



GUIDELINES FOR INVESTIGATING CHILD PROTECTION MATTERS

Purpose: To outline the process to be followed by the College if a reportable allegation is made.

Relevant to: All Members of Staff

Responsible Officer(s): Principal

Date of Introduction:

Date of Review: 2004, 2013

Modification History: April 2004, February 2013, June 2013

Related Documents:

- I. Child Protection Legislation Amendment Act 2003
- II. The Ombudsman Amendment Act (Child Protection and Community Services) Act 1998
- III. The Commission for Children and Young People Act 1998
- IV. Children and Young Persons (Care and Protection) Act 1998
- V. Trinity Catholic College, Child Protection Policy
- VI. Trinity Catholic College, Staff Code of Professional Standards/Conduct
- VII. Trinity Catholic College, Mandatory Reporting Guidelines

Related Forms:

Working with Children Check Form.

PREAMBLE

Trinity Catholic College is committed to creating and maintaining systems of work that protect the health, safety and psychological well-being of all children at the College whilst safeguarding the rights and dignity of employees.

The College will ensure that:

- child protection issues are identified and assessed;
- all Members of Staff are aware of the Child Protection Policies and ;
- appropriate programmes that teach children how to protect themselves against abuse are developed and implemented at the school;
- suitable training and information is provided so that Members of Staff who may suspect reportable conduct are aware of and understand their responsibility to report any suspicion to the Principal (or his delegate);
- where reportable conduct is alleged, that the Principal reports the allegation to the Head of Agency and other government Departments/Agencies required;
- if appropriate, access to counselling services are provided for the child as an adjunct to reporting;
- if appropriate, counselling is provided to Members of Staff who have experienced particularly traumatic incidents in relation to reportable conduct;
- a workplace culture is encouraged that gives support to children who have been subject to reportable conduct and to Members of Staff who suspect reportable conduct
- interventions in relation to reportable conduct are monitored and evaluated, and followed up with further action if required.

ALLOCATION OF RESPONSIBILITY

Allegations of Reportable Conduct are to be made to the Principal.

CHILD PROTECTION – REPORTING PROCEDURES

Procedures are in place if an allegation of Reportable Conduct is made against a Member of Staff, a volunteer or contractor working at Trinity Catholic College.

WHAT IS AN ALLEGATION?

In Section 25A of the Ombudsman Act, **Reportable Conduct allegation** means: *An allegation of Reportable Conduct against a person or an allegation of misconduct that may involve Reportable Conduct*

NSW OMBUDSMAN CHILD PROTECTION NOTIFICATION GUIDELINES

The law of New South Wales deals with Reportable Conduct in two ways; firstly, by providing for the care and protection needs of the child through the Children (Care and Protection) Act 1987; and secondly, by dealing with any criminal offences arising from the abuse through the Crimes Act and other statutes.

For the purposes of the Ombudsman Act, the original term has been replaced with the term "Reportable Conduct" "Reportable Conduct" is the same as that in the Children (Care and Protection) Act, Reportable Conduct is defined as:

- a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- b) any assault, ill-treatment or neglect of a child, or
- c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.

Reportable Conduct does not extend to:

- a) conduct that is reasonable for the purposes of 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
- b) 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
- c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA.

Note: *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.*

Reportable allegation means an allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct.

Reportable conviction means a conviction (including a finding of guilt without the court proceeding to a conviction), in this State or elsewhere, of an offence involving reportable conduct

- *An allegation can be a "mere assertion made without proof".*
- *Any allegation against an employee, volunteer, or contractor needs to be notified, regardless of the seriousness or accuracy of the allegation.*
- *The College is responsible for the investigation of all allegations of Reportable Conduct as Head of Agency. Notification is forwarded to the Ombudsman's Office.*

PROCEDURE

1. Principal (or Principal's delegate) receives a complaint. Upon receiving the complaint:

The Principal determines whether it is necessary to contact the Police or the Department of Community Services (DOCS) and if so, notes the date and time of the contact, the name of the officer spoken to and the advice given.
2. The Principal does **not** investigate the allegations at this stage but will conduct the initial risk assessment.
3. The Principal informs the Chair of College Council of the allegation.
4. What happens then?
 - a) If the matter is notifiable to the Police or DOCS, the matter is subject to their direction
 - b) If the matter is not notifiable to Police or DOCS or

If the Police or DOCS does **not** consider the matter notifiable and decides **not** to proceed then:

 - (i) The Principal will conduct a school level investigation, providing a record of that investigation, including the processes used, an account of the outcomes, action taken (if any) and reason for that action. This will then be passed to the Ombudsman on the Child Protection Notification Form;
 - (ii) The Principal may appoint an independent investigator to conduct the investigation or provide the report.
5. In any investigation or an allegation, the Member of Staff, volunteer or contractor must be accorded the same respect, dignity and fair treatment as outlined in existing protocols for Grievance procedures at Trinity Catholic College. Such investigations require the Principal to balance the need for confidentiality, procedural fairness and the demands of natural justice.
6. In the light of Point 5 the Principal, as agent of the employing authority, will take the following NSW/ACT Independent Education Union "I.E.U"

concerns into account BEFORE any notification to the Ombudsman and the Children's Commission.

The Principal will guarantee that (s)he will

- a) confidentially inform the employee as soon as possible if such a report is likely or intended;
- b) provide sufficient details of the matter, including the formal finding and date of completion;
- c) offer access to the file to the employee and their representative, if requested.
- d) allow a reasonable amount of time (at least a week or so) for the employee to seek union or other advice, and agree to meet on the matter;
- e) engage in such further consideration of the relevance of the matter (i.e. whether it is a legitimate matter needing reporting) as is reasonably requested. This is particularly important in matters relating to claims which are false, vexatious and ill conceived.