Child Protection Policy

Purpose:

As part of the Duty of Care responsibilities of all Schools, Kincoppal-Rose Bay School has a mandate to ensure that all children are safe and protected from harm. This policy outlines the principles adopted by Kincoppal-Rose Bay School for protecting children from harm and neglect.

Relevant to: All Staff

Reviewed by: Head of Counselling Services

Date of Introduction: 2002

Date of Most Recent Review: January 2010


Related Documents: Child Protection Procedural Guidelines, Staff Code of Professional & Pastoral Practice, Positive Peer Relations (Anti Bullying) Policy, Behaviour Management Policy
Introduction

Children and young people have a right to be safe in their places of learning, work and play. It is imperative that people who care for children must act in the best interests of the child and take all reasonable steps to ensure the child’s safety. As part of the Duty of Care responsibilities of all Schools, Kincoppal-Rose Bay School has a mandate to ensure that all children are safe and protected from harm.

The experience of harm and neglect can negatively impact social, emotional and intellectual development during childhood and adolescence, which are crucial for general health and wellbeing throughout life. The impact is especially significant due to children’s vulnerability and their dependence upon adults. Kincoppal-Rose Bay School is concerned to prevent all forms of harm and neglect of children and, where this is not possible, to recognise harm when it is occurring and to intervene effectively to prevent the traumatic effects both in the short and long term. Thus, this policy serves to prevent harm from occurring and to intervene effectively when there is a risk of harm to a child.

Objectives

This Child Protection Policy has been developed for implementation by all persons employed or engaged by the School in any capacity. This document sets out the School’s child protection policy in broad terms. Further information and advice can be gained from the Principal, Head of Junior School or from the School Counsellors. All persons employed or engaged by the School will have access to the Child Protection Procedural Guidelines detailing,

- the course of action for staff to follow if they believe a student is being harmed, or is at risk of significant harm, by a person not employed or engaged by the School (such as family members or other members of the community).
- the procedures the School will follow when an allegation of “reportable conduct” is made against a person employed or engaged by the School

This Policy describes the legislation surrounding notification of harm, in accordance with legislative reforms since 1999. The legislative reforms require that anyone caring for children and young people needs to monitor the well-being of those in their care and notify if there is risk of significant harm. The School's Child Protection Policy will be reviewed on a regular basis, in line with amendments to legislation and regulations.

Prevention of harm

Kincoppal-Rose Bay School is committed to providing a safe and caring environment for every student. The School recognises the importance of adopting preventative measures in protecting students from harm and neglect and will implement programs to raise awareness of students, staff and the community about child protection issues. Kincoppal-Rose Bay School requires that potential employees complete a ‘Prohibited Employment Declaration’ as part of pre-employment screening procedures.
All persons employed or engaged by the School in any capacity are expected to access copies of the Child Protection Policy, Child Protection Procedural Guidelines and the Staff Code of Professional and Pastoral Practice.

This includes, but is not limited to: Accomplishment staff; Administration & Technical Support staff; Before/after School Carers; Boarding staff; Canteen Operators; Contracted staff (eg: cleaners, kitchen/catering staff); GAP Students; Grounds & Maintenance staff; Infirmary staff; Prac Teachers; Relief Teachers; Specialist Teachers & Teaching Support staff; School Shop Operators; Sports Coaches; Teachers; Tutors; and, Work Experience Students.

Professional Development for Staff

The School's obligations under duty of care and other parts of the legislation require that all relevant staff be appropriately trained in child protection procedures. Staff will be required to attend training that will:

- reinforce the School's Child Protection Policy, Child Protection Procedural Guidelines and the Staff Code of Professional and Pastoral Practice
- raise their awareness of child protection issues (recognition of harm and neglect)
- advise them of their obligations under the School’s policy and mandatory reporting requirements
- provide guidelines for appropriate and inappropriate behaviour

The Deputy Principal is responsible for ensuring that new staff are trained in child protection procedures and for ensuring that existing staff are re-trained on a regular basis.

Child Protection within the Curriculum (K-10)

Child protection programs will incorporate teaching and learning within three broad themes:

- Recognising Harm - recognising situations involving potential harm
- Power in Relationships - discussion of power in relationships, with particular attention to building confidence in relationships which are positive and caring
- Protective Strategies – with knowledge about positive relationships and potential harm, children are taught appropriate actions if they are in threatening situations

Partnerships with Parents and the Wider Community

The School recognises the importance of supporting our parents and the community in maintaining positive relationships with their children. The School will also raise community and family awareness about general child protection issues.
**Legislative Requirements** | **Key Agency Issue**
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**Ombudsman Act 1974** | All government departments, public authorities and certain non-government agencies in NSW are required to respond to allegations against employees and to notify the Ombudsman of reportable allegations or convictions.

**Commission for Children and Young People Act 1998** | Agencies are required to screen people who apply to work in child-related positions in their organisation. They must also notify the CCYP of relevant employment proceedings.

**Child Protection (Prohibited Employment) Act1998** | Employees, who work in certain unsupervised child related positions, are required to complete a ‘Prohibited Employment Declaration’ and to declare if he/she is a ‘prohibited person’.

**Children and Young Persons (Care and Protection) Act 1998** | Mandated employees are required to report to the “Helpline”, of DOCS any children or young people whom they suspect to be at risk of harm.

**Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009** | Mandated employees are required to report to the Helpline of DOCS any children whom they deem to be at risk of significant harm. (Please note that in the case of KRB, risk of significant harm reports are to be made to the Principal).

The focus of the School’s *duty of care* is the protection of children from harm. The procedures followed by the School will be in accordance with all relevant legislation, and will take into account other appropriate practises and guidelines aimed at the protection of children.

When the School is notified of suspected harm to a child, a clear and consistent set of procedures will be followed in a professional manner.

**Where there is a suspected risk of harm by a person not employed or engaged by the School:**

Any person who is involved in a child’s education as part of their paid work is a *mandatory reporter*. A mandatory reporter is required by law to report any child who is under 16 and is at **risk of significant harm** to the Department of Community Services (DOCS). This is a legal obligation. Kincoppal-Rose Bay School uses centralised reporting, in accordance with the Memorandum of Understanding on Mandatory Reporting for the Education Sector signed between DOCS, the Association of Independent Schools and the Catholic Education Commission. Centralised reporting involves a mandatory reporter reporting via the Principal, who then makes a report to DOCS.

Mandatory reporters who suspect that a child or young person is at **risk of significant harm** (the statutory threshold) should report their concerns to the Community Services Helpline through the Principal. This new statutory threshold has replaced “risk of harm” in the Children and Young Persons (Care and Protection) Act 1998.
Significant Harm

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent. This means it 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, or in the case of an unborn child, after a child’s birth. The significance can result from a single act or omission or an accumulation of these.

Risk of significant harm means that the mandatory reporter has concerns about the safety, welfare or well-being of a child for any of the following reasons:

- the basic physical/psychological needs are not being met or are at significant risk of not being met (neglect);
- the child’s parents or caregivers have not arranged necessary medical care and are either unable or unwilling to do so;
- significant risk of physical or sexual abuse or ill-treatment (physical or sexual abuse);
- parent or caregiver’s behaviour towards the child causes or risks significant psychological harm (psychological abuse); or
- incidents of domestic violence and as a consequence a child is at risk of serious physical or psychological harm (domestic or family violence)

The procedures that staff should follow for reporting a risk of significant harm are outlined in a separate document that is available to all staff (see Child Protection Procedural Guidelines).

Where there is an allegation of reportable conduct by a person employed or engaged by the School:

A set of procedures will be followed by the School in instances where there is an allegation of reportable conduct by a person employed or engaged by the School.

All persons employed or engaged by the School will have access to a document outlining the steps that will be taken by the School following an allegation of reportable conduct against a staff member (see Child Protection Procedural Guidelines).

Child Protection Legislation Amendment Bill 2003

Definitions

Child
A person under the age of 18 years (Ombudsman Act)
A person under the age of 16 years (Children and Young Persons (Care and Protection) Act, 1998) (DOCS)

Employee
Any person who is:

Employed by the School
Anyone employed by the School who receives a group certificate for taxation purposes, whether or not their position requires them to work with children;

OR

Engaged by the School
Anyone engaged by the School to provide services to students, including contractors, sub-contractors, volunteers, student placements, clergy and work experience staff.

Reportable Conduct
- Any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or
- Any assault, ill-treatment or neglect of a child, or
- Any behaviour that causes psychological harm to a child

with or without the consent of the child in any case

All allegations of reportable conduct against a person employed or engaged by the School must be reported to the Ombudsman even if it occurred outside work hours.

Reportable allegation
A reportable allegation to the Ombudsman is behaviour or misconduct by an employee that may involve reportable conduct and must include:

- identification of a person who is a current employee of the School
- an alleged offence or description of offending behaviour that meets the definition of reportable conduct
- a person who was a child at the time of the alleged offence or behaviour described.

Conviction of reportable conduct
Any conviction of a person, in NSW, or elsewhere, of an offence involving reportable conduct, and includes a finding by a court that a charge for such an offence is proven even though the court does not proceed to a conviction.
Types of reportable conduct

Sexual Assault
Any sexual act or threat imposed on a child, including physical or psychological coercion.

Sexual Misconduct
A range of behaviours or a pattern of behaviour aimed at the involvement of children in sexual acts.

Some of these behaviours may include:
- inappropriate conversations of a sexual nature
- comments that express a desire to act in a sexual manner
- unwarranted and inappropriate touching
- sexual exhibitionism
- personal correspondence (including electronic communication, eg emails and text messages) with a child or young person in respect to an adult’s sexual feelings for a child or young person
- exposure of children or young people to sexual behaviour of others including display of pornography
- possession of child pornography
- watching children undress, eg in change rooms or toilets when supervision is not required or justified
- grooming behaviour: patterns of behaviour aimed at engaging a child as a precursor to sexual assault. Grooming may involve a person identifying particularly vulnerable children, such as children who may be isolated, unhappy or needy and using tactics to establish trust with the child for inappropriate purposes. The grooming process can include strategies such as:
  - persuading the child that a ‘special’ relationship exists: spending inappropriate special time with the child, inappropriately giving gifts, inappropriately phoning or texting, showing special favours to them but not other children, allowing the child to overstep the rules etc.
  - testing the boundaries: undressing in front of the child, allowing the child to sit on the lap, talking about sex, ‘accidental’ touching, for example, of the genitals etc. Such behaviours may not be indicative of grooming if occurring in isolation.

In order to maintain the relationship with the child, the person may also ‘groom’ others (such as other employees or family members) to ensure the adult is considered to be a ‘credible’ person and the child is someone who is not to be believed if they do disclose inappropriate behaviour by the person.

For sexual misconduct to be reportable, the alleged conduct must have been committed against, with or in the presence of a child.
Physical assault

Assault and/or non-accidental injury and/or harm to a child by a parent, caregiver or other person responsible for the child or young person. It includes any hostile act towards a child, regardless of the adult’s intention to harm. Even if a person did not intend to make contact with a child it may still constitute an assault, if the circumstances indicate that the act was reckless. It includes - pushing, shoving, hitting, threatening to hit, kicking, grabbing, shaking, spitting, tying up, throwing an object, deliberately tripping, and using excessive and unreasonable restraint. No physical harm is required such as bruising or injury. The intention of the person is not relevant.

When is physical contact NOT assault?

- When it is not hostile and is appropriate eg. PE teacher assisting child onto equipment
- If the contact was an accident (but not if reckless)
- When it is reasonably necessary for the protection of another person or self. The question is – was the physical contact used to protect self or the other person reasonable or was it excessive?

Psychological Harm

Behaviour directed towards a child that may cause psychological harm, for example, by destroying the confidence of a child, resulting in significant emotional deprivation and trauma. It is generally characterised by a sustained or repetitive pattern of behaviour by the person subject to the allegation.

- Degrading or belittling a child, verbally or non-verbally
- Criticism that degrades or belittles
- Shaming a child for expressing normal emotions
- Publicly humiliating a child
- Denying a child the opportunity to engage in social activities with peers or adults
- Promoting self-destructive, anti-social, criminal or other maladaptive behaviours in children

Three elements involved in an allegation of psychological harm which must be found if an allegation is to be sustained

- behaviour of the person which is inappropriate
- harm caused to a child
- link found between the behaviour and the harm

Neglect

Neglect occurs when a child is harmed by the failure of a parent, caregiver or other person responsible for the child, to provide the basic physical and emotional necessities of life eg. lack of supervision, social isolation, failure to provide basic food, hygiene or medical requirements.
Misconduct That May Involve Reportable Conduct

An allegation of misconduct that may involve reportable conduct may be made if there is sufficient information to establish whether the allegation is one of child abuse. Behaviours which may fit into this category include:

- Breaches of boundaries of the Staff Code of Professional & Pastoral Practice
  eg. Socialising with a child outside of the workplace
- Inappropriate use of power
- Targeting a child for ‘specialised’ treatment
- Inappropriate touching – but not sexual
- Inappropriate relationship (not sexual) between adult and child that breaches community standards
- Providing alcohol or drugs to children
- Taking children home in breach of agency guidelines

Reportable Conduct and Risk of Harm

In many instances, reportable conduct will also constitute a risk of significant harm to a child or young person and therefore be reportable to DOCS.

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, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures (Note: What is trivial or negligible if done only once, is considered more serious if repeated); or
- conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA (see below *).

* Note: Examples of conduct that would not constitute reportable conduct include (without limitation) touching a child in order to attract a child’s attention, to guide a child or to comfort a distressed child; a School teacher raising his or her voice in order to attract attention or to restore order in the classroom; and conduct that is established to be accidental. Section 25CA of the Ombudsman Act 1974 permits the Ombudsman to determine that certain classes or kinds of allegations of reportable conduct or convictions are exempt from the notification requirements but still require investigation