



## Child Protection Policy

### Protecting and Supporting Children and Young People

#### Policy Document Information

Author/Supervisor	E Moir, G. Irwin
Compliance	
Legislative Requirements	Children and Young Persons (Care and Protections Act 1998) Sect 23 <a href="http://www.austlii.edu.au/au/legis/nsw/consol_act/caypapa1998442/">http://www.austlii.edu.au/au/legis/nsw/consol_act/caypapa1998442/</a> The Child Protection (Working with Children) Act 2012. <a href="http://www5.austlii.edu.au/au/legis/nsw/consol_act/cpwca2012388/">http://www5.austlii.edu.au/au/legis/nsw/consol_act/cpwca2012388/</a> The Children's Guardian Act (2019) <a href="https://legislation.nsw.gov.au/#/view/act/2019/25/part8/div5/sec134">https://legislation.nsw.gov.au/#/view/act/2019/25/part8/div5/sec134</a> The Crimes Act (1990) <a href="http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_act/ca190082/">http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_act/ca190082/</a>
NESA	Registered and Accredited Individual Non-Government Schools (NSW) Manual
Other Policy Relationships	Child Protection Policy – Protecting and Supporting Children and Young people Guidelines and Procedures Reportable Allegations Against Employees Policy, Guidelines and Procedures Working With Children Check Policy and Procedures Complaint Handling Policy WHS Policy Bullying Policy Discipline Policy Excursion Policy Volunteer Policy Staff Code of Conduct
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Date of Issue/last revision	December 2023
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Policy Review	This policy will be reviewed every 3 years, or as needed in line with legislative changes and the requirements of the Association of Independent Schools
Applies to	All schools and operations of St Philip's Christian Education.

SPCE policies are made pursuant to the requirements set out in section 47 of the *Education Act* and of the NESA for registration of the schools



# Child Protection Policy

## Protecting and Supporting Children and Young People

### General Statement

As a Christian community, we uphold the principle of respect for all people, on the basis of Genesis 1:26-27 (all people are made in the image of God) and its application: for example, in 1 Peter 2:17. (The Message) *“Exercise your freedom by serving God, not by breaking the rules. Treat everyone you meet with dignity. Love your spiritual family. Revere God. Respect the government.”*

We are called to model Christ in all our dealings. We believe that each child is a gift from God and must be treated with respect, dignity and care.

Therefore, St. Philip's Christian Education is committed to creating and maintaining procedures that protect the safety, welfare and well-being of all children and young people at our school; and meet our obligations under Child Protection Legislation.

A part of that duty of care owed by the College is, with the help of the parents, families, community and government and non-government agencies, to protect children and young people against all forms of harm that could have been reasonably foreseen, and to support those that have been harmed. The procedures followed will be in accordance with all relevant legislation, and take into account other appropriate practices and guidelines aimed at maintaining the safety, welfare and wellbeing of children and young people. This care for wellbeing is a duty that will be upheld when the student is involved with staff at school, out of school on excursions (routine or special), inter-state and overseas.

The College's policy and procedures will be amended as necessary to take into account amendments to relevant legislation and regulations.

Staff members who fail to adhere to this policy may be in breach of their terms of employment.

### Glossary

DCJ – Department of Communities and Justice

OCG – Office of the Children's Guardian

SPCE – St Philip's Christian Education

WWCC – Working with Children Check

## 1. Objectives – Policy Statement

1.1 As a Christian educational faith community, we see human life as sacred. As such, the preservation and protection of all life is something to which we are called and

committed. This is particularly true for the care and protection of any who are vulnerable, including all of the students of our College.

1.2 Education has an important role to support children and young people and to identify where problems arise that may put their safety, welfare or wellbeing at risk.

1.3 All staff members have a responsibility to report risk of harm concerns about children and young people, within their roles, and to provide support to children and young people.

1.4 Child protection reforms introduce an obligation for government and non-government agencies to coordinate decision making and delivery of services.

## **2. Audience and Applicability**

All employees, contractors, volunteers, parents and students of St. Philip's Christian Education.

## **3. Context**

Parents send their children, and independent students come, to St. Philip's Christian College under the commitment to the Christian Mission and Vision Statements, and our Christian Core Values. One of the strong themes in those statements is the commitment to providing safety and care to all of our students. As Christians, we believe that safety and care is paramount to not only the physical and emotional well-being of our students for its own sake, but also to them as life-long learners.

The NSW Government recognises that care and protection for children and young people is a shared responsibility. It begins with parents, but when government support becomes necessary, it is not the sole responsibility of community services, but also a collective responsibility.

This policy is a general document outlining the overall requirements of St. Philip's Christian Education regarding Child Protection. This policy must be read in conjunction with the Keep Them Safe framework, the NSW Child Safe Framework and the NSW Mandatory Reporter Guide, as well as SPCE policy on 'Reportable Allegations Against Employees', SPCE Child Protection (Protecting and Supporting Children and Young People) Guidelines and Procedures; SPCE Code of Conduct, and other related policies, guidelines and procedures as listed in point 7 – Additional Materials.

This policy refers to the following legislation:

- Children and Young Persons (Care and Protection) Act 1998
- Child Protection (Working with Children) Act 2012
- Children's Guardian Act 2019
- Part 3A Child Safe Scheme
- The Crimes Act 1990

Other legislation has implications for this policy including: Privacy and Personal Information Protection Act 1998; Health Records and Information Privacy Act 2002; and the Education Act 1990.

### **3.1 Child Safe Scheme and the Child Safe Standards**

The Child Safe Scheme gives the Office of the Children's Guardian (OCG) additional powers to monitor and investigate how organisations implement the Child Safe Standards to support the safety and wellbeing of children and young people. Under the Scheme, certain child-related organisations including Education and Early Childhood must implement the Child Safe Standards.

The Child Safe Standards are—

- Child safety is embedded in organisational leadership, governance and culture.
- Children participate in decisions affecting them and are taken seriously.
- Families and communities are informed and involved.
- Equity is upheld, and diverse needs are taken into account.
- People working with children are suitable and supported.
- Processes to respond to complaints of child abuse are child focused.
- Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.
- Physical and online environments minimise the opportunity for abuse to occur.
- Implementation of the Child Safe Standards is continuously reviewed and improved.
- Policies and procedures document how the organisation is child safe.

### **3.2 SPCE Child Safe Statement**

St Philip's Christian Education is committed to providing quality Christian education and care to children and young people to assist them reach their God-given potential. We are committed to providing a child-safe and a child-friendly environment based on Christian beliefs, values and practices, where children and young people are safe, feel safe and are able to actively participate in decisions that affect their lives.

St Philip's Christian Education has zero tolerance for child abuse.

St Philip's Christian Education is committed to ensuring the safety, welfare and wellbeing of all children and young people who attend our schools and centres, and is dedicated to protecting them from abuse and harm.

St Philip's Christian Education regards its child protection responsibilities with the utmost importance, and as such is committed to providing the necessary resources to ensure compliance with all relevant child protection laws and regulations to maintain a child-safe and supportive environment, both in the physical and online learning environments for all children and young people.

## **4. Responsibilities and Delegations**

### **4.1 Board of Directors**

4.1.1 Review and ratify the SPCE policy in regards to Child Protection (Protecting and Supporting Children and Young People).

### **4.2 Executive Principal**

4.2.1 Ensure that SPCE has a policy in regard to Child Protection (Protecting and Supporting Young People), which is updated every three years and in line with legislative changes.

4.2.2 Ensure principals of each SPCE school/entity receive and implement the Child Protection (Protecting and Supporting Children and Young People) policy, guidelines and procedures.

4.2.3 Receive feedback from SPCE Principals on the implementation of the Child Protection (Protecting and Supporting Children and Young People) policy and any necessary changes.

### **4.3 School Principals**

School Principals will be responsible for developing (to the point of training, documentation, implementation, monitoring, keeping records and reviewing) their local procedures, consistent with this policy.

#### 4.3.1 Training

- ensure all staff members are provided with a copy of this policy.
- provide all staff members with opportunities to participate in annual child protection training including how to identify and respond to concerns about students who may be at risk of significant harm, mandatory reporting requirements, reportable conduct and Working with Children Check (WWCC) responsibilities, as well as the school's expectations including professional boundaries.
- ensure that a register is maintained of staff members, acknowledging receipt, reading and understanding of this policy and attendance at training sessions.
- ensure that staff members who may have missed the formal annual training sessions have opportunities to complete the training.
- ensure contractors, volunteers and peripatetic staff are aware of child protection obligations and responsibilities.
- ensure all employees are aware of the indicators of abuse and neglect of children and young people.
- ensure all employees are aware of their obligation to advise the Principal of concerns about the safety, welfare and wellbeing of children and young people that arise during the course of their work. This includes monitoring Child Protection risk assessments within the school, for excursions (routine or special), interstate and overseas.
- ensure the school's Child Protection procedures and guidelines are updated as needed and communicate changes to staff

#### 4.3.2 Reporting

- use appropriate tools to inform decision making, such as the online Mandatory Reporter Guide, professional judgment or specialist advice, where there are concerns about risk of harm and maintain records of such.
- determine whether concerns about the safety, welfare or wellbeing of children or young people constitute risk of significant harm and, if they do, report these to the Department of Communities and Justice (DCJ), and keep records of such.
- seek advice from the Central Office, AIS and/or other professional services where there is uncertainty about whether concerns amount to risk of significant harm
- report all matters that fall under the category of 'reportable conduct' within seven (7) working days to the OCG and cause a timely investigation to occur.
- brief the Executive Principal or his delegate on reported incidents.
- ensure the school securely maintains records of safety and wellbeing concerns, MRG reports, and action taken to support the child/young person subject of these reports.

#### 4.3.3 Supporting Children and Young People

- establish effective systems in the school for:
  - a) child protection concerns to be identified in the course of the work of staff (within the school site or external to it), reported and action taken, where appropriate, so vulnerable children and young people are supported.
  - b) reasonable steps to be taken to prevent harm to students which could reasonably have been foreseen
  - c) reasonable steps to be taken to support students that may have been subject to harm.
  - d) reasonable steps to be taken to coordinate decision making and coordinate services to children and young people and their families with other local service providers, if required.
  - c) collaborative work with other agencies for the care and protection of children and young people in ways that strengthen and support the family and in a manner that respects the functions and expertise of each service provider.

- d) exchange relevant information to progress assessments, investigations and case management as permitted by law.
- e) only employ or engage child-related workers or eligible volunteers who have a current and valid WWCC.
- f) ensure that records are maintained for all WWCC clearance verifications.
- g) ensure all staff (teaching, non-teaching and casual), peripatetic and volunteers are screened for suitability to work with children and young people.

## **4.4 Assistant Principal/Heads of School**

### **4.4.1 Training**

- ensure all new staff have been inducted in this policy and related procedures.
- provide all staff members with opportunities to participate in annual child protection training including how to identify and respond to concerns about students who may be at risk of significant harm, mandatory reporting requirements, reportable conduct and Working with Children Check (WWCC) responsibilities, as well as the school's expectations including professional boundaries.
- ensure all staff are aware of the indicators of abuse and neglect of children and young people, and can undertake appropriate risk assessments when engaging in activities/programs within or external to the school site.
- ensure all staff are aware of their obligation to advise the Principal of concerns about the safety, welfare and wellbeing of children and young people that arise during the course of their work
- ensure child protection/protective behaviours topics are included in the curriculum

### **4.4.2 Reporting**

- adhere to mandatory procedures for conveying risk of harm concerns to the Principal
- adhere to mandatory procedures for reporting risk of significant harm to Principal and DCJ
- adhere to mandatory procedures for notifying the Principal of "reportable conduct" matters
- report directly to the Executive Principal if they believe the Principal has not reported risk of significant harm concerns to DCJ and they still have concerns about risk of significant harm
- ensure that any relevant information that they become aware of, subsequent to a report being made to DCJ is provided to DCJ. If the additional information forms concern about risk of significant harm a report must be made to the Principal and DCJ.

### **4.4.3 Supporting Children and Young People**

- ensure that reasonable steps are taken to prevent harm to students which could reasonably have been foreseen
- cooperate with reasonable steps to coordinate service delivery and decision-making with other relevant service providers
- avoid undertaking any investigation of the circumstances giving rise to a report where risk of significant harm has been reported, without the express prior approval of the relevant DCJ case officer
- ensure all volunteers are appropriately screened for their suitability to work with children and young people and, if required by the OCG, have a current and valid WWCC clearance.
- inform students, including apprentices or trainees, of their right to be protected from abuse and of avenues of support if they have concerns about abuse.
- notify the OCG of any changes to their personal details within three (3) months of the change occurring.

## **4.5 Employees**

### **4.5.1- Training**

- on initial employment at the school, read and familiarise self with all policies and procedures in regard to Child Protection including legal obligations such as mandatory reporting, reportable conduct, WWCC, professional boundaries and other relevant school expectations.
- participate in annual reviews relating to Child Protection.

### **4.5.2 Reporting**

- adhere to mandatory procedures for conveying risk of harm concerns to the Principal.
- report directly to the Executive Principal if they believe the Principal has not reported risk of significant harm concerns to DCJ and they still have concerns about risk of significant harm.
- ensure that any relevant information that they become aware of, subsequent to a report being made to DCJ is provided to DCJ. If the additional information forms concern about risk of significant harm a report must be made to the Principal and DCJ.

### **4.5.3 Supporting Children and Young People**

- ensure that reasonable steps are taken to prevent harm to students which could reasonably have been foreseen.
- hold and maintain a valid WWCC clearance.
- not engage in child-related work at any time that they are subject to an interim bar or a bar
- report to the Principal if they are no longer eligible for a WWCC clearance, the status of their WWCC clearance changes or are notified by the OCG that they are subject to a risk assessment.
- notify the OCG of any changes to their personal details within three (3) months of the change occurring.
- cooperate with reasonable steps to coordinate service delivery and decision-making with other relevant service providers.
- avoid undertaking any investigation of the circumstances giving rise to a report where risk of significant harm has been reported, without the express prior approval of the relevant DCJ case officer.
- ensure all classroom volunteers have completed Child Protection forms.
- inform students (including apprentices and trainees) of their rights to be protected from abuse and of avenues of support if they have concerns about abuse.
- For teaching staff, adequately teach the areas of Child Protection when directed by the curriculum.

## **4.6 Parents**

- to support and comply with the school's Child Protection Policy, particularly in relation to completing Volunteers' forms, etc.
- provide school with WWCC details and Date of Birth if volunteering for overnight school camps.

## **4.7 Students**

- Follow school rules in regards to Child Protection procedures and protocols.

## **5. Monitoring, evaluation and reporting requirements**

5.1 This policy document will be reviewed every three (3) years. Procedures and Guidelines will be updated more frequently if legislation changes.

5.2 Principals will ensure a workplace register is maintained of all staff participation in relevant policy reviews and updates and induction of new staff. This applies to all staff including non-teaching staff, part-time, temporary and casual staff.

5.3 A record is to be kept of reports to DCJ as confirmation that mandatory reporting requirements have been met. The report reference number will be recorded.

## **6. Document details**

This policy supersedes any other Child Protection (Protecting and Supporting Children and Young People) policies in SPCE schools.

Document was reviewed in December 2023 by E. Moir and G. Irwin.

## **7. Additional Materials**

This policy must be read in conjunction with the Child Safe Standards, Keep Them Safe framework and the NSW Mandatory Reporter Guide, as well as the school's Child Protection Guidelines and Procedures; Allegations Against Staff policy, guidelines and procedures as well as the Code of Conduct (Staff), Work Health and Safety policy, Discrimination, Harassment and Bullying (Statement) and the school's Anti-Bullying Policy, guidelines and procedures.

## **Supporting Materials**

Appendix 1 The Care and Protection Act

Appendix 2 Child Protection (Working With Children) Act 2012

Appendix 3 Criminal Offences (Crimes Act)



### The Care and Protection Act

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm.

NOTE: Any concern regarding the safety, welfare or wellbeing of a student must be reported to the Principal.

#### 1. Who is a mandatory reporter?

Under the Care and Protection Act persons who:

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

All teachers are mandatory reporters. Other School employees may also be mandatory reporters. If you are not sure whether you are a mandatory reporter you should speak to the Principal.

#### 2. When must a report be made to Department of Communities and Justice (DCJ)?

##### 2.1 What is the threshold?

A mandatory reporter must, where they have reasonable (and current) grounds to suspect that a child (under 16 years of age) is at risk of *significant* harm, report to the Principal, who will report to DCJ as soon as practicable, the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

In addition, while not mandatory, the School considers that an assessment be made of whether a report should also be made to DCJ where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and well-being of the young person. The Young Person would normally be involved in this assessment.

##### 2.2 Reasonable grounds

'Reasonable grounds' refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

- a) first hand observations of the child, young person or family
- b) what the child, young person, parent or another person has disclosed
- c) what can reasonably be inferred based on professional training and / or experience.

'Reasonable grounds' does not mean that you are required to confirm your suspicions or have clear proof before making a report.

### 2.3 Significant harm

A child or young person is 'at risk of significant harm' (ROSH) if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

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

### 2.4 Other relevant definitions

#### Policy definition of significant harm

A child or young person is at risk of significant harm (ROSH) if the circumstances that are causing concern for the safety, welfare or well-being of the child or young person are currently present to a significant extent.

What is meant by 'significant' in the phrase 'to a significant extent' is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well-being.

In the case of an unborn child, what is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child's birth.

The significance can result from a single act or omission or an accumulation of these.

Child is a person under the age of 16 years for the purposes of the Care and Protection Act.

### **Child abuse and neglect**

There are different forms of child abuse. These include neglect, sexual, physical and emotional abuse.

**Neglect** is the continued failure by a parent or caregiver to provide a child with the basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

**Physical abuse** is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes but is not limited to injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation.

Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.

Hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punishing a child (in a non-trivial way) is a crime.

**Emotional Abuse** can result in psychological harm where the behaviour of their parent or caregiver damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma.

Although it is possible for 'one-off' incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child.

This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.

**Sexual abuse** is when someone involves a child or young person in a sexual activity by using their power over them or taking advantage of their trust. Often children are bribed or threatened physically and psychologically to make them participate in the activity. Child sexual abuse is a crime.

**Child wellbeing concerns** are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold, risk of significant harm.

Young person means a person who is aged 16 years or above but who is under the age of 18 years for the purposes of the Care and Protection Act.

### **3 What should you do if you consider that a mandatory report is required?**

Reporting by the School about these matters to DCJ and, where necessary, the police, is normally undertaken by the Principal. This is in accordance with best practice principles and is the expectation of the School.

If you have a concern that a child or young person is at risk of significant harm you should contact the Principal as soon as possible to discuss whether the case reaches the threshold of 'risk of significant harm' and the steps required to report the matter.

However, if there is an immediate danger to the child or young person and the Principal or next most senior member of staff is not contactable you should speak to the Police and/or the Child Protection Helpline directly and then advise the Principal or next most senior member of staff at the School as soon as possible.

You are not required to, and must not, undertake any investigation of the matter yourself. (There may be some instances however where you may need to clarify aspects to assist you in completing the MRG. Questioning to seek clarification is acceptable in these instances.)

In certain circumstances it may be appropriate to inform the parents or caregivers that a report to DCJ has been made. This is particularly important if you have an ongoing working relationship with the parent/caregiver. The decision to inform the parent/caregiver should be guided by your professional judgment in consultation with DCJ and the Principal.

#### **4 What should you do if you have a concern that is below the mandatory reporting threshold?**

While the Care and Protection Act outlines a mandatory reporter's obligation to report to DCJ, as an employee of this School, any concern regarding the safety, welfare and wellbeing of a student must be reported to the Principal.

You are required to deal with all reports regarding the safety, welfare or wellbeing of a student with confidentiality and only disclose it to the Principal and any other person the Principal nominates. Failure to do so will be a breach of this policy and the Crimes Act.

## The Working with Children Act

### 1 General

The Office of the Children’s Guardian (OCG) is responsible for employment screening for child related employment. A Working With Children Check (Check) is a prerequisite for anyone in child-related work. It 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. Cleared applicants are subject to ongoing monitoring by the OCG, and any relevant new records which appear against a cleared applicant’s name may lead to the Check being revoked.

It is the responsibility of the child-related worker to ensure that when they are eligible to apply for a Check or when their Check is up for renewal that they do so.

### 2 Responsibilities

The object of the WWC Act is to protect children:

- (a) by not permitting certain persons to engage in child-related work; and
- (b) by requiring persons engaged in child-related work to have working with children check clearances.

Schools are required to:

- (a) verify online and record the status of each child-related worker’s Check;
- (b) only employ or engage child-related workers or eligible volunteers who have a valid Check; and
- (c) report findings of misconduct involving children made against child-related workers or volunteers.

Child-related workers and eligible volunteers are required to:

- (a) hold and maintain a valid Check;
- (b) not engage in child-related work at any time that they are subjected to an interim bar or a bar; and
- (c) report to the Principal if they are no longer eligible for a Check, the status of their Check changes or are notified by the OCG that they are subjected to a risk assessment.

All volunteers are required to:

- (a) sign the Volunteer Statutory Declaration. Volunteers who assist with overnight camps are required to have a WWCC;
- (b) to be aware and follow the expectations of conduct expressed in the School Volunteer Code of Conduct.

### 3 Relevant Definitions

#### 3.1 Bars

##### Final bar

This bar is applied based on a decision made by the OCG, following a risk assessment. This person is barred against working with children.

##### Interim bar

An interim bar is issued to high-risk individuals to prevent them from continuing to work with children while a risk assessment is conducted. An interim bar may be applied for up to 12 months. If an interim bar remains in place for six months or longer, it may be appealed against through the Administrative Decisions Tribunal.

Not everyone who is subject to a risk assessment will receive an interim bar; only those representing a serious and immediate risk to children.

Interim bars are issued only for risks considered likely to result in a final bar.

### **3.2 Child-related work**

Child-related work includes, but not limited to work in the following sectors:

- a) early education and child care including education and care service, child care centres and other child care;
- b) education schools and other educational institutions and private coaching or tuition of children;
- c) religious services;
- d) residential services including boarding schools, homestays more than three weeks, residential services and overnight camps; or
- e) transport services for children including school bus services, taxi services for children with disability and supervision of school road crossings.

### **3.3 Child-related worker**

A person who has physical contact or face to face contact with children in work outlined above in 3.2, including schools. This may include volunteer work.

A child-related worker may commence work once they have completed the Check application process. An application is completed when the online application form is complete and the worker's identity has been proven at Services NSW and the fee has been paid (if in paid work).

If you are unclear if your role is child-related you should speak with the Principal.

### **3.4 Disqualified person**

A disqualified person is a person who has been convicted, or against whom proceedings have been commenced for a disqualifying offence outlined in Schedule 2 of WWC Act.

[http://classic.austlii.edu.au/au/legis/nsw/consol\\_act/cpwca2012388/sch2.html](http://classic.austlii.edu.au/au/legis/nsw/consol_act/cpwca2012388/sch2.html)

A disqualified person is a person who has a bar preventing them from working with children in child-related work.

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

It is an offence for an employee to engage in child-related worker when they do not hold a Check or has a bar or an interim bar.

### **3.5 Findings of misconduct involving children**

The school will report to the OCG when a finding has been made that the person (an employee of the school) subject to the finding engaged in:

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

The school will advise the person that the OCG has been notified of a finding of misconduct involving children.

The WWC Act enables a person who has a finding referred to the OCG under the Act to request access to the records held by the school in relation to the finding of misconduct involving children.

### **3.6 Reporting body**

Independent Schools which are members of the AISNSW are defined as a reporting body by the WWC Act.

Section 35 of the WWC Act requires this school to notify the OCG findings of misconduct involving children made against a child-related worker. The school may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act.

### **3.7 Risk assessment**

Risk assessment is an evaluation of an individual's suitability for child-related work.

The OCG will conduct a risk assessment on a person's suitability to work with children when a new record is received which triggers a risk assessment. This may include an offence under Schedule 1, pattern of behaviour or offences involving violence or sexual misconduct representing a risk to children, findings of misconduct involving children.

### **3.8 Working with Children Check Clearance**

A Working with Children Check (WWCC) means authorisation under the WWC Act to engage in child-related work. An employee will be issued with a number which is to be provided to the school to verify the status of an employee's Check.

### The Crimes Act NSW (1990)

In 2018 the Crimes Act was amended to adopt recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*. The new offences are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the police.

**Failure to protect offence** (Crimes Act (NSW) 43B Failure to reduce or remove risk of child becoming victim of child abuse)

An adult working in a school, therefore all staff members, will commit an offence if they know another adult working there poses a 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.

**Failure to report offence** (Crimes Act (NSW) 316A Concealing child abuse offence)

Any adult, 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 Principal and is aware that the Principal has reported the matter to the police.

**Special Care Relationships** - Crimes Act (NSW) s73

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

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