

MATER DEI CHILD PROTECTION – Reportable Conduct of Staff, Volunteers and Others Policy

SOURCE OF OBLIGATION

The Ombudsman Act 1974 (NSW) requires Mater Dei School to investigate and report to the NSW Ombudsman allegations of employee misconduct or conviction relating to:

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

The Reportable Conduct obligation covered in this policy is separate and distinct from the Mandatory Reporting obligation under the Children and Young Persons (Care and Protection) Act 1998 (NSW) (refer to Mater Dei Child Protection – Mandatory Reporting of Abuse & Neglect Policy).

Whilst the Mandatory Reporting obligation applies where there is “significant risk of harm” to a child, the requirement to report to the NSW Ombudsman applies where an allegation is made against a staff member or any person engaged by the school to provide services to children, including volunteers.

The Reportable Conduct threshold is much wider than the Mandatory Reporting threshold and any matter involving a staff member that requires Mandatory Reporting must also be reported to the Ombudsman under this policy.

Internal Reporting of Allegations of Staff Misconduct

Any allegation of staff misconduct must be immediately reported to the CEO/Principal, or the Chair of the Board of Directors should the allegation involve the CEO/Principal using Part A Student at Risk Report.

What Conduct is Not Reportable Conduct?

The Ombudsman Act makes it clear that Reportable Conduct does not extend to:

- Conduct that is reasonable for the purpose of discipline, management or care of children, having regard to age, maturity, health or other characteristics of the children and any relevant codes of conduct or professional standards;
- 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;

Some examples of conduct that would not constitute reportable conduct include touching a

child to get their attention, guide them or comfort them, a school teacher raising their voice to attract attention or restore order in a classroom, or conduct that is established to be accidental.

Internal Investigation of Allegations of Misconduct

Once an allegation of misconduct has been made (which does not require reporting to DOCS under the Mandatory Reporting obligations) an internal investigation, led by the CEO/Principal will be conducted in such a manner as the particular circumstances demand.

Upon receiving a Part A Student at Risk Report, the staff member leading the response (CEO/Principal, Assistant Principal, Chair of the Board) will be responsible for completing Part B, C and D of the Student at Risk Report.

It is important to note that an internal investigation must not be conducted in relation to an allegation that is the subject of Mandatory Reporting until clearance to do so is given by DOCS or the police, as this may compromise their investigations.

When conducting an internal investigation principles of procedural fairness must be followed. Reference may be made to the Recommended Protocols for Internal Investigative and Disciplinary Proceedings 2001 (developed by the NSW Independent Education Union and the Association of Independent Schools).

The Ombudsman may intervene in an internal investigation or ask for further information during the course of the investigation.

When & how are Reportable Matters to be reported to the Ombudsman?

There are 2 stages of reporting. The Ombudsman must be notified:

- Of the Reportable Conduct or conviction within 30 days of Mater Dei School becoming aware of the Reportable Conduct by lodging **Notification Form Part A**; and
- Of the findings of the investigation, as soon as possible once the internal investigation has been finalised by lodging **Notification Form Part B**.

The forms should be sent by registered mail, hand delivery, or courier to:

Attention – Employment Related Child Protection Division
NSW Ombudsman
Level 24
580 George Street
Sydney NSW 2000

Additional external reporting

The CEO/Principal is responsible for informing the Bishops Office of Wollongong and Good

Samaritan Education of 'reportable allegations' and their findings.

Impact on Working with Children Check

Where the investigation has led to findings against the employee, depending upon the seriousness of the allegations, the CEO/Principal will also need to notify the Office of the Children's Guardian in relation to Working With Children Checks.

Refer to the Mater Dei Child Protection – Working with Children Checks Policy.

Record Keeping

The records of reportable conduct matters at Mater Dei will be stored securely in the HR Filing Cabinet and will only be accessible to the CEO/Principal and the EA to the CEO/Principal. An electronic spread sheet of all past and present reportable conduct cases stored in the HR Filing Cabinet will be maintained and will only be accessed by the CEO/Principal, Assistant Principal, Director of Services and the EA to the CEO/Principal. A current hard copy of the spread sheet will be stored in the HR Filing Cabinet.

EMPLOYEE RESPONSIBILITIES

All employees are responsible to ensure:

- Reports of staff misconduct are made as soon as possible to the CEO/Principal;
- The CEO/Principal is notified of any convictions which relate to Reportable Conduct;
- Co-operation in any internal investigation;
- Confidentiality is maintained throughout the process; and
- Records of all verbal and written communications are maintained and stored securely.

IMPLEMENTATION

This policy is implemented through a combination of:

- Staff training;
- Effective communication and incident notification procedures;
- Effective record keeping procedures; and
- Initiation of corrective actions where necessary.

DISCIPLINE FOR BREACH OF POLICY

Where a staff member breaches this policy Mater Dei School may take disciplinary action, including in the case of serious breaches, summary dismissal.

RELATED POLICIES/STATEMENTS

Mater Dei Child Protection Incident Management Overview Flow Chart

Mater Dei Child Protection – Abuse, Grooming & Neglect Identification & Initial Notification

Mater Dei Child Protection – Mandatory Reporting of Abuse & Neglect

Mater Dei Child Protection – Detecting, Reporting and Addressing Grooming Behaviours

Mater Dei Child Protection - Working With Children Checks

Mater Dei Statement of Commitment to Child Safety

Mater Dei Child Safety Code of Conduct

Student at Risk Report

Key Reference

Child Protection in the Workplace – Responding to allegations against employees

Approved at Leadership Team YES / NO / NA	Signed	Date
Approved at Board YES / NO / NA	Signed	Date
Staff Briefed YES / NO	Signed	Date
Review Date December 2018		