

Section 3 Appendix 4



Catholic Education Office Diocese of Toowoomba

Student Protection In-service Overview for Staff

(In-service developed by School Counsellors: Christine Meneely and Shauna Green, with information provided by Bev Patterson, St Francis Xavier Province)

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STUDENT PROTECTION

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WHY WE NEED TO ATTEND THE IN-SERVICE.....

The purpose of the in-service is to ensure that persons working in Catholic schools:

- Understand the different forms of child and youth related 'harm'
- Know how to recognise 'harm'
- Know what an appropriate adult-student relationship is
- Know the reporting obligations of school staff when child/youth related 'harm' is suspected, alleged or disclosed.
- Know the statutory requirements of the-
 - Education (Accreditation of Non-State Schools) Act and Regulation 2001
 - Education (General Provisions Act) 1989 Amendment 2003
 - Education (Teacher Registration) Act 1988
 - Commission for Children and Young People and Child Guardian Act 2000

Other obligations: *Towards Healing: Principles and Procedures in responding to complaints of abuse against personnel of the Catholic Church of Australia, December 2000. Amendments May/June 2003.*

ACCREDITATION OF NON-STATE SCHOOLS

Part 2 - Accreditation Criteria of the Education (Accreditation of Non-State Schools) Regulation 2001 prescribes accreditation criteria relevant for a school's accreditation as mentioned in section 9 of the Act.

S 10 (2), the school must have written processes about the appropriate conduct of its staff and students, that accord with legislation applying in the State in relation to the care or protection of children.

(3) The processes must include -

- a) a process for the reporting by a student to a stated staff member of the behaviour of another staff member that the student considers is inappropriate; and
- b) a process for how the information reported to the stated staff member is to be dealt with by the stated staff member.

ACCREDITATION OF NON-STATE SCHOOLS (Cont'd)

S 10 (4) For the process mentioned in subsection (3) (a) there must be stated at least 2 staff members to whom a student may report the behaviour.

(5) Also, without limiting subsection (2), the processes must include the following -

- (a) a process for reporting sexual abuse or suspected sexual abuse in compliance with the Education (General Provisions Act) 1989, section 146B;
- (b) a process for -
 - (i) the reporting by a staff member, to the school's principal or another person nominated in the process, of harm that

ACCREDITATION OF NON-STATE SCHOOLS (Cont'd)

- (A) the staff member is aware or reasonably suspects has been caused to a student who, when the harm was caused or is suspected to have been caused, was under 18 years; and
- (B) is not harm to which the process mentioned in paragraph (a) applies; and

(ii) The reporting by the principal or other person, to a relevant Authority, of the harm or suspected harm if the principal or other person also is aware or reasonably suspects the harm has been caused.

(6) The processes must -

- (a) be readily accessible by the staff and students; and
- (b) provide for how the staff and students are to be made aware of the processes.

(7) The school's governing body must be able to demonstrate how the school is implementing the processes.

DEFINITIONS OF CHILD AND YOUTH RELATED 'HARM'

OBLIGATION TO REPORT SEXUAL ABUSE OF STUDENT UNDER 18 years ATTENDING NON-STATE SCHOOL

s 14, 146B *Education (General Provisions) Act 1989.*

(1) Subsection (2) applies if a staff member of a non-State school (the "first person") becomes aware, or reasonably suspects, that a student under 18 years attending the school has been sexually abused by someone else who is an employee of the school.

IT IS AN OFFENCE TO FAIL TO COMPLY WITH REPORTING REQUIREMENTS. \$1500 penalty.


It is important that a written report by the "first person" of suspected harm or disclosure of harm of a sexual nature to a student by a staff member be immediately made to the Principal who will immediately notify the Police and give a copy of the Report to a police officer.

TOWARDS HEALING

The *Towards Healing* document is a protocol of the Catholic Church in Australia. It outlines processes to be followed when a complaint of physical, psychological, sexual abuse is made against a person working for the Catholic Church. The process applies to all personnel, including permanent, part-time, casual and volunteer staff and clergy and religious and addresses past and present allegations of abuse.

Queensland Professional Standards Resource Group means a group of persons of diverse backgrounds, skilled in areas such as child protection, the social and civil and Church law and industrial relations whose mandate is to act as advisers to Church bodies in the State in matters concerning professional standards. The Resource Group are appointed by the bishops and leaders of religious institutes.


Director of Professional Standards means a person appointed by the Bishops and Leaders of religious institutes for each State to manage the process in relation to specific complaints of abuse against personnel of the Catholic Church of Australia.



Definition - 'Harm'

Harm to a student is any detrimental effect of a significant nature on the student's physical, psychological or emotional well-being by any cause, other than confirmed accidental harm not involving negligence or misconduct. Harm to a student includes minor harm that is cumulative in nature that would result in a detrimental effect of a significant nature to the student if allowed to continue. Harm can be caused by amongst other things:

- (a) physical, psychological or emotional abuse or neglect
- (b) Sexual abuse or exploitation (including internet misuse and pornography)
- (c) Domestic or family violence
- (d) Student bullying
- (e) Self-harm



EMOTIONAL ABUSE


Emotional Abuse is behaviour by a parent or caregiver or another person responsible for the child or youth that can destroy the confidence of a child or youth resulting in significant emotional deprivation or trauma.

It involves:

- Impairment of a child or youth's social, emotional, cognitive and intellectual development and/or disturbance of a child or youth's behaviour.

Examples of emotional abuse include:

- Constant criticism
- Belittling and teasing
- Ignoring or withholding praise and affection
- Public humiliation
- Inappropriate isolation of a student at school
- Scapegoating, and
- Constant yelling



NEGLECT

Neglect is the continued failure by the parent or caregiver or another person responsible for a child or youth to provide her or him with adequate nutrition, food, clothing, shelter, supervision, and the protection needed for the child or youth's optimal growth and development. An extreme form of neglect is abandonment. Failure to provide access to medical and dental care and educational opportunities may also be deemed as neglect. Child neglect occurs where a child is harmed by the failure to provide the basic physical and emotional necessities of life.

SEXUAL ABUSE

Sexual abuse can take many forms, from sexual jokes, innuendo and conversation, inappropriate unethical use of internet, e.g. pedophile networks and procuring a child or youth over the internet, and showing pornographic materials to a child or youth, to sexual touching and invasive sexual acts. It includes exposure, fondling, voyeurism and exhibitionism as well as sexual intercourse, incest and child prostitution.

It takes place between a child or youth and a person who is the same age or older, or has power, authority or control over the child or youth. Authority allows the older person to use force, trickery, emotional blackmail or other emotional pressure. It could also involve secret misuse of power and distortion of adult-child relationships.

Definition – Physical Abuse

Physical Abuse refers to non-accidental injury to a child or youth by a parent, caregiver or another person responsible for the child or youth.

It includes injuries which are caused by excessive discipline, including bruising, fractures, dislocations, severe beatings or shakings, lacerations, welts, burns, biting or grabbing sufficiently to leave marks, throwing a child, attempted suffocation or strangulation.

It could also include practices such as giving extra tasks to children as 'punishment', especially if they are already tired, since this could be harmful to their health. The administration of illegal or inappropriate drugs and medications that may affect a child or young person's physical or psychological development is another example.

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DUTY TO INFORM THE BOARD OF TEACHER REGISTRATION

Schools have a duty to inform the Board of Teacher Registration if a Teacher is dismissed or resigns as a result of an employer investigating allegations that the teacher's conduct could or could have harmed a child or youth (Education and Other Legislation (Student Protection) Amendment Act 2003)

The Commission for Children and Young People have the power to reassess a non-teaching staff member's suitability to work with children on the basis of fresh information, such as advice from the Police that the person has been charged with an offence.


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DEFINITION OF 'HARM'


'Harm' caused to a child or youth is any detrimental effect of a significant nature on the child or youth's physical, psychological or emotional well-being by any cause, other than confirmed accidental harm not involving negligence or misconduct. 'Harm' to a child or youth includes minor harm that is cumulative in nature that would result in a detrimental effect of a significant nature to the child or youth if allowed to continue. 'Harm' can be caused by amongst other things:

physical or emotional abuse or neglect; or
sexual abuse or exploitation.

Based on the *Child Protection Act 1999*;
Department of Education Manual
HS-17 Student Protection, p. 10



DEFINITION OF 'Student'



'Student' is any person, regardless of age, enrolled in a School.

The term 'child' refers to an individual regardless of age.

OBLIGATIONS


Catholic Church Authorities in Queensland are obligated to govern all of their schools in a manner that fulfills legal and church obligations and requirements, including:

- *Child Protection Act 1999*
- *Commission for Children and Young People Act 2000* (new Bill recently passed to be effective January 2005)
- *Education (Accreditation of Non-State Schools) Act and Regulation 2001*
- *Education and Other Legislation (Student Protection) Amendment Act 2003*
- *Education (General Provisions) Act 1989*
- *Education (General Provisions) Amendment 2003*
- *Education (Teacher Registration) Act 1988*
- *Towards Healing: Principles and Procedures in response to reports of abuse against persons of the Catholic Church of Australia, Diocesan Guidelines* (Amendments May/June 2003)
- *The Code of Canon Law*
- *The Constitutions and Statutes of the Congregation*

OBLIGATIONS cont'd

Other Obligations arise from:

- Relevant Professional Standards and Codes of Ethics
- Relevant Catholic Church Documents such as *Integrity in Ministry*
- Relevant Policies particularly *Prevention and Screening*
- *QCEC Manual – Student Protection and Student Safety in Communities of Care.*
- UN Charter of the Rights of the Child.



LEGISLATIVE OBLIGATIONS ARISING FROM ABUSE ISSUES

Alerted to Issue

A staff member becomes aware, or reasonably suspects, that a student under the age of 18, attending the school, has been sexually abused by someone who is an employee of the school.

Mandated Action

- Staff member **must** immediately give a written report of the abuse to the principal. If the principal is the accused the staff member immediately give a written report about the abuse to the Director of the governing body.
- If the principal or Director receives the report, the principal or Director **must** immediately forward the report to the Police.

s.146B Education (General Provisions) Act.

LEGISLATIVE OBLIGATIONS cont'd.

Alerted to Issue

A staff member becomes aware or reasonably suspects 'harm' has been caused to a student who, when the harm was caused or is suspected to have been caused, was under the age of 18-years. (refer to the definition of 'harm')

Required Action

- Staff member **must** report the matter to the principal or another person delegated by the processes established by the employing authority.
- The principal or other delegated person **must** report the matter to the "relevant State authority"
- "relevant State authority" means Department of Child Protection and Police Service.

s.10 Education (Accreditation of Non-State Schools) Regulation 2004
 s. 3 Education (Accreditation of Non-State Schools) Regulation 2004

LEGISLATIVE OBLIGATIONS

Issue

Employing authority investigates an allegation of harm caused, or likely to be caused to a child because of conduct of a teacher and the employing authority dismisses the teacher or the teacher resigns OR
 The Employing authority commences an investigation into an allegation of harm caused or likely to be caused to a child because of conduct of a teacher, and the teacher resigns during the course of the investigation.

Required Action

- The employing authority must provide written notice to the Board of Teacher Registration of the dismissal or resignation with supporting details of the employing authority giving the notice of dismissal to the teacher or the resignation from the teacher. There are mandatory requirements for the notice set out in the legislation.

s.44A Education (Teacher Registration) Act 1988

LEGISLATIVE OBLIGATIONS cont'd

Issue

Non-teaching employee or volunteer notifies employer that there is a change in their criminal history OR
 the Employing authority becomes aware that a non-teaching employee or volunteer has had a change in their criminal history.

Required Action

- Employer must not continue to employ the person if they are applying for a suitability notice (blue card) or further suitability notice about the person.

s.112 Commission for Children and Young People and Child Protection Act 2004

ALLEGED 'HARM'

Alleged 'harm' might be caused by:

- a person working within the school
- a fellow student at the school
- someone external to the school, such as , parent, extended family, friend of family or stranger, and
- the student himself or herself, such as, self-harm

Requirements in relation to reporting are set out in the Youth Protection Policy, October 2004.

HISTORICAL ABUSE ALLEGATIONS

Alerted to Issue

Staff member is alerted to a complaint of historical child related 'harm' against personnel of the Catholic church in Australia.


Required Action

- The person receiving the complaint **must** enter into any discussions concerning the matter with the complainant and provide details of the complaint.
- The complainant is referred to the Toward... 337 928.


CHILD SAFE ENVIRONMENT

Creating a child safe environment is a challenging responsibility that involves participation by everyone working with children and youth.

- R** Risk management strategies are in place
- E** A Child and Youth Protection Policy is clearly written but actioned
- S** Boundaries for staff are made clear - Code of Conduct
- P** Clear recruitment, selection and screening procedures are in place
- O** Staff are supported
- N** There are clear procedures for managing allegations of professional misconduct
- S** Education and training is provided for staff and volunteers
- E** Students are educated in protective behaviours.




RECEIVING A CONCERN, ALLEGATION OR DISCLOSURE



The person receiving the concern/allegation/disclosure of child and youth related 'harm' will:

- > **LISTEN** not so much to get details as to comfort and support the child or youth;
- > **REASSURE** the child or youth that she/he is not doing anything wrong in talking to someone.
- > **PROMISE** only to help, never promise to keep secrets and
- > **EXPLAIN** to the child or youth that in order to get help you need to tell someone who can give you advice.

RECORD KEEPING



DO

- Record the details of any disclosure, allegation that has been made and any developing concern.
- Write exactly what has been observed or heard (e.g. what they said, what you said, any questions you asked, any comments you made.)
If you can't remember exactly the words that were said record "Jane told me" This factual information must be recorded as soon as possible.
- Record your actions following the disclosure of concern.
- Record any identifying information regarding the suspected perpetrator of the 'harm'
- Record the name, age and address of the child or youth involved.
- Record the location when the child or youth disclosed the concern or the observation that raised your concerns.
- Record who was present when the child or youth made the disclosure or observation was made.


RECORD KEEPING cont'd

DO

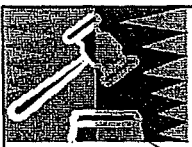
- > Use the required Report Form. Always use a pen not a pencil.
- > Record information in an unbiased manner.
- > Sign and date all records.
- > Rule across a mistake in recording and initial the correction. Don't white ink out the mistake.
- > Ensure all documentation of all suspected, disclosed or likely child and youth related 'harm' is maintained in files that are confidential and secure as outlined in the Policy document.

DO NOT

- > Express an opinion about what was observed or heard.
- > Interpret what was observed or heard.
- > Use emotive terms.



EVIDENCE



- If a staff member has knowledge that is considered relevant, that person will be requested to give evidence voluntarily, but normally a subpoena will be necessary.
- If a subpoena requiring a person to give evidence stating a time and a place is served it must be obeyed.
- Any records or reports relating to child related concerns that are subpoenaed as evidence and in such incidences must be obeyed.

DEFINITIONS OF CHILD AND YOUTH RELATED 'HARM'