

St Philip's Christian Education Foundation Ltd



For the Whole of Their Life

Child Protection Policy Reportable Allegations against Employees SPCC - Waratah

Policy Document Information

Author/Supervisor	E Moir
Compliance	
Legislative Requirements	Children and Young Persons (Care and Protections Act 1998) Sect 23 http://www.austlii.edu.au/au/legis/nsw/consol_act/caypapa1998442/ The Child Protection (Working with Children) Act 2012. http://www5.austlii.edu.au/au/legis/nsw/consol_act/cpwca2012388/ The Children's Guardian Act (2019) https://legislation.nsw.gov.au/#/view/act/2019/25/part8/div5/sec134 The Crimes Act (1990) http://www6.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_act/ca190082/
NESA	Registered and Accredited Individual Non-Government Schools (NSW) Manual
Other Policy Relationships	Child Protection Policy - Protecting and Supporting Children and Young People Complaint Handling Policy WHS Policy Bullying Policy Discipline Policy Excursion Policy Volunteer Policy SPCC Staff Code of Conduct
Document Location	MySPCC/Policies and Procedures; SPCC Website
Key Dates	
Date of Issue/last revision	March 2022
Review Date	May 2023
Date Submitted to Board of Governors	March 2020
Date Ratified by Board of Governors	March 2020
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 SPCEF Ltd including associated entities

SPCEF Ltd 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

St Philip's Christian Education Foundation Ltd



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General Statement

St Philip's Christian College Education Foundation Ltd (SPCEF Ltd) is committed to creating and maintaining procedures that protect the safety, welfare and well-being of all children and young people at the school. 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 abuse and neglect. The procedures followed must 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. The school's policy and procedures will be amended as necessary to take into account amendments to relevant legislation and regulations.

1. Objectives – Policy Statement

As an employer, the schools run by St Philip's Christian College Education Foundation Ltd (SPCEF Ltd) has a responsibility to:

- 1.1 Try to prevent harm happening to children/young people whilst in our care;
- 1.2 Respond to allegations of a child protection nature specifically related to the actions of an employee and ensure appropriate action is taken in relation to the finding, including disciplinary action; and
- 1.3 Report to the Office of the Children's Guardian reportable conduct allegations or convictions made against an employee;

2. Audience and Applicability

All employees, contractors, volunteers, parents and students of any St Philip's Christian Education Foundation Ltd School or entity.

3. Context

The safety, welfare and wellbeing of children and young people in educational settings are paramount. When responding to allegations against employees, SPCEF Ltd schools have a responsibility to ensure its employees are treated fairly and the rights of each individual are respected during an investigation and any applicable disciplinary process.

This policy reflects legislative requirements to respond to allegations of a child protection nature against employees (including volunteers and contractors), and report to Department of Communities and Justice (DCJ) and/or Police and the NSW Office of the Children's Guardian as required.

Note that for notification of child abuse or neglect to be made to DCJ, reasonable grounds are needed to suspect that a child is in danger of being at 'significant risk of harm' as guided by the Mandatory Reporting Guide. Whereas the Office of the Children's Guardian has to be notified of **any** allegation against an employee of the College, whether or not you there are reasonable grounds to believe that the abuse has taken place.

This policy is a general document outlining the overall requirements of the SPCEF Ltd in regard to Child Protection matters pertaining to Allegations against Employees. This policy must be read in conjunction with the Keep Them Safe framework and the NSW Mandatory Reporter Guide, as well as SPCEF Ltd policy on 'Child Protection – Protecting and Supporting Young People' 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 (NSW)
- Child Protection (Working with Children) Act 2012.
- Ombudsman Act 1974
- Children's Guardian Act 2019

Other relevant legislation: Privacy and Personal Information Protection Act 1998; Health Records and Information Privacy Act 2002; Education Act 1990 and Crimes Act 1900.

4. Responsibilities and Delegations

4.1 Board of Governors

4.1.1 Review and ratify the SPCEF Ltd policy in regards to Child Protection (Allegations against Employees).

4.1.2 Follow reporting procedures to the Office of the Children's Guardian if an allegation is received about the Executive Principal and cause an investigation to occur.

4.1.3 Ensure support structures are available to the Executive Principal and SPCEF Ltd schools if they are subject of an allegation.

4.2 Executive Principal

4.2.1 Ensure that SPCEF Ltd has a policy in regard to Child Protection (Allegations against Staff), which is updated every three years and in line with legislative changes.

4.2.2 Ensure principals of each SPCEF Ltd schools receive and implement the Child Protection (Allegations against Employees) policy.

4.2.3 Receive feedback from SPCEF Ltd principals on the implementation of the Child Protection (Allegations against Employees) policy and any necessary changes.

4.2.4 Follow reporting procedures to the Office of the Children's Guardian if an allegation is received against a SPCEF Ltd school Principal and cause an investigation to occur.

4.2.5 Ensure support structures are available to the school principal and school if the principal is the subject of an allegation.

4.3 School Principals

4.3.1 Training

- ensure all staff participate in an initial child protection policies induction on the commencement of their service at the school.

- ensure that the requirement to prevent, identify, report and investigate allegations of reportable conduct in compliance with current legislation are made known to staff annually.

4.3.2 Reporting

- ensure SPCEF Ltd procedures are followed if an allegation against a staff member is received.

- follow SPCEF Ltd procedures for reporting allegations to the Office of the Children's Guardian.

- report to the Executive Principal and the Board of Governors regarding allegations reported to the Office of the Children's Guardian.
- communicate to the staff member if they are the subject of an allegation/report.
- communicate to parents/care-givers the school processes for reporting complaints relating to staff misconduct or reportable matters.
- communicate to parents/care-givers of the student/s directly involved in the allegation and inform them of the investigation process and how they can avail themselves of the school complaints policy if required..
- cause an investigation to be undertaken in a timely manner.
- submit an entity report within 30 days of receiving the allegation or interim report if necessary.
- maintain records of any allegations, reporting and subsequent investigations that have been made to the Principal and the Office of the Children's Guardian.

4.3.3 Supporting Staff

- ensure support structures are available for staff member who has been/is the focus of an allegation/investigation.
- ensure staff are aware of the Grievance and Compliant procedures.

4.4 Heads of School

4.4.1 Training

- ensure all staff participate in an initial child protection induction, and yearly information sessions on how to prevent, identify, and respond to reportable conduct matters and the investigation process.

4.4.2 Reporting

- report as soon as possible to Principal when an allegation has been made against a staff member.

4.4.3 Supporting staff

- ensure support structures are available for staff member who has been/is the focus of an allegation/investigation.

4.5 Employees

- report any allegations re Staff and Child Protection to principal as soon as practical
- maintain confidentiality re Staff and Child Protection matters
- allow the investigation process to happen in an unhindered way.

4.6 Parents

- to comply with the school's Child Protection Allegations against Staff policy and procedures, particularly in relation to completing Volunteers' forms, and maintaining confidentiality.
- avail themselves of the school's Complaints Policy if required and follow appropriate process.

4.7 Students

- Report to Principal any concerns relating to Child Protection.
- Maintain confidentiality.

5. Monitoring, evaluation and reporting requirements

5.1 This policy document will be reviewed every three (3) years or more frequently if legislation changes.

5.2 Principals will maintain a workplace register of staff participation in relevant updates and of inductions of new staff. This applies to all staff including non-teaching staff, part-time, temporary and casual staff.

6. Document details and history

New document: Written March 2013
Updated and reviewed May 2015. March 2020. March 2022*

Based on St Philip's Christian College, Waratah "Allegations against Employees in the Area of Child Protection Policy (Child Protection) Policy" written June 2010.

This policy supersedes any other Child Protection policies in SPCEF Ltd schools relating to Reportable Allegations against Employees.

*Minor wording changes were made to the policy in March 2022.

7. Additional Materials

This policy must be read in conjunction with the Keep Them Safe framework and the NSW Mandatory Reporter Guide, as well as the individual SPCEF Ltd school's Child Protection Guidelines and Procedures; Reportable Allegations Against Employees guidelines and procedures as well as the Foundation's 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 Child Protection (Working With Children) Act 2012
- Appendix 2 Criminal Offences (The Crimes Act)
- Appendix 3 Children Guardian's Act 2019

The Working with Children Act

I 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 WWCC Act.

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 any finding of reportable conduct to the OCG.

When informing an employee of a finding of reportable conduct against them, the School should alert them to the consequent report to the WWCC Directorate in relation to sustained findings of sexual misconduct, a sexual offence or a serious physical assault.

The WWCC 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 WWCC Act is enlivened when a finding of misconduct involving children has been made.

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 or notification made to OCG.

3.8 Working with Children Check Clearance

A Working with Children Check (Check) 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.

43B Failure to protect offence (Crimes Act (NSW) 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 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.

316A Failure to report offence (Crimes Act (NSW) 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.

Children’s Guardian Act NSW (2019)

As of the 1st March, 2020 the Children’s Guardian Act (NSW) 2019 commences.

The new Act reinforces the independent role of the Children’s Guardian to help keep children and young people safer in organizations.

The *Children’s Guardian Act 2019* has consolidated legislation that previously governed the existing functions and responsibilities of the Children’s Guardian for accrediting and monitoring adoption service providers and out-of-home care agencies, and regulating children’s employment.

The Act expands the functions of Children’s Guardian’s to now include the reportable conduct scheme and extends it to include the religious and faith-based sector not currently captured under the existing scheme.

The implications for schools is that allegation of reportable conduct investigations are now reported to, and monitored by the Office of the Children’s Guardian.

To read the Act:

<https://www.kidsguardian.nsw.gov.au/about-us/news/new-children-s-guardian-act-to-commence-1-march-2020>

<https://legislation.nsw.gov.au/#/view/act/2019/25/full>

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ACKNOWLEDGEMENT

(please print)

Name: _____

School: _____

Role/Job Title: _____

I (name) _____ have read, understood and agree to comply with the terms of this Child Protection Policy (Reportable Allegations against Employees).

Signed

Date

Please return this signed acknowledgement form to your Principal.

¹ Further information at Part 2 Division 1 Section 6 Child Protection (Working With Children) Act 2012 found at <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+51+2012+cd+0+N>