



## Northholm Grammar

# Child Protection Policy

## INTRODUCTION

### 1.1 General

The safety, protection and wellbeing of all students is of fundamental importance to the School.

Both you and the School have a range of different obligations relating to the safety, protection and welfare of students including:

- a) a duty of care to ensure that reasonable steps are taken to prevent harm to students;
- b) obligations under child protection legislation; and
- c) obligations under work health and safety legislation.

The purpose of this Policy is to summarise the obligations enforced by child protection legislation on the School together with its staff members, contractors, external providers and volunteers and to provide guidelines as to how the School will deal with certain matters.

Child protection is a community responsibility.

### 1.2 Key Legislation

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

- a) the *Children and Young Persons (Care and Protection) Act 1998* (NSW) (the **Care and Protection Act**), covered in Part A;
- b) the *Children's Guardian Act 2019* (NSW) (the **Children's Guardian Act**) covered in Part B;
- c) the *Crimes Act 1900* (NSW) (the **Crimes Act**) covered in Part C; and
- d) the *Child Protection (Working With Children) Act 2012* (NSW) (the **WWC Act**) and the *Child Protection (Working with Children) Regulation 2013* covered in Part D.

### 1.3 Your WWCC Requirements

In accordance with the *Child Protection (Working with Children) Act 2012*, as a person eligible for child-related employment in New South Wales, you are responsible for applying for your own Working with Children Check (WWCC) clearance and Northholm Grammar is responsible for verifying the status of the clearance before engaging you for child-related work or allowing you to work in a child-related voluntary capacity.

### 1.4 Your Obligations to Report

While we set out below circumstances in which the legislation requires reporting of particular child protection issues, the School requires you to report **any concern** you may have about the safety, welfare or wellbeing of a child or young person to the Principal of Northholm Grammar.

If the allegation involves the Principal of Northholm Grammar, you are required to report your concern to the Chair of the Council of Northholm Grammar.

These obligations form part of the School's overall commitment to the safety, welfare and wellbeing of all children.

### **1.5 Other Policies**

Please note that there are a number of other School Policies that relate to child protection which you need to be aware of and understand, including (but not limited to):

- a) the Child Safe Organisation Policy;
- b) the **Code of Conduct** which sets out information about the standards of behaviour expected of all staff members, contractors, external providers, volunteers and work experience participants (practicum teachers);
- c) the **Work Health and Safety Policy** which summarises the obligations imposed by work health and safety legislation on the School, staff members, contractors, students on placement and volunteers;
- d) **A Guide to Bullying and Harassment Protection** brochure which summarises your obligations in relation to unlawful discrimination, harassment, victimisation or bullying;
- e) the **Social Media Policy**;
- f) the **Complaints Procedure**; and
- g) the **Bullying and Harassment** pamphlet for students.

### **1.6 Review**

This Policy will be reviewed by the School on a regular basis and as required by changes to legislative and other child safety requirements.

## **PROCEDURES FOR INFORMING STAFF OF THEIR RESPONSIBILITIES AND OBLIGATIONS**

All Staff are expected to read the Northholm Grammar Child Protection Policy and sign to acknowledge that they have read, understood and agree to comply with the terms of the Child Protection Policy. New Staff members and casual Staff are issued with the policy and are expected to read and sign to acknowledge their understanding of the contents and the School's expectations.

Staff contracts detail Northholm Grammar's expectations in regard to Child Protection and inform Staff of their responsibilities and obligations. Each member of Staff must sign this contract prior to commencing employment. These contracts are stored in the Principal's office.

All Staff commencing employment at Northholm Grammar are required to attend annual mandatory child protection training that includes informing Staff of their legal responsibilities in relation to the protection of children and young people.

Annual Mandatory Child Protection training at Northholm includes:

- a) An orientation program at the start of the school year for all Staff
- b) Annual AIS Child Protection Presentation of online Child Protection Training for all Staff.

Evidence of this compliance will be:

- a) Staff sign on sheet for Child Protection Training.
- b) Log of Staff acknowledgment of receipt and understanding of the Child Protection Policy. Signed acknowledgement page stored in Staff files in Principal's office.
- c) Staff employment contracts.
- d) Log of staff working with children check (WWCC) numbers.
- e) Code of conduct given to all Staff at the commencement of employment.

## **PART A: THE CARE AND PROTECTION ACT**

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm.

**NOTE: Any concern regarding the safety, welfare or wellbeing of a student must be reported to the Principal of Northholm Grammar.**

'Young person' means a person who is aged 16 years or above but who is under the age of 18 years for the purposes of the Care and Protection Act.

### **1. WHO IS A MANDATORY REPORTER?**

Under Section 27 of the Care and Protection Act:

- a) a person who, in the course of their professional work or other paid employment, delivers health care, welfare, education, children's services and residential services or law enforcement, wholly or partly, to children; and
- b) a person who holds a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, or law enforcement, wholly or partly, residential services to children are mandatory reporters.

All teachers are mandatory reporters as may be other School staff members. Any staff member who is unsure of whether they are a mandatory reporter should speak to the School's Counsellor or the Principal of Northholm Grammar.

Throughout the investigative process, the School will ensure that the safety and welfare of all parties involved is preserved by:

- a) maintaining strict confidentiality;
- b) ensuring that due process and procedural fairness are followed;
- c) acknowledging and resolving conflicts of interest; and
- d) supporting and advising those staff members, students and any other individual who make a report under the Care and Protection Act.

### **2. WHEN MUST A REPORT BE MADE TO THE DEPARTMENT OF COMMUNITIES AND JUSTICE?**

#### **2.1 What is the Threshold?**

A mandatory reporter must ensure, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, that the Principal of Northholm Grammar or Counsellor reports to the Department of Communities and Justice as soon as practicable, the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

In addition, while not mandatory, the School may consider that a report should also be made to the Department of Communities and Justice where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and wellbeing of the young person.

#### **2.2 Reasonable grounds**

'Reasonable grounds' 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:

- a) first hand observations of the child, young person or family;
- b) what the child, young person, parent/guardian or another person has disclosed; and
- c) what can reasonably be inferred based on professional training and/or experience.

'Reasonable grounds' does not mean that you are required to confirm your suspicions or have clear proof before making a report. If you have any doubt about whether you have 'reasonable grounds' you should immediately speak with the Principal of Northholm Grammar.

### **2.3 Significant Harm**

A child or young person is 'at risk of significant harm' if current concerns exist for the safety, welfare or wellbeing of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

- a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met;
- b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care;
- c) in the case of a child or young person who is required to attend School in accordance with the Education Act 1990, the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act;
- d) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;
- e) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm;
- f) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm; or
- g) the child was the subject of a pre-natal report under Section 25 of the Care and Protection Act and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

What is meant by 'significant' in the phrase 'to a significant extent' is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing.

In the case of an unborn child, what is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child's birth.

The significance can result from a single act or omission or an accumulation of these. 'Child' is a person under the age of 16 years for the purposes of the Care and Protection Act.

### **2.4 Other Relevant Explanations**

#### **Child Abuse**

There are different forms of child abuse. These include neglect, sexual, physical abuse, emotional abuse or psychological harm.

**Neglect** is the continued failure by a parent or caregiver to provide a child with the basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

**Sexual abuse** is when someone involves a child or young person in a sexual activity by using their power over them or taking advantage of their trust. Often children or young people are bribed or threatened physically and psychologically to make them participate in the activity. **Sexual abuse is a crime.**

**Physical abuse** is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person.

It includes but is not limited to injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation.

Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints. Hitting a child or young person around the head or neck and/or using a stick, belt or other object to discipline or punish a child or young person (in a non-trivial way) is a crime.

**Serious psychological harm** can occur where the behaviour of their parent or caregiver damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma.

Although it is possible for 'one-off' incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child or young person.

This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.

Child wellbeing concerns are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold, risk of significant harm.

### **3. WHAT SHOULD YOU DO IF YOU CONSIDER THAT A MANDATORY REPORT IS REQUIRED?**

Reporting by the School about these matters to the Department of Communities and Justice and, where necessary, the NSW Police, is undertaken by the Principal of Northholm Grammar or Counsellor. This is in accordance with best practice principles and is the expectation of the School.

If you have a concern that a child or young person is at risk of significant harm, you should contact the Principal of Northholm Grammar as soon as possible to discuss whether the case reaches the threshold of 'risk of significant harm' and the steps required to report the matter.

However, if there is an immediate danger to the child or young person and the Principal of Northholm Grammar or Counsellor is not contactable, you should speak to the NSW Police and/or the Child Protection Helpline directly and then advise the Principal of Northholm Grammar, Counsellor or the Deputy Principal as soon as possible.

**You are not required to, and must not, undertake any investigation of the matter yourself.**

**You are not to inform the parents or caregivers that a report to the Department of Communities and Justice has been made.**

You are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with your mandatory reporting obligations.

**Failure to maintain confidentiality** will not only be a breach of this Policy but **could expose you to potential civil proceedings for defamation.**

#### **4. WHAT SHOULD YOU DO IF YOU HAVE A CONCERN THAT IS BELOW THE MANDATORY REPORTING THRESHOLD?**

While the Care and Protection Act outlines a mandatory reporter's obligation to report to the Department of Communities and Justice, as a staff member of this School, **any concern** regarding the safety, welfare and wellbeing of a student must be reported to the Principal of Northholm Grammar or Counsellor.

You are required to deal with all reports regarding the safety, welfare or wellbeing of a student with confidentiality and only disclose it to the Principal of Northholm Grammar School or Senior Counsellor. Failure to do so will be regarded as a breach of this Policy.

## **PART B: THE CHILDREN'S GUARDIAN ACT 2019**

### **1. RESPONSIBILITIES**

#### **1.1 General**

From 1 March 2020, the Reportable Conduct Scheme is operated by the Office of the Children's Guardian under the Children's Guardian Act 2019.

The scheme monitors how certain organisations ('relevant entities') investigate and report on types of conduct ('reportable allegations' or reportable convictions') made against their staff members, volunteers or contractors who provide services to children.

Staff members are defined broadly within the Act to include any staff member of Northholm Grammar or any individual engaged by Northholm Grammar to provide services to children – such as contractors, external providers, work experience participants (practicum teachers on placement), clergy, ministers of religion and instructors of religion who provide pastoral or liturgical services and volunteers.

**Where there is a reference to staff member within Part B, it includes all of these individuals.**

#### **1.2 The Office of the Children's Guardian**

The Office of the Children's Guardian:

- a) must keep under scrutiny the systems for preventing reportable conduct by staff members of non-government Schools and the handling of, or response to, reportable allegations (including allegations which are exempt from written notice) or convictions;
- b) must receive and assess written notice from non-government Schools concerning reportable conduct or reportable convictions;
- c) is required to oversee or monitor the conduct of investigations by non-government Schools into allegations of reportable or reportable convictions;
- d) must determine whether an investigation that has been monitored has been conducted properly, and whether appropriate action has been taken as a result of the investigation;
- e) may directly investigate an allegation of reportable conduct or reportable conviction against a staff member of a non-government School, or the handling of or response to such a matter (eg arising out of complaints by the person who is the subject of an allegation); and
- f) may undertake 'own motion' investigations of non-government Schools where the Office of the Children's Guardian considers it appropriate to do so, including where there is evidence of systemic failure or serious conflict of interests.

#### **1.3 Head of the Relevant Entity**

The Head of the Relevant Entity is the Principal of Northholm Grammar.

Under the Children's Guardian Act, the Head of the Relevant Entity is expected to:

- a) ensure systems are in place for recording and responding to allegations or convictions of a child protection nature against staff members. This includes reportable allegations and convictions and allegations that are exempt from written notice to the Office of the Children's Guardian;
- b) provide information, as required, about the type and operation of systems for providing a safe environment for children in the entities' care, and systems for handling and responding to reportable allegations and convictions made against staff members;
- c) make arrangements with the School to require all staff members to inform the Head of the Relevant Entity of any allegation or conviction of a child protection nature against a staff member of which they become aware as soon as practicable;
- d) notify the Office of the Children's Guardian within 7 business days of reportable allegations or convictions made against a staff member of the School what action it intends to take and for what reason;

- e) provide the Office of the Children's Guardian on request, documentary and other information with respect to an investigation being undertaken; and
- f) forward to the Office of the Children's Guardian the final entity report within 30 calendar days or provide of an interim report with information about the progress of the investigation and an expected time frame for completion.

#### **1.4 Obligations to Report**

It is a condition of employment at Northholm Grammar School that all staff members, must report **any concerns** they may have about any other staff member, engaging in reportable conduct or any allegation of 'reportable conduct' that has been made to them, to the Principal of Northholm Grammar, **including information about themselves**.

If they are not sure whether the conduct is reportable conduct, but consider that it is inappropriate behaviour, it **MUST** still be reported.

All staff members must also report to the Principal of Northholm Grammar if they become aware that a staff member has been charged with or convicted of an offence (including a finding of guilt without the court proceeding to a conviction) involving reportable conduct. This includes information relating to the staff member themselves. If the allegation involves the Principal of Northholm Grammar, a staff member is required to report to the Chair of the Council of Northholm Grammar.

#### **1.5 Contact for Parents/Guardians**

The Principal of Northholm Grammar is the contact point for parents/guardians if they wish to report an allegation of reportable conduct against a staff member.

## **2. REPORTABLE CONDUCT**

### **2.1 Definition of Reportable Conduct**

The Children's Guardian Act 2019 defines reportable conduct as being:

- a) a sexual offence committed against, with or in the presence of a child;
- b) sexual misconduct with, towards or in the presence of a child;
- c) ill-treatment of a child;
- d) neglect of a child;
- e) an assault against a child;
- f) behaviour that causes significant emotional or psychological harm to a child; and
- g) any offence under section 43B or 316A of the Crimes Act 1900, whether or not, with the consent of the child.

Reportable conduct does not extend to:

- a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or
- b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures; or
- c) conduct of a class or kind exempted from being reportable conduct by the Office of the Children's Guardian under section 25CA.

(Agreements entered into by the Office of the Children's Guardian with certain agencies when it is satisfied that their investigative practices have reached an acceptable standard and are confident that this standard will be maintained).

Examples of conduct that would not constitute reportable conduct include (without limitation) touching a child in order to attract a child's attention, to guide a child or to comfort a distressed child; a school teacher raising his or her voice in order to attract



attention or to restore order in the classroom; and conduct that is established to be accidental.

**Sometimes an allegation may fall within more than one category.**

## **2.2 Other Relevant Explanations**

Set out below **are explanations** of the various terms which may be referred to in relation to **reportable conduct**.

**For the purposes of the Children’s Guardian Act, “child” is a person under the age of 18 years.**

### **Sexual offence**

The term ‘sexual offence’ encompasses 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; or
- deemed non-consensual sexual activity on the basis of special care relationships.

### **Sexual misconduct**

For sexual misconduct to constitute reportable conduct, the alleged conduct must have been committed against, with or in the presence of a child.

There are various types of sexual misconduct including (but not limited to):

- sexually explicit comments and other overtly sexual behaviour; and
- grooming behaviour.

### ***Sexually explicit comments and other overtly sexual behaviour***

Sexual misconduct includes a broad range of sexualised behaviour with or towards children. While it is not possible to provide a complete and definitive list of unacceptable sexual conduct involving children, the following types of behaviour give strong guidance:

- sexualised behaviour with or towards a child (including sexual exhibitionism);
- inappropriate conversations of a sexual nature;
- comments that express a desire to act in a sexual manner;
- unwarranted and inappropriate touching involving a child;
- personal correspondence and communications (including emails, social media and web forums) with a child or young person in relation to the adult’s romantic, intimate or sexual feelings for a child or young person;
- exposure of children and young people to sexual behaviour of others including display of pornography; or
- watching children undress in circumstances where supervision is not required and it is clearly inappropriate.

### ***Grooming Behaviour***

Grooming or procuring a child under the age of 16 years for unlawful sexual activity is a sexual offence. However, Schedule 1(2) of the Child Protection (Working With Children) Act also recognised grooming as a form of sexual misconduct.

Furthermore, behaviour should only be seen as 'grooming' where there is evidence of a pattern of conduct that is consistent with grooming the alleged victim for sexual activity, and that there is no other reasonable explanation for it. The types of behaviours that may lead to such a conclusions includes (but are not limited to) the following:

- Persuading a child or group of children that they have a 'special' relationship, for example by:
  - spending inappropriate special time with a child;
  - inappropriately giving gifts;
  - inappropriately showing special favours to them but not other children;
  - inappropriately allowing the child to overstep rules; or
  - asking the child to keep this relationship to themselves.
- Testing boundaries, for example by:
  - undressing in front of a child;
  - encouraging inappropriate physical contact (even where it is not overtly sexual);
  - talking about sex; or
  - 'accidental' intimate touching.
- Inappropriately 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).
- Inappropriate personal communication (including emails, telephone calls, text messaging, social media and web forums) that explores sexual feelings or intimate personal feelings with a child.

An adult requesting that a child keep any aspect of their relationship secret or using tactics to keep any aspect of the relationship secret, would generally increase the likelihood that grooming is occurring.

### **Assault**

An assault can occur when a person intentionally or recklessly applies physical form against a child without their consent (**actual physical force**), or intentionally or recklessly causes a child to apprehend the imminent use of physical form against them without their consent (**apprehension of physical force**).

Actual physical force can comprise conduct such as hitting, pushing, shoving or throwing objects. Apprehended physical force can comprise words and/or gestures that lead the child to apprehend the imminent application of physical force, regardless of whether the person actually intends to apply any force.

The element of intention or recklessness relates only to the application of physical force or the creation of the apprehension. The person must either intend to apply physical force or to create the apprehension, or know that it is possible this will happen but ignore the risk. It is not necessary that the person intends to harm or injure the child.

For an assault to occur, it is not necessary that the person act with hostility or that the child sustain an injury. However, the presence or absence of any hostility or injury may be significant when deciding whether the physical force used, or the apprehension created, constituted an assault.

In addition, the Children's Guardian Act specifically outlines certain conduct which does **not** need to be reported:

- a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards; or

b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures.

### **Serious physical assault**

A physical assault **is not serious** where:

- it only involves minor force; and
- it did not and was not ever likely to result in serious injury.

A physical assault is serious where:

- it results in the child being injured, beyond a type of injury like a minor scratch, bruise or graze; or
- it had the potential to result in a serious injury; or
- the injury suffered may be minor, but the assault is associated with aggravating circumstances (in this regard, aggravating circumstances might include associated inhumane or demeaning behaviour by the staff member, for example kicking a child, pulling a child by grabbing the child around the neck).

### **Ill-treatment**

Ill-treatment captures those circumstances where a person treats a child or young person 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 or young person.

Ill-treatment can include disciplining or correcting a child in an unreasonable and seriously inappropriate or improper manner; making excessive and/or degrading demands of a child; hostile use of force towards a child; and/or a pattern of hostile or unreasonable and seriously inappropriate, degrading comments or behaviour towards a child.

### **Neglect**

Neglect includes either an action or inaction by a person who has care responsibilities towards a child. The nature of the staff member's responsibilities provides the context against which the conduct needs to be assessed.

#### ***Supervisory neglect:***

- An intentional or reckless failure to adequately supervise a child that results in the death of, or significant harm to, a child, or
- An intentional or reckless failure to adequately supervise a child, or a significantly careless act or failure to act, that:
- involves a gross breach of professional standards, and
- has the potential to result in the death of, or significant harm to, a child.

#### ***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.

#### ***Failure to protect from abuse:***

- An obviously or very clearly unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child.

#### ***Reckless acts (or failure to act):***

- A reckless act, or failure to act, that:
- involves a gross breach of professional standards, and
- has the potential to result in the death of, or significant harm to, a child.

An incident can constitute neglect if it contains any element within this definition.

**NOTE:** Neglect can be an ongoing situation of repeated failure by a caregiver to meet a child's physical or psychological needs, or a single significant incident where a caregiver fails to fulfil a duty or obligation, resulting in actual harm to a child or where there is the potential for significant harm to a child.

### **Behaviour that causes psychological harm to a child**

Behaviour that causes psychological harm is conduct that is obviously or very clearly unreasonable and results in significant emotional 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.

For reportable conduct involving psychological harm, the following elements must be present:

- an obviously or very clearly unreasonable or serious act or series of acts that the staff member knew or ought to have known was unacceptable, **and**
- evidence of psychological harm to the child that is more than transient, including displaying patterns of 'out of character behaviour', regression in behaviour, distress, anxiety, physical symptoms or self harm, **and**
- an alleged causal link between the staff member's conduct and the psychological harm to the child.

Psychological harm can include the exacerbation or aggravation of an existing psychological condition, such as anxiety or depression.

When it is **alleged** that an adult's behaviour has caused psychological harm to a child, it will often be necessary to obtain a psychological or medical assessment of the child to determine whether psychological harm can be established.

However, a clinical diagnosis will not be required in every circumstance – particularly if the assessment itself may cause harm. In addition, in certain serious and/or ongoing domestic violence cases, it may be open to infer that a child has been psychologically harmed, in the absence of a clinical diagnosis of such harm.

Finally, it is important to stress that, when a report has established a child has a psychological condition, it is still necessary to show the condition was caused by the staff member's conduct.

### **Misconduct that may involve Reportable Conduct**

The Children's Guardian Act provides that a reportable allegation may include 'an allegation of misconduct that may involve reportable conduct.'

Some of the behaviours that could be misconduct that may involve reportable conduct include:

- a) socialising with a child outside of the workplace in breach of the School's *Code of Professional Practice*;
- b) purchasing gifts or paying special attention to the child (the gifts do not necessarily have to be expensive; they may include simple things such as lollies and ice creams);
- c) attempts to isolate the child from a group;
- d) attempts to befriend the child's family and offers to take the child to various places, assist the child with their schooling outside the workplace and in breach of the School's *Code of Professional Practice*;
- e) touching that may not be sexual in nature, but may elicit a level of discomfort from the victim or from others who observe the behaviour;
- f) inappropriate or suggestive comments or jokes directed toward the child;

- g) providing alcohol or drugs to children; or
- h) a staff member taking a child to their own home, or transporting a child to and from School or any other place in breach of the School's *Code of Professional Practice*.

### **3. WHAT HAPPENS WHEN AN ALLEGATION OF REPORTABLE CONDUCT IS MADE?**

#### **3.1 Initial Steps**

Once an allegation of reportable conduct against a staff member is received, the Head of the Relevant Entity is required to:

- a) determine on face value whether it is an allegation of reportable conduct;
- b) assess whether the Department of Communities and Justice or the NSW Police need to be notified (i.e. if there are reasonable grounds to suspect that a child is at risk of significant harm or a criminal offence has occurred);
- c) notify the child's parents/guardians (unless to do so would be likely to compromise the investigation or any investigation by the Department of Communities and Justice or the NSW Police);
- d) notify the Office of the Children's Guardian within 7 days of receiving the allegation;
- e) carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
- f) investigate the allegation or appoint someone to investigate the allegation.

#### **3.2 Investigation Principles**

The School will:

- a) be mindful of the principles of procedural fairness;
- b) inform the person subject of the allegation (PSOA) of the substance of any allegations made against them and provide them with a reasonable opportunity to respond to the allegations;
- c) make reasonable enquiries and conduct an investigation (if relevant) before making a decision;
- d) conduct the investigation without unjustifiable delay;
- e) avoid conflicts of interest;
- f) handle the matter as confidentially as possible;
- g) provide appropriate support for all parties including child/children, parents/guardians, witnesses and the PSOA; and
- h) be aware of, and sensitive to, children with culturally and linguistically diverse or indigenous backgrounds and cultural practices.

#### **3.3 Investigation Steps**

In an investigation, the Head of the Relevant Entity or appointed investigator will generally:

- a) Interview the person who is the subject of the allegation;
- b) interview relevant witnesses and gather relevant documentation;
- c) provide a letter of allegation to the PSOA;
- d) interview the PSOA;
- e) consider relevant evidence and make a preliminary finding in accordance with the Office of the Children's Guardian guidelines;
- f) inform the PSOA of the preliminary finding and provide them with an opportunity to respond;
- g) consider any response provided by the PSOA;
- h) make a final finding in accordance with the Office of the Children's Guardian Guidelines;
- i) advise the PSOA of the final findings and their right of reply to the final finding (if relevant);
- j) decide on the disciplinary action, if any, to be taken against the PSOA; and
- k) apply the Office of the Children's Guardian (OCG) Guidelines and decide if the matter is reportable to the OCG, or
- l) Decide on the disciplinary action to be taken if, at the end of the investigation, the allegation is found to be false and vexatious.

The steps outlined above may need to be varied on occasion to meet particular circumstances. For example, it may be necessary to take different steps where the matter is also being investigated by the Department of Communities and Justice or the NSW Police.

The PSOA may have an appropriate support person with them during the interview process. Such a person is there for support only and as a witness to the proceedings and not as an advocate or to take an active role.

#### **4. RISK MANAGEMENT**

Risk management means identifying the potential for an incident or accident to occur and taking steps to reduce the likelihood or severity of its occurrence.

The Head of the Relevant Entity is responsible for risk management throughout the investigation and will assess risk at the beginning of the investigation, during and at the end of the investigation.

##### **4.1 Initial Risk Assessment**

One of the first steps following an allegation of reportable conduct against a staff member is for the Head of the Relevant Entity to conduct a risk assessment.

The purpose of this initial risk assessment is to identify and minimise the risks to:

- a) the child(ren) who are the subject of the allegation;
- b) other children with whom the PSOA may have contact;
- c) the PSOA;
- d) the School, and
- e) the proper investigation of the allegation.

The factors which will be considered during the risk assessment include:

- a) the nature and seriousness of the allegation;
- b) the vulnerability of the child(ren) the PSOA has contact with at work;
- c) the nature of the position occupied by the PSOA;
- d) the level of supervision of the PSOA; and
- e) the disciplinary history or safety of the PSOA and possible risks to the investigation.

The Head of the Relevant Entity will take appropriate action to minimise risks. This may include the PSOA being temporarily relieved of some duties, being required not to have contact with certain students, or being suspended from duty until an investigation is complete and final findings are made. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the PSOA.

**Please Note:** A decision to take action on the basis of a risk assessment is not indicative of the findings of the matter. Until the investigation is completed and a finding is made, any action, such as a staff member being suspended, is not to be considered as an indication that the alleged conduct by the staff member did occur.

##### **4.2 Ongoing Risk Management**

The Head of the Relevant Entity will continually monitor risk during the investigation including in the light of any new relevant information that emerges.

### **4.3 Risk Management at the Conclusion of the Investigation**

At the completion of the investigation, a finding will be made in relation to the allegation and a decision made by the Head of the Relevant Entity regarding what action, if any, is required in relation to the PSOA, the child(ren) involved and any other parties.

### **5. WHAT INFORMATION WILL BE PROVIDED TO THE PSOA?**

The PSOA will be advised:

- a) that an allegation has been made against them (at the appropriate time in the investigation); and
- b) of the substance of the allegation of any preliminary finding and the final finding.

The PSOA **does not** automatically have the right to:

- a) know or have confirmed the identity of the person who made the allegation; or
- b) be shown the content of the Office of the Children's Guardian written notice or other investigation material that reveals all information provided by other staff members or witnesses.

### **6. DISCIPLINARY ACTION**

As a result of the allegation, investigation and final finding, the School may take disciplinary action against the PSOA (including termination of employment).

In relation to any disciplinary action the School will:

- a) give the PSOA details of the proposed disciplinary action; and
- b) give the PSOA a reasonable opportunity to respond before a final decision is made.

### **7. CONFIDENTIALITY**

It is important when dealing with allegations of reportable conduct that the matter be dealt with as confidentially as possible.

The School requires that all parties maintain confidentiality during the investigation including in relation to the handling and storing of documents and records.

Records about allegations of reportable conduct against staff members will be kept in a secure area and will be accessible by the Principal of Northholm Grammar or with the Principal of Northholm Grammar's express authority.

No staff member may comment to the media about an allegation of reportable conduct unless expressly authorised by the Principal of Northholm Grammar to do so.

If you become aware of a breach of confidentiality in relation to a reportable conduct allegation you must immediately advise the Principal of Northholm Grammar.

### **8. INFORMATION EXCHANGE**

Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 provides for certain Human Services and Justice Agencies and non-government organisations to share information relating to the safety, welfare or wellbeing of children or young people.

This additional Chapter in the legislation aims to improve interagency collaboration in the provision of services to meet the needs of children and young people and their families. Chapter 16A overrides privacy legislation because the safety, welfare and wellbeing of children and young persons are paramount.

As a 'prescribed body' under this legislation, Northholm Grammar School is therefore required to share information under Chapter 16A where there is a risk to the safety and welfare of children.



## **PART C: CRIMES ACT**

### **1. CRIMINAL OFFENCES**

In 2018 the Crimes Act was amended to adopt recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. The new offences are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the Police.

#### **1.1 Failure to Protect Offence**

An adult working in a school will commit an offence if they know another adult working there poses a serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they negligently fail to do so either by acts and/or omissions. This offence is targeted at those in positions of authority and responsibility working with children who turn a blind eye to known and serious risk, rather than using their power to protect children.

#### **1.2 Failure to Report Offence**

Any adult will commit an offence if they know, believe or reasonably ought to know that a child abuse offence has been committed and fail to report that information to Police, without a reasonable excuse. A reasonable excuse would include where the adult has reported the matter to the Principal of Northholm Grammar and is aware that the matter has been reported to the Police.

## **PART D: WORKING WITH CHILDREN ACT**

### **1. GENERAL**

The Office of the Children's Guardian (OCG) is responsible for employment screening for child related employment. A Working With Children Check (Check) clearance is a prerequisite for anyone in child-related work. It involves a national criminal history check and review of misconduct involving children.

The result of a Check is either a clearance to work with children for five years, or a bar against working with children. Cleared applicants are subject to ongoing monitoring by the OCG, and any relevant new records which appear against a cleared applicant's name may lead to the clearance being revoked.

It is the responsibility of the staff member to ensure that when they are legally required to apply for a Check clearance or when their Check clearance is up for renewal that they do so.

### **2. RESPONSIBILITIES**

The object of the WWC Act is to protect children:

- a) by not permitting certain persons to engage in child-related work; and
- b) by requiring persons engaged in child-related work to have Working With Children Check clearances.

Schools are required to:

- a) verify online and record the status of each child-related worker's clearance;
- b) only employ or engage child-related workers or volunteers who have a valid clearance; and
- c) report findings of misconduct involving children made against child-related workers or volunteers.

All Northholm Grammar staff members and other individuals, including contractors, external providers and volunteers are required to:

- a) hold and maintain a valid clearance;
- b) not engage in child-related work at any time that they are subjected to an interim bar or a bar; and
- c) report to the Principal of Northholm Grammar if they are no longer eligible for a clearance, if the status of their clearance changes or if they are notified by the OCG that they are subjected to a risk assessment.

### **3. RELEVANT EXPLANATIONS**

#### **3.1 Bars**

**Interim Bar** - An interim bar is used to prevent high risk individuals from working with children while a risk assessment is conducted and until a final decision is made. A person who is subject to an interim bar must not engage in child-related employment while it is in force. An interim bar may be imposed for up to 12 months.

**Not everyone who is subject to a risk assessment will receive an interim bar.**

#### **Receiving notification of a final bar**

If the Children's Guardian has decided not to grant you a clearance to work with children (that is, to impose a bar), you will receive a letter informing you of this decision. The letter will also provide you with the reasons for the decision.

Northholm Grammar will also be notified that you have become barred and instructed to remove you from child-related work. However, no information regarding your work or criminal records will be shared with Northholm Grammar.

### **What is the difference between a bar and an interim bar?**

A bar is applied once a final decision has been made that an individual must not engage in child-related work for five years (unless circumstances have changed that permit an earlier application).

### **What is the effect of a bar?**

Once a bar is in place, it is an offence to work with children for five years and penalties apply. If you are already working with children, you must immediately remove yourself from this work. It does not matter whether the work is paid or voluntary.

### **3.2 Child-related work**

Child-related work includes, but is not limited to, work in the following sectors:

- a) early education and child care including education and care service, child care centres and other child care;
- b) Schools and other educational institutions and private coaching or tuition of children;
- c) religious services;
- d) residential services including boarding schools, homestays more than three weeks, residential services and overnight camps; or
- e) transport services for children including school bus services, taxi services for children with disability and supervision of school road crossings.

### **3.3 Child-related worker**

A person who has physical contact or face to face contact with children in work outlined above in 3.2, including schools; or the person has access to confidential records or information regarding children as part of their role. This may include volunteer work.

Any paid or volunteer work at Northholm Grammar can only commence once the clearance process has been completed and verified by Northholm Grammar.

Any staff member of Northholm Grammar or any individual engaged by Northholm Grammar to provide services to children – such as contractors, external providers, work experience participants (practicum teachers on placement), clergy, ministers of religion and instructors of religion who provide pastoral or liturgical services and volunteers is a child-related worker.

**Where there is a reference to staff member within Part C, it includes all of these individuals.**

### **3.4 Disqualified person**

A disqualified person is:

- a) a person who has been convicted of or against whom proceedings have been commenced for an offence outlined in Schedule 2 of WWC Act, which lists all disqualifying offences; and/or
- b) a person who has a bar preventing them from working with children in child-related work.

It is an offence for any employer, including Northholm Grammar, to knowingly engage a child-related worker or other individual when they do not hold a clearance or any individual who has a bar or an interim bar against them.

It is an offence for a staff member to engage in child-related work when they do not hold a clearance or have a bar or an interim bar against them.

### **3.5 Findings of Misconduct Involving Children**

The School will report to the OCG when a finding has been made that the PSOA subject to the finding engaged in:

- a) sexual misconduct committed against, with or in the presence of a child, including grooming of a child; or
- b) any serious physical assault of a child; or
- c) when directed to do so by the Office of the Children's Guardian or requested by NSW Police.

The School will advise the PSOA that the OCG has been notified of a finding of misconduct involving children.

### **3.6 Reporting body**

Northholm Grammar is defined as a reporting body by the WWC Act.

Section 35 of the WWC Act requires this School to notify the OCG of findings of misconduct involving children made against a staff member or other individual. The School may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act.

### **3.7 Risk assessment**

Risk assessment is an evaluation of an individual's suitability for child-related work.

The OCG will conduct a risk assessment on a person's suitability to work with children when a new record is received which triggers a risk assessment. This may include an offence under Schedule 1 (refer to Fact Sheet 14; *Assessment Requirement Triggers Schedule 1*), pattern of behaviour or offences involving violence or sexual misconduct representing a risk to children, findings of misconduct involving children or written notice made to OCG.

#### **When is a risk assessment applied?**

A person is subject to a risk assessment if any of the matters specified in Schedule 1 of the *Child Protection (Working with Children) Act 2012* apply to the person. These matters are referred to as "Assessment Requirement Triggers".

#### **1. Offences under Schedule 1**

Schedule 1 records may include convictions (spent or unspent), charges (heard, unheard or dismissed) and juvenile records. It also includes an intention to commit an offence of the type listed, attempting, conspiring or inciting such offences. (refer to Fact Sheet 14; *Assessment Requirement Triggers Schedule 1*).

#### **2. Findings of misconduct**

A finding by a reporting body that the following conduct occurred:

- a) Sexual misconduct committed against, with or in the presence of a child, including grooming a child
- b) Any serious physical assault of a child.

#### **3. A pattern of behaviour**

Convictions or pending charges for offences involving violence or sexual misconduct may also trigger a risk assessment if they indicate a pattern of behaviour that warrant an investigation because of child safety concerns.

Records do not need to be listed in Schedule 1 or 2 of the *Child Protection (Working with Children) Act 2012* to be considered in this type of risk assessment trigger.

# **Guidelines for Assisting a Child or Young Person who has Disclosed Abuse**

## **1. GENERAL**

When a student discloses abuse a staff member must be prepared to listen and respond appropriately. Children generally disclose with great hesitation and often with a mix of intense emotions, including fear, embarrassment and guilt. Sometimes they may only hint at or tell a small part of their experience to see how the staff member reacts, before fully disclosing. It is essential that the staff member remains calm and supportive of the student and escalates the report promptly.

## **2. HOW TO RESPOND TO A CHILD DISCLOSING ABUSE**

If a student discloses that they have been subject to abuse a staff member should:

- a) listen in a calm way;
- b) thank the student for making the disclosure to you;
- c) acknowledge that the disclosure was a difficult step for the student to take;
- d) inform the student of the next steps you will take to assist them.

This will include telling them that you have a responsibility to inform the Child Safety Team

## **3. TRAINING**

### **3.1 The School**

The Principal of Northholm Grammar will ensure all staff members are provided with a copy of this Policy and will arrange and require all staff members to participate in child protection training at least annually. That training may be face to face or via an online module at a time to be notified to staff. Satisfactory participation will be recorded online or evidenced by attendance records.

### **3.2 Staff Members**

All new staff members must read this Policy and sign the acknowledgement that they have read and understood the Policy. All staff members must participate in annual child protection training and any additional training, as directed by the Principal of Northholm Grammar or their delegate. The training complements this Policy and provides information to staff about their legal responsibilities related to child protection and School expectations, including:

- a) mandatory reporting
- b) reportable conduct
- c) working with children checks
- d) professional boundaries
- e) staff code of conduct.