



CHILD PROTECTION (SAFE AND SUPPORTIVE ENVIRONMENT)

Policy Reference/Version – 12/2

Policy

Brigidine College St Ives will enact all procedures required under the *Child Protection (Working with Children) Act 2012*. The safety, welfare and wellbeing of children and, in particular, protecting them from child abuse, is the paramount consideration in the operation of this policy.

In accordance with the Child Protection (WWCC) Regulation 2013, no person shall be employed without satisfying the regulation and the College will respond to all reportable matters in accordance with legislative requirements. Accredited investigators and/or the Principal will undertake an investigation into an allegation of reportable conduct in accordance with the NSW Ombudsman Class or Kind Determination.

If an investigation is being conducted, in accordance with the *NSW Ombudsman Class or Kind Determination*, it is a **mandatory** requirement by the Ombudsman that the Principal (Head of Agency) contact the relevant staff at AISNSW to notify and to seek support at key milestones of the investigation. College staff will notify AISNSW of an investigation or to discuss a related issue as the accredited investigator.

Purpose

The purpose of this policy is to ensure a child safe and child friendly environment within the College.

Guiding Principles

As an employer, BCSI has a moral responsibility and a legal obligation to

- respond to allegations of a child protection nature specifically related to the actions of an employee and ensure appropriate action is taken in relation to the finding, including disciplinary action
- report to the Ombudsman certain allegations or convictions of a child protection nature made against an employee
- report to the Commission for Children and Young People (CCYP) the names of employees for whom it has completed relevant employment proceedings
- ensure its employees are treated fairly and the rights of each individual are respected during an investigation and any applicable disciplinary process
- ensure these proceedings are readily accessible to all employees and are incorporated into the initial child protection training provided at induction and biennial child protection updates for all employees.

This policy reflects the implementation of the [Child Protection \(Working with Children\) Act 2012](#) and the [Child Protection \(Working with Children\) Regulation 2013](#).



This policy outlines processes for conducting the:

- Working with Children Check (WWCC) for child related-work which includes a National Criminal History check for paid employees of Brigidine College to determine a person's suitability for employment or engagement with children
- This policy applies to people who are employed or engaged (or who are seeking to be employed or engaged) in child-related work at Brigidine College, in any one of the following capacities:
 - as a paid employee;
 - as a volunteer;
 - as a person undertaking practical training as part of an educational or vocational course (other than as a student undertaking work experience);
 - as a contractor.

The College will ensure that all staff/volunteers, outside tutors and external providers are informed of:

- their legal responsibilities related to child protection and mandatory reporting. This will include all teaching and support staff and all coaches employed in cocurricular activities.
- the requirement to notify and investigate allegations of reportable conduct. This will be carried out by Deputy Principal Faith and Wellbeing or a trained investigator.

Supporting Information and Procedures (see over Page) Related Procedures and Documents

www.kids.nsw.gov.au for legislation and information such as

Child Protection (Working with Children) and Other Child Protection Legislation Amendment Act 2016, making amendments to the following Acts:

- *Child Protection (Working with Children) Act 2012*
- *Children and Young Persons (Care and Protection) Act 1998*

Working with Children Check Procedures CYPP – Working With Children Guidelines NSW
Ombudsman's Office Guidelines

Brigidine policies and Procedures: Employment
Code of Conduct - Staff

Person Responsible

Deputy Principal Faith and Wellbeing – student matters

Director Staff – employee matters



CHILD PROTECTION INFORMATION AND PROCEDURES (A SAFE AND SUPPORTIVE ENVIRONMENT)

DEFINITIONS

A 'safe and supportive school environment' is one that protects the emotional, psychological, and physical wellbeing of students, employees, and other members of the school community.

A safe environment is one where the risk of harm is minimised and employees and students feel secure. Harm relates not only to dangers in the physical environment, involving such matters as architecture and construction, lighting, space, facilities and safety plans, but also refers to violence, physical threats, verbal abuse, threatening gestures, emotional or psychological harm, sexual harassment, and racial vilification

A supportive environment facilitates and enhances the social, academic, physical and emotional development of students, employees and other members of the school community.

A supportive environment strives to be one in which:

- all members of the school community are treated with respect and fairness
- members of the school community feel valued
- effective teaching and learning takes place
- positive support and encouragement are provided by members of the school community
- non-discriminatory language and behavioural practices are defined, modelled and reinforced by members of the school community
- consultation takes place on matters relating to students' education and welfare
- consultation as appropriate takes place on matters relating to the health, safety and welfare of members of the school community.

It is evident that at the core of our College pastoral action, including the creation of safe and supportive school environments, is a deep respect for the innate dignity and uniqueness of each individual person. This policy seeks to promote behaviours reflective of the recognition of that dignity throughout our College.

THE NSW CHILD PROTECTION LEGISLATION

Brigidine College St Ives is committed to compliance with the NSW Child Protection Legislation, general principles of duty of care, as well as other legislative obligations that impact upon the provision of safe and supportive school environments. In this policy, Brigidine College St Ives reaffirms its commitment to the legislative requirements contained in the following Acts that relate to child protection in New South Wales:

- *Part 3A Ombudsman Act 1974*
- *Part 7 Commission for Children and Young People Act 1998*
- *Child Protection (Prohibited Employment) Act 1998*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Part 3A Ombudsman Act 1974*



- *Children Legislation Amendment (Wood Enquiry Recommendations) Act 2009*
- *Keep them Safe: A shared Approach to Child Wellbeing (KTS) March 2009*
- *Working with Children Check Procedures (15 June 2013)*

This legislation requires that designated government and nongovernment agencies (including non- government schools) must notify the NSW Ombudsman of any allegation of 'reportable conduct' or conviction related to 'reportable conduct' involving an employee. These agencies are also required to properly investigate and respond to reportable allegations and convictions, and 'exempt' allegations involving misconduct by an 'employee' towards a child. For the purposes of this legislation, a 'child' is a person under the age of 16 years and a 'young person' is 16-17 years of age. Brigidine College St Ives acknowledges that where a complaint of inappropriate conduct by an employee towards a student who is over 18 years of age is received, while the child protection legislation is not pertinent, similar transparent and accountable enquiry processes will be followed in response to such a complaint.

For the purposes of *Part 3A Ombudsman Act 1974*, the definition of 'employee' is very broad. In keeping with the legislative definition, for the purposes of this policy, an 'employee' includes paid employees, whether or not employed in connection with work that relates to children, and also includes 'any individual engaged to provide services to children' in a school whether in a paid or voluntary capacity (for example, parent volunteers and members of the clergy who perform a task for a school are included in this definition of 'employee'). The role of the NSW Ombudsman is to audit, oversee, monitor or review the employer's response to 'reportable' or 'exempt' allegations including intake decision-making and appropriate risk assessment and risk management. Brigidine College St Ives acknowledges its responsibility to establish and maintain appropriate procedures for responding to allegations including the implementation of intake, intake assessment, and risk management processes.

Child Protection (Working with Children) Act 2012

Child Protection (Working with children) Regulation 2012

These two pieces of legislation and associated guidelines comprise the NSW *Working with Children Check* that is administered by The Office of the Children's Guardian (NSW). The *Working with Children Check* requires employment screening for preferred applicants for paid child-related employment and prohibits persons who have been convicted of a 'serious sex offence' or the murder or kidnapping of a child (under 18 years old) from applying for, undertaking or remaining in child- related employment. All 'employees', whether paid or voluntary, are required to complete a Working With Children Check and be verified by the employer before commencing employment. A 'prohibited person' may apply for an exemption permitting the person to remain or engage in child- related employment (subject to or without conditions).

Child-related employment screening (WWCC) of a prospective employee involves:

- a national relevant criminal record check (child-related offences)
- a check of relevant Apprehended Violence Orders (involving children), and
- a review of relevant employment proceedings completed by a previous employer and notified to the employment screening database maintained by the NSW Commission for Children and Young People.



The *Working with Children Check* legislation and Guidelines require employers to notify CCYP - the Office of the Children's Guardian of 'relevant employment proceedings' for inclusion in the employment screening database. A 'relevant employment proceeding' means a disciplinary proceeding against an employee by an employer that involves 'reportable conduct', or an 'act of violence committed by the employee in the course of employment and in the presence of a child'. Brigidine College St Ives acknowledges its responsibility to establish and maintain appropriate recruitment, selection and screening processes in accordance with this aspect of the child protection legislation.

The Office of the Children's Guardian (NSW) is an independent government agency that:

- administers the Working With Children Check;
- encourages organisations to develop their capacity to be safe for children;
- administers a voluntary accreditation scheme for persons working with persons who have committed sexual offences against children.

The above responsibilities were transferred from the Commission for Children and Young People to the Office of the Children's Guardian on 15 June 2013. Further information about these responsibilities can be found on the Commission's website at <http://www.kids.nsw.gov.au>

Meeting ongoing WWC requirements

(To be read in conjunction with the Employment policy.)

All staff have WWC check verified prior to employment at Brigidine College. Volunteers are verified according to the guidelines set out by OCG.

To remain employed or to work in a volunteer capacity at Brigidine College St Ives the WWC number must be current.

- As expiry dates approach, each person is given a 3 month notification from the Office of the Children's Guardian (OCG) of their responsibility to update their WWC check.
- It is the responsibility of each person to ensure the OCG has current contact details, to update before the expiry date and to provide the updated information to the Director Staff for further verification.
- Verification will be completed by the Director Staff or the PA to the Principal.
- The Director Staff will flag reminders each 3 months in their calendar to remind people of the due date. Records are kept in the College staff database system and reports are regularly run for this purpose.
- NESAs also notifies teachers directly and notifies the TAA of upcoming expiries. Teachers must also notify NESAs once they have updated as a condition of remaining accredited.

REPORTABLE CONDUCT

In relation to both *Part 3A Ombudsman Act 1974* and *Part 7 Commission for Children and Young People Act 1998*, an allegation of 'reportable conduct' is one involving:



- a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), 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.

'EXEMPT' CONDUCT

An allegation of reportable conduct may be exempt from notification to the NSW Ombudsman or the NSW Commission for Children and Young People if it involves:

- 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 or by the *Working With Children Check* guidelines.

Brigidine College St Ives acknowledges its responsibility to establish and maintain appropriate procedures for responding to allegations of 'reportable' and 'exempt' conduct by an employee towards a child.

Children and Young Persons (Care and Protection) Act 1998

This Act sets out the means by which Community Services can intervene to protect children and young persons from risk of harm. The Act requires persons in certain professions and management positions, including teaching and school leadership, to report to DoCS a 'current concern of significant risk of harm' to a child (up to 15 years old) or (in certain circumstances) to a young person (16 and 17 year olds).

The Mandatory Reporting Guide on the AIS website will be used by the College Executive team, or the person appointed by the Executive, to assist in the determination of 'significant' risk of harm to the individual involved and to determine whether a report to Community Services is required.

Brigidine College St Ives acknowledges its responsibility to establish and maintain appropriate procedures to support mandatory reporters in fulfilling their reporting obligations to Community Services. Brigidine College St Ives will ensure that operational policies and procedures are implemented in accordance with each Act that comprises the NSW child protection legislation so that:

- the sharing of information between 'prescribed bodies' is allowed under changes to the Children and Young Persons (Care and Protection) Act 1998 – Chapter 16 A – amendment 2009.
- employees and volunteers who have direct contact with students have undertaken training at least every two years (usually an outside provider AIS) about their legal



responsibilities in relation to child protection, mandatory reporting, and other relevant expectations as to appropriate and professional conduct in schools

- all employees, volunteers, outside tutors, and external providers are informed of the requirements for Brigidine College St Ives to notify and investigate allegations of 'reportable conduct' and investigate 'exempt allegations' in compliance with *Part 3A Ombudsman Act 1974*
- Brigidine College St Ives meets the employment screening and notification requirements of The Child Protection (Working with Children) Act 2012 Child Protection (Working with children) Regulation 2012
- all employees, volunteers, outside tutors, and external providers are informed of their obligations under the *Child Protection (Prohibited Employment) Act 1998*
- In regard to the *Part 3a Ombudsman Act 1974* the College will ensure that the Ombudsman's Office will be notified in regard to any allegations made within 30 days of the Principal being made aware of the allegation.
- all employees who are mandatory reporters under the *Children and Young Persons (Care and Protection) Act 1998* are informed of their obligations and the process that schools have in place in relation to mandatory reporting. That use of the MRG will assist these mandatory reporters to assess the risk of harm to individuals, and that responses to the child protection legislative responsibilities will be in accordance with the principles of privacy and procedural fairness.

Brigidine College St Ives is committed to a proactive approach to all aspects of creating a 'safe and supportive school environment' and, with respect to the child protection legislation, will:

- develop procedures and support materials in accordance with the child protection legislation to facilitate the implementation of all child protection responsibilities in the College community
- provide information and training in best practices to members of the College community relevant to their respective roles and responsibilities in creating safe and supportive school environments
- support and monitor relevant curriculum implementation in schools
- provide information and training in the associated areas of confidentiality, privacy, and freedom of information to relevant employees.

RESPONSIBILITIES

Policy

The Brigidine College St Ives employee who has been given responsibility for the implementation of the policy and its objectives is the Director Staff.



Investigation

The Brigidine College St Ives employee who is the Investigating officer is the Deputy Principal Faith and Wellbeing.

POLICY REVIEW

The 'creating safe and supportive school environments: child protection' policy is to be reviewed within twelve months of the date of its adoption. A policy review is to be considered following any changes to the NSW Child Protection legislation or associated guidelines occurring within twelve months of the date of adoption.