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Child Protection - Reportable Conduct of Staff, Volunteers & Others

Reportable Conduct – Source of Obligation

The Ombudsman Act 1974 (NSW) (the Ombudsman Act) requires St Gregory's College Campbelltown to investigate and report to the NSW Ombudsman allegations of employee misconduct or conviction relating to:

- any sexual offence or misconduct, committed against, with or in the presence of a child (including child pornography offences);
- any assault, ill-treatment or neglect of a child; and
- any behaviour that causes psychological harm to a child.

Reportable Conduct & Mandatory Reporting

The Reportable Conduct obligation covered in this policy is separate and distinct from the Mandatory Reporting obligation under the Children and Young Persons (Care and Protection) Act 1998 (NSW) (refer to **Child Protection – Mandatory Reporting of Abuse & Neglect**).

Whilst the Mandatory Reporting obligation applies where there is 'significant risk of harm' to a child, the requirement to report to the NSW Ombudsman applies where an allegation is made against a staff member or any person engaged by the College to provide services to children, including volunteers.

The Reportable Conduct threshold is much wider than the Mandatory Reporting threshold and any matter involving a staff member that requires Mandatory Reporting must also be reported to the Ombudsman under this policy.

Internal Reporting of Allegations of Staff Misconduct

Any allegation of staff misconduct must be immediately reported to the Headmaster, or the Chair of the School Council should the allegation involve the Headmaster.

What Conduct is Not Reportable Conduct?

The Ombudsman Act makes it clear that Reportable Conduct does not extend to:

- conduct that is reasonable for the purpose of discipline, management or care of children, having regard to age, maturity, health or other characteristics of the children and any relevant codes of conduct or professional standards;
- 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;

Some examples of conduct that would not constitute reportable conduct include touching a child to get their attention, guide them or comfort them, a College teacher raising their voice to attract attention or restore order in a classroom, or conduct that is established to be accidental.

Internal Investigation of Allegations of Misconduct

Once an allegation of misconduct has been made (which does not require reporting to the Department of Family and Community Services under the **Mandatory Reporting obligations**) an internal investigation, led by the Headmaster will be conducted in such a manner as the particular circumstances demand.

It is important to note that an internal investigation must not be conducted in relation to an allegation that is the subject of Mandatory Reporting until clearance to do so is given by the Department of Family and Community Services or the police, as this may compromise their investigations.

When conducting an internal investigation principles of procedural fairness must be followed. Reference may be made to the [Recommended Protocols for Internal Investigative and Disciplinary Proceedings 2001](#) (developed by the NSW Independent Education Union and the Association of Independent Schools).

The Ombudsman may intervene in an internal investigation or ask for further information during the course of the investigation.

When & how are Reportable Matters to be reported to the Ombudsman?

There are 2 stages of reporting. The Ombudsman must be notified:

- of the Reportable Conduct or conviction within 30 days of St Gregory's College Campbelltown becoming aware of the Reportable Conduct by lodging [Notification Form Part A](#); and
- of the findings of the investigation, as soon as possible once the internal investigation has been finalised by lodging [Notification Form Part B](#).

The forms should be sent by registered mail, hand delivery, or courier to:

Attention – Employment Related Child Protection Division
NSW Ombudsman
Level 24
580 George Street
Sydney NSW 2000

Impact on Working With Children Check

Where the investigation has led to findings against the employee, depending upon the seriousness of the allegations, the Headmaster will also need to notify the Office of the Children's Guardian in relation to Working With Children Checks.

Refer to **Child Protection – Working with Children Checks Policy**.

Workers' Responsibility

All workers are responsible to ensure:

- reports of staff misconduct are made as soon as possible to the Headmaster;
- the Headmaster is notified of any convictions which relate to Reportable Conduct;
- co-operation in any internal investigation;
- confidentiality is maintained throughout the process; and
- records of all verbal and written communications are maintained and stored securely.

Implementation

This policy is implemented through a combination of:

- staff training;
- effective communication and incident notification procedures;

- effective record keeping procedures; and
- initiation of corrective actions where necessary.

Discipline for Breach of Policy

Where a staff member breaches this policy St Gregory's College Campbelltown may take disciplinary action, including in the case of serious breaches, summary dismissal.

Related Policies

Child Protection - Abuse, Grooming & Neglect Identification & Initial Notification
Child Protection - Mandatory Reporting of Abuse & Neglect Policy
Child Protection - Detecting, Reporting & Addressing Grooming Behaviours
Child Protection - Working with Children Checks Policy

Key Reference

Child Protection in the Workplace - Responding to allegations against employees

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[St Gregory's College Campbelltown](#) > [Student Duty of Care](#) > [Child Protection - Abuse, Grooming & Neglect Identification & Initial Notification](#) > Child Protection - Working with Children Checks

Child Protection - Working With Children Checks

Working With Children Checks - Source of Obligation

The Child Protection (Working With Children) Act 2012 (NSW) (the Act) and the Child Protection (Working With Children) Regulation 2013 (NSW) (the Regulation) aim to protect children from harm by providing a high standard of compulsory national criminal record checking for people wishing to do paid, unpaid, or volunteer child-related work in NSW. These background checks are referred to as Working with Children Checks (WWC Checks).

School, our staff, volunteers and others have a number of responsibilities and obligations under the Act and the Regulations which are outlined in this policy.

Who Needs a WWC Check?

Subject to the exemptions referred to below, any **worker** who engages in **child related work** that involves direct contact (physical or face-to-face contact) with a child (a person under 18 years of age) must undergo a WWC Check.

Definition of Worker

A **worker** means any person who is engaged in work, as an employee, a self-employed person, a contractor or subcontractor, a volunteer, a person undertaking practical training as part of an educational or vocational course (other than as a school student undertaking work experience), or as a minister, priest, rabbi, mufti or other like religious leader, or spiritual officer of a religion, or other member of a religious organisation.

What is Child Related Work?

Of relevance to St Gregory's College Campbelltown the following is considered to be **child related work**:

- mentoring and counselling services for children;
- direct provision of child health services;
- clubs, associations, movements, societies or other bodies (including bodies of a cultural, recreational or sporting nature) providing programs or services for children;
- education and care services, child care centres, nanny services and other child care;
- sporting, cultural or other entertainment venues used primarily by children and entertainment services for children;
- any religious organisation where children form part of the congregation;
- boarding houses or other residential services for children and overnight camps for children; and
- transport services especially for children, including College bus services and taxi services for children with a disability and supervision of College road crossings.

What is Not Considered to be Child Related Work

The following types of work are not considered to be child-related:

- work as a referee, umpire, linesperson, other sporting official or grounds person is not child-related work, if the work does not ordinarily involve contact with children for extended periods without other adults being present; and
- providing food or equipment at or for a sporting, cultural or other entertainment venue.

Key Exemptions

People engaged in the following types of work are not required to have a WWC Check:

- administrative, clerical or maintenance work, or other ancillary work, that does not ordinarily involve contact with children for extended periods;
- work with minimal direct contact or unsupervised contact with children, done for no more than five days in a calendar year;
- volunteering by a parent or close relative:
 - of a child in activities for the child's school, early education service or other educational institution; except where the work is part of a formal mentoring program or involves intimate personal care of children with a disability;
 - with a team, program or other activity in which their child usually participates or is a team member; except where the work is part of a formal mentoring program or involves personal care of children with a disability;
- a visiting speaker, adjudicator, performer, assessor or other similar visitor at a school or other place where child-related work is carried out if the work of the person at that place is for a one off occasion and is carried out in the presence of one or more other adults;
- work by an interstate visitor:
 - in a one-off event such as a jamboree, sporting or religious event or tour, if the event is the only child-related work carried out by the worker in NSW in that calendar year and the period of work does not exceed 30 days;
 - who holds an interstate working with children check, or is exempt from the requirement to have such a check in his or her home jurisdiction, whose child related work in NSW is for no more than 30 days in any calendar year; and
- people under the age of 18.


How to Apply for a WWC Check?

A worker who engages in child related work is responsible for applying for his or her own WWC Check. An employer cannot apply on behalf of a worker.

To apply:

1. fill out an online application form at <http://www.kidsguardian.nsw.gov.au/check>;
2. upon completion of the application, an application number will be provided;
3. take application number and proof of identity (NSW driver's licence) to a NSW motor registry or NSW Council Agency; and
4. if the WWC Check is for paid work, a fee is payable for a five year clearance.

St Gregory's College Campbelltown does not reimburse this fee for staff.

What is Checked?	<p>The WWC Check obtains applicants' national criminal histories including:</p> <ul style="list-style-type: none"> • convictions (spent or unspent); • charges (whether heard, unheard or dismissed); • juvenile records; • findings of misconduct (e.g. sexual misconduct or serious physical assault of a child) by a government agency; and • notifications on matters indicating serious risk to children made by the Ombudsman.
Outcome of the WWC Check	<p>There are only two results for a WWC Check – a clearance to work with children or a bar against working with children.</p> <p>Where the outcome is a clearance, the applicant will be provided with a WWC Check number. The WWC Check is valid for five years and may be used for any child-related work (paid or voluntary) in NSW. Cleared applicants will be subjected to ongoing monitoring for relevant new records which could lead to a bar and the clearance being revoked before the five year expiry date.</p> <p>Where a bar is being considered, the Office of the Children's Guardian will call and write to the applicant to inform them of the proposed decision. Applicants will be invited to submit information to support their application and the Office of the Children's Guardian will take this information into account when making their final decision.</p> <p>Nevertheless if the outcome is a bar, applicants must not engage in any child-related work. The barred applicant will receive a letter from the Office of the Children's Guardian notifying them of the decision and an explanation of the appeals process, should they wish to appeal through the NSW Administrative Decisions Tribunal.</p> <p>The outcome of WWC Checks will be emailed or posted to the applicant. If the results are not received within four weeks of the application, email newcheck@kids.nsw.gov.au with details of the application including the application number.</p>
Worker Obligations	<p>Upon receiving clearance, it is compulsory that the worker provides their WWC Check number to St Gregory's College Campbelltown, along with their full name and date of birth for online verification.</p> <p>Workers are responsible for renewing their own WWC Check as necessary. They will receive a reminder to renew their WWC Check three months before it expires.</p>
St Gregory's College's Obligations	<p>The College must:</p> <ul style="list-style-type: none"> • register online as a child-related employer by going to the Working With Children Check Website and choosing Child-related employers from the left hand menu; • before engaging the new worker, verify that each worker who carries out, or is to carry out, child-related work for the College is the holder of a WWC clearance that authorises their work or that they have made a current application to the Children's Guardian for a WWC Check. The only way to verify a status is using the new online verification system. Paper evidence must not be accepted of a clearance or an application from the worker because they may have been barred. Refer to Fact Sheet 18 How to Verify a Clearance Online; • verify a worker's WWC clearance, within 5 working days after the WWC Check clearance expires at the end of every five year period; • ensure current paid workers and all volunteers apply for the new Check in accordance with the phase in schedule (see Penalties & the Phase in Period below); • remove any barred or unauthorised persons from child-related work; • notify the Office of the Children's Guardian if a staff member or volunteer is subject to an adverse finding in relation to an allegation of misconduct that is the subject of a Mandatory Reporting and/or a Reportable Conduct notification. This notification will trigger a risk assessment by the Children's Guardian and a review of the individual's WWC.
Penalties & the Phase in Period	<p>It is an offence to work with children without a valid WWC Check. Penalties apply. It is also an offence to hire a barred worker for child-related work.</p> <p>With the commencement of the new WWC Checks on 15 June 2013, a new WWC Check must be applied for when starting a new job (or changing jobs) in child-related work prior to commencing the position.</p> <p>Staff with valid WWC Checks do not need to apply for new WWC Checks straight away as they will be phased into the new Checks over time. Staff may apply for new WWC Checks now or when their current WWC Check is due for renewal. However, all staff must ensure they hold new WWC Checks by 31 December 2016 for secondary school workers or 31 December 2017 for early education, childcare and all other school workers. Until staff are phased in, they will be covered by their current WWC Check.</p> <p>For details relating to the phase in schedule refer to:  Fact Sheet 2 Phase in Schedule for Existing Workers</p>
Record Keeping	<p>It is the responsibility of *Insert Name and Position* to verify the status of all St Gregory's College Campbelltown staff and non-parent volunteers' WWC Checks.</p> <p>St Gregory's College Campbelltown maintains records (electronic or hard copy format) of child-related workers including:</p> <ul style="list-style-type: none"> • full name; • date of birth; • Working With Children number; • start date and outcome of the Check verification; • expiry date of the WWC Check; and • whether the person is a paid worker or a volunteer. <p>Records must be readily available if required for audit and monitoring purposes. Records are retained by the College for a period of seven years and closely monitored to ensure that all clearances are current for employed workers and volunteers at the College.</p>
Privacy & Confidentiality	<p>The Office of the Children's Guardian maintains a register for Working With Children Checks.</p> <p>Worker Information Disclosure</p> <p>The following information about a worker in the register may be made available by the Office of the Children's Guardian to an employer or proposed employer, upon request in the approved format, containing the particulars required by the Office of the Children's Guardian:</p>

- particulars of applications for working with children check clearances;
- Working With Children application number of any worker;
- current clearance status of a child-related worker; and
- number, class (volunteer or non-volunteer) and expiry date of a Working with Children clearance held by a child-related worker and whether the clearance holder is subject to an interim bar or has had a clearance cancelled.

Employer Information Disclosure

Similarly, the following information about an employer in the register may be made publicly available by the Office of the Children's Guardian:

- trading name or registered business name of the employer;
- child-related work for which the employer engages a child-related worker;
- postcode or name of the place in which the employer's business is located; and
- whether any requests for information regarding a Check status were made to the Children's Guardian by the employer within a specified period.

Implementation

This policy is implemented through a combination of:

- staff training;
- effective communication and incident notification procedures;
- effective record keeping procedures;
- initiation of corrective actions where necessary.

Discipline for Breach of Policy

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Child Protection - Detecting, Reporting & Addressing Grooming Behaviours

Key References

NSW New Working With Children Checks Website
Fact Sheet 1 Overview of the New Working With Children Check
Fact Sheet 2 Phase In Schedule for Existing Workers
Fact Sheet 18 How to Verify a Clearance Online
The New Working With Children Check - Information for Employers