



# Child Protection Policy

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## 1. Policy

The purpose of this policy is to provide written processes about:

- (a) how the College will respond to harm, or allegations of harm, to students under 18 years; and
- (b) the appropriate conduct of the College's staff and students

to comply with accreditation requirements.

## 2. Scope

This policy applies to students and employees, including full-time, part-time, permanent, fixed-term and casual employees, as well as contractors, volunteers and people undertaking work experience or vocational placements at Sheldon College and covers information about the reporting of harm and abuse.

## 3. Reference

- [Child Protection Act 1999 \(Qld\)](#)
- [Education \(General Provisions\) Act 2006 \(Qld\)](#)
- [Education \(General Provisions\) Regulation 2017 \(Qld\)](#)
- [Education \(Accreditation of Non-State Schools\) Act 2017 \(Qld\)](#)
- [Education \(Accreditation of Non-State Schools\) Regulation 2017 \(Qld\)](#)
- [Working with Children \(Risk Management and Screening\) Act 2000 \(Qld\)](#)
- [Working with Children \(Risk Management and Screening\) Regulations 2020 \(Qld\)](#)
- [Criminal Code Act 1899 sections 229BB and 229BC](#)
- Policy SC326 Complaints
- Procedure SC340 Child Risk Management Strategy
- Policy SC845 Work Health & Safety
- Form SC315 Report of Suspected Harm or Risk of Harm

## 4. Work Procedure

### Definitions

- **Section 9 of the *Child Protection Act 1999* - "Harm"**, to a child, is any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing.
  1. It is immaterial how the harm is caused.
  2. Harm can be caused by—
    - a) physical, psychological or emotional abuse or neglect
    - b) sexual abuse or exploitation.
  3. Harm can be caused by—
    - a) a single act, omission or circumstance
    - b) a series or combination of acts, omissions or circumstances.



- **Section 10 of the *Child Protection Act 1999*** - A “child in need of protection” is a student who—
  - a) has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm; and
  - b) does not have a parent able and willing to protect the child from the harm.
- **Section 364 of the *Education (General Provisions) Act 2006* - “Sexual abuse”**, in relation to a relevant person, includes sexual behaviour involving the relevant person and another person in the following circumstances –
  - (a) the other person bribes, coerces, exploits, threatens or is violent toward the relevant person;
  - (b) the relevant person has less power than the other person;
  - (c) there is a significant disparity between the relevant person and the other person in intellectual capacity or maturity.

### **Health and Safety**

The College has written processes in place to enable it to comply with the requirements of the *Work Health and Safety Act 2011* (Qld) and the *Working with Children (Risk Management and Screening) Act 2000* (Qld).

### **Responding to Reports of Harm**

When the College receives any information alleging 'harm'<sup>1</sup> to a student (other than harm arising from physical or sexual abuse) it will deal with the situation compassionately and fairly so as to minimise any likely harm to the extent it reasonably can. This is set out in the College's Child Risk Management Strategy. Information relating to physical or sexual abuse is handled under obligations to report set out in this policy<sup>2</sup>.

### **Conduct of Staff and Students**

All staff, contractors and volunteers must ensure that their behaviour towards and relationships with students reflect proper standards of care for students. Staff, contractors and volunteers must not cause harm to students<sup>3</sup>.

### **Reporting Inappropriate Behaviour**

If a student considers the behaviour of a staff member to be inappropriate, the student should report the behaviour to: -

- Mrs Jo Todd (Director of Wellbeing) or
- Ms Kate Mortimer (Principal) <sup>4</sup>

### **Dealing with Report of Inappropriate Behaviour**

A staff member who receives a report of inappropriate behaviour must report it to the Principal.

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<sup>1</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(7)*: the definition of 'harm' for this regulation is the same as in section 9 of the *Child Protection Act 1999 (Qld)*

<sup>2</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(1)*

<sup>3</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(1)*

<sup>4</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2) and s.16(3)*



Where the Principal is the subject of the report of inappropriate behaviour, the staff member must inform a member of the College Board<sup>5</sup>. Reports will be dealt with under the College's Complaints Handling Policy.

### **Reporting Sexual Abuse<sup>6</sup>**

Section 366 of the *Education (General Provisions) Act 2006* states that if a staff member becomes aware, or reasonably suspects in the course of their employment at the College, that any of the following has been sexually abused by another person:

- a) a student under 18 years attending the College;
- b) a kindergarten aged child registered in a kindergarten learning program at the College;
- c) a person with a disability who: -
  - i. under section 420(2) of the *Education (General Provisions) Act 2006* is being provided with special education at the College; and
  - ii. is not enrolled in the preparatory year at the College.

then the staff member must give a written report about the abuse or suspected abuse to the Principal or to a Director of the College Board immediately.

The College's Principal or the Director must immediately give a copy of the report to a police officer.

If the first person who becomes aware or reasonably suspects sexual abuse is the College's Principal, the Principal must give a written report about the abuse, or suspected abuse to a police officer immediately and must also give a copy of the report to the Chairman of the College Board.

A report under this section must include the following particulars: -

- a) the name of the person giving the report (the **first person**);
- b) the student's name and sex;
- c) details of the basis for the first person becoming aware, or reasonably suspecting, that the student has been sexually abused by another person;
- d) details of the abuse or suspected abuse;
- e) any of the following information of which the first person is aware: -
  - i. the student's age;
  - ii. the identity of the person who has abused, or is suspected to have abused, the student;
  - iii. the identity of anyone else who may have information about the abuse or suspected abuse<sup>7</sup>.

### **Reporting Likely Sexual Abuse<sup>8</sup>**

Section 366A of the *Education (General Provisions) Act 2006* states that if a staff member reasonably suspects in the course of their employment at the College, that any of the following is likely to be sexually abused by another person: -

- a) a student under 18 years attending the College;
- b) a kindergarten aged child registered in a kindergarten learning program at the College;
- c) a person with a disability who: -
  - i. under section 420(2) of the *Education (General Provisions) Act 2006* is being provided with special education at the College; and
  - ii. is not enrolled in the preparatory year at the College.

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<sup>5</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2)*

<sup>6</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2)(c)*

<sup>7</sup> *Education (General Provisions) Regulation 2006 (Qld) s.68*

<sup>8</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2)(c)*



then the staff member must give a written report about the suspicion to the Principal or to a Director of the College Board.

The College's Principal or the Director must immediately give a copy of the report to a police officer.

If the first person who reasonably suspects likely sexual abuse is the College's Principal, the Principal must give a written report about the suspicion to a police officer immediately and must also give a copy of the report to a Chairman of the College Board immediately.

A report under this section must include the following particulars: -

- a) the name of the person giving the report (the **first person**);
- b) the student's name and sex;
- c) details of the basis for the first person reasonably suspecting that the student is likely to be sexually abused by another person;
- d) any of the following information of which the first person is aware: -
  - i. the student's age;
  - ii. the identity of the person who has abused, or is suspected to be likely to abuse, the student;
  - iii. the identity of anyone else who may have information about suspected likelihood of abuse<sup>9</sup>.

### **Reporting Physical and Sexual Abuse**<sup>10</sup>

Under Section 13E (3) of the *Child Protection Act 1999*, if a doctor, a registered nurse, a teacher or an early childhood education and care professional forms a 'reportable suspicion' about a child in the course of their engagement in their profession, they must make a written report.

A **reportable suspicion** about a child is a reasonable suspicion that the child: -

- a) has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and
- b) may not have a parent able and willing to protect the child from the harm.

The doctor, nurse, teacher or early childhood education and care professional must give a written report to the Chief Executive of the Department of Children, Youth Justice and Multicultural Affairs (or another department administering the *Child Protection Act 1999*). The doctor, nurse, teacher or early childhood education and care professional should give a copy of the report to the Principal.

A report under this section must include the following particulars: -

- a) the basis on which the person has formed the reportable suspicion<sup>11</sup>;
- b) the child's name and sex;
- c) the child's age;
- d) details of how to contact the child;
- e) details of the harm to which the reportable suspicion relates;
- f) particulars of the identity of the person suspected of causing the child to have suffered, suffer, or be at risk of suffering, the harm to which the reportable suspicion relates;
- g) particulars of the identity of any other person who may be able to give information about the harm to which the reportable suspicion relates<sup>12</sup>.

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<sup>9</sup> *Education (General Provisions) Regulation 2017 (Qld) s.69*

<sup>10</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2)(d)*

<sup>11</sup> *Child Protection Act 1999 s.13G (2)(a)*

<sup>12</sup> See *Child Protection Regulation 2011 (Qld) s.10 "Information to be included in report to chief executive"*



Contact details of the South East Child Safety Regional Intake Service is 1300 679 849.

### **Responsibilities under Criminal Code Act 1899 (Qld)**

The *Criminal Code Act 1899* includes two offences that pertain to the failure to report a child sexual offence and the failure to protect a child against a child sexual offence. A child sexual offence is an offence of a sexual nature by an adult against a child under 16 years or a person with an impairment of the mind.

#### **Failure to Report<sup>13</sup>**

Under section 229BC of the Code, all adults must report sexual offences against a child by another adult to police as soon as reasonably practicable after the belief is, or ought reasonably to have been, formed. Failure to make a report, without a reasonable excuse, is a criminal offence. A reasonable excuse not to make a report under the *Criminal Code Act 1899* includes that a report has already been made under the *Education (General Provisions) Act 2006* (reporting sexual abuse or likely sexual abuse) and the *Child Protection Act 1999* (reporting significant harm or risk of significant harm) as per this policy.

#### **Failure to Protect<sup>14</sup>**

Under section 229BB of the Code, all adults in positions of power or responsibility within institutions to reduce or remove the risk of child sexual offences being committed must take reasonable steps to protect children in their care from a child sexual offence. A failure to protect is an offence.

#### **Awareness**

The College will inform staff, students and parents of its processes relating to the health, safety and conduct of staff and students in communications to them and it will publish these processes on the College's website and iLINQ staff, student and parent portal<sup>15</sup>.

#### **Accessibility of Processes**

Processes relating to the health, safety and conduct of staff and students are accessible on the College's website and iLINQ staff, student and parent portal and will be available on request from the College administration<sup>16</sup>.

#### **Training**

The College will train its staff in processes relating to the health, safety and conduct of staff and students on their induction and will refresh training annually<sup>17</sup>.

#### **Implementing the Processes**

The College will ensure it is implementing processes relating to the health, safety and conduct of staff and students by auditing compliance with the processes annually<sup>18</sup>.

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<sup>13</sup> *Criminal Code Act 1899 (Qld) s.229BC*

<sup>14</sup> *Criminal Code Act 1899 (Qld) s.229BB*

<sup>15</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(4)(a)*

<sup>16</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(4)(b)*

<sup>17</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(4)(c)*

<sup>18</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(4)(d)*



## Complaints Procedure

Suggestions of non-compliance with the College's processes may be submitted as complaints under the College's Complaints Policy.<sup>19</sup>

## LAWS TARGETTING SEXUAL OFFENCES AGAINST CHILDREN

The law is being strengthened to increase protection of children from the risk of sexual abuse.

New laws starting on 5 July 2021 will mean:

- all adults must [report sexual offending against children](#) to the police unless they have a reasonable excuse
- adults in an institutional setting (e.g. a school, church or sporting club) must [protect children from the risk of a sexual offence](#) being committed against them.

For these laws, *child* means a person under 16 or a person under 18 with an impairment of the mind.

An *impairment of the mind*, as defined in the Criminal Code, means a disability due to an intellectual, psychiatric, cognitive or neurological impairment (or a combination of these), which leaves the person with both:

- a substantial reduction in their capacity for communication, social interaction or learning
- a need for support.

## Child sexual offence

A *child sexual offence* is an offence of a sexual nature committed against a child and includes:

- Indecent treatment of a child
- Carnal knowledge with or of a child
- Rape
- Incest
- Grooming a child (or their parent or carer)
- Making child exploitation material
- Maintaining a sexual relationship with a child

*Indecent treatment of a child* covers a range of conduct of a sexual nature. Examples may include:

- fondling a child in a sexual manner
- having the child touch a sexual body part
- taking a sexual photograph of a child.

*Grooming a child (or their parent or carer)* refers to the way some offenders form relationships and build trust with children, parents, carers, teachers and other children in order to get close to a child and create the opportunity for sexual abuse. It can be difficult to identify because the behaviour itself may not be abusive or sexual. Grooming can often occur online.

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<sup>19</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(5) and s.16(6)



## Why the laws are needed

Children need the adults around them to take action to protect them from sexual abuse. The new offences target behaviour that ignores or hides the sexual abuse of children.

## Failure to report

Under section 229BC of the Criminal Code, any adult who gains information that:

- causes the adult to believe on reasonable grounds, or that ought reasonably to cause the adult to believe, that a child sexual offence is being or has been committed against a child by another adult; and
  - at the relevant time, the child is or was:
    - under 16 years; or
    - a person with an impairment of the mind

must disclose the information to a police officer as soon as reasonably practicable after the belief is, or ought to reasonably to have been, formed. Failure to report this information to the Police without reasonable excuse is a criminal offence and carries a maximum prison term of three years imprisonment.

This obligation to report child sexual offences to the Police applies to **everyone** in Queensland aged 18 years or over, including all staff, volunteers, contractors and students aged 18 and over at a school.

The offence will not apply if the adult has a reasonable excuse for not reporting the information. Under the Criminal Code, a reasonable excuse includes:

- believing, on reasonable grounds, that the information has already been disclosed to a police officer
- making a mandatory report to Police or Child Safety Services under mandatory reporting laws or believing on reasonable grounds that another person has done so
- gaining the information after the alleged victim becomes an adult, and reasonably believing that the alleged victim does not want the information to be disclosed to a police officer
- having a reasonable belief that disclosing the information to a police officer would endanger your safety or the safety of another person, other than the alleged offender, regardless of whether the belief arises because of the fact of the disclosure or the information disclosed, and the failure to disclose the information to a police officer is a reasonable response in the circumstances.

Unacceptable reasons for not reporting include if you are concerned about the interests (including the reputation, legal liability or financial status) of:

- the person who may have committed a child sexual offence



- any organisation (such as a school).

Information gained by an adult during, or in connection with, a religious confession is not excluded from information that must be reported to Police.

The list of child sexual offences that are captured by the Failure to Report offence is extensive. It includes sexual offences such as rape, sexual abuse, sexual touching, the production of child abuse material, voyeurism and grooming offences or attempts to commit those offences.

### **Failure to protect**

Under section 229BB of the Criminal Code, an adult (aged 18 or over) who is associated with an institution, including a school, (whether as an employee, contractor, volunteer or otherwise) will commit a criminal offence if they:

- know that there is a significant risk that another adult associated with the institution:
  - will commit a child sexual offence
  - in relation to a child (under 16 years of age, or 16 or 17 years of age but with impairment of the mind) under the care, supervision or control of the institution; and
  - have the power or responsibility to reduce or remove the risk; and
  - wilfully or negligently fail to reduce or remove the risk.

In the school context, all staff members (whether teaching or non-teaching), members of the school's governing body, volunteers and contractors are considered to be "associated with" the school.

Therefore, this offence means that action **must** be taken:

- by any staff, volunteer or contractor who has the power or responsibility to do so
- to protect students aged under 16, or students under 18 years of age with impairment of the mind
- from a known significant risk of sexual abuse that is posed by an adult staff member, volunteer or contractor at the school.

Whether a staff member, volunteer or contractor at the school has "power or responsibility to reduce or remove the risk" to the student will depend on their role at the school and on the source of the risk.

In a normal school context, the Principal and members of the school's leadership or management team would **always** have the necessary degree of supervision, power and responsibility to remove or reduce a risk posed by another adult working at the school. However, on a day-to-day basis, and on tours, excursions, or camps, others at a school may have the requisite power and responsibility.





Appropriate action that can be taken to protect students from a significant risk of a child sexual offence or a reasonably foreseeable risk of harm may include, for example:

- a current staff member, volunteer or contractor, who has direct contact with and is known to pose a risk of physical abuse to students, being immediately removed from contact with students and reported to external authorities
- a parent who is known to pose a risk of sexual abuse to students not being allowed to attend excursions as a parent helper.

The maximum penalty for this offence is five years imprisonment.

## 5. Related Documents

Form SC305 Report of Suspected Harm or Risk of Harm.

## 6. Document History

Revision	Issue Date	Summary of Changes
1.0	30 Sep 11	Initial Release
1.0	31 Aug 12	Review
1.0	31 Aug 13	Review
1.0	29 Aug 14	Review
1.0	31 Aug 15	Review
1.0	31 Aug 16	Review
1.0	31 Aug 17	Review
1.0	12 Jun 18	Amendment
1.0	31 Aug 18	Review
1.0	31 Aug 19	Review
1.0	31 Aug 20	Review
1.0	08 Jun 21	Amendment
1.0	31 Aug 21	Review
1.0	04 Jan 22	Update
1.0	31 Aug 22	Review
1.0	03 Jan 23	Update
1.0	27 Jan 23	Update