



NCS CHILD PROTECTION POLICY & PROCEDURE

Adopted: March 2019

Last amended: August 2022

Next review: August 2023

Rationale

NCS seeks to foster safe relationships based on justice and fairness in accordance with biblical principles. The School endeavours to ensure that a safe and supportive learning environment, free from any form of abuse or any other danger, is provided. The School has:

- A duty of care to ensure that reasonable steps are taken to prevent harm to students
- Obligations under child protection legislation
- Obligations under work, health and safety legislation
- Obligations under the Children and Young Person Care and Protection Act 1998
- Obligations under Education Act 1990 (NESA RANGS Manual reference 3.6.1)

The purpose of this policy is to provide staff and volunteers with a clear understanding of their duties and obligations as outlined in NSW child protection legislation.

This policy outlines the definitions, details and procedures in accordance with the legislative requirements. These include mandatory reporting, reportable conduct and risk management. It sets out expected standards of behaviour in relation to employees, volunteers and contractors and their appropriate relationship with students.

Definitions

- **Assault** - an act committed intentionally or recklessly, which puts another person in fear of unlawful bodily harm.
- **Authorised Investigator** - the Principal and Heads of Schools who have received training and accreditation through a registered training provider. An external investigator (accredited by the Ombudsman) may also act in this capacity.
- **Child/Young Person** - a 'child' is anyone under the age of 16 years. A 'young person' is anyone who is 16 or 17 years of age. Although the legislative requirement ends at age 16, in this policy, NCS considers a 'child' to mean any student enrolled at school thereby extending the duty of staff to report concerns to cover all students. Please note that the requirements for mandatory reporters extend to all children, not just the students of this school.
- **Child Abuse** - there are different forms of child abuse. These include neglect, physical, sexual and psychological/emotional abuse, whether or not, in any case, with the consent of the child. (See the definitions below).
- **Danger to Self and/or Others** - such danger exists when a child is demonstrating suicidal or self-harming behaviours or a child is a danger to self or others.

- **Duty of Care** - all members of our school community are required to consider and take all reasonable action to protect students from known hazards that can be reasonably predicted. From time to time, the School will provide parents/carers with relevant information relating to Child Protection. In relation to this duty of care, all employees of our community must participate in training opportunities as provided by the School in order to maintain and update their understanding of child protection law and practice and the School's policies and procedures in relation to the care of students.
- **DCJ** - The Department of Communities and Justice (DCJ) commenced on **1 July 2019**. It brings together the former departments of Family and Community Services and Justice (FACS).
- **EA** - Executive Assistant to the Principal
- **Employee** - as listed in Section 25A, Part 3A of the Ombudsman Act, this term includes:
 - any employee, or person contracted by the School, whether or not employed
 - in connection with any work or activities of the School that relates to children
 - any individual engaged by the School to provide services to children (including, but not limited to, volunteers and contractors)
- **Head of Agency** - is the Principal, in terms of the relevant Acts. As such, he/she oversees the process of mandatory notification, arranging investigations, ongoing risk management, reporting and managing outcomes.
- **Ill-treatment** - this refers to those circumstances where a person treats a child in an unreasonable and seriously inappropriate, improper, inhumane or cruel manner. The focus is on the alleged conduct rather than the actual effect of the conduct on the child. Ill-treatment can include disciplining or correcting a child in an obviously unreasonable and seriously inappropriate manner; making excessive and/or degrading demands on a child; hostile use of force towards a child; and/or pattern of hostile or unreasonable and seriously inappropriate, degrading comments or behaviour towards a child.
- **Mandatory Reporters** - all staff (including volunteers) are assigned this responsibility under the Children and Young Persons Care and Protection Act, 1998.
- **Neglect** - this includes either an action or inaction by a person who has a responsibility of care towards a child. The nature of the employee's responsibilities provides the context against which the conduct needs to be assessed.

There are four categories of neglect:

 - I. **Supervisory neglect:**
 - an intentional or reckless failure to adequately supervise a child that results in death or significant harm
 - an intentional or reckless failure to provide adequate supervision
 - a significantly careless act or failure to act, that involves a gross breach of professional standards and has the potential to result in death or significant harm

- II. **Carer neglect:**
 - Grossly inadequate care that involves depriving a child of the basic necessities of life such as the provision of food and drink, clothing, critical medical care or treatment or shelter
 - III. **Failure to protect from abuse:**
 - An obviously unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child
 - IV. **Reckless act (or failure to act):**
 - A reckless act, or failure to act, involving a gross breach of professional standards that has the potential to result in death or significant harm
- **Physical Assault** - this includes any act involving a person intentionally inflicting unjustified use of physical force against a child. An assault can also occur if a person causes a child to reasonably believe that unjustified force is going to be used against them. A person who inflicts physical harm or causes a child to reasonably apprehend physical harm, but does not actually intend to inflict the harm or cause fear, may still have committed an assault if they acted "recklessly".
- **Principal's delegate** - This refers to the appropriate Head of School. (This will be the Head of Primary for matters relating to K-6 students and the Head of Secondary for matters relating to Years 7-12 students.)
- **PSOA** - person subject of the allegation
- **Psychological/Emotional Harm** - behaviour that causes psychological/emotional harm to a child is behaviour that is obviously or very clearly unreasonable and results in significant harm or trauma to a child. There needs to be a proven causal link between the inappropriate behaviour and the harm, and the harm must be more than transient. A child is a person under the age of 18 years for the purposes of the Ombudsman Act.
- **Reasonable Grounds** - refers to objective evidence for suspecting a 'risk of significant harm' based on:
 - first-hand observations of the child or family
 - disclosure from the child, parent or another person
 - inference based on professional training and/or experience
- **Recklessness** - relates to circumstances when the person ought to have known that their actions would cause a child physical harm or cause them to fear injury. Assault can include hitting, pushing, shoving, throwing objects or making threats to physically harm a child.
- **Reportable Allegation** - any allegation of reportable conduct against an employee (may not necessarily involve a child at the School).
- **Reportable conduct - is defined as:**
 - any sexual offence or sexual misconduct committed against, with or in the presence of, a child (including a child pornography offence or an offence involving child abuse material)
 - any assault, ill-treatment or neglect of a child
 - any behaviour that causes psychological harm to a child whether or not, in any case, with the consent of the 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
 - the use of physical force that is trivial or negligible
 - conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA
- **Reportable Conviction** - means a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.
 - **Sexual Misconduct and Sexual Offences** - sexual misconduct has three categories:
 - I. 'Crossing professional boundaries' includes behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate:
 - relationship with
 - conduct towards
 - focus on

a child or young person, or a group of children or young persons.

- II. 'Sexually explicit comments and other overtly sexual behaviour, which can constitute sexual misconduct'. Some forms of this behaviour also involve crossing professional boundaries. This conduct may include:
 - inappropriate conversations of a sexual nature
 - comments that express a desire to act in a sexual manner
 - unwarranted and inappropriate touching
 - sexual exhibitionism
 - personal correspondence (including electronic communications) with a child or young person in relation to the adult's sexual feelings for a child or young person
 - exposure of children and young people to sexual behaviour of others, including the display of pornography
 - watching children undress (for example, in change rooms or toilets when supervision is not required or justified)
- III. Grooming is the act of persuading a child/group of children that they have a 'special' relationship with the adult for the purpose of procuring that child/group of children under the age of 16 years for unlawful sexual activity. Schedule 1(2) of the Child Protection (Working with Children) Act recognises grooming as a form of sexual misconduct.

The types of grooming behaviour may include (but are not limited to) the following:

- undressing in front of a child
 - encouraging inappropriate physical contact
 - talking about sex
 - 'accidental' intimate touching
 - extending a relationship outside of work (except where it may be appropriate – for example where there was a pre-existing friendship with the child's family or as part of normal social interactions in the community)
 - personal communication (including emails, telephone calls, text messaging, social media and web forums) that explores sexual feelings or intimate personal feelings with a child
 - requesting that a child keep any aspect of a relationship with an adult secret or using tactics to keep any aspect of the relationship secret
- **Sexual Offences** - encompass all criminal offences involving a sexual element that are 'committed against, with, or in the presence of a child'. These offences include (but are not limited to) the following:
 - indecent assault
 - sexual assault
 - aggravated sexual assault
 - sexual intercourse and attempted sexual intercourse
 - possession/dissemination/production of child pornography or child abuse material
 - using children to produce pornography
 - grooming or procuring children under the age of 16 years for unlawful sexual activity
 - deemed non-consensual sexual activity on the basis of special care relationships
 - **Significant Harm** -a child or young person is at risk of 'significant' harm if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent. A child or young person is at risk of 'significant' harm if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent.

'Significant' implies harm:

- that is sufficiently serious to warrant a response irrespective of a family's consent
- that is not minor or trivial
- that may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well-being
- that can result from a single act or omission, or an accumulation of these

Details

NSW Child Protection Legislative Context

If there is immediate danger to the student, contact the Police (000) and/or Helpline (132 111) directly.

Legislation	Children and Young Person (Care and Protection) Act 1998	Ombudsman Act 1974	Child Protection (Working with Children) Act 2012
Agency	Department of Communities and Justice	NSW Ombudsman	NSW Office of the Children's Guardian
Focus	Child or young person at risk of significant harm (Abuse, neglect, assault of any kind)	Employment-related Reportable allegations & convictions against employees	Working with Children Check (WWCC) - employment & some volunteers
Contact	www.OCG.nsw.gov.au Helpline 132 111 Mandatory reporters ring: 133 627 Mandatory reporter guide https://reporter.childstory.nsw.gov.au/s/	www.ombo.nsw.gov.au Enquiries: 9286 1000 Ombudsman's Facts Sheets	www.kidsguardian.nsw.gov.au WWCC: 9286 7219 FAQ

Roles & Responsibilities

School - is responsible for:

- Meeting its legal and professional responsibilities with regard to the safety and welfare of its students and staff
- Training all staff to participate in understanding and meeting their legal and professional responsibilities in child protection
- Responding promptly and professionally to investigate all disclosures, complaints or allegations of harm or potential harm to a student or staff member
- Conducting any investigations into allegations following procedures that are in accordance with all relevant legislation and will take into account other appropriate practices and guidelines aimed at the protection of children
- Maintaining all records of all allegations or complaints, the procedures
- and findings of any investigation and notifications

Principal - is responsible for:

- determining whether concerns about the safety, welfare or wellbeing of children or young people constitute a risk of significant harm and, if they do, reporting these to Department of Communities & Justice (DCJ)
- supporting any staff member who seeks assistance to potentially report any suspected risk of significant harm and reportable conduct. This assistance may include time release, access to a private work space and resources to enable them to make a report if considered appropriate. A staff member is also to be reminded of their access to potential counselling services via the NCS Employer Assistance Program (EAP)
- notifying NSW Ombudsman of all allegations of reportable conduct;
- updating staff at the earliest opportunity in relation to the progress of the investigations conducted by Department of Communities & Justice (DCJ), Police or the Ombudsman

Staff - are responsible for:

- being aware of their mandatory obligation to report any suspected risk of significant harm and reportable conduct and of the procedures for doing so
- reporting to the Principal, unless the Principal is away then to the Principal's delegate (see 'Definitions')
 - any concerns they have about the safety, welfare or wellbeing of a child that arise during the course of their work
 - any reportable conduct of a member of staff to the Principal. If the allegation involves the Principal, the report should be made to the Chairman of the School Board. As part of the annual training, staff are given the email contact details for the Chairman of the School Board (chairman@ncs.nsw.edu.au)

Volunteers

- All visitors to the site MUST sign into the School
- A code of conduct for Parents/Carers and Visitors is displayed in public spaces
- Volunteers may be required to provide WWCC clearance prior to the event. In the case of overnight camps with students and longer term programs, volunteers MUST provide WWCC clearance prior to the event. This must be submitted to the School so that the EA can verify the WWCC number and then enter this number into the database for record keeping
- Volunteers for longer term or overnight programs shall undergo training and MUST complete the Volunteer Online Training & Agreement

Contractors

- Contractors are asked to provide the school information relevant to their current licencing and WWCC if available
- Contractors are required to sign in and out of the School
- Contractors engaged in prolonged work on site shall complete a site induction process that includes appropriate dealing with students and other staff and visitors
- Where possible, contract work is arranged to fall within school holidays

Privacy & Confidentiality:

All personal information considered or recorded will respect the privacy of the individual involved unless there is a risk to someone's safety or where this information is required to be disclosed to another agency by law.

Staff who have access to information regarding:

- students suspected to be at risk of harm
- allegations of reportable conduct by a staff member
- details of an investigation into a complaint

must observe strict confidentiality in relation to the entire matter unless required by the Principal to disclose that information.

The Principal must ensure accurate documentation is made (and kept strictly confidential and securely filed) concerning:

- reports made to the Principal about possible risk of harm to a child
- any decisions made and action taken
- details of any notification to Department of Communities & Justice (DCJ)
- details of any feedback or requests from Department of Communities & Justice (DCJ) following notification
- any actions taken by the School in relation to a notification

At all stages it is essential that:

- the student's right to privacy and confidentiality is respected
- the anonymity of the notifier is maintained
- the rights of any person implicated (including staff) in the allegation are respected
- where the accusation is of a criminal nature, the legal principle of presumption of innocence of the accused must be maintained

In general any person making an enquiry or complaint about a notification or interview with a student should be referred to Department of Communities & Justice (DCJ).

Failure to report

There is no longer any criminal penalty for a mandatory reporter who fails to make a report to Department of Communities & Justice (DCJ)

- Reporting is still a legal obligation. The School expects that a mandatory reporter will fulfil their duty to all students
- Failure to report may result in disciplinary action

Information Sharing

1. Schools are required to exchange information relating to a child or young person's safety, welfare or wellbeing. This provision¹ overrides restrictions of disclosure under the Commonwealth Privacy Act 1988. Where a prescribed body presents a request for information:
 - Appropriate identification must be presented
 - The request should identify what information is sought
 - An affidavit should be signed by the School that the information is accurate and has been released by the School for the welfare/ well-being of the child
2. A prescribed body is any organisation specified in Section 248(6), Children and Young Persons (Care and Protection) Act 1998; or Clause 7, Children and Young Persons (Care and Protection) Regulation 2000.

This includes: police; government department; government or registered non-government school; public health organisation; any other organisations that have direct responsibility for, or supervision of, the provision of healthcare, welfare, education, children's services, residential services or law enforcement to children. ²

Note:

- Information that is not associated with the welfare of children must not be shared; nor information which may be prejudicial to an investigation, or endangering a person, or is not in the public interest
- The reporter's details cannot be exchanged without their permission, unless required by law

¹ Children and Young Persons (Care and Protection) Act 1998, Chapter 16A

² Keep Them Safe Factsheet No.7

- It is not essential to obtain consent where it may further jeopardise the child's safety, welfare or wellbeing – best practice is to keep all parties informed throughout the process
 - Written exchange is preferred or written record of verbal exchange
 - Information shared should be stored securely on file
3. The Children and Young Persons (Care and Protection) Act 1998 also requires that reasonable steps are taken to coordinate decision making and service delivery regarding children and young people. *Note: Ambulance officers are required to notify police if a student is removed from the School for an injury which is the result of assault.*

Curriculum:

- Child protection and safety issues will be incorporated and implemented within the School curriculum (PDHPE) to promote age-appropriate child empowerment and participation in decisions that affect their lives and the lives of others³
- The school aims to encourage a culture of openness which supports students to report their concerns
- Specific small groups may be convened to address vulnerabilities, needs and characteristics of the student body

Documentation & Record Keeping:

1. Accurate documentation must be kept by all parties concerning:
 - reports made of any possible case of a student suspected to be at risk of harm, including:
 - details of any complaint, allegation or notification
 - actions taken by the School as a result of such notification; and
 - any other details related to the report
 - all details relating to any investigation undertaken by the Principal or authorised investigator
2. Hard copies of all documentation and records must be kept indefinitely in a secure confidential file at the School.
3. Electronic files are kept in secure files with authorised access only.
4. The School's records shall be monitored regularly to ensure compliance with the requirements of School procedures and principles of natural justice in the conduct of investigations.

Staff Training & Implementation:

- Mandatory in-service and induction processes will ensure that all staff are thoroughly conversant with this policy and related procedures and are informed regarding changes and updates. Training should include:
 - the Principal and both Heads of Schools who are authorised investigators must renew their training and accreditation through a registered provider every three years
 - training for all staff to occur annually in January and/or July PD weeks where an attendance roll will be kept and absent staff will need to complete an online training module
 - that staff are required, on an annual basis, to complete an online training module to indicate that they have read, understood and are in agreement with the Staff Code of Conduct and Child Protection Policy & Procedures,

³ See Student's Code of Conduct & Choose Respect

and staff who have not completed this online training will be followed up by the Executive Assistant to the Principal to ensure that such training is completed

- (Note: In the event that the Principal determines there are not reasonable grounds to report and the staff disagrees, that staff member is responsible to notify Department of Communities & Justice (DCJ) themselves and the School will provide appropriate support to the staff member to facilitate the reporting process. In the event that no one is available to consult with, the staff must take necessary steps as required and must make a written report to the Principal.)
- All staff are required to read and agree with the Staff Code of Conduct and Child Protection Policy & Procedures at the commencement of employment and at the commencement of each year following the completion of the mandatory online training module. Please note that:
 - Staff cannot commence employment until they have completed their online training module
 - The record of their completion of the online training module will be stored in secure staff files overseen by the EA to the Principal

Protection of staff - The School recognises that there is a danger that its staff could be seriously affected by false, vexatious or misconceived allegations against them. The School is therefore also committed to investigating all allegations promptly in a manner that demonstrates procedural fairness.

Related Documents

- Staff Code of Conduct
- Anti-Bullying Policy
- Student Code of Conduct
- Complaints Handling Policy
- Privacy Policy
- Volunteer Policy
- Volunteer Online Training & Agreement
- Contractors Online Training & Agreement Staff Code of Conduct & Child Protection Policy & Procedures Online Training Module
- Student Discipline Policy

Relevant Documents & Legislation

- [NSW Ombudsman Act 1974](#)
- [NSW Ombudsman Act 1974 Sec 25a](#)
- [Ombudsman Amendment \(Child Protection and Community Services\) Act 1998](#)
- [Child Protection \(Working with Children\) Act 2012](#)
- [Child Protection \(Working with Children\) Amendment 2013](#)
- [Children and Young Persons \(Care and Protection\) Act 1998](#)
- CSA 'Class or Kind' Agreement with Ombudsman (Current signed Agreement)
- [Ombudsman Facts Sheets](#)
- [Ombudsman Determinations](#)
- Child Protection in NSW Christian Schools: Responding to Complaints & Investigating Reportable Conduct ESPC Services P/L 2014
- [Mandatory Reporter Guide \(MRG\)\]](#)

Procedure

Working with Children Check (WWCC) Procedure:

According to the Child Protection (Working with Children) Act 2012 and the related (Working with Children) Regulation 2013, any employee as defined above is required to have a valid Working with Children Check (WWCC) clearance.

An employee must not commence employment, or continue to be employed, in child-related work if the employer knows or has reasonable cause to believe that:

- the employee is not the holder of a Working with Children Check clearance and there is no current application by the worker to the Children’s Guardian for clearance of a class applicable to that work; or
- the worker is subject to an interim bar.

The EA to the Principal is responsible for completing the screening process for any child-related workers at NCS:

- on receipt of an employment application, the EA will verify the WWCC number. If clearance is gained, the application process is able to proceed
- the clearance letter is printed and attached to the application and filed along with all relevant paperwork in the staff file. It is then entered into the database
- at the end of each year, records are checked for currency and staff with approaching renewal dates are advised to update their certificate and notify the EA for recording in the database

Reporting to DCJ

Step 1 Staff member to contact the Principal (or delegate) regarding mandatory reporting situations. The staff member may be assisted by the Principal, Head of School, or other staff as approved by the Principal to complete the interactive online Mandatory Reporter Guide. This guide will assist staff in assessing whether concerns meet the risk of significant harm threshold for reporting. If unsure staff should call the Child Protection Helpline 132111 or Mandatory Reporters 133627



Step 2 Prepare information for report.

- a. If risk of significant harm is indicated after following the Mandatory Reporter Guide then the following details should be provided:
 - The risk of significant harm
 - The name of the child or young person
 - The family background, including who the child lives with and whether there are other siblings
 - The name of the person completing the report
 - Student information including: date of birth and address
- b. Submit information provided by the MRG report to the Principal or Head of School. This information must be completed and filed confidentially
- c. All staff preparing the report or with access to information must observe strict confidentiality in relation to the entire matter



Step 3 [Report](#)

- a. The Principal or Head of School must ensure that the reporting staff member must contact the child protect helpline through Phone 132111. This is the NCS preferred option.
- b. Another reporting mechanism is to submit an [e Report](#)
- c. If the Principal or Head of School declines to report and the staff member has a current concern of risk of significant harm to a child, the staff member should make the report.



Step 4 Information provided to DCJ. The principal or Head of School must comply with a direction from DCJ to provide information about the student who is the subject of the investigation following a notification of risk of significant harm.

Note: Reports to DCJ are confidential and the reporter's identity is protected by law if the report is made in good faith.

Further Information on Reporting to Department of Communities & Justice (DCJ) (and the Police):

1. Once a report is made to the Child Protection Helpline, no further report needs to be made unless new information comes to hand. (The person making the report will also directly contact the police to provide relevant details).
2. Reports should be made in one form only, i.e. by phone or eReport. The summary page, or the decision report, from the online Mandatory Reporter Guide can be printed and filed in the School's records.
3. Further investigation is normally left to the Department of Communities & Justice (DCJ) or the Police. If there is some aspect of the case that directly involves the School, investigation must be in consultation with the Department of Communities & Justice (DCJ), and with care to avoid contaminating evidence.
4. The Principal or staff members MUST NOT inform parents/ carers that a notification has been made. This is the responsibility of the Department of Communities & Justice (DCJ).
5. The Principal must inform a student who is to be interviewed by the Department of Communities & Justice (DCJ) officers, or any other person:
 - that they have the right to refuse the interview; and
 - the right to have a support person attend any interview granted by the student.
6. The Principal MUST NOT inform parents/carers of an interview with the student, where suspected abuse involves a family member or close family friend. This is the responsibility of the Department of Communities & Justice (DCJ).
7. If the alleged offender is not a family member or close family friend, a student MUST NOT be interviewed unless a parent or their nominated representative is present.
8. The Principal or staff member should not attend as a nominee of the parents or carers:
 - If the concerns do not fall within the category of 'significant harm' but are still matters of concern, the School may wish to deal with the matter internally or take action such as discussing the matter with the School's Wellbeing Team and/ or parents.
 - If appropriate in the circumstances, refer the matter to a Family Referral Service.

9. The Principal will follow up with the Department of Communities & Justice (DCJ) if, after a reasonable time, feedback has not occurred, particularly to ensure parents/carers have been informed and to facilitate any general counselling that may be necessary at School.

Ombudsman Amendment (Child Protection and Community Services) Act 1998

The role of the Ombudsman's office is to oversee child protection systems in designated agencies, including schools; and their handling of 'reportable allegations', including the investigation of allegations. It is an employment-related child protection division. All notifications of 'reportable conduct' must be reported to the Ombudsman who will monitor the School's response and investigations, and may undertake their own investigation. Schools are encouraged to make use of the Ombudsman's Enquiry Line to discuss any incident of concern to assess the likelihood of a report being required.

When to Report to the Ombudsman

A report to the Ombudsman is required to be made by the Principal/ Head of Agency when an employee of the School:

- is implicated in any allegation of reportable conduct
- is discovered to have a conviction for, or to have been subject to, any disciplinary proceeding in relation to reportable conduct

This is an allegation-based system: it is the fact of an allegation, and what is alleged in the complaint or notification, that triggers the obligation to report to the Ombudsman.

Reporting to Ombudsman

Step 1 When an allegation of a child protection nature is made against an employee, the Principal is required to record and respond to the allegation. This process includes clarifying, on the face of it, if the allegation is reportable to the Ombudsman. Where an investigation is being conducted by police and/or DCJ into an allegation about an employee, the school is still required to notify the Ombudsman of the allegation. The Ombudsman's office will be contacted for advice about any incidents which may involve reportable conduct. Records of contact with the Ombudsman's office will be maintained separately of the review.



Step 2 If the allegation is reportable, the Head of Agency is required to make a notification to the Ombudsman on the prescribed form (Notification Form Part A) within 30 days of becoming aware of a reportable allegation or conviction. The notification must include details of the reportable allegation or conviction and what the agency proposes to do about it. It is not a requirement that the investigation be completed within 30 days of becoming aware of the allegation. *This requirement enables the Ombudsman to intervene early in matters where an agency, as evidenced by its initial response to an allegation, risks compromising the safety of the child, the integrity of the investigation or fair processes for the employee.*



Step 3 At the end of the internal investigation by the Authorised Investigator, the Head of Agency must send a report to the Ombudsman concerning the investigation. This report must include:

- the agency's findings in relation to the allegations
- details of any action taken or to be taken
- copies of documents on which the report is based
- any comments on the report



Step 4 Once the notification and/or report is completed, the Ombudsman will assess the information and provide feedback. In doing so, it may be necessary to provide further information, as required by the Ombudsman.

Further Information about reporting to Ombudsman

1. On receiving an allegation which may involve reportable conduct against an employee, the Principal shall consult with the 'Authorised Investigator' to promptly decide whether or not, on the face of the information provided, the matter is reportable to the Ombudsman. In deciding this, the Authorised Investigator may seek clarification and record the details, but should not commence an investigation. If, on the face of it:
 - the alleged behaviour was reasonable for the purposes of discipline, management or care of children and in line with the agency's code of conduct. (In this case the matter is not reportable to the Ombudsman, but needs to be recorded by the School and dealt with as a complaint) as per Class or Kind Agreement with NSW Ombudsman
 - the alleged behaviour involves the use of physical force that, in all the circumstances, is trivial or negligible, (In this case the matter should be investigated and the result of the investigation recorded under workplace employment procedures)
2. Records shall be maintained of all complaints and allegations, not just those deemed reportable. A 'proforma' for inquiries, notifications, interviews etc. will be kept in a secure file for the creation of file notes.
3. In the event the alleged behaviour constituted 'reportable conduct', i.e. sexual offences, sexual misconduct, assault, ill-treatment, neglect or mistreatment that causes psychological harm, the matter must be reported to the Ombudsman within 30 days of the Head of Agency becoming aware of the allegation, and the matter investigated by the Authorised Investigator.
4. In the case of reportable conduct the Authorised Investigator shall:
 - Seek a signed written statement detailing the nature of the allegation and any other relevant information;
 - If the person making the allegation is unable or unwilling to make or sign a written statement, record details of the allegation as reported, using as far as possible the words used by the person making the allegation
 - Direct the person making the allegation to maintain confidentiality
 - Conduct, or instigate, an investigation of the allegation
 - Make any notifications to Department of Communities & Justice (DCJ), Police, Ombudsman, or Children's Guardian as required.

5. The Principal, as Head of Agency shall, as soon as practicable, and in any case within 30 days, notify the Ombudsman (Notification Form Part B) of:
 - any allegation of reportable conduct, or conviction or disciplinary action related to reportable conduct, against an employee of the school
 - the findings of the investigation into the allegation
 - whether or not the School plans to take any disciplinary or other action in relation to the employee
 - any written submissions that the employee wishes to have considered in relation to the above
6. At the conclusion of the investigation, the Principal shall notify the Ombudsman, and Office of the Children’s Guardian, of the disciplinary proceedings unless the allegation was found to be false, vexatious or misconceived.

Conducting An Investigation

(Note: If Police are investigating an allegation, the School must not commence any investigation until Police give written notice of having completed their investigation.

Records of communication must be kept.)

1. Any investigation will normally include the following steps:
 - Step 1: Clarify the allegation
 - Step 2: Carry out a risk assessment
 - Step 3: Collect all available relevant information (ensure adequate documentation)
 - Step 4: Interview all relevant witnesses (ensure all interviews are adequately recorded)
 - Step 5: Inform the employee who is the subject of the allegation of the substance of the allegation
 - Step 6: Give the employee access to any relevant documents which do not need to be kept confidential
 - Step 7: Interview the employee, ensuring procedural fairness
 - Step 8: Consider all the evidence and make a preliminary finding whether the allegation is sustained or not
 - Step 9: Decide on disciplinary action, if any, to be taken against the employee.
2. The Authorised Investigator will normally conduct an investigation but may ask another person to undertake the investigation, e.g. in cases where a conflict of interest may arise. (i.e. a clear history of conflict between the proposed investigator and the accused).
3. All persons involved in the investigation must maintain a high level of confidentiality throughout the investigation. (It may, in some circumstances, be inappropriate to advise the accused person of the identity of the person making the allegation).
4. The accused employee must not discuss the allegations with students (including the alleged victim) or with the parents without the approval of the School.
5. The School should, as far as possible, make available counselling and support to all those involved in an investigation, particularly the alleged victim and PSO.
6. All communication with the Ombudsman, records and reports of allegations and investigations, will be kept in secure confidential files, with access limited to authorised staff and cross-referenced to student files.

7. If key personnel leave or become unavailable during an investigation, all files will be handed over to the incoming staff member.

Risk Assessment

1. The purpose of a risk assessment is to identify and minimise the risk to:
 - the child or children who are alleged to have been victims of the abuse
 - the employee against whom the allegation was made
 - other children whom the employee may contact
 - the proper investigation of the allegation
2. Action may include:
 - the employee being temporarily relieved of some duties
 - being required to avoid certain pupils
 - or in special cases, being suspended from duty
3. Any decision taken as a result of a risk assessment is in no way an indication of the guilt of the employee concerned, nor will it affect the findings of the investigation.
4. The factors to be considered during the risk assessment include:
 - the nature of the allegation
 - the vulnerability of the children
 - the nature of the position occupied by the employee
 - the level of supervision of the employee
 - the disciplinary history of the employee
 - the safety of the employee
 - any comment made by the employee
5. Risk should be continually monitored throughout the investigation.

Notifying and Interviewing the Employee who is the Subject of an Allegation

1. If the Department of Communities & Justice (DCJ) or the police are investigating an allegation, advice should be received from them about when to inform an employee about the details of an allegation.
2. Otherwise, the decision of when to inform the employee will depend on the protection of notifiers and witnesses, the quality of evidence to be obtained and the possibility of prejudicing the conduct of the investigation.
3. Within these constraints the employee should be told as soon as possible of the allegation made. Where possible employees should be given reasonable advance notice of an interview with the investigator; sufficient details of the allegation to allow the employee to respond; and advised they may have a witness (support person) at the interview.
4. Employees may have someone to support them during the interview process. A support person is there as a witness only, not as an advocate or to take an active role in the proceedings.
5. A record must be kept of the meeting. This could be a tape recording, a full written record or short minutes.

Findings and disciplinary proceedings

1. At the conclusion of the investigation a preliminary finding will be made on the balance of probabilities that:
 - the allegation was false; or
 - the allegation was vexatious, i.e. made without substance, or malicious; or
 - the allegation was misconceived, i.e. it was made in good faith, but either without substance or based upon a misunderstanding, or the incident could not reasonably be considered reportable conduct; or
 - the allegation was not sustained; or
 - the allegation was not one of reportable conduct, but might constitute a breach of professional behaviour or judgement, which requires further professional disciplinary action; or
 - the allegation was sustained, and the matter required further disciplinary action, and was to be reported to the Ombudsman and the Office of the Children's Guardian.
2. As a result of findings of the investigation, the Principal or Board may take disciplinary proceedings against the employee. Such proceedings will have regard to procedural fairness and will usually involve:
 - Giving the employee details of the final findings
 - Informing the employee of the possible action the Principal or Board may take
 - Giving the employee the right to respond
3. The employee must be advised if the employer has notified completed disciplinary proceedings to the Commission for Children and Young People.
4. If the completed disciplinary proceedings are notified to the Ombudsman and Office of the Children's Guardian, the employee is entitled to inspect the employer file in accordance with Freedom of Information Principles, subject to any exemptions which may apply under that Act.

Complaint or Review

- The employee is entitled to ask the Ombudsman to review the investigation and findings if the employee believes the investigation was unfair, biased, incomplete, or suffered from some deficiency giving rise to an incorrect finding
- Parents/carers have the right to complain to the Ombudsman if they are concerned about some aspect of the investigation

Procedure with Regard to Class or Kind Agreement with NSW Ombudsman**Responsibilities of the School:**

- Use only accredited Authorised Investigator/s
- Seek advice and follow advice given via formal support mechanisms provided by CSA (Christian Schools Australia)
- Outsource investigations where required by Ombudsman Determination
- Take appropriate action following investigations and document rationale and actions taken
- Authorise the finalisation of an investigation in signed final report format
- Retain adequate records of matters covered by Ombudsman Determination
- Ensure all relevant employees receive basic training in relation to their responsibilities in identifying and reporting allegations of reportable conduct to the Principal
- Retain a separate register of all Class or Kind Agreement investigations
- Authorise the Ombudsman to access records of allegations of reportable conduct made against an employee of the School