



FAITHFULNESS IN SERVICE

BISHOP DRUITT COLLEGE

COFFS HARBOUR

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STATEMENT ON CHILD PROTECTION

The focus of this College's duty of care is the protection of children from abuse. The procedures followed by Bishop Druit College 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 College's policy and detailed procedures will be revised from time to time to take into account amendments to legislation and regulations.

This document sets out the College's policy in broad and general terms. Further information and advice can be gained from the Principal and further details can be found in the *AIS Child Protection Policy Guidelines* as amended from time to time and from the various acts and regulations. References shown in brackets in this policy statement are to clauses in the *AIS Child Protection Guidelines* . Copies of the *AIS Child Protection Guidelines* are kept in the College Office.

The College places a very high priority on its efforts:

- To protect children in its care from abuse
- To protect staff from mischievous and false allegations

Your compliance with the requirements of this policy will assist in the College's efforts to achieve these important objectives. Participation in annual updates and related professional development initiatives are a necessary professional duty to ensure each staff member is current with the legal responsibilities related to child protection, mandatory reporting and other relevant College expectations.

General Guidelines and Procedures

1. As a member of staff of this College, you are required to report (see Part 2.2.5 of the AIS Guidelines) to the Principal any situation where:
 - a. You are aware that there has been an allegation of child abuse.
 - b. You have formed a belief on reasonable grounds (see Part 1, cl. 2.7 of the AIS Guidelines) that a child is in danger of being abused (see Part 1, cl. 2.2.2b of the AIS Guidelines).
 - c. A child is in need of care (Part 1, cl. 2.2.3 of the AIS Guidelines).

It is important to realise that failure to report allegations of child abuse or a suspicion of 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.

2. You are **not** to investigate allegations or suspicions of abuse. Investigations must only be carried out by the Principal or investigators specifically appointed for the purpose in collaboration with the Department of Community Services and Police.
3. You are required to report any allegations or evidence of abuse only to the Principal or his nominee. Discussion with others should be avoided or limited to persons in your privileged communication path (normal reporting line). Failure to limit your communication in this way will not only be a breach of this policy, but may result in your not being protected under the law from potential civil proceedings for defamation.
4. The Principal or the Principal's nominee will report any matter that has been notified, as required by the relevant legislation. You 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, you, as the original notifier, will have an obligation under the legislation to report if you believe that reasonable grounds exist (Part 1, cl. 2.4 & 2.5 of AIS Guidelines).



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5. As described above, if a student discloses abuse to you, **you are obliged to report the disclosure as stated above but you must not investigate the matter**. Guidelines for assisting a child who has disclosed abuse can be found in Part 2, clause 1.2 of the AIS Guidelines (attached).
6. Investigation of allegations or evidence of abuse must only be carried out by investigators appointed by the Principal (from DoCS or elsewhere) whose duties will include informing parents or caregivers that a notification has been made. **You should not make any contact with parents or caregivers regarding the notification unless specifically authorised to do so.**
7. You are required to confer with the Principal before responding to a request by DoCS or any other officers to attend an interview with a child (victim). You cannot be required by DoCS to attend such an interview (Part 2, cl. 6.2 of AIS Guidelines) and the pros and cons of attendance need to be carefully assessed before a decision is made.
8. You may be required to report in a detailed manner on any matter regarding child abuse about which you have notified or been notified. The confidentiality of such a report will be maintained unless otherwise required by a court order (Part 1, cl.2.8.3 of AIS Guidelines). Information relating to any matter of child abuse is to be entered on the appropriate form (please see the end of this information package).
9. Recent legislation requires that, to continue to be employed, you must give the College an assurance that you 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 1998].

Excerpts from the AIS Child Protection Guidelines and Protocols for Internal Investigative and Disciplinary Proceedings are printed overleaf.



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Excerpts from the AIS Guidelines:

1. Procedure on Disclosure of Abuse

1.1 Types of Abuse

Abuse may take a number of forms: sexual, physical or emotional abuse. It may also arise from maltreatment or neglect.

- 1.1.1 Any abuse by an employee of the College or a volunteer must be reported to both DoCS and the Ombudsman's Office.
- 1.1.3 Assault charges may be warranted. There are many behaviours which may constitute abuse and the law specifically takes into account the circumstances of the victim which may mean that the offence is regarded as a more serious assault. The vulnerability of a child, and hence the likelihood of sustaining a more serious injury or permanent injury, means that assault charges may be warranted in cases of physical abuse.
- 1.1.4 Emotional abuse encompasses a range of behaviours that harm a child. It includes excessive or unreasonable demands, failure to provide the psychological nurturing and affection necessary for a child's physical and emotional growth and development, scapegoating or rejecting, severe verbal abuse and threats of abuse. These behaviours by caregivers can destroy the confidence of a child and the subsequent emotional deprivation and trauma impairs the child's social, emotional, cognitive and intellectual development. Witnessing domestic violence can have a profound effect on children and constitutes a form of emotional abuse.
- 1.1.5 Emotional abuse currently comprises the largest category of substantiated abuse in NSW. It is, however, difficult to define simply. A large number of parental behaviours could be described as emotional abuse, and, while such behaviour may constitute poor parenting, in many cases there is no evident sign of emotional harm to the child. Ultimately emotional abuse must contain an element of misconduct and consequences of this misconduct.

1.2 Assisting a child or young person who has disclosed abuse

- 1.2.1 When a student discloses abuse, staff members need to be well prepared so that they can be supportive of the student and at the same time be very clear about their responsibility, which in the first instance is to report to the Principal and not investigate. However, when in a one-to-one situation, children generally disclose with great hesitation and often with a mix of intense emotions, including fear, embarrassment and guilt. Sometimes they may only hint at or tell a small part of their experience to see how the staff member reacts before fully disclosing. It is essential that the staff member remains calm and supportive of the student.
- 1.2.2 The staff member should:
 - a. Actively listen to the student and never probe for details or ask leading questions.
 - b. Refrain from questioning excessively through fear of making a mistake in deciding to notify.
 - c. Talk gently and reassuringly, in private, pointing out that you are there to help.



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- d. Only ask questions that are open-ended and designed to provide sufficient information to decide whether the suspicion of abuse is sufficiently strong to warrant a report being made.

1.2.3 Members of staff will help a student making a disclosure by:

- a. Listening in a calm way.
- b. Reassuring the student that you believe him/her.
- c. Saying that you are pleased that the student has told you, as it was the right thing to do.
- d. Avoiding any reaction that could make the student regret having talked about the experience.
- e. Emphasising that what has happened is definitely not the student's fault.
- f. Acknowledging that it is very hard to talk about such things.
- g. Telling the student that the best way to stop the abuse happening is to report it to the people who have the responsibility for the care and protection of children.

1.2.4 When a student discloses:

- a. Do not make promises that you will not tell anyone; in fact, you must tell the child that you have a responsibility to tell the Principal.
- b. Never assure the child that the abuse will stop, as that cannot be guaranteed.

1.2.5 Inter-agency Guidelines emphasise the importance of *"being honest with the child about your responsibilities for taking action to protect them and what is likely to happen. [However] it is important not to do anything that may make the situation worse and cause further harm to the child by asking probing questions, accusing parents or discussing the circumstances of the notification with potential witnesses or colleagues"* (Inter-agency Guidelines for Child Protection Intervention).

1.3 Responding to a disclosure made in a group or classroom

- 1.3.1 If a student begins to make a disclosure in a group situation use the strategy of 'protective interruption' by:
 - a. Acknowledging that you have heard the child.
 - b. Indicating your support by explaining that what you think they are saying sounds important and that it would be better to talk about it later.

2. Notification Procedures Following Allegations of Abuse

The following procedures should be followed in relation to allegations of child abuse whether the reporting is voluntary or mandatory. They will apply in all cases including when the allegations involve members of staff, the clergy or others closely connected with the College. An allegation against the Principal (having engaged in improper conduct) must be reported immediately to the Chair of the College Council.



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2.1 Duty to Report. Any member of staff who is a mandated notifier (e.g. any teacher) **who has reasonable grounds to suspect** that a student under 16 years of age has been, or is at risk of being, abused has a duty to report their concerns to the Principal.

- 2.1.1 Unless the Principal considers that there are not reasonable grounds to suspect that the student has been at risk, the Principal must promptly notify DoCS.
- 2.1.2 If the Principal decides not to notify DoCS, the Principal must advise the teacher and the teacher may still wish to report his or her concerns to the Director General (DoCS).
- 2.1.3 If the person reporting the concern about suspected abuse is **not** a mandated notifier then the Principal must notify the DoCS, if the Principal is satisfied that reasonable grounds to suspect assault exist.
- 2.1.4 If the suspected abuse involves a student who is 16 years or over, the Principal must be informed promptly and reference made to the relevant section in the AIS guidelines relating to older students (see paragraphs 7.1 to 7.13 in Part 4 of the AIS Guidelines).
- 2.1.5 Initial notification to DoCS is to be made by phone or fax to avoid delay but must be followed by notification in writing on **Form A**. A copy of this form must be forwarded to DoCS and also retained for College records.

2.2 Accurate Documentation.

The Principal must ensure accurate documentation is made concerning:

- 2.2.1 Reports made to the Principal by College personnel about possible child abuse (Form A).
- 2.2.2 Details of the notification to DoCS or the Police (see Form B).
- 2.2.3 Any actions within the College resulting from the notification.
- 2.2.4 Details of any feedback following the notification from DoCS.

Staff members are expected to assist the Principal in steps 2.2.1 and 2.2.2.

2.3 Essential elements at all stages in the process include:

- 2.3.1 The student's right to privacy and confidentiality is respected.
- 2.3.2 The Principal is kept well informed.
- 2.3.3 The anonymity of the notifier is maintained as appropriate.
- 2.3.4 The rights of any person implicated by the allegation are respected.

Staff members are expected to assist the Principal in achieving each of these essential elements throughout any case requiring the implementation of the provisions of this Child Protection Policy.



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Excerpts from the AIS Protocols for Internal Investigative and Disciplinary Proceedings:

Outline of Obligations under the Legislation

Upon receipt of an allegation of child abuse against an employee, the Principal should determine whether or not it is an allegation about child abuse or misconduct that may involve child abuse. All allegations against employees that involve child abuse or misconduct that may involve child abuse must be reported within 30 days of receipt of the allegation to the Ombudsman. The allegations must also be reported to the Department of Community Services (DoCS) if there is a current concern for the safety, welfare and well being of the child. The Principal will need to:

- Conduct, or cause to be conducted, an investigation of the allegation.
- Decide as to whether on the balance of probabilities the allegation has been sustained or not sustained.
- Decide on the disciplinary action, if any, to be taken against the employee.

At the conclusion of the investigation and the decision regarding disciplinary action, a complete report including the findings, disciplinary action decided upon and any other recommendations must be forwarded to the Ombudsman together with any information that the accused person requires to be included.

Completed relevant disciplinary proceedings will be reported to the Commission for Children and Young People unless the allegation was found to be false, vexatious or misconceived.

Risk Assessment

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

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

This may result, for example, in the employee being temporarily relieved of some duties, being required to avoid certain pupils or, in some special cases, being suspended from duty.

Any decision to take action as a result of a risk assessment is in no way an indication of the guilt of the employee concerned.

The factors that should be considered during the risk assessment include:

- The nature of the allegation.
- Vulnerability of children.
- Nature of the position occupied by the employee.
- The level of supervision of the employee.
- Disciplinary history of the employee.
- Safety of the employee.



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- Any comments made by the employee.

Risk should be continually monitored throughout the investigation.

The Investigation

In conducting an investigation into allegations of child abuse, the Principal will be guided by the following principles.

1. Conflict of Interest and Appointment of Investigator

All investigations must be conducted in an impartial, independent and objective manner and be open and transparent. The investigator must not show bias or favour to the alleged victim(s), the person the subject of the allegation, nor in outcomes that might affect the reputations of the particular College.

In some instances the Principal may call on an external expert to undertake the investigation. This may be the case where the College determines that it does not have the expertise to satisfactorily conduct the investigation or in cases where a conflict of interest or bias may arise.

The mere perception of a conflict of interest by an accused person is not sufficient in itself to require the appointment of an external investigator.

2. Confidentiality

The Principal and/or persons conducting investigations will maintain a high level of confidentiality throughout the investigation phase.

Likewise, the employee must not discuss the allegations with students (including the alleged victim) nor with parents without the approval of the College.

Steps in the Investigative Process

The employee against whom an allegation has been made will usually be told promptly the substance of the allegation and be given the right to reply to the allegation, depending on the protection of notifiers and witnesses.

Where possible employees will be given advance notice of an interview with the Principal or an appointed investigator, details of the allegation (sufficient to allow the employee to respond) and be advised that they may have a witness at the interview.

While it is desirable for an employee to be given reasonable notice before being required to respond to an allegation, what constitutes reasonable notice will depend on the circumstances of the situation.

Employees may wish to have someone support them during the interview process. The support person may be a friend on staff or the chapter representative. However, 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 in the proceedings.

A record will be kept of the meeting. The form of record may be dependent on the seriousness of the allegation and could include a tape recording, a full written record or short minutes.

Listed below are fundamental steps in the investigative process. These may need to be varied on occasions to meet particular circumstances. The Principal will normally:

- a) Clarify the allegation and determine that it is an allegation of child abuse.



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- b) Make appropriate notifications to DOCS, police and Ombudsman.
- c) Carry out a risk assessment.
- d) Collect all available relevant information (ensuring full documentation).
- e) Interview all relevant witnesses (ensuring all interviews are adequately recorded).
- f) Make the employee fully aware of the allegations.
- g) Where appropriate, give the employee access to relevant documents on which the allegation is relying.
- h) Interview the person who is the subject of the allegations (ensuring procedural fairness).
- i) Consider all the evidence and make a preliminary finding as to whether the allegation is sustained or not sustained.

Findings

At the conclusion of the investigation, the investigator will make a preliminary finding on the balance of probabilities that:

1. The allegation was false; or
2. The allegation was vexatious, that is, was made without substance and with the intent of being malicious or to cause distress to the person against whom the allegation was made; or
3. The allegation was misconceived, that is, whilst the allegation was made in good faith it was either without substance or a misunderstanding on behalf of the person making the allegation occurred or the incident would not reasonably be considered as child abuse (irrespective of the definition), sexual misconduct or an act of violence; or
4. The allegation was not sustained; or
5. The allegation was not one of child abuse, but might constitute a breach of professional behaviour or judgment which requires further professional disciplinary action; or
6. The allegation was sustained and the matter required disciplinary action.

A finding of 'not sustained' means that the investigator considers that there is insufficient evidence to determine that the alleged event occurred, on the balance of probabilities.

The employee will be told of the preliminary finding and given an opportunity to respond including, if they wish, in writing.

Disciplinary Proceedings

For the purpose of this policy statement disciplinary proceedings are defined as the action taken as a consequence of the findings arising out of the investigation. When conducting disciplinary proceedings the Principal should have regard to procedural fairness. This will usually involve:

- Giving the employee details of the final finding.
- Informing the employee of the possible action the employer may take.
- Giving the employee a right to respond including, if they wish, in writing.



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When the investigation has been completed

The employee will be 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 will be advised if the Principal has notified completed disciplinary proceedings to the Commission for Children and Young People.

If the completed disciplinary proceedings are notified to the Commission for Children and Young People, the employee will be entitled to inspect the Principal's file in accordance with Freedom of Information Principles, subject to any exemptions that may apply under that Act.

Notification to the Commission for Children and Young People (CCYP)

The Commission for Children and Young People Act requires all completed investigations into allegations of child abuse to be reported to it. It is an offence under the Act to fail to report unless the allegation is found to be either:

- False (the alleged conduct did not occur).
- Vexatious (without substance, malicious intent).
- Misconceived (not reasonably be considered to be child abuse).

In the findings listed above only findings 4 and 6 need be reported to the CCYP.

This information will be updated as more current information comes to hand. Always refer to copies of this document that are printed with the most recent revision date.

Telephone Contacts:

Department of Community Services Helpline
Ombudsman's Office: Child Protection Team

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