CHILD PROTECTION POLICY AND PROCEDURES

2014
CHILD PROTECTION POLICY

RATIONALE
All adults have a responsibility to care for children and to protect them from any kind of abuse or neglect. The School is responsible to provide a safe environment for children and to provide an education which fosters their health, developmental needs, spirituality, self respect and dignity. We are entrusted by parents with the care of their children, who are precious in the sight of God. The school's actions in this area must always be in line with all relevant legislation.

This policy provides the requirements in relation to child protection at The Scots School (TSS). The School is a designated non-government agency in this regard. It relates to suspected or reported cases of reportable conduct against students by staff, parents, other students, or by other persons outside the school. Such reportable conduct can also constitute sexual harassment. Therefore, this policy is to be read in conjunction with the school’s Sexual Harassment Policy.


The Impact of Child Abuse

The experience of abuse and neglect acts as a barrier to the sound foundations, skills and abilities that develop during childhood and adolescence. These features of child growth are crucial for general health and well being throughout life. Abuse and neglect may result in a legacy of physical and/or psychological disabilities, which are carried into adult life. The impact is severe because of the vulnerability and dependency of children. Where the family is for most children a place of nurture and security, the abused or neglected child is trapped in an impossible position. Many of the problems reported by adult survivors of childhood abuse or neglect can be understood as the outcome of a child’s attempts to cope in a situation of helplessness or fear. There is also evidence that is linked with many social problems currently confronting the community.

Awareness of the potential long term impact of all forms of child abuse and neglect adds urgency to our efforts to prevent it or, where this is not possible, to recognise abuse where it is occurring and intervene effectively to prevent the development of long term problems and suffering.
Response to Allegations of Child Abuse

The focus of the School's duty of care is the protection of children and young people from abuse. The procedures followed must also be in accordance with all relevant legislation, and will take into account other appropriate practices and guidelines aimed at the protection of children. The School's policy will be reviewed as required, in line with amendments to legislation and regulations.

When the School is notified of suspected or disclosed child abuse, a clear and consistent set of procedures (included in this policy) must be followed in a professional manner. As well as properly focusing on the welfare of any child suspected as being a victim of child abuse, it must be remembered that an allegation is a statement or assertion which is unproven.

The School recognises that there is a danger that teachers and the teaching profession could be seriously harmed by mischievous or irresponsible allegations or by hasty action or by over-reaction. The reputation of all involved must therefore be safeguarded. The School will adopt appropriate and clearly documented initial investigative procedures.

The School also recognises the importance of adopting preventative measures in protecting students from abuse and neglect, including programs to raise the awareness of students, employees and the community about Child Protection issues. The School is committed to providing a safe and caring environment for every student.

This document sets out the School's policy in broad and general terms. Further information and advice can be gained from the Child Protection Unit of the Presbyterian Church of Australia in the State of New South Wales and from the various Acts and Regulations.

DEFINITIONS

The School defines the following key terms as meaning:

**Allegation:** An allegation against an employee might involve behaviour that is reportable conduct or behaviour that is exempt from notification to the Ombudsman but is required to be investigated by the agency.

**Child:** Includes all children and young people up to the age of 18 years. *Note: This definition is different from that contained in the Children and Young Persons (Care and Protection) Act 1998.*

**Child Protection Unit:** Child Protection Unit of the Presbyterian Church of Australia in the State of New South Wales.

**Conviction of reportable conduct:** This means any conviction of a person, in NSW or elsewhere, of an offence involving reportable conduct, and includes a finding by a court that a charge for such an offence is proven even though the court does not proceed to a conviction.
**Employee**: An employee is any person who is employed by the agency, whether or not they are employed to work directly with children, as well as anyone from outside the agency who is engaged to provide services to children such as contractors, volunteers, students on placement, instructors of religion.

**False**: A false allegation is one where it is determined that the alleged conduct did not occur.

**Grooming behaviour**: For the purposes of relevant employment proceedings, grooming behaviour constitutes a form of sexual misconduct. This is also referred to as coercion.

**Head of Agency**: The Head of Agency is the Principal of the School, the Chairman of the Trustees or the Director of the Child Protection Unit depending against whom the allegations are made and what is required to ensure that the Head of Agency is not subject to a conflict of interest.

**Internal investigation of an allegation**: This involves a process where the School: gathers all relevant facts, makes a decision as to whether an allegation is sustained or not, and provides information to assist any relevant employment proceedings.

**Malicious**: An allegation that is intended to cause distress to the person against whom the allegation was made.

**Misconceived**: If the investigation has concluded that, whilst the allegation was made in good faith, a misunderstanding on behalf of the person making the allegation occurred, a finding of misconceived may be reached.

**Not sustained**: If the investigation has concluded that there is insufficient evidence available to establish that the alleged conduct did or did not occur it will be found to be not sustained.

**Not reportable conduct**: If the investigation concluded that the alleged conduct did not fall within the definition of reportable conduct it will be found to be not reportable conduct.

**Pastoral care or pastoral support**: The provision of care, counsel and education to persons who seek the support of the church, including:

a) guiding to make decisions concerning spiritual matters by means of Biblical teaching,

b) prayer,

c) provision of practical support, such as medical care or counselling,

d) reconciling someone to God and/or other people,

e) spiritual guidance, and

f) sustaining through a period of hardship and/or crisis.
**Prohibited person:** Under New South Wales law, a prohibited person is who has been convicted of a serious sex offence in NSW or anywhere else, or a registrable offence under the Child Protection (Offenders Registration) Act 2000. Where a declaration in relation to prohibited persons is required under New South Wales law, a similar declaration is required in other States and Territories under Breaking the Silence.

**Reportable allegation:** An allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct and must include:

a) identification of a person who is a current employee of the agency,
b) an alleged offence or description of offending behaviour that meets the definition of reportable conduct, and

c) a person who was a child at the time of the alleged offence or behaviour described.

All allegations of reportable conduct must be reported to the Ombudsman.

**Reportable conduct:** Is

a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or

b) any assault, ill-treatment or neglect of a child, or

c) any behaviour that causes psychological harm to a child,

d) whether or not, in any case, with the consent of the child.

Reportable conduct does not extend to:

a) conduct that is reasonable for the purposes of discipline, management or care of children, (such as touching a child in order to attract attention, to guide a child or comfort a distressed child and the conduct is then found in the circumstances to be accidental) or raising a voice to attract attention or restore order having regard to the age, maturity, health or other characteristics of the children and to any relevant professional standards, or

b) the use of physical force that, in all the circumstances, is trivial or negligible, where the supervising body is a school, child care centre, residential child care centre, private hospitals, etc (as defined by Part 3A of the Ombudsman Act 1974) and 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 that is exempted by the Ombudsman from being reportable. For example restraining a child or young person for their own safety or the safety of others, physical acts such as pushing or pulling where it is the first time and ongoing pattern of such behaviour is evident, and touching a child to comfort them and the like, may not be reportable.

*Note: The Commission for Children and Young People Act 1998 contains the same definition.*

**Risk of harm:** A child or young person is at risk of harm if current concerns exist for their safety, welfare and wellbeing because of the presence of one or more of the following:

a) basic physical / psychological needs are not being met / at risk of not being met,

b) parents / caregivers are unable or unwilling to organise necessary medical care,

c) there is a risk of the child being physically or sexually abused / mistreated,
d) the child is living in a household where incidents of domestic violence, and/or
e) the child’s parent / caregiver has been behaving such that the child has suffered / is
at risk of suffering serious psychological harm.

**Sexual misconduct:** A range of behaviours or a pattern of behaviour aimed at the
involvement of others in sexual acts, including inappropriate conversations of a sexual
nature, comments that express a desire to act in a sexual manner, unwarranted and
inappropriate touching, sexual exhibitionism, personal correspondence (including
electronic communication) in respect of sexual feelings, deliberate exposure to sexual
behaviour of others including display of pornography, and the possession of child
pornography.

**Sexualised behaviour:** Behaviour including sexual relations, harassment, molestation,
and any other conduct of a sexual nature which is inconsistent with the integrity of a
person in a position of authority within the church. It includes behaviour that may
reasonably be perceived to be of a sexual nature according to the standards of the time
by the person to whom it is directed.

**Sustained:** An allegation found to be true is sustained.

**Vexatious:** An allegation made without substance and with the intent of being malicious.
This policy also relates to the AIS and IEU Recommended Protocols for
Investigation devised for the enactment of the Child Protection Legislation
Amendment Act (2003).

a. TSS is committed to providing a safe environment for students, to prevent
reportable conduct in any form and to deal with reports of reportable conduct
promptly and appropriately.

b. The term "reportable conduct" in this policy can take a number of forms including
sexual abuse, physical abuse, behaviour causing psychological harm, exposure
to domestic violence and neglect. Detailed explanations of these terms may be
found in Appendix 1.

c. The school provides for the support of children, families and staff directly involved
with the issue of reportable conduct through the pastoral care and counselling
structures of the school.

d. The Principal is responsible for the administration and conduct of the school and
all that relates to it, therefore, the Principal is to be informed promptly of all
serious matters concerning the welfare of students. In the section “Allegations of
child abuse against employees”, “Principal”, for the purposes of the *Ombudsman
Act 1974*, is the designated Head of Agency.

e. All staff are to report any cases of, or reasonable suspicions of, reportable
conduct to the Principal. Where the Principal is the subject of such a report, the
report should be made directly to the Chairman of the School Board. Cases of
suspected reportable conduct or neglect (i.e. risk of harm) must be reported to the
Department of Community Services (DOCS). Mandatory reporting is required by
law for teachers, counsellors, Principals and Heads of Schools for any child under the age of 16 years. “The mandatory reporting obligation does not arise in relation to young people (aged 16 and 17). You can still make a report about a young person who you believe is at risk of harm, however the young person should be involved in the decision to report, unless there are good reasons for excluding them. If a young person is against a report being made, you can still make a report but must tell DOCS about the young person’s wishes. DOCS must consider these wishes when deciding how to respond to the report.” If evidence of a crime exists the matter will be reported directly to the police with respect to the offender by DOCS. Investigation of an allegation involving staff will be conducted by the Principal and, where they think it necessary, other persons appointed by him/her. Trained staff will be appointed for class of kind determinations. Where the allegation concerns the Principal the Chairman of the Board will investigate or appoint persons to this role.

f. Accurate documentation will be kept concerning reports made about possible reportable conduct, details of reporting, actions within the school resulting from reporting, and other details related to reported cases of reportable conduct. Such documentation will be stored separately to other student/staff information and in a place known by but secured from other staff.

g. Staff employment policy and procedures will ensure that all staff who are appointed to positions are fit and proper persons to occupy those positions and understand their responsibilities in this area. All new staff appointments are screened for the school by the Commission for Children and Young People. All volunteer staff who work with children unsupervised, or who have the potential to work with children unsupervised, are required to complete a prohibited person’s declaration form. Separate employment procedure policy documents deal with this.

h. In-service and induction processes will ensure all staff are thoroughly conversant with this policy and related procedures. Check lists will be kept to ensure all employees are informed. Staff will sign acknowledgement of having read this policy. Staff are provided with a Code of Conduct document detailing this information. (Protocol C) Parents will be informed of policy and procedures and other relevant information through school newsletters and the Handbook for Parents. Students of the school will be informed of policy and procedures in the Pastoral Care programme.

i. In relation to this policy the following should be taken as guiding principles:
1. In every action related to reportable conduct the best interest of the child is of paramount consideration;
2. The value of the family unit and the biblical responsibility for parental education of children is to be respected but not to the detriment of the well-being of the child;
3. In proceeding to take action under the Children and Young People (Care and Protection) Act 1998, school staff must satisfy themselves that they are acting on reasonable grounds. Any questions of others that the teacher might ask in
satisfying "reasonable grounds" must be couched in terms that do not refer to the question of reportable conduct.

4. All persons involved in situations where abuse is suspected or disclosed are to be treated with sensitivity, dignity and respect;

5. Staff who have access to information regarding suspected or disclosed reportable conduct are to observe strict confidentiality in relation to the entire matter. These issues are only to be discussed with those in the privileged protection path. Those people are the Principal, the Assistant Principal and Board Chairman. Staff may only report allegations to the Principal or, if the allegation is against the Principal, to the Board Chairman. Discussing the matters with others may leave the staff member open to defamation action against them and disciplinary action by the school.

6. 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.

7. Staff who are mandatory reporters in particular instances of reportable conduct will be informed of their obligation to contact the Ombudsman’s Office if they are not satisfied with the way the case is subsequently handled by the school.

j. Knowingly breaching key points of this policy are grounds for dismissal. These key points include:
   1. failure to notify the Principal/Board Chairman, The Director, Child Protection Unit, and DOCS or the Ombudsman’s Office of reportable circumstances;
   2. failure to limit conversations relevant to offences under this policy to the school’s privileged protection path, and
   3. any reportable conduct relating to children or young people by the staff member.

Failure to be aware of the procedures outlined in this policy is not deemed to be an excuse for failure to comply with this policy.

This policy and procedures will be re-examined in November each year. This review will be conducted by the Director for School Programs in consultation with relevant staff and other persons.

CHURCH REQUIREMENTS

Breaking the Silence

Breaking the Silence Edition 3 is the policy and procedures for dealing with and preventing abuse within the Presbyterian Church of Australia in the State of New South Wales. ‘Breaking the Silence’ acknowledges that some organisations, such as schools, have established policies and procedures for dealing with and preventing abuse. These organisations may seek to become an approved organisation and thereby be exempt from the provisions of ‘Breaking the Silence’.
To become an approved organisation, the following must be established:

1. The supervising body of the organisation (for example, a school board or council) must acknowledge and approve the establishment of the organisation as an approved organisation under ‘Breaking the Silence’.

2. A policy and process for dealing with and preventing abuse within the organisation must be established and provided to the Child Protection Unit for review and comment on an annual basis. The Child Protection Unit will be provided with a current copy of the relevant documents should they be amended during the year.

3. This policy and process for dealing with and preventing abuse within the organisation will be provided to all appropriate external regulatory bodies, such as the New South Wales Ombudsman, as required. Advice should be sought from other appropriate advisory bodies, such as the Association for Independent Schools or Christian School Association, when necessary to ensure point 4 below.

4. As a minimum requirement, this policy and processes must:
   - comply with child protection legislation requirements,
   - address the need for a clear public policy,
   - provide for position descriptions for all child-related positions, both paid and voluntary, unless all positions are considered to be child-related and are treated as such in accordance with legislative requirements,
   - establish appropriate selection and screening processes,
   - provide for a code of conduct or similar document for all employees and volunteers,
   - ensure appropriate training and supervision programs are conducted on a regular basis,
   - address confidentiality and privacy issues, and
   - ensure the appointment of a person responsible for the administration of the policy and process, including ensuring it is kept current.

5. When an allegation or incident is brought to the attention of the organisation, the Director, Child Protection Unit must be advised immediately of the nature of the allegation or incident. The Child Protection Unit will then confirm that the matter will be acted upon by the organisation within the terms of its policy and processes.

6. The organisation must advise the Child Protection Unit of the outcome of the investigation and the actions taken and proposed as a result.

7. The organisation will contact the Child Protection Unit immediately where, at any point in the process, it becomes likely that a claim will be made or legal action will be commenced.

Approved organisations must be aware that it is essential that the Child Protection Unit is advised of all notifications and/or allegations made because:

a) The Child Protection Unit acts as a liaison point within the church to ensure that we comply with child protection obligations, and to ensure that all child protection systems are integrated and adhered to.
b) Once the Child Protection Unit has been notified, all records, reports and communications are deemed to have been created for the purpose of pending or contemplated litigation and therefore attract legal professional privilege. In every case it is essential that all documentation and communication is kept strictly confidential.

c) The Child Protection Unit can also provide assistance, resources and information before, during and after such processes that may be beneficial to those involved.

d) It is a requirement of Breaking the Silence that the church insurers and General Manager are notified of any act or circumstance that may give rise to a claim. There may be no retrospective indemnity for past causes of legal liability if this condition is not observed. This notification is done by the Child Protection Unit.

Where an organisation cannot meet these criteria, Breaking the Silence will apply as it applies to all persons holding a position of authority within the church and all those who are involved in a child-related activities. This includes those who are paid and unpaid, permanent or temporary.
RESPONSIBILITIES TO THE DEPARTMENT OF COMMUNITY SERVICES

1. The role of DOCS

*The Children and Young Persons (Care and Protection) Act 1998 No 157*

This Act forms the statutory basis for the role of DOCS for the investigation of cases of suspected reportable conduct and the responsibilities borne by schools in relation to such cases. A child is defined as a person who is under the age of 16 years. A young person is any person who is aged 16 years or above but who is under 18 years of age. Reportable conduct in relation to a child means to:

(a) assault (including sexual assault) the child; or
(b) ill treat or neglect the child; or
(c) expose or subject the child to behaviour that psychologically harms the child,
(d) exposure to domestic violence

whether or not, in any case, with the consent of the child.

(Comprehensive definitions of these forms of child abuse are found in Appendix 1).

**Mandatory reporting** of suspected children at risk to DOCS is required under the *Children and Young Persons (Care and Protection) Act 1998 No 157* for teachers, counsellors, Principals and Heads of Schools for any child under the age of 16 years, even if reporting is against the wishes of the child.

If for any reason the Principal cannot or will not report a matter, an obligation still exists for the other named reporters to notify.

All reports that involve a criminal offence under the *Children and Young People (Care and Protection) Act 1998 No 157*, the *Crimes Act 1900*, or the *Crimes (Female Genital Mutilation) Act 1995* must be referred by DOCS to the police. This includes all cases of sexual abuse. Reportable conduct under the *Crimes Act 1900* refers to a range of offences that result in harm to a child victim or which involve behaviours to which a child cannot give consent. Offences include sexual intercourse, indecent assault and indecent acts. The practising, aiding, abetting, counselling on or procuring of someone to practise female genital mutilation is an offence under the *Crimes (Female Genital Mutilation) Act 1995*.

2. Identifying and reporting reportable conduct

*a. If a child tells you about reportable conduct*

Staff need to be well prepared so that they can be supportive of the student and clear about their responsibilities at the same time. It is essential that the staff member remains calm and supportive of the student. The staff member should:

- actively listen to the student and never probe for details or ask leading questions;
- talk gently and reassuringly, pointing out you are there to help;
- only ask open ended questions that are designed to provide sufficient information about whether the suspicion of abuse is sufficiently strong to warrant a report being made;
- where the reportable conduct is taking place outside the school's control, never assure the student that it will stop as that cannot be guaranteed;

- not make promises that you will not tell anyone; in fact, you should disclose that you have a responsibility to tell the Principal.

If a student begins to make a disclosure in a group situation (say in a camp sharing time) staff are required to:
- acknowledge that you have heard the student;
- indicate your support by explaining that what the student has said sounds important and that it would be better to talk about it later;
- quietly arrange an appropriate time to see the student away from other students.

A NOTE ABOUT LISTENING TO CHILDREN

Disclosure
Children often try to tell someone about abuse but find it very difficult or painful. They are often ashamed and frightened and cannot find the right words.

Adults can help by recognising when a child is trying to talk about some difficult subject. Adults who develop the habit of listening to children and helping them to talk about their worries are building the kind of trust that makes it easier for a child who does have something difficult to say.

When children approach something in a roundabout way it may be because they are finding the subject painful or are feeling ashamed and looking for a sign from an adult that it is alright to open up and talk. The child may begin by hinting that something is wrong. A child may simply say, “I don’t like so and so. Do you like so and so?” Or “I don’t want to go and see so and so.” Or “I have a secret.” Often adults misunderstand these messages and fail to respond. When this happens children become very confused. They may think the adult does not care or does not believe them. This makes it harder for them to raise the subject again or to approach another adult. IF the children are unable to talk to adults about abuse or make adults understand what they are trying to say, their distress comes out in other ways, usually in the way they behave. Some children “act out” by being violent and aggressive to others and some by being passive and withdrawn.

If a child tells you about abuse:
- Immediately say that you believe the child;
- Stress that what has happened is not the child’s fault;
- Commend the child for telling you about it;
- Actively listen without probing for detail or asking leading questions;
- Do not question excessively;
- Talk gently and reassuringly, pointing out that you are there to help;
- Do not make a promise that you will not tell anyone as you have a responsibility to inform the Principal and DoCS.
If a child tells you about abuse in a group situation:
- Acknowledge that you have heard the child;
- Indicate support and concern by explaining to the child that what was said sounds important and that it would be best to talk about it later;
- Discreetly arrange to talk to the child away from other students as soon as possible.

b. If someone tells you of reportable conduct
If anyone reports to you actual or suspected reportable conduct you should report this to the Principal immediately or, if the report concerns the Principal, to the Board Chairman. Do not discuss the matter with anyone else.

c. If you have reason to suspect reportable conduct
From time to time staff may suspect reportable conduct may have occurred or may be about to occur. Staff need to be aware of the indicators of reportable conduct. Appendix 1 lists some general and specific indicators of reportable conduct.
The Act requires reporting of current or anticipated risk of harm. It requires reporting of all forms of reportable conduct and has a focus on the risk or possibility of harm occurring to the child as well as on any harm that has actually occurred.
Risk of harm can arise because of the presence 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 at risk of not being met
(b) the parent or other carers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care
(c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated
(d) the child or young person is living in a house 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
(e) a parent or other carer 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.

Mandatory reporting of risk of harm applies to both individual children and a class of children. A class of children refers to more than one child who may be at risk of harm because of their association with a person or situation identified as posing a risk of harm. A “child” means a person who is under the age of 16 years - reporting a risk of harm to children is mandatory. Reporting a risk of harm in respect of young persons between the ages of 16 and 18 is discretionary. “The mandatory reporting obligation does not arise in relation to young people (aged 16 and 17). You can still make a report about a young person who you believe is at risk of harm, however the young person should be involved in the decision to report, unless there are good reasons for excluding them. If a young person is against a report being made, you can still make a report but must tell DOCS about the young person’s wishes. DOCS must consider these wishes when deciding how to respond to the report.”
The Interagency Guidelines for Child Protection Intervention (Section3.2.3) clearly place any mandatory reporting responsibility on the individual employee (teacher or manager). However, Section 3.2.5 of the guidelines states that when making a report, employees must follow agency (school) procedures.
At TSS, the procedure is that the Teacher and the Principal together make the report. (If the accusation is against the Principal, the teacher and Board Chairman must make the report together).

The school has a copy of the guidelines available from the Principal. It is also available on the Commission for Children and Young People's website on [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)
The Act also provides protection against, among other things, claims for defamation and civil proceedings for malicious prosecution (see Section29)1) for any person who makes a report.

It is important to be aware that the reporting obligations apply irrespective of the date of the proclamation of the Act.

Reporting of risk of harm will be undertaken using the DOCS Teleservice for mandated reporters.

Student interviews in cases reported to DOCS
In relation to reportable cases of abuse where DOCS has been notified, officers of DOCS and the NSW Police Service may wish to carry out student interviews, sometimes jointly, at school.

No student will be interviewed at the School against the wishes of the student and it is the Principal's responsibility to inform the student of this. At the commencement of the interview, the Principal should ask the investigating officers to explain to the student, in the presence of the Principal, the purpose of the interview and their role. The Principal will inform the student of his or her right to choose a supportive adult to be present at the interview. DOCS or Police Officers are responsible for communicating with parents about any matters related to an interview. If a person is nominated by the student, the interview must not commence until that person has arrived. What takes place in the interview becomes part of the investigation and must remain confidential. Except in cases that involve a member of the family, it is expected that a parent of the child concerned will be present at any interview with the child.

Exchange of information with DOCS
Before any phone discussions occur between officers of DOCS and the Principal, the Principal must always confirm the identity of the caller by phoning the known number of the Community Services Centre before any discussions occur. Any information requested verbally must be confirmed in writing promptly. Any staff who receive a call from DOCS must refer the officers to the Principal.

Removal of students by DOCS Officers
From time to time the Principal may be approached by officers from DOCS to remove a student from school premises. This approach will be supported by a Section 60 notice. If a student is to be removed from School (Section 60) or ordered to remain at the school (Section 62A) the Principal must:
- sight the identification of the officers;
- take a copy of the Section 60 or Section 62A notice;
- record details of the actions, names of officers and, where possible, place of lodgement of the student;
- gain an assurance from officers of DOCS that they will immediately inform the parent or caregiver that the student has been removed from the school or has been ordered to remain at the school.
ALLEGATIONS OF REPORTABLE CONDUCT AGAINST EMPLOYEES

For the purposes of the *Ombudsman Act 1974* an employee of an agency includes:
(a) an employee of the agency, whether or not employed in connection with any work or activities that relates to children, and
(b) any individual engaged by the agency to provide services to children (including in the capacity of a volunteer).

Reportable conduct in relation to a child means to:
(a) assault (including sexual assault) the child; or
(b) ill treat or neglect the child; or
(c) expose or subject the child to behaviour that psychologically harms the child,
(d) exposure to domestic violence

whether or not, in any case, with the consent of the child and whether or not the child is a student of this school, and whether or not the alleged abuse is recent.

A child is any person under the age of 18 years.

Additionally, under the *Ombudsman Act* an allegation of reportable conduct may include an allegation of misconduct that may involve reportable conduct. The type of misconduct that may fall under this type of reportable conduct is characterised by, for example:
- breach of boundaries or code of conduct
- inappropriate use of power relationship
- targeting children for specialised treatment
- exposing children to pornography
- watching children undress
- inappropriate touching (not sexual)
- inappropriate language
- an inappropriate relationship (not sexual) between an adult and a child that breaches community standards.
- purchasing expensive gifts for a targeted child
- providing alcohol or drugs to children

For a fuller list consult Appendix 1 of this document.

Employees are provided with a Code of Conduct Document outlining their obligations in regard to Child Protection.

The first thing that the school must do is clarify whether the complaint is an allegation of reportable conduct or a complaint regarding the teacher’s approach or strategies. What follows is only relevant if the complaint is a formal allegation of reportable conduct.

The Principal will seek a signed written statement detailing the nature of the allegation where possible. Where the person making the allegation is unable or unwilling to sign a written statement, then the Principal is to record details of the allegation as reported using, as far as possible, the words used by the person making the allegation. The Principal must direct the person making the allegation to maintain confidentiality.

The *Ombudsman Act* requires all convictions or allegations of reportable conduct against employees to be notified to the Ombudsman regardless of the school’s opinion as to the seriousness or accuracy of the allegation. Any member of staff who witnesses a reportable conduct incident by another staff member or to whom a disclosure of
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reportable conduct is made **must** report the allegation to the Principal (or the Board Chairman if the allegation is against the Principal). See Schedule 1 Amendment of Ombudsman Act 1974 No 68 in Appendix 3.

The word, “allegation”, does not need to be used by a person making an allegation. The person may simply describe a situation or pass on information they have received. The responsibility is on employers and employees to:

- to investigate all allegations, regardless of the source (self disclosure, etc)
- obtain a description of the specific behaviour that constitutes an allegation or conviction of reportable conduct against an employee, eg. “my child was hit by X staff member”
- act on information by passing it on to the appropriate person in the school.

Allegations are to be reported to the Principal either orally or in writing. Where an allegation is made to a staff member other than the Principal, the staff member should immediately report the matter to the Principal. In cases of allegations against the Principal the Board Chairman should be contacted.

- follow any other applicable school policy and procedures for responding to allegations of reportable conduct.

Upon receiving the allegation the Principal will initially:

- record verbatim any words used by the person making the allegation,
- assess whether the agency has the reporting responsibility as indicated under the Ombudsman’s Act using Checklist 2.2 from Child Protection in the workplace.
- Head of agency would usually consult with the AIS because of their wider experience.
- Inform the subject of the allegation of the substance of any allegations made against them and provide them with fair and reasonable opportunity to respond.
- When an allegation or incident is brought to the attention of the organisation, the Director, (Child Protection Unit) must be advised immediately of the nature of the allegation or incident. The Child Protection Unit will then confirm that the matter will be acted upon by the organisation within the terms of its policy and processes, and the Child Protection Unit will make an initial advice to the insurance underwriter outlining the allegation or incident in broad terms to allow for the insurer to be advised.
- Assess whether the Department of Community Services or the Police need to be notified.
- Complete notification to the Ombudsman (within 30 days but as soon as possible).

If Police or DOCS will not be involved in the investigation a sole investigation must be carried out by the school through the following steps:

- Put in place appropriate support measures for all involves as detailed in this policy.
- Carry out a risk assessment and take action to reduce/remove risk, where appropriate. **NB:** Risk to child, employee or other children with whom the employee has been in contact must be monitored through the investigation as per the risk management section of this policy;
- Collect all available relevant information, ensuring full documentation throughout the process
- Interview, or arrange interviews to be conducted by an appropriate person, all relevant witnesses, ensuring all interviews are adequately recorded. Interviews must be recorded verbatim;
- Make employee fully aware of the allegation(s) noting that the degree of disclosure will vary, depending on the circumstances;
- Interview the employee subject to the allegation(s);
- Consider all evidence and make a preliminary finding as to whether the allegation is sustained, false, vexatious, misconceived, not reportable conduct or not sustained;
- Inform the employee of preliminary findings and provide opportunity to respond;
- Consult the Child Protection Unit and inform the Director of the preliminary findings and employee response;
- Make the final finding;
- Send the final report to the Ombudsman;
- Inform the employee of the findings and actions to be taken;
- Implement the final actions;
- The employee is entitled to ask the Ombudsman to review the investigation and findings if the employee believes the investigation was unfair, biased, incomplete or suffered some other deficiency giving rise to an incorrect finding;
- The employee must be advised if the employer has notified completed disciplinary proceedings to the Commission for Children and Young People; and
- If the completed disciplinary proceeding is notified to the Commission for Children and Young People the employee may be entitled to inspect the employer file subject to Freedom of Information principles subject to any exemptions which may exist under the act.

Undertake an initial risk assessment to determine whether the employee’s current duties are appropriate while an investigation is taking place. Factors to be considered will include the nature of the allegation, the vulnerability of children, cultural background of the children, the nature of the position occupied by the employee and the level of supervision of the employee. The school will take appropriate action to minimise any significant risks to the employee, children, the school or the integrity of the investigation. Such risk assessment will be ongoing. (Protocol B) The School will provide appropriate support measures for all involved. (See Protocol A)

A decision to take action on the basis of a risk assessment (such as suspending the staff member) has no relevance to the findings of the matter. Until the investigation is completed and a finding made, such action is not to be considered as an indication that the employee did engage in reportable conduct. The action taken on the basis of the risk assessment is in recognition of the serious potential consequences of the reportable conduct allegation (whether or not it is proven) and is seeking to manage the risk.

Undertake risk and support needs assessment for all other persons involved in the case and provide such protection/support as required. This includes other students.

Arrange for an investigator to prepare an investigation plan, conduct and properly document an investigation. The Principal may conduct the investigation. In some
instances the Principal may call on an appropriately trained staff member of
external investigator to conduct the investigation. A manual covering investigation
procedure is available. The latter may happen when the Principal determines that
the school does not have the expertise to satisfactorily conduct the investigation,
in cases where a conflict of interest or bias may occur and in cases where more
serious allegations have been made. The School will ensure that all action is
taken fairly and without bias regardless of the background of any persons
involved.
- reasonable inquiries and investigation
- no conflicts of interest in investigation/decision making
- no undue delay
- confidentiality (see below)

The organisation will advise the Child Protection Unit of the outcome of the
investigation and the actions taken and proposed as a result. The Child
Protection Unit will provide the insurance underwriter with this information for
comment.

Notify the Ombudsman within 30 days. The Principal is required to notify the
Ombudsman of any allegation against an employee whether or not there is any
supporting evidence that the abuse has taken place. The Ombudsman Act 1974
requires that all allegations of reportable conduct where the alleged victim is
under 18 must be notified to the Ombudsman.

The organisation will contact the Child Protection Unit immediately where, at any
point in the process, it becomes likely that a claim will be made or legal action will
be commenced.

Counselling support will be offered to all parties in relation to a reported allegation.
Alleged perpetrator, alleged victim and witnesses will be allowed support persons to be
present during interviews.

Staff or students who in good faith make an allegation of reportable conduct of a sexual
or abusive nature by a person against a student will not be prejudiced in any way.

Confidentiality

It is of the utmost importance that all parties maintain strict confidentiality during an
investigation. Breaches of confidentiality pose risks to the investigation process and to
the privacy of all parties. Any breach of confidentiality must be reported to the Head of
Agency immediately. The consequences of breaching confidentiality could be serious
and may include dismissal (see point k, p.3) and also open a person to legal action.

The Principal should advise the parents or care givers of the student(s) concerned as
soon as possible after the allegations are reported, and the fact that the matter has been
notified to DOCS and/or the Ombudsman's office.

Under normal situations, the school will not investigate allegations requiring police or
DOCS investigation until after they have completed their investigations and informed the
school - in this way the school is not open to accusations of contaminating the evidence.
After DOCS and/or the police have completed their investigation and reported the outcome to the school, the school will need to investigate the matter.

The school is to provide the Ombudsman’s office with details of the allegation, advice as to what the school is going to do regarding the allegation, and why, and any submission from the Principal (or Board Chairman if the allegation is against the Principal) regarding the matter. The Principal and the Board Chairman have copies of the Notification form. At the end of the investigation the school is to provide the Ombudsman's office and the Commission for Children and Young People with documentation required in the relevant legislation. The Principal will advise the staff member against whom the allegation has been made. When the staff member is made aware of the allegation, the Principal shall tell the staff member:

- that an allegation has been made and the nature of the allegation;
- that a response is not required at the time of this interview;
- that counselling support is available for the staff member;
- the contact that the staff member will have with the student involved and other students and staff within or outside school hours and/or the nature of continued presence at the school during the investigation. This may involve a direction to undertake other duties at a different location or a direction to remain at home. This decision will be made by the Principal with the Board Chairman.

Comprehensive documentation must be collected during the investigation, such as: the allegation itself, any response by the employee, any decision regarding a notification to the police or DOCS, or Ombudsman’s Office, the plan of investigation, the risk assessment, any decisions made during the investigation, any interview conducted during the investigation, any other evidence collected, and any meeting or telephone conversation concerning the investigation. Information regarding notifications to the Ombudsman must be kept indefinitely and stored in a secure location. (See over page).

Staff against whom an allegation has been made will be afforded procedural fairness. This means that: the staff member will have a reasonable opportunity to put their case forward; no person will decide a case in relation to which they have a conflict of interest; the school will act fairly and without bias; the investigation will be conducted without undue delay; necessary steps will be taken to protect the person who made the allegation. If the finding of the investigation is adverse, the employee will be allowed to add a dissenting statement. They will be advised of their right to contact the Ombudsman’s Office to complain about aspects of their treatment.

Staff who are mandatory reporters in particular instances of reportable conduct will be informed of their obligation to contact the Ombudsman’s Office if they are not satisfied with the way the case is subsequently handled by the school. They must be informed of the progress of the investigation on a regular basis.

Parents will be similarly advised of this right to contact the Ombudsman’s Office if they are unhappy with the investigation.

For our employees it does not matter where or how the alleged reportable conduct is said to have taken place. Allegations of reportable conduct against employees of designated agencies (eg non-government schools) need to be notified to the Ombudsman, whether the abuse is alleged to have taken place in the course of the
person’s employment, or in any other situation, including in the home or in a community or recreational setting in which the employee might be involved.

**Response to media enquiries**
If the media becomes aware of an allegation against a staff member, all enquiries must be directed to the Head of Agency. Other staff should not answer any questions or make any comment.

**Responsibilities of the Head of Agency**
For the purposes of the *Ombudsman Act 1974* the Head of Agency at The Scots School is the Principal. The responsibilities of the Head of Agency include:

- setting up systems for preventing reportable conduct, handling and responding to allegations or convictions of reportable conduct against an employee;
- systems for informing staff students and parents of the responsibility for, and method of, reporting allegations of reportable conduct;
- providing, when requested by the Ombudsman, information about the type and operation of these systems;
- risk management procedures;
- making arrangements within the agency to require all employees to notify the head of agency of any reportable conduct allegation or conviction of which they become aware;
- When an allegation or incident is brought to the attention of the organisation, the Director, (Child Protection Unit) must be advised immediately of the nature of the allegation or incident. The Child Protection Unit will then confirm that the matter will be acted upon by the organisation within the terms of its policy and processes, and the Child Protection Unit will make an initial advice to the insurance underwriter outlining the allegation or incident in broad terms to allow for the insurer to be advised.
- notifying the Ombudsman of any reportable conduct allegation or conviction against an employee within 30 days of the head of agency becoming aware of the allegation or conviction;
- notifying the Ombudsman whether or not the agency plans to take any disciplinary or other action in relation to an employee the subject of an allegation or conviction, and the reasons for taking or not taking any such action;
- keeping the person who made the notification of the allegation informed as to the stage of the process.
- The organisation will advise the Child Protection Unit of the outcome of the investigation and the actions taken and proposed as a result. The Child Protection Unit will provide the insurance underwriter with this information for comment.
- The organisation will contact the Child Protection unit immediately where, at any point in the process, it becomes likely that a claim will be made or legal action will be commenced.
- Keeping and safe storage of all records pertaining to incidents of reportable conduct. (See Protocol B) Such records will be kept separately from all other records and in such circumstances that they are not accessible by any other non-authorised persons. Such records will be retained indefinitely. They must be made available to the Ombudsman’s Office upon request. If completed
disciplinary proceedings are not forwarded to the CCYP the employee is entitled to inspect the employer file in accordance with FOI principles subject to any exemptions which may apply under the Act.

For roles of other parties involved see Appendix 4.
IMPLEMENTATION OF THIS POLICY

The Principal is responsible to ensure that this policy is effectively understood and implemented by staff and students. (See Protocol C)

1. Communication of policy to staff
   All staff will be made aware of this Policy via the Staff Handbook. Staff will be reminded of the Policy as it applies to them and their students through review at staff development meetings each year. All staff will be taken through the Policy, its requirements and any updating that needs to be done.
   The explanation and implementation of this policy and procedures, forms part of the staff induction program.

2. Communication of policy to students
   Relevant aspects of the Child Protection Policy will be integrated into the Personal Development, Health and Physical Education classes by the end of Term 1 each year.

3. Communication of policy to parents
   Relevant details to be provided in Handbook to Parents. As relevant new information on prevention of, and dealing with reportable conduct becomes available it will be communicated to parents by newsletter.

4. Investigation of complaints
   All allegations will be investigated fairly and without bias, without undue delay. Complaints will be investigated in a confidential manner. No staff member or student will be disadvantaged as a result of making a complaint. During the process of investigation the following may occur:
   - a direction for the student or staff member to receive counselling
   - movement of staff member or students in order to enable risk minimisation
   - suspension of staff member or student

   There may be times when the school’s Christian witness is significantly damaged by a teacher’s actions, pertinent to the Child Protection area, which may or may not be seen as worthy of a conviction under the law. At these times, the Principal and Board Chairman would investigate the matter and, if they reasonably conclude that it is necessary, would discipline the staff member involved. This discipline could extend to the staff member’s dismissal. In this case the school Board would need to ensure that a fair process of investigation had been followed

   Any staff member convicted of an offence of child abuse will be dismissed by the school.
PROTOCOL A

SUPPORT

The School will provide support for the child or young person, through:

a) appointing an appropriate person to provide support,
b) providing appropriate pastoral care,
c) providing access to counselling where appropriate,
d) acknowledging the impact of the process on academic performance and co-curricular commitments.

The School will provide support for the employee through:

appointing an appropriate person to provide support,
providing access to counselling where appropriate,
acknowledging the impact of the process on work performance, and
applying principles of procedural fairness as outlined in this policy.

The School will provide support for the reporting employee through:

a) appointing an appropriate person to provide support,
b) providing appropriate pastoral care,
c) providing access to counselling where appropriate, and
d) acknowledging the impact of the process on work performance.

The School will provide support for the parents/carers of the child or young person through:

a) appointing an appropriate person to provide support,
b) providing appropriate pastoral care, and
c) providing access to counselling where appropriate.

The School will assess the impact of an investigative process or action following the process on any group within the School community and will provide support to such a group in accordance with the pattern indicated above.

NOTE: Support will not be provided to the employee against whom the allegation has been made by the same person providing support to the employee who made an allegation or the child/young person and his/her family.
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. All employment situations do not carry the same risks; nor do all employees. Neither will all children have the same vulnerability. Recognising and acknowledging that the risk of reportable conduct is present in any child-related employment situation is the first critical step towards effective risk management.

In dealing with any specific allegations the School will put a risk management plan in place in relation to that specific allegation that will include procedures to prevent reportable conduct occurring in the workplace as well as procedures for responding to incidents or allegations of reportable conduct against an employee.

Initial risk assessment
One of the first steps following a reportable allegation is to conduct a risk assessment. The purpose of undertaking a risk assessment when an allegation is made is to identify and minimise the risks to:

- a) the child or young person who are alleged to have been harmed by an employee,
- b) the other children with whom the employee may have contact,
- c) the employee against whom an allegation of reportable conduct has been made,
- d) the School, and
- e) the proper investigation of the allegation.

When taking action to address the identified risks, the School will take into consideration both the needs of the child who is alleged to have been harmed and the needs of the employee against whom the allegation is made. This includes the nature of the allegation, the vulnerability of children, the nature of the position occupied by the employee and the level of supervision of the employee. The disciplinary history, safety of the employee and the risk to the investigation may also be factors in considering whether to leave the employee in position while the investigation is conducted. The School will take appropriate action to minimise risks should they be identified as significant.

NOTE: A decision to take action on the basis of the risk assessment has no relevance to the findings of the matter. Until the investigation is completed and a finding is made, such action will not be considered as an indication that the employee did harm the child. The action taken by the School merely recognises the serious potential consequences of the reportable allegation (whether or not it is proven) and is an attempt to manage risk.

Ongoing risk management
During the investigation period it is important to manage any risks that arise and to review the risk management plan in the light of new information that emerges during the process. It is important that the School also ensure that adequate/necessary support is being provided for all those involved as detailed in the support section of this policy.
Risk Management at the conclusion of the investigation
At the completion of the investigation, a finding is made in relation to the allegation. A review of the investigation should then be conducted to ensure that all relevant “risk” issues have been considered. This information will provide the School with an opportunity to put in place measures to minimise any further risk of harm to children in its care. Such measures may include, but will not be limited to:

a) training for one or more employees,
b) changing work practices in certain situations,
c) changing the physical environment, and
d) reviewing the Child Protection Policy and Code of Conduct.

PROTOCOL B

DOCUMENTATION AND RECORD KEEPING

In order to ensure procedural fairness, all information related to reportable allegations will be well documented with strict confidentiality maintained throughout the process. This will include the following:

a) the allegation (a brief summary of what has been said and by whom);
b) the initial response provided to the person making the allegation, the alleged victim(s) and the person the subject of the allegation;
c) the plan detailing how the investigation is to be carried out, including whether Department of Community Services or Police need to be notified;
d) the interim risk assessment, including any interim management arrangements/decisions made about the employee and the rationale/support and/or counselling for child or employee;
e) the interviews conducted, including details of who is being interviewed, any other people present, the name and position of the interviewer, and the date of the interview;
f) records or notes from interviews, including details of questions and responses, and be signed by the interviewee;
g) the decisions made, during and at the conclusion of the investigation, including their rationale, the position and name of person making the decision and the date;
h) all contact, discussion, emails etc with anyone about the matter, including the date, the content, the name of the person making contact, details of their position or agency and where appropriate the reason for the contact.

A summary report will also be produced, that will detail:

a) the allegation,
b) the investigation process,
c) the final determination including the reason,
d) the final risk assessment which includes any final decision about the employee,
e) the factors that have been considered, and
f) any subsequent action that is to be/has been taken.
All documents relating to a matter will be kept together in a clearly marked file in a separate location to the employee’s file. Records will be kept in a safe and secure location and must be kept indefinitely. Access to these records will be restricted to the Principal, the Principal’s nominee and the employee. Any other requests for access to files will be made through the Principal, who will decide on a case-by-case basis. In some instances the file may be transferred to the Child Protection Unit.

**PROTOCOL C**

**PREVENTATIVE STRATEGIES**

Child protection is a broad responsibility. It involves more than responding once an allegation has been made. It involves minimising the possibility of reportable conduct occurring in the first place. The School is committed to prevention and will show this through:

a) developing and reviewing strategies to minimise reportable conduct occurring, including a comprehensive Code of Conduct,
b) requiring employees to sign off their acknowledgment and understanding of the child protection policy and the Code of Conduct,
c) ensuring the policy is dated as well as a date when it will be reviewed,
d) clearly defining each person’s role within the organisation,
e) implementing thorough employment procedures that identify people who are not suitable to work with children through reference checking pre-employment screening and detailed questioning at interviews,
f) providing information to families and the community on the child protection strategies that have been adopted by the School,
g) training for employees to promote best practices and to ensure a safe environment for children and employees, and
h) raising awareness in the general community about child protection by displaying brochures, posters or other means of communication.

**Code of Conduct**

The School has a Code of Conduct which must be adhered to by all employees. A copy will be provided upon employment and a receipt signed. Ongoing training will include reference to this Code of Conduct. The Code of Conduct will be readily available within the School community, including to parents and students.
Professional Development for Employees

The School has duty of care and statutory responsibilities which require that all relevant employees (including volunteers where appropriate) be appropriately trained. Existing employees will be required to attend regular training that will:

a) reinforce the School Child Protection Policy and more specifically, the Code of Conduct
b) raise their awareness of child protection issues including recognising signs of reportable conduct and abuse,
c) advise them of their statutory obligations under the School policy, and
d) provide clear guidance in relation to appropriate and inappropriate behaviour.

As part of their induction to the School, newly recruited employees will be assessed as to their knowledge and training requirements in this area and appropriate training will be undertaken in need.

All employees will receive a copy of the Child Protection Policy and the Code of Conduct and are required to formally acknowledge that they have read, understood and are willing to comply with these.

Child Protection within the curriculum

It is important to help students to take care of themselves in all sorts of situations where they may feel unsafe.

At the School a comprehensive Protective Behaviours programme for both K-6 and Secondary has been developed. Children are taught that the Lord has given to adults the responsibility to care for children. Children do not need to just “put up” with unsafe situations; they can do something about what may appear to be a predicament in which they feel powerless.

As a result of the awareness raised and skills learned through the Protective Behaviours programme, and because of the caring environment cultivated by staff, students at the School do from time to time disclose situations of abuse.

Partnership with parents and the wider community

The School recognises the importance of supporting our parents (and the community) in maintaining positive relationships with their children. From time to time, the School may provide parent information evenings or small group courses that may assist children and their families to develop open lines of communication. These may include such areas as parenting, communication skills, child development and adolescent development.

The School may also raise community and family awareness about general child protection issues through information placed in School Newsletters and through the distribution of relevant brochures. The School will include information about the child protection strategies such as training employees in best practices to ensure a safe
environment through a letter to parents or through the School Newsletter.

**Employment procedures**

In addition to complying with legislation with regard to the prohibited employment screening, the School will seek to recruit employees that would be strongly supportive of the Christian ethos and have a focus on the pastoral needs of students. The School will also use the “Structured Referee Checks” guidelines prepared by the Commission for Children and Young People.

Approved this day

________________________________________

________________________________________

Principal                              Chairman of Trustees
Appendix 1: Definitions of reportable conduct

Sexual Abuse
Child sexual abuse is any sexual act or sexual threat imposed on a child. Sexual abuse refers to the involvement of children in sexual acts. Adults or older children who perpetrate child sexual abuse exploit the dependency and immaturity of children.

Physical or psychological coercion based on the power imbalance between an adult and a child is part of sexual abuse.

Grooming
Grooming may be the first phase of sexual assault. The Royal Commission recognised that grooming plays a critical role in the majority of incidents of child sexual assault. Sexual assault occurs when a person in power or authority takes advantage of trust or respect to involve a child in sexual activity. It has been widely documented that the dynamics of sexual assault is often very different to other forms of abuse. Child sexual assault follows distinct phases, the first phase being when the offender engages and grooms the child. The grooming process itself is split into several distinct steps:

1. Building trust – spending special time with the child, giving gifts, showing special favours, allowing the child to over step the rules etc
2. Testing the boundaries – undressing in front of the child, allowing the child to sit on the lap, talking about sex, accidental touching of genitals etc.
3. Engaging in sexual activity – this activity generally increases in severity over time.

The behaviours detailed above may not be indicative of grooming if occurring in isolation. If however there is a pattern of behaviour occurring, it needs to be considered whether that behaviour is part of a grooming process and therefore needs to be viewed within the context of child sexual assault.

Sexual offences
Sexual offences include sexual intercourse, acts of indecency and indecent assault:

- Sexual intercourse under the Crimes Act is defined in s. 61A (1) as:
  (a) sexual connection occasioned by the penetration to any extent of the genitalia of a female person or the anus of any person by:
    any part of the body of another person; or
  (i) any object manipulated by another person, except where the penetration is carried out for proper medical purposes;
  (b) sexual connection occasioned by the introduction of any part of the penis of a person into the mouth of another person;
  (c) cunnilingus; or
  (d) the continuation of sexual intercourse as defined in paragraph (a), (b) or (c).
- An act of indecency is one that is contrary to community standards of decency.
- An indecent assault (touching without consent) accompanied by circumstances of indecency e.g. touching the genitalia of either boys or girls or the breast of a girl, whether inside or outside of clothing.
Physical Abuse
Physical abuse refers to assault and/or non-accidental injury and/or harm to a child by a parent, caregiver or another person responsible for the child or young person. It includes injuries or harm which are caused by excessive discipline, severe beating or shaking, bruising, lacerations or welts, burns, fractures or dislocation, female genital mutilation, attempted suffocation or strangulation and death. Physical assault is a hostile act towards a child. The assault occurs regardless of the adult’s intention to harm and regardless of the child or young person’s consent. Assault can include pushing, shoving, throwing objects, spitting, hitting, smacking, and threatening behaviour (either verbal or action).

Actual physical harm does not have to occur in order for an assault to have occurred, i.e. the child does not need to be hurt or injured. Even if the person did not intend to make contact with the child, it may still constitute an assault if the circumstances indicate the act may have been reckless (i.e. being a reasonably foreseeable consequence of their action).

Neglect
Neglect occurs when a child is harmed by the failure of a parent, caregiver or other person to provide the basic physical and emotional necessities of life. This includes the failure of a person, whether or not the parent of the child, to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child in his or her care without reasonable excuse.

Neglect is a failure to take action and by its nature is more difficult to describe or detect than are more visible signs of child abuse. When considering whether a child is being, or has been, neglected, it can be useful to focus on the effect of the situation on the child, that is, whether the situation has affected the physical, emotional or intellectual well-being of the child.

Neglect usually develops as a pattern of behaviour that results in the harm of the child over a period of time.

Behaviour causing psychological harm
Within the child protection field, the terms ‘emotional abuse’, ‘psychological abuse’ and ‘psychological maltreatment’ are all used to refer to behaviour directed towards children that may cause psychological harm. The study of behaviour causing psychological harm is relatively recent and remains a relatively abstract concept. Psychological maltreatment appears to be more prevalent and potentially more destructive than other forms of child abuse and neglect. However, it receives little attention from the public or professional sector and is seldom the target of research or intervention.

Psychologically harmful behaviour is behaviour by a parent, caregiver or other person that can destroy the confidence of a child, resulting in significant emotional deprivation or trauma. It involves impairment of a child’s social, emotional, cognitive, intellectual development and/or disturbance of a child’s behaviour.

Although there is no one universally accepted definition of psychological abuse, types of behaviour include:
The Scots School

- Acts that degrade or belittle a child and can be verbal or non-verbal types of behaviour include harsh criticism, shaming a child for expressing normal emotions or publicly humiliating a child,
- Subjecting a child to chaotic circumstances e.g. exposure to domestic violence and setting unrealistic expectations with threats of harm or loss – types of behaviour include threats to physically hurt, kill or place the child (or child’s loved one) in danger,
- Behaviours that deny the child the opportunity to engage in social activities with peers or adults or that restrict the child’s freedom of movement within the environment,
- Acts that promote self-destructive, antisocial, criminal and other maladaptive behaviours in children – types of behaviour include demonstrating anti-social behaviour and permitting children to be involved in behaviours such as drug use, prostitution and violence, failure to encourage developmentally appropriate behaviour through over involvement or dominance and restricting the child’s cognitive development,
- Persistent failure to care for and support the child, withholding emotional interactions, being detached from the child and interacting only when absolutely necessary.

Behaviour may be classified as causing psychological harm if it is shown to have caused damage to the child on whom it was inflicted. The notion that behaviour is classified as abusive if it is shown to have caused damage is particular to psychological abuse. This is different to the areas of physical or sexual abuse, in which there are various behaviours which, of themselves are viewed as abusive, regardless of whether the child appears to have experienced harm.

Unlike physical or sexual abuse, where single acts may be considered abusive, psychological abuse is generally characterised by a sustained or repetitive pattern of behaviour by the person subject of an allegation. Isolated instances of psychological maltreatment generally do not constitute abuse. There are some notable exceptions where the isolated incident has had severe repercussions for the child or has been part of multi-type abuse allegation.

Psychological abuse is generally judged on the basis of community standards and professional judgment. Psychological abuse occurs when a caregiver violates community or social norms and harms a child.

Psychological maltreatment has different effects on children depending on their developmental level and so certain behaviours may be considered abusive when directed to children of a particular age and not abusive when directed at another age level.

The consequences of psychological abuse include feelings of guilt, distress, low self-esteem, depression, self-destructive behaviour and delays in normal development in peer relations and school development.
Indicators that the behaviour has harmed the child may include:
- Physical evidence, for example, constant or chronic poor health,
- Behaviour evidence such as developmental delays, sleep disturbances, anxiety, bed-wetting, extreme attention seeking, bullying or refusal to go to school.

The following criteria may form the basis for assessment of whether particular behaviour may cause psychological harm to a child:
- Presence of behaviour by an employee which falls within one of the types of psychological maltreatment outlined above,
- Sustained or repeated patterns of behaviour or a significant single instance,
- Violation of accepted community standards,
- The developmental level of the child,
- Evidence of actual psychological or emotional harm.


As some delay in the manifestation of psychological harm may be likely, agencies should maintain detailed notes in respect of any allegation of psychological harm when indicators of harm are not present at the time the allegation was made.

Examples
- Subjecting children of one gender to harsher or more humiliating punishments than children of the opposite gender on an on-going basis is behaviour that would be considered to possibly cause psychological harm.
- Using belittling or derogatory comments to a child on a continual or persistent basis is behaviour that would be considered to possibly cause psychological harm.
- Embarrassing a child by directing him or her to sit at the front of the group would not itself be considered psychologically abusive behaviour unless it formed part of a sustained pattern of singling out a particular child.
- Swearing in front of a child or group of children, while it may be offensive, would not itself be considered psychologically abusive behaviour unless it formed part of a sustained pattern of swearing directed at a particular child or group of children.
- Exposure to domestic violence –
  A suitable definition may be: “Incidents of domestic violence and as a consequence a child is at risk of serious physical or psychological harm (domestic or family violence).”

Appendix 2: Indicators of abuse, neglect, and exposure to domestic violence

A word of warning
Indicators should be seen as a guide rather than as conclusive proof. It is important to be aware that many of the indicators listed are not only common to different forms of child abuse but may also be caused by factors other than child abuse. They may for instance be the result of problems associated with family disruption and tension or stem from a child’s illness, undiagnosed disability or learning problem.
While it is important to avoid jumping to conclusions it is equally important to recognise that a child who shows a number of physical signs and/or behavioural symptoms obviously has a problem of some kind. Even if the problem is not related to child abuse the child is still clearly in need of help. If in doubt, discuss your concerns with the Principal.

**General Indicators**

In assisting staff to identify suspected cases of child abuse, indicators of abuse or neglect include, but are not limited to, the following:
- history of previous harm to the child
- abuse or neglect of a sibling
- social or geographic isolation of the child or family
- family history of violence including injury to children
- domestic violence
- physical or mental health issues for the parent or caregiver
- the parent or caregivers’ abuse of alcohol or other drugs
- a developmental disability of the parent or caregiver
- parent or caregiver experiencing significant problems in managing the child's behaviour
- a history of injury which is vague, bizarre or variable
- marked delay between injury and presentation for medical assistance
- the child tells you he or she has been abused, or he or she knows someone who has been abused and may be referring to themselves
- a friend, relative etc. tells you that the child may have been abused

**Specific Indicators**

**Sexual Abuse**

Indicators of sexual abuse in children include:
- direct or indirect disclosures
- describing sexual acts
- age inappropriate behaviour and/or persistent sexual behaviour
- self-destructive behaviour (e.g. self mutilation, suicide attempts)
- overtly sexual themes in play, artwork or writing
- persistent running away from home
- anorexia, over-eating
- unexplained accumulation of money or gifts
- adolescent pregnancy
- injuries to the breasts, buttocks, lower abdomen and thighs
- Other child stress indicators (e.g. poor concentration, nightmares and bedwetting, marked changes in behaviour, complaints of stomach aches and headaches with no physical findings)

**Physical Abuse**

Indicators of physical abuse include:
- bruising and other injuries to the face, head and neck
- lacerations and welts
- explanation offered by the child inconsistent with the injury
- bruising and marks which take the shape of an object (belt buckle etc)
- bite marks and scratches
- multiple injuries or bruises
- burns and scalds
**Emotional Abuse**
Indicators of emotional abuse include:
- feelings of worthlessness about life and themselves
- inability to value others
- lack of trust in people and expectations
- extreme attention seeking behaviour
- behavioural disorders
- persistent hostility in parents or caregivers or constant criticism of the child

**Neglect**
Indicators of neglect include:
- poor standards of hygiene
- scavenging or stealing food
- extended stays at school, public places, others' homes
- being focused on basic survival
- untreated physical problems

**Indicators of exposure to domestic violence**
“Domestic and family violence” can include:
- physical assault (including punching, hitting, kicking, pushing, slapping, choking, or the use of weapons)
- sexual assault (being forced to have sex or participate in sexual activities, either by watching of participating)
- emotional abuse (making you feel worthless, criticizing your personality, your looks, the way you dress, constantly putting you down, threatening to hurt you, your children or your pets)
- verbal abuse (including yelling, shouting, name-calling and swearing at you)
- social abuse (being stopped from seeing friends and family, isolating your socially or geographically)
- damaging property such as furniture, the house or pets in order to threaten or intimidate you
- financial abuse (taking control of the money, not giving you enough money to survive on, forcing you to hand over your money, not letting you have a say in how it is spent).

Physical and sexual assault is a crime whether they happen in the home or on the street.

**Effects of domestic violence**

Violence and the threat of violence at home creates fear and can destroy normal family functioning. Violence in the home also affects children. Children and young people don’t have to see the violence to be affected by it.

Living with domestic violence can cause physical and emotional harm to children and young people.

Children and young people who live with domestic violence are more likely to display aggressive behaviour, experience anxiety, have reduced social skills, suffer symptoms of depression and show emotional distress.
Domestic violence and children

For optimal development, children and young people need to grow up in a secure and nurturing environment. Where domestic or family violence exists, the home is not safe or secure and children are scared about what might happen to them and the people they love.

Studies show that children who have witnessed domestic violence are more likely to:

- show aggressive behaviour
- develop phobias and insomnia
- experience anxiety
- show symptoms of depression
- have diminished self esteem
- demonstrate poor academic performance and problem solving skills
- have reduced social competence skills, including low levels of empathy
- show emotional distress
- have physical complaints."

APPENDIX 3

LEGISLATIVE REQUIREMENTS

The Ombudsman Act, 1974
The School is required to respond to allegations against employees and to notify the Ombudsman of reportable allegations or convictions.

The Head of Agency is required to:
\( \text{a) report to the Ombudsman (within 30 days of becoming aware) any reportable allegations or convictions relating to an employee, and} \)
\( \text{b) conduct investigations (which can be preliminary or other enquiries or assessment) into reportable allegations or convictions.} \)

All School employees are required to inform the Principal or the Principal’s nominee of any reportable allegation against an employee, which occurs either within or outside the work place. If this is not appropriate, for example where the allegation relates to the Principal, all employees are required to inform the Chairman of the Trustees or the Director of the Child Protection Unit.

The Children & Young People (Care And Protection) Act, 1998
The Head of Agency is required to:
\( \text{a) ensure that all employees are aware of their obligations to report to the Department of Community Services a child or young person who is considered to be at risk of harm, and} \)
\( \text{b) ensure that the School policies, procedures and practices are in line with the Act in relation to child protection.} \)

All School employees are required to:
\( \text{a) ensure that practice is consistent with the principles, objectives and provisions of the Act, and} \)
\( \text{b) report concerns that a child or young person is “at risk of harm” to the Principal or the Principal’s nominee, or where this is not appropriate, for example where the allegation relates to the Principal, all employees are required to inform the Chairman of the Trustees or the Director of the Child Protection Unit.} \)

Indicators that establish reasonable grounds to suspect a child is at risk of harm are when:
\( \text{a) a child speaks about being at risk of harm,} \)
\( \text{b) someone else informs an employee that a child is or has been at risk of harm,} \)
\( \text{c) a child tells an employee that they know someone who has been or is at risk of harm, or} \)
\( \text{d) an employee observes a particular child’s physical appearance, condition or behaviour; or their knowledge generally leads to suspicion of abuse} \)
The Principal or the Principal’s nominee is required to:

- a) establish that existing employees are not ‘prohibited’ persons,
- b) employ only persons who are not ‘prohibited’ persons, and
- c) notify the Commission for Children and Young People of the names of anyone refused employment primarily as a result of risk assessment in employment screening.

All School employees are required to:

- a) disclose to the School their status relating to the definition of a prohibited person, and
- b) not apply for or remain in child-related employment if a prohibited employee.

**The Commission for Children and Young People (CCYP) Act, 1998**
The Principal or Principal's nominee is required to:

- a) conduct employment screening, through the Commission for Children and Young People before employing employees,
- b) notify the Commission for Children and Young People of relevant disciplinary proceedings taken as result of an allegation/conviction of reportable conduct by an employee,
- c) notify Commission for Children and Young people of applicants who have not been offered child-related employment as a result of screening, and
- d) securely retain relevant records.

**Child Protection Legislation Amendment Act, 2003**
The Principal or Principal’s nominee is required to:

- a) investigate matters falling within the ‘class or kind’ classification, and
- b) notify the Ombudsman when the decision made is sustained or not sustained.

This Act acknowledges the right of parents to make a complaint to the Ombudsman’s Office if they are dissatisfied with the conduct of such an investigation.
APPENDIX 4

ROLES AND RESPONSIBILITIES

The Head of Agency
The Head of Agency is responsible for ensuring systems are in place for recording and responding to all allegations or convictions against an employee, including matters that are required to be notified to the Ombudsman. The Head of Agency is responsible for:

a) recording the allegation,
b) notifying the Ombudsman,
c) reporting to the ‘Helpline’ (DoCS) or the Police, if necessary
d) conducting a risk assessment,
e) investigating an allegation,
f) responding to an allegation concerning the head of agency, manager or supervisor,
g) responding to a reportable allegation against an employee where the conduct occurred outside work hours if required,
h) taking relevant employment proceedings (if any) in relation to the employee who has had an allegation of reportable conduct made against them, and notifying the Ombudsman of that action,
i) sending the report and findings of the outcome of the agency investigation of reportable allegation or conviction to the Ombudsman,
j) notifying the CCYP of completed relevant employment proceedings, and
k) determining the action that may be taken if it is found, at the end of the
l) investigation, that an employee has made an allegation that has been found to be false or vexatious.

The Principal or Principal’s Nominee
The Principal or Principal’s nominee is to report to report to the appropriate authorities and to the Child Protection Unit any situation where he/she:

a) becomes aware that there has been a reportable allegation made in relation to an employee, or
b) has formed a belief on reasonable grounds that a child or young person has been harmed or is at risk of harm.

The Principal or Principal’s nominee is also required to:

c) establish and maintain systems for preventing, handling and responding to reportable allegations or reportable convictions involving an employee of the School,
d) provide when requested by the Ombudsman information about the type and operations of those systems, and
e) make arrangements within the School to require all employees to notify the Head of Agency of any reportable allegation or conviction of which they become aware, including where reportable allegations may be made to the Chairman of the Trustees or the Director, Child Protection Unit.

The Director, Child Protection Unit
The Director, Child Protection Unit is responsible for the oversight of any process arising from a reportable allegation. The Child Protection Unit may assist and advise the School during an investigation in relation to process, legal requirements, provision of pastoral care and support, findings and subsequent actions. The Director may be appointed as
Head of Agency in some circumstances.

When the Police or the Department of Community Services are investigating an allegation or incident, the School is responsible for:

a) assessing the risk posed by the employee if the allegation were to be sustained, and
b) liaising and coordinating with the Department of Community Services or the Police regarding specific roles.

This will be overseen by the Director, Child Protection Unit.

Once the Department of Community Services and/or the Police have made a finding, the School in conjunction with the Director, Child Protection Unit will determine what further steps need to be taken to comply with this policy and relevant legislation with regards to the employee.

**School Employees**

All School employees must report to the Head of Agency any situation where he/she:

a) becomes aware that there has been a reportable allegation made in relation to an employee, or
b) has formed a belief on reasonable grounds that a child or young person has been harmed or is at risk of harm.

In most instances reports will be made to the Principal or the Principal's nominee. However, where this is not appropriate, for example where the allegation relates to the Principal or where there is a clear conflict of interest, all employees are required to inform the Chairman of the Trustees or the Director of the Child Protection Unit.

All employees should also note that:

c) Failure to report allegations of child sexual abuse of a child who is under 16 years of age, based on reasonable grounds, is an offence under Section 316 of the NSW Crimes Act.

d) Employees are required to report any allegations or evidence of abuse only to the nominated person and discussion with others should be avoided or limited to persons in their normal reporting line. Failure to limit communication in this way will not only be a breach of this policy, but will result in the employee not being protected under the law from potential civil proceedings for defamation.

e) The Principal or the Principal’s nominee will report any matter that must be notified to the Department of Community Services as required by the relevant legislation. The employee will be advised of the action taken. 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 or the Principal’s nominee, the employee, as the original notifier, will have an obligation to report under legislation if they believe that reasonable grounds exist.

f) All allegations against an employee of the School must be reported to the Ombudsman. This will be done by the Head of Agency.

g) If a student discloses abuse to an employee, that employee is obligated to report the disclosure as stated above but the employee must not investigate the matter.
h) Employees are required to confer with the Principal or the Principal’s nominee before responding to a request by the Department of Community Services or any other requests to attend an interview with a child.

i) Employees may be required to provide a detailed written report on any matter regarding reportable conduct about which they have notified or been notified. The confidentiality of such a report will be maintained unless otherwise required under law. Employees are advised to keep accurate notes.

j) Employees are required to give the School an assurance that they have not been found guilty of a sexual offence or an offence against the person of a student or a child (Child Protection (Prohibited Employment) Act, 1988). This is done by completing the Prohibited Persons Declaration.

k) The Ombudsman Act, 1974 requires that employees disclose to the Principal or Principal’s nominee:
   - if they have been charged and/or convicted of a reportable offence, and/or
   - any information about misconduct that they become aware of concerning an employee of the School involving reportable conduct.

The Ombudsman

Under the Ombudsman Act, the Ombudsman must keep under scrutiny the systems agencies have in place for:

a) preventing reportable conduct by employees, and
b) handling and responding to reportable conduct allegations or convictions, involving those employees.

If the matter is within the jurisdiction of the Ombudsman, the assigned investigation officer will:

c) conduct an assessment of notification of allegation,
d) monitor investigation conducted by the School, or directly investigate the allegation,
e) investigate the complaints, and
f) audit the School’s systems.

The Department of Community Services (DoCS)

The role of the Department of Community Services includes, but is not limited to providing or arranging services to children, young people and parents when a request for assistance is received; receiving or assessing reports of abuse or neglect; and acting to maintain the safety of children.

The main purpose of an investigation by the Department of Community Services is to identify whether a child is at risk of harm and whether any care and support issues exist.

From time to time the Principal may be approached by DoCS to remove a student from school premises. This approach must be supported by a Section 60 notice. If a student is to be removed from School or ordered to remain at School (Section 62 A) the Principal must:

- Confirm the identification of the officers;
- Take a copy of the Section 60 or Section 62A notice;
- Record details of actions, names and officer and where possible place of lodgement of the student;
● Gain assurance from DoCS that they will immediately inform the parent or care giver that the student has been removed or order to remain at the School;
● Inform the Child Protection Unit.

Before any phone conversation with DoCS concerning a student the Principal must confirm the identity of the caller by phoning a known DoCS number. Any information requested verbally must be confirmed in writing promptly. Any staff who receive a request for information from DoCS must immediately refer the matter to the Principal.

The Principal should inform the parents or care gives that a request has been made unless DoCS informs the School that the parents are not permitted to be told.

The Police
The main purpose of an investigation by Police is to obtain information upon which a sound and proper decision can be made about the validity of the allegation. This means:

a) gathering all the relevant facts and making decisions as to whether on balance of probabilities, the allegation has been sustained/not sustained, and
b) providing information to assist in any disciplinary proceedings.

The Joint Investigative Team (JIT) consists of a member of the Department of Community Services working with a member of the NSW Police Force to conduct an investigation.

Student interviews conducted by DOCS or the Police
DOCS and/or the Police may wish to carry out student interviews, sometimes jointly, at the School. In this case:

● Before allowing any officers access to information or students, the Principal should confirm the identification of the officers.
● No student will be interviewed at the School against the wishes of the student and it is the Principal’s responsibility to inform the student of this.
● At the commencement of the interview, the Principal should ask the investigating officers to explain to the student, in the presence of the Principal, the purpose of the interview and their role.
● The Principal will inform the student of his or her right to choose a supportive adult to be present. If a person is nominated by the student the interview must not commence until that person has arrive.
● What takes place in the interview becomes part of the investigation and must remain confidential.
● Except in cases which involve a member of the family it is expected that a parent of the child concerned will be present at any interview with the child. Should the allegations be made against a family member DoCS or the Police will communicate with parents. The Principal will confirm that this has happened.

The Commission for Children and Young People (CCYP)
The Commission for Children and Young People receive notification from the School in relation to:

a) relevant disciplinary proceedings taken as a result of a reportable allegation or conviction concerning an employee, and
b) applicants who have not been offered child-related employment as a result of appropriate assessment or screening.