



The John Berne School  
Hope Always

---

## CHILD PROTECTION POLICY

### 1. Introduction

#### The Goals of The John Berne School

The John Berne School is a Special School owned and conducted by the Marist Brothers. The Marist Brothers were founded for the education and Christian formation of young people, especially the least favoured. Our goals are the same as those of any school: all true education aims at producing *persons for others*, people who can live outside themselves for others. This may sound overly simplistic in a school for needy and difficult young people at risk, but any goal less than this fails to respect these children as human beings who share the same joys and hopes, griefs and anxieties as all other persons. However, we can state our goals more precisely:

- To assist children and young people to appreciate themselves as worthwhile and capable human beings;
- To assist children and young people in the process of realising their God-given potential;
- To prepare children and young people to take their place as just and responsible members of society;
- To prepare children and young people to share their skills and talents with others in the workforce, and thereby contribute to the common good;
- To provide a safe, secure, enriching and challenging environment;
- To provide a second chance for children and young people in difficulty, outreaching to their families and wider social networks.

Any report or suspicion of abuse or endangerment is handled with compassion, promptness and integrity, in the interests of justice and reconciliation.

#### 1.1 Principles and Commitments of The John Berne School

The Gospel imperatives of truth, justice, compassion and reconciliation underpin this policy. It is founded on the conviction that the rights and dignity of children and young people need to be promoted and protected, that they are all to be treated equally with love and respect, and that their personal dignity is never to be compromised. Children and young people can be quite vulnerable to victimisation, exploitation and abuse. The John Berne School is therefore committed to these principles:

A primary responsibility is to create safe environments for children and young people and to protect them from any form of harm or abuse.

All Brothers, employees and volunteers have a duty of care to support and protect children and young people.

The safeguarding of children and the prevention of abuse require thorough education and training of all engaged in working with children and young people, either directly or indirectly.

All children have equal rights to protection from abuse and exploitation. Culture or other reasons notwithstanding, we must intervene on behalf of any child suspected of being abused.

Any complainant is listened to attentively and offered a compassionate, prompt and just response when making an allegation of abuse.

A responsibility of care extends not only to the young person who may have suffered harm but also to his or her family. Any person accused of abuse also deserves to be treated with justice and compassion.

Truth and transparency should characterise all actions.

## **1.2 Context**

### **A safe environment**

A safe environment is one where the risk of harm is minimised and employees and children and young people feel secure. Harm relates not only to dangers in the physical environment, but also refers to violence, physical threats, verbal abuse, threatening gestures, neglect, emotional or psychological harm, sexual harassment and abuse, grooming behaviour and racial vilification.

### **A supportive environment**

A supportive environment facilitates and enhances the social, academic, physical and emotional development of children, young people, employees and all those involved with the work of the School. A supportive environment strives to be one in which:

- All children and young people are treated with respect and fairness by staff and other children and young people;
- All persons involved with the School feel valued;
- effective professional relationships are established and maintained;
- support and encouragement are essential aspects of the working environment;
- non-discriminatory language and behavioural practices are defined, modelled and reinforced by members of the school;
- consultation takes place on matters relating to the School's work.

In the light of its particular mission, The John Berne School has strong imperatives for committing itself to fostering the well being of children and young people, and to protecting them from any form of neglect or abuse. The John Berne School is totally committed to maintaining practices that create a culture of safety within which children, young people and employees are supported and protected.

This policy outlines The John Berne School's preventative aspects of child protection, as well as guidelines for responding to child protection issues. This policy will assist the school and its employees to understand the broader concepts of child protection and their specific responsibilities in relation to child protection by providing clear and consistent guidelines for them to follow.

### **Principal's Responsibilities**

The Principal, as "head of agency", has direct personal responsibilities in regard to the child protection legislative requirements in New South Wales. These include an obligation:

- to have a working knowledge and understanding of all statutory obligations, and Province and Church requirements relevant to the promotion of child protection;

- to have developed and to have had approved by the Mission Council a policy and procedures document for child protection; (see Appendix B)
- to have an appropriately skilled local child protection committee (or equivalently named group) to develop and oversee implementation of the local child protection policy;
- to have appropriately trained child protection officers;
- to provide for appropriate in-service for all staff members so as to ensure that they are fully conversant with all relevant child protection and investigation policies and procedures;
- to implement thorough employment screening procedures; (see Appendices G, H and I)
- to comply with other Province policy and procedures pertaining to staff recruitment, and induction and to ensure, as far as possible, that those who are appointed to positions are fit and proper persons to occupy those positions and that they understand their child protection responsibilities; (see Appendices G, H and I);
- to manage child protection incidents and issues in accordance with the policy and procedures consistent with applicable Government, Province and Church guidelines;
- to report to designated government agencies any child or young person reasonably suspected of being at risk of harm whom they come to know about in the course of their work;
- to report to the relevant Province officer, and where appropriate, investigate in accordance with agreed procedures any reportable allegation or conviction involving a staff member which is required to be reported to the relevant government agencies; (see Appendices B and K)
- to be open in consulting with and seeking advice from appropriate professionals in the area of child abuse;
- to require all staff members to re-examine required procedures each year;
- to ensure that the Province Ministry's pastoral care policy and structures address the issue of child protection, making appropriate provision in consultation with the relevant government agency, for the ongoing care and support of children and young people, families and staff directly involved with this issue;
- to effectively implement suitable child protection curriculum;
- to inform parents of child protection legislation, policy, procedures and curriculum as implemented.

## 2. Legislative Requirement

The John Berne School is committed to compliance with the NSW Child Protection Legislation, principles of duty of care, and other legislative obligations that impact upon the provision of safe and supportive environments. To this end, we have processes in place to ensure that all NSW Child Protection legislative requirements are met.

In this policy, The John Berne School reaffirms its commitment to the legislative requirements contained in the following Acts that relate to all child protection matters in New South Wales (including Allegations against employees, conducting Working With Children Checks, and allegations or suspicion of 'risk of harm' of a young person):

Act	Key Issues
Ombudsman Act 1974 – Part 3A, and the Child Protection Legislation Amendment Act 2003	Designated government and non government agencies and all public authorities in NSW are required to respond to allegations of reportable conduct against employees and to notify the Ombudsman of reportable conduct allegations or convictions.

<p>Commission for Children and Young People Act 1998</p>	<p>Agencies are required to use the new Working With Children Check (WWCC) guidelines to background check people who apply to work in child-related positions in their organisation. Notify Commission for Children and Young People (CCYP) of relevant employment proceedings.</p> <p>Employees, who work in paid child related positions and volunteers who mentor disadvantaged children or provide intimate personal care, are required to complete a 'Applicant Declaration and Consent. All other Volunteers and children and young people on placement are required to sign a 'Volunteer/Student Declaration'.</p>
<p>Children and Young Persons (Care and Protection) Act 1998, (and the Memorandum of Understanding between Department of Family and Community Services (FACS), Department of Education and Communities (DEC), Catholic Education Commission (CEC) and the Association of Independent Schools (AIS)</p>	<p>Mandated employees are required to report to the 'Helpline' of FACS any children whom they suspect to be at 'risk of significant. In schools, this requirement is fulfilled by notifying the School Principal of any suspicions of 'risk of significant harm' that may arise in dealing with the children and young people. All members of staff retain the right to make a report directly to FACS, however the preferred method is through the Principal. (This is known as centralised reporting). If a staff member makes a report themselves, they must notify the Principal.</p>

## 2.1 Management of Child Protection at The John Berne School

2.1.1 The John Berne School will have in place a Child Protection Professional Standards Committee comprising at least three members of staff and including any person(s) designated as a Child Protection Officer and Sexual Harassment Officer. The members of this Committee are to receive training in child protection issues.

The responsibilities of this Committee are:

- policy development, oversight and review;
- organisation of appropriate staff training;
- provision of advice to the Principal regarding specific issues and cases;
- to hold frequent meetings and to meet at least once in each school term;
- to ensure records are kept as to dates of meetings of the Committee, and minutes of matters dealt with. These records of meetings are to be maintained in a secure storage facility.

2.1.2 The John Berne School will have at least one person appointed and trained as a Child Protection Officer. The Child Protection Officer:

- is to be well known to everyone associated with the school (staff, children, parents, volunteers) as the contact person for child protection matters;
- helps to plan, organise and deliver staff training;
- provides children and young people with advice and support for their safety;
- raises staff awareness on child protection issues, and disseminates information and advice;
- informs the Principal of any reported incident or suspicion of abuse, and provides advice to the Principal on recommended action;
- monitors the implementation of the School's Child Protection Policy.

2.1.3 The John Berne School will have a Child Protection Policy which is consistent with the provisions of the Marist Brothers, Province of Australia policy and accommodates all the relevant requirements of State and Church. It shall include at least these elements:

- principles and protocols for working with children and young people
- code of conduct for staff
- employment screening
- staff training arrangements
- position description and duties for the Child Protection Officer(s)
- responsibilities of the Professional Standards Committee
- definitions of abuse, harm, harassment and bullying
- ways to recognise or form suspicions regarding matters of abuse and harm
- flowchart for responding and reporting
- record keeping
- strategies for educating young people on how to stay safe and how to make a report
- support strategies for those associated with any incidents or reports
- evidence of implementation: a copy of training plans and/or programmes; records of course attendance; induction documentation/guidance; course evaluations.

## **2.2 Prevention**

2.2.1 Procedures that are set out in this policy aim to remove as much as can be reasonably foreseen, the likelihood of children being abused by those in positions of trust. Whilst it is not possible to give an absolute guarantee to ensure the safety of the children under the care of The John Berne School, all possible measures are taken through this policy to help minimise such dangers.

2.2.2 Key preventative strategies include:

- this policy and the requirement for The John Berne School to have its own approved policy, a child protection committee, and trained child protection officer(s);
- employment screening procedures;
- induction and ongoing training in this policy and related policies; (related policies include, for example: Student Management; Pastoral Care; Use of Social Media; Code of Professional Conduct; relevant Church policies)
- implementation of the Code of Conduct for Marist Personnel; (see Appendix A)
- implementation and monitoring of safety plans for a restricted person;
- education of children and young people so that they can recognise grooming behaviours and malevolent intent towards them, and can respond in ways that keep them safe and protect them.

## **3. Definitions**

### **3.1 Risk of Harm**

## Risk of Significant Harm

- Significant is sufficiently serious to warrant response by a statutory agency irrespective of a family's consent.
- Not minor or trivial.
- May reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well-being.
- May be a single act or omission or an accumulation of these.
- A child or young person is at 'risk of significant harm' if current concerns exist for the safety, welfare and wellbeing of the child and young person because of the presence of one or more of the following circumstances:
  - a) The child's or young person's basic physical or physiological needs are not being met or at risk of not being met;
  - b) The parents or other caregivers have not arranged and are unable or are unwilling to arrange for a child or young person to receive necessary medical care;
  - c) The child or young person has been, or is at risk of being, physically or sexually abused or ill treated;
  - d) The child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or physiological harm;
  - e) A parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious physiological harm;
  - f) Parents or carers have not made proper arrangements and are unable or unwilling for their child to receive an education;
  - g) A series of acts or omissions, incidents, when viewed together, may establish a pattern of risk of significant harm.

**Note:** *Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given. Children & Young Persons (Care & Protection) Act 1998 section 23*

## 3.2 Allegation

An allegation against an employee might involve behaviour that is reportable conduct or behaviour that is exempt from notification to the Ombudsman but is required to be investigated by the school, (see 3.8).

(Ombudsman Act 1974 – Part 3A)

## 3.3 Child

- i) Includes all children and young people up to the age of 18 years.

(Ombudsman Act 1974 – Part 3A)

- ii) Persons under the age of 16 years.

(Children and Young Persons (Care and Protection) Act)

## 3.4 Conviction of Reportable Conduct

This means any conviction of a person, in NSW or elsewhere, of an offence involving reportable conduct, (refer to 3.10) 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.

### 3.5 Employee

- i) An employee is a person who is employed by the school, whether or not they are employed to work directly with children, as well as anyone from outside the school who is engaged to provide services to children such as contractors, foster carers, volunteers, children and young people on placement, instructors or religion.

(Ombudsman Act 1974)

- ii) An employee is any person who is engaged in employment. Under the Commission for Children and Young People Act 1998 employment is:

- performance of work under a contract of employment; or
- performance of work as a self-employed person; or
- performance of work as a subcontractor; or
- performance of work as a volunteer for an organisation; or
- undertaking practical training as part of an educational or vocational course; or
- performance of work as a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of a religion or other member of a religious organisation; or
- performance of the duties of an authorised carer within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*.

### 3.6 Exempt Behaviours

Allegations against employees that are exempt from notification to the Ombudsman are:

- 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, or
- c) Conduct of a class or kind exempted from being reportable conduct by the Ombudsman under s. 25CA.

### 3.7 Head of Agency

The Head of Agency is the chief executive officer or other principal officer of the organisation. The regulations may specify the person who is to be regarded as the Head of a particular agency for the purposes of this definition. The Principal is the head of Agency at The John Berne School for the purposes of the Ombudsman Act.

### 3.8 Internal Investigation of an Allegation

This involves a process where an organisation:

- Clarifies allegation details;
- Gathers all relevant facts;
- Adheres to procedural fairness principles;
- Assesses risk;
- Makes a finding on the balance of probabilities;
- Documents the action to be taken – including disciplinary action.
- Determine any report to Commission for Children and Young People (CCYP)

### **3.9 Reportable Allegation**

An allegation of reportable conduct against a person or an allegation of misconduct 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.

### **3.10 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, whether or not, in any case, with the consent of the child.
- *Note: The Commission for Children and Young People Act 1998 contains the same definition.*

### **3.11 Prohibited Person**

A prohibited person is a person who is convicted of the following (whether in NSW or elsewhere) and includes a Registrable person under the *Child Protection (Offenders Registration) Act 2000*.

- Serious sex offence
- Child-related personal violence offence
- Murder of a child
- Indecency offences punishable by imprisonment of 12 months or more
- Kidnapping (unless the offender is or has been the child's parent or carer)
- Offences connected with child prostitution
- Possession, distribution or publication of child pornography; or
- Attempt, conspiracy or incitement to commit the above offences.

### **3.12 Registrable Person**

A person who has been found guilty of a registrable offence against children under the Child Protection (Offenders Registration) Act 2000.

## **Part A – Allegations or Convictions of Reportable Conduct Against an Employee**

### **4 Prevention Strategies**

The John Berne School opposes any child abuse practices and absolutely supports and fosters child protection and child abuse prevention.

Preventative steps that The John Berne School will take include:

- developing policies, procedures and support materials in accordance with the child protection legislation to facilitate the implementation of all child protection responsibilities the school has;
- requiring employees to sign off their acknowledgement and understanding of the child protection policy and procedures;
- ensuring the policy is dated and a review date is set;
- having a professional code of conduct that defines appropriate and inappropriate behaviours;
- providing information and training in best practices to members of the school relevant to their respective roles and responsibilities in creating safe and supportive work environments to minimise reportable conduct occurring;
- providing information and training in the associated areas of confidentiality, privacy, and freedom of information to relevant employees;
- implementing thorough employment procedures that identify people who are not suitable to work with children through reference checking, pre-employment screening and detailed questioning at interviews;
- Providing information to families/carers and the community on the child protection strategies that have been adopted by this school to help raise awareness of child protection issues.

### **5 Key Responsibilities**

While the Principal holds responsibility as Head of Agency all relevant staff retain a responsibility to make a mandatory report of any suspicion of 'risk of significant harm'. This requirement is satisfied by reporting to the Principal these concerns. All staff members have the right to make a report directly to FACS, however in these circumstances the Principal must be informed. Where any allegation involves the Principal, reports should be made to the Provincial of the Marist Brothers Province of Australia.

#### **5.1 Principal:**

- Managing incidents in accordance with this policy and other relevant employer and statutory requirements;
- Supervising the reporting to FACS of any child reasonably expected of being at risk of significant harm;
- Developing, disseminating and monitoring compliance of policies and processes;
- Regularly reviewing policies and procedures at least annually;
- Providing developmental opportunities and support for staff at least annually;

- Establishing and maintaining appropriate procedures for dealing with allegations of staff misconduct;
- Collaborating with other relevant agencies;
- Providing information about child protection policies to parents/carers and the community;
- Providing appropriate opportunities for staff to become familiar with relevant child protection policies and procedures, along with their own relevant responsibilities at least annually;
- Providing a summary of the child protection policy and procedures to casual employees and authorised volunteers;
- Informing parents/carers of the child protection policy and associated procedures;
- Report relevant employment proceedings to CCYP.

## **5.2 Deputy Principal:**

- Managing incidents in accordance with this policy and other relevant employer and statutory requirements.

## **5.3 Employees:**

- Participating in training initiatives designed to assist in the recognition of abuse and neglect of children and young people and the implementation of relevant policies and procedures;
- Reporting to the Principal any suspicion, on reasonable grounds, that a child or young person for whom the school is responsible, is at risk of significant harm;
- Providing support, within the range of normal duties, to children and young people who have experienced abuse or neglect;
- Maintaining appropriate confidentiality in relation to all incidents or allegations of abuse of a child or young person;
- Providing information that has been lawfully requested to support child protection issues and procedures.

## **6 Risk Assessment**

The John Berne School offers a service to children who are 'at risk' because of problematic family, educational, or behavioural issues. In supervising these children, the staff need to be vigilant in all areas. Particular care needs to be taken when supervising certain activities (water activities, overnight activities or other activities) that might be dangerous and necessitate formal Risk Assessments.

Risks to staff in relation to Child Protection will be minimised as long as staff adhere to The John Berne School Handbook.

## **7 Investigation Processes**

On receipt of an allegation regarding a staff member the following process will be established.

### **7.1 Principal – authorises an investigation, and appoints Investigator(s).**

*Note: The need for the Investigator(s) to first clarify the allegation(s) with the complainant (if appropriate D.1)*

**7.2** Principal will inform the *employee*:

- i. That a child protection matter has arisen.
- ii. That an *allegation* has been made (giving only the general nature of the allegations)
- iii. That an investigation has been authorised, and naming the Investigator(s) appointed.
- iv. That confidentiality is imperative, in the interest of all parties and due process.
- v. Of support offered by Berne and by an arranged counselling service.
- vi. Of arrangements for the initial meeting of the *employee* with the investigator(s) – provided in writing. (the initial meeting with the Investigator(s) is usually shortly after informing of the allegations)
- vii. That they may have a ‘support’ person present at the interview with the investigator(s).
- viii. Of their right to contact the union.

**7.3** Principal ensures that the relevant documentation and chronology of events is supplied to the investigator(s).

**7.4** The investigation – generally the procedure for conducting the investigation will be:

- Clarification of the allegation(s) with the complaint and/or alleged victim(s), where appropriate.
- Interview witnesses – gather evidence
- Conduct an initial interview with the *employee* (*employee* may have support person present).

7.4.1 To provide details of the allegations – the allegations are provided in writing – and to provide sufficient knowledge of available evidence for the *employee* to respond.

7.4.2 To invite a response to the allegations – a written response will be sought, within a reasonable time after the interview.

7.4.3 To invite the *employee* to nominate lines of inquiry for the investigator(s) to follow.

7.4.4 To confirm the *employee* is aware of their right to contact the union.

- Interview other witnesses (where appropriate) and obtain any further relevant documentation.
- Conduct a return interview with the *employee* if required (*employee* may have a support person present).

7.4.5 Where necessary, to put any further allegations – provided in writing – and to receive a further response

7.4.6 To further interview on the allegations, obtaining any further clarification.

7.4.7 To ensure the *employee* has sufficient knowledge of (and opportunity to respond (to) the evidence being considered in order to make the finding(s).

- Investigator(s) make finding(s) and develop recommendation(s)/disciplinary actions. Where possible, this is usually at the same meeting as in (4). The *employee* is:

7.4.8 Advised of the finding(s) and key recommendation(s)/ disciplinary actions, and

7.4.9 Invited to respond to the finding(s)/disciplinary actions recommended.

- Investigator(s) report to the Principal the results of the investigation advising of the finding(s) and recommendations/disciplinary actions.

#### **7.5** Principal -

- Accepts/rejects findings
- Accepts/rejects the recommendations
- Decides on the course of action
- Implements decisions

**7.6** Letter from Principal – to the employee advising of the finding(s) of the investigation and any disciplinary or other action.

**7.7** Where appropriate, *employee* meets with Principal regarding any ongoing management issues and to close the matter.

**7.8** Employer meets any other relevant requirements.

## **Record Keeping**

### **7.9 Record-keeping**

7.9.1 All reports of alleged abuse or harm, or risk thereof, are to be duly recorded. (see Appendix J)

7.9.2 Reporting should be factual and not conjectural or interpretative. Places, times, dates, names of people, observable behaviours or evidence of harm are what is recordable.

7.9.3 Reports need to be securely stored.

### **7.10 Confidentiality**

7.10.1 As much as is reasonably possible, an individual's right to privacy is to be protected. This occurs principally by carefully following the processes outlined in this policy. Both those who are making reports and those about whom accusations are being made are entitled to due process and due privacy. Where there is suspected or alleged abuse or misconduct, staff members must not disclose or make use of the information which they hold in qualified privilege in a manner that breaches confidentiality, other than to report and act according to the principles and procedures of this policy and relevant statutory requirements.

7.10.2 Any person making a credible report of abuse needs to be advised that the report will be investigated and dealt with by the appropriate authorities. While an individual's name may be protected, if that is their wish, the allegations must always be reported.

7.10.3 All relevant information held by The Principal must be provided upon request to the Province Professional Standards Officer and to duly authorised government agencies or a court of law.

7.10.4 All pertinent information should be disclosed to an appointed investigator or to the police in a properly established investigation following a report of abuse or suspected abuse.

7.10.5 In all cases where choices have to be made, the best interests of the well-being of the child or young person should prevail.

### **7.11 Provision of Advice and Support**

7.11.1 For matters referred to the Province, the Province Professional Standards Officer will ensure that advice and support, including from specialists as appropriate, are provided to victims, complainants, people who are accused, and people who are associated with each of these. The same responsibility falls to the Principal.

7.11.2 The Principal will provide training for the Child Protection Officer to carry out his/her job effectively, including the necessary education and support in responding to allegations of abuse and professional training for dealing with the media.

### **7.12 Collaboration and case management**

7.12.1 The Principal will actively collaborate with police, government, Church and other agencies, and relevant professional bodies (such as teacher registration bodies) in the best interests of children and young people.

7.12.2 In all cases of reportable behaviour or suspicion, the relevant agencies will be informed. All reportable behaviour is also communicated by the Province Principal to the relevant Catholic Church Professional Standards Office.

7.12.3 The Principal will cooperate with relevant Church and statutory authorities as required by the policies, principles and standards used by the Australian Catholic Bishops Conference and Catholic Religious Australia.

## **Part B – Working With Children Check**

### **8 Introduction**

The John Berne School is committed to protecting the young people under its care through the correct and thorough screening of all applicants to positions of employment in the school. The John Berne School commits itself to the policies of the Working with Children's Check as outlined in the *Working with Children's Employer Guidelines, Commission for Children and Young People, 19 February, 2010*.

### **9 The John Berne School's Working With Children Check Policy**

#### **9.1 Identification of Staff in Child Related Employment**

- As The John Berne School is a school, all paid positions within and associated with the operation of the school are considered to be 'child-related' and are subject to the Working With Children Checks.
- Employees, who work in paid child related positions and volunteers who mentor disadvantaged children or provide intimate personal care, are required to complete a 'Applicant Declaration and Consent. All other Volunteers and children and young people on placement are required to sign a 'Volunteer/Student Declaration'

#### **9.2 Current Employees**

- All paid and unpaid applicants for child-related employment, including volunteers, are to declare whether they are a Prohibited Person.
- If a current employee declares that they are a Prohibited Person, then they must stop working in child-related employment.
- All employees are reminded of their obligation to disclose if they should become a Prohibited Person during the course of their employment.

### 9.3 Recruitment

- All applicants are made aware of the Working With Children Check process at the time of first contact.
- The preferred applicant(s) for paid child related employment are asked to sign an Applicant Declaration and Consent.
- All applicants will be asked to provide a minimum of two referees of their personal character and work history.
- All applicants must sign a 'Volunteer/Student Declaration'. These forms are located in the Principal's office.
- If a Prohibited Person should apply for any position, then the NSW Police will be notified, as it is an offence for Prohibited Persons to apply for these child related positions.

### 9.4 Request for Background Checking – *The Working With Children Check Working With Children Background Check Form*

- Background Checking is mandatory for all positions at The John Berne School.
- This should be conducted before any person starts work. In the instance that this is not practical, then it should be conducted as soon as possible after the start of employment. The employee's position at The John Berne School will ultimately be dependent on the results of the background checking.
- The results of the Working With Children Check and all structured referee checks to be stored in a secured storage facility located in the Principal's office.

### 9.5 Background Check

- The Catholic Commission for Employment Relations (CCER) is the Approved Screening Agency for The John Berne School. As part of the Working With Children Background Check they will conduct background checks to identify any relevant criminal records, relevant Apprehended Violence Orders, and relevant employment proceedings.

### 9.6 Verification

- Applicants must be advised of any information received through the Background Check about relevant criminal record, relevant Apprehended Violence Order or relevant employment proceedings. It is the responsibility of the Approved Screening Agency to contact the person to notify them of any findings. They must be provided the opportunity to verify whether they are the person to whom the information received relates.  
They will be asked to:
  - confirm that the information relates to them;
  - advise whether it is actually correct; and
  - if so, make comments in relation to the information and to have it placed on their record.
- Should the person dispute that the detail relates to them, the CCER will provide adequate opportunity for the person to provide details to assist in identification. The applicant is responsible for providing details which verifies their identity and may include providing fingerprints.
- Any person for whom relevant employment proceedings have been undertaken is entitled, under the Government Information (Public Access) Act 2009 ("**GIPA Act**") which replaced the Freedom of Information Act 1989 to access any documents of an organisation which contain relevant employment proceedings information in relation to them.

- If a record of relevant employment proceedings exists with the Commission for Children and Young People, the CCER will be given contact details of the organisation(s) holding detailed records. The CCER then must obtain further details regarding the nature of the relevant employment proceedings directly from that organisation(s).

## 9.7 Risk Estimate

- If any information is obtained during the Background Check, the CCER must decide the risk of employing the person in a child related position.
- Applicants will be contacted to verify their identity and to confirm that the information obtained by the CCER is consistent with the applicant's own understanding of their history.
- The applicant may also choose to provide further information about their situation to assist the risk estimate.
- The risk estimate outcome indicates the level of risk from the following scale:
  - no particular risk
  - some risks
  - significant risks relating to the person's personal history

## 9.8 Selection

- The decision whether to employ a person who has been subject to the Working With Children Check always remains that of the Principal.
- If a person has been checked and a relevant record is identified, the Principal should consider:
  - the information provided by the employee in their Prohibited Employment Declaration;
  - the risk estimate outcome provided by the Approved Screening Agency; and
  - the findings of the referee checks and any other screening procedures they have undertaken.
- Where the preferred applicant does not have a relevant criminal record, Apprehended Violence Order or employment proceedings against him or her, but a referee raises concern in relation to child related employment, a judgement about the applicant's suitability for employment needs to be made by the Principal. Approved Screening Agencies will not do a risk estimate for these cases.
- The Principal should determine whether it is appropriate to offer the person employment, based on all the information they have obtained.

## 9.9 Notification

- Should the Principal decide not to offer a person child related employment primarily because of a risk estimate in the background check screening part of the Working With Children Check, the employer must notify the Commission for Children and Young People using the form 'Rejected Applicant Notification'.
- The Principal should provide the name and details of any person whose application has been rejected even if they have been offered non-child related employment. (This information is held by the Commission for Children and Young People for auditing and monitoring the screening process only. The information is not released to any person and is not used to determine a prospective employee's suitability for future employment opportunities.)
- If the Principal decides not to offer a person child related employment for any reasons other than the outcome of a risk estimate, for example and unsatisfactory referee report, the Principal is not required to notify the Commission for Children and Young People.

- The Principal should notify applicants that their application was unsuccessful as a consequence of adverse risk estimate during background checking as part of the Working With Children Check.
- The Principal should maintain records of any employment decision, centrally, separately from any personnel files and under strict security if that decision was principally based on an assessment that the applicant poses an unacceptable risk in child related employment.

## Part C

### Responding to a child where there is reasonable grounds to believe they are at 'Risk of Harm'

#### 10 Definitions of 'Children' and 'Young People'

**10.1** Underpinning all reports to FACS and Subsequent interventions made by FACS are the respective definitions of 'child' and 'young person' in Section 3 of the Children and Young Persons (Care and Protection) Act 1998 (CP Act):

- *Child* is defined as meaning a person who is under the age of 16 years
- *Young Person* is defined as meaning a person who is aged 16 years or above but who is under the age of 18 years.

#### 11 Risk of Significant Harm

On 24 January 2010, a new statutory reporting threshold commenced in NSW. From that date, when mandatory reporters are concerned about suspected abuse or neglect of a child, they will need to consider whether or not the risk of harm to the child or young person is 'significant.'

Risk of significant harm is the new statutory threshold and has replaced 'risk of harm' in the *Children and Young Persons Care and Protection Act 1988*. This new reporting threshold aims to ensure that only the most serious cases warranting statutory intervention are reported to that agency.

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.

##### 11.1 Types of Behaviour Coming Under Mandatory Reporting

It is mandatory that you make a report to Community Services when you have current concerns about the safety, welfare and wellbeing of a child for any of the following reasons:

- The basic physical or psychological needs of the child or young person are not being met (neglect)
- The parents or caregivers have not arranged necessary medical care (unwilling or unable to do so)
- Risk of physical or sexual abuse or ill-treatment (physical or sexual abuse)
- Parent or caregiver's behaviour towards the child causes or risks psychological harm (emotional abuse)
- Incidents of domestic violence and as a consequence a child is at risk of serious physical or psychological harm (domestic or family violence)

- Parents of carers have not made improper arrangements and are unable or unwilling for their child to receive an education;
- A series of acts or omissions, incidents, when viewed together, may establish a pattern of risk of significant harm.

## 12. Mandatory Reporters

Mandatory reporters are defined in NSW legislation. They are those who deliver the following services to children as part of their paid or professional work:

- Health care – doctors, nurses, dentists and other health workers
- Welfare – psychologists, social workers and youth workers
- Education – teachers
- Children’s services – child care workers, family day carers and home based carers
- Residential services – refuge workers, community housing providers
- Law enforcement – police

Any person with direct responsibility to provide the above mentioned services must report risk of significant harm to children.

Managers, including both paid employees and volunteers, who supervise direct services are also mandated to report.

## 13 New Reporting Procedures

Anyone who suspects, on reasonable grounds, that a child or young person is at risk of being neglected or physically, sexually or emotionally abused, should report it to Community Services.

Reasonable grounds are the standard that reporters must use in deciding whether or not to report to Community Services.

It does not mean that reporters are required to confirm their suspicions or provide solid proof before making a report. A useful rule of thumb is to consider whether another person, when faced with similar information, would also draw the same conclusion.

Reports can be made by phoning the **Child Protection Helpline on 132 111** (TTY 1800 212 936) for the cost of a local call, 24 hours a day, 7 days a week.

Mandatory reporters are not obliged to report risk of significant harm to unborn children or young people (those aged 16-17 years). However they are encouraged to make a report if it is appropriate.

While the legal obligation to report significant harm remains, the penalty applying to mandatory reporters who fail to report concerns about risk of harm has been removed from the legislation from 24 January 2010.

To help reporters decide whether a case needs to be reported to the Child Protection Helpline, reporters can use the online **Mandatory Reporter Guide**. A PDF version of the **Mandatory Reporter Guide** is also available.

## **14 Protection for Reporters**

**14.1** Section 29 of the CP Act provides protection for persons who make reports to FACS. Any person who makes a report or furnishes information to FACS in good faith and with reasonable care, is given the following protection:

- Making the report or furnishing information is not held to be a breach of professional etiquette or ethics or a departure from acceptable standards of professional conduct;
- No liability for defamation is incurred for the person making the report or furnishing the information;
- Reporting or furnishing of information shall not constitute grounds for civil proceedings for malicious prosecution or for conspiracy;
- With the exceptions noted below, the report shall not be admissible in evidence in any Court, tribunal or committee proceedings; and
- A person cannot be compelled by a Court to produce the report or give any evidence as to its contents;
- The identity of the person who made the report or information from which the identity of that person could be deduced, must not be disclosed by any person or body without consent of the reporter or by leave of a Court.
- A report to which this section applies is taken to be an exempt document for the purpose of the Freedom of Information Act 1989.

**14.2** These protective provisions apply only to the report. Discussions, interviews and proceedings which precede or follow a report may fall outside the scope of these protections.

**14.3** Reports to FACS are generally confidential. Preserving the anonymity of the reporter is FACS policy and agencies are assured that it is strictly enforced by FACS, with disciplinary action being initiated if confidentiality is breached. The anonymity given to reporters under the CP Act is, therefore, not absolute. On occasions, the reporter may be required to give evidence to a Court.

## **15 Process for making a Report to FACS (See Appendix B)**

## **16 Documentation and Record Keeping**

**16.1** All documents relating to allegations against employees, Working With Children Checks, and/or suspicion of 'risk of significant harm' are confidential.

**16.2** Information regarding notifications to the Ombudsman are kept indefinitely and are stored in a secure location separate to the employee's general employment file.

**16.3** Unauthorised access to and/or obtaining information relating to background checking dishonestly is against the law.

**16.4** All documents are to be stored in a secure location away from general files.

**16.5** At Berne, the person responsible for keeping and storing the records is the Principal. Only persons who need access to these documents for justifiable reasons may seek access to them.

**16.6** If the school were to close, the documents contained in these files should be forwarded to the Commission for Children and Young People.

**16.7** All proformas and forms that may be associated with the process of this policy are contained in the Principal's office.

## **17 Rights of all Parties**

17.1 Any allegation or conviction of reportable conduct will be forwarded to the Ombudsman (for employees of designated agencies, this also includes any allegations or convictions for reportable conduct outside work hours).

17.2 Employees' rights will be upheld in the event of an allegation being made against them; for example:

- Completing an investigation of an allegation against an employee. The Head of Agency will inform the employee of the substance of any allegation against them and provide the employee with a reasonable opportunity to put their case forward (The Head of Agency will decide the timing and the particular form this will take, ensuring the investigation is not compromised);
- If the finding is adverse, the employee will be allowed to add a dissenting statement.

17.3 Employees and parents/carers have the right to complain to the Ombudsman if they are not satisfied with the organisation's response to their complaint about the outcome or the way the organisation's investigation was conducted.

17.4 The John Berne School is committed to:

- acting fairly and without bias;
- conducting an investigation without undue delay;
- ensuring that the case is not investigated or determined by someone with a conflict of interest;
- encouraging all parties to maintain confidentiality during the investigation;
- ensuring that the outcome is supported by evidence and the decision making process is clearly documented.

## **18 Support Available**

Children who are involved or affected in any way by matters outlined in this document will be supported through The John Berne School's pastoral care arrangements.

18.1 Employees who have received disclosures, or who have been the subject of allegations, will be offered appropriate and timely support by the Principal and Deputy Principal, including, but not limited to, professional counselling.

18.2 Parents and/or carers affected by any form of disclosure and/or allegation may choose to be supported through Berne's pastoral care arrangements.

## 19 Exchange of information

By law, Community Services must assess reports where a child or young person is or may be at risk of significant harm from abuse or neglect. When a report is made to Community Services its staff will ask the reporter questions to help them find out about the risk of significant harm to the child or children involved.

What happens next depends on the information received by Community Services. The matter might be closed as no risk of significant harm is indicated or we may ask a local Community Services Centre to make further assessment.

Sometimes the child and family are visited immediately because the information indicates the child is in immediate danger.

Community Services may need to talk to other people to find out about the family's circumstances. For example, Community Services might contact the child's teacher, child care worker or relatives.

The law allows Community Services to exchange information that relates to the safety, welfare or wellbeing of a child or young person with a range of agencies, including NSW Police, NSW Health or the Department of Education.

If the child or young person is at risk of harm, Community Services will try to work with the family, other agencies and professionals to make sure they are safe. If Community Services think that a child is in immediate danger, Community Services will move them to a safe place. Community Services involve the child or young person and their family as much as possible in decisions that affect them.

Further information can be gained by visiting [www.community.nsw.gov.au](http://www.community.nsw.gov.au) and follow the links.

## 20 Responding to requests for information

**On 30 October, 2009 amendments were made to the Children and Young Persons (Care and Protection) Act 1998 and a new Chapter 16A was inserted giving schools greater ability to obtain and provide information which is relevant to the wellbeing of children in its care.**

A relevant organisation (a "prescribed body" – see below) is now permitted to give another prescribed body information it reasonably believes would be helpful for the safety, welfare or wellbeing of a child or young person. A prescribed body can also request information from another prescribed body, and the second body **must** provide the information if it reasonably believes the information may assist the requesting body to:

- make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or wellbeing of the child or young person or class of children or young persons; or
- manage any risk to the child or young person (or class of children or young persons) that might arise in the agency's capacity as an employer, government department or organisation accredited to arrange provision of out-of-home care.

Generally, prescribed bodies are:

- NSW Police Force

- a government department or a public authority
- a government school or a registered non-government school or a TAFE
- a public health organisation or a private hospital
- a private fostering agency or a private adoption agency
- any agencies that still provide a residential child care centre or a child care service under the *Children (Care and Protection) Act 1987*
- any other organisations that have direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly to children.

A prescribed body is not obliged to provide any information requested if it reasonably believes it would:

- prejudice the investigation of any breach (or possible breach) of a law
- prejudice a coronial inquest or inquiry
- prejudice any care proceedings
- contravene any legal professional or client legal privilege
- enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained
- endanger a person's life or physical safety
- prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a breach (or possible breach) of a law, or
- not be in the public interest.

**All requests for information should be referred to:**

- The Principal, who will decide who will respond to the Exchange of Information Request
- The Principal, will take responsibility for identifying which parts of the College may hold the information relevant to the request
- The Principal, is responsible for identifying information that may assist FACS in determining the risk to the child or young person
- The Principal, is responsible for identifying how this information will be collected, who will be responsible for collecting it and for providing it to FACS promptly
- Exchanging relevant and accurate information requires that staff pay careful attention to the situation being described by the FACS and assist FACS as it seeks information that may be relevant to risks to the child or young person's safety, welfare and well-being
- It is important that all staff exercise a high degree of confidentiality in terms of information they receive as part of their child protection work.

## **21 Review Date**

**Policy Date:** November, 2014

**For Review:** November, 2018

Person(s) responsible for reviewing the policy: Principal, school executive, and nominated counsellor responsible for rewriting and refining the document.

**Reports to FACS are to be made on the FACS Helpline.**

**The telephone number for mandatory reporters is: 133 627 (or 13FACS).**

**The telephone number for voluntary reporters is: 132 111.**

**The Helpline fax number is: (02) 9633 7666.**

**This policy is based on the following documents:**

*Child Protection in the Workplace: Responding to Allegations Against Employees*, NSW Ombudsman, 3<sup>rd</sup> Edition, June 2004.

*The Working With Children's Employer Guidelines NSW*, Commission for Children and Young People, April 2004, Revised 19 Feb. 2010.

## **APPENDIX A**

### **SOME MARIST PROTOCOLS OF CONDUCT FOR MINISTRY WITH CHILDREN AND YOUNG PEOPLE**

Any form of abusive, harmful, discriminatory, prejudiced or intimidating behaviour or language by adults towards children and young people, or young people towards other young people, are not acceptable. Any action that may be hurtful or risk being interpreted by a reasonable observer as grooming behaviour is unacceptable. Comments or actions that are negatively and unreasonably critical of a person's culture, ethnicity, language, gender, disability, sexuality or age, are unacceptable.

In their interactions with children and young people, Marist Personnel must not confuse characteristic Marist style with behaviours and dispositions that are inappropriate. While Marists are encouraged to conduct their ministry in ways that see them actively present in the lives of the young, and with a style that is unaffected and proximate, they should never lose sight of the imperative for them always to act as the adults and the educators in the relationship.

The following list of behaviours includes examples of what is acceptable and not acceptable behaviour.

#### **1. Unacceptable behaviours**

- a. Using, possessing, or being under the influence of illegal drugs while in the presence of minors.
- b. Using, possessing, or being under the influence of alcohol while supervising minors. (This does not include situations where it is reasonable for the person to possess alcohol (e.g. for a presentation at a formal occasion) or use it moderately (e.g. at a dinner or formal occasion which the person may be attending and at which the person is not directly responsible for the care of the child or young person).
- c. Providing or allowing minors to consume alcohol or illegal drugs.
- d. Swearing in the presence of minors.
- e. Yelling at a minor, except in an emergency situation where the minor's safety may be in danger.
- f. Speaking to minors in a way that is or could be construed by any observer as harsh, threatening, intimidating, shaming, derogatory, demeaning, or humiliating.
- g. Dealing with a minor while the adult is angry with the minor.
- h. Use of hurtful sarcasm.
- i. Discussing sexual activities with minors unless it is a specific job requirement and the person is trained to discuss these matters.
- j. Engaging in any sexually oriented conversations with minors unless the conversations are part of a legitimately arranged instructional activity dealing with human sexuality issues. On such occasions, the lessons will convey to youth the Church's teachings on these topics.
- k. Being nude in the presence of minors.
- l. Possessing sexually oriented or morally inappropriate printed materials (magazines, cards, videos, films, clothing, etc.).
- m. Sleeping in the same beds, sleeping bags or small tents with minors.
- n. Engaging in sexual contact with minors. For the purposes of this policy, sexual contact is defined as vaginal intercourse, anal intercourse, oral intercourse or the touching of an erogenous zone of another (including but not limited to the thighs, genitals, buttocks, pubic region or chest) for the purpose of sexually arousing or gratifying either person.

#### **2. Transportation and off-site events**

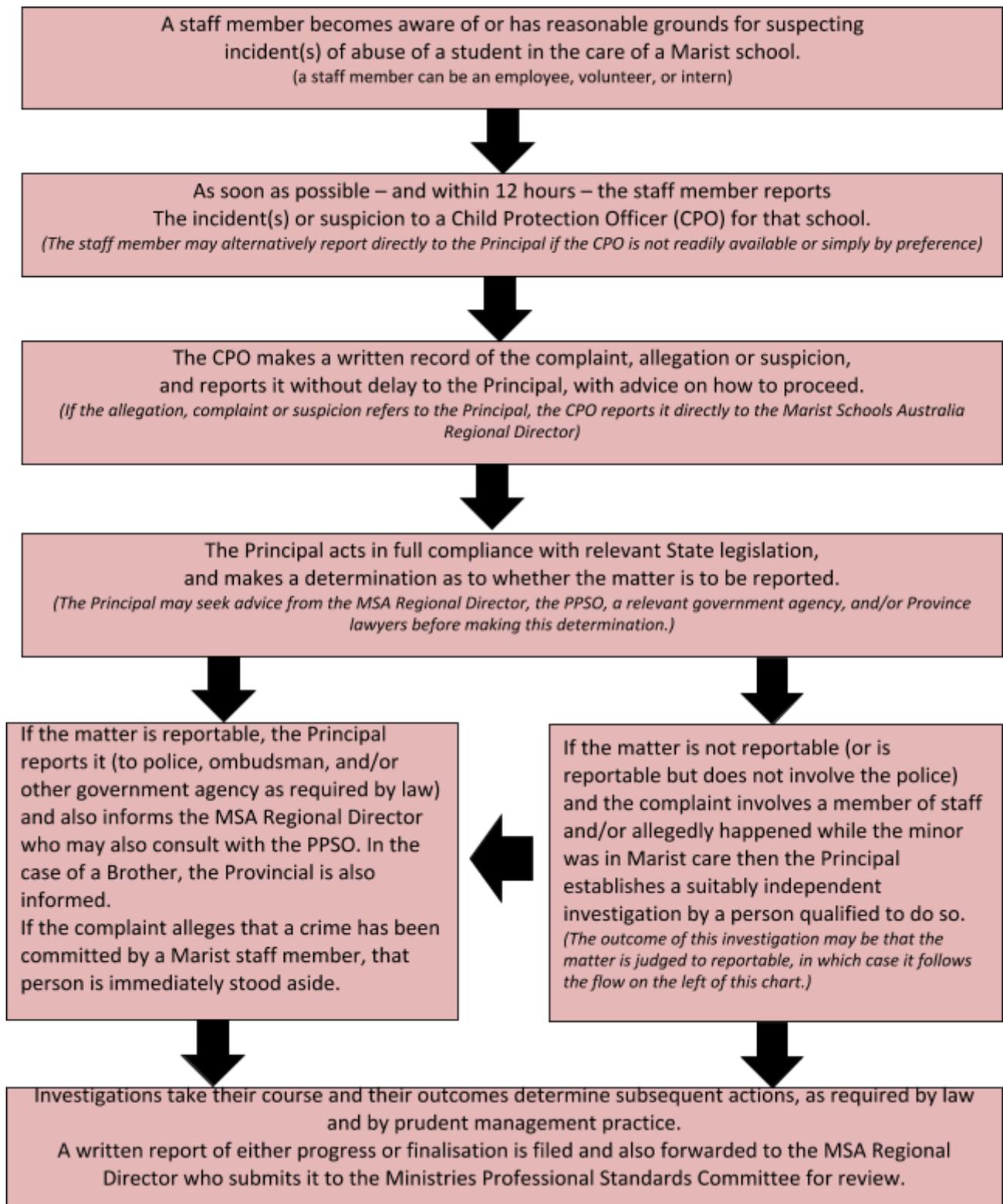
- a. Other than in an emergency or other abnormal situation where no other option could be reasonably foreseen, it is not acceptable to transport minors without written permission of their parent or guardian.
- b. It is prohibited to have unnecessary and/or inappropriate physical contact with minors while in vehicles.
- c. Minors should be transported directly to their destination. No stops should be made other than those that are reasonably scheduled for meals or comfort stops.
- d. It is prohibited to have minors spend the night at the residence of a staff member or Brothers' community without parental/guardian prior approval.
- e. Changing and showering facilities or arrangements for adults must be separate from facilities or arrangements for minors.

### **3. Physical Contact and general guidelines**

- a. Staff members are prohibited from using physical discipline in any way for behaviour management of minors. This prohibition includes spanking, slapping, pinching, hitting, or any other physical force as retaliation or correction for inappropriate behaviours by minors.
- b. Physical contact may be required in an emergency situation to remove minors quickly from danger or threat of danger.
- c. Appropriate contact between staff members and minors is part of normal human relationships. Some considerations and guidelines include the following: (Taken from the guidelines of the Western Australian Department of Education)
  - i. Consider the child's age, developmental level, maturity and level of care required, for example, touching a child to gain their attention, guiding or comforting a distressed child.
  - ii. Work in an open environment; for example, in confidential interviews or a one-to-one meeting, the door should be open with visual access. Exceptions apply for professions with strict confidentiality requirements.
  - iii. Be alert to cues from minors about how comfortable they are in your proximity and respect their need for personal space.
  - iv. Be sensitive when interacting with minors who may misinterpret your actions, such as those who may have been traumatised by abuse or adolescents seeking attention from a member of the opposite sex.
  - v. Be aware of cultural norms that may influence the interpretation of your behaviour.
  - vi. Be cautious about physical contact in games or practical instruction. If you need to make physical contact for demonstrations, explain the activity and what you will do, maintain a safe and appropriate distance.
  - vii. Physical contact should be made in a way that makes minors feel comfortable, for example, shaking hands, a congratulatory pat on the back or with young children by gently guiding them or holding their hand for reassurance. Massaging a minor or allowing a minor to massage you is inappropriate physical contact.
  - viii. The use of images of minors as screensavers or backgrounds on personal electronic devices is not appropriate. The collection and storage of photographs of minors must be for educational or professional purposes.
  - ix. Be aware that the giving and receiving of gifts, giving extra attention, accepting a different standard of behaviour from a child or having 'special time' with a child must be appropriate and justified as a strategy to meet teaching and learning outcomes.
  - x. Obtain permission from school authorities and parents when meeting with children and young people for activities outside of school hours.
  - xi. The provision of your personal contact details should be justified in terms of educational or professional purpose.

## APPENDIX B

### Flow Chart for Responding to Suspicions, Reports and/or Allegations of Abuse of Children in Schools governed by the Marist Province of Australia (unless State protocols demand otherwise)



**1. Further explanation of the processes in the foregoing flowcharts:  
(unless State protocols demand otherwise)**

- a. There will be at least one Child Protection Officer (CPO; howsoever named) appointed for each ministry, who is appropriately trained in relation to child protection, bullying and sexual harassment matters, to whom people can refer complaints or concerns. Where a particular ministry or programme is small, the Ministry Leader may fulfil this role.
- b. The CPO will make a written record of each complaint or concern.
- c. The CPO will in the first instance refer the complaint to the local Ministry Leader (unless for reasons of preference or expediency the report was made directly to Ministry Leader or to the Province Professional Standards Officer).
- d. Where staff or children and young people at a school or college are involved and a complaint or concern relates to the actions of the local Principal, the referral should be made to the Regional Director of Marist Schools Australia to pass on to the PPSO and Provincial for action.
- e. The Ministry Leader must comply with State or Territory legislation in relation to the matter and decide on the next step. This may involve mandatory notification to the Police, Ombudsman's Office, Teachers' Registration unit, Child Protection authority or like authorities in a particular State or Territory. It may also involve the accused standing aside from normal duties while the matter is resolved.
- f. Where a complaint or concern involves the leader of a non-school Province ministry, the CPO will refer the matter to the PPSO and Provincial for action.
- g. Schools/colleges: The Principal will immediately inform the Regional Director of Marist Schools Australia for information and advice on a matter of sexual abuse. The RD will immediately inform the PPSO if it involves a Brother.
- h. Other ministries: The Ministry Leader will inform the PPSO for information and advice on a matter of sexual abuse. The PPSO will immediately inform the Provincial if it involves a Brother, and in all cases will advise the Executive Director Marist Ministries.
- i. The Ministry Leader (or the PPSO in the case of non-institutional ministries, in liaison with the EDMM) is responsible for a sufficiently independent investigation of the matter by a qualified person, where police are not involved.
- j. If a Brother is the accused, the Principal/EDMM will liaise with the PPSO in setting up the investigation. The Principal/EDMM and the Provincial will decide together on any action after the investigation. *(The Provincial seeks advice from Province lawyers, the Province Professional Standards Officer and Province Professional Standards Advisory Committee on any action to be taken)*
- k. Where there is a Child Protection matter of any sort reported that involves a Brother, the EDEM or the PPSO will inform the Provincial of the matter.

l. If it is considered that there is a possibility of media exposure, the local ministry leader will inform the Regional Director of Marist Schools Australia/EDMM who will in turn inform the Provincial and the PPSO.

m. If the Police notify the local ministry leader of an investigation, he or she will inform the Regional Director of Marist Schools Australia or the EDMM. The Province Professional Standards Officer and Provincial will be informed if a Brother is involved.

n. Schools/colleges - When a matter is finalised, the Principal will forward a report to the Regional Director of Marist Schools Australia for his information and the information of the Ministries Professional Standards Committee.

o. Other ministries – When a matter is finalised, the Ministry Leader will forward a report to the EDMM for information and the information of the Ministries Professional Standards Committee.

## **APPENDIX C**

### **PRACTICAL ADVICE ON LISTENING TO A COMPLAINANT**

In the event of someone disclosing an incident of abuse or making a report to someone they trust, it is essential that it is dealt with sensitively and professionally. The following are guidelines to assist the person who receives the allegation. The person making the report may be a child or young person, an adult who is a former student or client, a relative or friend, a colleague.

React calmly.

Listen carefully and attentively. Take the person seriously.

Reassure the person that they have taken the right action in coming forward.

Do not promise to keep anything secret. Indicate you may be required to report abuse allegations to authorities.

Ask questions for clarification only; do not ask leading questions.

Check back with the person that what you have heard is correct and understood.

Do not express any opinions about the alleged abuser personally, but you may affirm your position and that of the Marist Brothers towards child abuse in general.

Record the conversation as soon as possible, in as much detail as possible. Sign and date the record (use the recording form contained in this Policy).

Ensure that the person understands the procedures which will follow.

Pass the information to the Child Protection Officer or Head of Ministry (as appropriate). Do not attempt to deal with the problem alone.

Treat the information confidentially.

Be aware that in some cases, mandatory reporting may apply e.g reporting to police.

## **APPENDIX D**

### **RECOGNISING CHILD ABUSE**

#### **1. Possible Physical and Behavioural Indicators of Child Abuse**

##### **a. Physical**

Physical abuse is any form of non-accidental physical injury or injury which results from wilful or neglectful failure to protect a child or young person. Possible indicators of this type of abuse are:

Frequent bruising, fractures, cuts, burns and other injuries

Torn clothing

Bite marks, burns or welts

Bruises in places difficult to mark e.g. behind ears, groin

Undue or unnecessary fear

Aggressiveness or withdrawn

Absconding frequently from home

##### **b. Sexual**

Sexual abuse occurs when a child or young person is used by another person for his or her gratification or sexual arousal or for that of others. Possible indicators of this type of abuse are:

Over affectionate or inappropriate sexual behaviour

Age inappropriate sexual knowledge given the child or young person's age, which is often demonstrated in language, play or drawings

Fondling or exposure of genital areas

Hints about sexual activity

Unusual reluctance to join in normal activities which involve undressing, e.g. games, swimming

##### **c. Emotional**

Emotional abuse is normally to be found in the relationship between a caregiver and a child or young person rather than in a specific event or pattern of events. It occurs when a child or young person's need for affection, approval, consistency and security are not met. Unless other forms of abuse are present, it is rarely manifested in terms of physical signs or symptoms. Possible indicators of this type of abuse are:

Unreasonable mood and/or behavioural changes

Aggression, withdrawal or an "I don't care attitude"

Lack of attachment

Low self esteem

Attention seeking

Depression or suicide attempts

Persistent nightmares, disturbed sleep, bedwetting, reluctance to go to bed

A fear of adults or particular individuals e.g. family member, babysitter or indeed excessive clinginess to parents/carers

Panic attacks

##### **d. Neglect**

Neglect can be defined in terms of an omission, where the child or young person suffers significant harm or impairment of development by being deprived of food, clothing, warmth, hygiene, intellectual stimulation, supervision and safety, attachment to and affection from adults, medical care. Neglect generally becomes

apparent in different ways over a period of time rather than at one specific point. Possible indicators of this type of abuse are:

- Frequent minor or serious injuries
- Untreated illness
- Hunger, lack of nutrition
- Tiredness
- Inadequate and inappropriate clothing
- Lack of supervision
- Low self esteem
- Lack of peer relationships

## **2. Indicators of Abuse are Not Facts**

It is important to stress that no one indicator should be seen as conclusive in itself of abuse; it may indeed indicate conditions other than child abuse. A cluster or pattern of signs is likely to be more indicative of abuse. Signs must also be considered in the child or young person's social and family context as child abuse is not restricted to any socio economic group, gender or culture. It is important to always be open to alternative explanations for possible physical or behavioural signs of abuse.

## **3. Reasonable Grounds for Concern**

The statutory authorities should always be informed when a person has reasonable grounds for concern that a child or young person may have been abused, or is being abused, or is at risk of abuse. A suspicion that is not supported by any objective indicator of abuse or neglect would not constitute reasonable grounds for concern. The following examples would constitute reasonable grounds for concern:

- specific indication from the child or young person that s/he was abused;
- an account by the person who saw the child or young person being abused;
- evidence such as injury or behaviour which is consistent with abuse and unlikely to be caused in any other way;
- an injury or behaviour, which is consistent both with abuse and with an innocent explanation but where there are corroborative indicators supporting the concern that it may be a case of abuse. An example of this would be a pattern of injuries, an implausible explanation, other indications of abuse, dysfunctional behaviour;
- consistent indication, over a period of time, that a child or young person is suffering from emotional or physical neglect.

A suspicion, not supported by any objective indication of abuse or neglect, does not constitute a reasonable suspicion or reasonable grounds for concern.

# APPENDIX G

## STAFF APPLICATION FORM \*

### Paid and Voluntary Staff in the Ministries of the Marist Brothers Province of Australia

Ministry Centre: \_\_\_\_\_

Surname: \_\_\_\_\_ First Name: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Tel No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

Are you (please tick):

Employed    Unemployed    Student    Homemaker    Retired    Other

Previous Work Experience in recent years: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Have you previously been involved in voluntary work? Yes No

If yes, please give details: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Why do you want to get involved with this ministry? \_\_\_\_\_

\_\_\_\_\_

Have you previously received any training for working with children and young people?

Yes                       No

If yes, please give details: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Any other relevant information: \_\_\_\_\_

\_\_\_\_\_

---

Is there any medical or other reason why you may be deemed unsuitable to work with children or young people?

Yes  No

If yes, please give details: \_\_\_\_\_

---

Please provide the names and addresses of two people (not relatives) whom we could contact for a reference, preferably people who are familiar with your work with children and young people.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Tel. No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Tel. No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

*I declare that the above information is true and that I am fit to serve in paid employment or as a volunteer in this ministry. I agree to abide by and accept the terms and conditions of participation and accept and abide by the policies of the Marist Brothers Province of Australia. I will also provide photo ID and comply with Police requirements for working with children and young people.*

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

\* It is recognised and accepted that many schools and ministries would have application forms that may be more detailed and in a different format from this one. Use of this form is not mandatory, but any application process should elicit at least information equivalent to that which this form seeks.

Adapted from: *Our duty to Care: the Principles of Good Practice for the Protection of Children and Young People.* (Dept. Of Health and Children, Dublin, Stationary Office 2001)

## APPENDIX H

### CONFIDENTIAL REFERENCE CHECK\*

\_\_\_\_\_ has expressed an interest in working in the \_\_\_\_\_ School/Ministry Centre, and he/she has nominated you as a referee.

The position involves unsupervised access to children and young people and as an organisation committed to the welfare and protection of children and young people, we want to know if you have any reason to be concerned about this person's suitability to work with children and/or young people.

Yes  No

If you have answered **Yes**, we will contact you in confidence.

If you complete this reference, the contents will remain confidential to the selection panel.

How long have you known this person? \_\_\_\_\_ In what capacity?

\_\_\_\_\_

List the applicant's attributes which makes you consider him/her suitable for the position:

\_\_\_\_\_

Describe the Applicant's personality: \_\_\_\_\_

\_\_\_\_\_

Do you have any reservations about the Applicant for this work? (if so, please comment):

\_\_\_\_\_

Please rate this person on the following:

	Poor	Average	Good	Very Good	Excellent
Responsibility					
Maturity					
Self-Motivation					
Ability to Motivate					
Energy					
Trustworthiness					
Reliability					

Signed: \_\_\_\_\_ Date: \_\_\_\_\_ Position: \_\_\_\_\_

\* It is recognised and accepted that many schools and ministries would have application forms that may be in a different format from this one and/or elicit information that is more specific to the particular position being sought. Use of this form is not mandatory, but a process of checking with referees (including past employers) is required, and should elicit at least information equivalent to that which this form seeks.

**APPENDIX I**

**STAFF DECLARATION FORM \***

*To be completed by Brothers, Staff and Volunteers\**

Surname: \_\_\_\_\_ First Name: \_\_\_\_\_

Address: \_\_\_\_\_

Tel. No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_

Previous addresses in the last 3 years:

\_\_\_\_\_  
\_\_\_\_\_

Any other name by which you are/have been known: \_\_\_\_\_

Have you been charged with or convicted of any, and if so what, criminal offences? YES / NO

If yes, please give details:

\_\_\_\_\_  
\_\_\_\_\_

Do you hold a current Working with Children Check (or equivalent)? YES / NO

Have you ever been denied, or had cancelled a Working with Children Check? YES / NO

If yes, please give details:

\_\_\_\_\_  
\_\_\_\_\_

Do you have any prosecutions pending, or have been subject of any police investigation, or have been ever convicted of a criminal offence? YES / NO

If Yes, please state below the nature and date(s) of the offence(s), the court responsible for dealing with the matter, and the approximate date of the court hearing.

Nature of offence: \_\_\_\_\_

Date of offence: \_\_\_\_\_ Court: \_\_\_\_\_ Court Date: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

\* It is recognised and accepted that many schools and ministries would have declaration forms that may be in a different format from this one or that they may need to use forms that are set by statutory requirements. Use of this form is not mandatory, but an equivalent process of formal employment screening is.

## **APPENDIX J**

### **REPORT OF ALLEGATIONS OF ABUSE \***

#### **1. About the disclosure/concern**

Date of disclosure/concern: \_\_\_\_\_ Time of disclosure/concern: \_\_\_\_\_

How was information received? (attach any written information to this form)

Telephone     Letter     Email     In person

#### **2. Details of person making disclosure/raising concern**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Tel No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

Relationship to child/young person or alleged victim: \_\_\_\_\_

#### **3. Details of child/young person or alleged victim**

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

Address : \_\_\_\_\_

Tel No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Ethnicity: \_\_\_\_\_

Language (is interpreter/ signer needed): \_\_\_\_\_

Disability: \_\_\_\_\_

Special needs: \_\_\_\_\_

Parish/Religious Institute (if applicable): \_\_\_\_\_

#### **4. Parent / Guardian details (where appropriate)**

Name: \_\_\_\_\_

Address (if different from above): \_\_\_\_\_

Tel No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

Are they aware of the allegation, suspicion or complaint?    **Yes**        **Tel**   

#### **5. Details of alleged perpetrator**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Tel No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

Relationship to child (*parent/Religious Brother/teacher, etc*) \_\_\_\_\_

Position : \_\_\_\_\_

Address at time of incident(s): \_\_\_\_\_

Current contact with children or young people if known

\_\_\_\_\_

Any other relevant information:

\_\_\_\_\_

\_\_\_\_\_

**6. Details of concern, allegation or complaint** (*Include dates/times and location, the incident(s) occurred, witnesses, if known. Does the child or young person/victim know this referral is being made?*)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**7. Action taken**

Has the matter been referred to civil authorities?      **Yes**                      **No**

If yes, date: \_\_\_\_\_ Time: \_\_\_\_\_

If no, explain why:

\_\_\_\_\_

\_\_\_\_\_

To whom was it referred: \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Address: \_\_\_\_\_

Tel No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

Has the matter been referred to the Province?:        **Yes**                                **No**

If yes date: \_\_\_\_\_ Time: \_\_\_\_\_

If no, explain why: \_\_\_\_\_

\_\_\_\_\_

To whom was it referred to : \_\_\_\_\_

Name: \_\_\_\_\_ Position: \_\_\_\_\_

Address: \_\_\_\_\_

Tel No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

**8. Next Steps**

What actions were agreed to and by whom when the matter was referred onto civil / Province authority?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***Are there any immediate child protection concerns? If so, please record what they are and state what actions have been taken by whom to address them:***

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**9. Province Professional Standards Officer details:**

Date form sent to the PPSO: \_\_\_\_\_

**10. Details of person completing the form**

Name: \_\_\_\_\_

Tel No: \_\_\_\_\_ Mobile: \_\_\_\_\_ Email: \_\_\_\_\_

Position: \_\_\_\_\_

Date Form completed: \_\_\_\_\_ Time: \_\_\_\_\_

Signed: \_\_\_\_\_

*(A copy must be retained by the local ministry/school and filed in a secure location, and a copy must be sent to the Province and civil authorities, where appropriate)*

*\* It is recognised and accepted that a Province-governed ministry or school may have a different form for recording reports, in order to accommodate local Church or civil requirements. It is mandatory for such a ministry that the equivalent information elicited by this form is included in a locally-developed form.*

## APPENDIX K

### SELF-AUDIT TOOL \*

The approach is based on the work of George Varnava with the former Forum on Children and Violence, NCB (National Children's Bureau). With permission from the authors, the NSPCC has adapted the material for use as an audit tool for child protection. This self-audit tool is an ideal way to measure the alignment of your organisation with the standards on making children and young people safe, and where you may need to improve.

#### Using Checkpoints

The checkpoint questions below are designed to draw out the minimum requirements (criteria) that all agencies committed to protecting children and young people should be striving to meet. However, depending on the nature of your organisation's work with children and young people and the context, environment and conditions you work in, some of the checkpoints may seem more relevant than others. This self-audit tool will be a useful guide and you may wish to delete or add criteria to ensure relevance to your particular activity.

Before you start, take a copy of the questionnaire, date the copy and then follow the steps outlined below. You can then keep a record in order to review your progress at a later date.

The self-audit tool asks you to think about six different areas of your organisation:

1. children and young people and the organisation
2. policies and procedures
3. preventing harm to children and young people
4. implementation and training
5. information and communication
6. monitoring and review

#### SELF AUDIT CHECKLIST

There are six statements/standards within each area. Read each statement and decide whether each statement is:

**A:** in place

**B:** partially done

**C:** not in place

*Tick the A, B or C box as appropriate.*

Children and young people and the organisation		A	B	C
1.	The organization is very clear about its responsibility to protect children and young people and makes this known to all who come into contact with it.			
2.	The way staff and other representatives behave towards children and young people, suggests that they are committed to protecting children from abuse.			
3.	There is good awareness of the UN Convention of the Rights of the Child (UNCRC) or other children and young people's rights instruments and this is seen as a basis for child protection in the organisation.			
4.	Managers and senior staff ensure that children and young people are listened to and consulted and that their rights are met.			
5.	The organisation makes it clear that all children and young people have equal rights to protection.			

6.	The organization manages children and young people's behavior in ways which are non-violent and do not degrade or humiliate children and young people.			
----	--	--	--	--

<b>Policies and procedures that help keep children and young people safe</b>		<b>A</b>	<b>B</b>	<b>C</b>
1.	The organization has a written child protection policy or has some clear arrangements to make sure that children and young people are kept safe from harm.			
2.	The policy or arrangements are approved and endorsed by the relevant province authority (e.g., senior management board, executive, committee).			
3.	The policy or arrangements have to be followed by everyone.			
4.	There are clear child protection procedures in place that provide step-by-step guidance on what action to take if there are concerns about a child or young person's safety or welfare.			
5.	There is a named child protection person/s with clearly defined role and responsibilities.			
6.	The child protection procedures also take account of local circumstances.			

<b>Preventing harm to children and young people</b>		<b>A</b>	<b>B</b>	<b>C</b>
1.	There are policies and procedures or agreed ways of recruiting staff/volunteers and for assessing their suitability to work with children and young people, including, where possible, police and reference checks.			
2.	There are written guidelines for behavior or some way of describing to staff and volunteers what behavior is acceptable and unacceptable, especially when it comes to contact with children and young people.			
3.	The consequences of breaking the guidelines on behavior are clear and linked to the organisation's disciplinary procedures.			
4.	Guidance exists on appropriate use of information technology such as the internet, websites, digital cameras, mobile phones, etc to ensure that children and young people are not put at risk.			
5.	Where there is direct responsibility for running/providing activities, including residential care, children and young people are adequately supervised and protected at all times.			
6.	There are well-publicised ways in which staff/volunteers can raise concerns, confidentially if necessary, about unacceptable behavior by other staff or volunteers.			

<b>Implementation and training</b>		<b>A</b>	<b>B</b>	<b>C</b>
1.	There is clear guidance to staff and volunteers on how children and young people will be kept safe.			
2.	Child protection must be applied in ways that are culturally sensitive but without condoning acts that are harmful to children and young people.			

3.	There is a written plan showing what steps will be taken to keep children and young people safe.			
4.	All members of staff and volunteers have training on child protection when they join the organisation which includes an introduction to the organisation's child protection policy and procedures where these exist.			
5.	All members of staff and volunteers are provided with opportunities to learn about how to recognize and respond to concerns about child abuse.			
6.	Work has been undertaken with other relevant organisations (e.g. diocesan authorities) to agree on good practice and expectations based on these standards.			

<b>Information and communication</b>		<b>A</b>	<b>B</b>	<b>C</b>
1.	Children and young people are made aware of their right to be safe from abuse.			
2.	Everyone in the organization knows which named staff member has special responsibilities for keeping children and young people safe and how to contact them.			
3.	Contact details are readily available for local child protection resources, safe places, national authorities and emergency medical help – where they exist.			
4.	Children and young people are provided with information on where to go to for help and advice in relation to abuse, harassment, bullying or other forms of harm.			
5.	Contacts are established at a national and/or local level with the relevant child protection/welfare agencies as appropriate.			
6.	Staff members with special responsibilities for keeping children and young people safe have access to specialist advice, support and information.			

<b>Monitoring and review</b>		<b>A</b>	<b>B</b>	<b>C</b>
1.	Arrangements are in place to monitor compliance with child protection measures and put in place by the organization.			
2.	Steps are taken to regularly ask children and young people and parents/carers their views on policies and practices aimed at keeping children and young people safe and the effectiveness of these.			
3.	The organisation uses the experience of operating child protection systems to influence policy and practice development.			
4.	All incidents, allegations of abuse and complaints are recorded and monitored.			
5.	Policies and practices are reviewed at regular intervals, ideally at least every three years.			
6.	Children, young people and parents/carers are consulted as part of a review of safeguarding policies and practices.			

\* The approach is based on the work of George Varnava with the former Forum on Children and Violence, NCB (National Children's Bureau). With permission from the authors, the NSPCC has adapted the material for use as an audit tool for child protection.