Reportable conduct policy

Author	ADS
Risk category	People safety and culture
Relevant legislation/ guidelines	• NSW Registered and Accredited Individual Non-government Schools Manual – B8 • Children's Guardian Act 2019 (NSW) • Children and Young Persons (Care and Protection) Act 1998
Related documents	• Reportable conduct fact sheet NSW • Mandatory reporting policy NSW • Investigations policy and procedure
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Commitment

This *Reportable conduct policy and procedure* reflects the commitment of The Anglican School Googong (TASG) (the School) and its employees to the safety and wellbeing of children and young people regardless of whether the personnel are mandated reporters under the provisions of the child protection legislation in the relevant state or territory.

TASG has zero tolerance for child abuse in all its forms. We are committed to providing child safe environments where children and young people feel included, valued and their voices are heard. We understand the profound and long-term impact child abuse, neglect and trauma have on the health and wellbeing of people across the lifespan. The School's commitment to child safety aligns also with the expectation that all adult community members have responsibility for the protection, safety and wellbeing of children and young people. As a Faith based organisation whose interactions with young people have the ability to identify and refer vulnerable children, we are committed to the care and protection of children.

Purpose and scope

This policy sets out the principles, obligations and processes for TASG to investigate reportable conduct (reportable allegations and reportable convictions) and report it to the New South Wales Office of the Children's Guardian (OCG). This document outlines TASG's procedures to ethically and legally ensure the safety and wellbeing of all children and young people age 0-18 years.

Definitions

Assault can occur when a person intentionally or recklessly (i.e. knows the assault is possible but ignores the risk):

- applies physical force against a child without lawful justification or excuse – such as hitting, striking, kicking, punching or dragging a child (actual physical force); or
- causes a child to apprehend the immediate and unlawful use of physical force against them – such as threatening to physically harm a child through words and/or gestures regardless of whether the person actually intends to apply any force (apprehension of physical force)

Child: a person under 18 years of age.

Confidentiality: is a legal term that refers to the duty of an individual to refrain from sharing confidential information with others without the express consent of the other party.

Emotional or psychological harm: is behaviour that causes significant emotional or psychological harm to a child is conduct that is intentional or reckless (without reasonable excuse), obviously or very clearly unreasonable and which results in significant emotional harm or trauma to a child.

For a reportable allegation involving psychological harm, the following elements must be present:

- An obviously or very clearly unreasonable or serious act or series of acts that the employees knew or ought to have known was unacceptable, and
- Evidence of psychological harm to the child that is more than transient, including displaying patterns of 'out of character behaviour', regression in behaviour, distress, anxiety, physical symptoms or self-harm, and

- An alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.

Ill-treatment: conduct towards a child that is: -

- unreasonable; and
- seriously inappropriate, improper, inhumane or cruel.

Ill-treatment can include a range of conduct such as making excessive or degrading demands of a child; a pattern of hostile or degrading comments or behaviour towards a child; and using inappropriate forms of behaviour management towards a child.

Neglect: is a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for a child that causes or is likely to cause harm - by a person who has care and/or has responsibility towards a child.

Neglect can be an ongoing situation of repeated failure by a caregiver to meet a child's physical or psychological needs, or a single significant incident where a caregiver fails to fulfil a duty or obligation, resulting in actual harm to a child where there is the potential for significant harm to a child. Examples of neglect include failing to protect a child from abuse and exposing a child to a harmful environment.

Personnel: means all staff, volunteers and contractors

Reportable allegation: an express assertion that reportable conduct has happened.

Reportable conviction: a conviction or finding of guilt:

- for an offence, under Territory or a State or Commonwealth law, involving reportable conduct; and
- entered against the person before or after the commencement of the Reportable Conduct and Information Sharing Legislation Amendment Act 2016.

Sexual misconduct: conduct with, towards or in the presence of a child that is sexual in nature (but not a sexual offence). The Act includes but not limited to:

- descriptions of sexual acts without a legitimate reason to provide the descriptions;
- sexual comments, conversations or communications;
- comments to a child that express a desire to act in a sexual manner towards the child, or another child.

Note – crossing professional boundaries comes within the scope of the scheme to the extent that the alleged conduct meets the definition of sexual misconduct. That is, the conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence).

Sexual offences: An offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child, such as:

- sexual touching of a child;
- a child grooming offence;
- production, dissemination or possession of child abuse material.

An alleged sexual offence does not have to be the subject of criminal investigation or charges for it to be catagorised as a reportable allegation of sexual offence.

Worker: All people carrying out work for the school including employees (permanent, casual, and temporary), contractors and sub-contractors, volunteers, apprentices, work experience students, or a minister, priest, or other religious leader or member of a religious organisation.

Policy

Under NSW legislation, Section 29, Children's Guardian Act 2019 (NSW), TASG must report to the OCG any reportable allegations/convictions that employees, or volunteers and contractors who provide services to children, have engaged in reportable conduct (defined below). It does not matter whether the reportable conduct happened to a student or another child – any allegations which meets the legal definition of reportable conduct related to work or in a personal capacity must be reported to the OCG. The Principal's duty is to ensure that the TASG reportable conduct obligations are met consistently and in a timely manner. This policy and procedure sets out the delegated obligations and processes.

Compliance

Non-compliance with this policy may result in disciplinary action up to and including dismissal.

Appendix 1

Risks are assessed using the following likelihood and consequence matrix:

Consequence →			Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood	Is expected to occur in most circumstances	Almost Certain	Medium	Medium	High	Extreme	Extreme
	Will probably occur	Likely	Medium	Medium	High	High	Extreme
	Might occur at some time in the future	Possible	Low	Low	Medium	High	High
	Could occur but doubtful	Unlikely	Very Low	Low	Medium	Medium	High
	May occur in exceptional circumstances	Rare	Very Low	Very Low	Low	Medium	Medium

Using the above information and matrix, a risk rating can be applied to any risk.