



MAMRE ANGLICAN SCHOOL

Child Care & Protection Procedures Manual

Reviewed 2019

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SCREENING OF PAID STAFF

- a. Prospective Employees are to include a WWCC number in the application form for the position. The prospective employee must apply for this themselves and payment to the RMS is an employee expense.
- b. Interviews are held with Prospective employees.
- c. All successful applicants whether casual, temporary or permanent employees must sign the Anglican Schools Corporation General Terms of Employment which sets out details regarding the Child Protection matters.
- d. The WWCC is checked by the Administrator (or other Principal's delegate) via <https://wwccheck.cyp.nsw.gov.au/Employers/Login> prior to commencement.
- e. A copy of the result is filed in the staff file for the employee
- f. Employee records including WWCC are forward to Group Office. Payment of salary and wages will not be made without the check in accordance with SASC 3.3.10 Working with Children Policy.
- g. WWCC, Clearance Date, Expiry Date and result are to be entered on Edumate.

SCREENING OF VOLUNTEERS

- a. All volunteers must sign a 'Volunteer Undertaking' Form, complete a WWCC and supply their date of birth to the School Office.
- b. The WWCC is checked by the Administrator (or other Principal's delegate) via <https://wwccheck.cyp.nsw.gov.au/Employers/Login>
- c. A copy of the undertaking form and the WWCC result are filed on a Google document in the Administrator's file.
- d. WWCC number, Clearance Date, Expiry Date and result are to be entered on Edumate which allows teaching staff to know if they can then utilise this volunteer in the classroom.

TRAINING of STAFF and VOLUNTERS

The Principal must ensure that all paid staff are familiar with the Child Care & Protection Policy and with the contents of this Manual.

At the beginning of each year, specific training is given to all new staff, and all continuing staff are to be reminded of their legislative and professional responsibilities.

Staff who join the School during the year as well as staff hired to relieve other staff are to be instructed on these matters by the Director of Operations as part of the induction process.

A record is to be kept in the School, on Edumate, and on the Y:Drive the nature and date of the training and instruction given to each staff member.

At the beginning of each year, the Principal or their delegate, will provide instruction on Child Protection matters to all new voluntary helpers and this will be updated from time to time. A similar record is to be kept in the School of the nature and date of volunteer training and instruction.

SCREENING OF CONTRACTORS and SUB-CONTRACTORS

- a. All contractors must sign a 'Contractor Undertaking' Form, complete a WWCC and supply their date of birth to the Facilities Coordinator (or his/her delegate).
- b. The WWCC is checked by the Administrator (or other Principal's delegate) via <https://wwccheck.cyp.nsw.gov.au/Employers/Login>
- c. A copy of the undertaking form and the WWCC result are filed alphabetically and held in the office.

Specific Circumstances

The Anglican Schools Corporation has confirmed that where there is a meaningful possibility that an external contractor/provider will have unsupervised contact with children, a new WWCC and relevant Undertaking must be obtained. Particularly, advice has been sought with respect to the application of the ASC Working with Children Check Policy to the following;

- Sports coaches – All sports coaches that have not previously provided the School with a Prohibited Employment Declaration are required to obtain a new WWCC and complete a Contractor Personnel Undertaking form.
- Practicum Students – Are required to obtain a WWCC and must also sign and return a Volunteer Undertaking form.
- Professional Development providers – Not required to obtain a WWCC nor sign a Contractor Personnel Undertaking on the condition that the provider does not have contact with children without a staff member present.
- Incursion providers – Not required to obtain a WWCC nor sign a Contractor Personnel Undertaking on the condition that the provider does not have contact with children without a staff member present.

INSTRUCTION OF STUDENTS

The Heads of Junior and Senior School are responsible to ensure that appropriate instruction through the School Pastoral Care Program is given to students in each grade each year on their entitlement to be protected from abuse or neglect and of the avenues of support available to them should they observe or experience such behaviour.

Older students should be given details where they can obtain help or additional information.

A record is to be maintained of such instruction, by whom it was given, to which classes and when.

EDUCATING and INFORMING PARENTS & GUARDIANS

The School has a role to play in encouraging, supporting and guiding parents and guardians in matters relating to child care and protection.

- 6.1 Reference to this is to be included in the School Handbook for Parent and Students which can be found on the School website.
- 6.2 Reference is to be made to it at the Start of Year Information Evenings. The Heads of Junior and Senior School are responsible for ensuring these actions occur.

REPORTABLE CONDUCT

It must be understood that behaviour such as touching a child to gain his or her attention, comforting a distressed child and similar behaviours which are a necessary and appropriate aspect of working with children in a caring role are excluded from the types of behaviour that are reportable. Acts that include conduct that is reasonable for the purposes of discipline, management and care of children are also excluded.

Definitions

“Child” is defined as any person under the age of 18 years and is not limited to students enrolled at the School in which the allegation originates.

“Reportable conduct” means

- a sexual offence, or sexual misconduct with or in the presence of a child
- any assault, ill-treatment or neglect of a child
- any behaviour that causes psychological harm to a child
- misconduct that may involve reportable conduct

“Sexual misconduct” involves

- behaviour with regard to conversations of a sexual nature, unwarranted and inappropriate touching, personal correspondence with a child in respect of an adult’s sexual feelings for the child
- grooming
- the use of electronic communication such as emails, internet and mobile phones
- sexual exhibitionism
- deliberate exposure of children and young people to the sexual behaviour of others
- Possession of child pornography in the workplace [It is a criminal offence in NSW to download child pornography.]

“Grooming behaviour” is frequently the first phase of sexual assault. It involves building trust, testing boundaries and engaging in sexual activity.

It should be noted that it is a criminal offence for a teacher to have sexual intercourse with a child over 16 and under 18 even though the child may be a willing participant.

“Physical assault” must include all three of the following:

- The assault must be committed on or towards the child,

- it must involve force, or the expectation of force,
- Be hostile or reckless (having a reasonably foreseeable consequence) **but** actual physical harm does not have to occur.

“Ill-treatment” of a child can occur when a teacher corrects a child in excess of what is reasonable or appropriate in the situation. It is not restricted to physical chastisement.

“Neglect” occurs when a child is harmed by the failure of a person (usually over time) to provide him/her with the basic physical and emotional necessities of life.

“Behaviour that causes psychological harm” includes

- making excessive or unreasonable demands on a child
- exposing a child to behaviour that is psychologically harmful
- placing a child in an environment detrimental to his/her development
- isolating the child
- threatening the child with harm
- scapegoating, rejection, humiliating, shaming, belittling, shouting, verbal abuse, harsh criticism, sarcasm
- failure to respond appropriately to threats of self-harm.

It needs to be established that an element of misconduct exists, the consequences of the ‘abuse’ are evident and that there is a link between the misconduct and the resulting behaviour of the student.

“Misconduct that may involve reportable conduct” includes

- a breach of accepted boundaries
- inappropriate use of power relationship
- targeting children for special treatment
- inappropriate language
- inappropriate touching or cuddling (even if it is not sexual)
- Taking children to one’s home.

As indicated above, there are some matters that need no longer be reported to the Ombudsman. These include:

- conduct that is considered reasonable for the purposes of discipline, management or the care of children considering their age, maturity, health or other characteristics and the codes of conduct and professional standards within the School
- the use of physical force that, in all of the circumstances, is trivial or negligible, but this is contingent on the matter being investigated and the result of the investigation being recorded under workplace employment procedures
- conduct of a class or kind exempted from being reportable conduct under Section 25CA. In this case the School has entered into an agreement with the Ombudsman which allows the Principal (or their delegate as accredited investigator) to investigate less serious kinds of reportable conduct. The investigations have to be conducted in accordance with the Ombudsman’s standards; records must be kept; the processes and documents may be scrutinized by the Ombudsman at any time.

- certain classes or kinds of allegations of reportable conduct including any first time allegation of hitting or smacking, pushing, pulling or poking a child below the neck or head except where:
 - undue force was used or where the behaviour resulted in harm or injury to the child
 - the allegation was of kicking or punching with force
 - there was apparent physical harm or injury to the child.

REPORTING ALLEGATIONS THAT A STUDENT IS BEING ABUSED OR NEGLECTED

All staff have a legal obligation to report allegations disclosed to them that a student is being abused or neglected.

Staff must report to the Principal or Head of Junior or Senior School promptly what they know or have been told.

Staff must not communicate this information nor tell others that they have reported the matter to the Principal or their delegate.

The Principal or their delegate must use the Mandatory Reporter Guide to assess and act upon the appropriate notification or referral service immediately, orally and in writing, using the method outlined in the Guide designed for this purpose.

The Principal is responsible for making sure that the student who is the subject of the reporting is cared for and supported whilst the investigation is proceeding.

The staff member who made the report is to be informed of the action taken but may not discuss this with anyone else.

The student's family must **not** be informed of the action taken by the School.

Community Services is responsible for assessing the risk, interviewing the Principal, interviewing the student and contacting the parents or guardians. Community Services may interview the student on School premises. (See Note #8 below). Community Services may also remove the student from the risky situation. It may also initiate court action.

Community Services is responsible for notifying the Principal of the outcome of the intervention. (See Note #9 below).

Should a non-mandated person (e.g. a voluntary helper, another parent, or a student) report an allegation of abuse or neglect to the Principal, the Principal must determine whether there are reasonable grounds to suspect risk of harm. If he considers there are reasonable grounds, he or his delegate must use the *Mandatory Reporter Guide* to determine the appropriate action regarding notification or referral service. Following assessment using the Mandatory Reporter Guide he does not consider there are reasonable grounds, he is not obliged to notify Community Services.

Where the reportable allegation is made by a student at the School, but the allegation does not involve a family member or a person living with the family, and the Principal notifies Community Services.

Community Services has a statutory obligation to inform the parent(s) or guardian(s) of the notification. It is unlikely that Community Services will conduct the interview at the School, but if Community Services officers indicate their wish to do so, the Principal must ensure that the parents have been informed and that the interview does not proceed (without their consent or their requesting the Principal or their delegate to substitute for them) without their presence. (See Note #10)

Notes:

1. In every preventative and/or protective action related to reportable conduct, the well - being of the student is paramount.
2. Before proceeding to take action staff must satisfy themselves that they are acting on reasonable grounds.
3. The importance of observing confidentiality is critical. It is normal practice in schools for staff to confer with colleagues on issues involving students. It needs to be emphasized that this is **NOT** the case with reportable conduct matters where complete confidentiality **MUST** apply.
4. A notifier must be sensitive to the rights of families and the rights of the suspected offender.
5. Under Section 22 Children (Care and Protection) Act 1987, there are safeguards for the notifier: it is not a breach of professional etiquette or conduct to notify; there is no liability for defamation; it cannot be the basis for civil action. In the course of a Community Services investigation, the identity of the notifier may become known, and the notifier may be asked to give evidence in court.
6. Failure to make a mandatory notification is a criminal offence and carries a penalty not exceeding \$1000 or imprisonment for a period not exceeding 12 months or both.
7. The law now requires mandatory notification in cases of alleged sexual abuse of students who are 16, 17 or 18 years of age. The Principal is required to report these cases to either Community Services or the Police.
8. Community Services may conduct an interview with the student at the School, particularly if the allegations involve a family member. In such situations the Principal should meet with the Community Services officers prior to the interview with the student. The School should make available to the Community Services officers relevant details about the student (e.g. date of birth, address, attendance patterns, behaviour etc.) whilst respecting the privacy of the student in so doing. The Principal or a staff member acceptable to the student should also be present during the interview – but only as an observer and support for the student. Any notes made of such an interview are the property of the School and may only be made available to a Court by subpoena.
9. The Principal should consult with Community Services officers concerning appropriate post interview support for the student at the School.
10. The conduct of an interview by Community Services officers at the School without parent's consent requires careful consideration by the Principal. The well-being of the student is paramount.

PROCEDURE FOR MAKING A COMPLAINT RELATING TO STAFF MISCONDUCT OR REPORTABLE CONDUCT MATTERS

1. In relation to a student or parent making a complaint/allegation about a teacher's conduct:
 - a. Student or parent reports the matter to an executive member or the Principal
 - b. The matter then must be referred to either the Head of Junior School or Head of Senior School
 - c. The relevant Head of School will meet with the student and ask them to recount the incident. The student then provides a written statement about what happened, where it happened, what time it occurred listing any witnesses on the statement.
 - d. The relevant Head of School then reports the incident to the Principal who then decides if the matter is one relating to either *Staff Misconduct* or *Reportable Conduct*.
 - e. If the matter is related to misconduct or reportable conduct, the Principal refers the matter to the Child Protection Investigator where the matter then follows the procedures in the Child Protection Policy (Section 3, page 9) for investigation. Risk management procedures must be followed to ensure the ongoing safety of the child, the person subject of the allegation (PSOA), the school and to allow proper investigation of the matter.

As a result of the allegations, investigation or final findings, the School may take disciplinary action against the PSOA (including termination of employment).

In relation to any disciplinary action the School will:

- give the PSOA details of the proposed disciplinary action; and
 - give the PSOA a reasonable opportunity to respond before a final decision is made.
- f. If the complaint is not related to misconduct or reportable conduct, (for example a student/parent making a complaint against a teacher because they don't understand what is being taught, or they have not taught the correct curriculum) an internal investigation will occur by either the Head of Junior School or Head of Senior School. If the matter relates to teaching and learning, the complaint is referred to the Director of Teaching and Learning for investigation. If the matter requires reconciliation between the staff member and student after interviewing relevant parties, the relevant Head will facilitate this. Support mechanisms are put in place to ensure ongoing support for both the teacher and student to ensure a positive classroom/playground environment can occur. Written records are kept and stored in the staff member and student files. The outcome of the internal investigation is reported to the parent of the student. The Principal must be kept informed throughout the process. If, as a result of the internal investigation, the teacher has identified performance concerns, the teacher should be placed on *Performance Management* (see Performance Management/Staff Appraisal Policy)

WHEN REPORTABLE ALLEGATIONS ARE MADE AGAINST AN EMPLOYEE OR CONTRACTOR

There are different procedures to be followed and different agencies involved when a reportable allegation is made against an employee. The Act treats contractors such as itinerant teachers, technicians and volunteers engaged to work with students the same as paid employees. The procedures to be followed by an Independent school such as ours are different from those to be followed in a Government or Catholic systemic school. For the purposes of the Ombudsman Amendment (Child Protection and Community Services) Act, 1998, the Principal of an independent school is regarded (in law) as the Head of Agency.

Procedures

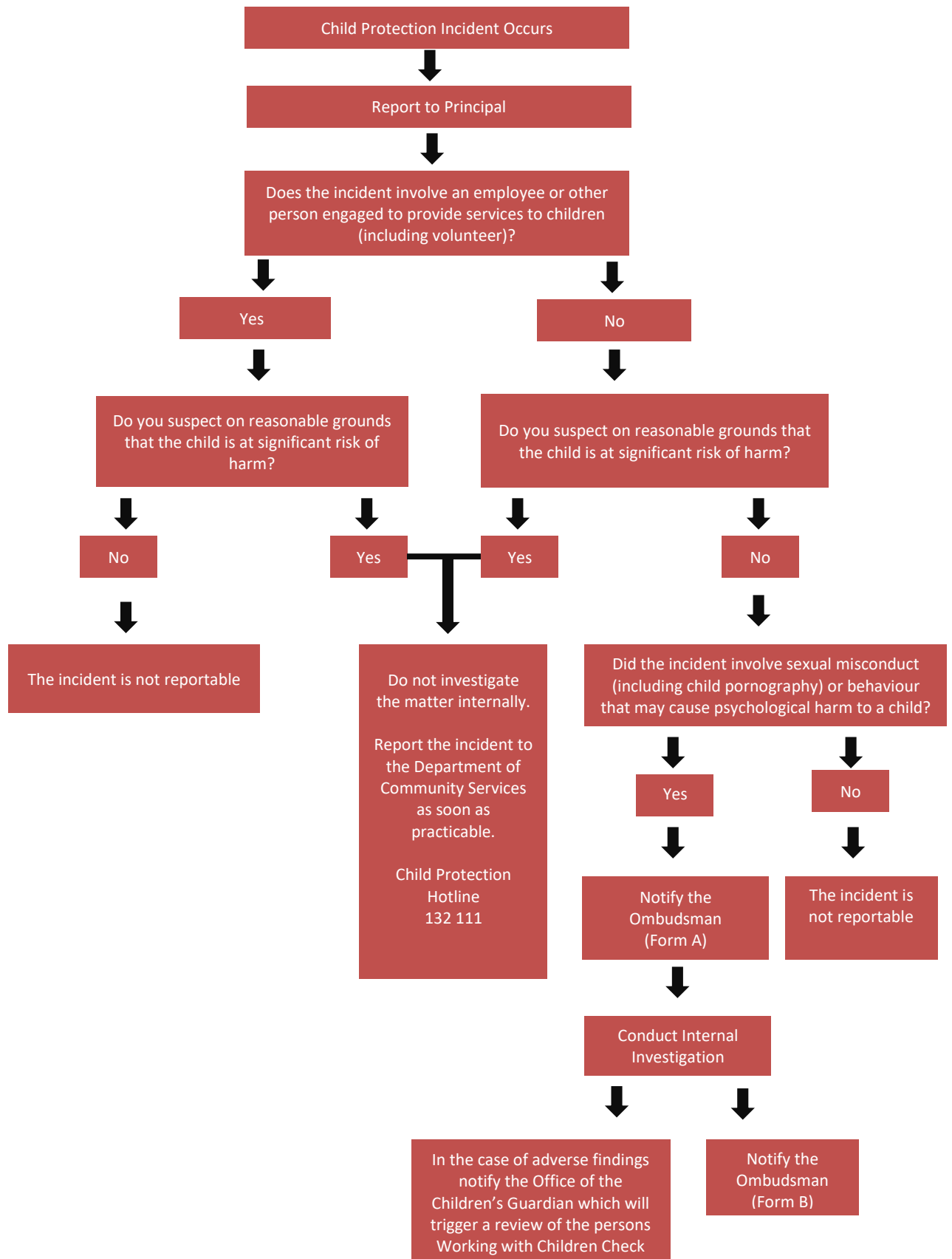
- 9.1 An allegation may be made orally or in writing to the Principal by the child affected, another child, staff member, a member of the School community or a member of the general public.
- 9.2 The Head of Agency must notify the Office of the Ombudsman of any allegation of reportable conduct or conviction against an employee (or former employee if the reportable conduct or conviction occurred when they were an employee) regardless of where the alleged conduct occurred (whether or not it was in the course of their employment or not, whether it occurred in the workplace or not).
- 9.3 It is important that the words used by a child or other person making the allegation are recorded verbatim. It should be pointed out by whoever first hears the allegation, that whilst the allegation may be made anonymously, if it involves reportable conduct, the person hearing it is bound by law to refer it to the Principal who must then notify Community Services, perhaps the police and definitely the Ombudsman. It should be pointed out that anonymous allegations are much harder to investigate. When the School Counsellor first engages in a counseling relationship with a client, the client should be advised about exceptions to confidentiality in matters relating to reportable conduct or any criminal matter.
- 9.4 The Principal must make an initial "on its face" risk assessment. [This is to establish, prior to a fuller investigation, whether it is an allegation that needs to be notified immediately to the Ombudsman.] Such an assessment should identify and seek to minimize the risks to:

- the child (or children) alleged to have been the victim of the reportable conduct by the employee
 - the other children with whom the employee may have had contact
 - the employee against whom the allegation of reportable conduct has been made
 - the School as the employing agency
 - the proper investigation of the allegation
- 9.5 Sometimes a complaint may be made about an employee that contains insufficient information to assess whether the behaviour constitutes reportable conduct. Whilst the behaviour may have been inappropriate, it may not fall under the definition of reportable conduct and not warrant or require notification to any external agency. An internal investigation must still be conducted. The allegation may be sustained but the disciplinary action may be professional rather than in relation to child protection.
- 9.6 If the Principal believes on reasonable grounds that the child or young person is 'at risk of harm' he must report this immediately to the Child Protection Helpline and request advice on what action (if any) they intend to take and when, regarding the child and the employee.
- 9.7 If he believes that a criminal act may have occurred, he must also notify the Police. If Community Services or the Police decide to carry out an investigation, the Principal should seek their advice before taking any further action so as not to jeopardize the investigation or the safety of any witnesses.
- 9.8 Steps need to be taken in the School to prevent the employee from engaging in further reportable conduct. Appropriate support should be provided to the alleged victim as well as to the person who made the allegation.
- 9.9 The Principal must plan the details of the investigatory process to be used to gather all the relevant facts, in order to make a decision as to whether the balance of probabilities, the allegation can be sustained and to provide information to assist any disciplinary proceedings. He will be guided by the guidelines issued by the Ombudsman enclosed as an attachment.
- 9.10 The Principal must contact the employee against whom the allegation has been made, and subject to advice from Community Services, indicate that a witness may be brought to the meeting. At the meeting which the Principal, or in his absence, a senior member of staff, will outline the nature of the allegation, the investigatory processes that will be followed, the extent of contact which the employee may have with students at the School and whether the staff member is required to continue duties or be placed on leave with pay for a period to be specified. The determination of this latter point will be at the discretion of the Principal.
- 9.11 Following consultation with Community Services, the parents or guardians of the child are to be made aware by the Principal or their delegate of the allegation and the action taken by the School.
- 9.12 Confidentiality must be maintained to the maximum extent possible.
- 9.13 Notification of the allegation must be made (under Section 25C) by the Principal (as Head of Agency) to the Ombudsman regardless of how, when or where the alleged reportable conduct is said to have taken place. This must be done within 30 days of the allegation having been made. The outcomes of the investigation, including details of any disciplinary action taken, yet to be taken, (or for some reasons not taken) and any criminal conviction must be notified to the CCYP and the Ombudsman.
- 9.14 Should the allegation be made against the Head of Agency, the person making the allegation must be referred to the Chairman of the School Council, who must discharge each of the responsibilities hitherto ascribed to the Principal.
- 9.15 In conducting the investigation into the allegation made against the employee, the Principal should follow the guidelines issued by the Ombudsman and the protocols jointly established by the Association of Independent Schools and the Independent Education Union, a copy of which is included within this Manual.

- 9.16 At the conclusion of an investigation, a finding needs to be made on the balance of probabilities that the allegation has been sustained or not sustained and the employee as well as the Ombudsman must be advised.
- 9.17 If the allegation is sustained, the Principal will determine whether to refer the matter to an external agency for further investigation, prosecution or other appropriate action. He may institute disciplinary action, with completed relevant disciplinary proceedings being reported to the Commission for Children and Young People. The Principal may institute a review of relevant policies and procedures within the School.
- 9.18 The Ombudsman may, at any time, conduct an audit of the policies, procedures and child care and protection systems of the School including those related to reporting and responding to reportable allegations, strategies for preventing abuse of students, critical incident reporting, behaviour and discipline practices in relation to students, and procedures for dealing with complaints and grievances from staff and others.
- 9.19 The Ombudsman may also become involved in the investigation process, either through monitoring progress or by direct involvement. The Ombudsman may become involved in response to the receipt of a complaint from either the alleged victim or their representative or the person the subject of the allegation/investigation.

In summary, at the completion of an investigation of an allegation of reportable conduct against an employee, a report must be forwarded by the Principal to the Ombudsman. The matter must also be reported to the Commission for Children and Young People except where the investigation finds that the allegation was false, vexatious, misconceived (that is, not one of reportable conduct), the conduct was reasonable for discipline, management or care of students, or the conduct involved trivial or negligible force. Reports to the Commission must differentiate between Category One (in which the investigation found evidence that reportable conduct occurred and should be considered when the employee is screened for suitability for future child-related employment) and Category Two (in which the investigation found evidence that reportable conduct occurred but by itself may not be of concern but if it were repeated should trigger a risk assessment).

Child Protection Incident Management Overview Flow Chart (NSW)



DOCUMENTATION

- 10.1 A copy of the *Child Care and Protection Policy* and this Manual will be accessible to every employee and will be reviewed and updated bi-annually by the Executive Team.
- 10.2 A summary of the procedures outlined in this Manual will be made available to all voluntary helpers and to other parents on request.
- 10.3 Appropriate extracts that relate to students will be displayed in classrooms and included in the Student Diary.
- 10.4 Copies of the Manual and Relevant Documentation regarding process will be maintained in the Administration Block.
- 10.5 The details of all allegations, notifications, reports of investigations, and details of disciplinary proceedings will be filed securely with the Principal.
- 10.6 The Administrator will maintain an up to date, accurate set of contact names and phone numbers for Community Services, Police, JIT, CCYP and the office of the Ombudsman.

PROCEDURES FOR REVIEW OF POLICIES AND PRACTICES

At regular intervals School Executive will conduct a review of the relevant policies and procedures referred to in this Manual and the Principal will provide a written report to the School Council its consideration.

Modifications may of course be instituted whenever circumstances warrant.

REFERENCE DOCUMENTS

- 12.1 Ombudsman Act 1974 (as amended by Child Protection Legislation Amendment Act 2003)
- 12.2 Commission for Children and Young People Act 1998 (as amended by Child Protection Legislation Act 2003)
- 12.3 Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009
- 12.4 Child and Young Persons (Care and Protection) Act 1998
- 12.5 Child Protection Legislation Amendment Act 2003
- 12.6 Child Protection (prohibited Employment) Act 1998
- 12.7 Child Protection (Offenders Registration) Act 2000
- 12.8 Child Protection (Working with Children) Act 2012
- 12.9 NSW Commission for Children and Young People – Website: www.kids.nsw.gov.au
- 12.10 WHS Act 2011
- 12.11 Civil Liabilities Act 2002
- 12.12 Employee Liability Act 1991
- 12.13 Working with Children Check Policy – Dept of Education and Training - Website: www.det.nsw.edu.au
- 12.14 Child Protection in the Workplace – Responding to Allegations Against Employees – 3rd Edition June 2004 – Website: www.ombo.nsw.gov.au
- 12.15 Anglican Schools Corporation – Volunteer Undertaking
- 12.16 Anglican Schools Corporation – General Terms of Employment
- 12.17 Anglican Schools Corporation – Contractor Personnel Undertaking
- 12.18 NSW Government – Keep Them Safe - Mandatory Reporter Guide
<http://www.keepthemsafe.nsw.gov.au/>
<http://sdm.community.nsw.gov.au/mrg/app/summary.page>
<https://www.hsnet.nsw.gov.au>