



TRINITY
GRAMMAR SCHOOL

CHILD PROTECTION POLICY

1. Introduction

- a. Trinity Grammar School is committed to being a child safe school and fulfilling its duty of care to all its students by:
 - i. providing them with a learning environment that is safe, supportive and caring;
 - ii. helping them and their families to understand how they can tell the School through its **staff** when a student does not feel safe;
 - iii. seeking to recognise promptly when concerns exist for the safety, welfare or well-being of any of its students and, in particular, when any of its students are at **risk of significant harm**; and
 - iv. taking appropriate action to protect its students when the School or its **staff** become aware that its students are at **risk of significant harm**.
- b. Accordingly, **reportable conduct** or other inappropriate or unprofessional behaviour by **staff** towards students will not be tolerated under any circumstances. The School expects all **staff** to honour the School's commitment in this Policy and to work with the School to achieve a safe learning environment.
- c. The School is committed to complying with its obligations under **NSW child protection legislation** and to educating its **staff** as to those obligations.
- d. The School recognises that there is a danger that its **staff** could be seriously affected by false, vexatious or misconceived allegations against them. The School is therefore also committed to investigating all allegations promptly and fairly.
- e. Terms that are defined in the Dictionary at the end of this Policy are highlighted in **bold**.

2. Publication and Distribution

- a. This Policy is published in the School's Staff Manual and on the School's website.
- b. This Policy is given to all new **staff** who are required by the School to comply with their obligations under it.
- c. This Policy is given to all members of the School Council.
- d. This Policy will also be given to:
 - i. any person who makes a **reportable allegation**; and
 - ii. any person, being a member of the School community, who requests a copy.

3. Creating a Safe Learning Environment

- a. The School will develop strategies to create a safe learning environment. These will include educating all members of the School community and, in particular, the members of the School Council about child protection issues.
- b. All **staff** must be familiar with these strategies.
- c. All concerns about the safety, welfare or well-being of any student, including **reportable allegations** must be taken seriously.

- d. The strategies developed by the School will be monitored continuously and reviewed regularly.
- e. The School will provide professional development to meet the needs of the **staff** in implementing this Policy.
- f. The Head Master will:
 - i. promote this Policy within the School, with particular regard to the professional development needs of **staff**; and
 - ii. monitor the strategies to create a safe learning environment.
- g. **Staff** must:
 - i. be aware of the content of the Staff Code of Conduct, the e-safety Policy and other School policies dealing with staff behaviour and **NSW child protection legislation**; and
 - ii. become familiar with Keep Them Safe (www.keepthemsafe.nsw.gov.au) – an initiative of the NSW Government which provides valuable information and resources for **staff**, including the Child Wellbeing and Child Protection NSW Interagency Guidelines (www.keepthemsafe.nsw.gov.au/initiatives/interagency_guidelines); and
 - iii. report promptly confidentially in accordance with this Policy whenever they:
 - 1. have concerns about the safety, welfare or well-being of a student;
 - 2. have reasonable grounds to suspect that a student is at **risk of significant harm**; or
 - 3. become aware of a **reportable allegation** against a **member of staff** whenever or wherever the **reportable conduct** took place.

4. Reporting Obligations

- a. Any **member of staff** who has concerns about the safety, welfare or well-being of any student must report this to the Head Master. In practice, the report will normally be made through the Master of the Preparatory School, Master of the Junior School, Master of the Middle School, Master of the Senior School or Deputy Head Master-Summer Hill.
- b. Any **member of staff** who has reasonable grounds to suspect that any student is at **risk of significant harm** must report the name, or a description, of the student and the grounds for suspecting that the student is at **risk of significant harm** to the Head Master. In practice, the report will normally be made through the Master of the Preparatory School, Master of the Junior School, Master of the Middle School, Master of the Senior School or Deputy Head Master-Summer Hill.
- c. Any **member of staff** who has reasonable grounds to suspect that a child who is not a student and who is under the age of 16 is at **risk of significant harm** and those grounds arise during the course of or from the **member of staff's** work must report the name, or a description, of the **child** and the grounds for suspecting that the **child** is at **risk of significant harm** to the Head Master. In practice, the report will normally be made through the Master of the Preparatory School, Master of the Junior School, Master of the Middle School, Master of the Senior School or Deputy Head Master-Summer Hill.
- d. Any **member of staff** who has reasonable grounds to suspect that a student who is under the age of 16 or a **child** who is not a student who is under the age of 16 is at **risk of significant harm**, and those grounds arise during the course of, or from, the **member of staff's** work must, in addition to reporting this to the Head Master, satisfy himself or herself that the Head Master has reported the matter to the Director-General of the Department of Family and Community Services (FaCS). Where, for any reason, the **member of staff** is unable to satisfy himself or herself that the Head Master has reported the matter to the Director-General, the **member of staff** has a duty to report the name, or a description of the student, and the grounds for suspecting that the student is at **risk of significant harm** to the Director-General as soon as practicable.
- e. If the reportable allegation is against the Master of Preparatory School, Master of the Junior School, Master of the Middle School, Master of the Senior School, Deputy Head Master – Summer Hill or if the student is at risk of significant harm from them, the report must be made to the Head Master.
- f. If the **reportable allegation** is against the Head Master or if the student is at **risk of significant harm** from the Head Master, the report must be made to the Chairman of the School Council who must then comply with the obligations under this Policy that would otherwise fall upon the Head Master.
- g. When the Head Master receives a report from a **member of staff** under this section of this Policy, the Head Master must, where required by law, report the matter to the Police, FaCS and/or the NSW Ombudsman.
- h. Where the report is to the Ombudsman, it must be made as soon as practicable and, in the case of the notification of a **reportable allegation** or **reportable conviction**, must be made, in any event, within 30 days of the Head Master becoming aware of the allegation or conviction (or within such further period as may be agreed to by the Ombudsman).
- i. The Head Master will set up structures which make it easy for **staff** and other members of the School community to report to the Head Master **reportable allegations** or **reportable convictions** and situations in which they suspect that a student is at **risk of significant harm**. The Head Master will also educate the **staff** and the School community about these structures

and actively encourage them to make use of these structures.

- j. The Head Master will ensure that no person reporting to the Head Master under this section of this Policy is disadvantaged as a result.
- k. Every adult member of the School community, including **staff**, who knows, believes or reasonably ought to know that a child abuse offence (as defined in section 316A of the Crimes Act 1900 (NSW)) has been committed against another person, and who knows, believes or reasonably ought to know that he or she has information that might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for that offence, must bring that information to the attention of a member of the NSW Police Force as soon as practicable. To fail to do so without reasonable excuse is an offence. Any **member of staff** to whom this paragraph applies must also inform the Head Master about the situation.

5. Risk Management

- a. Pending completion of any investigation (whether by the School or an external authority), the Head Master may limit the contact the **member of staff** is to have with students or other **staff**, direct the **member of staff** to undertake duties other than normal duties or at different locations or suspend the **member of staff** (but on normal pay). Before taking such action, the Head Master must consider what risk, if any, the member of staff might pose to students. The Head Master will take into account all relevant circumstances, including:
 - i. the nature of the allegation;
 - ii. the vulnerability of the students (for example, because of their age);
 - iii. the nature of the position occupied by the **member of staff**;
 - iv. the extent to which the **member of staff** is supervised;
 - v. the disciplinary record of the **member of staff**;
 - vi. the safety of the **member of staff**; and
 - vii. the extent to which the investigation could be compromised by the **member of staff** continuing his or her normal duties.
- b. Any action taken by the Head Master under this section of the Policy is not an indication that the Head Master has made, or is likely to make, any particular findings in relation to the allegation against the **member of staff**.

6. Investigation

- a. This section of the Policy applies unless an investigation is being carried out by the Police, FaCS, the Ombudsman or some other state or federal authority. This section also applies to any investigation carried out by the School once an investigation carried out by an external authority has been completed.
- b. The guidelines set out in the Recommended Protocols for Internal Investigative and Disciplinary Proceedings - 2001 (developed by the NSW Independent Education Union and the Association of Independent Schools) must be followed in any investigation to which they apply.
- c. The Head Master must investigate, or must cause to be investigated, all **reportable allegations** and all allegations that do not amount to **reportable conduct** if they involve:
 - i. the use of physical force that, in all the circumstances, is trivial or negligible, or
 - ii. conduct of a class or kind exempted from being **reportable conduct** by the Ombudsman.
- d. The Head Master must carry out all investigations in a way which affords procedural fairness to the **member of staff** involved. This means that, before completing an investigation of a **reportable allegation**, the Head Master must inform the **member of staff** of the substance of the allegation against them and provide them with a reasonable opportunity to put their case forward (if required by the **member of staff**, with the assistance of a support person of the **member of staff's** choice). Normally, the Head Master is to decide the timing and the particular form this will take, ensuring the investigation is not compromised. It also means that the Head Master must:
 - i. act fairly and without bias;
 - ii. conduct an investigation without undue delay;
 - iii. ensure the case is not investigated or determined by someone with a conflict of interest;
 - iv. ensure the outcome is supported by evidence;
 - v. take steps to maintain confidentiality for the sake of all parties involved in the investigation.
- e. At the conclusion of the investigation, the Head Master may:

- i. if the breach is minor, resulting from a misunderstanding of how certain words or behaviour were understood, require from the **member of staff** an apology and a commitment not to repeat the offence;
 - ii. if it is more serious, require from the **member of staff**:
 - 1. an undertaking to attend counselling;
 - 2. a written apology;
 - 3. a commitment not to offend again; and
 - iii. in the most serious case, suspend or terminate the employment of the **member of staff**.
- f. The Head Master may advise the child who is the subject of the misconduct (the subject) or any parent of the subject information about the progress of the investigation. The Head Master must advise the subject or any parent of the subject and the **member of staff** in writing of the findings of the investigation and any action taken in response to those findings.
- g. If the subject or the **member of staff** is unhappy with the conduct or result of investigation, they may take their complaint to the Head Master and, if dissatisfied with the Head Master's response to their complaint, to the NSW Ombudsman, FaCS, the Police or any other relevant authority depending on the circumstances.
- h. The Head Master must, as soon as practicable after being satisfied that the investigation has been concluded:
- i. send to the Ombudsman a copy of any report prepared by or provided to the Head Master as to the progress or results of the investigation, copies of all statements taken in the course of the investigation and any other documents on which the report is based;
 - ii. provide the Ombudsman with additional comments on the report and statements if requested;
 - iii. inform the Ombudsman of the action that has been taken or is proposed to be taken with respect to the **reportable allegation** the subject of the investigation, and whether or not the School proposes to take any disciplinary or other action in relation to the **member of staff** and the reasons why it intends to take or not to take any such action; and
 - iv. send to the Ombudsman any written submissions made to the Head Master concerning any such allegation that the **member of staff** wished to have considered in determining what (if any) disciplinary or other action should be taken in relation to him or her.
- i. The School must notify the Office of the Children's Guardian (OCG) of the name and other identifying particulars of any **member of staff** involved in child-related work against whom the School has made a finding that the member of staff has engaged in:
- i. **sexual misconduct** committed against, with or in the presence of a **child**, including **grooming** of a **child**,
 - ii. any serious **physical assault** of a **child**.
- j. If requested by the OCG, the Head Master may also provide a statement setting out information specified by the notice relevant to an assessment of whether a person poses a risk to the safety of children.

7. Pastoral Care

- a. Where a student is at **risk of significant harm** or is the person to whom the **reportable conduct** has allegedly been directed, the Head Master will, as soon as possible, advise the student's parents or caregivers unless the Head Master is satisfied that:
- i. FaCS intends to notify the student's parents or caregivers promptly; and
 - ii. the School will not be in breach of its duty of care to the student or to other students by not advising the student's parents or caregivers.
- b. The School must:
- i. make available its counselling **staff** to provide counselling and other support as required to:
 - 1. any student who is at **risk of significant harm** or is the person to whom **reportable conduct** has allegedly been directed; and
 - 2. any **member of staff** against whom a **reportable allegation** has been made; and
 - 3. where relevant, their families; and
 - iv. refer these people to external agencies able to provide relevant care and support.

8. Employment

- a. The School must not employ a person (whether as an employee, volunteer or self-employed contractor) in **child-related work** if the School knows or has reasonable cause to believe that:
- i. the person is not the holder of a **Working with Children Check (WWCC) clearance** that authorises that work and that there is no current application by the person to the OCG for a clearance of a class applicable to that work, or
 - ii. the person is subject to an interim bar.

* The role of a school cleaner is prescribed as a child-related role.

- b. The School must verify that a person has a **WWCC clearance** before employing that person (whether as an employee or self-employed contractor) in **child-related work**.
- c. The School must not continue to employ a **member of staff** in **child-related work** if the School knows or has reasonable cause to believe that:
 - i. the **member of staff** is not the holder of a **WWCC clearance** that authorises that work and that there is no current application by the **member of staff** to the OCG for a clearance of a class applicable to that work, or
 - ii. the **member of staff** is subject to an interim bar.
- d. A **member of staff** whose **WWCC clearance** is cancelled must immediately inform the Head Master and immediately cease to engage in child-related work which, unless it is reasonably practicable for the School to provide work for the **member of staff** which is not child-related, means that the member of staff must resign.
- e. Notwithstanding the previous paragraphs of this section, the School may employ a person in child-related work if the Head Master is satisfied that the person is:
 - 1. a visiting speaker, adjudicator, performer, assessor or other similar visitor at the School and the work of the person is for a one-off occasion and is carried out in the presence of one or more other adults,
 - 2. a parent, or close relative, of a student when volunteering at or for activities of the School, but not where the volunteering involves any of the following:
 - i. providing personal care services to children with disabilities, being services that involve intimate contact with those children, such as assistance with toileting, bathing or dressing,
 - ii. providing mentoring services as part of a formal mentoring program provided by the School, or
 - iii. attending at an overnight camp for children,
 - 3. working in and visiting New South Wales from outside the State for the purposes of a one-off event such as a sporting or religious event or tour, if the event is the only **child-related work** carried out by the person in New South Wales in that calendar year and the period of the work does not exceed 30 days, or
 - 4. working in and visiting New South Wales from outside the State for the purposes of **child-related work** (other than a person referred to in the previous paragraph), if the person is the holder of an interstate working with children check in the jurisdiction in which the person ordinarily resides, or is exempt from the requirement to have such a check in that jurisdiction, and the period of the **child-related work** in New South Wales does not exceed a total of 30 days in any calendar year.
- f. The School Council must not appoint a person as Head Master unless the person is the holder of a **WWCC clearance**.

9. Record Keeping

- a. The School is committed to keeping accurate records of all matters required by this Policy.
- b. Where the School collects and/or holds personal information pursuant to this Policy, it must do so in accordance with the *Privacy Act 1988* (Cth).
- c. The School will keep records concerning allegations, investigations and findings concerning the subject of any such notification for not less than 30 years, unless the records are given to the OCG.
- d. The School must take all reasonable measures to prevent unauthorised access to information held on paper or electronic systems.
- e. A **member of staff** against whom a finding has been made that the **member of staff** has engaged in:
 - i. **sexual misconduct** committed against, with or in the presence of a **child**, including **grooming** of a **child**, or
 - ii. any serious **physical assault** of a **child**,is entitled to apply for access under section 46 of the *Child Protection (Working with Children) Act 2012* to any information about the finding.

10. Review of Policy

- a. The Head Master will ensure that this Policy is regularly monitored and revised in the light of legislative or best practice changes.
- b. In any event, the School Council will review this Policy every three years.

11. Dictionary

- a. **Assault** includes **physical assault** and **sexual assault**.
- b. **Child**, unless stated otherwise, means a person under the age of eighteen years.
- c. **Child abuse material** means material that depicts or describes, in a way that reasonable persons would regard as being, in all the circumstances, offensive:
 - i. a person who is, appears to be or is implied to be, a child under the age of sixteen years as a victim of torture, cruelty or physical abuse, or
 - ii. a person who is, appears to be or is implied to be, a child under the age of sixteen years engaged in or apparently engaged in a sexual pose or sexual activity (whether or not in the presence of other persons), or
 - iii. a person who is, appears to be or is implied to be, a child under the age of sixteen years in the presence of another person who is engaged or apparently engaged in a sexual pose or sexual activity, or
 - iv. the genital area or anal area of a person, whether bare or covered by underwear, or the breasts of a female person, or transgender or intersex person identifying as female, whether or not the breasts are sexually developed, who is, appears to be or is implied to be, a child under the age of sixteen years.
- d. **Child-related work** means work involving direct contact by a person with children and that contact is a usual part of and more than incidental to the work.
- e. **Grooming** behaviour means a pattern of behaviour aimed at engaging a **child** as a precursor to sexual abuse. The **grooming** process can include:
 - i. persuading the **child** that a "special" relationship exists by spending inappropriate special time with the **child**, inappropriately giving gifts, showing special favours to them but not other children, allowing the **child** to overstep rules, etc.;
 - ii. testing of boundaries by undressing in front of the **child**, allowing the **child** to sit on the lap, talking about sex, "accidental" touching of genitals, etc.

These behaviours may not indicate risk if occurring in isolation but, if there is a pattern of behaviour occurring, it may indicate grooming. Grooming behaviour is a form of sexual misconduct.
- f. **Ill-treatment** includes treatment of a child in an unreasonable and seriously inappropriate, improper, inhumane or cruel manner. It may include disciplining a child in such a manner or making excessive or degrading demands of a child.
- g. **Neglect** occurs when a **child** is harmed by the failure of a person whose job includes care responsibilities towards a **child** to provide basic physical and emotional necessities of life, including failure of such a person to provide or arrange for the provision of adequate and proper food, nursing, clothing, medical attention or lodging for a **child** in that person's care. In a school context, **neglect** may include a failure to supervise a student adequately and a failure to protect a student from abuse.
- h. **NSW child protection legislation** means any legislation dealing with the protection of children, including:
 - i. *Children and Young Persons (Care and Protection) Act 1998*;
 - ii. *Ombudsman Act 1974*;
 - iii. *Child Protection (Offenders Registration) Act 2000*; and
 - iv. *Child Protection (Working with Children) Act 2012*.
- i. **Physical assault** means an act:
 - i. which is committed on or towards a **child**; and
 - ii. that involves the application of force to a **child** or that causes a **child** to think that immediate force will be used on the **child**; and
 - iii. which is hostile or reckless (a reckless act is one where the person foresees the likelihood of inflicting injury or fear, and ignores the risk).

Actual physical harm does not have to occur for an **assault** to have taken place. That is, the **child** does not have to be injured. Physical contact which is an inevitable part of everyday life does not amount to an **assault**.
- j. **Psychological harm** means significant emotional harm or trauma.
- k. **Reportable allegation** means an allegation of **reportable conduct** against a person or an allegation of misconduct that may involve **reportable conduct**.

i. **Reportable conduct** means:

- i. any sexual offence, or **sexual misconduct**, committed against, with or in the presence of a **child** (including a child pornography offence or an offence involving **child abuse material**), or
- ii. any **assault**, ill-treatment or **neglect** of a **child**,
- iii. any behaviour that causes **psychological harm** to a **child**,
- iv. any offence under section 43B (which relates to the negligent failure of a **member of staff** to reduce or remove a known risk of another **member of staff** committing a child abuse offence against a student) or section 316A (which relates to a failure to bring information about a child abuse offence to the attention of the NSW Police Force) of the *Crimes Act 1900*,

Reportable conduct does not extend to:

- v. conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards, or
- vi. the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
- vii. conduct of a class or kind exempted from being **reportable conduct** by the Ombudsman.

Examples of conduct that would not constitute **reportable conduct** include (without limitation) touching a **child** in order to attract a **child's** attention, to guide a **child** or to comfort a distressed **child**; a school teacher raising his or her voice in order to attract attention or to restore order in the classroom; and conduct that is established to be accidental. Further examples of behaviours that are not reportable conduct include providing appropriate medical care to a **child** who is hurt; guiding a **child** by the shoulders, arms or hands; not providing supervision where this was for good reason, and for a short period of time and where the risk of harm was reasonably perceived at the time to be low; and actions found to have been appropriate physical contact in classes such as sport and drama.

n. **Reportable conviction** means a conviction (including a finding of guilt without the court proceeding to a conviction), in New South Wales or elsewhere, of an offence involving **reportable conduct**.

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

- i. the **child's** basic physical or psychological needs are not being met or are at risk of not being met,
- ii. the parents or other caregivers have not arranged and are unable or unwilling to arrange for the **child** to receive necessary medical care,
- iii. in the case of a **child** 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** to receive an education in accordance with that Act,
- iv. the **child** has been, or is at risk of being, physically or sexually abused or ill-treated,
- v. the **child** is living in a household where there have been incidents of domestic violence and, as a consequence, the **child** is at risk of serious physical or **psychological harm**,
- vi. a parent or other caregiver has behaved in such a way towards the **child** that the **child** has suffered or is at risk of suffering serious psychological harm,
- vii. the **child** was the subject of a pre-natal report under the *Children and Young Persons (Care and Protection) Act 1998* 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.

Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

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

Physical or sexual abuse may include an **assault** and can exist despite the fact that consent has been given.

The Child Wellbeing and Child Protection - NSW Interagency Guideline http://www.keepthemsafe.nsw.gov.au/initiatives/interagency_guidelines provide a list of indicators that may raise concern about **risk of significant harm**.

A practical test when considering whether a **child** is at **risk of significant harm** is to ask whether the concern for the **child** is sufficiently serious to warrant a response by authorities such as the Police or FaCS irrespective of a family's consent.

p. **Sexual assault** refers to a sexual offence against, with or in the presence of a **child**. It includes the involvement of children in sexual acts or acts of indecency and any sexual threat imposed on a **child**.

q. **Sexual misconduct** includes a range of behaviours or a pattern of behaviour aimed at the involvement of children in sexual acts. Some of these behaviours may include:

- i. inappropriate conversations of a sexual nature;
- ii. comments that express a desire to act in a sexual manner;
- iii. unwarranted and inappropriate touching; sexual exhibitionism;
- iv. personal correspondence (including electronic communication) with a **child** in respect of the adult's sexual feelings for a **child**;
- v. deliberate exposure of children to sexual behaviour of others including display of pornography;

- vi. possession of child pornography in the workplace;
- vii. **grooming** behaviour.
- r. **Staff** or **member of staff** includes any School employee and any individual engaged by the School to provide services to its students (even as a volunteer, student teacher, gap student, private tutor or contractor).
- s. **WWCC clearance** means an authorisation that is in force under the *Child Protection (Working with Children) Act 2012* to engage in **child-related work**.

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