



**MACKILLOP EDUCATION
WARANARA**

So much more than a school

NSW_EDU_WAR_13 Mackillop Education Waranara School Child Protection Policy and Procedures

NSW Education Standards Authority

Registered and Accredited Individual Non-government Schools Manual

B.8 Safe and Supportive Environment

B8.1 Schools must meet child protection requirements *Child Protection (Working with Children) Act 2012, Children and Young Persons (Care and Protection) Act 1998, Children's Guardian Act 2019* and Section 47(1)(g)(ii) and 47(1)(g)(iii) of the *Education Act*

Definitions

MacKillop Family Services (MacKillop Education Waranara School) will be referred to, forthwith, as MacKillop Education Waranara.

Child abuse - definitions under the *Children's Guardian Act 2019* are as follows:

Type of Abuse	Defination
Sexual Abuse	Is when someone involves a child or young person in a sexual activity by using their power over them or taking advantage of their trust. Often children are bribed or threatened physically and psychologically to make them participate in the activity. Child sexual abuse is a crime.
Physical Abuse	Is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes but is not limited to injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation. Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints. Hitting a child around the head, neck and or using a stick, belt or other object to discipline or punishing a child (in a non-trivial way) is a crime

Type of Abuse	Defination
Emotional Abuse	<p>Can result in serious psychological harm, where the behaviour of their parent or caregiver damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or truama.</p> <p>Although it is possible for “one-off” incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child. This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domenstic violence, intimidation or threatening behaviour.</p>
Neglect	<p>Is the continued failure by a parent or caregiver to provide a child with basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.</p>

Child Grooming - The New South Wales grooming offence is confined to circumstances in which an adult engages in conduct that exposes a child to indecent material or provides the child with an intoxicating substance with the intention of making it easier to procure the child for sexual activity. Grooming is the lead up to conducting acts of sexual abuse. Grooming behaviour involves the perpetrator manipulating a child to gain their trust, build rapport, and exert their power over them. The age of the child is under the age of 16.

Child related work (including voluntary work) – is providing services for children and you people under 18, where the work normally involves being fact to face with children and where contact with children is more that incidental to the work.

Crimes Act - *the Crimes Act 1900*

DCJ - Department of Communities and Justice

Disqualified person - A disqualified person is a person who has been convicted, or against whom proceedings have been commenced for a disqualifying offence outlined in Schedule 2 of WWC Act. A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child related work.

External Service Providers – any person(s) providing services to students.

ESOA - the employee or volunteer subject of an allegation

FACS – Family and Community Services

Interim bar - The OCG may issue an interim bar, for up to 12 months, to high-risk individuals to prevent them from engaging in child-related work while a risk assessment is conducted. If an interim bar remains in place for six months or longer, it may be appealed to the Administrative Decisions Tribunal. Not everyone who is subject to a risk assessment will receive an interim bar; only those representing a serious and immediate risk to children.

Mandatory reporters - who, in the course of their professional work or other paid employment delivers education to children and/or who holds a management position where the duties include direct responsibility for, or direct supervision of, the provision of education wholly or partly to children. All employees or volunteers engaged by the School are mandatory reporters.

NESA – NSW Education Standards Authority

OCG – Office of the Children’s Guardian. The OCG monitors criminal records and professional conduct findings of all WWCC clearance holders through a risk assessment process. This process is an evaluation of an individual’s suitability for child-related work.

Parent(s)/Carer(s) – parent(s), carer(s) and guardian(s)

RoSH - Risk of Significant Harm

Staff - staff, volunteers, contractors, other service providers and members of the MacKillop Family Services Board.

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

The CGA - *Children’s Guardian Act 2019*

The CPWWCCA - *Child Protection (Working with Children Check) Act 2012*

The School – MacKillop Education Waranara School

WWCC – working with children check.

Scope

All schools in NSW know and comply with their obligations under the following NSW laws:

1. *Child Protection (Working with Children Check) Act 2012* – which sets out a school’s responsibility to obtain working with children check clearances for all persons who work in child-related work and verify with the Office of the Children’s Guardian.
2. *Children and Young Persons (Care and Protection) Act 1998* – which sets out the responsibilities of mandatory reporters and responsibilities of schools to identify and report child protection concerns to the NSW Department of Communities and Justice where reasonable grounds exist to suspect a child is at risk of significant harm.
3. *Children’s Guardian Act 2019* – which sets out a school’s responsibility to prevent and identify reportable conduct by staff and respond to any instances by investigating and report to the Office of the Children’s Guardian.
4. *NSW Crimes Act 1900* - Grooming a Child (Child Grooming) for Unlawful Sexual Activity is an offence under this Act.

This policy sets out staff responsibilities for child protection and processes that staff must follow in relation to child protection matters.

Scope

This policy applies to all staff, parent(s), carer(s) guardian(s), students and stakeholder(s). Staff members who fail to adhere to this policy may be in breach of their terms of employment.

School Statement

The School is committed to providing a respectful, safe and supportive learning environment for its students. The School is a Special Assistance school that caters to student who are disengaged, or, at risk of disengaging, from learning. The school takes bullying as a serious issue and all incidents addressed. The School has a deep understanding of our students. Student behaviours are complex and may be a result of trauma. A sensitive and discerning response will be applied.

Our values of respect, hope, justice, compassion and collaboration inform the quality of relationships we establish and all that we do to ensure our learning community is a place of welcome and safety. We celebrate diversity, and we are committed to inclusion, so that every student, regardless of race, religion, culture gender identity or person circumstance, including barriers to learning, can access education and experience success.

The student community at the School is comprised of children and young people aged 14-19 years. This places a duty-of-care and legislative onus on the School to ensure the safety and wellbeing of these students when they are interacting with our staff, volunteers, and other school visitors who may be engaging in child-related work.

The School regards the protection and wellbeing of its students as of paramount importance. It is committed to the safety or wellbeing of students. The following strategies have been put in place:

- WWCC – ensuring that all staff and external providers have a current WWCC clearance prior to commencement of work and follow up on renewals so that clearances are maintained.
- Criminal Checks – will be obtained for staff and external service providers prior to commencement and followed up on every year.
- Mandatory reporting of risk of risk of significant harm – ensure that this policy comply with legislation.
- Every 12 months the School will ensure that:
 - staff are informed of their legal obligations for child protection and other relevant school expectations.
 - staff are informed of the School’s policies and procedures relevant to child protection.
 - staff will receive training in their legislative responsibilities.
- The *Children’s Guardian Act* sees caring for children and young persons as a responsibility shared by families, schools and communities working in partnership. It promotes working with children, young people and families in flexible, responsive and innovative ways to meet their needs. The Principal or the Deputy Principal will put forward the following considerations to the relevant body:

- When making any decision about a child or young person the main consideration must be their safety, welfare and wellbeing.
 - The child or young person's rights to participate in decision making.
 - The child and young person is provided with an explanation about actions taken to protect them.
 - Their name, identity, cultural and religious ties are preserved.
- Students will be informed of avenues for reporting abuse.
 - The rights of students and staff will be respected during the assessment and investigation of complaints that may arise.
 - All students and staff have a right to procedural fairness throughout any investigation process related to child protection matters.
 - Confidentiality concerning any allegation will be strictly maintained to protect the privacy of both the alleged victim and alleged offender, and to avoid any subsequent investigation being compromised.
 - Comply with the Crimes Act (Criminal Offences):
 - The Crimes Act amended 2018 to adopt recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. The new offences are designed to prevent child abuse, and to bring abuse that has already occurred to the attention of the Police.
 - Failure to Protect a child or young person is an offence under the Crimes Act. Any person engaged by the School, will commit an offence if they know or reasonably suspect that another person poses as serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they negligently fail to do so either by acts and/or omissions. This offence is targeted at those in positions of authority and responsibility working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.
 - Any person engaged by the School will commit an offence if they know, believe, or reasonably ought to know, that a child abuse offence has been committed and fail to report that information to NSW Police without a reasonable excuse. A reasonable excuse may include where the adult has reported the matter to the Principal or Mackillop Institute and Mackillop Education and is aware that it has been reported to the NSW Police.
 - The policy and procedure will be made available on the School's website and intranet. Parent(s)/carer(s) will be advised that the policy is publicly available.

Child Protection Principals

Principles

The *Children and Young Persons (Care and Protection Act) 1998* lays out objects and principles which guide its implementation. The *Children's Guardian Act 2019* commenced on March 1st 2020,

bringing together existing legislation under one act. Waranara School MacKillop Education endorses these principles and have been implemented within this document:

- *1 Child safety is embedded in institutional leadership, governance and culture.*
- *2 Children participate in decisions affecting them and are taken seriously.*
- *3 Families and communities are informed and involved.*
- *4 Equity is upheld, and diverse needs are taken into consideration.*
- *5 People working with children are suitable and supported.*
- *6 Processes to respond to complaints of child sexual abuse are child focus.*
- *7 Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.*
- *9 Implementation of child safe standards is continuously reviewed and approved.*
- *10 Policies and procedures document how the institution is child safe.*

Note: Child Safe Standards – recommendations from the Australian Royal Commission into institutional response to child sexual abuse 2012-2017 (each of the 10 standards are indicated throughout this policy, except standard “8 Physical and online environments minimize the opportunity for abuse to occur.” This standard is found in the *NSW_EDU_WAR_25 MacKillop Education Waranara Student Supervision Policy* and the *NSW_EDU_WAR_05 MacKillop Education Waranara School Information Technology Acceptable Use Policy*.

Related Policies

There are a number of other School policies that relate to child protection that staff members must be aware of and understand including (but not limited to):

- *NSW_EDU_WAR_02 MacKillop Education Waranara School Anti-Bullying Policy - discrimination, harassment and bullying Statement - summarises obligations in relation to unlawful discrimination, harassment and bullying.*
- *NSW_EDU_WAR_03 MacKillop Education Waranara School Work Health & Safety Policy - identifies the obligations imposed by work health and safety legislation on the School and staff.*
- *NSW_EDU_WAR_05 MacKillop Education Waranara School Information Technology Acceptable Use Policy*
- *NSW_EDU_WAR_06 MacKillop Education Waranara School Student Code of Conduct – set out information of about the standards of behaviour expected of students and their rights.*
- *NSW_EDU_WAR_08 MacKillop Education Waranara School Complaints Grievances and Dispute Resolution Policy – provides the steps taken by the School in addressing complaints.*
- *NSW_EDU_WAR_14 MacKillop Education Waranara School Student Conduct Process – sets out information on the process for student behaviour.*

- *NSW_EDU_WAR_15 MacKillop Education Waranara School Student Wellbeing Policy – provides information on how the School ensure the holistic health and well-being of the School’s students and their families, alongside the School’s educational attainment priorities.*
- *NSW_EDU_WAR_17 MacKillop Education Waranara School Code of Conduct - sets out information about the standards of behaviour expected of all staff.*
- *NSW_EDU_WAR_25 MacKillop Education Waranara Student Supervision Policy*

Responsibilities

The legislation requires reporting of all child abuse. Any instances of abuse will be reported to the Principal. Any abuse that involves the Principal must be reported to the Group Director of MacKillop Institute and Education.

All staff are responsible for mandatory reporting.

Office of the Children’s Guardian

- Must keep under scrutiny the systems for preventing reportable conduct by employees of non-government schools and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions.
- Must receive and assess notifications from non-government schools concerning reportable conduct or reportable convictions.
- Is required to oversee or monitor the conduct of investigations by non-government schools into allegations of reportable conduct or reportable convictions.
- Must determine whether an investigation that has been monitored has been conducted properly and whether appropriate action has been taken because of the investigation.
- May directly investigate an allegation of reportable conduct or reportable conviction against an employee of a non-government school, or the handling of or response to such a matter (eg arising out of complaints by the person who is the subject of an allegation).
- May investigate the way in which a relevant entity has dealt with, or is dealing with, a report, complaint or notification, if the OCG considers it appropriate to do so.

MacKillop Education Waranara School

The School is required to:

1. verify online and record the status of each staff WWCC clearance.
2. only employ or engage child-related workers or eligible volunteers who have a valid WWCC clearance (disqualified person).
3. advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred to the OCG’s Working with Children Check Directorate. It is an offence for an employer to knowingly engage a child-related worker who does not hold a WWCC clearance or a bar.

The Principal

The Principal must:

- ensure systems are in place for preventing, detecting and responding to reportable allegations or convictions.
- submit a 7-day notification form to the OCG within 7 business days of becoming aware of a reportable allegation or conviction against an employee, The notification will include the following information:
 - a. that a report has been received in relation to an employee of the School
 - b. the type of reportable conduct
 - c. the name of the employee
 - d. the name and contact details of School and Group Director of MacKillop Institute and MacKillop Education
 - e. for a reportable allegation, whether it has been reported to NSW Police
 - f. that a report has been made to the Child Protection Helpline (if applicable)
 - g. the nature of the relevant entity's initial risk assessment and risk management action
 - h. The notice must also include the following:
 - details of the reportable allegation or conviction considered to be a reportable conviction
 - the date of birth and Working with Children Check number, of the employee the subject of the report
 - the NSW Police report reference number (if Police were notified)
 - the report reference number if reported to the Child Protection Helpline
 - the names of other relevant entities that employ or engage the employee, to provide a service to children, including as a volunteer or contractor.

The Principal is responsible for monitoring compliance with this policy and maintaining securely the School's records relevant to this policy, which includes:

- a register of individuals who have read and agree to abide by this policy
- WWCC and criminal checks clearance verifications
- mandatory reports to the DCJ, NSW Police and the OCG
- reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

The Principal will be responsible for reporting to the relevant government bodies and the Group Director of MacKillop Institute and MacKillop Education.

The Principal will be responsible for the investigation of any complaints. If the Principal is the person whom the complaint has been made about the Group Director of MacKillop Institute and MacKillop Education will assume responsibilities.

Training

The Principle will be responsible for training staff on mandatory reporting every 12 months. A copy of this policy will be provided at training together with an acknowledgement for staff to sign that they have read the policy and undertaken their obligations. A list will be provided a list of staff who have undertaken the training to the Principal.

Staff will undergo training every 12 months. The training will include:

- Mandatory reporting
- Reportable conduct
- Professional boundaries

This policy will be included in the induction program for new staff/contractors/volunteers and training will be provided in the first week of engagement.

MacKillop Education Human Resources

WWCC and Criminal Checks

MacKillop Family Services' Human Resources Team and the Principal is responsible for obtaining the WWCC and Criminal Checks for all employees, contractors and volunteers of the School and provide the Principal with the WWCC clearance verifications. These checks will be obtained prior to commencement of employment or volunteering at the School and checked every year.

All Staff

They must:

1. Avoid situations which could be misconstrued by the student or other staff – think about what your behaviour means to the child/young person.
2. Always maintain a level of professional behaviour which makes it clear to the child/ young person, their families and your colleagues that you are a responsible adult.
3. Always demonstrate clear professional boundaries.
4. Be open with the Principal about any difficult interpersonal situations involving students as soon as you are aware of them.
5. There may be times, for example when the staff member is the subject of a “crush” or other signs of affection from a student. This may intensify the relationship between the young person and staff member and places the staff member in a difficult and vulnerable position. It is not abnormal for staff members to feel particularly close to a certain student at times, but staff should always consider how the young person may perceive a situation. As responsible adults, it is our role to respect the young person’s needs and rights and always provide positive role modelling. Discussion with the Principal should be pursued if there is any confusion on the staff member’s part. Supervision is an avenue for discussion of these instances.

6. It is possible to dilute the contact between the staff member and student, or for the staff member and young person to talk the situation over with a third person present. It is also helpful to raise such issues at the School team meetings, as other staff may have experienced a similar situation with the young person.
7. All staff must read this policy, attended training and sign that they have read and understood the policy on an annual basis.
8. All new staff must complete training and have read and understood this policy in the first week of engagement as part of their induction program.
9. All staff are responsible for mandatory reporting.

If a staff member has a concern in relation to the safety, welfare and/or wellbeing of a child or young person and when they suspect that a child is at risk, they are required to immediately report the concern to the Principal. Any abused that involves the Principal must be made to the Group Director of Mackillop Institute and Mackillop Education. See *Process for Mandatory Reporting* within this document.

Parent(s)/Carer(s)

The responsibilities of Parent(s)/Carer(s) are required to:

- communicate fully with the School about any matters which pose a risk to the safety, welfare and wellbeing of a student.
- not seek information from the School concerning any report and direct their enquiries to Department of Criminal Justice or the NSW Police.
- engage positively with the School and Central Office staff to support a student, following any concern being raised around their safety, welfare and wellbeing, including in the development of individual student plans, medical and other assessments, counselling support and other recommendations.
- to work collaboratively and constructively with the School in supporting the safety, welfare and wellbeing of all students.
- on enrolment understand that the School has reporting obligations for the safety and wellbeing of students and agree to respect and support in meeting its obligations.

What to say when a Child Discloses Information about their Personal Safety

When a child shares information about feeling unsafe, it is important to allow the child to know they are being heard and to be reassured. They need to hear the trusted adult saying statements like:

1. “I believe you”
2. “You did the right thing by talking to me”

3. “It is never OK for kids to get hurt”
4. “I will discuss with you what can happen next and who we will share this with”
5. “We will keep you involved and informed and you can continue to feel safe to tell us how you feel and what you want”

Determining Whether a Concern Necessitates Mandatory Reporting

In determining whether a concern necessitates mandatory reporting the Principal may seek the support of one or more of the following:

- the [NSW Government Mandatory Reporter Guide](#) - Mandatory reporters: What to report and when - The MRG supports mandatory reporters in NSW to:
 - determine whether a report to the Child Protection Helpline is needed for concerns about possible abuse or neglect of a child or young person
 - identify alternative supports for vulnerable children, young people and their families.
- **NSW Government Decision Tree** - The examples in the following tables aim to help you make an informed decision about the most appropriate decision tree to use. Please note that in some situations more than one tree may be applicable. (13 November 2023)

Reportable Conduct Definitions

Decision Tree	Use this when:
Physical Abuse	<ul style="list-style-type: none"> • You suspect a non-accidental injury or physical harm to a child/young person that may have been caused by a parent/carer or other adult household member. • You know of treatment of a child/young person by a parent/carer or other adult household member that may have caused or is likely to cause an injury or physical harm. • Child/young person was injured, or nearly injured, during a domestic violence incident involving adults. <p>NOTE: If any of the above are true, but the person causing physical harm or injury is a child living in the home, the decision to report should be guided by whether the incident was due to neglect: supervision. Please refer to that decision tree.</p> <ul style="list-style-type: none"> • If a child was injured by a non-household member, the issue may be a police matter. • Female genital mutilation is an injury likely to be caused by a non-household member and should be reported to both the Child Protection Helpline and NSW Police.
Neglect	<ul style="list-style-type: none"> • You suspect that a parent/carer is not adequately meeting child/young person needs. • A child/young person appears neglected.

Decision Tree	Use this when:
	<ul style="list-style-type: none"> • A child/young/person is a danger to self or others and parents/carers are not supervising or providing care. • For example - not adequately meeting child/young person's needs, such as: supervision, shelter, medical care, hygiene/clothing, mental health care, schooling/education, poor nutrition, or other basic needs. <p>Note: For concerns related to shelter, use this tree for a young person who is able to make an informed decision around placement. Use 'Relinquishing Care' if young person is unable to make an informed decision and for children whose parent/carer is refusing to provide shelter.</p>
Sexual Abuse	<ul style="list-style-type: none"> • You learn about sexual abuse or have concerns about sexual contact involving a child/young person. • A child/young person has medical findings that give rise to suspicions of sexual abuse. • A child/young person's behaviour, including sexualised behaviour, makes you worry that he/she may be a victim of sexual abuse. • You are concerned that a child/young person is at risk of sexual abuse. • You are concerned/worried that a child or young person may be sexually harming another child or young person.
Psychological Harm	<ul style="list-style-type: none"> • A child/young person appears to be experiencing psychological/emotional distress that is a result of parent/carer behaviour such as domestic violence, carer's mental health, carer's substance abuse. • A child/young person is a danger to self or others as a consequence of parent/carer behaviour. • You are aware of parent/carer behaviours, including domestic violence that are likely to result in significant psychological harm. • You are aware of an underage marriage or similar union that has occurred or is being planned (see Glossary for definition of underage marriage). <p>Note: When a child/young person exhibits emotional or psychological distress, including being a danger to self or others, but the reporter lacks information on whether parent/carer behaviour had contributed to this behaviour, the Child/Young Person is a Danger to Self or Others, Neglect: Supervision or Neglect: Mental Health Care decision trees may be more appropriate.</p>
Child/Young Person is a Danger to Self and/or Others	<ul style="list-style-type: none"> • A child/young person is demonstrating suicidal or self-harming behaviours. • A child/young person is a danger to self or others and the reporter does not know whether the parent/carer behaviours contributed now or in the past. For example, parent/carer allows the child/young person to consume/use or has provided the child/young person with alcohol or drugs. <p>Note: If you are aware that parent/carer actions or inactions contributed to this behaviour, consider the Psychological Harm decision tree or the Neglect: Supervision or Neglect: Mental Health Care decision trees.</p>

Decision Tree	Use this when:
Relinquishing Care	<ul style="list-style-type: none"> Parent/carer states they will not or cannot continue to provide care for child under the age of 16; or a young person over 16 and he/she is unable to make an informed decision (temporarily or permanently). If the young person is 16 years old or over and able to make informed decisions, please refer to the 'Physical Shelter' tree. Child/young person is in voluntary care for longer than legislation allows. Exclude appropriate care arrangements with other parents, relatives or kin (see Glossary - Informal Care Arrangements)
Carer Concern	<ul style="list-style-type: none"> You have information that the child/young person is significantly affected by carer concerns such as substance abuse, mental health or domestic violence. <p>Note: If the child/young person has already experienced abuse or neglect, use the relevant abuse/neglect decision tree first. If a report to the Child Protection Helpline is not indicated using those decision trees, you may consider a Carer Concern decision tree.</p>
Unborn Child	<ul style="list-style-type: none"> You are concerned for the welfare of an unborn child at birth. <p>Note: Reports related to an unborn child are not mandatory but mandatory reporters should consider the benefits for the parent/s and unborn child in making a report. A report can enable FACS and other agencies to work collaboratively with the parent/s to access support services. Furthermore, a report can enable FACS to prepare for statutory intervention when the child is born. Where FACS has received a ROSH report about an unborn child, a parent responsibility contract can be used to support expectant parents to address issues so the child is safe when born.</p> <p>Note: Where you are concerned about a child who has just been born and due to lack of information none of the other decision trees apply, use this tree to identify your concerns such as inadequate preparation for the birth.</p>

Further Guidance on Neglect

Use this when you suspect or have concerns that a child/young person has been, or may be neglected due to any of the following examples:

Neglect	Use When:
Supervision	<ul style="list-style-type: none"> A child/young person has been or is going to be alone. A parent/carer is persistently inattentive or leaving child/young person alone or in dangerous company, resulting in or likely to result in significant adverse effects or harm. A child/young person is a danger to self or others and parent/carer is not providing adequate supervision.
Shelter/Environment	<ul style="list-style-type: none"> A child/young person or family is homeless. A child/young person is living in a dangerous environment.

Neglect	Use When:
	<ul style="list-style-type: none"> • A child/young person is refusing to stay in an available safe place.
Food	<ul style="list-style-type: none"> • A child/young person is not receiving appropriate nutrition or is underweight or morbidly obese.
Hygiene/Clothing	<ul style="list-style-type: none"> • A child/young person appears extremely dirty. • A child/young person is wearing clothing that is not appropriate for conditions. • A parent/carer is not attending to the child/young person's personal hygiene needs.
Medical Care	<ul style="list-style-type: none"> • A child/young person has an untreated/inappropriately treated medical condition.
Mental Health Care	<ul style="list-style-type: none"> • A child/young person has an untreated/inappropriately treated mental health condition. • A child/young person is a danger to self or others and parent/carer is not providing intervention.
Education - Not Enrolled Habitual Absence	<ul style="list-style-type: none"> • A child/young person of compulsory school age is not enrolled. • A child/young person of compulsory school age is habitually absent.

Further Information on Carer Concern

Use this when you do not have information that a child/young person has been injured, abused, neglected or psychologically harmed, however you have concerns for the actions and behaviours of the parent/carer due to the following examples:

Career Concern	Use When:
Substance Abuse	<ul style="list-style-type: none"> • A child/young person discloses significant substance use by a parent/carer. • You observe a parent/carer to be significantly impaired by substance use. • Inappropriate parent/carer substance use is reported to you by a third party. • A child is born and there is evidence that the child was exposed to alcohol or drugs during pregnancy.
Mental Health	<ul style="list-style-type: none"> • A child/young person discloses significant parent/carer mental health concerns. • You observe a parent/carer to be significantly impaired by mental health concerns. • Parent/carer mental health concerns are reported to you by a third party.
Domestic Violence	<ul style="list-style-type: none"> • You are aware of an incident of domestic violence (observed by you or reported to you) that did not result in injury to a child/young person or psychological harm to a child/young person.

Career Concern	Use When:
	<ul style="list-style-type: none"> You suspect domestic violence based on observations of extreme power or control dynamics (including extreme isolation) or threats of harm to adults in the household.

Further information on Sexual Abuse

Use this when you suspect or have concerns that a child/young person has been, or may be sexually abused due to any of the following examples/qualifications:

Sexual Abuse	Use When:
Child	<ul style="list-style-type: none"> The reported victim or potential victim is under age 16.
Young Person	<ul style="list-style-type: none"> The reported victim or potential victim is age 16 or 17.
Problematic Sexual Behaviour Toward Others	<ul style="list-style-type: none"> You are concerned/worried that a child or young person may be sexually harming another child or young person.

Reportable Conduct

Section 29 of the CGA requires the Principal notifies the OCG of all allegations of reportable conduct and convictions involving an 'employee' and the outcome of the School's investigation of these allegations. Under the CGA, allegations of child abuse only fall within the reportable conduct jurisdiction if the involved individual is an employee of the relevant entity at the time when the allegation becomes known by the Principal.

Reportable Conduct:

- involves a child (a person under the age of 18 years) at the time of the alleged incident
- involves certain defined conduct as described in the Act

Process for Investigating an allegation of Reportable Conduct

The Principal is responsible for ensuring that the following steps are taken to investigate an allegation of reportable conduct.

First Steps

Once an allegation has been received the Principal must:

- determine whether it is an allegation of reportable conduct
- inform the Group Director of Mackillop Institute and Mackillop Education
- assess whether the DCJ or the NSW Police need to be notified (i.e., if reasonable grounds to suspect that a child is at risk of significant harm or a potential criminal offence). If they have

been notified, clearance from these statutory agencies must be given prior to the School proceeding with an investigation

4. notify the child's parent(s)/carer(s) (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or NSW Police)
5. notify the OCG within 7 business days of receiving the allegation
6. carry out a risk assessment and take action to reduce/remove risk, where appropriate
7. provide an initial letter to the ESOA advising that an allegation of reportable conduct has been made against them and that the School has a responsibility to investigate this matter under Section 34 Investigation or determination by head of relevant entity of the CGA.
8. provide appropriate support for all parties including the child/children, witnesses and the ESOA
9. handle the matter as confidentially as possible
10. undertake a risk assessment of the child/young and the ESOA interacting
11. investigate the allegation or appoint an outside investigator
12. maintain a case file with documentation including a copy of this policy

Investigation Steps

During the investigation the Principal will:

1. follow the principles of procedural fairness
2. inform the ESOA of the substance of any allegations made against them, and provide them with a reasonable opportunity to respond to the allegation(s)
3. make reasonable enquiries or investigations before making a finding
4. avoid any conflict of interest
5. conduct the investigation without unjustifiable delay
6. handle the matter as confidentially as possible
7. provide appropriate support for all parties, including the child(ren), any witnesses, and the ESOA

In an investigation the Principal or the appointed investigator will:

1. interview relevant witnesses and gather relevant documentation
2. provide a letter of allegation to the ESOA
3. provide the ESOA with the opportunity to provide a response to the allegation(s), either in writing or in an interview with a signed statement
4. consider the evidence and make a preliminary finding in accordance with the OCG guidelines
5. inform the ESOA of the preliminary finding in writing and provide them with a further opportunity to respond or make a further submission prior to making a final finding; > consider any response provided by the ESOA
6. make a final finding in accordance with the OCG guidelines
7. decide on the disciplinary action, if any, to be taken against the ESOA
8. if it is completed, send the final report to the OCG within 30 days after having received the allegation, as required by *Section 36 of the Children's Guardian Act 2019*
9. should the final report be unfinished within 30 days, the Principal must provide, at minimum, an interim report to the OCG within 30 days of having received the allegation, as required by *Section 38 of the Children's Guardian Act 2019*
10. submission of an interim report must include:

- a. a reason for not providing the final report within 30 days and an estimated time frame for completion of the report
- b. specific information, including the facts and circumstances of the reportable allegation, any known information about a reportable conviction, action taken since the OCG received the notification of a reportable allegation or reportable conviction
- c. further action the Group Director of Mackillop Institute and Mackillop Education proposes to take in relation to the reportable allegation or reportable conviction
- d. including whether the Group Director of Mackillop Institute and Mackillop Education proposes to take no further action
- e. the reasons for the action taken and the action proposed to be taken or the reasons for the decision to take no further action, and any other information prescribed by the regulations
- f. be accompanied by copies of documents in the School's possession, including transcripts of interviews and copies of evidence.

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

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

Risk Management

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

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

Initial Risk Assessment

Following an allegation of reportable conduct against an employee, the Principal conducts an initial risk assessment to identify and minimise the risks to:

- the child(ren) who are the subject of the allegation
- other children with whom the employee may have contact
- the ESOA
- the School
- the proper investigation of the allegation

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

- the nature and seriousness of the allegations
- the vulnerability of the child(ren) the ESOA has contact with at work
- the nature of the position occupied by the ESOA
- the level of supervision of the ESOA
- the disciplinary history or safety of the ESOA and possible risks to the investigation

The Principal will take appropriate action to minimise risks. This may include the ESOA being temporarily relieved of some duties, being required not to have contact with certain students, being asked to take paid leave, or being suspended from duty. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the ESOA.

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

Ongoing Risk Assessment

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

Findings

At the completion of the investigation, a finding will be made in relation to the allegation and a decision made by the Principal regarding what action, if any, is required in relation to the ESOA and the OCG the child(ren)/ young person involved and any other parties. The School may also be required to provide information to the OGC that is relevant to an assessment of whether a person poses a risk to the safety of children or the OCG's monitoring functions.

The CPWWCCA enables a person who has a sustained finding referred to the OCG to request access to the records held by the School in relation to the finding of misconduct involving children once final findings are made. The entitlements of a person to request access to information in terms of Section 46 of the CPWWCCA is enlivened when a finding of misconduct involving children has been made.

Information for the ESOA and OCG

When informing an employee of a finding of reportable conduct against them, the School will alert them to the consequent report to the WWCC Directorate in relation to sustained findings of sexual misconduct, a sexual offence or a serious physical assault.

The ESOA will be advised:

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

The ESOA does not automatically have the right to:

- know or have confirmed the identity of the person who made the allegation
- be shown the content of the OCG notification form or other investigation material that reveals information provided by other employees or witnesses

The CPWWCCA enables a person who has a sustained finding referred to the OCG to request access to the records held by the School in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms

of Section 46 of the CPWWCCA is enlivened when a finding of misconduct involving children has been made.

Disciplinary Action

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

In relation to any disciplinary action the School will give the ESOA:

- details of the proposed disciplinary action
- a reasonable opportunity to respond before a final decision is made

Confidentiality

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

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

Records about allegations of reportable conduct against employees will be kept securely by the Principal and will be accessible by the Group Director of Mackillop Institute and Mackillop Education express authority.

No employee may comment to the media about an allegation of reportable conduct.

Staff members who become aware of a breach of confidentiality in relation to a reportable conduct allegation must advise the Principal.

Reports to Department of Community and Justice

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

In addition, Waranara School Mackillop Education will make a report to the DCJ where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and well-being of the young person.

In the independent school sector and therefore Waranara School Mackillop Education, a mandatory reporter will meet their obligation if they report to the Principal of Waranara School Mackillop Education. This centralised reporting model ensures that a person in the School has all of the information that may be relevant to the circumstances of the child at risk of significant harm and addresses the risk of the School not being aware of individual incidences that amount to cumulative harm.

Reasonable Grounds

'Reasonable grounds' refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

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

'Reasonable grounds' does not mean a person is required to confirm their suspicions or have clear proof before making a report.

Significant Harm

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

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

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

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

The significance can result from a single act or omission or an accumulation of these.

Process for Mandatory Reporting

Staff

Staff must raise concerns about a child or young person who may be at risk of significant harm with the Principal as soon as possible to discuss whether the matter meets the threshold of 'risk of significant harm' and the steps required to report the matter. Where their concerns are in relation to the Principal staff must raise the concerns with the Deputy Principal.

However, if there is an immediate danger to the child or young person and the Principal or the Deputy Principal are not contactable, staff members should contact the Police and/or the Child Protection Helpline (13 21 11) directly and then advise the Principal as soon as possible.

Staff are not required to and must not, undertake any investigation of the matter. Staff are not required to inform the parents or caregivers that a report to the DCJ has been made. However, the Principal may inform the parents or caregivers if it is the best interest and safety of the child or young person and where possible inform the child or young person that a mandatory report has to be made.

Staff are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this policy but could incite potential civil proceedings for defamation.

All DCJ reports are then also required to be written up in the student's case notes with the DCJ report's reference number linked.

The Act outlines a mandatory reporter's obligation to report to the DCJ concerns about risk of significant harm. However, to ensure centralised reporting, all staff members are required to report any concern regarding the safety, welfare and wellbeing of a student to the Principal. Staff members who are unsure as to whether a matter meets the threshold of 'risk of significant harm', should report their concern to the Principal regardless.

Staff are required to deal with all reports regarding the safety, welfare or wellbeing of a student confidentially and only disclose it to the Principal and any other person the Principal nominates.

Further assistance maybe found using the online Mandatory Reporter Guide to confirm that there is a risk of 'significant harm', should either make an eReport through the *Child Story Website* or by phoning the *Child Protection Helpline on 132 111*. The Child Protection Helpline will provide additional information to mandatory reporters about whether the circumstances related to their proposed report meet the threshold of significant harm or not.

Note that while it is mandatory to report children aged 0-15 years at risk of significant harm, it is not mandatory to report young people aged 16-17 years or unborn children. Professional judgement should be used in deciding whether concerns about the safety, welfare or wellbeing of an unborn child or a young person warrant a report to Department of Communities and Justice (DCJ).

The Principal

The Principal will report these matters to the DCJ and where necessary, the Police. This is supported by the DCJ in accordance with best practice principles. Prior to lodging a report, staff along with the Principal should refer to the *Child Story website* and access the *Mandatory Reporter Guide (MRG)* see definitions of this document for assistance.

Safeguards for Reporters

Reports made to NSW Department of Communities and Justice are confidential and the reporter's identity is generally protected by law. In 2010 a new provision was included to allow a law enforcement agency access to the identity of the reporter if this is needed in connection with the investigation of a serious offence against a child or young person. While this will override the legislative protection, new safeguards to protect the reporter have been introduced. The request must come from a senior law enforcement officer and the reporter must be informed that their identity is to be released – unless informing them of the disclosure will prejudice the investigation.

Process of Responding to and Reporting Child Sexual Abuse

When a child or young person discloses sexual abuse, the staff member's role is to provide support and safety and make a report to DCJ after checking with the Mandatory Reporting Guidelines for Sexual Abuse. The Helpline can be contacted if you are concerned about risk of significant harm even if the Mandatory Reporter Guide says otherwise.

1. The staff member should write a verbatim record of the disclosure in the first person, e.g. I said, she/he said – immediately after the disclosure has been made and the young person's needs have been dealt with sensitively. The staff member can ask open-ended questions if more information is needed but should not investigate as this is the role of the Joint Investigation Response Team or the DCJ.
2. If the staff member needs to make a report directly to the Helpline (phone: 132 111) the report should be discussed with the Principal if the Principal is not available then the Deputy Principal.
3. The report should be done on the same day the young person discloses. If the young person discloses after hours and the young person is in immediate danger, the Department's Helpline (phone: 132 111) will assist with the placement of the young person if there is a safety issue.
4. It is vital that the staff member does not attempt to contact the alleged perpetrator. This could endanger the young person and make police investigations more difficult.
5. The staff member does not contact any other party or the non-offending parent or supportive family members without first discussing this with the Principal.
6. If the alleged assault is recent (i.e. in last 72 hours), then the young person is advised by the staff member not to wash, not to change clothes and to keep underwear that the young person was wearing at the time of the assault as a forensic examination may be required. It may be necessary for the staff member to whom the young person has disclosed, together with JIRT/

DCJ, to organise a medical examination for the victim at an appropriate hospital that has a sexual assault unit.

7. It is important that the staff member, to whom the young person has disclosed, speak only to the Principal. Further discussion of information will be on a 'needs to know' basis. The unnecessary spread of information could jeopardise the case and/or the reputation of the person against whom the allegation is made. The passing on of information to people not immediately involved in the case may be seen as slander and result in a civil suit. Indemnity from prosecution for breach of confidentiality is waived between the notifying person and DCJ.
8. Should there be any contact from any person not directly involved (e.g. the media) all such enquiries are to be directed to the Principal, only.
9. As the mandatory reporting obligation does not arise in relation to young people (aged 16 and 17). A staff member can still make a report about a young person who you believe is at risk of significant 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 Department of Communities and Justice about the young person's wishes. Where there are younger siblings still in the family home of the older young person and there is sufficient evidence that they are at significant risk, the younger siblings should be reported to Department of Communities and Justice Helpline (phone: 132 111).
10. If the alleged abuser is a MacKillop Education Waranara School staff member or volunteer or contractor reporting must ensure that the young person's safety and welfare is taken care of, and then follow MacKillop Education Waranara School's Policy on dealing with allegations of abuse/sexual assault by a staff member as outlined in this document.

Resources

1. [Child Wellbeing and Child Protection: NSW Interagency Guidelines](#)
2. [The Structured Decision Making System](#)
3. [NSW Department of Communities and Justice](#)
4. [The Office of the Children's Guardian](#)
5. [Department of Premier and Cabinet – Keep Them Safe](#)
6. *Child Protection (Working with Children Check) Act 2012*
7. *Children and Young Persons (Care and Protection) Act 1998*
8. *Children's Guardian Act 2019*
9. *Crimes Act 1900*
10. *NSW Government Mandatory Reporter Guide - Mandatory reporters: What to report and when*
11. *NSW Department of Communities and Justice*
12. *NSW Department of Education*
13. Association of Independent Schools of NSW - Child Protection Policy for NSW Independent Schools – 26 June 2020

Approval and Review Details

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