



GUIDELINES for WORKERS

PROTECTIVE PRACTICES

for Workers
in their interactions with Children

DRAFT

November 2016

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Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 1 of 17

TABLE OF CONTENTS

1 AUTHORITY AND APPLICATION	3
2 RELATED DOCUMENTS	3
3 DEFINITIONS	4
4 PURPOSE	5
5 COVERAGE	5
6 LEGAL ISSUES AND PROFESSIONAL BOUNDARIES FOR ADULTS WORKING OR VOLUNTEERING WITH CHILDREN	6
Duty of Care.....	6
Professional Boundaries.....	6
7 LEGISLATION	8
Sexual relationships between legally consenting adults where a Worker–Student relationship once existed.....	8
8 GUIDANCE FOR WORKERS IN MANAGING PROFESSIONAL BOUNDARIES	9
Working in rural/local communities.....	9
Using social networking sites.....	9
Working one-to-one with Children.....	10
Managing privacy expectations.....	10
Conducting home visits.....	10
9 WORKER RESPONSIBILITIES IN RESPONDING TO BEHAVIOUR	11
Behaviour of Workers towards Children.....	11
Suspected child abuse.....	11
Inappropriate behaviour.....	11
Behaviour of Children towards Workers.....	11
10 APPROPRIATE PHYSICAL CONTACT	13
Appropriate physical contact by a Worker to assist or encourage a Child.....	13
Good practice Children Years 3-12.....	13
Good practice Early Years Children.....	13
11 NON-PHYSICAL INTERVENTION IN MANAGING BEHAVIOUR	14
Physical restraint where a Child or adult’s safety is threatened.....	14
Safe practice when using physical restraint.....	14
When using physical restraint.....	15
12 WORKING WITH CHILDREN WITH ADDITIONAL NEEDS OR DISABILITIES	16
13 CULTURAL CONSIDERATIONS	17

*Grateful acknowledgment is made of material provided by: [Government of South Australia Department of Education and Children’s Services](#), [Catholic Education South Australia](#) & [Association of Independent Schools of SA](#)
Protective practices for staff in their interactions with Children, 2011*

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 2 of 17

1 AUTHORITY AND APPLICATION

Date of approval	[#Insert date of approval#]
Source of approval	TCEC
Start date	[#Insert date of Commencement#]
Date of review	Three years from approval or review/amendment approval
Date of amendments	[#Insert dates of Amendments#]
Replaces previous	Protective Practices for school staffs in their relationships with students dated 2006

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2 RELATED DOCUMENTS

These Guidelines should be considered in conjunction with the following related policies, procedures and Applicable Laws:

TCEC Policies and Procedures	<ul style="list-style-type: none"> • Child Safe Code of Conduct • Disciplinary • Code of Conduct for Workers • ICT (Information and Communication Technology) - Workers • Induction • Performance Management • Policy Terms, Definitions and Interpretation • Work Health & Safety • Working With Vulnerable People
AoH Policies	<ul style="list-style-type: none"> • Children and Young Persons Protection Policy • Safe Communities – Protecting Children and Vulnerable People • Working With Vulnerable People
Applicable Laws	<ul style="list-style-type: none"> • <i>Anti-Discrimination Act 1998 (TAS)</i> • <i>Australian Human Rights Commission Act 1986 (Cth)</i> • <i>Children, Young Persons and their Families Act 1997 (TAS)</i> • <i>Criminal Code Act 1924 (TAS)</i> • <i>Disability Discrimination Act 1992 (Cth)</i> • <i>Police Offences Act 1935 (TAS)</i> • <i>Racial Discrimination Act 1975 (Cth)</i> • <i>Registration to Work with Vulnerable People Act 2013 (TAS)</i>

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 3 of 17

- | |
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| <ul style="list-style-type: none"> • <i>Sex Discrimination Act 1984</i> (Cth) • <i>Work Health & Safety Act 2012</i> (TAS) |
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3 DEFINITIONS

The TCEC document "Policy Terms, Definitions and Interpretations" defines a number of terms used in this document and should be referred to in conjunction with this policy including:

- **CET** is Catholic Education Tasmania; a reference to the TCEO, all Schools and Governance operating in the Archdiocese of Hobart
- **Child** is a person under 18 years of age or a Student aged 18 years or older
- **Child-connected Work** is any Regulated Activity or other work authorised by the School and performed by a Worker in a School Environment while Children are present or reasonably expected to be present
- **Child Protection Authority** is an authority authorised by government to assess, investigate or intervene in Child Protection issues, including the police (for immediate issues of concern), Child Protection Services and community-based gateway services
- **Governance** is the various authority structures, decision-making processes and lines of accountability and responsibility that pertain to any Catholic education School or organisation operating in the Archdiocese of Hobart
- **Mandatory Reporting** describes the legislative requirement imposed on Mandatory Reporters to report suspected cases of child abuse and neglect to a Child Protection Authority
- **Other Person** refers to any person in a School Environment or Workplace who is not a Worker
- **Parent/Guardian** is a person who has the legal authority and responsibility for the care of a Child
- **Principal** is the person accountable for operating a School in accordance with the School's Governance and is directly responsible for overall leadership and management of the School
- **Regulated Activity** is any activity or service which involves Children as defined in Registration to *Work With Vulnerable People Regulations Act 2014* (TAS)
- **School** includes any Systemic School or College, Archdiocesan College or Congregational School or College
- **School Activity** is any Student-based program or endeavour that does not fall within the scope of the regular curriculum (eg school camp, sporting events, excursions, outdoor learning, concerts, competitions etc)
- **School Environment** is any physical or virtual place made available or authorised by a School for use by Children during or outside School hours, that includes:
 - School grounds, including all campuses
 - online School environments, including email, intranet systems and Social Media platforms

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 4 of 17

- other locations provided by the School for a Child's use including locations used for School Activities and School Events
- **School Event** is any occasion that involves the wider School community (eg a fair, fundraiser, parent education evenings, parents and friends social functions etc)
- **Student** is a person enrolled at a School
- **TCEC** is the Tasmanian Catholic Education Commission, an entity with delegated responsibility from the CTC for oversight of CET in accordance with its Constitution
- **Worker** includes any person who carries out work or services in any capacity for CET either as:
 - an Employee
 - a Volunteer
 - a priest or a member of a religious order
 - a contractor, subcontractor or consultant
 - an employee of a contractor, subcontractor or consultant
 - an employee of an employment agency or labour hire company
 - an apprentice or trainee
 - an external student gaining work experience or on work placement

4 PURPOSE

- (a) These guidelines sit within the *Child Safe Conduct* domain of the TCEC *Child Safe Organisation Framework* and are part of Catholic Education Tasmania's commitment to establishing consistent Child Safe standards across its Schools.
- (b) The main intent of these guidelines is to safeguard the emotional and physical wellbeing of Children by promoting in Workers an enhanced understanding of appropriate professional boundaries. In respecting these boundaries, Workers can feel confident about meeting their responsibilities to Children and meet the expectations of the professional communities in which they work.
- (c) These guidelines provide clear advice to Workers about expectations pertaining to for the establishment and maintenance of positive, caring and respectful relationships with Children in School Environments.
- (d) Following these guidelines will contribute to safer, happier and more successful education and care environments for all the people who learn and work in them.

5 COVERAGE

These guidelines cover and apply to all Workers.

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 5 of 17

6 LEGAL ISSUES AND PROFESSIONAL BOUNDARIES FOR ADULTS WORKING OR VOLUNTEERING WITH CHILDREN

Duty of Care

In the education context, *Duty of Care* is a common law concept that refers to the responsibility of Workers to provide Children with an adequate level of protection against harm. It is usually expressed as a duty to take reasonable care to protect Children from all reasonably foreseeable risk of injury. The question of what constitutes reasonable care in any given case will be determined objectively by a court and will depend on the individual circumstances of each case. The courts have found that the standard of care owed by education providers to Children is very high. In their relationships with Children, Workers are required to ensure that the physical and emotional welfare of Children is safeguarded, and that their own behaviour is guided by this duty of care both within and beyond the education setting.

Responsibility for exercising Duty of Care cannot be delegated.

Professional Boundaries

Education professions rely on the fostering of positive relationships between adults and Children to achieve successful outcomes. Learning settings are places where all Workers can have significant influence in the lives of Children because the relationship involves regular contact over relatively long periods of time. These features of education professions make it extremely important that Workers understand how to foster positive relationships in ways that do not compromise the welfare of Children.

The professional boundaries outlined in these guidelines apply in all School Environments and beyond the education setting.

The following examples will assist Workers in establishing and maintaining expected boundaries. This list is not exhaustive.

Boundary	Example of violation
Communication	<ul style="list-style-type: none"> • Inappropriate comments about a Child's appearance, including excessive flattering comments • Inappropriate conversation or enquiries of a sexual nature (eg questions about a Child's sexuality or their sexual relationship with others) • Disrespectful or discriminatory treatment of, or manner towards, Children based on their perceived or actual sexual orientation • Use of inappropriate pet names • Vilification or humiliation • Jokes or innuendo of a sexual nature • Obscene gestures and language • Facilitating/permitting access to pornographic material • Facilitating/permitting access to sexually explicit material that is not part of the endorsed curriculum • Failing to intervene in sexual harassment of Children • Correspondence of a personal nature via any medium (eg phone, text message, letters, email, internet postings) that is unrelated to the Worker's role. This does not include class cards/bereavement cards etc
Personal Disclosure	<ul style="list-style-type: none"> • Discussing personal lifestyle details of self, other Workers or Children,
Physical Contact	<ul style="list-style-type: none"> • Unwarranted or unwanted touching of a Child personally or with objects • Corporal punishment (physical discipline, smacking etc)

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Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 6 of 17

	<ul style="list-style-type: none"> • Initiating, permitting or requesting inappropriate or unnecessary physical contact with a Child (eg massage, kisses, tickling games) or facilitating situations which unnecessarily result in close physical contact with a Child • Inappropriate use of physical restraint (see page 14 'Physical restraint where a Child or adult's safety is threatened')
Place	<ul style="list-style-type: none"> • *Inviting/allowing/encouraging Children to attend the Worker's home • *Attending Children's homes or their social gatherings • *Being alone with a Child outside of a staff member's responsibilities • *Transporting a Child unaccompanied (unless in extraordinary circumstances) • Engage with Children using personal social media • Entering change rooms or toilets occupied by Children when supervision is not required or appropriate • Using toilet facilities allocated to Children • Undressing using facilities set aside for Children, or in their presence (without the Principal or site leader's authority and knowledge) • * (see page 9 'Working in rural/local communities')
Targeting	<ul style="list-style-type: none"> • Tutoring (outside the School or CET's directions or knowledge) • Giving personal gifts or special favours • Singling the same Children out for special duties or responsibilities • Offering overnight/weekend/holiday care of Children as respite to parents (unless employed by a respite organisation and with the Principal's knowledge)
Role	<ul style="list-style-type: none"> • Adopting an ongoing welfare role that is beyond the scope of the Worker's position or that is the responsibility of another Worker (eg a counsellor) or an external professional, and that occurs without the permission of the Principal • Photographing, audio recording or filming Children via any medium when not authorised by the School to do so and without required parental consent • Using personal rather than School equipment for approved activities, unless authorised by the School to do so
Possessions	<ul style="list-style-type: none"> • Correspondence or communication (via any medium) to or from Children where a violation of professional boundaries is indicated and where the correspondence has not been provided to the Principal/CET by the Worker • Still/moving images or audio recordings of Children on personal equipment or kept in personal locations such as in a Worker's car or home that have not been authorised by the School • Uploading or publishing still/moving images or audio recordings of Children to any location, without parental or School consent

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Professional boundary violations by a Worker represent a breach of trust, a failure to meet a duty of care to Children, and a failure to follow CET conduct requirements. When Workers violate boundaries they risk:

- harmful consequences for the Child
- seriously undermining the learning process
- seriously undermining their professional reputation and the confidence of the

School and CET community in their suitability to work with Children

- disciplinary action from the employer and/or registration authority, and/or termination of services.

Any concern a Worker has about whether a situation may compromise or breach a professional relationship should be discussed with their Principal and a plan of action developed and followed.

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 7 of 17

7 LEGISLATION

Worker conduct representing a breach of legislation may include:

- child abuse or neglect, defined in Children, Young Persons and their Families Act 1997 (TAS)
- illegal behaviours, defined in Criminal Code Act 1924 (TAS) and Police Offences Act 1935 (TAS)
- sexual harassment defined in Anti-Discrimination Act 1998 (TAS) and Sex Discrimination Act 1984 (Cth)
- discrimination, harassment or vilification defined in Anti-Discrimination Act 1998 (TAS), Australian Human Rights Commission Act 1986 (Cth), Disability Discrimination Act 1992 (Cth) and Racial Discrimination Act 1975 (Cth)
- bullying or failure to protect person from harm, defined in Work Health & Safety Act 2012 (TAS)

Sexual relationships between legally consenting adults where a Worker–Student relationship once existed

Workers should be aware that where a relationship develops with an ex-Student, their employer is entitled to consider whether their actions suggest an abuse of their position as a Worker. Where there is a reasonable belief that the emotional intimacy of the relationship developed while the Worker–Student relationship existed, a judgment that abuse of their position has occurred is likely. What are significant in Worker–Student relationships are the differences in authority and power held by the Worker and levels of trust held by the Student. These differences do not suddenly disappear at a specific point in time. They linger as an imbalance between the two individuals and as a potential impediment to their capacity to make decisions in their own and others' best interests.

Consequently, Workers cannot assume they will be protected from disciplinary action taken by their employer or registering/regulating authority because a relationship

is claimed to have begun after the school term concluded or after exams finished.

The length of time between the conclusion of the Worker–Student relationship and the beginning of an intimate relationship is only one of a number of critical factors employers or registering/regulating authorities will take into consideration when judging the appropriateness of a Worker's conduct. Other significant factors include:

- the age difference between the Worker and the ex-Student
- the developmental capacity of the ex-Student
- the vulnerability of the ex-Student
- evidence of the nature of the relationship while the Worker–Student relationship existed
- other concerns or allegations regarding the Worker's conduct.

The following questions may assist Workers recognise when professional and/or legal boundaries are at risk of being breached: Am I dealing in a different manner with a particular Child than with others under the same circumstances?

- Is my dress/availability/language/demeanor different with a particular Child?
- Would I modify my behaviour with a Child if a colleague were present?
- Would I judge my conduct negatively if I observed it in another adult?
- Is it possible that the consequences of my actions will have negative outcomes for a Child?
- Is it possible that the consequences of my actions will negatively affect people's confidence in my suitability to work with Children?

If an honest answer to any of the above questions is 'yes' then a Worker must alter their behaviour immediately and consider seeking professional support or counsel.

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 8 of 17

8 GUIDANCE FOR WORKERS IN MANAGING PROFESSIONAL BOUNDARIES

Working in rural/local communities

Workers in country or local communities may face additional challenges in managing professional boundaries as they are more likely to have social connections with the families of the Children with whom they work. This means they will on occasion, have legitimate reasons to attend social events with the Children with whom they work, to visit their homes or to be visited by them in the company of their parents. These social engagements are an important part of community life and a positive contribution to the wellbeing of Workers working in country and local communities.

Workers should heed the guidelines below to assist them to enjoy social engagements in their community without compromising their professional responsibilities:

- social contact should be generated via the relationship the Worker has with the parents of Children or by an event (such as a sporting event)
- Workers should avoid being alone with Children in these situations
- Workers should conduct themselves in a way that will not give others reason to question their suitability to work with Children and that will not create discomfort for Children in their learning relationship with them. Consuming alcohol in these situations may lessen a Worker's capacity to judge when a professional boundary is at risk
- Workers should politely refuse to discuss matters relating to the school/workplace and should not discuss Children's learning or social progress other than at times specifically set aside for that purpose
- any concern a Worker has about whether or not a situation may be compromising or breaching a professional relationship should be discussed with their Principal and an approved plan of action followed. For example, a Worker may want advice about transporting a friend's Child to and from school/sport/social event or how to manage their own Child's enrolment at the school.

Using social networking sites

Workers in education settings are expected to model responsible and respectful conduct to the Children with whom they work.

Workers need to consider the electronic social environments they utilise as part of this community and employer expectation.

The internet does not provide the privacy or control assumed by many users. Workers must appreciate that no matter what protections they place around access to their personal sites their digital postings are still at risk of reaching an unintended audience and being used in ways that could complicate or threaten their employment.

Workers should be aware of the following expectations in considering their use of social networking sites:

- they have considered the information and images of them available on their sites and are confident that these represent them in a light acceptable to their role in working with Children
- they do not have Children in their education community as 'friends' on their personal/private sites
- comments on their site about their school, CET work colleagues or Children, if published, would not cause hurt or embarrassment to others, risk claims of libel, or harm the reputation of the school, their employer, their colleagues or Children

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 9 of 17

Working one-to-one with Children

Where Workers are providing one-to-one learning assistance or feedback, behaviour assistance/monitoring, counsel, testing or assessment, the following expectations apply:

Make it public	<ul style="list-style-type: none"> • The more visible, public and busy the location the better • Use the school’s authorised ITC systems. Do not use personal email or websites to communicate with Children
Make it authorised	<ul style="list-style-type: none"> • Parents should be informed/ give consent • Activity must be authorised by the Principal or line manager
Make it timely	<ul style="list-style-type: none"> • As far as possible, provide support during normal work hours, and do not conduct excessively long sessions

- wellbeing services should be provided in unlocked rooms with part-glass doors (where possible) that are located near staff traffic areas
- avoid out of hours contact
- while parental consent is often not applicable in many wellbeing situations, best practice for schools is to provide all parents with written information about the School’s wellbeing and pastoral care services which outlines confidentiality and privacy issues
- ensure Student appointments and wellbeing notes are documented appropriately.

Conducting home visits

Workers authorised to conduct home visits must ensure they follow the specific home visiting protocols that apply to their sector or service. The key principle is that a home visit should place no one at unreasonable risk and that identified minor risks are consciously managed. A summary of general expectations is provided below.

Managing privacy expectations

Wellbeing Workers, pastoral care coordinators, health providers and various professional service providers rely in different ways on being able to provide a degree of privacy for Children. This may be to protect the Child’s dignity, to provide an environment conducive to the service/assessment being provided or to respect the Child’s desire for confidentiality.

Children will often assume a high level of confidentiality when disclosing serious issues of a personal nature or reporting harassment or bullying. For these reasons, schools need to find a careful balance between, on the one hand, respecting the sensitive and private nature of counselling or service provision and, on the other hand, the professional’s duty of care obligations for the safety and wellbeing of the Child. Good practice in managing these circumstances includes:

- health/physical care should be provided with respect for the Child’s dignity and in a manner approved by the Child and his/her parents

Inform	<ul style="list-style-type: none"> • Home visits must be authorised and documented by the Principal and the school must have information about when and where visits are being undertaken and the expected return times
Prepare	<ul style="list-style-type: none"> • All available information about the safety of the proposed visit must be considered and risks managed • Mobile phones must be taken, ID should be visible • Inform parents of intended visit, where appropriate
Protect	<ul style="list-style-type: none"> • Do not enter the house if parents are not at home • Speak with the student where the parent is present or clearly visible: do not interview students in their bedrooms • Have a colleague accompany if problems are anticipated • Document the visit

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 10 of 17

9 WORKER RESPONSIBILITIES IN RESPONDING TO BEHAVIOUR

Behaviour of Workers towards Children

(i) Suspected Breach of Child Safety

Workers in education settings are designated as mandatory reporters under the Children, Young Persons and their Families Act 1997 (TAS), and are therefore required to report suspected child abuse and neglect to Child Protection Services on 1300 737 639, irrespective of who is implicated: a colleague, friend, senior staff member, volunteer, parent, visitor or other child or young person. A Worker who lodges a report is required to inform the Principal as soon as possible and arrange to store all associated documentation securely with strictly limited access on a 'need to know' basis.

If the Principal is the subject of the suspicion, observation or allegation, the Worker must report to TCEO Child Safe Officer who will inform the Director.

The complexities of such situations are acknowledged. Nevertheless, Workers must manage their sensitivities or discomforts because their duty of care to the Child remains their paramount legal, professional and moral responsibility.

(ii) Misconduct or Inappropriate Behaviour

Workers may observe behaviours in other adults that they view to be inappropriate rather than abusive or that sit on the border of violating a professional boundary. Workers must ensure, through their Principal or line manager, that the adult concerned is made aware of the potential of their actions to impact negatively on Children and on themselves. Professional advice of this kind may be particularly valuable to young or newly appointed Workers. The Principal or line manager should document what is discussed.

All Workers must take action if Children disclose information about inappropriate behaviours of other adults on the site. It is

not acceptable to minimise, ignore or delay responding to such information. For the wellbeing of all members of the School community, the Principal must be informed as a matter of urgency and a report made to Child Protection Services, if appropriate.

Behaviour of Children towards Workers

Should a Child engage in inappropriate behaviour of a sexual nature, immediate respectful steps must be taken to discourage the Child. The matter should be reported and documented promptly with the Principal and a plan of action developed to support the Child and Worker. Depending on the age/developmental capacity of the Child and contextual information, this plan of support may involve:

- communication with parents
- referral to and liaison with specialist counselling and an appropriate agency with specific expertise where appropriate
- formalised support within the School, which may include closer monitoring or supervision of the Child in their interactions with others

Sometimes, the inappropriate sexual behaviour of younger Children towards a Worker can elicit a suspicion that the Child in question may have been sexually abused. In these situations a Worker should:

- report their suspicions to Child Protection Services on 1300 737 639
- consider the safety of the Child and any other Children with whom the Worker has contact
- document their immediate actions and promptly inform their Principal

Some Children may actively seek a relationship with a Worker that would constitute an inappropriate relationship. In such circumstances, Workers are advised to immediately report the information to their Principal and seek assistance from a senior

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Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 11 of 17

staff member, school counsellor or pastoral care coordinator to actively manage the situation in a way that *respects the emotional wellbeing of the Child and provides support to the Worker.*

Examples of behaviours that should be reported and addressed are:

- receiving gifts of an inappropriate nature or at inappropriate times (eg not as part of end of the year gift giving that occurs in some Schools)
- flirtatious gestures and comments
- inappropriate social invitations
- inappropriate touching or invasions of personal space
- inappropriate postings using any medium
- correspondence or communication that suggests or invites an inappropriate relationship

The Worker and Principal should document the incident that initially prompted the concern and the plan of action that has been established. Contact with parents is

recommended unless there are reasonable grounds to believe that this will create serious risks for the Child.

Sexual harassment—via any medium (including postings on social media, whether 'private' or not) at any time or place—or assault of a Worker by a Child should be dealt with following normal behaviour management protocols, with the involvement of parents and, where appropriate, police. Consideration should also be given to the most appropriate counselling and support that can be provided to the Child and family and the Worker. It is important for Schools to use these incidents as opportunities to organise meaningful interventions that address early sexual and other offending behaviours.

Detailed guidance on managing problem sexual behaviours in Children and gender issues will be available in CETKP from 2017.

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Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 12 of 17

10 APPROPRIATE PHYSICAL CONTACT

Appropriate physical contact by a Worker to assist or encourage a Child

At times, Workers will be required to give practical assistance to a Child who is hurt or needs particular assistance or encouragement. Examples of appropriate physical contact are:

- administration of first aid
- supporting Children who have hurt themselves
- assisting with the toileting and personal care needs of a disabled Child (an individual plan for Children with these needs must have been negotiated with parents and documented)
- non-intrusive gestures to comfort a Child who is experiencing grief and loss or distress, such as a hand on the upper arm or upper back
- non-intrusive touch (eg congratulating a Child by shaking hands or a pat on the upper arm or back). Workers should remember the importance of accompanying such touch with positive and encouraging words.

Good practice Children Years 3-12

- Seek a Child's permission before using touch to assist, encourage or comfort (keeping in mind that a highly distressed Child may be incapable of expressing their wishes).
- Avoid being with a Child in a one-to-one, out of sight situation [except as agreed in the Child's individual toileting plan](#), and never [inappropriately](#) touch a Child in such a situation.
- Do not presume that physical contact is acceptable to a particular Child. Even non-intrusive touch may be inappropriate if a Child indicates that they do not wish to be touched.
- Respect and respond to signs that a Child is uncomfortable with touch.
- Use verbal directions rather than touch (eg ask a Child to move in a particular way, rather than physically place the Child in

the required position). This approach should be used for all demonstrations in dance, sport, music and drama.

- Where touch is essential for safety reasons (eg with aquatic or gymnastic instruction), always tell the Child that you need to hold them in a particular way and seek their permission to do so.
- In some circumstances, Workers may need to discourage younger Children from inappropriate expectations of hugs or cuddles. This should be done gently and without embarrassment or offence to the Child.

Good practice Early Years Children

Workers in early years and child care settings are often involved in toileting Children, changing their clothes and comforting them for a range of distresses normal in the preschool/ younger years age group. In providing such care, Workers should be aware of the following good practice:

- When Children indicate they want comfort, ensure that it is provided in a public setting and that it is in keeping with the guidelines provided for 'Appropriate physical contact'.
- Signs of discomfort in Children such as stiffening, pulling away or walking away must be respected. In these situations the Child must continue to be observed/ monitored until their distress is managed.
- Children must not be left in states of high distress for long periods. Parents need to be contacted under these circumstances.
- Workers should follow the School's [personal care policy, \(CETKP from 2017\)](#) and a Child's individual toileting plan where agreed and documented with parents.
- Formalised plans for responding to critical toileting situations and other challenging behaviours should be understood by Workers and parents.

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Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[insert date#]	Page 13 of 17

11 NON-PHYSICAL INTERVENTION IN MANAGING BEHAVIOUR

Non-physical intervention is the recognised means of appropriately managing the behaviour of Children. Where a problem with a Child's behaviour becomes apparent, non-physical interventions include:

- directing other Children to move away from the situation
- asking the Child to stop the behaviour, and telling them child what will happen if they do not stop
- directing the Child to a safe place
- directing other Children to a safe place
- sending for assistance from other Workers, or in extreme cases, the police.

Use of verbal directions is always preferred to physical intervention. It is not appropriate to make physical contact with a Child in order to ensure they comply with directions (eg pushing, grabbing, poking, pulling, blocking). Staff working with Early Years Children must not hold Children against their will to ensure attention at group time.

Under no circumstances should Workers engage in any form of conduct that might cause physical or emotional harm to a Child.

Physical restraint where a Child or adult's safety is threatened

Workers may make legitimate use of physical restraint if all non-physical interventions have been exhausted or are impossible in the circumstances and a Child is:

- attacking another Child or adult
- posing an immediate danger to themselves or others

Workers are to use physical restraint only as a last resort and not as a response to:

- property destruction
- disruption to the education or care activity
- refusal to comply
- verbal threats
- leaving a classroom or the school

- a need to maintain good order *unless someone's safety is clearly threatened.*

Use of appropriate physical force may be permitted to ensure that the employer's duty of care to protect Children and Workers from foreseeable risks of injury is met. Common law defences such as self-defence and defence of others remain legitimate reasons for the use of physical restraint. All people have the right to defend themselves against an attack provided they do not use a disproportionate degree of force to do so.

It may be a valid decision for a Worker not to use physical restraint in a situation involving several Children, or a physically larger Child, where a Worker believes that doing so would increase the likelihood of injury to themselves. In such cases, the Worker should shepherd other Children away from danger and seek immediate help from other Workers or police.

Workers are not expected to place their own safety at risk in responding to violence or aggression in others and are supported by Workplace Health and Safety legislation in making this judgment.

Safe practice when using physical restraint

The use of restraint with a Child should only be used in situations where the safety of others is threatened or to prevent injury. The restraint must be reasonable in the particular circumstances and must be in proportion to the circumstances of the incident. It must always be the minimum force needed to achieve the desired result, and take into account the age, stature, disability, understanding and gender of the Child.

Parents should be informed at enrolment of the School's policy on physical restraint with Children. Workers who may be expected to use physical restraint should access appropriate training.

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 14 of 17

When using physical restraint:

Do:

- Continue talking with the Child throughout the incident. Make clear that physical restraint will stop when it ceases to be necessary to protect the Child or others.
- Grip clothing rather than the body, whenever possible.
- Document the incident promptly and provide to the Principal.
- The record should include:
 - the name of the Child or Children involved
 - location of incident
 - name of witnesses (Workers and/or Children)
 - incident outline (including the Child's behaviour, what was said, steps taken, degree of force applied and how applied, reasoning for actions taken)
 - Child's response and the outcome
 - details of any injury or damage to property.
- Inform parents promptly and fully of any incident involving the physical restraint of their Child and provide them with the opportunity to discuss the matter at the time they are informed.
- Ensure School/professional practice specific guidelines regarding other forms of documentation are followed, for example critical incident forms.
- Provide/offer confidential debriefing, counselling support and Workplace Health and Safety documentation to all Workers involved in incidents of restraint.

Don't:

- Don't use restraint that involves:
 - force applied to the head or neck
 - restrictions to breathing
 - punching
 - kicking
 - holding by the hair or ear
 - confining a Child in a locked room or limited space
 - placing Children in Early Years or under school age in 'time out' or 'time away'.

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 15 of 17

12 WORKING WITH CHILDREN WITH ADDITIONAL NEEDS OR DISABILITIES

All sections of this document require careful interpretation when applied to Children with additional needs or disabilities. For example, Children with intellectual disabilities may engage in a much wider range of physical and overtly sexual behaviours towards Workers and other Children as a result of their disability. Similarly, Workers will need to engage more often in physical contact and touch with these Children as a means of meeting their duty of care to them. In fact, touch itself may be an agreed form of communication between a Child, his/her parent and Workers where the Child has a communication disability. Children with disorders causing violent and unpredictable behaviours are likely to have formalised restraint procedures agreed to by Workers and parents/carers. Toileting assistance or processes for changing clothes will be necessities for some Children.

Because of these differences, Workers need to be more vigilant and thoughtful in their physical interactions with Children with additional needs or disabilities. Children with disabilities are over-represented in the Child protection system. Their vulnerabilities mean they have an increased reliance on the adults providing their care to protect them from harm. Immediately reporting any inappropriate behaviour towards Children from other adults is a critical obligation of Workers designated as mandatory reporters in the education sector and one that must not be delayed, minimised or delegated (see page 11 'Worker Responsibilities in Responding to Behaviour').

Workers support Children with disabilities or special needs through various forms of individual plans. The common features of these plans are that they involve all people who deal with the Child on a regular basis, including other service providers, and they document the agreed strategies that are to be used in supporting the Child. These plans are particularly important when challenging behaviours, personal care and hygiene and special physical considerations are an issue at the School (eg toileting or transport where physical restraint is occasionally required). The possibility of restraint and the nature of that restraint for Children with additional needs should be addressed in the individual plan, as should strategies for preventing harm to others. The planning process should involve the Child as much as possible. Workers likely to need to use physical restraint should access training specific to that requirement.

It is appropriate that different approaches are likely to be needed from Workers in their interactions with Children with special needs or disabilities. For this reason, School behaviour codes or behaviour management policies need regular reviewing to ensure they reflect the needs of the Children accessing the School at any one time. Nevertheless, the basic principles outlined in this document remain applicable to all Children. Workers have a duty of care to protect Children from physical and emotional harm and, while the ways of meeting the duty may differ for different groups, the duty itself remains unqualified. Workers are expected to meet this duty in a manner that respects the dignity of all Children as well as their vulnerabilities.

Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 16 of 17

13 CULTURAL CONSIDERATIONS

Different cultures have different attitudes and traditions surrounding the concept of appropriate touch. Workers have a responsibility to become as familiar as possible with the values of the various cultural groups enrolled in their School(s).

Often culturally-based community organisations are keen to address Schools about the values of their culture so as to establish optimum understanding and respect between parents, their Children and School Workers. It is critical that Workers appreciate culturally specific expectations regarding touch so that embarrassment or offence can be avoided for everyone, and particularly for Children.

Some Children attending Schools are recently arrived in Australia. Some have backgrounds of severe trauma, ranging from the observation of extreme physical violence and abuse to being victims of such violence and abuse themselves. The needs of these Children and their families are acute and the issue of establishing what will be received as appropriate, helpful touch is, therefore, all the more essential. Workers need to employ considerable diplomacy, care and effort in their interactions with the Children and their families that are known or suspected to have escaped traumatic circumstances.

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Document:	Date of commencement:	Page Reference:
Protective Practices for Workers	[#insert date#]	Page 17 of 17