



## Procedures for dealing with allegations of misconduct made against employees in schools

### 1. Purpose

This document outlines procedures to be used by Catholic school authorities when dealing with allegations of misconduct made against staff in schools.

These procedures acknowledge the special responsibility of Catholic schools and their employees for the welfare of the children and young people in their care. The procedures also respect the dignity of employees and their rightful expectation of fair and just treatment when allegations of misconduct are made.

The procedures outlined in this document apply to all employees. Allegations against members of religious orders are dealt with in conjunction with the procedures Outlined in the document 'Towards Healing'

### 2. Principles

All adults have a responsibility to care for children, to exercise an active concern for the welfare of children in their care, and to protect them from any kind of abuse, exploitation or harm, as defined under the Care and Protection of Children, Act 2007.

All students have the right to a thorough and systematic education in conditions of personal safety, including safety in relationships.

The Catholic Education Council is committed to the implementation of child protection strategies and procedures in schools. Abuse of students by persons in positions of trust or authority in schools is a very serious matter.

The Principal is responsible for the management of allegations of misconduct made against all staff. Allegations of misconduct have the potential to harm both the alleged victim and perpetrator alike. Allegations must be dealt with promptly.

The possibility of a malicious, false or exaggerated allegation being made is acknowledged. If the allegation is found, after proper investigation, to be false or unfounded, the Principal will assist the employee to re-establish his/her respect and credibility in the eyes of colleagues and the community.

Harm to the student and to the employee is minimised by:

- Appropriate and timely action
- Confidentiality;
- Adherence to agreed procedures, both at the school and at the Catholic Education Office; and
- the provision of appropriate emotional support and pastoral care.

Investigations should be dealt with sensitively in order to minimise the potentially negative impact of the investigative process, with care taken in relation to the number of interviews to which the student is subjected.

### **3. Allegation defined**

An allegation may be defined as:

- Statement or claim based on information received from a third party that indicates a student has been treated in an unacceptable or unlawful way by a member of staff;
- The Principal, staff or parents' observation of a student's behaviour which suggests misconduct by a staff member may have occurred towards that student;
- the Principal or another person witnessing misconduct or series of actions that suggest unacceptable treatment of a student by a staff member;
- direct disclosure from a student that misconduct by a member of staff has occurred towards him/her.

### **4. Reporting an allegation**

Any allegation against an employee of the school, of misconduct of a sexual, physical, or emotional nature should be referred immediately to the Principal or to the Deputy, if the Principal is involved.

Those to whom the allegation is made should observe confidentiality throughout, which means that there should be no broadening of discussion regarding the allegation, except those persons specified in these procedures. It is important that the reputation of the employee and the child be protected, especially in the early stages of the process.

The person to whom an allegation is made should document the allegation and his/her action(s).

If an allegation is made against the Principal, the person receiving the allegation should immediately contact the Director of Catholic Education.

A report must be made to Family and Community Services (FACS)

Reporting obligations are outlined in the Care and Protection of Children Act 2007.

### **5. Definition of 'misconduct'**

Misconduct is defined as conduct by an employee towards a student that is inappropriate within the circumstances of normal duties and the normal interaction between students and adults employed in a school. Of itself, this inappropriate conduct may not be serious enough to warrant summary dismissal, but may warrant action by the Principal to protect the student and/or to discipline or counsel the employee.

The following examples are illustrative only and not exhaustive:

- inappropriate discussion of matters of a sexual nature with a student;
- sharing print, film, video, CD, DVD, phone, computer, internet, storage devices or material containing offensive/inappropriate images or references;
- use of excessive force in restraining a student;
- inappropriate disciplinary actions against a student;
- constant public humiliation of the student.

## **6. Definition of 'serious misconduct'**

Serious misconduct is defined as unlawful conduct by an employee towards a student, or conduct that is unacceptable within the circumstances of normal duties and the normal interaction between students and adults employed in a school. Serious misconduct can lead to the summary dismissal of the employee.

The following examples are illustrative only and not exhaustive:

- sexual touching, either over or under the clothing;
- sexual penetration;
- sharing print, film/video/CD/phone/DVD, computer storage devices or internet material with sexually explicit images or references;
- causing deliberate physical injury to a student;
- use of corporal punishment;
- seeking contact with a student, whether in or out of school time, to satisfy the employee's own needs;
- victimisation of a student in the classroom or yard, or outside school.

## **7. Role of the Principal**

The Principal should document the details of the allegation as received, before discussion with relevant authorities.

Should the allegation take the form of a disclosure from a student, this student should be reassured that the allegation has been heard and noted. This student should then be reminded to keep the allegation confidential. The notifying student should be encouraged to discuss the allegation with his/her parents. If this happens, the Principal should also speak to the notifying student's parents to ensure that confidentiality is maintained.

The Principal should:

- listen carefully to the allegation;
- clarify the nature of the allegation;
- record the detail of the allegation;
- observe complete confidentiality at this stage with respect to the allegation, other than by communicating with the Catholic Education Office as set out below;

- ensure that the student is safe, and that appropriate support is offered or provided.

Once the Principal has clarified the details of the allegation, the Principal should contact the Director of Catholic Education. It remains the responsibility of the Principal to co-ordinate the response and to implement the action agreed.

If the allegation is against the Principal then the Deputy / Assistant Principal would follow the same procedures

## **8. Role of the Catholic Education Office**

The Director of Catholic Education must be consulted by the Principal about each allegation of misconduct or serious misconduct made against an employee. The Director reserves the right to determine appropriate course/s of action, on the advice of the Principal and others with particular expertise.

The Director should establish whether any previous reports of allegations against the particular employee have been recorded, and similarly whether any earlier allegations have been made by this particular student.

## **9. Allegation of Misconduct: action**

After consultation with and with the consent of the Director, the Principal should take the following steps:

- inform the employee that an allegation has been made against him/her;
- arrange a meeting with the employee (who should be encouraged to bring a representative) to detail the allegation and to provide the employee with an opportunity to respond;
- inform the employee about the availability of appropriate counseling and legal services;
- advise the employee in general about the steps to be taken to investigate the allegation;
- instruct the employee not to have any contact with the student(s) or other people involved in the allegation.

The Principal shall keep a written record of this and any other meeting with the employee.

The Principal may be required by the Director of Catholic Education to conduct an internal investigation in order to clarify the circumstances surrounding the allegation. In conducting the investigation, the Principal shall ensure that the maximum level of confidentiality is maintained. The Principal may choose to stand down the employee on full pay for the duration of the investigation.

## **10. No misconduct found: Response**

Where the Principal has determined that the allegation is baseless, or that no further action is warranted, the Principal will advise both the employee and the person making the allegation that no further action will be taken.

The Principal will assist the employee to re-establish his/her respect and credibility in the eyes of colleagues and the community and will provide appropriate emotional support and pastoral care.

An employee against whom an allegation of misconduct has been made may submit documentation to the Principal responding to the matters alleged against him or her. The Principal must include such documentation with the written report of the allegation (see section 17 below).

#### **11. Misconduct confirmed: response**

If, after the investigation, the Principal believes that the alleged behaviour did actually occur, and that it did constitute misconduct, the Principal may recommend disciplinary action to the Director.

The Principal will have a further meeting to outline the results of the investigation, and to indicate the disciplinary action (if any) to be taken. The employee shall be invited to respond.

An employee against whom an allegation of misconduct has been made may submit to the Principal documentation responding to the matters alleged against him or her. The Principal must include such documentation with the written report of the allegation (see section 17 below).

The employee has the right to pursue grievance procedures should he/she feel that the process has not been correctly adhered to. Such procedures are detailed in the current Enterprise Bargaining Agreement.

#### **12. Allegation of Serious misconduct: action**

After consultation with the Director, and with the Director's concurrence, the Principal will contact the police.

In cases where the police advise that the matter will be investigated, the Principal will:

- provide the name and address of the student, the alleged offender, and of any other relevant parties;
- ascertain when and where any interviewing is to take place;
- seek to ascertain the scope and timeline of police procedures.

The parent or guardian of the student central to an allegation of serious misconduct will be contacted by the police. On the advice of the police the Principal may contact the parent(s) to inform them of a forthcoming contact by the police.

After referring the allegation to the police, and the police having indicated that the allegation will be investigated, the Principal

- will require the employee to stand down for the duration of the investigation on full pay;
- may arrange to provide confidential support and advice to parent(s), staff and student(s), as appropriate;





