



# Child Protection Policy & Staff Procedures

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# Child Protection Policy and Staff Procedures

## 1. Introduction

As a caring educational community with a Christian mission, New England Girls' School values students as individuals and believes that children have the right to develop physically, mentally, spiritually and socially in a safe and supportive environment free from any form of abuse. NEGS is committed to the prevention of child abuse and the protection of children. NEGS' Child Protection Policy is important because it makes the welfare and interests of the students our prime consideration when any decision is made about suspected cases of abuse or neglect. It also outlines definitions and responsibilities for everyone. The focus of the Policy is both prevention and response.

## 2. Definitions

### **Agency Investigation of an Allegation Against an Employee:**

Any investigation undertaken by the School to investigate reportable conduct or allegation.

### **Employee/Staff:**

Any employee of the School, whether or not employed in connection with any work or activities that relate to children, and

Any person engaged by the School to provide services to children, including volunteers, work experience students and students on placement.

### **Reportable Allegation:**

An allegation of reportable conduct against an employee or an allegation of mis-conduct that may involve reportable conduct.

### **Reportable Conviction:**

A conviction (including a finding of guilt without the court proceeding to a conviction) in NSW or elsewhere, of an offence involving reportable conduct.

### **Reportable Conduct:**

- Any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- any assault, ill-treatment or neglect of a child, or
- any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of a child, or
- any situation where the parent/carer states that he/she cannot continue to provide care for a child under the age of 16 when he/she is currently unable to make an informed decision, or
- any situation where the child/young person is significantly affected by carer concerns.

“Reportable Conduct” does not include:

- 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
- the use of physical force that, in all the circumstances, is trivial and negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
- conduct of a class or kind exempted from being reportable conduct by the Ombudsman under Section 25CA.

**Head of Agency:**

The person who has particular legal responsibilities for liaising with external agencies when dealing with allegations and reports of child abuse. In most cases at NEGS, the Head of Agency will be the Principal. If an allegation involves the Principal, the Chairman of the Board assumes this responsibility.

**Child:**

A child is a person who is under the age of 16 years. As a mandatory reporter in NSW, you are required to report concerns that you have about the safety, welfare or well-being of a child.

**Young Person:**

Age 16-17 years. As a mandatory reporter in NSW, you may also report concerns you have about the safety, welfare, or well-being of a young person, but are not required to do so.

**Risk of Significant Harm:**

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child or young person are present to a significant extent. “Significant” is defined as sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

**Mandatory Reporter:**

A mandatory reporter in NSW is an individual required by under Section 27 of the Children and Young Persons (Care and Protection) Act 1998 to report to the Child Protection Helpline when he/she has reasonable grounds to suspect that a child, or a class of children, is at risk of significant harm from abuse or neglect, and those grounds arise during the course of or from the person's work.

**Procedural Fairness:**

The obligation of the Head of Agency to ensure that an employee has been advised of the specific nature of the allegations and has been provided with the opportunity to respond.

**Community Services:**

The new agency responsible for responding to issues relating to a child or young person

who is at the risk of significant harm.

### **3. Legislative Requirements**

- *Children and Young Persons (Care and Protection) Act 1998:*

All staff working in children's services are mandatory reporters.

- *Ombudsman Act 1974:*

The Principal has the responsibility to notify the Ombudsman of reportable allegations or reportable convictions made against an employee in the School within 30 days of becoming aware of the allegation. The Principal also has the responsibility to investigate all allegations.

- *Commission for Children and Young People Act 1998:*

The employer has the responsibility to notify the Commission for Children and Young People (CCYP) of the employee's details who was the subject of the completed relevant employment proceeding as outlined in the CCYP Act and 'The Working with Children Check Guidelines', July, 2012. This includes all new Coaches and Volunteers. Please refer to the website [www.newcheck.kids.nsw.gov.au](http://www.newcheck.kids.nsw.gov.au) for more information.

- *Child Protection (Prohibited Employment) Act 1998:*

The employer has the responsibility to screen all prospective employees according to this Act.

Further legislative change was implemented in 2009, namely, "Children Legislation Amendment (Wood Inquiry Recommendations)" which underpin a new initiative, "Keeping Them Safe", which is now incorporated into this policy document.

The aim of this initiative is stated as, "all children in NSW are healthy, happy and safe, and grow up belonging to families and communities where they have opportunities to reach their full potential".

### **4. Preventions**

All employees sign Prohibited Employment Declarations and undergo child protection screening checks before they commence work with students at this School. Referees of prospective employers will be contacted.

All staff will undergo regular training in child protection.

All employees of NEGS are required to report to the Principal when:

- an employee is aware that there has been an allegation of child abuse; or
- an employee has formed a belief on reasonable grounds that a child is in danger of being abused; or
- an employee is concerned that a child or young person is at risk of harm (see

Definitions)

Staff can be deemed legally liable if they have been negligent in relation to their responsibilities under the legislation as it pertains to the care and protection of children.

With regard to care and protection the following general principles apply:

- Staff must take reasonable care to ensure that their students are not harmed. They have a duty to protect their students against foreseeable risks of personal injury or harm.
- The standard of care is that of a reasonably prudent parent. The degree of care depends on such factors as the age of the students.
- There must be an efficient system of supervision in operation in the school.

NEGS is committed to the achievement of the highest standards of education in which the security, protection and comfort of students is a high priority. Specific guidelines for the care and protection of students and staff are detailed in the policy document, titled, “Code of Conduct for the Care and Protection of Children” (2011).

## **5. Roles and Responsibilities**

All employees at NEGS are mandatory reporters. Those who have reasonable grounds to suspect that a student is at risk of harm (including self-harm), has been abused or neglected or is at risk of abuse or neglect are required to inform the Principal, even against the wishes of the child. This report to the Principal should be made both verbally and in writing.

The Principal must record the allegation. In doing so, the Principal must clarify what is being alleged, and ensure the information is kept confidential. Clarifying the allegation will help determine whether or not the allegation needs to be notified to the Ombudsman. If so, it must be done within 30 days. A report to the Helpline may need to be made if there is risk of harm to the child/ren and a report made to the police if the matter is criminal in nature.

The Principal must also conduct a risk assessment (see part 7 below).

The Principal will investigate the reportable allegation by gathering all relevant information. Sources of information may include: a statement from the person who made the allegation; notes of interview with the child (if appropriate); statements from any possible witnesses ; and a statement from the employee in response to the allegation. He/she may gather any other information or documents that may be relevant to the investigation, including for example, staff rosters, attendance records, incident/accident reports, medication forms, behaviour management plans, etc.

After all the information has been gathered, the Principal will need to assess it and weigh it according to ‘the balance of probabilities’. A finding must be made as to whether the

allegation is false, vexatious, misconceived, not reportable conduct, not sustained or sustained. The reasons for the investigation finding will be clearly recorded.

The Principal will advise the employee of the outcome of the investigation in writing. Advice will be provided about the finding, any follow up action the School intends to take, any rights of appeal, and advice to the employee that the Ombudsman has been notified and the CCYP also notified of the relevant employment proceeding, where relevant.

Should the Principal assess that the issue is below the risk of significant harm threshold they may refer the child, young person or the family to an outside agency; provide continuing support within the school resources; monitor the child or young person; document further information relating to the issue, pending a reconsideration to report.

If it is decided that there are not reasonable grounds to suspect abuse, and consequently, the matter is not going to be reported by the Principal to an external agency, the original notifier has an obligation under the legislation to report to Community Services if they believe that reasonable grounds still exist.

## **6. Disclosure Action Cycle**

If a child discloses reportable conduct:

- tell the student that he/she is absolutely right to tell someone;
- inform the Principal immediately;
- do not contact parents – this must be left to the Principal or in some cases the police or Community Services;
- make an accurate, but brief record of the time and date and what was said, and pass this on to the Principal;
- understand that this may be the only time the child builds up enough courage to tell someone what has happened;
- let the student know that you appreciate how difficult it must be for them to talk about their experience;
- stop what you are doing and respect the student's privacy;
- stay calm and reassuring;
- listen to what the student says and tell them that, whatever the circumstances, they are not to blame;
- try not to react in any way which may add to the student's distress;
- explain that you cannot promise to keep what you are told a secret, and that by law, you must tell the Principal.

## **7. Risk Assessment**

Upon receipt of an allegation of reportable conduct against an employee, the Principal is responsible for carrying out an initial risk assessment prior to any investigation of the allegation. The purpose of the risk assessment is to identify and minimise the risk:

- to a child/children who are alleged victims of the abuse
- to the employee against whom the allegation has been made
- to other children with whom the employee may have contact
- to the proper investigation of the allegation

This may result, for example, in the employee being relieved temporarily of some duties, being required to avoid certain students or, in some special cases, being suspended from duty. Any decision to take action as a result of a risk assessment is not an indication of the guilt of the employee concerned.

Factors to be considered in deciding what action, if any, to take include the nature of the allegation; vulnerability of students; nature of the position occupied by the employee; the level of supervision of the employee; disciplinary history of the employee; safety of the employee; any comments made by the employee.

Risk will be continually monitored throughout the investigation. Any decisions taken will be clearly recorded.

Guidelines for risk management as detailed in the NSW Ombudsman's Child Protection Fact Sheet 9 will be followed.

## **8. Documentation and Record Keeping**

All documentation related to allegations of reportable conduct against employees is highly confidential and will be treated as such by NEGS.

The Principal will be responsible for keeping and storing records about allegations against employees and will also be responsible for determining who has access to such records.

All staff will be required to sign an acknowledgement that they have read, understood and are prepared to abide by the Child Protection Policy.

## **9. Rights of all parties**

- The decision-making process throughout any investigation will be based on the safety and well being of the child/ren and the employees.
- All reportable allegations against an employee will be notified to the Ombudsman and the employee advised of this. The employee will also be notified of the investigation finding and follow up management action, including the notification to the CCYP, if relevant.
- Employees will be afforded procedural fairness in the investigation of any allegation made against them.
- The employee will be advised of any appeal mechanisms if they were not satisfied with the investigation process or the outcome of the investigation.

- The employer will act fairly and without bias, conduct the investigation without undue delay, ensure that the matter is not investigated by someone with a conflict of interest, and ensure the outcome is supported by evidence.
- Employees and parents can complain to the Ombudsman if they are not satisfied with the conduct of the investigation.

## **10. Support available for all parties**

The School acknowledges that it has an obligation to provide appropriate support for:

- staff who have had allegations made against them
- children involved in an investigation
- parents who have complained about an employee
- staff who have been involved in the investigative process

## **11. Target groups in the community**

Staff should be aware of, and sensitive to, children with culturally diverse or indigenous backgrounds and cultural practices without deviating from the accepted child protection policy of the School.

## **12. Safeguards for reporters**

The 2009 legislation clearly states that:

- The legal obligation to report risk of significant harm remains.
- Reports made to Community Services are confidential and the reporter's identity is generally protected by law.
- If a report is made in connection with a serious offence there is provision for a law enforcement agency to access the identity of the reporter;
- The penalty for a mandatory reporter failing to report has been removed.
- Reporters are not liable for defamation as a result of making a report.