



# CHILD PROTECTION POLICY

## 1. Introduction

The impact of child abuse and neglect on children can result in a legacy of physical and/or psychological disabilities, which are carried into adult life. The impact is severe because of the vulnerability and dependency of children.

Consistent with its mission and values, and in compliance with its legislative obligations, St Charbel's College strives to ensure children in its care are safe and secure.

The College has a duty of care and must take action, where it becomes aware of harm or the potential of harm, to any student. The safety, protection and wellbeing of all students is of paramount importance to the College.

This document aims to:

- *clarify the expectations of staff members who work in child related employment*
- *provide a safe and supportive environment for children and staff members*
- *build and maintain a contemporary Catholic workplace that is safe, respectful, professional and legally compliant.*

### 1.1 Purpose and scope

This policy sets out staff responsibilities for child protection and processes that staff must follow in relation to child protection matters. This policy applies to all staff members, which includes employees, contractors and volunteers, as well as work experience participants, clergy and instructors of religion. Staff members who fail to adhere to this policy may be in breach of their terms of employment.

### 1.2 Key legislation

There are four key pieces of child protection legislation in New South Wales:

- the *Children and Young Persons (Care and Protection) Act 1998* ("**Care and Protection Act**");
- the *Child Protection (Working with Children) Act 2012* ("**WWC Act**");
- the *Children's Guardian Act 2019* ("**Children's Guardian Act**")
- the *Crimes Act 1900* ("**Crimes Act**").
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### 1.3 Related documents

There are a number of other College policies and procedures that relate to child protection that staff members must be aware of and understand including (but not limited to):

- Code of Conduct - sets out information about the standards of behaviour expected of all staff members;
- Child Protection Procedure – details the processes in place to prevent, manage and investigate allegations of harm to children and young people;

- Work Health and Safety Statement - identifies the obligations imposed by work health and safety legislation on the College and staff members;
- Preventing workplace discrimination, harassment and bullying Policy - details obligations in relation to unlawful discrimination, harassment and bullying;
- Managing workplace complaints policy and procedures – details the steps taken by the College in addressing complaints;
- Anti-Bullying policy – outlines the rights and responsibilities of all members of the St Charbel's College community to prevent bullying
- External Providers Policy – outlines the

#### 1.4 Compliance and records

The Principal or delegate monitors compliance with this policy and securely maintains College records relevant to this policy, which includes:

- Records of staff members who have read and acknowledged that they read and understood this policy are kept in their employee file;
- working with children check clearance (WWCC clearance) verifications;
- mandatory reports to the Department of Communities and Justice (DCJ), previously known as Family and Community Services; and
- reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

## 2. Child protection

The safety, protection and welfare of students is the responsibility of all staff members and encompasses:

- a duty of care to ensure that reasonable steps are taken to prevent harm to students which could reasonably have been foreseen; and
- obligations under child protection legislation.

### 2.1 Children protection concerns

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.

**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.

**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 serious 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.

## 2.2 Child wellbeing concerns

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 in section 5.1.2.

## 2.3 Staff member responsibilities

Key legislation requires reporting of particular child protection concerns. However, as part of the College's overall commitment to child protection, all staff are required to report any child protection or child wellbeing concerns about the safety, welfare or wellbeing of a child or young person to the Principal.

If the allegation involves the Principal, a report should be made to the Chairman of the College Board.

# 3. Training

## 3.1 The College

The College has a duty of care and statutory responsibilities which require that all staff should be appropriately trained continually in relation to Child Protection matters.

The College provides all staff members with a copy of this policy and will provide all staff members with the opportunity to participate in child protection training annually. Training may take the form of online or in-person training modules.

## 3.2 Staff members

All new staff members must read this policy and sign the acknowledgement that they have read and understood the policy. The written acknowledgement will be filed in their employee file.

All staff members must participate in annual child protection training and additional training, as directed by the Principal. The training complements this policy and provides information to staff about their legal responsibilities related to child protection and College expectations, including:

- mandatory reporting;
- reportable conduct;
- working with children checks; and
- professional boundaries.

# 4. Working with children

The WWC Act protects children by requiring a worker to have a WWCC clearance or current application to engage in child related work. Failure to do so may result in a fine or imprisonment.

The Office of the Children's Guardian (OCG) is responsible for determining applications for a WWCC clearance. It involves a national criminal history check and review of reported workplace misconduct findings. The result is either to:

- grant a WWCC clearance (generally valid for 5 years); or
- refuse a WWCC clearance (further applications cannot be made for 5 years).

In addition, the OGC may impose an interim bar on engaging in child related work for both applicants and WWCC clearance holders.

WWCC clearance holders are subject to ongoing monitoring by the OGC.

## 4.1 Responsibilities for working with children checks

### 4.1.1 Staff members

Staff members who engage in child-related work and eligible volunteers (including those volunteers working at overnight camps) are required to:

- hold and maintain a valid WWCC clearance;
- not engage in child-related work at any time that they are subjected 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 subjected to a risk assessment; and
- notify the OCG of any change to their personal details within 3 months of the change occurring. Failure to do so may result in a fine.

It is an offence for an employee to engage in child-related work when they do not hold a WWCC clearance or if they are subject to a bar.

All volunteers are required to:

- have a non-paid WWCC.
- be aware and follow the expectations of conduct expressed in the College staff Code of Conduct.

### 4.1.2 The College

The College is required to:

- verify online and record the status of each child-related worker's WWCC clearance;
- only employ or engage child-related workers or eligible volunteers who have a valid WWCC clearance; and
- advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred to the OCG's Working with Children Check Directorate (WWCC Directorate). It is an offence for an employer to knowingly engage a child-related worker who does not hold a WWCC clearance or who has a bar.

## 4.2 Working with children check clearance

A WWCC clearance is authorisation under the WWC Act for a person to engage in child-related work.

### 4.2.1 Child-related work

Child-related work involves direct contact by the worker with a child or children and that contact is a usual part of and more than incidental to the work. Child related work includes, but is not limited to work in the following sectors:

- early education and child-care including education and care service, child-care centres and other child care;
- Colleges and other educational institutions and private coaching or tuition of children;
- religious services;
- residential services including boarding Colleges, homestays more than three weeks, residential services and overnight camps;
- transport services for children including College bus services, taxi services for children with disability and supervision of College road crossings; and
- counselling, mentoring or distance education not involving direct contact.

Any queries about whether roles/duties engage in child-related work should be directed to the Principal.

### 4.2.2 Application/Renewal

An application or renewal can be made through Service NSW or its replacement agency. The process for applying for and renewing a WWCC clearance with the OCG involves a national police check and a review of findings of misconduct. If the OCG grants or renews a WWCC clearance, the holder will be issued with a number which is to be provided to the College to verify the status of a staff member's WWCC clearance.

### **4.2.3 Refusal/Cancellation**

The OCG can refuse to grant a WWCC clearance or cancel a WWCC clearance. The person is then restricted from engaging in child-related work and not able to apply for another clearance for five years. Employers are notified by the OCG and instructed to remove such persons from child-related work.

### **4.2.4 Interim bar**

The OCG may issue an interim bar, for up to 12 months, to high risk individuals to prevent them from engaging in child-related work while a risk assessment is conducted. If an interim bar remains in place for six months or longer, it may be appealed to 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.

### **4.2.5 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. A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child related work.

## **4.3 Ongoing monitoring**

The OCG will continue to monitor criminal records and professional conduct findings of all WWCC clearance holders through a risk assessment process.

### **4.3.1 Risk assessments**

A 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 and findings of misconduct involving children.

## **4.4 Process for reporting to OCG**

### **4.4.1 The College**

The College is required to advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault, must be referred to the OCG's WWCC Directorate. Information must also be referred internally to the OCG's WWCC Directorate if it meets the threshold for consideration of an interim WWCC bar, as per Section 17 of the WWC Act, pending a formal risk assessment.

The College may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act and the Children's Guardian Act.

### **4.4.2 Finding of misconduct involving children**

The College will report any finding of reportable conduct to the OCG.

When informing an employee of a finding of reportable conduct against them, the College 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 WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the College in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

#### **4.4.3 Other information**

The College may also be required to provide information to the OGC that is relevant to an assessment of whether a person poses a risk to the safety of children or the OGC's monitoring functions.

### **5. Mandatory reporting**

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm. A child is a person under the age of 16 years and a young person is aged 16 years or above but who is under the age of 18, for the purposes of the Care and Protection Act.