



Child Safe Reporting Policy

Policy Title	Child safe reporting policy
Purpose	To ensure all stakeholders understand and uphold North Coast Pathway's child safe reporting process.
Scope	This policy applies to all North Coast Pathway staff, volunteers, students, parents, carers and community.
Policy Statement	<p>North Coast Pathway's child safe reporting process is child focused and ensures all stakeholders understand child safe reporting requirements. This policy forms part of North Coast Pathway's Child Safety Plan and focuses on Child Safe Standards 1,2, 3, 6 & 10.</p> <ul style="list-style-type: none"> • <i>Standard 1. Child safety is embedded in organisational leadership, governance and culture.</i> • <i>Standard 2. Children participate in decisions affecting them and are taken seriously.</i> • <i>Standard 3. Families and communities are informed and involved.</i> • <i>Standard 6. Processes to respond to complaints of child abuse are child focused.</i> • <i>Standard 10. Policies and procedures document how the organisation is child safe.</i>
Procedure	<p>Stakeholder complaints</p> <p>Child protection policies and stakeholder complaint procedures are publicly available on North Coast Pathway's website, https://ncpathway.edu.au.</p> <ol style="list-style-type: none"> 1. Students can raise complaints with their teacher or head teacher. 2. School stakeholders can raise complaints or allegations of staff misconduct or employee reportable conduct by downloading and completing a <u>Continuous Improvement Form</u> from North Coast Pathway's website and emailing the Principal, principal@ncpathway.edu.au. <p>The Principal will respond to complaints or allegations of staff misconduct or employee reportable conduct allegations and convictions as per procedure within the NCCC Continuous Improvement Policy.</p> <p>Mandatory reporting of significant harm</p> <ol style="list-style-type: none"> 1. It is mandatory to make a report if the child is under 15 years and at risk of significant harm. It is not mandatory to make a report if it is a young person aged 16 to 17. 2. NCCC staff are made aware that they must make a report to the Department of Communities and Justice – note the <u>Mandatory Reporter Guide</u> (MRG) decision tree should be used to determine and support reporting decisions – for current concerns about the safety, welfare and wellbeing of a child for any of the following reasons <ol style="list-style-type: none"> a) the basic physical or psychological needs of the child or young person are not being met (neglect) b) the parents or caregivers have not arranged necessary medical care



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for the child or young person (unwilling or unable to do so)

- c) the parents or caregivers have not arranged for the child or young person to receive an education in accordance with the Education Act (unwilling or unable to do so)
- d) risk of physical or sexual abuse or ill-treatment
- e) parent or caregiver's behaviour towards the child causes or risks serious psychological harm (emotional abuse)
- f) incidents of domestic violence and as a consequence a child or young person is at risk of serious physical or psychological harm (domestic or family violence).

Reportable conduct

The Children's Guardian Act 2019 defines reportable conduct as

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

North Coast Pathway implements strict recruitment processes and code of conduct for staff behavior to ensure child safety which includes preventing reportable conduct. The Principal is the *head of the entity* for reportable conduct under the Children's Guardian Act. Any allegations of reportable conduct are to remain private and confidential and be reported to the Principal. If allegations involve the Principal, they should be reported to the Chairperson of the Board.

Any concerns about other employees 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 Principal. Where it is uncertain if the conduct is a reportable conduct but is considered inappropriate behaviour, this must also be reported.

Staff members must also report to the Principal if 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.

Parents, carers and community members are encouraged to report any conduct that is in their view inappropriate, reportable or criminal conduct



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to the Principal or the Chair. All such reports will be dealt with in accordance with the School's complaint handling procedures.

The Principal is responsible for ensuring that the following steps are taken to investigate an allegation of reportable conduct.

1. Initial Steps

Once an allegation of reportable conduct against an employee is received, the Principal or delegated officer is required to

- a) identify whether it is an allegation of reportable conduct
- b) assess whether the NSW Department of Communities and Justice (DCJ) or the Police need to be notified. If notified, seek clearance from these statutory agencies prior to the school proceeding with the reportable conduct investigation
- c) notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or Police)
- d) report allegations to the NSW Office of the Children's Guardian (OCG) within seven business days of receiving the allegation
- e) carry out a risk assessment and take action to reduce/remove risk, including
 - i. undertake an initial assessment on receipt of a reportable allegation based on all relevant information known at that time and plan to avoid or minimise the risks to
 - o the child/children who are the subject of the allegation
 - o other children with whom the employee may have contact
 - o the employee against whom the allegation has been made including, assessing the potential risk to the investigation or any individual's health and safety before informing an employee about a reportable allegation against them
 - o the employing entity
 - o other parties to the alleged incident including witnesses or reporters
 - o the proper investigation of the allegation where appropriate
 - ii. the risk assessment is dynamic and is to be revisited, and adjusted during the investigation, as new information becomes known
 - iii. a final risk assessment is to be undertaken at the end of the investigation



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- iv. at each stage, the risk assessment informs any decision about risk management – that is, action that will be taken to address identified risks
- v. all records of why a decision was made to take, or not take, any action following an initial, subsequent and final risk assessment must be maintained
- f) provide an initial letter to the person Subject of the Allegation (ESOA) 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
- g) investigate the allegation or appoint someone to investigate the allegation.

2. Investigation Steps

In an investigation the Principal or appointed investigator will

- a) interview relevant witnesses and gather relevant documentation
- b) provide a letter of allegation to the ESOA
- c) provide the ESOA with the opportunity to provide a response to the allegations either in writing or at Interview
- d) consider relevant evidence and make a preliminary finding report in accordance with the OCG guidelines
- e) inform the ESOA of the preliminary finding in writing by the Principal and provide them with a further opportunity to respond or make a further submission prior to the matter moving to final findings
- f) consider any response provided by the ESOA
- g) make a final finding in accordance with the OCG guidelines
- h) decide on the disciplinary action, if any, to be taken against the ESOA
- i) 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.
- j) should the final report be unfinished within 30 days, the Principal 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
- k) Submission of an interim report must include
 - i. a reason for not providing the final report within 30 days and an estimated time frame for completion of the report



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- ii. specific information, including (if known)
 - o the facts and circumstances of the reportable allegation
 - o any known information about a reportable conviction
 - o action taken since the OCG received a notification about the reportable allegation or reportable conviction
 - o further action the Principal proposes to take in relation to the reportable allegation or reportable conviction
 - o including if the Principal 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
 - o other information prescribed by the regulations
- iii. be accompanied by copies of documents in the School's possession, including transcripts of interviews and copies of evidence.

The steps outlined above may vary where the matter is also being investigated by the DCJ or Police.

3. Investigation Principles

During any investigation of a reportable conduct allegation the School will

- a) follow the principles of procedural fairness
- b) identify and manage any real or perceived conflicts of interest or real or apprehended bias
- c) put the Employee Subject of Allegation (ESOA) on notice (at an appropriate time) of the nature and scope of the allegations, the process that will be followed and (if relevant) that a notification has been made to the Office of the Children's Guardian
- d) keep the ESOA reasonably informed of the progress of the investigation
- e) conduct as timely an investigation as possible in the circumstances
- f) frame the allegations appropriately and put all the allegations to the ESOA, with sufficient notice
- g) provide appropriate support for all parties including the child/children, witnesses and the ESOA including an option of a support person should the ESOA be interviewed in relation to the allegations
- h) explain the potential consequences of an adverse finding



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- i) provide the employee with a genuine opportunity to respond to the allegations, in writing or at interview
- j) make reasonable enquiries or investigations before making a decision
- k) ensure all parties maintain confidentiality during the investigation including in relation to the handling and storing of documents and records
 - i. Records about allegations of reportable conduct against employees will be kept securely and will be accessible by the Principal or with the Principal's express authority.
 - ii. No employee may comment to the media about an allegation of reportable conduct unless expressly authorised by the Principal to do so.
 - iii. Staff members who become aware of a breach of confidentiality in relation to a reportable conduct allegation must advise the Principal.

4. Findings

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

In reaching a decision, the Principal follows the principles of procedural fairness and mandatory considerations outlined in the *Children's Guardian Act 2019* on whether the reportable allegation relates to conduct that is in breach of established standards applying to the North Coast Pathway employee having regard to

- professional standards
- codes of conduct, including any professional or ethical codes
- accepted community standards.

A 'finding of reportable conduct' is defined in the Act to mean a finding that a reportable allegation has been sustained. The Act states that heads of relevant entities must make a finding of reportable conduct if satisfied, on the balance of probabilities, that the case against the employee has been proved.

a) Non-adverse findings

If the Principal proposes to make a finding under the *Children's Guardian Act 2019* other than a finding of reportable conduct, the Principal will inform the ESOA in writing about the finding and any action the Principal will be taking. (If the employer is making misconduct findings, they should consider any further steps they



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should take in accordance with their misconduct-related policies and procedures.)

However, if an adverse reportable conduct finding is proposed, procedural fairness will generally entail taking further steps. If further steps are not taken, the reasons will be documented and provided to the Guardian.

b) Adverse finding (finding of reportable conduct)

If the Principal proposes to make a finding of reportable conduct, the following further procedural fairness steps are taken before confirming the finding

- i. inform the ESOA, in writing, of the proposal to make the adverse finding
- ii. provide as much detail about the reasons for the proposed adverse finding as is reasonable, and
- iii. provide the ESOA with an opportunity to make a further submission in response to the proposed finding and reasons.

Procedural fairness only requires that the employee be given sufficient particulars to be able to respond to the allegations against them and reasons for any adverse findings – this does not require provision of the entire or un-redacted entity report. In this regard, the safety, welfare and wellbeing of children is the paramount consideration.

The ESOA should be given a reasonable amount of time to make any further submission and if/when it is received, the Principal will give the submission genuine consideration before proceeding to make a final decision. This should be clearly documented. Sometimes, the ESOA's submission can give rise to a need to make further inquiries or further test the evidence before the decision-maker can finalise their decision. If the employee identifies other relevant lines of inquiry and the decision-maker chooses not to pursue those lines of inquiry, the reasons are documented. If there are no sound reasons, the finding may be open to challenge.

Once the final decision is made, the ESOA is informed in writing. They are also informed of any external referrals (such as to the WWCC Directorate) internal review or appeal options available to them and consequences of the finding.

c) Findings referred to the WWCC Unit

A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred within the Office of the Children's Guardian to the Guardian's Working with Children Check Directorate.

Therefore, when informing an employee of a finding of reportable conduct against them, North Coast Pathway will alert them to the



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consequent report to the WWCC Directorate in relation to sustained findings of sexual misconduct, a sexual offence or a serious physical assault.

Information must also be referred internally to the Guardian's Working with Children Check Directorate if it meets the threshold for consideration of an interim WWCC bar pending a formal risk assessment.

5. Record keeping

When an allegation is made, the Principal ensures all records are filed systematically and readily located using an organised management system. Records relating to the allegation are kept on a file separate to the employee's personnel file. All records are kept confidentially and securely, with access granted only by the Principal. Retained records include

- a) the allegation
- b) the entity's initial response to the person making the allegation, the alleged victim(s) and the ESOA
- c) notifications considered or made to Police of a suspected criminal offence; to a Child Wellbeing Unit of risk of harm; or the Department of Communities and Justice of a child who may be at risk of significant harm
- d) the outcome of any reports made to other agencies
- e) a plan detailing how the investigation is to be carried out
- f) the initial risk assessment, including what the identified risks are and the arrangements to manage those risks
- g) decisions made about the ESOA and the action taken in relation to the child or ESOA
- h) all interviews, including details of the questions and responses, the location of the interview, who was present, the start and finish times of the interview. Where possible, records are verbatim, verified, signed and dated by all involved
- i) any decisions made, both during and at the end of the investigation, including their rationale, the position and name of the person making the decision and the date the decision was made
- j) any personal contact, discussions or emails with anyone about the matter including the date, details of the discussions, questions, advice and outcome, the name of the person making the contact, details of their position and agency and the reason for the contact
- k) a summary report that details the allegation, the investigation, the findings in relation to each allegation



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	The final risk assessment including any final decision about the employee and any subsequent action that is to be, or has been, taken.
Roles and Responsibilities	<ul style="list-style-type: none"> • Child protection is the responsibility of all staff. • The Principal is responsible for developing and implementing the policies and procedures and is the Head of the Entity for reportable conduct. • The Quality Assurance Manager checks the policies and procedures are adhered to.
Compliance	<ul style="list-style-type: none"> • Children's Guardian Act 2019 • Child Protection (Working with Children) Act 2012 • Child Protection (Working with Children) Regulation 2013 • Children and Young Persons (Care and Protection) Act 1998 • Crimes Act 1900 • Children and Young Persons (Care and Protection) Regulation 2012 • Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015 • Disability Inclusion Act 2014 • Anti-Discrimination Act 1977 • Child Safe Standards • Teacher Accreditation Act 2004 • Disability Standards for Education 2005
Associated documents	<ul style="list-style-type: none"> • Child Safe Policy • Child Safe Code of Code of Conduct • Child Safe Risk Management Plan (CSRMP) • Child Safe Recruitment Policy
Review	<ul style="list-style-type: none"> • Annual review and following a reportable incident