Kincoppal - Rose Bay School of the Sacred Heart

CHILD PROTECTION POLICY

Purpose

As part of the duty of care responsibilities of all staff, 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.

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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 staff, 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, Deputy 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 2012. 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 a Working with Children Check is a prerequisite for anyone in Child related work. This includes staff and contractors. It is the responsibility of the Child-related worker to ensure that they are eligible to apply for a check or when their check is up for renewal that they do so.

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 and abide by these policies. This includes, but is not limited to: Accomplishment staff; Administration & Technical Support staff; Before/After School Carers; Boarding staff; Canteen Operators; Contracted staff (e.g.: 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 and Tutors.
Roles and Responsibilities

The Head of Agency (The Principal)

The Ombudsman Act 1974 places certain obligations upon the head of designated agencies. In the case of Kincoppal-Rose Bay School, the Principal is the Head of Agency, and is therefore required to:

- Set up systems for providing a safe environment for children;
- Ensure systems are in place for recording and investigating all allegations of misconduct relating to child protection against employees (this includes reportable allegations and convictions and allegations which are exempt from notification to the Ombudsman) and taking appropriate action as a result;
- Ensuring appropriate risk assessment was carried out for investigation processes;
- Provide information about the type and operation of the above systems when requested by the Ombudsman;
- Make arrangements within the agency to require all employees to notify the Principal as soon as practicable of any allegation or conviction of misconduct relating to child protection against an employee, of which they become aware;
- Notify the Ombudsman of all allegations of reportable conduct or conviction made against an employee of the School, as soon as practicable, and in any event, within 30 days of becoming aware of the allegation or conviction; This is regardless of whether or not a child has been harmed or not and regardless of whether or not, according to the Head of Agency, the alleged behaviour is thought to have actually occurred. In the case of alleged psychological harm, there needs to be information that a child has been harmed as a result of the employee’s behaviour;
- Notify the Ombudsman, as soon as practicable, whether or not the School plans to take disciplinary or other action in relation to an employee who is the subject of a reportable allegation or conviction, and the reasons for taking or not taking any such action;
- Notify the Ombudsman, as soon as practicable, of any written submissions that an employee who is the subject of the allegation wishes to have considered in deciding what (if any) relevant employment proceedings or other action should be taken in relation to the employee;
- Provide the Ombudsman with any documentary or other information that is requested in order to assist in the Ombudsman’s monitoring of an investigation and subsequent action, conducted by or on behalf of the School;
- Defer an investigation into an allegation of reportable conduct or conviction if the Ombudsman notifies of its intention to investigate the matter;
- Notify Community Services and the Police if necessary.

In addition to the requirements by the Ombudsman, the Principal is also required to:

- Notify the Commission for Children and Young People (CCYP) of completed relevant employment proceedings;
- Report to Community Services if it is believed that there are reasonable grounds to suspect that a child is at risk of significant harm, or is in danger of or has previously been in danger of being harmed;
- In the case of a report that a child is at risk of significant harm: inform the original reporting employee whether or not Community Services has been notified.

NB: If an allegation is made against the Principal, the Board Chair will be notified and will resume the role and responsibilities of the Principal and Head of Agency, in consultation with advisory bodies as necessary. It is recommended in this case that an independent investigator be appointed.
**Deputy Principal**

At Kincoppal-Rose Bay School, it is the responsibility of the Deputy Principal to:

- Ensure that all persons employed or engaged by the School in any capacity are given access to copies of the Child Protection Policy, Child Protection Procedural Guidelines and the Staff Code of Professional and Pastoral Practice
- Ensure that all new staff (both teaching and non-teaching) and volunteers are trained in child protection procedures and that existing staff are re-trained on a regular basis
- Ensure that records are kept in the form of a register documenting that staff have attended child protection training and the dates of their training

**School Employees**

School Employees are required to report to the Principal all risk of harm concerns, including those below the risk of significant harm threshold. Reporting all concerns of risk of harm ensures that cumulative harm may be collated and assessed.

**Responsibilities of School Employees include:**

(a) Inform the Principal if they have formed a belief on reasonable grounds that a child is (or is at risk of) being harmed; The Principal will report any matter that requires notification to Community Services, as required by the relevant legislation. The staff member will be advised of any action taken. If the Principal decides the matter is not going to be reported and the staff member has knowledge of such failure to report, the staff member will have a legal obligation as a mandatory reporter to report to Community Services if they believe that reasonable grounds for significant harm exist

OR

(b) They are aware that there has been an allegation of harm to a child. Employees need to report allegations of reportable conduct regardless of whether or not there is harm to the child, and regardless of their view about the validity of the allegation.

- Staff are not to investigate allegations or suspicions of harm, nor should they make any contact with parents or caregivers regarding a notification unless specifically authorised to do so.
- Staff are required to report any allegations or evidence of harm only to the nominated person and discussion with others should be avoided.
- If a student discloses harm to a staff member, that staff member is obliged to report the disclosure as stated above but must not investigate the matter.
- Staff are required to confer with the Principal before responding to a request by Community Services or any other agency, to attend an interview with a child.
- Staff are advised to keep accurate notes of disclosures or concerns relating to a child being at risk of harm. Staff may be required to provide a detailed written report on any matter regarding harm to a child about which they have notified. The report should be written in objective language, be signed and dated. The confidentiality of the report will be maintained unless otherwise required by a court order.
- Legislation requires that, to continue to be employed or engaged by the School, each staff member must give the School an assurance that they have not been found guilty of any offence against a child and have their Working with Children Check (Child Protection – working with Children Act 2012).
Responsibilities

The objective of the *Child Protection (Working with Children) Act 2012* is to protect children:

a) By not permitting certain persons to engage in child-related work; and
b) By requiring persons engaged in child-related work to have working with children check clearances;

Schools are required to:

a) Verify online and record the status of each child related working with Children Check;
b) Only employ or engage child-related workers or eligible workers who have a valid check; and
c) Report findings of misconduct involving children made against child-related staff or volunteers.

Child-related staff and eligible volunteers are required to:

a) Hold and maintain a valid Check prior to any employment;
b) Not engage in child-related work at any time that they are subjected to an interim bar or a bar; and
c) Report to the School Principal if they are no longer eligible for a Check, the status of their check changes or are notified by the office of the Children’s Guardian that they are subjected to a risk assessment.

All volunteers are required to:

a) Sign the Volunteer Statutory Declaration. Some volunteers engaged in high risk roles may be required to have a Check; and
b) To be aware and follow the expectations of conduct expressed in our Professional Code of Practice.

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 (both teaching and non-teaching) and volunteers are trained in child protection procedures and for ensuring that existing staff are re-trained on a regular basis.

Child Protection within the Curriculum

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

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 practices 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 Community Services. 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 Community Services, 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 Community Services.

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 wellbeing 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:

Where there is an allegation of reportable conduct by a person employed or engaged by the School, the School has a responsibility to report such allegations to the NSW Ombudsman in line with ‘Child protection in the workplace: Responding to allegations against employees’ (Ombudsman’s Guidelines). Any relevant employment proceedings resulting from an allegation of reportable conduct by a person employed or engaged by the School will be reported to the Commission for Children and Young People in line with Working with Children Employer Guidelines 2010.

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 (which are outlined in the Child Protection Procedural Guidelines).

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) (Community Services).

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.

Defining Reportable Conduct

1. Reportable conduct

Section 25A of the Ombudsman Act defines ‘reportable conduct’ as:

a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a Child (including a child pornography offence or an offence involving child abuse material), or
b) any assault, ill-treatment or neglect of a child, or
c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.

Reportable conduct does not extend to:

a) 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
b) 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, or

c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA. 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. Some conduct may fall within more than one category.

2. Sexual offences and sexual misconduct

2.1 What is a Sexual Offence?

The term ‘sexual offence’ encompasses all criminal offences involving a sexual element that are ‘committed against, with or in the presence of a child’. These offences include (but are not limited to) the following:

- Indecent assault
- Sexual assault
- Aggravated sexual assault
- Sexual intercourse and attempted sexual intercourse
- Possession/ dissemination/ production of child pornography or child abuse material
- Using children to produce pornography
- Grooming or procuring children under the age of 16 years for unlawful sexual activity
- Deemed non-consensual sexual activity on the basis of special care relationships.

(1) Special care relationships are defined in section 73 of the Crimes Act 1900 (NSW).

All cases involving a sexual offence would also involve sexual misconduct.

2.2 What is sexual misconduct?

The term ‘sexual misconduct’ includes conduct that does not necessarily equate to a criminal offence. For sexual misconduct to constitute reportable conduct, the alleged conduct must have been committed against, with or in the presence of a child.

There are three categories of sexual misconduct in addition to sexual offences:
- Crossing professional boundaries
- Sexually explicit comments and other overtly sexual behaviour, and
- Grooming behaviour.

2.2.1 Crossing professional boundaries

Sexual misconduct includes behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate:
- Relationship with;
- Conduct towards; or
- Focus on a child or young person, or a group of children or young persons.

In the area of ‘crossing professional boundaries’, particular care should be exercised before making a finding of sexual misconduct. For example, an employee who, on an isolated occasion, ‘crosses professional boundaries’ in a manner that involves little more than poor judgement could not be said to have engaged in sexual misconduct. Also, in cases where an employee has ‘crossed boundaries’ in terms of their relationship with a child, if there is evidence which clearly shows that the employee did not seek to establish an improper relationship with the involved child, then this does not constitute sexual misconduct.

However, persistent less serious breaches of professional conduct in this area, or a single serious ‘crossing of the boundaries’ by an employee, may constitute sexual misconduct, particularly if the employee either knew, or ought to have known, that their behaviour was unacceptable.

Codes of conduct that outline the nature of the professional boundaries which should exist between employees and children/young people can be particularly useful. For employees who either intentionally breach such codes or have demonstrated an inability to apply them appropriately, it may be necessary to provide more detailed written advice about what constitutes appropriate behaviour.
2.2.2 Sexually explicit comments and other overtly sexual behaviour

Sexual misconduct includes a broad range of sexualised behaviour with or towards children. While it is not possible to provide a complete and definitive list of unacceptable sexual conduct involving children, the following types of behaviour give strong guidance:

- sexualised behaviour with or towards a child (including sexual exhibitionism)
- inappropriate conversations of a sexual nature
- comments that express a desire to act in a sexual manner
- unwarranted and inappropriate touching involving a child
- personal correspondence and communications (including emails, social media and web forums) with a child or young person in relation to the adult’s romantic, intimate
- or sexual feelings for a child or young person
- exposure of children and young people to sexual behaviour of others including display of pornography
- watching children undress in circumstances where supervision is not required and it is clearly inappropriate.

2.2.3 Grooming behaviour

Grooming or procuring a child under the age of 16 years for unlawful sexual activity is a sexual offence. However, Schedule 1(2) of the Child Protection (Working With Children) Act also recognises grooming as a form of sexual misconduct. As grooming is a sexual offence if the alleged victim is under 16 years old, caution should be exercised before reaching a grooming finding (particularly in cases where the behaviour is directed towards a child under 16 years). As an alternative to grooming, in many cases it will be more appropriate to consider whether there has been a ‘crossing of professional boundaries’ (see above) and/or other more overt sexual behaviour.

Furthermore, behaviour should only be seen as ‘grooming’ where there is evidence of a pattern of conduct that is consistent with grooming the alleged victim for sexual activity, and that there is no other reasonable explanation for it. The types of behaviours that may lead to such a conclusion include (but are not limited to) the following:

- Persuading a child or group of children that they have a ‘special’ relationship, for example by:
  - spending inappropriate special time with a child
  - inappropriately giving gifts
  - inappropriately showing special favours to them but not other children
  - inappropriately allowing the child to overstep rules
  - asking the child to keep this relationship to themselves.

Testing boundaries, for example by:

- undressing in front of a child
- encouraging inappropriate physical contact (even where it is not overtly sexual)
- talking about sex
- ‘accidental’ intimate touching.

Inappropriately extending a relationship outside of work (except where it may be appropriate - for example where there was a pre-existing friendship with the child’s family or as part of normal social interactions in the community).

Inappropriate personal communication (including emails, telephone calls, text messaging, social media and web forums) that explores sexual feelings or intimate personal feelings with a child.
An adult requesting that a child keep any aspect of their relationship secret or using tactics to keep any aspect of the relationship secret, would generally increase the likelihood that grooming is occurring.

2.3 Determining whether a sexual offence has occurred

Generally, a sustained finding of a sexual offence should only be made when a court has found that a sexual offence occurred. In the absence of a conviction, agencies should determine whether or not sexual misconduct has occurred.

3. Physical assault

3.1 What is an assault?

An assault of a child includes any act by which a person intentionally inflicts unjustified use of physical force against a child. An assault can also occur if a person causes a child to reasonably fear that unjustified force will be used against them. Even if a person who inflicts, or causes the fear of, physical harm does not intend to inflict the harm or cause the fear, they may still have committed an assault if they acted recklessly (i.e. the person ought to have known that their actions would cause physical harm or the fear of such harm). Assaults can include hitting, pushing, shoving, throwing objects, or making threats to physically harm a child.

It is important to consider the context in which physical force is used against a child to determine whether it constitutes an assault. For example, an assault has not taken place where there is use of reasonable force in the following examples:

- Exercising appropriate control over a child
- Disarming a child or young person seeking to harm themselves or others
- Separating children or young people who are fighting
- Moving a child or young person out of harm’s way
- Restraining a child or young person from causing intentional damage to property
- Self-defence or the defence of others.

When considering whether the physical force used was reasonable, a range of variables should be taken into account, having regard to the circumstances of the case.

Variables that may be relevant include matters such as the age, maturity, health or other characteristics of the child or children involved, and professional codes of conduct or standards that the worker is required to follow. In addition the Ombudsman Act specifically outlines certain conduct which does not need to be reported:

a) 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

b) 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.

3.2 Conduct to be reported to the Office of the Children’s Guardian

While every allegation of physical assault should be investigated, only findings that a serious physical assault occurred are reportable to the Office of the Children’s Guardian for consideration in Working with Children Check assessments.
3.3 Serious physical assault

A physical assault is not serious where:

- It only involves minor force; and
- It did not and was not ever likely to result in serious injury.
- A physical assault is serious where:
  - It results in the child being injured, beyond a type of injury like a minor scratch, bruise or graze; or
  - it had the potential to result in a serious injury; or
  - the injury suffered may be minor, but the assault is associated with aggravating circumstances (in this regard, aggravating circumstances might include associated inhumane or demeaning behaviour by the employee, for example kicking a child, pulling a child by grabbing the child around the neck).

In considering whether a serious physical assault has occurred, reporting bodies whose work involves regular restraint of children should consider the context of events, including the child’s age and vulnerability.

Generally, behaviour that does not meet the standard of a serious physical assault does not become a serious physical assault by means of it being repeated. The only exception to this is where an employer has developed legitimate concerns for the safety of a child or children and intervened with a worker (e.g. warnings, counselling etc) and the behaviour is repeated.

4. Ill-treatment

4.1 What is ill-treatment?

Ill-treatment captures those circumstances where a person treats a child or young person in an unreasonable and seriously inappropriate, improper, inhumane or cruel manner.

The focus is on the alleged conduct rather than the actual effect of the conduct on the child or young person.

Ill-treatment can include disciplining or correcting a child in an unreasonable and seriously inappropriate or improper manner; making excessive and/or degrading demands of a child; hostile use of force towards a child; and/or a pattern of hostile or unreasonable and seriously inappropriate, degrading comments or behaviour towards a child.

In making a determination regarding ill-treatment it may be important to consider relevant codes of conduct that outline the nature of professional conduct and practice by employees/workers which should occur when working with children/young people.

5. Neglect

5.1 What is neglect?

Neglect includes either an action or inaction by a person who has care responsibilities towards a child. The nature of the employee’s responsibilities provides the context against which the conduct needs to be assessed.

5.1.1 Supervisory neglect:

- An intentional or reckless failure to adequately supervise a child that results in the death of, or significant harm to, a child, or
- An intentional or reckless failure to adequately supervise a child, or a significantly careless act or failure to act, that:
 involves a gross breach of professional standards, and
 has the potential to result in the death of, or significant harm to, a child.

5.1.2 Carer neglect:
Grossly inadequate care that involves depriving a child of the basic necessities of life: such as the provision of food and drink, clothing, critical medical care or treatment, or shelter.

5.1.3 Failure to protect from abuse:
An obviously or very clearly unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child.

5.1.4 Reckless acts (or failure to act):
A reckless act, or failure to act, that:
 involves a gross breach of professional standards, and
 has the potential to result in the death of, or significant harm to, a child.

An incident can constitute neglect if it contains any element within this definition. 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 or where there is the potential for significant harm to a child.

6. Behaviour that causes psychological harm to a child

6.1 What is behaviour that causes psychological harm to a child?
Behaviour that causes psychological harm is conduct that is obviously or very clearly unreasonable and results in significant emotional harm or trauma to a child.

There needs to be a proven causal link between the inappropriate behaviour and the harm, and the harm must be more than transient.

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

- an obviously or very clearly unreasonable or serious act or series of acts that the employee 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 psychological harm to the child.

Psychological harm can include the exacerbation or aggravation of an existing psychological condition, such as anxiety or depression.

When it is alleged that an adult’s behaviour has caused psychological harm to a child it will often be necessary to obtain a psychological or medical assessment of the child to determine whether psychological harm can be established. However, a clinical diagnosis will not be required in every circumstance – particularly if the assessment itself may cause harm.

In addition, in certain serious and/or ongoing domestic violence cases, it may be open to infer that a child has been psychologically harmed, in the absence of a clinical diagnosis of such harm. Finally, it is important
to stress that, when a report has established a child has a psychological condition, it is still necessary to show the condition was caused by the employee’s conduct.

In summary:

The purpose of this policy is to summarise the obligations imposed by child protection legislation on the School and on employees, contractors and volunteers at Kincoppal - Rose Bay School. The guidelines as to how the School deals with these matters is contained in the Child Protection Procedural Guidelines