



## Child Protection Policy

### Reportable Allegations Against Employees

#### Policy Document Information

|                             |   |
|-----------------------------|---|
| Author/Supervisor           | E Moir, G. Irwin  |
| Compliance                  |   |
| Legislative Requirements    | Children and Young Persons (Care and Protections Act 1998) Sect 23<br><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><br>The Child Protection (Working with Children) Act 2012.<br><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><br>The Children's Guardian Act (2019)<br><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><br>The Crimes Act (1990)<br><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  | Reportable Allegations Against Employees Guidelines and Procedures<br>Child Protection Policy – Protecting and Supporting Children and Young People<br>Working With Children Check Policy and Procedures<br>Complaint Handling Policy<br>WHS Policy<br>Volunteer Policy<br>Staff Code of Conduct  |
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| Date of Issue/last revision | January 2024  |
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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**

### **Reportable Allegations Against Employees**

#### **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, with the help of the parents, families, community and government and non-government agencies, is 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.

#### **Glossary**

DCJ – Department of Communities and Justice  
ESOR – Employee Subject of Report  
HRE – Head of Relevant Entity  
OCG – Office of the Children's Guardian  
SPCE – St Philip's Christian Education  
WWCC – Working with Children Check

#### **1. Objectives – Policy Statement**

St. Philip's Christian Education has a responsibility to:

- 1.1 Try to prevent foreseeable 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 St. Philip’s Christian Education.

## 3. Context

The safety, welfare and wellbeing of children and young people in educational settings is paramount. Section 29 of the Children’s Guardian Act 2019 requires the Heads of Relevant Entities (HRE), including non-government schools in New South Wales, to notify the OCG of all allegations of reportable conduct and convictions involving an ‘employee’ and the outcome of the school’s investigation of these allegations. SPCE is therefore required to notify the Office of the Children’s Guardian (OCG) of **any** allegation received against an ‘employee’ of the College, whether or not there are reasonable grounds to believe that the allegation has taken place.

When responding to allegations against employees, SPCE has 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.

Please note: that an ‘employee’ in this policy is anyone who is engaged by the school in child-related work, whether they be paid or unpaid, volunteer or contractor.

This policy reflects legislative requirements to respond to allegations of a child protection nature against employees (including volunteers and contractors), and report to DCJ, and/or Police and the OCG as required. 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 ‘Protecting and Supporting Young People, Reportable Allegations Against Employees 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.

### 3.3 Reportable Conduct Definition

Under the Children's Guardian Act 2019, allegations of child abuse only fall within the reportable conduct jurisdiction if:

- the involved individual is an employee of the relevant entity at the time when the allegation becomes known by the Head of Entity; and
- the allegation involves a child or young person (a person under the age of 18 years) at the time of the alleged incident; and
- involves certain defined conduct as described in the Act (see below).

The following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded is classified as 'Reportable Conduct':

- (a) a sexual offence,
- (b) sexual misconduct,
- (c) ill-treatment of a child,
- (d) neglect of a child,
- (e) an assault against a child,
- (f) an offence under section 43B or 316A of the *Crimes Act 1900*,
- (g) behaviour that causes significant emotional or psychological harm to a child.

Reportable conduct does not extend to:

- 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
- the use of physical force that, in all the circumstances, is trivial or negligible and the circumstances in which it was used have been investigated and the result of the investigation has been recorded in accordance with appropriate procedures; or

- conduct of a class or kind exempted from being reportable conduct by the Children’s Guardian under section 30.

## **4. Responsibilities and Delegations**

### **4.1 Board of Directors**

- 4.1.1 Review and ratify SPCE policy in regards to Child Protection (Reportable Allegations Against Employees).
- 4.1.2 Follow reporting procedures to the OCG 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 SPCE staff if they are subject of an allegation.

### **4.2 Executive Principal**

- 4.2.1 Ensure that SPCE has a policy in regard to Child Protection (Reportable Allegations Against Staff), which is updated every three years or sooner (as needed) in line with legislative changes.
- 4.2.2 Ensure principals of each SPCE school receive and implement the Child Protection (Reportable Allegations Against Employees) policy.
- 4.2.3 Receive feedback from SPCE principals on the implementation of the Child Protection (Reportable Allegations Against Employees) policy and any necessary changes.
- 4.2.4 Follow reporting procedures to the OCG if an allegation is received against a SPCE school Principal and cause an investigation to occur.
- 4.2.5 Ensure support structures are available to the school principal and the school if the principal is the subject of an allegation.

### **4.3 School Principals (Head of Relevant Entity – HRE)**

#### **4.3.1 Training**

- ensure all staff are provided with a copy of this policy.
- ensure that a register is maintained of all staff members, acknowledging receipt, reading and understanding of this policy.
- 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.
- ensure contractors, volunteers and peripatetic staff are aware of their child protection and reportable conduct obligations and responsibilities.
- ensure the school’s Reportable Conduct procedures and guidelines are updated as needed and communicate changes to staff
- communicate to parents/carers and other stakeholders how to raise complaints or allegations of staff misconduct or reportable conduct, and the process the school will follow.

#### **4.3.2 Reporting**

- ensure SPCE procedures are followed if a reportable allegation against an employee is received.
- follow SPCE procedures for reporting reportable allegations to the OCG.
- report to the Executive Principal and the Board of Directors regarding reportable allegations reported to the OCG.
- 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.
- communicate to the staff member if they are the subject of an allegation/report.
- 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.

- brief the Executive Principal or delegate on any reportable conduct matters.
- ensure the school securely maintains school records pertaining to reports of reportable conduct allegations, the outcomes or reportable conduct investigations and/or criminal convictions.
- forward a completed report or interim report about the investigation or determination, within 30 days of receiving the reportable allegation to the OCG.

#### **4.3.3 Supporting the Employee Subject of Report (ESOR)**

- ensure support structures are available for the employee subject of report (ESOR) who has been/is the focus of a reportable allegation/investigation.
- ensure staff are aware of the Grievance and Complaint procedures.

### **4.4 Heads of School**

#### **4.4.1 Training**

- ensure all staff participate in annual child protection 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 the Employee Subject of Report (ESOR)**

- ensure support structures are available for the ESOR who has been/is the focus of a reportable allegation/investigation.

### **4.5 Employees**

- be aware of how to prevent, identify, and respond to reportable conduct allegations.
- report any crossing of professional boundaries by self, other staff, volunteers or contractors to the principal (HRE).
- report any allegations of reportable conduct to the HRE as soon as practical
- maintain confidentiality re reportable allegations
- be aware of the investigation process for reportable conduct, and allow investigations to occur in an unhindered way.

### **4.6 Parents**

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

### **4.7 Students**

- Report to Principal any concerns relating to reportable conduct of employees, volunteers or contractors.
- 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 training of staff. This applies to all staff including non-teaching staff, part-time, temporary and casual staff.

## **6. Document details and history**

This policy supersedes any other Reportable Allegations Against Employees policies in SPCE schools.

This document was reviewed in January 2024 by E. Moir and G. Irwin.

## **7. Additional Materials**

This policy must be read in conjunction with SPCE Reportable Allegations Against Employees Guidelines and Procedures, and the SPCE Child Protection Policy (Protecting and Supporting Children and Young People) Guidelines and Procedures; SPCE Working With Children Check Policy and Procedures; SPCE Staff Code of Conduct.

## **Supporting Materials**

Appendix 1 Child Protection (Working With Children) Act 2012

Appendix 2 Criminal Offences (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<sup>1</sup>:

- 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 of 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



**St Philip's  
Christian Education**  
FOR THE WHOLE OF LIFE

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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.

\_\_\_\_\_