

SAFE SCHOOLS POLICY (CHILD PROTECTION)

DIOCESE OF WAGGA WAGGA

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Introduction

The community has clear expectations of its schools in matters relating to child protection and child abuse. It expects that its children, while at school, will be protected from all forms of abuse, including sexual, physical and emotional abuse and neglect.

It also expects that its children, while at school, will be taught how to protect themselves and to seek help if they are concerned about abuse. The community supports programs that give students the skills to develop positive, non-coercive relationships.

The Catholic Schools Office Wagga Wagga takes on these responsibilities to ensure that students within the Diocese of Wagga Wagga are protected from all forms of abuse and neglect - sexual, physical and emotional.

This document is written in the light of recent legislative changes in NSW. These include Part 3A Ombudsman Act 1974; the Child Protection Legislation Amendment Act 2003, the Child Protection (Prohibited Employment) Act (1998); Commission for Children & Young People Act (1998) and the Children & Young Persons (Care & Protection) Act (1998).

Statement of Principles

Within schools/colleges in the Diocese of Wagga Wagga, procedures will be followed in handling allegations of reportable conduct and concerns that children may be at risk of harm. These procedures are based on the following principles:

- All children have the right to safety and to be protected from any kind of abuse.
- Persons involved in situations where abuse is disclosed or suspected should be treated with sensitivity, dignity and respect.
- In any preventive and/or protective action related to child abuse, the total well-being of the child is the primary concern.
- The value of the family unit is respected but not to the detriment of the well being of the child.
- As the Principal is responsible for the administration and conduct of the school/college and all that relates to it, the Principal (or designated delegate) is to be informed promptly of suspected or disclosed incidents of reportable conduct as well as serious matters concerning the welfare of students. All school staff, including teachers, school support staff and authorised volunteers, share this obligation.
- As the Director of Schools is responsible for the administration and conduct of the schools within the Diocese of Wagga Wagga, and all that relates to it, the Director of Schools (or designated delegate) is to be informed promptly of suspected or disclosed incidents of reportable conduct. All Principals share this obligation.
- Information regarding suspected or disclosed reportable conduct shall be made available only to those personnel who have a genuine need to be informed. Personnel who have access to such information have the obligation to observe appropriate confidentiality in relation to this information.
- School personnel are expected to avoid any false, exaggerated or unjustified assertions that may infringe the good name of another person.

1. Definitions

1.1 Risk of Harm

Section 23 of the Child and Young Persons (Care and Protection) Act 1998 states the following:

“a child or young person is at risk of harm if current concerns exist for the safety, welfare and well being of the child and young person because of the presence of one or more of the following circumstances:

- (a) the child's or young person's basic physical or physiological needs not being met or are at risk of not being met;

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

1.2 Reportable Conduct

Reportable Conduct includes child sexual assault, physical abuse, psychological abuse and ill treatment and neglect.

1.2.1 Child Sexual Assault

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

1.2.2 Physical Abuse

Physical abuse refers to any unwelcome hostile contact or threat of such contact including non-accidental injury or injury caused through recklessness to a child by a parent, caregiver or any another person. It is unwelcome contact, discipline, as well as threatened abuse, pushing, physical restraint. The child does not have to suffer injury to have experienced physical abuse. N.B. Corporal punishment is illegal in N.S.W.

1.2.3 Psychological Abuse

Psychological abuse is behaviour by a parent or caregiver, teacher or another person responsible for a child, which can destroy the confidence of a child resulting in significant emotional deprivation or trauma. It involves impairment of a child's social, emotional, cognitive, intellectual development and/or disturbance of a child's behaviour.

It includes excessive demands; failure to provide psychological nurturing and affection necessary for a child's physical and emotional growth and development; scapegoating or rejecting; severe verbal abuse and threats of abuse.

Witnessing domestic violence can have a profound effect on children and constitutes a form of emotional abuse.

1.2.4 Neglect or ill-treatment

Child neglect occurs where a child is harmed by the failure to provide the basic physical and emotional necessities of life. Neglect is characterised as a continuum of omissions in caregiving. Ill-treatment occurs where an employee disciplines or corrects a child in excess of what is reasonable or appropriate for the situation.

1.3 Sexual Misconduct

Misconduct of a sexual nature is behaviour on the part of a staff member, which exploits the privileged position of the staff member within the staff-student relationship. Sexual misconduct relates to inappropriate behaviour of a sexual or potential sexual nature.

Examples of sexual misconduct may include any of the following forms:

- Sexual touching either over or under clothing
- Inappropriate discussion of matters of a sexual nature with students; (Appropriate discussions may include personal development/pastoral care lessons and the discussion with senior students of prescribed curriculum material in which sexual themes are contextual)
- Sexual exhibitionism
- The development of an intimate relationship, incompatible with the staff-student relationship, between a staff member and a student, initiated by either, whether of the same or opposite sexes

- Exposure to students of pornographic material in any medium
- Watching children undress when supervision is not required or justified
- Kissing accompanied by some suggestion of a sexual nature (e.g. kissing on the lips).

1.4 Misconduct that may involve reportable conduct

Is where the behaviour suggests there may be a pattern of behaviour or the behaviour may indicate misconduct that poses a risk to children. This may include a breach of boundaries such as taking a child home in an employee's car, or giving gifts to a child.

2. Mandatory Requirements of Schools

2.1 Children and Young Persons (Care and Protection) Act 1998

Mandatory notification of children who are currently perceived to be at risk of harm is covered under the Children and Young Persons (Care and Protection) Act 1998.

This Act requires mandatory reporting of cases of suspected concerns about risk of harm of a child or young person under 18 years of age by person occupying the following positions in State and Non-Government schools:

- School principals
- School deputy principals
- School teachers
- Teacher Assistants
- Early childhood teachers who are employed in a school
- School counselors
- School social workers.

Additionally, the Catholic Schools Office requires that all employees and voluntary workers must inform the Principal of the school in which they are working of any genuine concerns that they have about children in their care and that they believe are currently at risk of harm. It is however, the ultimate responsibility of the employee/voluntary worker to ensure that such matters are notified to the Department of Community Services.

In circumstances where a discrepancy exists between the employee/voluntary worker and that of the Principal, the matter must be brought to the attention of the Department of Community Services.

Such notifications may either be made by the Principal or the employee/volunteer worker. It is an expectation that the Principal is informed that such action is intended to occur.

2.2 Child Protection (Prohibited Employment) Act 1998

This act prohibits persons with convictions for serious sex offences from working in child related employment where that employment involves direct unsupervised contact with children.

There is an obligation on the part of the employer to establish that existing employees are not prohibited persons. Further to this there is an obligation on the employer to only employ persons who are not prohibited persons.

Employees are obliged by law to disclose to their employer their status relating to the definition of a prohibited employment under Child Protection (Prohibited Employment) Act 1998. If the employee is a prohibited person they are obliged by law not to apply for or remain in child related employment.

2.3 Pt 7 Commission for Children and Young People Act

Part 7 of this Act mandates the employment screening of preferred applicants for child related employment in schools.

An employer is required to conduct employment screening by an approved screening agency for employing staff. An employer is required to notify the Commission for Children and Young People of relevant disciplinary proceedings taken as a result of an allegation/conviction of abuse by an employee. The employer is also required to notify the Commission for Children and Young People

of applicants who have not been offered child related employment as a result of an employment screening risk assessment.

2.4 Ombudsman Act 1974

This act requires the Director of Schools to report to the New South Wales Ombudsman within 30 days, any allegations or convictions of reportable conduct made against employees of the schools within the Diocese of Wagga Wagga.

The Director of Schools is also required to ensure that investigations of such allegations of reportable conduct are conducted and that appropriate actions take place as a result of the findings of these investigations.

There is an obligation on the part of employees to inform the principal of the school/college in which they are working of any reportable conduct allegation or conviction against an employee, which occurs either within or outside the workplace.

There is an obligation on the part of the Principal to then inform the Catholic Schools Office Wagga Wagga.

3. Relevant Procedures

3.1 Procedures for investigating Matters Relating to a Concern that a Child is at Risk of Harm

3.1.1 Preliminary Information Gathering

The gathering of some preliminary information, which may lead to an investigation, may take the following forms:

- i.) A student tells any staff member that he/she is at risk of harm
- ii.) Someone else tells a staff member that a student is at risk of harm
- iii.) A student tells a staff member he/she knows someone who is at risk of harm (the student can be referring to himself/herself)
- iv.) A staff member's own observation leads her/him to suspect the student is at risk of harm (some indicators of risk of harm are: marked changes in behaviour; withdrawal; depression; changes in application to work, attendance patterns or attention to personal appearance; pregnancy; anorexia or over-eating; self destructive behaviour such as drug dependency, suicide attempts or self-mutilation injuries to breasts, buttocks, lower abdomen and thighs).

A staff member is advised to discuss his/her concerns with the principal of the school/college in which they are working. These discussions will be treated as strictly confidential.

3.1.2 Action to be taken by the school re: Reports relating to students of the school.

- v.) Any staff member who has reason to believe that a student is at risk of harm is expected to report the concern to the Principal so that further action may be decided upon.
- vi.) Unless otherwise directed staff members are expected to maintain the confidentiality of such matters. It is therefore expected that such matters are not discussed or reported to colleagues (except for the Principal – or his/her delegate) or other persons including family members of the child who is regarded as being at risk of harm.
- vii.) If it is decided that reasonable grounds exist to investigate matters relating to a concern for the welfare of students, the Principal is obligated to notify DOCS
- viii.) The initial notification is expected to be followed up in writing and faxed to DOCS. [Appendix A]
- ix.) If the staff member is aware that the Principal has not made a notification to DOCS and believes that reasonable grounds for notification still exist, then the staff member is obligated to notify DOCS directly.
- x.) DOCS needs to know the following information: Name, address and age of the student, name of the school/college, whether there are other children in the family and their ages, notes of the events, conversation, observations which have led up to the notification.

3.1.3 Action by the Department of Community Services

- xi.) It is the statutory obligation that DOCS inform the parent(s)/caregiver(s) of the notification. The school/college must not inform the parent(s)/caregiver(s).
- xii.) The DOCS officer and the Principal meet to discuss the necessary procedures. In the meantime, the Principal ensures that the student is supported at school/college.
- xiii.) If DOCS request an interview with the student, the Principal informs the student of his/her right not to be interviewed and to nominate a supportive person to be present at the interview if he/she wishes. Unless otherwise advised or directed by DOCS, parents would be informed of DOCS intention to interview the child and if possible the interview would be postponed until a parent is able to attend.
- xiv.) The Principal consults with DOCS about post-interview support for the student
- xv.) If DOCS officers consider it necessary to interview other students who attend the school/college, the same procedures apply.

3.1.4 Removal of an Alleged Victim by DOCS Officers

- xvi.) A child who is an alleged victim may be removed from the school /college only on the authority of the DOCS District Manager, Assistant Manager or delegated officer or of the Children's Court.
- xvii.) The Principal must inform the local DOCS office that the above action has taken place
- xviii.) The Principal must keep a written record of the action and include the following details:
 - Name of the DOCS Manager
 - Names and titles of the DOCS officers
 - Date and time of removal
 - The reason for the removal
 - The intended place of lodgment of the student
 - Take a photocopy of the notice served.
- xix.) The Principal must gain an assurance from the DOCS officers that they will immediately inform the parent(s)/caregiver(s) of the student of the action taken. The Principal must not inform the parent(s)/guardian(s) of the action.

3.1.5 Reports relating to children who are not students of the school.

Where a staff member of the school/college, in the course of his/her duties (e.g. short term attendance at a 'host' school, school excursions, through a student's siblings or peers) has reasonable grounds to believe that a student from another school is at risk of harm, she/he must report this directly to the Principal of the school/college at which they work who must notify, as soon as possible, the Principal of the school the particular student attends. If the Principal of the student's school has reasonable grounds to believe that the student is at risk of harm, she/he should be advised to notify DOCS as soon as possible. The Principal of the school the student attends should be requested to inform the Principal who informed them whether or not the notification has been made to DOCS. If the Principal knows that the notification has not been made and the Principal still believes that reasonable grounds exist, he/she must notify DOCS directly.

3.1.6 Protection of the Notifier

Notification of risk of harm attracts the following safeguards:

- xx.) Notification shall not, in any proceedings before a court, tribunal or committee, be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct
- xxi.) No liability for defamation is incurred for the person making the notification
- xxii.) The notification shall not constitute a ground for civil proceedings for malicious prosecution or for conspiracy
- xxiii.) The notification shall not be admissible in evidence in any proceedings before a court, tribunal or committee, or to disclose, and no evidence of its contents shall be admissible
- xxiv.) A person shall not be compelled in any proceedings before a court, tribunal or committee to produce the notification, or to disclose, or give any evidence of, any of the contents of the notification.

3.2 Procedures where Allegations of Reportable Conduct Involve a Staff Member

Allegations of reportable conduct involving staff members must be investigated and reported to the Ombudsman's Office pursuant to Part 3A Ombudsman Act 1974.

The primary concern of the Catholic Schools Office, at all times, is the safety and care of the students.

There is no intention that these procedures be punitive towards staff members or that they prejudice the outcome of any legal processes.

Confidentiality must be contained to the appropriate personnel to protect the identity and the reputation of all involved.

At all times the Catholic Schools Office will observe the Protocols Agreement between the Catholic Commission for Employment Relations (CCER) and the Independent Education Union (IEU). [To be revised and updated. August 2005]

3.2.1 Action by the Principal

- Contact is made with the Catholic Schools Office as soon as the report is made.
- The Director of Schools is informed.
- The Director of Schools confirms the investigation team
- If the complaint falls within an exemption then the complaint is not notified to the Ombudsman.
 - an allegation that on the face value is reasonable for the discipline and management of a child, and consistent with the code of conduct,
 - an allegation that is one of physical force, and that is of a trivial and negligible nature in all the circumstances, or
 - an allegation of conduct that falls within a class or kind determination.
- Although not reported to the Ombudsman, these complaints are still investigated following the process outlined below.
- A member of the investigation team meets with the staff member to give written notice of the report and the details of the investigation
- The investigation team collects relevant information and delivers a preliminary finding to the Director of Schools
- The head of the investigation team meets with the staff member to deliver the finding.
- If the finding is sustained:
 - an appropriate action plan/disciplinary action is discussed and given in written form
 - the Catholic Schools Office completes the required documentation and forwards it to the Ombudsman.
- If the finding is not reportable conduct, not sustained due to insufficient evidence, misconceived, false or vexatious:
 - the staff member is informed of the finding
 - the Catholic Schools Office completes the required documentation and forwards it to the Ombudsman.
- At the conclusion of the investigation, the Ombudsman informs the Diocese of Wagga Wagga (Head of Agency) of closure.
- The Catholic Schools Office informs the staff member in writing that the matter has been concluded.

If, during the course of the information gathering process the Catholic Schools Office develops the view that the alleged victim or any other child is currently exposed to a risk of harm they are obliged to take steps to ensure that a notification is made to DOCS without delay. Ref. 3.1

- xxv.) The Catholic Schools Office Wagga must inform DOCS that the office will need to take immediate action which may involve informing the staff member of the general nature of the complaint and the process for proceeding with any steps to be taken.
- xxvi.) A representative of the Catholic Schools Office Wagga must inform the allegedly offending staff member in person that the complaint has been made and that DOCS have been informed.
This meeting is held at the Catholic Schools Office Wagga or at some other suitable

location. The staff member is encouraged to be accompanied by a support person.

The staff member is invited to respond to the allegations.

The representative of the Catholic Schools Office Wagga determines the work status of the staff member. The options would include: leave with pay pending investigation by DOCS/police or dismissal, where the facts of the case warrant that continuing employment is inappropriate.

The representative informs the staff member of the choice of work status.

The staff member is encouraged to contact the IEU if he/she is a member and/or to seek advice and representation if he/she chooses.

The Catholic Schools Office Wagga informs the IEU of the date/place of the interview.

- xxvii.) The representative must inform the complainant of the determination made and the action taken.
- xxviii.) The representative of the Catholic Schools Office must inform the parent(s)/caregiver(s) of the student that a complaint has been made
- xxix.) While the investigations are in progress, if necessary, the representative of the Catholic Schools Office Wagga maintains liaison with DOCS/police

3.2.2 For Matters of Serious Misconduct

- xxx.) Upon conclusion of the investigations by DOCS/police the following will occur:

If charges are laid by the Police, the Director of Schools will:

- Suspend the employment of the staff member without pay, pending finalisation of the proceedings. (If the charges are not upheld the staff member may be reinstated if appropriate)
- Dismiss the staff member where the facts of the case and a finding based on the balance of probabilities are of a kind that would cause continued employment to pose an inappropriate risk of harm to children.

if charges are not laid, to:

- Reinstatement
- Dismiss the staff member (where the facts of the case and a finding based on the balance of probabilities are of a kind that cause continued employment to pose an inappropriate risk of harm to children).

- xxxi.) In the event of a court verdict, the Director of Schools will make a further decision to:

- Dismiss, if the staff member is convicted.
- Reinstatement, if appropriate and dependent upon the circumstances and the findings made pursuant to the Ombudsman Act investigation, in the event of acquittal.
- Dismiss the staff member if, despite acquittal, the facts of the case and a finding based on the balance of probabilities are of a kind that would cause continued employment to pose an inappropriate risk of harm to children.

- xxxii.) The Director of Schools will consider all available information and base the decision regarding ongoing employment around that.
- xxxiii.) The representative of the Catholic Schools Office Wagga will convey the outcome of the decision to the staff member
- xxxiv.) The Investigation Team shall determine follow-up processes at school level, confidentiality being preserved at all times

All documentation is held in a secure location at the Catholic Schools Office Wagga.

4. Pastoral Care of Students who Experience Abuse

Child protection is a big responsibility. It is important to share this responsibility, because no one person can guarantee a student complete safety. It is nevertheless important that confidentiality is

respected and that only those with a legitimate need to know of specific child protection concerns are informed.

Good pastoral care practices help to make the schools within the Diocese of Wagga Wagga a place where a student at risk of harm will feel safe enough to talk to staff members.

As abuse is a critical incident for those involved, reference to the Critical Incident Policy is helpful.

4.1 Supporting A Student Who Has Disclosed Risk Of Harm or reportable conduct by an employee.

Students generally disclose with great hesitation and often with feelings of fear and guilt. It is therefore important for the staff member to remain calm and supportive. Active listening without probing is required.

- Staff members help disclosing students by:
- Listening to them
- Telling them that they are doing the right thing in disclosing
- Emphasising that what has happened is not their fault
- Avoiding a display of shock or personal distress
- Acknowledging that it is hard to talk of such matters
- Telling them that the best way to stop it happening to them is to tell the right people

Staff members do not help disclosing students by:

- Making promises which cannot be kept
- Probing students in such a way that they cease talking freely.

4.2 Helping the Student at Risk of Harm in the Classroom

The school environment can offer security and stability for students at risk of harm in a time when other environments may be unstable.

Teachers, through their normal daily contact with students, have an opportunity to make a significant contribution to the adjustment of students who are at risk of harm.

These students, above all, need to feel normal. By treating these students as naturally as possible, the teacher can contribute to meeting their special needs. The consistency, structure and routine of the classroom help to maintain normalcy. Students also can feel supported and at home in an atmosphere where their self esteem is preserved. Additionally, their being in the classroom can give them some personal space while being with others.

4.3 Support for the Staff Member to Whom a Disclosure has been made

Many staff members find listening to a disclosure overwhelming and it may arouse strong feelings of disbelief, helplessness, protectiveness or sadness. While listening, staff members need to be aware of their own feelings, control them and deal with them in an appropriate way after the disclosure. Staff members are encouraged to seek the assistance of the Principal after the disclosure for personal support. This may involve accessing the Diocesan Employee Assistance Program.

5. Permissible Physical Contact with Students

The Child Protection Code of Professional Standards for Catholic Schools Employees document sets out principles and standards for employees working in Catholic Schools in New South Wales.

5.1 Legal bases for Permissible Physical Contact

5.1.1 Duty of Care

The Child Protection Code of Professional Standards outlines the duty that is owed to employees and students by the school. All employees are expected to contribute towards fulfilling this duty of care that is owed to each student in providing a school environment that is free from risk of harm. In meeting this duty of care risk management processes may need to be employed to ensure that the welfare of all students and employees is met.

5.1.2 Assistance

There are occasions when a staff member needs to give practical assistance to a child who is hurt or who, for some other reason, requires physical assistance. In such cases touching is unavoidable if the school's/college's duty of care is to be fulfilled. When physical contact with a student is necessary for activities involved in teaching and learning activities, all employees must ensure that the contact is appropriate and acceptable for the duty being performed. (Child Protection Code of Professional Standards – page 8).

Physical interventions to contain or control the behaviour of a student should only be employed as a last resort to ensure that the safety and protection of employees and students is met. This would be restricted to situations in which any member of the school community is at risk of being harmed, or being harmed.

The Child Protection Code also outlines that any contact that fits within the above is only acceptable if the contact is reasonable for the purpose of discipline, management or care of the children.

5.1.3 Comfort, Encouragement and Congratulations

There are times when a staff member may feel it appropriate to respond to a student with touch, to give comfort or consolation, to give a 'pat on the back', to give encouragement or to offer a gesture of congratulations. It is possible to respond warmly and sensitively without compromising professional boundaries by the use of affirming language, by using socially unambiguous gestures such as a handshake, a hug or a kiss on the cheek and by developing a habit of asking a student before touching him or her.

5.1.4 Good Practice

Where responsible for a single student, maintain visibility into a room, and where possible interact with the student in an area open to observation.

Do not presume that a hug, kiss or touch is accepted or welcomed as a gesture of comfort, support or congratulations. A student may find such a gesture intrusive.

Never touch a student in a way that you know is unacceptable to him or her.