



Bellfield College Child Protection Policy

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REVIEW PROCESS

This section details amendments and updates made to the Child Protection Policy in accordance with Government legislation and advice from the Association of Independent Schools of New South Wales. (AISNSW)

1. This policy has been obtained from The AISNSW
2. This policy replaces the College's Child Protection Policy developed on 24 August 2018
3. This child protection policy has been updated and reviewed by Minter Ellison Corporate Lawyers
4. The policy now reflects the changes to the reportable conduct scheme brought into effect when the Children's Guardian Act replaced the Ombudsman Act NSW on 1 March 2020.
5. Changes have not been made to the Bellfield College child Protection Procedures

Policy 2020	Name	Role Position	Dated	Signature
Updated by	Dr Sam Jebeile	CEO/Principal	06/05/2020	
Reviewed by	College Board		05/06/2020	
Endorsed by	College Board		09/06/2020	
Updated by	Dr Sam Jebeile	CEO/Principal	01/07/2020	
Update by	College Board		23/07/2020	
Update by	Zainab Beydoun	Board Director	25/03/2024	

1. Introduction

1.1 Purpose and scope

This policy sets out staff responsibilities for child protection and processes that staff must follow in relation to child protection matters. This policy applies to all staff members, which includes employees, contractors and volunteers.

Staff members who fail to adhere to this policy may be in breach of their terms of employment.

1.2 Key legislation

There are four key pieces of child protection legislation in New South Wales:

- the *Children and Young Persons (Care and Protection) Act 1998* (“Care and Protection Act”);
- the *Child Protection (Working With Children) Act 2012* (“WWC Act”);
- the *Children’s Guardian Act 2019* (“Children’s Guardian Act”)
- the *Crimes Act 1990* (“Crimes Act”).

1.3 Related policies

There are a number of other School policies that relate to child protection that staff members must be aware of and understand including (but not limited to):

- a) the Code of Conduct which sets out information about the standards of behaviour expected of all employees, contractors and volunteers of the School;
- b) the Work Health and Safety Statement which summarises the obligations imposed by work health and safety legislation on the school and workers; and
- c) the Discrimination, Harassment and Bullying Statement which summarises your obligations in relation to unlawful discrimination, harassment and bullying;
- d) Complaint Handling Procedure
- e) Safe and Supportive Environment¹

¹ Added March 2024

1.4 Compliance and records

The Head of Business and Operations or their delegate monitors compliance with this policy and securely maintains school records relevant to this policy, which includes:

- register of staff members who have read and acknowledged that they read and understood this policy; this takes place at the College's annual policy briefing or upon staff induction if employment commences after the briefing.²
- working with children check clearance (WWCC clearance) verifications;
- mandatory reports to the Department of Communities and Justice (DCJ), previously known as Family and Community Services or the office of children's guardian³ and
- reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

2. Child protection

The safety, protection and welfare of students is the responsibility of all staff members and encompasses:

- a duty of care to ensure that reasonable steps are taken to prevent harm to students which could reasonably have been foreseen
- obligations under child protection legislation

2.1 Children protection concerns

There are different forms of child abuse. These include neglect, sexual, physical and emotional abuse.

Neglect is the continued failure by a parent or caregiver to provide a child with the basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

² Added how, where and when this occurs.

³ Added office of children's guardian

Sexual abuse is when someone involves a child or young person in a sexual activity by using their power over them or taking advantage of their trust. Often children are bribed or threatened physically and psychologically to make them participate in the activity. Child sexual abuse is a crime.

Physical abuse is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes but is not limited to injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation.

Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.

Hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punishing a child (in a non-trivial way) is a crime.

Emotional abuse can result in serious psychological harm, where the behaviour of their parent or caregiver damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma.

Although it is possible for 'one-off' incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child.

This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.

2.2 Child wellbeing concerns

Child wellbeing concerns are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold, risk of significant harm in section 5.1.2.

2.3 Staff member responsibilities

Key legislation requires reporting of particular child protection concerns. However, as part of the school's overall commitment to child protection all staff are required to report any child protection or child wellbeing concerns about the safety, welfare or wellbeing of a child or young person to *the Head of school*.

If the allegation involves a Head of School⁴ a report should be made to the *Chair of the Board*.

3. Training

3.1 The school

The school provides all staff members with a copy of this policy and will provide all staff members with the opportunity to participate in child protection training annually. Proof of training is retained in each employees Employment Hero file.⁵

3.2 Staff members

All new staff members must read this policy and sign the acknowledgement that they have read and understood the policy.

All staff members must participate in annual child protection training and additional training, as directed by the Head of Business and Operations.⁶ The training complements this policy and provides information to staff about their legal responsibilities related to child protection and school expectations, including:

- mandatory reporting
- reportable conduct
- working with children checks
- Record keeping⁷ and
- professional boundaries.

4. Working with children

The WWC Act protects children by requiring a worker to have a WWCC clearance or current application to engage in child related work. Failure to do so may result in a fine or imprisonment.

⁴ Changed Principal to Head of School

⁵ Added location of evidence of staff training (Feb 2024)

⁶ Changed Principal to Head of Business and Operations (Feb 2024)

⁷ Added record keeping

The Office of the Children’s Guardian (OCG) is responsible for determining applications for a WWCC clearance. It involves a national criminal history check and review of reported workplace misconduct findings. The result is either to:

- grant a WWCC clearance (generally valid for 5 years); or
- refuse a WWCC clearance (further applications cannot be made for 5 years)

In addition, the OGC may impose an interim bar on engaging in child related work for both applicants and WWCC clearance holders.

WWCC clearance holders are subject to ongoing monitoring by the OGC. The OGC will contact the College if a registered staff member becomes a concern and the College will need to respond in accordance with the directives provided.⁸

4.1 Responsibilities for working with children checks

4.1.1 Staff members

Staff members who engage in child-related work and eligible volunteers (including those volunteers working at overnight camps) are required to:

- hold and maintain a valid WWCC clearance;
- not engage in child-related work at any time that they are subjected to an interim bar or a bar;
- report to the Head of Business and Operations if they are no longer eligible for a WWCC clearance, the status of their WWCC clearance changes or are notified by the OGC that they are subjected to a risk assessment; and
- notify the OGC of any change to their personal details within 3 months of the change occurring. Failure to do so may result in a fine.

It is an offence for an employee to engage in child-related work when they do not hold a WWCC clearance or if they are subject to a bar.

⁸ Final sentence added.

All volunteers are required to:

- be aware and follow the expectations of conduct expressed in the school staff Code of Conduct.
 - i. All volunteers who have direct contact with students must provide WWCC number to the Head of Business and Operations⁹
 - ii. The Head of Business¹⁰ and will verify the WWCC number on <https://wwccemployer.ocg.nsw.gov.au/Login>
 - iii. Upon CLEARED verification, Head of Business and Operations will update the WWCC register located on google shared drive.
 - iv. A confirmation of the verification will be printed and placed in the Employment Hero¹¹ staff file.

4.1.2 The School

The School is required to:

- verify online and record the status of each child-related worker's WWCC clearance **BEFORE** they commence working at the College; ¹²
- only employ or engage child-related workers or eligible volunteers who have a valid WWCC clearance; and
- advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred to the OCG's Working with Children Check Directorate (WWCC Directorate). It is an offence for an employer to knowingly engage a child-related worker who does not hold a WWCC clearance or who has a bar.

4.2 Working with children check clearance

A WWCC clearance is authorisation under the WWC Act for a person to engage in child-related work.

4.2.1 Child-related work

⁹ Changed Principal to Head of Business and Operations (Feb 2024)

¹⁰ Changed compliance office to HBO (Feb 2024)

¹¹ Added location (Feb 2024)

- ¹² Added "clearance **BEFORE** they commence working at the College; (Feb 2024)

Child-related work involves direct contact by the worker with a child or children and that contact is a usual part of and more than incidental to the work. Child related work includes, but is not limited to work in the following sectors:

- early education and child-care including education and care service, child-care centres and other child care;
- schools and other educational institutions and private coaching or tuition of children;
- religious services;
- residential services including boarding schools, homestays more than three weeks, residential services and overnight camps;
- transport services for children including school bus services, taxi services for children with disability and supervision of school road crossings; and
- counselling, mentoring or distance education not involving direct contact.

Any queries about whether roles/duties engage in child-related work should be directed to the Principal.

4.2.2 Application/Renewal

An application or renewal can be made through Service NSW or its replacement agency <https://ocg.nsw.gov.au/working-children-check/apply-wwcc/how-apply-wwcc>¹³

The process for applying for and renewing a WWCC clearance with the OCG involves a national police check and a review of findings of misconduct. If the OCG grants or renews a WWCC clearance the holder will be issued with a number which is to be provided to the School to verify the status of a staff member's WWCC clearance.

4.2.3 Refusal/Cancellation

¹³Added application link in Feb 2023

The OCG can refuse to grant a WWCC clearance or cancel a WWCC clearance. The person is then restricted from engaging in child-related work and not able to apply for another clearance for five years. Employers are notified by the OGC and instructed to remove such persons from child-related work.

4.2.4 Interim bar

The OCG may issue an interim bar, for up to 12 months, to high risk individuals to prevent them from engaging in child-related work while a risk assessment is conducted. If an interim bar remains in place for six months or longer, it may be appealed to the Administrative Decisions Tribunal.

Not everyone who is subject to a risk assessment will receive an interim bar; only those representing a serious and immediate risk to children.

4.2.5 Disqualified person

A disqualified person is a person who has been convicted, or against whom proceedings have been commenced for a disqualifying offence outlined in Schedule 2 of WWCC Act. A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child related work.

4.3 Ongoing monitoring

The OCG will continue to monitor criminal records and professional conduct findings of all WWCC clearance holders through a risk assessment process.

4.3.1 Risk assessments

A risk assessment is an evaluation of an individual's suitability for child-related work.

The OCG will conduct a risk assessment on a person's suitability to work with children when a new record is received which triggers a risk assessment. This may include an offence under Schedule 1, pattern of behaviour or offences involving violence or sexual misconduct representing a risk to children and findings of misconduct involving children.

4.4 Process for reporting to OCG

4.4.1 The school

Independent Schools are defined as a reporting body by the WWC Act.

The School is required to advise the OCG of the findings they have made after completing a reportable conduct investigation, including whether they have made a finding of reportable conduct. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred to the OCG's WWCC Directorate. Information must also be referred internally to the OCG's WWCC Directorate if it meets the threshold for consideration of an interim WWCC bar, as per Section 17 of the WWC Act, pending a formal risk assessment.

The School may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act and the Children's Guardian Act.

Steps will be followed in accordance with the guidelines set by the OCG. Heads delegated with making the report will need to follow the guidelines in the link to ensure practises are accurate and current.

<https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme/responsibilities-head-relevant-entity>¹⁴

4.4.2 Finding of misconduct involving children

The School will report any finding of reportable conduct to the OCG.

When informing an employee of a finding of reportable conduct against them, the School should alert them to the consequent report to the WWCC Directorate in relation to sustained findings of sexual misconduct, a sexual offence or a serious physical assault.

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the school in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

¹⁴ Inserted link to make guidelines current and accessible (Feb 2024)

4.4.3 Other information

The School may also be required to provide information to the OGC that is relevant to an assessment of whether a person poses a risk to the safety of children or the OGC's monitoring functions.

5. Mandatory reporting

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm. A child is a person under the age of 16 years and a young person is aged 16 years or above but who is under the age of 18, for the purposes of the Care and Protection Act.

Under the Care and Protection Act mandatory reporting applies to persons who:

- in the course of their employment, deliver services including health care; welfare, education, children's services and residential services, to children; or
- hold a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of services including health care, welfare, education, children's services and residential services, to children, are mandatory reporters.

All teachers are mandatory reporters. Other School employees may also be mandatory reporters. If you are not sure whether you are a mandatory reporter, you should speak to the Head of Business and operations or your relevant Head of School. ¹⁵

5.1 Reports to Communities and Justice

A mandatory reporter must, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, report to the Department of Communities and Justice (DCJ) as soon as practicable. The report must include the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

¹⁵ Removed Principal and added 'Head of Business and operations or your relevant Head of School' (Feb 2024)

In addition, the school may choose to make a report to the DCJ where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and well-being of the young person.

In the independent school sector, a mandatory reporter will meet their obligation if they report to the Heads of School via a shared and centralised email childprotection@bellfield.nsw.edu.au¹⁶. This centralised reporting model ensures that a person in the school has all of the information that may be relevant to the circumstances of the child at risk of significant harm and addresses the risk of the school not being aware of individual incidences that amount to cumulative harm.

5.1.1 Reasonable grounds

'Reasonable grounds' refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

- first-hand observations of the child, young person or family
- what the child, young person, parent or another person has disclosed
- what can reasonably be inferred based on professional training and / or experience.

'Reasonable grounds' does not mean a person is required to confirm their suspicions or have clear proof before making a report.

5.1.2 Significant harm

A child or young person is 'at risk of significant harm' if current concerns exist for the safety, welfare or wellbeing of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

- the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
- the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,

¹⁶ Email address added (Feb 2024)

- in the case of a child or young person who is required to attend school in accordance with the Education Act 1990 –the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,
- the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
- a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm,
- the child was the subject of a pre-natal report under section 25 of the Care and Protection Act and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

What is meant by 'significant' in the phrase 'to a significant extent' is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is significant, is not minor or trivial and, may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well-being.

The significance can result from a single act or omission or an accumulation of these.

5.3 Process for mandatory reporting

5.3.1 Staff members

Staff members must raise concerns about a child or young person who may be at risk of significant harm with the Heads of School as soon as possible to discuss whether the matter meets the threshold of 'risk of significant harm' and the steps required to report the matter.

However, if there is an immediate danger to the child or young person and the Assigned Head or next most senior member of staff is not contactable staff members should contact the Police and/or the Child Protection

Helpline (13 21 11) directly and then advise the Heads of School or next most senior member of staff at the school as soon as possible.

All Heads of School have received formal training to investigate reportable allegations¹⁷. Staff members are not required to, and must not, undertake any investigation of the matter. Staff members are not permitted to inform the parents or caregivers that a report to the DCJ has been made.

Staff members are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this policy but could incite potential civil proceedings for defamation.

5.3.2 The school

In general, the assigned Head of School will report these matters to the DCJ and, where necessary, the Police. This is supported by the DCJ in accordance with best practice principles.

5.4 Process for reporting concerns about students

5.4.1 Staff members

The Care and Protection Act outlines a mandatory reporter's obligation to report to the DCJ concerns about risk of significant harm. However, to ensure centralised reporting all staff members are required to report any concern regarding the safety, welfare and wellbeing of a student to the relevant Head of School¹⁸. Staff members who are unsure as to whether a matter meets the threshold of 'risk of significant harm' should report their concern to the Heads of school regardless.

Staff members are required to deal with all reports regarding the safety, welfare or wellbeing of a student confidentially and only disclose it to the Heads of school and any other person the Heads nominate.

¹⁷ Added Feb 2024

¹⁸ Replaced principal with Heads of School

6. Reportable conduct

Section 29 of the Children's Guardian Act 2019 requires the Heads of Entities, including non-government schools in New South Wales, to notify the OCG of all allegations of reportable conduct and convictions involving an 'employee' and the outcome of the School's investigation of these allegations. Under the Children's Guardian Act 2019 allegations of child abuse only fall within the reportable conduct jurisdiction if the involved individual is an employee of the relevant entity at the time when the allegation becomes known by the Head of Entity.

Reportable Conduct:

- involves a child (a person under the age of 18 years) at the time of the alleged incident; and
- involves certain defined conduct as described in the Act (see below).

The OCG:

- must keep under scrutiny the systems for preventing reportable conduct by employees of nongovernment schools and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions;
- must receive and assess notifications from non-government schools concerning reportable conduct or reportable convictions;
- is required to oversee or monitor the conduct of investigations by non-government schools into allegations of reportable conduct or reportable convictions;
- must determine whether an investigation that has been monitored has been conducted properly, and whether appropriate action has been taken as a result of the investigation;
- may directly investigate an allegation of reportable conduct or reportable conviction against an employee of a non-government school, or the handling of or response to such a matter (eg arising out of complaints by the person who is the subject of an allegation); and
- may investigate the way in which a relevant entity has dealt with, or is dealing with, a report, complaint or notification, if the OCG considers it appropriate to do so.

6.1 Reportable conduct

Under the Children's Guardian Act 2019 *reportable conduct* is defined as:

- a sexual offence
- sexual misconduct
- an assault against a child
- ill-treatment of a child
- neglect of a child
- an offence under section 43B (failure to protect) or section 316A (failure to report) of the Crimes Act 1900; and
- behaviour that causes significant emotional or psychological harm to a child.

Reportable conduct does not extend to:

- 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
- the use of physical force that, in all the circumstances, is trivial or negligible and the circumstances in which it was used have been investigated and the result of the investigation has been recorded in accordance with appropriate procedures; or
- conduct of a class or kind exempted from being reportable conduct by the Children's Guardian Act under section 30.

6.1.1 Definitions

The following definitions relate to *reportable conduct*:

- *Sexual offence*: 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.

Definitions of 'grooming', within child protection legislation, are complex. Under the Crimes Act, grooming or procuring a child under the age of 16 years for unlawful sexual activity is classed as a sexual offence. The Crimes Act (s73) also extends the age of consent to 18 years when a child is in a 'special care' relationship. Under Schedule 1(2) of the WWC Act, grooming is recognised as a form of sexual misconduct. The Children's Guardian Act 2019 and this Child Protection Policy reflect these definitions within the context of the Reportable Conduct Scheme (Division 2).

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

- *Sexual misconduct*: conduct with, towards or in the presence of a child that is sexual in nature (but not a sexual offence). The Act provides the following (non-exhaustive) examples:
 - 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).

- *Assault*: an assault can occur when a person intentionally or recklessly (ie. 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)
- *Ill-treatment* is defined as 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*: defined as 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 fulfill 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.

- 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.
- *Reportable allegation* is an allegation that an employee has engaged in conduct that may be reportable conduct.

- *Reportable conviction* means a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.
- *Employee of an entity* includes:
 - an individual employed by, or in, the entity
 - a volunteer providing services to children
 - a contractor engaged directly by the entity (or by a third party) where the contractor holds, or is required to hold, a WWCC clearance for the purposes of their work with an entity; and
 - a person engaged by a religious body where that person holds, or is required to hold, a WWCC clearance for the purposes of their work with the religious body.
- *PSOA (Person Subject Of the Allegation)*.

6.2 Process for reporting of reportable conduct allegations or convictions

6.2.1 Staff members

Any concerns about any other employee engaging in conduct that is considered inappropriate, or reportable conduct, or any allegation of inappropriate or reportable conduct made to the employee or about the employee themselves must be reported to the heads of school via the shared email in section 5.1¹⁹. Where it is uncertain if the conduct is reportable conduct but is considered inappropriate behaviour this must also be reported.

Staff members must also report to the Heads of School²⁰ when they become aware that an employee has been charged with or convicted of an offence (including a finding of guilt without the court proceeding to a conviction) involving reportable conduct. This includes information relating to the employee themselves.

If the allegation involves a Head of school, the staff member must report to the Chair of the College Board

¹⁹ Referred back to section 5.1 (Feb 2024)

²⁰ Replaced Principal with Heads of School (Feb 2024)

6.2.2 Parents, carers and community members

Parents, carers and community members are encouraged to report any conduct that is in their view inappropriate, reportable or criminal conduct to The Head of school or their delegate. All such reports will be dealt with in accordance with the School's complaint handling procedures.

6.2.3 The school

The Heads of school as the delegated Heads of Entity under the Children's Guardian Act 2019, must:

- Ensure specified systems are in place for preventing, detecting and responding to reportable allegations or convictions
- Submit a 7-day notification form to the OCG within 7 business days of becoming aware of a reportable allegation or conviction against an employee of the entity (unless the Head of the Entity has a reasonable excuse),

The notification should include the following information:

- (a) that a report has been received in relation to an employee of the School, and
 - (b) the type of reportable conduct, and
 - (c) the name of the employee, and
 - (d) the name and contact details of School and the Head of Entity, and
 - (e) for a reportable allegation, whether it has been reported to Police, and
 - (f) if a report has been made to the Child Protection Helpline, that a report has been made, and
 - (g) the nature of the relevant entity's initial risk assessment and risk management action,
- The notice must also include the following, if known to the Head of Entity:
 - (a) details of the reportable allegation or conviction considered to be a reportable conviction, (b) the date of birth and working with children number, if any, of the employee the subject of the report,
 - (c) the police report reference number (if Police were notified),
 - (d) the report reference number if reported to the Child Protection Helpline,
 - (e) the names of other relevant entities that employ or engage the employee, whether or not directly, to provide a service to children, including as a volunteer or contractor.

- Maximum penalty for failure to notify within 7 business days –10 penalty units.

6.3 Process for investigating an allegation of reportable conduct

The Heads of School are responsible for ensuring that the following steps are taken to investigate an allegation of reportable conduct. The Heads of School will table a child protection segment for their regular fortnightly meetings.²¹

6.3.1 Initial steps

Once an allegation of reportable conduct against an employee is received, the assigned Head²² is required to:

- determine whether it is an allegation of reportable conduct;
- assess whether the DCJ or the Police need to be notified (ie, if reasonable grounds to suspect that a child is at risk of significant harm or a potential criminal offence). If they have been notified, seek clearance from these statutory agencies prior to the school proceeding with the reportable conduct investigation;
- Seek additional support or affirmation from the AISNSW²³
- notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or Police);
- notify the OCG within 7 business days of receiving the allegation;
- carry out a risk assessment and take action to reduce/remove risk, where appropriate; and
- provide an initial correspondence²⁴ to the PSOA advising that an allegation of reportable conduct has been made against them and the School's responsibility to investigate this matter under Section 34 of the Children's Guardian Act 2019; and
- investigate the allegation or appoint someone to investigate the allegation.

²¹ Added The Heads of School will table a child protection segment for their regular fortnightly meetings.²¹

(Feb 2024)

²² Changed Principal to assigned Head (Feb 2024)

²³ Added Feb 2024 as is standard procedure

²⁴ Changed from letter to correspondence as can also be in email, meeting etc (Fe 2024)

6.3.2 Investigation principles

During the investigation of a reportable conduct allegation the School will:

- follow the principles of procedural fairness;
- inform PSOA of the substance of any allegations made against them, at the appropriate time in the investigation, and provide them with a reasonable opportunity to respond to the allegations;
- make reasonable enquiries or investigations before making a decision;
- avoid conflicts of interest; If a conflict has been identified, it must be immediately reported to the other Heads or Chair of the Board.²⁵
- conduct the investigation without unjustifiable delay;
- handle the matter as confidentially as possible; and
- provide appropriate support for all parties including the child/children, witnesses and the PSOA.

6.3.3 Investigation steps

In an investigation the assigned Head²⁶ or appointed investigator will generally:

- interview relevant witnesses and gather relevant documentation;
- provide a letter of allegation to the PSOA;
- provide the PSOA with the opportunity to provide a response to the allegations either in writing or at Interview;
- consider relevant evidence and make a preliminary finding in accordance with the OCG guidelines;
- inform the PSOA of the preliminary finding in writing by the Head of Entity and provide them with a further opportunity to respond or make a further submission prior to the matter moving to final findings;
- consider any response provided by the PSOA;
- make a final finding in accordance with the OCG guidelines;
- decide on the disciplinary action, if any, to be taken against the PSOA;

²⁵ Introduced what to do if a conflict is identified (Feb 2024)

²⁶ Changed from Principal to assigned Head (Feb 2024)

□ if it is completed, send the final report to the OCG within 30 days after having received the allegation, as per section 36 of the Children’s Guardian Act 2019. The report must include; You also need to tell us what action you will be taking including²⁷:

- any remedial or disciplinary action the College will take in relation to the employee
- if the College has referred information about the matter to another entity
- if the College has made any changes to your systems or policies
- if the College is not taking any action.

□ should the final report be unfinished within 30 days, the Head of Entity must provide, at minimum, an interim report to the OCG within 30 days of having received the allegation, as per section 38 of the Children’s Guardian Act 2019.

Submission of an interim report must include;

- a reason for not providing the final report within 30 days and an estimated time frame for completion of the report.
- specific information, including (if known); the facts and circumstances of the reportable allegation; any known information about a reportable conviction; action taken since the OCG received a notification about the reportable allegation or reportable conviction; further action the Head of Entity proposes to take in relation to the reportable allegation or reportable conviction; including if the Head of Entity proposes to take no further action; the reasons for the action taken and the action proposed to be taken or the reasons for the decision to take no further action; other information prescribed by the regulations; and
- be accompanied by copies of documents in the School's possession, including transcripts of interviews and copies of evidence.

The steps outlined above may need to be varied on occasion to meet particular circumstances. For example, it may be necessary to take different steps where the matter is also being investigated by the DCJ or Police.

²⁷ Added the dot points of what to include. Points obtained from <https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme/responsibilities-head-relevant-entity>

A PSOA may have an appropriate support person with them during the interview process. Such a person is there for support only and as a witness to the proceedings and not as an advocate or to take an active role

6.4 Risk management throughout an investigation of a reportable conduct allegation

Risk management means identifying the potential for an incident or accident to occur and taking steps to reduce the likelihood or severity of its occurrence.

The Heads of School are responsible for risk management throughout the investigation and will assess risk at the beginning of the investigation, during and at the end of the investigation.

6.4.1 Initial risk assessment

Following an allegation of reportable conduct against an employee, the assigned Head will conduct an initial risk assessment to identify and minimise the risks to:

- the child(ren) who are the subject of the allegation;
- other children with whom the employee may have contact;
- the PSOA;
- the School, and
- the proper investigation of the allegation.

The factors which will be considered during the risk assessment include:

- the nature and seriousness of the allegations;
- the vulnerability of the child(ren) the PSOA has contact with at work;
- the nature of the position occupied by the PSOA;
- the level of supervision of the PSOA; and
- the disciplinary history or safety of the PSOA and possible risks to the investigation.

The above process is supported by the AIS child protection team as they will be contacted by the assigned investigator to ensure all risk measures have been addressed.²⁸ The assigned Head/ investigator will take

²⁸ Added support from AIS and changed from Principal to Head (Feb 2024)

appropriate action to minimise risks. This may include the PSOA being temporarily relieved of some duties, being required not to have contact with certain students, being asked to take paid leave, or being suspended from duty. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the PSOA.

A decision to take action on the basis of a risk assessment is not indicative of the findings of the matter. Until the investigation is completed and a finding is made, any action, such as an employee being suspended, is not to be considered to be an indication that the alleged conduct by the employee did occur.

6.4.2 Ongoing risk assessment

The assigned Head of School may share details with others heads whereby they will continually monitor risk during the investigation including in the light of any new relevant information that emerges. In the event they are unable to share the information they will monitor the risk alone and retain documented evidence.²⁹

6.4.3 Findings

At the completion of the investigation, a finding will be made in relation to the allegation and a decision made by the assigned Head regarding what action, if any, is required in relation to the PSOA, the child(ren) involved and any other parties.

6.4.4 Information for the PSOA The

PSOA will be advised:

- that an allegation has been made against them (at the appropriate time in the investigation); and
- of the substance of the allegation, or of any preliminary finding and the final finding.

The PSOA does not automatically have the right to:

- know or have confirmed the identity of the person who made the allegation; or
- be shown the content of the OCG notification form or other investigation material that reveals information provided by other employees or witnesses.

²⁹ Added Feb 2024

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by the school in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of section 46 of the WWC Act is enlivened when a finding of misconduct involving children has been made.

6.4.5 Disciplinary action

As a result of the allegations, investigation or final findings, the School may take disciplinary action against the PSOA (including termination of employment).

In relation to any disciplinary action the school will give the PSOA:

- details of the proposed disciplinary action; and
- a reasonable opportunity to respond before a final decision is made.

6.4.6 Confidentiality

It is important when dealing with allegations of reportable conduct that the matter be dealt with as confidentially as possible.

The School requires that all parties maintain confidentiality during the investigation including in relation to the handling and storing of documents and records.

Records about allegations of reportable conduct against employees will be kept [in a secure email file accessed only by Heads of school] and will be accessible by [the Head of Entity or with the Head of Entity's express authority]. Details of the allegation may also be located in a restricted access of the employees Employment Hero file or in the event it is related to a student of the College, the student's Sentral file.³⁰

No employee may comment to the media about an allegation of reportable conduct unless expressly authorised by the school Board³¹ to do so.

³⁰ Added location of information in Feb 2024

³¹ Changed Principal to school Board

Staff members who become aware of a breach of confidentiality in relation to a reportable conduct allegation must advise the Head of business and operations³².

7. Criminal offences

In 2018 the Crimes Act was amended to adopt recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*. The new offences are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the Police.

7.1 Failure to protect offence

An adult working in a school, therefore all staff members, will commit an offence if they know another adult working there poses as serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they negligently fail to do so either by acts and/or omissions.

This offence is targeted at those in positions of authority and responsibility working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.

7.2 Failure to report offence

Any adult, and therefore all staff members, will commit an offence if they know, believe or reasonably ought to know that a child abuse offence has been committed and fail to report that information to Police, without a reasonable excuse. A reasonable excuse would include where the adult has reported the matter to the Heads of school and is aware that a Head has reported the matter to the Police.

BELLFIELD COLLEGE CHILD PROTECTION PROCEDURES

STAFF RESPONSIBILITIES MANDATORY TRAINING

- Staff who have direct contact with students are informed annually of their responsibilities and obligations of all policies during a whole school staff meeting held on the staff development day in January of each calendar year. This session is conducted by the Heads of school³³ or delegate, of the college. Any staff member that does not attend the briefing will be expected to attend an alternate briefing organised by

³² Changed to Head of Business and Operations

³³ Changed Principal to Heads of School

the Head of business and operations (HBO)³⁴. The HBO will keep a record of all staff attendance via the employment Hero platform.

- During this meeting, the Heads of School or delegate, explains in detail the College's policies and procedures to the staff of their responsibilities and obligations in regards to the following Legislations:

A number of Acts relate to child protection in New South Wales:

- the *Children and Young Persons (Care and Protection) Act 1998* ("Care and Protection Act");
- the *Child Protection (Working With Children) Act 2012* ("WWC Act");
- the *Children's Guardian Act 2019* ("Children's Guardian Act")
- the *Crimes Act 1990* ("Crimes Act").

There are 2 (two) compulsory sessions to ensure that the college is complying with its obligations under each of the Acts

- Session 1- Compulsory annual briefing conducted by the Heads of School to all staff, at the beginning of each calendar year in January, during staff development week. The Head or delegate presents and discusses all policies and procedures to all members of staff
- Session 2- all staff who have direct contact with students must complete an online module *Obligations in Identifying and Responding to Children and Young People at Risk Online Module* provided by AISNSW.

The Heads of School or delegate will be responsible to ensure the attendance of all staff. A register of attendance to Sessions 1 and 2 is maintained by the Head of business and operations and kept on a Google drive spreadsheet which is available to the other Heads and administration staff who follow up absent staff and organise alternate briefings and sessions.

All new staff will complete both sessions within 2 weeks of commencing employment. ³⁵

CARE AND PROTECTION ACT PROCEDURES

REPORTING TO HEADS OF SCHOOL

Key Roles/Responsible Persons

→ Heads

- All staff are mandatory reporters and must report any incidents or suspicions of significant risk of harm to the Heads of School

³⁴ Added assurance of staff attendance (Feb 2024)

³⁵ Added Feb 2024 as is reflects current practice.

- All incidents or suspicions of incidents must be reported immediately via the email address childprotection@bellfield.nsw.edu.au
- In the event that all four Heads are not available or not present, the Director of well-being will be informed immediately via the same method (Director’s school email address). ³⁶

INVESTIGATION

- All matters that are reported to the Heads of School will be screened to determine the level of investigation required.
- All matters that are reportable under the Children and Young persons (Care and Protection) Act 1998 must be reported to the chair³⁷ of the Board who will assigned the investigation to one of the Heads or delegate ;
 - Incident is then placed on the Mandatory Reporter Guide to determine whether a report to the Child Protection Helpline is needed for concerns about possible abuse or neglect of a child or young person; and identify alternative supports for vulnerable children, young people and their families.
 - The decision tree will determine the level of support required and any ongoing monitoring or further investigation.
- iii. A report will be generated by the investigators at the completion of the Mandatory Reporter Guide and printed and placed into either the student or employee electronic file with limited security file access along with other relevant investigation notes (Sentral or EH). ³⁸

WORKING WITH CHILDREN CLEARANCE PROCEDURES

All staff seeking to or engaging in working with children or young persons at the college, must provide a current WWCC number confirmation to the Head of Business and Operations.³⁹

All information relating to WWCC is located on the WWCC register located on a shared google drive. The WWCC register includes the full name, DOB, WWCC number, Verification date, Verification Outcomes, expiry date and identifies whether the worker is paid or a volunteer.

Employee Full Name	Date of Birth	WWC Number	Verification Date	Verification Outcome	Expiry Date	Paid or volunteer worker

³⁶ Added information about Director of Well-being (new role introduced in 2024)

³⁷ Added report to chair of Board

³⁸ Changed from stored in file in CEO office to employee or student electronic file (Feb 2024)

³⁹ Changed from Principal to Head of Business and Operations.

APPLYING FOR A WWCC NUMBER

A working with children check is a requirement for people who work or volunteer in child-related work. It involves a national criminal history check and review of findings of workplace misconduct.

In order to obtain a WWCC number, all applicants must complete the following:

1. Visit <https://ocg.nsw.gov.au/working-children-check/apply-wwcc/how-apply-wwcc> and apply for a check by completing the online form.
2. Applicant to go to a service NSW centre or motor registry to verify identity
3. Await the WWC notification.
4. Forward WWC number to Head of Business and Operations for Approval

NEW EMPLOYEES/VOLUNTEERS

- v. All new staff who have direct contact with students must provide WWCC number to the Head of Business and operations(HBO)
- vi. The HBO verifies the WWCC number on <https://wwccemployer.ocg.nsw.gov.au/Login>⁴⁰
- vii. Upon CLEARED verification, the HBO will update the WWCC register located on google shared drive and the employee / volunteers Employment Hero file.
- viii. A confirmation of the verification will be uploaded into the staff file.⁴¹

EXISTING EMPLOYEES

- i. Employees are expected to maintain an active and valid WWCC number and provide the Head of Business and Operations with an updated information in relation to their WWCC number as required.
- ii. The Compliance Officer will monitor the expiry dates of all staff on the WWCC register, and notify the staff via email, the Term before the WWCC is to expire.
- iii. The WWCC register is checked by the Compliance Officer prior to the school term commencing.

EXTERNAL PROVIDERS

External providers, excursion guides, outdoor educators are all required to have a valid WWCC number for all staff that intend on working with children from Bellfield College.

In the event that the students are attending an excursion, camp, school organised event whereby services are provided by external providers, the HBO must obtain the WWCC numbers of the external providers who will be engaging in services to the children or young persons as detailed below:

- i. All external providers to provide WWCC number to the HBO via the event organiser
- ii. HBO delegates the Compliance Officer to verify the WWCC number on <https://wwccemployer.ocg.nsw.gov.au/Login>⁴²
- iii. Upon CLEARED verification, the Compliance Officer will update the WWCC register located on google shared drive under *External Providers* tab.

⁴⁰ Changed from Kids guardian to OCG

⁴¹ Changed from printed and placed to uploaded (Feb 2024)

⁴² Changed from Kids guardian to OCG

- iv. A confirmation of the verification of each external provider (that will engage with the students at the event) will be uploaded into the excursions/events file.
- v. External service providers will be required to provide a signed undertaking that they will immediately notify the school of any allocated staff changes either before or during any service provided. Refer to Appendix A

Contractors

Any contractor for the School who is engaged in child-related work (including cleaners) and is not otherwise exempt by the Act, is required to obtain and maintain a WWCC number. All sub contracted cleaners and bus companies will be asked to provide a Working with Children verification as an assurance as part of the terms of any agreement and will be vetted by the Business Support team as delegated by the CEO. Should any substitute cleaner be required it is the responsibility of the cleaning contractor to provide the College with the WWCC and date of birth for verification by the Compliance Officer prior to coming onsite. Refer to Appendix B.

The College will also ask all unsupervised sub-contractors that enter the school grounds to provide a current WWCC prior to conducting any work on the College grounds.

Prior to any work being conducted by sub-contractors the HBO⁴³ will obtain a valid WWCC. The WWCC will be verified by the compliance officer and stored on the shared google drive.

When sub-contractors arrive on College grounds, they will report directly to the Business Support Office. The following checks will be conducted.

1. WWCC register located on the shared google drive will be cross referenced with photo identification which will be a New South Wales drivers' licence or equivalent to ensure valid and verified WWCC
2. Visitor sign-in to be completed on Noahface⁴⁴
3. Visitor tag issued

WWC of Contractors and sub-contractors added to the Bellfield College Procedures based on NESA Inspection feedback on Tuesday, 23rd June 2020

Appendix A and Appendix B were added on Thursday, 23rd July 2020 for signed assurance of External Providers and Contractors

⁴³ Changed from Heads of Grounds and maintenance to HBO

⁴⁴ Added location of sign in (Noahface)



Working with Children Check Assurance External Providers

[Insert date]

[Insert external provider name]

[Insert external provider address]

Dear [Insert representative's name]

I refer to the Bellfield College's excursion to [insert place] on [insert date]. You are being engaged to undertake the following services on that date: [insert services].

At Bellfield College we promote the safety, wellbeing, and inclusion of all children. You have provided confirmation that your staff maintain a valid WWCC during the period in which services will be provided to Bellfield College. The College has been provided with proof of each WWC for verification by our Compliance Officer prior to working with students.

By signing this document, you acknowledge that you will notify the College immediately of any staff changes before or during any service provided.

If you wish to discuss this matter further, please do not hesitate to contact [Insert name] on [Insert telephone].

Kind regards [Insert
name]

Appendix B



Working with Children Check Assurance Contractors

[Insert date]

[Insert contractors name]

[Insert contractor address]

Dear [Insert representative's name]

At Bellfield College we promote the safety, wellbeing, and inclusion of all children. All contractors working regularly on the school site who may have direct unsupervised contact with students must maintain a valid WWCC during the period in which services will be provided to Bellfield College. The College has been provided with proof of each WWCC for verification by our Compliance Officer prior to conducting work on the College grounds.

It is incumbent upon the contractor should they substitute any employee that they contact the College and provide the WWCC details and date of birth of the substitute prior to them arriving at the College.

By signing this document, you are acknowledging that you will notify the College immediately of any staff changes before or during any service provided.

If you wish to discuss this matter further, please do not hesitate to contact [Insert name] on [Insert telephone].

Kind regards [Insert
name]

Acknowledgement

I _____ have read, understood, and agree to comply with the terms of this Child Protection Policy.

Signed

Dated

REFERENCES

NSW Department of Communities and Justice

<https://www.dci.nsw.gov.au> The Office of the

Children’s Guardian

<https://www.kidsguardian.nsw.gov.au>

Department of Premier and Cabinet – Keep Them Safe www.keepthemsafe.nsw.gov.au