never be "spent" for the purposes of an application for child-related employment in NSW (Criminal Records Act 1991, Section 15 (1A)).

### 6.33 Sustained

An alleged is found to be true.

### 6.34 Vexatious

Where enquiries into the matter find that the allegation was made without substance and with the intent of being malicious or to cause distress to the person against whom the allegation was made.

### 6.35 Working With Children Clearance

Staff are required to obtain a Working With Children Check Clearance to do their job at the school because of their direct responsibility for children or:

- a) the requirement or ability of all School staff to have face to face contact with children in the school's care; or
- b) the nature of their role may enable them to have access to a child's personal information; or
- c) the School's environment as a large boarding school with a significant number of children residing at the school.

## 7. PREVENTION

OneSchool Global NSW does not condone any conduct of a reportable nature and implements strategies to prevent reportable conduct and other harm coming to children in its care.

Strategies will include:

- requiring staff to acknowledge their understanding and commitment to this policy to protect children;
- ensuring policy is dated and contains a date when it will be reviewed;
- adopting a Code of Conduct that assists staff in understanding appropriate and inappropriate behaviours;
- identifying individuals not suitable to work with children through thorough employment screening procedures including reference checking, and detailed questioning at interviews;
- providing information to families and the community on the child protection strategies that have been adopted;
- training for staff to promote best practices and ensure a safe environment for children and staff, and
- raising awareness in School communities about child protection; and
- encouraging members of the School community to make constructive contribution to this policy.
- ensuring that Child Protection is a permanent agenda topic at school staff meetings to ensure all relevant issues are raised and discussed

## 8. REPORTING OF REPORTABLE CONDUCT ALLEGATIONS OR CONVICTIONS

### 8.1 Staff members

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

If the allegation involves the District Principal, the staff member must report to the Chairman of the School Board.

## 8.2 Parents, students, carers and community members

Parents, students, carer and community members are encouraged to report any conduct that is in their view inappropriate, reportable or criminal conduct to The District Principal or their delegate. It is important that parents, carers and community members understand what comprises a reportable allegation/conduct. To ensure these key stakeholders are aware, OneSchool Global NSW has taken the following steps:

- the OCG fact sheet “The NSW Reportable Conduct Scheme – Fact sheet 1-Identifying reportable allegations” has been permanently placed on the Parent Portal <https://sentral.au.oneschoolglobal.com/auth/portal> The Parent Portal is the frequently accessed portal for parents that contains reports, timetables, permission notes and other key information. This ensures high visibility. Only parents with a school log in can access this portal.
- The District Principal annually reminds all stakeholders, including parents, about Child Protection matters, including what constitutes reportable conduct, on a webinar. A recording of this webinar is emailed to all parents and a smartsheet survey with the opportunity for questions is sent out at the same time.
- Information from the OCG fact sheet “The NSW Reportable Conduct Scheme – Fact sheet 1-Identifying reportable allegations” has been used to inform stakeholders about the definition of reportable conduct if they access the reporting tab “Reporting a reportable conduct allegation” <https://www.oneschoolglobal.com/regions/australia/new-south-wales/>

## 8.3 The school

The District Principal, as the Head of Entity under the Children’s Guardian Act 2019, must:

- Ensure specified systems are in place for preventing, detecting and responding to reportable allegations or convictions
- Submit a 7-day notification form to the OCG within 7 business days of becoming aware of a reportable allegation or conviction against an employee of the entity (unless the Head of the Entity has a reasonable excuse),

The notification should include the following information:

- a) that a report has been received in relation to an employee of the 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, if known to the Head of Entity:

- a) details of the reportable allegation or conviction considered to be a reportable conviction,
- b) the date of birth and working with children number, if any, of the employee the subject of the report,
- c) the police report reference number (if Police were notified),
- d) the report reference number if reported to the Child Protection Helpline,
- e) the names of other relevant entities that employ or engage the employee, whether or not directly, to provide a service to children, including as a volunteer or contractor.

Maximum penalty for failure to notify within 7 business days —10 penalty units.

## 9. RESPONSE TO ALLEGATIONS

A child is at risk of significant harm where a person has current concerns about the safety, wellbeing or welfare of a child or young person.

This includes concerns that:

- Basic physical or psychological needs of a child or young person not being met
- Parents or caregivers have not arranged necessary medical care
- Risk of physical or sexual abuse or ill-treatment
- Parent or caregiver's behaviour towards the child causes or risks psychological harm, and/or
- Incidents of domestic violence as a consequence a child is at risk of serious physical or psychological harm

Where a child is identified as being at risk of significant harm, the District Principal of a school must assess the allegation or incident.

### 9.1 Receipt of Allegations

Upon receipt of an allegation of reportable conduct against an employee, the District Principal must determine whether the allegation may involve misconduct.

All allegations against employees that involve reportable conduct must be reported within 7 days of receipt of the allegation to the Children's Guardian.

The allegations should also be reported to the Department of Communities and Justice if there is a current concern for the safety, welfare and wellbeing of a child.

### 9.2 Investigation

The District Principal should conduct an investigation of the allegation and decide as to whether on the balance of probabilities the allegation has been sustained or not.

If sustained, the District Principal must determine the appropriate response including any disciplinary action to be taken against the employee.

At the conclusion of the investigation and the decision regarding disciplinary action, a complete report including the findings, disciplinary action decided upon and any other recommendations must be forwarded to the Children's Guardian together with any information which the accused person requires to be included.

### 9.3 Risk Assessment

The District Principal must carry out an initial risk assessment prior to the investigation of the allegation to identify and minimise the risk:

- to a child or children who are alleged to have been victims of the reportable conduct;
- to the employee against whom the allegation has been made;
- to other children with whom the employee may have contact;
- to the proper investigation of the allegation.

The employee may be stood down pending the outcome of the investigation. However, any decision to take action as a result of a risk assessment is in no way an indication of the guilt of the employee concerned.



## 9.4 Factors in Risk Assessment

Factors to be considered as part of a risk assessment include:

- the nature of the allegation;
- vulnerability of children;
- nature of the position occupied by the employee;
- the level of supervision of the employee;
- disciplinary history of the employee;
- safety of the employee;
- any comments made by the employee.

Risk should be continually monitored throughout the investigation.

## 9.5 Conflict of Interest and Appointment of Investigator

Investigations must be conducted in an impartial, independent and objective manner and be open and transparent.

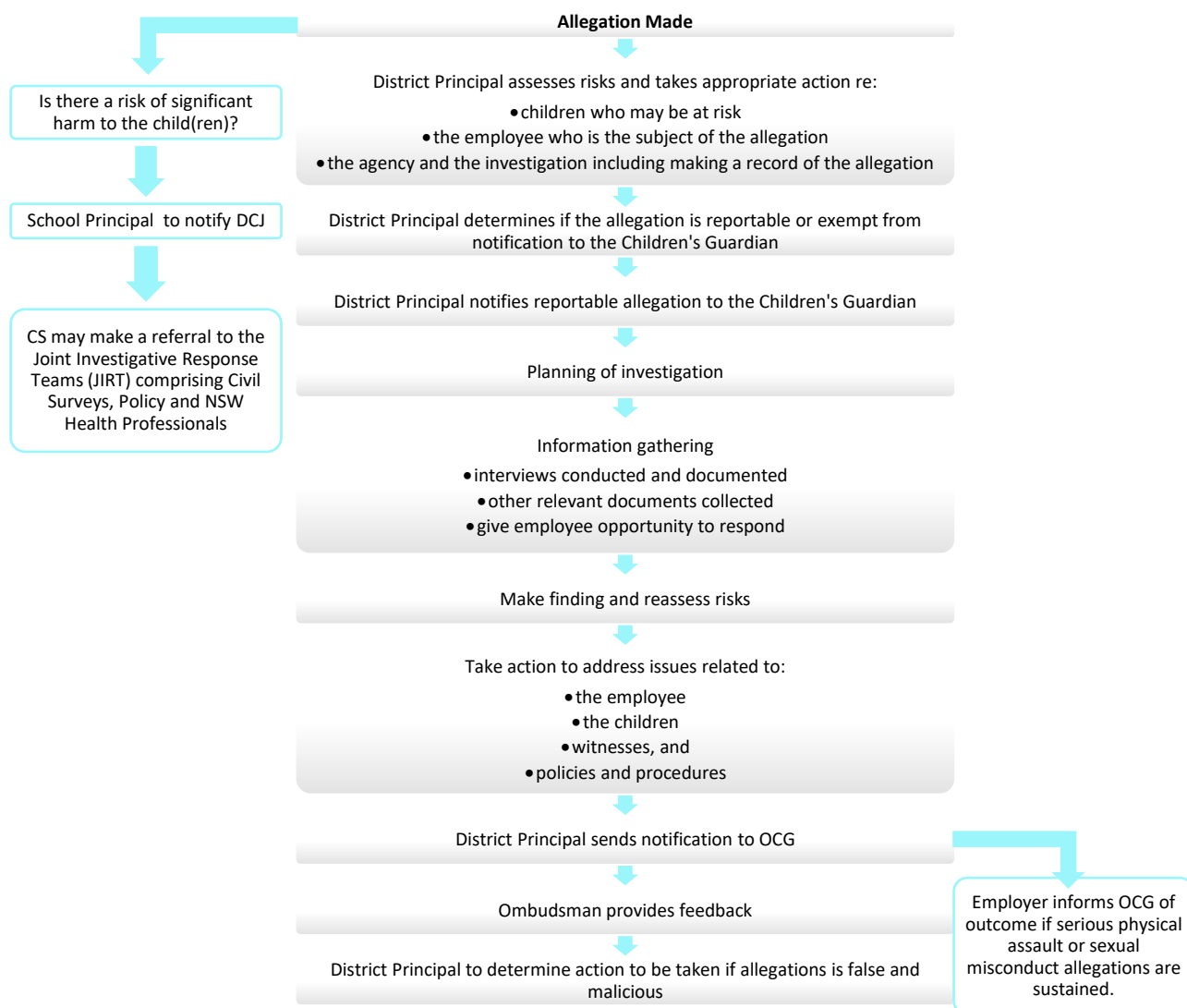
The investigator must not show bias or favour to the alleged victim(s), the person the subject of the allegation, nor in outcomes which might affect the reputations of the particular agency.

An external investigation may be undertaken to avoid a potential conflict of interest or bias allegation.

## 9.6 Steps in Investigative Process

Once an allegation of reportable conduct against an employee is received, the District Principal is required to:

- Determine whether it is an allegation of reportable conduct;
- Assess whether the DCJ 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;
- Notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or Police);
- Notify the OCG within 7 business days of receiving the allegation;
- Carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
- Provide an initial letter to the PSOA 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;
- Reasonable notice should be provided, where possible, prior to requiring a response to an allegation. What constitutes reasonable notice will depend on the circumstances of the situation.
- A record should be kept of the meeting, this could be made by a tape recording, a full written record or short minutes. The form of record may be dependent on the seriousness of the allegation. Possibly give the employee access to relevant documents on which the employer is relying, unless such documentation needs to be kept confidential.
- Consider all the evidence and make a preliminary finding as to whether the allegation is sustained or not sustained.



**Note:** Agencies should liaise with Police if they are involved in the matter.

The Children's Guardian's office can be contacted for consultation at any time during the agency investigation.

## 9.7 Confidentiality

Investigations should be conducted with a high level of confidentiality throughout the process to minimise allegations of defamation.

The person making the allegation also has a right to protection, and if appropriate, confidentiality.

In a limited number of circumstances, it may be inappropriate to advise the accused person of the identity of the person making the allegation.

The employee should not discuss the allegations with students (including the alleged victim) nor with parents without the approval of the school.

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

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

## 9.8 Findings

At the conclusion of the investigation, the investigator will make a preliminary finding on the balance of probabilities that:

- a) the allegation was false; or
- b) the allegation was vexatious, that is, was made without substance and with the intent of being malicious or to cause distress to the person against whom the allegation was made; or
- c) the allegation was misconceived, that is, whilst the allegation was made in good faith it was either without substance or a misunderstanding on behalf of the person making the allegation occurred or the incident would not reasonably be considered as reportable conduct (irrespective of the definition), sexual misconduct or an act of violence; or
- d) the allegation was not sustained; or
- e) the allegation was not one of reportable conduct, but might constitute a breach of professional behaviour or judgment which requires further professional disciplinary action; or
- f) the allegation was sustained and the matter required disciplinary action.

A finding of 'not sustained' means that the investigator considers that there is insufficient evidence to determine that the alleged event occurred, on the balance of probabilities.

The employee should be told of the preliminary finding and given an opportunity to respond including, if they wish, in writing.

## 9.9 Disciplinary Proceedings

For the purpose of this recommended protocol disciplinary proceedings are defined as the action taken as a consequence of the findings arising out of the investigation.

When conducting disciplinary proceedings, the employer should have regard to procedural fairness. This will usually involve:

- giving the employee details of the final finding;
- informing the employee of the possible action the employer may take; and
- giving the employee a right to respond including, if they wish, in writing.

## 9.10 Conclusion of Investigation

When the investigation has been completed:

- If it is completed, send the final report to the OCG within 30 days after having received the allegation, as per section 36 of the Children's Guardian Act 2019.
- Should the final report be unfinished within 30 days, the Head of Entity must provide, at minimum, an interim report to the OCG within 30 days of having received the allegation, as per section 38 of the Children's Guardian Act 2019.
- Submission of an interim report must include;
  - a reason for not providing the final report within 30 days and an estimated time frame for completion of the report.
  - specific information, including (if known); the facts and circumstances of the reportable allegation; any known information about a reportable conviction; action taken since the OCG

- received a notification about the reportable allegation or reportable conviction; further action the Head of Entity proposes to take in relation to the reportable allegation or reportable conviction; including if the Head of Entity proposes to take no further action; the reasons for the action taken and the action proposed to be taken or the reasons for the decision to take no further action; other information prescribed by the regulations; and
  - be accompanied by copies of documents in the School's possession, including transcripts of interviews and copies of evidence.
- The steps outlined above may need to be varied on occasion to meet particular circumstances. For example, it may be necessary to take different steps where the matter is also being investigated by the DCJ or Police.
- A review of the investigation should be conducted from a risk management perspective to ensure that all relevant risk issues have been considered to ensure that similar incidents will not occur. For example, further training may be required, certain work practices may need to be changed or the physical environment may need to be changed.
- The employee must be advised if the employer has notified completed disciplinary proceedings to the Children's Guardian.

### 9.11 Information for the PSOA

The PSOA 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 PSOA 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.

## 10. DOCUMENTATION AND RECORD KEEPING

All documents relating to an allegation or conviction of reportable conduct or details of behaviour that does not constitute reportable conduct to be kept on a strictly confidential basis.

A file, separate to the employee's file should be secured maintained with restricted access.

A summary report should be prepared that sets out:

- The allegation
- The investigation process
- The final determination including the reason
- The final risk assessment
- The factors considered; and
- Any subsequent action taken or to be taken

If Children's Guardian is notified in accordance with the School's obligations, the related documents to be kept indefinitely and stored in a secure location separate to the employee's file.

The District Principal is responsible for keeping and storing all records relating to all matters addressed by this policy and only those persons whom the School is obliged to advise of this information or need to be aware of the contents of such documents will have access to them.

## 11. SUPPORT

OneSchool will provide counselling or support to children and staff involved in matters of this nature.

## 12. RISK MANAGEMENT

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

All employment situations do not carry the same level of risk, nor do all employees.

Similarly, all children do not have the same level of vulnerability.

Recognising and acknowledging that the risk of reportable conduct is present in child-related employment is the first step towards effective risk management.

Procedures to prevent reportable conduct from occurring as well as procedures for responding to incidents or allegations of reportable conduct against an employee should form part of a risk management plan.

## 13. VERSION CONTROL

Document Code	Date	Version No.	Nature of Change
3.6.1.1 POL_NSW_OP_Child Protection Policy & Procedure.V1.0	27 <sup>th</sup> February 2020	1	Rebranding
3.6.1.1 POL_NSW_OP_Child Protection Policy & Procedure.V1.1	1 <sup>st</sup> March 2020	1.1	Legislation change
3.6.1.1 POL_NSW_OP_Child Protection Policy & Procedure.V1.2	14 <sup>th</sup> May 2020	1.2	
3.6.1.1 POL_NSW_OP_Child Protection Policy & Procedure.V1.3	1 <sup>st</sup> June 2021	1.3	Responsibility positions added
3.6.1.1 POL_NSW_OP_Child Protection Policy & Procedure.V1.4	14 <sup>th</sup> February 2022	1.4	AIS review
3.6.1.1 POL_NSW_OP_Child Protection Policy & Procedure.V1.5	1 <sup>st</sup> June 2023	1.5	Annual review
POL_NSW_OP_Child Protection Policy.V1.6	1 <sup>st</sup> August 2024	1.6	Annual review

## APPENDIX A - NEW SOUTH WALES

### 1.2 Principal Legislation

- a) Children and Young Persons (Care and Protection) Act 1998 (NSW)
- b) Children's Guardian Act 2019 ("Children's Guardian Act")
- c) Child Protection (Working With Children) Act 2012 ("WWC Act");

### 1.3 Associated Legislation

- a) Children and Young Persons (Care and Protection) Amendment (Parental Responsibility Contracts) Act 2006 (NSW)
- b) Child Protection (Offenders Registration) Act 2000 (NSW)
- c) Crimes Act 1900 (NSW)
- d) Family Law Act 1975 (Cth)
- e) Children and Young Persons (Care and Protection) Amendment Bill 2009

### 1.4 Who must mandatorily report

- 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.
- 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

### 1.5 What to Report

- a) Reasonable grounds to suspect that a child is at risk of significant harm; and those grounds arise during the course of or from the person's work.

### 1.6 How to Report

- a) Department of Communities and Justice. Use the Child Protection Helpline on 132 111

## APPENDIX B - CHILD PROTECTION CODE OF CONDUCT

### 1. Introduction

OneSchool's Code of Conduct (Code) applies to its employees, volunteers, students, third party contractors and service providers (including External Education Providers), teaching students on placement at the school and visitors.

This Code has been prepared to assist OneSchool staff who deal with children in the performance of their duties to understand what is appropriate and inappropriate conduct.

### 2. Duty of Care

There exist special duty relationships between some members of society which gives rise to more onerous duties of care. The relationship between teacher and pupil is one of these.

A duty of care applies while the students are under the care of OneSchool. This applies equally to school based activities and out of school activities. The same duty of care applies to employees who volunteer their services to OneSchool.

The general law of negligence provides that a person may be negligent if:

- S/he owes a duty of care to the person injured, that is, the standard judged reasonable in all of the circumstances, and
- S/he did not carry out that duty to the legal standard required, and
- The person suffered damage as a result of the failure to observe the duty of care.
- With regard to care and protection the following general principles apply:
- Staff must take reasonable care to ensure that their students are not harmed. They have a duty to protect their students against foreseeable risks of personal injury or harm.
- The standard of care is that of a reasonably prudent parent. The degree of care depends on such factors as the age of the students.
- There must be an efficient system of supervision in operation at OneSchool.

Employees are required to follow good standards and approved practice.

### 3. General Guidelines

OneSchool is committed to the achievement of the highest standards of education in which the security, protection and comfort of students is a high priority. The following guidelines are to be adopted for the care and protection of students and staff.

### 4. Supervision of Students

- a) Staff must take all reasonable care to ensure that no student is exposed to any unnecessary risk of injury. Staff are to remember that they are in loco parentis - the standard of care required is that of a skilled professional.
- b) Ill or injured students should be attended to by the supervising staff member. Should additional assistance be required contact should be made with the central office.
- c) Students should not be left unsupervised either within or outside of class. Staff are reminded of their duty of care obligations in this regard. Staff should be punctual to class and allocated supervision.
- d) Individual music tutors must not work with students alone in enclosed studios. External monitoring is made possible with a window in each studio door.
- e) In the event that a student is not collected, staff should remain with the student until collected or return to school with the student, or put in place other measures which are prudent and necessary.
- f) Playground supervision is an integral part of the responsibility of staff and they must be punctual. It must take precedence over other activities. Staff should actively supervise their designated area, being vigilant and constantly moving around.
- g) Staff should be alert to bullying or any other form of discriminatory behaviour, and report incidences to the appropriate staff member.

## 5. Relationships with Students

- a) Staff should avoid situations where they are alone in an enclosed space with a student. Where staff are left with the responsibility of a single student they should ensure that this is in an open space in view of others. Where this is not possible or practical it should be discussed with the immediate supervisor.
- b) Staff may as part of their pastoral care role engage in discussion with students. This is entirely appropriate. However staff must be cautious of making personal comments about a student or asking questions that probe their own or a student's sexuality or relationships.
- c) When staff wish to conduct a private conversation with a student they should consider the time and venue carefully to avoid placing themselves in a vulnerable situation. It is preferable to leave the door open. The staff member should not locate themselves between the student and the door.
- d) Staff should never drive a student in their car unless they have specific permission from their supervisor to do so. In the event of an emergency staff should exercise discretion but then report the matter to the appropriate supervisor.
- e) Staff should notify the School Principal as Head of Entity immediately should they suspect a situation involving any form of reportable conduct. It is not a staff responsibility to investigate. Similarly staff should report to the School Principal as Head of Entity any suspected case of neglect.
- f) Social relations between staff and students outside the School can be problematic. Staff should refrain from visiting students at their home unless they have the express permission of the School Principal and/or relevant parents or guardians. Staff must be alert to the risk involved in social relations with students and be conscious that their position places extra obligations on them.
- g) Staff should not engage in tutoring or coaching students from the School for monetary return unless approved by the School Principal.
- h) When physical contact with a student is a necessary part of the teaching/learning experience staff must exercise caution to ensure that the contact is appropriate and acceptable. Staff could check with the student first to see if the student was comfortable with the proposed contact or ask for a volunteer to demonstrate a particular activity.
- i) Whilst teachers will generally not attend to the toileting needs of young children should the need arise it will be done with caution. It may be appropriate to have the door open. In respect to students with a disability the management of toileting needs should be included in the student's individual management plan.
- j) Staff should not supply or condone the use of alcohol, tobacco other non-prescription drugs or illegal substances for any student in their care except for pain relieving medicines, e.g. Panadol, that they are permitted to administer.
- k) When congratulating a student, a handshake or pat on the shoulder are acceptable as long as the student is comfortable with this action. Kissing of students is not acceptable.
- l) Assessing a student who is injured or ill may necessitate touching. Always advise the student of what you intend doing and seek their consent.
- m) Staff must always treat students with respect and without favouritism. There is no place for sarcasm, derogatory remarks, inappropriate familiarity or offensive comments.
- n) Staff who communicate with students electronically must abide by the terms of the School's Computer/Internet Policy. Transmission of messages or files which are sexually explicit or offensive are totally inappropriate, and may be grounds for dismissal.
- o) Sometimes during the course of your work you may be in receipt of a gift from a student. In such circumstances where the receipt of a gift could be considered outside of usual custom you are to inform your immediate supervisor. In respect to gifts you should also be mindful of any School Gifts Policy.
- p) Staff should not communicate with students on social networking sites for purposes unrelated to their employment without the knowledge and permission of the School Principal.
- q) Staff should ensure that they are familiar with and adhere to the School's Policy in regard to the storage and administration of medical products to students.
- r) Sometimes in ensuring duty of care staff may be required to restrain a student from harming himself or others by using reasonable force. Any such strategy must be in keeping with the School's behaviour management practices.



## 6. Discipline of Students

- a) All staff should be familiar with and adhere to the school's discipline policy.
- b) Alcohol is not to be consumed by staff at school camps or excursions. The only exceptions will be those occasions deemed appropriate by the School Principal in accordance with the relevant school policy.
- c) No student should be allowed to leave or be sent from a class other than for personal hygiene matters. In extreme cases students can be sent to the School Principal's office.
- d) At all times when speaking with students care must be taken to use appropriate language.

## 7. Communication

- a) Staff are required to respect and adhere to the established lines of communication in the school.
- b) Staff should be mindful of confidentiality when in discussion with parents. Staff can never guarantee confidentiality if the matter under discussion requires mandatory reporting.
- c) Staff should not speak inappropriately about another staff member to students or parents.
- d) Staff should present a courteous professional manner to students, parents, visitors and other staff members. Confrontation and criticism in public is to be avoided at all times.
- e) Certain matters discussed in staff meetings and staff memos will be treated as confidential and should not be discussed with students unless relevant to students.
- f) The media should not be given access to students or allowed entry to the School without the express permission of the School Principal.

## 8. Camps/Excursions

- a) In the case of activities involving overnight accommodation of boys and girls, both genders should be represented in the group of supervisors.
- b) Excursion information must be communicated to parents.
- c) A mobile phone must be taken on all excursions. The teacher in charge must arrange to have access to a complete list of student contact numbers with them on the excursion.
- d) A co-ordinator will be appointed to oversee billeting arrangements. The co-ordinator will ensure that lines of communication are known to all students, their parents and host families.
- e) Students being billeted should have access to supervising staff. The overriding principle is 'to act in the best interests of the child'. If the child expresses discomfort, or unease the child will be counselled and appropriate action taken including immediate removal from the situation.
- f) Parents of students to be billeted must complete consent forms and if necessary update the school's medical information forms.
- g) Risk Management Assessment and Insurance arrangements must be completed well in advance of an interstate or overseas excursion.

## 9. Duty to Disclose

- a) Staff are required to report to the School Principal any allegation of 'reportable conduct'.
- b) Staff who are the subject of an Apprehended Violence Order or a Reportable Conviction are required to inform the School Principal immediately they are in receipt of such an Order or Conviction.
- c) Staff are required to report to the School Principal or his nominee any concerns relating to the safety, welfare or wellbeing of a student.