



## 1. Policy Information

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Approval Authority	Board
Person/s responsible for policy	Executive

## 2. Overview

The College seeks to create a safe environment where Christian values inspire and affirm the highest standards of ethical conduct in relation to the care, support and wellbeing of students. Clarifying the parameters of appropriate and inappropriate conduct for all staff, contractors and volunteers is important in order to create a safe and supportive environment for students in accordance with the College's Purpose, Values and the Christian commitment we embrace.

All employees have a privileged role of service that requires prudent judgement and exercise of appropriate relationships. The College actively supports the development of a culture that does not condone improper conduct, violation of relationships such as breach of professional boundaries and/or abuse of power.

The College is committed to the prevention and identification of any potential Child Protection matters. This applies during all activities and functions conducted and/or arranged by the College, underpinned by a rigorous risk assessment process.

This document establishes the requirements for reporting and the process through which the College responds to child protection complaints or allegations made against employees, contractors or volunteers employed or engaged by the College.

The College's *Child Protection Policy and Procedures* reflect best practice in accordance with the guidance available from the Office of the Children's Guardian (OCG), legislation and recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse. This document embraces the ten Child Safe Standards as implemented by NSW which form a framework for making organisations safer for children.

The guiding principles of this document are as follows:

- The College supports the right of any person, child or adult to report any matters pertaining to child safety or make a complaint about the conduct of adults employed or engaged by the College in any capacity.
- Complaints can be reported directly to the College in accordance with the College's *Complaints Handling & Grievances Policy and Procedures*.
- All complaints and/or allegations must be responded to in accordance with this document.
- All complaints and/or allegations relating to the conduct of persons employed or engaged by the College towards a child or young person must be reported to the Principal/delegate as soon

as possible for an initial assessment.

This document applies to all persons employed or engaged by the College whether or not they are employed or engaged in connection with work or activities that relate to children or young persons in a paid or volunteer capacity.

For explanatory notes and definitions, please refer to *Appendix A*.

### **3. Policy**

#### **3.1 Responsibility of the College**

- 3.1.1 Ensure that there is an appropriate procedure within the College to manage and respond to complaints and/or allegations relating to the conduct of a person employed or engaged by the College towards a child or a young person. This includes complaints that do not fall within the scope of Part 4 of the *Children's Guardian Act 2019 (NSW)*.
- 3.1.2 Ensure that all persons employed or engaged by the College are aware of the required standards of behaviour, this document and the *Employee Code of Conduct*.
- 3.1.3 Ensure that all persons employed or engaged by the College are aware of their obligation to notify inappropriate conduct involving a child or a young person or concerns about the safety, welfare and wellbeing of students that arise during the course of their work.
- 3.1.4 Ensure that all persons employed or engaged by the College are provided with guidance and support in maintaining professional standards related to relationships with students.
- 3.1.5 Ensure that all allegations and/or complaints of a child protection nature are appropriately responded to and/or investigated in accordance with the principles of procedural fairness.
- 3.1.6 Ensure that the person subject of an allegation is advised about the nature of support available to them.
- 3.1.7 Ensure that a report is made to appropriate statutory bodies in accordance with the College's *Child Protection Procedures* outlined in Section 4.
- 3.1.8 Ensure that all relevant child protection allegations and matters are reported to the OCG pursuant to Part 4 of the *Children's Guardian Act 2019 (NSW)* within the prescribed time frame. Please refer to *Appendix B*.
- 3.1.9 Ensure any complaints and/or allegations that require reporting to external authorities which may include the NSW Police (Police), the Department of Communities and Justice (DCJ), the OCG, the Australian Federal Police (AFP), NSW Educational Standards Authority (NESA) or other agencies where appropriate, are reported in a timely manner.
- 3.1.10 Ensure that a risk assessment is undertaken at the commencement of a matter, to inform the College of actual or perceived risks which are present or likely to arise in a particular matter, and assist with the strategies or interim measures necessary to mitigate risk and protect the integrity of the investigation.
- 3.1.11 Ensure that appropriate records of investigations and findings are stored securely, confidentially and separately from employee's personnel files.
- 3.1.12 Comply with reporting obligations outlined in section 3.4.
- 3.1.13 Ensure that all records of child protection related incidents and/or allegations are securely retained for a minimum period of 45 years.

#### **3.2 Responsibility of the Principal**

- 3.2.1 The Principal/delegate must ensure that all employees are aware of their obligation to report any complaints and/or matters relating to the conduct of a person employed or engaged by the College towards a child or young person as soon as possible to the Principal/delegate for their attention. The Principal/delegate will determine the appropriate response, inquiry and/or investigation in relation to the reported complaint and/or matter.

- 3.2.2 The Principal/delegate is responsible for authorising any interim arrangements on the work status of an employee or a person engaged by the College following a risk assessment.
- 3.2.3 The Principal/delegate is responsible for authorising any action taken by the College in instances of an adverse finding of an employee or a person engaged by the College.
- 3.2.4 The Principal/delegate must comply with all reasonable directions given by a statutory body in response to concerns, allegations and/or complaints relating to a person employed or engaged at the College.
  - 3.2.4.a The Principal/delegate must ensure that child protection concerns are appropriately reported to the relevant statutory bodies, as applicable.
- 3.2.5 If a complaint or concern is raised against the Principal/delegate, the Principal/delegate will not involve themselves and will direct the complainant to the College Board Chair via email to chair@tcc.nsw.edu.au.

### 3.3 Responsibility of all Persons Employed or Engaged by the College

- 3.3.1 All employees or persons engaged by the College must maintain the care and protection of children and young persons as paramount.
- 3.3.2 All employees must be familiar with and comply with the standards set out in the *Employee Code of Conduct* in their relationships with students and promote the safety, wellbeing and protection of all students.
- 3.3.3 All employees or persons engaged by the College must participate in a child protection induction forming part of an annual Compliance Session, as directed by the Principal/delegate.
- 3.3.4 Where directed by the Principal/delegate, all employees must participate in any additional training and/or workshops organised by the College with respect to ensuring the College is a child safe community.
- 3.3.5 All employees or persons engaged by the College must support the right of students, parents/carers, employees and persons engaged by the College, to bring forward complaints or allegations and to be heard without fear of reprisal.
- 3.3.6 All employees or persons engaged by the College must keep confidential any information they are privy to with respect to any matter that is captured within this document. Any breach of confidentiality under this document may result in the College taking disciplinary/appropriate action. Maintaining confidentiality does not limit one's obligation under section 3.4 in relation to reporting concerns about child protection matters.

### 3.4 Reporting Concerns about Child Protection Matters

- 3.4.1 All employees or persons engaged by the College must report information they may have in relation to inappropriate conduct involving a child or young person to the Principal/delegate, as soon as possible after becoming aware of the information.
- 3.4.2 All employees or persons engaged by the College must report to the Principal/delegate, any information that is relevant for assessing their suitability to engage, or ability to continue, in child-related work pursuant to the *Child Protection (Working with Children) Act 2012* (NSW).
- 3.4.3 All employees or persons engaged by the College are deemed mandatory reporters for the purposes of mandatory reporting of children and young persons at risk of significant harm pursuant to the *Children and Young Persons (Care and Protection) Act 1998* (NSW).
- 3.4.4 All employees or persons engaged by the College are required to report any concerns in relation to the safety, welfare or wellbeing of a child, young person or student to the Principal/delegate, their Line Manager or the College Psychologist.
- 3.4.5 All employees or persons engaged by the College are required to report to the Principal/delegate, any information or concerns about inappropriate behaviour by any employee or person engaged by the College that involves a child or a student, regardless of whether that behaviour occurred inside or outside of work.
- 3.4.6 All employees or persons engaged by the College are required to comply with their reporting obligations arising under the *Crimes Act 1900* (NSW) in relation to any

suspected child abuse offence. This includes sexual abuse, serious physical abuse or extreme neglect of a child.

- 3.4.6.a Any suspected child abuse offence where it arises in the context of the College must be reported to the Principal/delegate for further reporting to relevant statutory bodies, including NSW Police. An obligation under this Policy to report to the Principal/delegate does not restrict the individual from directly reporting the concern to NSW Police.
- 3.4.6.b Any suspected child abuse offence that is not related to the College must be reported by the individual directly to NSW Police.
- 3.4.7 Under this Policy, any concern about child protection matters relating to the Principal/delegate must be reported to the College Board Chair via email to chair@tcc.nsw.edu.au. The College Board Chair must comply with obligations to report concerns to relevant statutory bodies.

### 3.5 Procedural Fairness

- 3.5.1 All parties to a complaint have a right to confidentiality insofar as permitted by the law.
- 3.5.2 All investigations of a complaint against an employee or a person engaged by the College must be handled carefully and sensitively with consideration given to the care and support for all parties to a complaint.
- 3.5.3 Employees or persons engaged by the College, who are subject of a complaint, have the right to know what has been alleged in sufficient detail for them to respond, and the right to respond to any complaint or adverse comments made against them.
- 3.5.4 Independence, objectivity and impartiality during the investigation process must be ensured. All investigations of a complaint against an employee or a person engaged by the College must be in accordance with the stipulated procedures.
- 3.5.5 Any conflicts of interest, be they actual, potential or perceived, must be identified and managed appropriately to reduce any adverse impacts on an investigation, or on the parties subject to the investigation of a complaint.
- 3.5.6 Internal workplace investigations must incorporate ongoing risk assessment.
- 3.5.7 Contact with and reports to the NSW Police or other external authorities does not remove the requirement for an internal investigation at the appropriate time following receipt of clearance to commence an internal investigation from the statutory body.
- 3.5.8 Nothing in this Policy limits or restricts the College from seeking specialist advice and/or support from a statutory entity or a specialist service in the management of any matter that falls within this Policy and its related Procedures.

## 4. Procedures

### 4.1 Child Protection

#### 4.1.1 Child Protection Code of Conduct

- 4.1.1.a The College's Child Protection Code of Conduct (please see *Appendix C*) outlines the College's values, commitments and expectations in relation to child protection matters, and reflects its commitment to:
  - 4.1.1.a.i provide high-quality education, pastoral services and related programs that are supportive, safe and welcoming and set in a Christian context.
  - 4.1.1.a.ii seek input and guidance from students, parents/carers, employees and the College Community, so these standards are maintained.
  - 4.1.1.a.iii require all College Community members to demonstrate a commitment to the highest standards of ethics and professional behaviour in dealings with children and young people.
  - 4.1.1.a.iv require all College Community members to share a common responsibility to maintain the College's reputation for integrity in relation to child protection matters.

#### 4.1.2 Induction

- 4.1.2.a It is the obligation of the College to ensure that employees or persons engaged by the College have a clear understanding of their obligations in relation to the Child Protection legislation.
  - 4.1.2.b Prior to employment or commencement, employees, volunteers and contractors (including tutors) engaged in child-related activities must receive and read the:
    - 4.1.2.b.i *Child Protection Policy & Procedures*
    - 4.1.2.b.ii Child Protection Code of Conduct and sign the declaration within 7 days of receiving it (please see *Appendix D*).
  - 4.1.2.c Employees, volunteers and contractors (including tutors) have the opportunity to discuss these with the Principal at the Compliance Session.
- 4.1.3 Compliance Session Content
- 4.1.3.a The following topics will be covered in the Compliance Sessions:
    - 4.1.3.a.i The College's expectations in relation to safe and supportive environments
    - 4.1.3.a.ii Mandatory reporting procedures
    - 4.1.3.a.iii Reportable conduct procedures
    - 4.1.3.a.iv WWCC obligations
    - 4.1.3.a.v Professional boundaries
    - 4.1.3.a.vi Duty of Care
    - 4.1.3.a.vii WHS procedures
  - 4.1.3.b It is the responsibility of the Principal to ensure that the following training takes place as outlined below:
    - 4.1.3.b.i All current employees
      - 4.1.3.b.i.1 All current employees, whether they are permanent or temporary (contract); full time or part time; casual teachers or casual staff, must attend a Compliance Session in the January PL week. This includes teaching staff, corporate staff, maintenance staff, OOSH staff, bus drivers, casual teachers and casual staff. Any staff who are unable to attend in PL week will need to attend a Compliance Session within the first school week of the year at a time directed by the College. Please refer to the *Employee Code of Conduct*.
    - 4.1.3.b.ii New Employees:
      - 4.1.3.b.ii.1 All new employees cannot commence until they have attended a Compliance Session. This includes permanent or temporary (contract); full time or part time; casual teachers or casual staff. This includes teaching staff, corporate staff, maintenance staff, OOSH staff, bus drivers, casual teachers and casual staff. Please refer to the *Employee Code of Conduct*.
    - 4.1.3.b.iii Volunteers:
      - 4.1.3.b.iii.1 Volunteers cannot commence until they have attended a Volunteer Compliance Session. After having completed the initial Volunteer Compliance Session, they will then attend a Compliance Session biannually (within 2 years of the date of the previously attended Compliance Session), in order to continue to volunteer at the College. Volunteers who have not been part of the College Community for at least one calendar year will be reference checked. Please refer to the Volunteer's Information Package.
    - 4.1.3.b.iv Tutors:
      - 4.1.3.b.iv.1 New Tutors cannot commence until they have attended a Compliance Session. Current Tutors, who are unable to attend in the January PL week, will need to attend a Compliance Session within the first school week of the year at a time directed by the College, regardless of when the last compliance session was

completed. Current Tutors, who have not attended a Compliance Session by the end of the first school week, will not be able to commence until they attend the next available Compliance Session. Please refer to the Tutor Agreement.

4.1.3.b.v Contractors (engaged in child-related activities):

4.1.3.b.v.1 New Contractors cannot commence until they have attended a Compliance Session. Current Contractors, who are unable to attend in the January PL week, will need to attend Compliance Session within the first school week of the year at a time directed by the College, regardless of when the last compliance session was completed. Current Contractors, who have not attended a Compliance Session by the end of the first school week, will not be able to commence until they attend the next available Compliance Session. Please refer to the Contractor Agreement.

4.1.4 Contractors/Subcontractors (not engaged in child-related activities)

4.1.4.a The topics are outlined in the *Induction of Contractors & Subcontractors Policy & Procedures*.

4.1.4.b The induction process will be conducted by the Business Manager/Maintenance Manager, in conjunction with the Principal.

4.1.4.b.i Prior to commencement, contractors/subcontractors must complete the induction process. After having completed the initial induction, they will then complete induction documentation annually (within 1 year of the date of the previously completed induction documentation), in order to continue to supply services to the College. This also applies to subcontractors engaged by contractors/subcontractors and their employees. This applies to any individual, not any company engaged by the College and/or other subcontractor. Please refer to the *Induction of Subcontractors Policy & Procedures*.

4.1.4.b.ii Contractors/Subcontractors not engaging in child-related activities are not able to hold a WWCC but the College will require a Police Check to be sighted by the Business Manager/Maintenance Manager.

4.1.5 Other Service Providers

4.1.5.a These service providers use College facilities after school hours which involves children.

4.1.5.b These service providers may include, but are not limited to, sports clubs and dance schools.

4.1.5.c These service providers and the staff/people they engage are required to hold a current WWCC. This is the responsibility of the service provider, not the College.

4.1.6 Monitoring and Recording of Staff Training

4.1.6.a The Executive Secretary keeps records of documentation relevant to Child Protection and attendance at mandatory Compliance Sessions.

4.1.6.b For Compliance Sessions held in person, each person must sign documentation to prove attendance on the specified date.

4.1.6.c For Compliance Sessions held online, the attendance record is collected by the presenter and given to the Executive Secretary.

4.1.6.d The records will be retained in a file entitled 'Child Protection Training Records' on the Tdrive\Restricted Groups by the Executive Secretary.

4.1.6.e The Maintenance Manager will provide the Executive Secretary with records of induction documentation relevant to Child Protection for contractors/subcontractors, as outlined above.

4.1.6.f The records will be retained in a file entitled 'Induction of Subcontractor Records' on the Tdrive\Restricted Groups.



#### 4.1.7 Verification of WWCC

- 4.1.7.a The Executive Secretary verifies the WWCC status of an employee and contractors engaged in child-related activities upon employment or engagement. The verification of WWCCs are entered on a spreadsheet where information is gathered and managed by the Executive Secretary.
- 4.1.7.b The verification of WWCC for volunteers is completed by the Office Manager and entered into a volunteers spreadsheet by the Office Manager.
- 4.1.7.c The verification of other service providers (4.1.4c) is completed by the Officer Manager and entered into a other providers spreadsheet by the Office Manager.

#### 4.2 Process for Mandatory Reporting

##### 4.2.1 Employees

- 4.2.1.a Employees must raise concerns about a child if they have reasonable grounds to suspect risk of significant harm to a child or young person. This refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:
  - 4.2.1.a.i first-hand observations of the child, young person or family;
  - 4.2.1.a.ii what the child, young person, parent or another person has disclosed Child Wellbeing & Child Protection – NSW Interagency Guidelines 4; or
  - 4.2.1.a.iii what can reasonably be inferred based on professional training and/or experience. It does not mean that reporters are required to confirm their suspicions or have clear proof before making a report.
- 4.2.1.b Employees must raise concerns about a child or young person who they have reasonable grounds to suspect may be at risk of significant harm with the Principal/delegate, their Line Manager or the College Psychologist as soon as possible to discuss whether the matter meets the threshold for mandatory reporting. The Line Manager or Psychologist must inform the Principal immediately of any such notification.
- 4.2.1.c If there is an immediate danger to the child or young person and the Principal/delegate, the employee's Line Manager, or the College Psychologist is not contactable, employees should contact the Police (000) and/or the Child Protection Helpline (13 21 11) directly and then advise the Principal/delegate as soon as possible.
- 4.2.1.d If there is no immediate danger, the Principal/delegate, their Line Manager or the College Psychologist will run a Mandatory Reporter Guide (MRG) following the notification to decide if any of the following is present to a significant extent:
  - 4.2.1.d.i physical abuse
  - 4.2.1.d.ii neglect
  - 4.2.1.d.iii supervision
  - 4.2.1.d.iv physical shelter/environment
  - 4.2.1.d.v food
  - 4.2.1.d.vi medical care
  - 4.2.1.d.vii mental health care
  - 4.2.1.d.viii education
  - 4.2.1.d.ix sexual abuse
  - 4.2.1.d.x problematic sexual behaviour
  - 4.2.1.d.xi psychological harm
  - 4.2.1.d.xii relinquishing care
  - 4.2.1.d.xiii carer concerns
    - 4.2.1.d.xiii.1 parent/carer substance abuse
    - 4.2.1.d.xiii.2 parent/carer mental health
    - 4.2.1.d.xiii.3 parent/carer domestic violence
  - 4.2.1.d.xiv unborn child.

- 4.2.1.e The MRG can be accessed via the following link:  
<https://reporter.childstory.nsw.gov.au/s/mrg>
  - 4.2.1.f The extent to which the Principal/delegate, their Line Manager or the College Psychologist will follow the outcome of the MRG is at the discretion of the Principal. The Principal may consider a report should be made to DCJ regardless of the outcome from the MRG in certain circumstances eg where there have been multiple previous concerns raised about the same child or young person.
  - 4.2.1.g Employees must not undertake any investigation of the matter. Employees are not permitted to inform parents/carers that a report to the DCJ has been made.
  - 4.2.1.h Employees are required to deal with the matter confidentially and only disclose it to the persons referred to above, or as required, to comply with mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this Policy, but could incite potential civil proceedings for defamation.
  - 4.2.2 The College
    - 4.2.2.a In general, the Principal/delegate, their Line Manager or the College Psychologist will report these matters to the DCJ and where necessary, the Police. This is supported by the DCJ in accordance with best practice principles.
- 4.3 Process for Reporting Concerns
- 4.3.1 Employees
    - 4.3.1.a The *Children and Young Persons (Care and Protection Act) 1998* (NSW) outlines a mandatory reporter's obligation to report to the DCJ concerns that a child or young person may be at risk of significant harm. However, to ensure centralised reporting, all employees are required to report any concern regarding the safety and wellbeing of a child or student to the Principal/delegate, their Line Manager or the College Psychologist.
    - 4.3.1.b Employees are required to deal with all reports regarding the safety or wellbeing of a child or student confidentially and only disclose it to the Principal/delegate, their Line Manager or the College Psychologist.
- 4.4 Process for Investigation
- 4.4.1 Complaint/Allegation Received
    - 4.4.1.a When any complaint and/or allegation is received, the Principal/delegate will conduct an initial assessment to determine the nature of the complaint.
    - 4.4.1.b Depending on the nature of the complaint, the College may refer the complaint to a statutory body or a specialist service for advice and guidance in the management of the matter.
    - 4.4.1.c If a complaint and/or allegation is against the Principal, the Principal will not involve themselves and will direct the complainant to the College Board Chair via email [chair@board.tcc.nsw.edu.au](mailto:chair@board.tcc.nsw.edu.au)
  - 4.4.2 Initial Assessment Procedure
    - 4.4.2.a An initial assessment undertaken by the Principal/delegate includes, but is not limited to, the matters listed below:
      - 4.4.2.a.i Clarifying the allegation, if appropriate.
      - 4.4.2.a.ii Identifying whether the alleged conduct requires a report to external authorities such as the NSW Police, the OCG, NESAs, the AFP and/or the DCJ. If the alleged conduct is considered to be criminal in nature, the College must make a report to the Police regardless of whether or not the complainant wishes to make a police report. It is a matter for the police to determine whether the matter is within its jurisdiction.
      - 4.4.2.a.iii If the alleged conduct is considered to be of a potentially criminal nature by the police, the complainant will be informed that they may also contact the Police directly.



- 4.4.2.a.iv If the complaint and/or allegation identifies a child at risk of significant harm, a report must be made to the DCJ in accordance with the mandatory reporting requirements pursuant to *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.
  - 4.4.2.a.v Where information arises that identifies a need for a report to the NSW Police or the DCJ, the College will make that report at that time and suspend its own process until such time as clearance is given by the statutory body to continue the internal investigation.
  - 4.4.2.a.vi Identifying whether the complaint and/or allegation requires a notification to the OCG pursuant to Part 4 of the *Children's Guardian Act 2019 (NSW) (the 'Act')*.
  - 4.4.2.a.vii Where a matter falls within Part 4 of the Act, the Principal/delegate (or the College Board Chair in instances of matters involving the Principal) must report the matter to the OCG within seven (7) days. For timelines for the OCG, please see *Appendix B*.
  - 4.4.2.a.viii Identifying other agencies that should be informed of the process. For example, in the case of an external contractor, their own employer.
  - 4.4.2.a.ix Strategies to respond to an initial risk assessment are implemented.
  - 4.4.2.a.x An investigation plan is developed:
    - 4.4.2.a.x.1 All matters will be appropriately assessed and investigated
    - 4.4.2.a.x.2 In some cases the College may engage an external investigator to undertake the investigation on behalf of the College
    - 4.4.2.a.x.3 Matters that are exempt from reporting to the OCG in accordance with sections 30 and 41 of the Act, must also be investigated by the College in accordance with these procedures.
  - 4.4.2.a.xi For some matters pertaining to employee or person engaged by the College conduct towards students that are not captured under the definition of Reportable Conduct as prescribed by section 20 of the Act, the College may conduct a workplace investigation internally or through an external investigator, at the discretion of the Principal. This includes, but is not limited to, complaints of inappropriate conduct by an employee or a person engaged by the College towards a student who is over 18 years of age.
- 4.4.3 Risk Assessment
- 4.4.3.a A risk assessment is an ongoing process required in complaint and allegation procedures and investigations.
  - 4.4.3.b Risk assessment includes identifying risks and implementing strategies to reduce those risks to:
    - 4.4.3.b.i children and young people
    - 4.4.3.b.ii person subject of the complaint
    - 4.4.3.b.iii other employees or a person engaged by the College
    - 4.4.3.b.iv broader College Community including students and parents/carers
    - 4.4.3.b.v reputation of employees or the College
    - 4.4.3.b.vi the integrity of the investigation.
  - 4.4.3.c A risk assessment may determine whether interim arrangements on an employee's work status are required, in consultation with relevant external agencies. This may include standing down a person from their role or suspension of their duties. Any decision in relation to the employee's work status will take into account factors such as:
    - 4.4.3.c.i the seriousness of the alleged conduct
    - 4.4.3.c.ii whether there is a pattern of similar issues
    - 4.4.3.c.iii vulnerability of the child/children or employee
    - 4.4.3.c.iv capacity of the work environment to manage any risk factors
    - 4.4.3.c.v risks to breaches of confidentiality
    - 4.4.3.c.vi wellbeing of the person subject of the complaint and/or allegation
    - 4.4.3.c.vii involvement of statutory bodies

- 4.4.3.c.viii safety of the parties.
- 4.4.3.d Where the College is notified that an employee or a person engaged by the College has had their WWCC clearance cancelled by the OCG in accordance with section 23 of the *Child Protection (Working with Children) Act 2012 (NSW)* or is subject to an interim bar, the College will take immediate steps in accordance with law to remove the person from child-related employment and/or engagement.
- 4.4.3.e Where the College is notified that an employee or a person engaged by the College is subject to a risk assessment by the OCG, the College may take appropriate steps to manage that person's interaction with children and young persons, in consultation with the OCG.
- 4.4.4 Investigation Protocols
  - 4.4.4.a The College complies with any advice or direction from the OCG in relation to best practice.
  - 4.4.4.b The investigation protocols are regularly reviewed. The following protocols are applied:
    - 4.4.4.b.i the person against whom the allegation is made, is advised in writing of the allegations
    - 4.4.4.b.ii sufficient time is provided to prepare a response
    - 4.4.4.b.iii persons interviewed in the investigation process are permitted to bring a support person, if required
    - 4.4.4.b.iv all reasonable inquiries are undertaken
    - 4.4.4.b.v any party to the investigation is provided with an opportunity to nominate witnesses
    - 4.4.4.b.vi information obtained in interviews is written up in a form of statement or recorded, with consent, and transcribed
    - 4.4.4.b.vii if a student is being interviewed, they are offered an adult support person of their choice
    - 4.4.4.b.viii parental consent is obtained for a formal interview (depending on the student/s age)
    - 4.4.4.b.ix counselling services are made available to the child, their family and the employee, recognising that regardless of the seriousness of any complaint, most complaints are stressful and impact on those involved.
  - 4.4.4.c Principles of procedural fairness must be adhered to at all times and all persons should be treated with dignity and respect at all stages of a complaint process.
  - 4.4.4.d Any employee, who is the subject of a complaint, has a right to obtain professional advice from their union or a legal practitioner, at any stage, and is encouraged to do so, if required.
  - 4.4.4.e Where the employee or a person engaged by the College resigns or terminates their engagement before the completion of the investigation, the College will assess whether the investigation should be concluded at that point. With respect to matters reportable to the OCG, a finding is required regardless of whether or not the employee remains employed, or the person engaged by the College is still engaged.
  - 4.4.4.f When all relevant information is obtained, the evidence is assessed on the civil standard of proof. A determination is made as to:
    - 4.4.4.f.i whether or not the alleged conduct occurred
    - 4.4.4.f.ii the appropriate finding recorded
    - 4.4.4.f.iii appropriate action to be taken based on the finding
    - 4.4.4.f.iv any issues arising, such as system issues, performance or safety matters
    - 4.4.4.f.v review of the risk assessment.
  - 4.4.4.g An investigation report with all information relevant to the findings is prepared.
  - 4.4.4.h Findings and outcomes are communicated to the person who is the subject of the allegation, and other persons as appropriate.

- 4.4.4.i If an adverse finding is made which may have employment implications, the Principal/delegate ensures that the employee or person engaged is afforded a fair procedure in responding further to the findings and outcomes, prior to confirming that finding.
- 4.4.4.j If an adverse finding is made which may have employment implications against the Principal, the College Board Chair will ensure the Principal is afforded a fair procedure in responding further to the findings and outcomes, prior to confirming that finding.
- 4.4.4.k Final reports to statutory authorities such as the OCG and the NESAs are made, when appropriate.
- 4.4.4.l The investigation file is secured confidentially with the College. Such records must be retained for a minimum of 45 years.

#### 4.5 Anonymous Complaints or Reluctant Complainants and Witnesses

- 4.5.1 The steps and principles in this document apply equally to anonymous complaints.
- 4.5.2 Notwithstanding the complexities of investigating anonymous complaints, the College will take all complaints seriously, report if necessary and make reasonable inquiries where practical.
- 4.5.3 Reluctant witnesses (ie those individuals who can be identified but may not wish to proceed or take matters forward), will be advised about the College's legal obligation to report and respond to certain complaints involving children and young persons.
- 4.5.4 The College undertakes to respond to all complaints sensitively, and where required, report to external authorities and investigate, even if the complainant does not wish for this to occur.

#### 4.6 Inter-agency Cooperation

- 4.6.1 In cases where a complaint results in more than one Relevant Entity being responsible for reporting to the OCG, the College will work with the other identified Relevant Entity, where appropriate, to assess and manage the risks.
- 4.6.2 The OCG may issue a written exemption to a Relevant Entity pursuant to section 31 of the Act.
- 4.6.3 Principles of privacy and confidentiality will be carefully considered and managed in such situations.
- 4.6.4 In the context of fulfilling obligations under the Reportable Conduct Scheme, information may be requested and/or shared with a prescribed body pursuant to Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.

#### 4.7 Complaints of a Historical Nature

- 4.7.1 Complaints of a historical nature may involve allegations of conduct of a person who is no longer employed or engaged by the College.
- 4.7.2 Where the College is identified as being responsible for the matter, then the College will undertake reasonable inquiries consistent with the procedures outlined in this document, including notification of the complaint to external authorities, where required.
- 4.7.3 A person reporting an allegation of a potentially criminal nature is encouraged to make their report directly to the NSW Police. In accordance with legislative obligations under the *Crimes Act 1900 (NSW)*, the Principal/delegate will make a report to the Police if the information is identified as possibly criminal in nature, regardless of the decision of the complainant to report to the police.

#### 4.8 Principles of Confidentiality

- 4.8.1 The principles of confidentiality are applied to all complaint procedures insofar as permitted by law.
- 4.8.2 The following principles are upheld in managing confidentiality in these processes:

- 4.8.2.a All persons involved in a compliant process are requested to respect confidentiality of the process and other people involved
- 4.8.2.b Employees or persons engaged by the College are required to comply with requests for confidentiality, and will be advised at the commencement of an investigation not to discuss with other employees, students and parents/carers the complaint or the investigation of the complaint. Breaches of confidentiality by employees or persons engaged by the College will be taken seriously and may result in disciplinary/appropriate action
- 4.8.2.c Confidentiality does not restrict any person from obtaining any necessary professional advice or support at any time during the process, including, but not limited to, union advice, legal advice or professional counselling
- 4.8.2.d Confidentiality does not restrict the College from making reports to the NSW Police or the DCJ or any other agency as required by law
- 4.8.2.e The College may be subject to strict confidentiality requirements from external authorities such as the OCG, the DCJ and the NSW Police.

#### 4.9 Records and Disclosure

- 4.9.1 Where required for a relevant investigation or risk assessment, the College may seek or provide information from 'prescribed agencies' in accordance with Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.
- 4.9.2 A record of the investigation must be held by the College, and where required, a copy must be provided to the OCG in accordance with Part 4 of the Act.
- 4.9.3 Investigations into matters that are assessed as being exempt from reporting obligations to the OCG are documented and retained confidentially at the College and the OCG may audit these records in accordance with the Act.
- 4.9.4 Records at the College are kept securely, confidentially and separately from personnel files.
- 4.9.5 The Principal/delegate (or the College Board Chair, in matters pertaining to the Principal) must report all matters that are reportable to the OCG, when they arise.
- 4.9.6 A person who is the subject of a complaint may request access to records held by the College in accordance with the *Government Information (Public Access) Act 2009 (NSW)*, or other relevant legislation, where such a right exists under law.

## 5. References

- Prepared in consultation with Integroe Partners
- *AISNSW Child Protection Policy for NSW Independent Schools*
- *Child Wellbeing & Child Protection NSW Interagency Guidelines*

## 6. Considerations

Education and Care Services National Regulations	National Quality Standard	Other service policies/documentation	Other
R84, R85, R86, R87, R109, R110, R114, R115, R170, R176, R168	S2.1.1, S2.2.1, S2.2.2, S2.2.3, S3.1.1, S3.1.2, S4.1.1, S4.1.2, S4.2.1, S4.2.2, S5.1.1, S5.1.2	<ul style="list-style-type: none"> <li>● Acceptance and Refusal Policy</li> <li>● Behaviour Guidance Policy</li> <li>● Emergency and Evacuation Policy</li> <li>● Hours of Operation Policy</li> <li>● Interactions with Children Policy</li> <li>● Providing a Child Safe Environment Policy</li> </ul>	<ul style="list-style-type: none"> <li>● Child's story <a href="https://www.facs.nsw.gov.au/families/childstory">https://www.facs.nsw.gov.au/families/childstory</a> <a href="https://www.theirfuturesmatter.nsw.gov.au/about-us/other-referrals/keep-them-safe">https://www.theirfuturesmatter.nsw.gov.au/about-us/other-referrals/keep-them-safe</a></li> <li>● Human Services Network <a href="https://dcj.nsw.gov.au/content/dcj/csnsw/csnsw-home/support/child-protection.html">https://dcj.nsw.gov.au/content/dcj/csnsw/csnsw-home/support/child-protection.html</a></li> <li>● Ombudsman <a href="https://www.ombo.nsw.gov.au/">https://www.ombo.nsw.gov.au/</a></li> </ul>

		<ul style="list-style-type: none"> <li>• Community Services <a href="https://www.facs.nsw.gov.au/providers/children-families/child-protection-services">https://www.facs.nsw.gov.au/providers/children-families/child-protection-services</a></li> <li>• Child Protection Helpline 13 26 27</li> <li>• <i>NSW Children and Young Person's (Care and Protection) Act 1998</i></li> <li>• <i>Commission for Children and Young People Act 1998</i></li> <li>• <i>Child Protection (Prohibited Employment) Act 1998</i></li> <li>• <i>Ombudsman Act 1974</i> (with relevant Child Protection Amendments)</li> <li>• <i>NSW Department of Community Services Mandatory Reporting Guidelines (2006)</i></li> <li>• <i>Legislation Amendment (Wood Inquiry Recommendations) Act 2009</i> No13</li> <li>• My Time, Our Place</li> <li>• Office of the Children's Guardian <a href="https://www.ocg.nsw.gov.au/">https://www.ocg.nsw.gov.au/</a></li> </ul>
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# EXPLANATORY NOTES AND DEFINITIONS

S26: APPENDIX A

**Act** refers to the Children's Guardian Act 2019 (NSW).

**Child** means a person under the age of 18 years. With respect to matters notifiable to the Department of Communities and Justice, a child is defined as a person under 16 years.

**Complaint/allegation** means any issue raised regarding the conduct of an employee of the College or a person engaged by the College in relation to children or young people, including but not limited to conduct identified as reportable conduct within Part 4 of the *Children's Guardian Act 2019 (NSW)*.

**Employee** includes paid employees (whether employed on a permanent, temporary or casual basis), volunteers, contractors, sub-contractors, consultants, tertiary practicum placements and students on work placements or work experience.

**Mandatory Reporting** applies when a person has reasonable grounds to suspect that a child or young person may be at risk of significant harm. Reasonable grounds means an objective basis giving rise of the suspicion that a child or young person may be at risk of significant harm, based on:

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

**Not Reportable Conduct** means:

- conduct that is reasonable for the purposes of discipline, management or care of a child, having regard to the age, maturity, health or other characteristics of the child, and any relevant code of conduct or professional standard
- the use of physical force if in all the circumstances, the physical force 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
- conduct of a class or kind that is exempted from being reportable conduct by the Children's Guardian under section 30 of the *Children's Guardian Act 2019 (NSW)*.

**Relevant Legislation** refers to the following Statutes:

- *Child Protection (Offenders Registration) Act 2000 (NSW)*
- *Child Protection (Working with Children) Act 2012 (NSW)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Children's Guardian Act 2019 (NSW)*
- *Crimes Act 1900 (NSW)*
- *Government Information (Public Access) Act 2009 (NSW)*
- *Privacy Act 1988 (Cth)*
- *Privacy and Personal Information Protection Act 1998 (NSW)*
- *Public Interest Disclosures Act 1994 (NSW)*
- *Work Health and Safety Act 2011 (NSW)*.

**Relevant Entity** means a public authority or Schedule 1 entity or a religious body pursuant to sections 12 (c) and 15A as identified in the *Children's Guardian Act 2019 (NSW)*.

**Report** refers to a copy of the investigation file that may be provided to the Office of the Children's Guardian in accordance with Part 4 of the Act. The Office of the Children's Guardian will review the file and advise the College whether or not it is satisfied with the process prior to closing the matter.



**Reportable Allegation** means an allegation that the employee has engaged in conduct that may be reportable conduct whether or not the conduct is alleged to have occurred in the course of the employee's employment with the Relevant Entity.

**Reportable Conduct** means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded:

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

**Risk of Significant Harm (ROSH)** 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 Harm** refers to the circumstances that are causing concern for the safety, welfare or wellbeing of a child or young person which are present to a significant extent.

**Standard of Proof** refers to a civil standard, that is, whether the case has been proved on the balance of probabilities.

**Student/s** means any person enrolled at the College, whether or not they are over the age of 18 years.

**Young person**, for the purposes of reporting risk of significant harm, means a person who is aged 16 or 17 years.



# TIMELINES FOR OFFICE OF THE CHILDREN'S GUARDIAN

S26: APPENDIX B

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## Obligations of the Head Relevant of Entity

The Head of Relevant Entity at Toongabbie Christian College is the Principal.

The Head Relevant of Entity must submit the 7-Day Notification Form to the OCG within 7 business days from becoming aware of an allegation or conviction.

The Relevant Entity (The Head of Relevant of Entity is responsible at Toongabbie Christian College) must provide the OCG with an update on the status of the investigation within 30 calendar days from when the OCG was notified in reference to the allegation in the form of a final report or may seek further guidance for the final report within the 30 calendar day timeline by completing the 30-Day Interim Report Form.

If the conduct that needs to be reported is against the Head of Relevant Entity, the Chair of the College Board must make the report directly to the Office of the Children's Guardian, by sending all the relevant details to [reportableconduct@kidsguardian.nsw.gov.au](mailto:reportableconduct@kidsguardian.nsw.gov.au).



# CHILD PROTECTION CODE OF CONDUCT

S26: APPENDIX C

All College Community members, and all students, parents/carers and visitors connected with the College, must keep to the Child Protection Code of Conduct.

Definitions in this Code of Conduct:

Student or Students refers to:

- A Child or Children which is defined in this Code as being a person under the age of 16 years
- A Young Person or Persons which is defined in this Code as a person between the ages of 16 and 18
- Any other student of the College over the age of 18 years.

College Community Members refers to:

- All paid employees whether employed on a permanent, temporary or casual basis
- All persons who have been engaged to work within the College or who have face to face contact with students of the College in any place and on any basis, including persons holding a church ministry license or church-appointed position, consultants, students on tertiary practicum placements, or volunteers working with students in any capacity
- Students enrolled at the College.

The College Community, including all the members identified as above, will:

- Treat everyone with respect and care.
- Behave as a positive role model to students in all interactions.
- Follow College policy and procedures for the safety and wellbeing of students.
- When conducting any one-to-one activity with a student:
  - Ensure that another adult is present or within sight at all times, who is actively engaged and aware of the interaction taking place
  - If the active engagement and awareness of another adult is not possible or practicable, ensure that prior approval for the one-to-one activity has been obtained from the immediate supervisor.
- Record a concern of abuse, ill-treatment or neglect of a student and report it to the Principal/delegate.
- Report to the Principal/delegate any allegations or convictions of Reportable Conduct involving any College Community member.
- Complete and maintain a current Working With Children Check with the Office of the Children's Guardian.
- Inform the Principal/delegate if the status of their Working with Children Check has been changed by the OCG.
- Report to the Principal/delegate any information or concerns about inappropriate behaviour by any College Community member that involves a student.
- Fulfil their legal obligation to report risk of significant harm, or to report possible criminal activity, in accordance with required procedures.
- Maintain the confidentiality of all parties concerned.

All staff, contractors and volunteers will not:

- Develop any 'special' or selective relationships with a student that could be seen as favouritism such as the offering of gifts or special treatment.
- In the absence of the prior approval from the College Community member's immediate supervisor, or without the active participation of another adult, engage in one-to-one contact with a student such as:
  - Doing things of a personal nature that students can do for themselves, such as entering a toilet when a student is present or a student changing clothes
  - Accompanying a student alone in a vehicle
  - Visiting a student's home in circumstances where the student is alone
  - Tutoring a student
  - Disciplining or counselling a student unless authorised to do so.
- Engage in grooming behaviour of a student or their close family or friends.

- Engage in inappropriate physical contact/force with a student including physical/corporal punishment of a student.
- Act in ways which may cause a student to reasonably fear that unjustified force will be used against them, even if this is not their intention.
- Behave in a manner which may cause psychological harm to the student.
- Correct or discipline a student in excess of what is reasonable or appropriate for the situation.
- Engage in crossing professional boundaries through behaviour that can reasonably be construed as involving an inappropriate and/or overly personal intimate relationship with, conduct towards, or focus on a student or a group of students.
- Record images of students unless for teaching and learning purposes using a College device.



# CHILD PROTECTION DECLARATION

S26: APPENDIX C

I [insert full name]

being

[please circle] employed / engaged / a volunteer at the College in the following role:

[insert position]

hereby acknowledge that I:

- have received the above Child Protection Code of Conduct and the *College's Child Protection Policy and Procedures*
- have read the Child Protection Code of Conduct and *Child Protection Policy and Procedures* and am required to comply with the above, including any amendments made by the College from time to time
- am required to notify the College if my Working With Children Check status changes from 'Cleared'
- am a Mandatory Reporter of concerns about children or young people being at risk of significant harm (Volunteers are not Mandatory Reporters)
- understand my obligations under this Code of Conduct and the *Child Protection Policy and Procedures* of the College
- am aware that a current copy of the Child Protection Code of Conduct and *Child Protection Policy and Procedures* is posted on the College's website.

Signature

Date

**NB:** This signed and completed form must be returned before commencement of employment or engagement with the College to the Executive Secretary. Failure to do so will not affect the applicability of this Child Protection Code of Conduct or any of its provisions.