



Diocese of Broken Bay

CREATING SAFE AND SUPPORTIVE
SCHOOL ENVIRONMENTS –
CHILD PROTECTION POLICY
FOR DIOCESAN SYSTEMIC SCHOOLS

April 2006

PURPOSE

The purpose of this policy is to contribute to a framework for the school communities of the Diocesan Schools System (DSS) (including employees, students, family members, outside tutors, external providers, and volunteers) to be proactive in creating safe and supportive school environments throughout the Diocese of Broken Bay.

This child protection policy specifically addresses the position of the Diocesan Schools Board (DSB) regarding compliance with the requirements of the NSW Child Protection legislation. Several other Diocesan and external policies and guidelines which are also relevant to an integrated approach to the creation of safe and supportive school environments are listed at the conclusion of this policy.

POLICY FRAMEWORK

The Diocesan Schools Board affirms that, consistent with the purpose of our Catholic Schools to be centres of formation in Catholic discipleship, all students and their families and employees within Catholic education have the right to a learning and work environment that is safe and supportive.

This child protection policy statement is consistent with the principles expressed in:

- the Diocesan Mission Statement;
- the Statement of Purpose of Catholic Schools;
- the Diocesan Schools Board policies in relation to: Pastoral Care, Student Discipline, Anti-Bullying, Anti-Harassment, Occupational Health and Safety, and Complaints Handling;
- the Diocesan Schools Board Policy for Addressing Employee Performance and Disciplinary Matters;
- the National Safe Schools Framework;
- the NSW Board of Studies Registration requirements; and
- the *Professional Teaching Standards* of the NSW Teachers' Institute.

In essence, these policies emphasise the responsibility in Catholic school communities that is entrusted to all members to develop and maintain high quality interpersonal relationships of mutual care and support. On the basis of these foundational principles, employees, students, and other members of our school communities are called to establish working, teaching, and learning relationships which are grounded in mutual respect, dignity, fairness reconciliation, restoration, compassion, and justice.

Relationships of quality

High-quality, positive relationships are fundamental to the provision of quality teaching and learning and are inseparable from the provision of a safe and supportive school environment. The development of high-quality interpersonal relationships is a responsibility shared by all people involved in our school communities. Where high-quality, respectful relationships exist, the risk of harm to children and the risk of complaints involving employees are both minimised.

Where high-quality, respectful relationships are not present there is a risk of harm to children and an increased risk of complaints concerning employee conduct towards children. When such concerns arise, they are to be addressed in restorative ways: ways that recognise conflicts, disputes, misbehaviour, or misconduct as opportunities for understanding; for acknowledging the impact of individual actions; for repairing harm; and for fostering responsible, accountable relationships and behaviours that take others' perspectives into account.

Restorative approaches encourage members of the school community to take responsibility for creating positive, quality relationships in an environment of respect, dignity and safety. Concerns about an employee's conduct towards a child may arise from an absence or deterioration in positive relationships. Where such concerns involve conduct that may constitute 'reportable' or 'exempt' conduct, these concerns will be managed in accordance with the requirements of the NSW child protection legislation and the supporting guidelines of the relevant government agencies (NSW Ombudsman's Office and the NSW Commission for Children and Young People). If concerns about an employee's conduct towards a child do not fall within the child protection legislation, these concerns will be managed in accordance with the DSB Policy for Addressing Employee Performance and Disciplinary Matters.

Procedural fairness

Principles of procedural fairness are integral to all procedures of the Catholic Schools Office that deal with complaints or alleged misconduct as outlined in the DSB Complaints Handling Policy, and the Student Discipline policy. Similarly, all child protection complaint-handling processes are required to demonstrate procedural fairness.

In this context, the core elements of procedural fairness involve impartial and objective fact-finding and decision-making. In particular, an employee subject of complaint should be provided with sufficient information to adequately respond to the complaint; employees subject of complaint will be provided with reasonable notice of interviews and will be encouraged to bring a support person to such meetings. Employees subject of complaint will also be given an opportunity to respond to any proposed adverse findings and proposed disciplinary outcomes, and will be advised of avenues for review of determinations as to findings and disciplinary outcomes.

Privacy principles

The National Privacy Principles (Commonwealth *Privacy Act 1988*), the *Health Records and Information Privacy Act 2002* (NSW) and the CSO Privacy Policy also have relevance to matters covered by this child protection policy. While appropriate confidentiality will be maintained in keeping with relevant privacy principles, those principles and the Diocesan Schools Board's commitment and duty of care to provide 'safe and supportive school environments' underpin the appropriate exchange of information in response to investigations or concerns of a child protection nature.

POLICY CONTENT

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

A safe environment

A safe environment is one where the risk of harm is minimised and employees and students feel secure. Harm relates not only to dangers in the physical environment, involving such matters as architecture and construction, lighting, space, facilities and safety plans, but also refers to violence, physical threats, verbal abuse, threatening gestures, emotional or psychological harm, sexual harassment, and racial vilification.¹

¹ Registration Systems and Member Non-government Schools (NSW) Manual, Board of Studies NSW 2004, p. 48

A supportive environment²

A supportive environment facilitates and enhances the social, academic, physical and emotional development of students, employees and other members of the school community. A supportive environment strives to be one in which:

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

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

Safe and supportive school environments: the NSW Child Protection Legislation

The Diocesan Schools Board is committed to compliance with the NSW Child Protection Legislation, general principles of duty of care, as well as other legislative obligations that impact upon the provision of safe and supportive school environments.

In this policy, the Diocesan Schools Board reaffirms its commitment to the legislative requirements contained in the following Acts that relate to child protection in New South Wales:

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

Part 3A Ombudsman Act 1974

This legislation requires that designated government and non-government agencies (including non-government schools) must notify the NSW Ombudsman of any allegation of 'reportable conduct' or a conviction related to 'reportable conduct' involving an employee. These agencies are also required to properly investigate and respond to reportable allegations and convictions, and 'exempt' allegations involving misconduct by an 'employee' towards a child. For the purposes of this legislation, a 'child' is a person under the age of 18 years.

The Diocesan Schools Board acknowledges that where a complaint of inappropriate conduct by an employee towards a student who is over 18 years of age is received,

² Registration Systems and Member Non-government Schools (NSW) Manual, Board of Studies NSW 2004, p. 48 (dot points as adapted)

while the child protection legislation is not pertinent, similarly transparent and accountable enquiry and pastoral processes will be followed in response to such a complaint.

Definition of 'employee' includes volunteers in schools

For the purposes of Part 3A *Ombudsman Act 1974*, the definition of 'employee' is very broad. In keeping with the legislative definition, for the purposes of this policy, an 'employee' includes paid employees, whether or not employed in connection with work that relates to children, and also includes 'any individual engaged to provide services to children' in a school whether in a paid or voluntary capacity (for example, parent volunteers and members of the clergy who perform a task for a school are included in this definition of 'employee').

The role of the NSW Ombudsman is to audit, oversight, monitor or review the employer's response to 'reportable' or 'exempt' allegations including intake decision-making, and appropriate risk assessment, risk management and appropriateness of findings. The DSB acknowledges its responsibility to establish, maintain and disseminate appropriate policies and procedures for responding to allegations against 'employees' including the equitable implementation of intake, intake assessment, and risk management processes.

Head of Agency pursuant to Part 3A *Ombudsman Act 1974*

As from 1 July 2005, the Bishop of the Diocese of Broken Bay became 'Head of Agency' in respect of all legislative responsibilities pursuant to *Part 3A Ombudsman Act 1974* for the Catholic 'non-government designated agencies' within the Diocese. The Catholic Schools Office is one such agency. The Diocesan Schools Board undertakes to establish all such policies, procedures, risk management strategies, professional development, and reporting mechanisms pertaining to the Catholic Schools Office and school communities of the Diocesan School System as are required to enable the Head of Agency, to fulfill his legislative and pastoral responsibilities with respect to matters relating to proactive and responsive child protection practices.

Part 7 *Commission for Children and Young People Act 1998* and *Child Protection (Prohibited Employment) Act 1998*

The *Working With Children Check* is the process developed by the NSW Commission for Children and Young People to support the application of the *Child Protection (Prohibited Employment) Act 1998* and Part 7 of the *Commission for Children and Young People Act 1998*.

The *Working With Children Check* requires employment screening of preferred applicants for paid child-related employment and prohibits persons who have been convicted of a 'serious sex offence' (including child pornography offences) or the murder or kidnapping of a child (under 18 years old) from applying for, undertaking, or remaining in child-related employment.

All 'employees' whether paid or voluntary are required to sign a Prohibited Employment Declaration stating whether or not they are a 'prohibited person'. A 'prohibited person' may apply for an exemption permitting the person to remain or engage in specified child-related employment (subject to or without conditions).

Child-related employment screening of a prospective employee involves:

- a National relevant criminal record check (child-related offences)
- a check of relevant Apprehended Violence Orders (involving children)

- a review of relevant employment proceedings completed by a previous or current employer and notified to the employment screening database maintained by the NSW Commission for Children and Young People (CCYP), and
- completion of a risk assessment if relevant information is disclosed through screening.

Employers must notify the CCYP of any person whose application for child-related employment is rejected primarily because of an adverse risk assessment in the *Working With Children Check*. This responsibility extends to situations where an employer offers an alternative position.

The *Working With Children Check* legislation and Guidelines require all employers (not just those engaged in 'child-related employment') to notify the Commission for Children and Young People of 'relevant employment proceedings' for inclusion in the employment screening database. A 'relevant employment proceeding' means a disciplinary proceeding against an employee by an employer that involves 'reportable conduct' or an 'act of violence committed by the employee in the course of employment and in the presence of a child'.

The Diocesan Schools Board acknowledges its responsibility to establish and maintain rigorous recruitment, selection and screening processes, including thorough reference checking, in accordance with best practice in recruitment and the requirements of the *Working With Children Check* guidelines.

'Reportable conduct'

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

- 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.

'Exempt' conduct

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

- conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards, or
- 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
- conduct of a class or kind exempted from being reportable conduct by the Ombudsman or by the *Working With Children Check* guidelines.

The Diocesan Schools Board acknowledges its responsibility to establish and maintain appropriate procedures for responding to and recording allegations of 'reportable' and 'exempt' conduct by an employee towards a child.

Children and Young Persons (Care and Protection) Act 1998

This Act sets out the means by which the Department of Community Services (DoCS) can intervene to protect children and young persons from risk of harm. The Act requires persons in certain professions and management positions, including

teaching and school leadership, to report to DoCS a 'current concern of risk of harm' to a child (a person under the age of 16 years) or (in certain circumstances) to a young person (16 and 17 year olds). The Diocesan Schools Board acknowledges its responsibility to establish and maintain appropriate procedures to support mandatory reporters in fulfilling their reporting obligations to DoCS.

Diocesan Schools Board responsibilities

The Diocesan Schools Board will ensure that operational policies and procedures are developed and implemented in accordance with each Act that comprises the NSW child protection legislation so that:

- employees and volunteers who have direct contact with students have undertaken training about their legal responsibilities in relation to child protection, mandatory reporting, and other relevant expectations as to appropriate and professional conduct in schools
- all employees, volunteers, outside tutors, and external providers are informed of the requirements for the Catholic Schools Office to notify and investigate allegations of 'reportable conduct' and investigate 'exempt allegations' in compliance with Part 3A *Ombudsman Act 1974*
- the Catholic Schools Office and Diocesan systemic schools meet the employment screening and notification requirements of Part 7 *Commission for Children and Young People Act 1998*
- all employees, volunteers, outside tutors, and external providers are informed of their obligations under the *Child Protection (Prohibited Employment) Act 1998*
- all employees who are mandatory reporters under the *Children and Young Persons (Care and Protection) Act 1998* are informed of their obligations and the process that schools have in place in relation to mandatory reporting, and that
- responses to the child protection legislative responsibilities will be in accordance with the principles of privacy and procedural fairness.

Catholic Schools Office responsibilities

The Catholic Schools Office is committed to a proactive approach to all aspects of creating a 'safe and supportive school environment' and, with respect to the child protection legislation, will:

- develop procedures and support materials in accordance with the child protection legislation to facilitate the implementation of all child protection responsibilities in the school communities of the Diocesan Schools System
- provide information and training in best practices to members of the school communities relevant to their respective roles and responsibilities in creating safe and supportive school environments
- support and monitor relevant curriculum implementation in schools
- provide information and training in the associated areas of confidentiality, privacy, and freedom of information to relevant employees
- provide ongoing reports as to implementation of policies and procedures relevant to child protection to the Diocesan Schools Board, and
- ensure that the above areas are subject to audit within school review processes.

POLICY RESPONSIBILITY

The Diocesan Schools System employee who has been given responsibility for the implementation of the policy and its objectives is currently the Senior Professional Officer, Human Resource Services.

RELATED POLICIES AND SUPPORT DOCUMENTS

This policy is intended to be consistent with the NSW child protection legislation and guidelines and other relevant legislation; to the extent of any inconsistency the legislation prevails.

This child protection policy also is intended to complement the principles and management strategies included in the following Diocesan policies and other resource materials, the implementation of which contribute to the creation of safe and supportive school environments:

- *Statement of the Purpose of Catholic Schools*
- *Diocesan Mission Statement*
- *Occupational Health and Safety Policy, and OH&S Management System and Checklists (CSO, 2006)*
- *National Safe School Framework (MCEETYA, 2003)*
- *Registration Systems and Member Non-Government Schools (NSW) Manual (NSW Board of Studies, 2004)*
- *Anti-Harassment Policy for Diocesan Systemic Schools (CSO, 2005)*
- *Anti-Bullying Policy for Diocesan Systemic Schools (CSO, 2002)*
- *Pastoral Care Policy for Diocesan Systemic Schools (CSO, 2005)*
- *A Student Discipline Policy for Diocesan Systemic Schools (CSO, 2005)*
- *Acceptable Use Policy for Internet and Network Services in the Diocesan School System (CSO, 2004)*
- *Complaints-handling Policy for Diocesan Systemic Schools (CSO, 2006)*
- *Interim Advice to Schools Concerning Student Restraint (CSO, 2004)*
- *Creating Safe and Supportive School Environments ~ A Child Protection Resource Manual for Systemic Schools (CSO, 2006)*
- *Commission for Children and Young People ~ Working With Children Check Guidelines, 2004*
- *NSW Ombudsman's Office Guidelines ~ Responding to allegations of reportable conduct, 2004*
- *NSW Interagency Guidelines for Child Protection Intervention (CCYP, interim revision 2005)*
- *Personal Development, Health and Physical Education K-6 Syllabus, NSW Board of Studies, 1999*
- *Personal Development, Health and Physical Education Yrs 7-10 Syllabus, NSW Board of Studies, 2001*
- *'Towards Healing' (National Committee for Professional Standards, as amended, 2003)*
- *'Integrity in Ministry' (National Committee for Professional Standards, 2004)*

POLICY REVIEW

A policy review is to be considered following any changes to the NSW Child Protection legislation or associated guidelines occurring within twelve months of the date of adoption, and not less frequently than every three years from the date of implementation of the policy.

POLICY DATES

Date of completion of formulation and adoption	December 2004
Date of effective implementation	December 2004
Revised and confirmed	April 2006
Date of next review	April 2009

authorised by
Bishop David L. Walker
Bishop of Broken Bay