



<b>EFFECTIVE DATE</b>	1 October 2020
<b>REVIEW DATE</b>	1 October 2023
<b>POLICY OWNER</b>	Chancery
<b>APPLIES TO</b>	This Policy applies to clergy, members of religious institutions, employees, board members, contractors (as defined and in relation to WHS and Children's Guardian legislation and a one member corporation), volunteers, work experience students and trainees ( <b>Workers</b> ) of the Diocese.
<b>EXCLUSIONS</b>	Where an agency or entity of the Diocese has its own policy, the relevant agency or entity policy will apply to Workers engaged by those agencies or entities. In the event of conflict between the policies of agencies or entities and the Diocesan policy, the Diocesan policy prevails.
<b>RELATED POLICIES, GUIDELINES &amp; PROCEDURES</b>	Code of Conduct Complaint Handling Policy Safeguarding Children, Young People and Vulnerable adults Policy Working with Children Check Policy
<b>REFERENCE</b>	<i>Child Protection (Working with Children) Act 2012 (NSW)</i> <i>Child Protection (Working with Children) Regulation 2013 (NSW)</i> <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> <i>Children and Young Persons (Care and Protection) Regulation 2012 (NSW)</i> <i>Children's Guardian Act 2019 (NSW)</i> <i>Crimes Act 1900 (NSW)</i>
<b>RELATED FORMS</b>	There are no forms related to this policy
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## INTRODUCTION AND PURPOSE

Children and young people have a fundamental right to grow, develop and feel safe in environments that are free from violence, exploitation and harm. The Diocese of Lismore has clear expectations that all children and young people will be protected from all forms of harm including sexual, physical and psychological harm as well as ill-treatment and neglect.

Consistent with its mission and values, and in compliance with its legislative obligations, the Diocese of Lismore strives to ensure children in its care are safe and secure. Our strategy for building child safe communities includes regular and comprehensive assessment of risk, and providing a safe and supportive environment for children and workers.

This policy sets out the expectations required of workers in the Diocese of Lismore, and informs the standards of behaviour, obligations and other requirements that must be adhered to when working with children.

This document is not exhaustive and does not identify every potential scenario of concern in the workplace.

## SCOPE

The policy applies to all workers engaged to work in, or provide services to, the Diocese of Lismore.

This policy aims to:

- Clarify the expectations of workers who work in child related employment;
- Provide a safe and supportive environment for children and workers; and
- Build and maintain a contemporary Catholic workplace that is safe, respectful, professional and legally compliant.

## PRINCIPLES

Within the Diocese of Lismore, the procedures to be followed in handling allegations of child protection concerns are based on the following principles:

- Jesus Christ, through the Scriptures, instructs us about the dignity and infinite value of every human being, especially children and young persons;
- The care and protection of children and young people is paramount;
- The value of the family unit is respected but not to the detriment of the well-being of the child;
- Persons involved in child protection concerns should be treated with sensitivity, dignity and respect;
- In any preventative and/or protective action, the total well-being of the child is the primary concern;
- All workers have an obligation to promptly inform the head of relevant entity of serious matters concerning the welfare, care and protection of children;
- Information regarding allegations of child protection shall be made available only to those workers who have a genuine and/or legislative need to be informed. Workers who have access to such information have the obligation to observe appropriate confidentiality in relation to this information.

## DEFINITIONS

**Child**, for the purpose of this document, is a person under the age of sixteen (16) years;

**Complaint or Allegation**, for the purpose of this document, is considered to be any issue raised regarding the conduct of a worker of the Diocese of Lismore in relation to children or young people;

**Diocese** means the Roman Catholic Diocese of Lismore and includes without limitation any Diocesan agencies, corporations, entities, parishes, parish corporations and parish entities where the Worker is employed or otherwise engaged;

**Head of relevant entity** means the Bishop of the Diocese of Lismore, who is deemed to be the Head of relevant entity, as per the *Children's Guardian Act 2019 (NSW)*. The head of relevant entity has delegated responsibility to the Diocesan Safeguarding Manager, where all complaints and allegations are to be reported and recorded in the first instance;

**Ill-Treatment** means the conduct towards a child that is:

- unreasonable; and
- seriously inappropriate, improper, inhumane or cruel.

Ill-treatment can include a range of conduct such as making excessive or degrading demands of a child; a pattern of hostile or degrading comments or behaviour towards a child; and using inappropriate forms of behaviour management towards a child;

**Reportable Conduct** is defined in the *Children's Guardian Act 2019* as:

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

**Worker** means clergy, employees, religious, board members volunteers, contractors, sub-contractors, consultants and students on placement;

**Young Person** means a person who is aged 16 years or above but who is under the age of 18 years.

## LEGISLATIVE FRAMEWORK

Workers are required to be familiar and comply with child protection legislation as varied from time to time, including but not limited to:

- *Child Protection (Working with Children) Act 2012 (NSW)*
- *Child Protection (Working with Children) Regulation 2013 (NSW)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Children and Young Persons (Care and Protection) Regulation 2012 (NSW)*
- *Crimes Act 1900 (NSW)*
- *Children's Guardian Act 2019 (NSW)*

## RESPONSIBILITIES AND OBLIGATIONS

### 1. Duty of care

A worker has a legal obligation to take reasonable care for their own safety and the safety of children and others with whom they come into contact with as part of their engagement with the Diocese of Lismore.

These obligations will arise from the specific role and responsibilities of the worker including (but are not limited to) the following:

- providing adequate supervision;
- following procedures relating to child safety, behaviour management, welfare and wellbeing (for example, reporting procedures);
- demonstrating personal behaviours that promote the safety, welfare and well-being of children;
- providing medical assistance (if competent to do so), or seeking assistance from a medically trained person to aid a child who is injured or becomes sick;
- protecting a child from hazards that pose a risk of harm and which can be reasonably predicted; and
- taking appropriate action where a child's safety, welfare or well-being is at risk.

The standard of care that is required needs to take into consideration various factors, such as a child's maturity, ability and circumstances.

Duty of care to children applies during all activities and functions conducted or arranged by the Diocese of Lismore where children are in the care of workers. Workers must assess and manage the risk associated with any activity before undertaking the activity.

Actual harm to a child, or potential to cause significant harm to a child, caused by:

- a. a single serious failure to exercise appropriate duty of care; or
- b. repeated less serious failures to exercise appropriate duty of care

may constitute misconduct, neglect or negligence and/or a breach of this document.

A worker should not put themselves in a position that may create a risk of an allegation of a child protection nature. For example, workers must not:

- a. transport a child or children in a car alone, except with the prior consent of their direct Supervisor or the Diocesan Safeguarding Manager; and
- b. otherwise be alone with a child, unless they are in the view of others and/or there is a reasonable requirement to do so.

#### 1.1 Professional conduct

Workers must act professionally and appropriately when dealing with children and others they come into contact with as part of their engagement with the Diocese of Lismore. This includes using appropriate language and tone toward children and others. Rude or insulting behaviour, including verbal aggression; abusive, threatening or derogatory language or conduct; or intimidating words or actions towards children is unacceptable. It is also unacceptable to engage in such conduct towards others in the presence of children.

#### 1.2 Physical contact

Workers must not engage in inappropriate physical contact with children, or act in ways that may cause a child to reasonably fear that unjustified force will be used against them.

Examples of inappropriate physical contact include (but are not limited to):

- intentional and unjustified use of physical force,
- throwing an object to gain a child's attention in a hostile way,
- restraining a child (unless as part of an approved behaviour management plan or for their own personal safety or that of another), or,
- pushing, pulling, shoving, grabbing, pinching, poking, shaking or throwing a child.

Examples of conduct that involves the reasonable use of physical contact for exercising appropriate control over a child include (but are not limited to):

- disarming a child who is at risk of harming themselves or another person,
- separating children who are fighting, or
- reasonable use of physical force for the protection of self or others.

### *1.3 Discipline*

Workers must not correct or discipline a child in excess of what is reasonable or appropriate for the situation and the child's maturity, ability and circumstances. Discipline is excessive if it is a disproportionate response to a child's behaviour.

Examples of inappropriate discipline or ill-treatment include (but are not limited to):

- locking a child in a cupboard as punishment,
- tying a child to a chair, or,
- in a school context - keeping a child on detention during lunch without allowing them to eat or go to the toilet.

### *1.4 Medication, drugs and other substances*

Workers must not purchase for, offer, supply, give or administer to children, condone or encourage illegal drugs, restricted substances, prescribed or non-prescribed medication (unless dealing with or administering medication in accordance with relevant policy), alcohol or tobacco.

## **2. Appropriate relationships and boundaries**

Workers must act professionally and appropriately when dealing with children and others they come into contact with as part of their engagement with the Diocese of Lismore. This obligation also extends to relationships workers have with children outside of work.

Workers must maintain appropriate professional boundaries and levels of professional conduct with children. A single serious or repeated less serious breaches of professional conduct or exercise of poor judgment in the following areas, may constitute misconduct, sexual misconduct and/or a breach of this document.

### *2.1 Relationships*

Workers must not behave in a way that could reasonably be construed as involving an inappropriate relationship with a child or a group of children.

Workers must not invite children to join their personal electronic social networking site/s, or messaging sites/apps, or accept children's invitations to join theirs. They must not attend parties or socialise with children or invite a child to their home or attend a child's home without an appropriate professional reason and without the parents/carers' consent and the consent of their direct Supervisor or the Diocesan Safeguarding Manager.

Where there are existing personal relationships, such as a family relationship or close friendship that involve a worker and a child, the worker needs to take care to be transparent, prudent and behave appropriately and be mindful of any perceived conflict of interest.

A worker who is unsure about the appropriateness of a relationship with a child or a child's family should seek advice from their direct Supervisor or the Diocesan Safeguarding Manager.

## *2.2 Grooming*

Workers must not engage in grooming behaviour. Grooming behaviour involves a pattern of conduct that is consistent with grooming a child for sexual activity, where there is no other reasonable explanation for it.

Examples of grooming behaviours include, but not limited to:

- persuading a child or group of children that they have a 'special' relationship, for example, by spending inappropriate special time with a child, inappropriately giving gifts or showing special favours to them but not other children, inappropriately allowing the child to overstep rules, or asking the child to keep this relationship secret,
- testing boundaries, for example, by undressing in front of a child, encouraging inappropriate physical contact (even where it is not overtly sexual), talking about sex, or 'accidental' intimate touching,
- Inappropriately extending a relationship outside of work, or,
- Inappropriate personal communication (including emails, telephone calls, letters, text messages, social media and web forums of a sexual nature).

If there are reasons for a worker to communicate with children or their families using electronic information and communication technology (ICT) for reasons other than work purposes, it is important to discuss this with their direct Supervisor and also gain the approval of the Diocesan Safeguarding Manager.

## *2.3 Sexually inappropriate behaviour*

Workers must not make sexually explicit comments or engage in other sexually overt or implied behaviour towards or in the presence of children. Such behaviour may constitute sexual misconduct. Examples of sexual behaviours include:

- inappropriate conversations of a sexual nature,
- unwarranted and inappropriate touching,
- exposure of children to sexual behaviour of others, or,
- watching children undress in circumstances where supervision is not required.

Workers must not have an intimate, romantic or sexual relationship with any child who is under their care or supervision regardless of their age. It is irrelevant whether the relationship is consensual, non-consensual, known to or condoned by parents, guardians or caregivers.

Workers must not commit a sexual offence. This encompasses all criminal offences involving a sexual element that is committed against, with or in the presence of a child including child grooming.

Extreme care must be taken in any relationship between a worker and a former child client, even if the person is now over 18 years of age.

A personal or sexual relationship with a former child client entered into by any worker may be considered sexual misconduct if it is established that the worker used his or her position to develop and/or maintain an inappropriate personal or intimate relationship with the child when they were a worker of the Diocese of Lismore.

### 3 Working with Children Clearances

Workers who are required to have a working with children check and do not have a current clearance, or are barred from working with children, cannot continue to be engaged in child related work. Consequently, their employment or engagement with the Diocese of Lismore may be terminated.

### 4. Notification and Reporting

To satisfy reporting and notification requirements under the law, including;

- mandatory requirements under the Children and Young Persons (Care and Protection) Act 1998 (NSW)
- reportable conduct requirements under Children's Guardian Act 2019 (NSW)
- reporting requirements to the Office of the Children's Guardian under the Child Protection (Working with Children) Act 2012 (NSW)
- reporting child abuse offences under section 316A of the Crimes Act 1900

and in line with the Diocese of Lismore's values, workers are required to notify or report certain matters of concern to their Supervisor and/or Diocesan Safeguarding Manager, including:

- informing if they are charged with or convicted of an offence relevant to working in child-related employment, or if they have had any reportable conduct allegation made against them,
- reporting any allegations or convictions of child protection concerns or reportable conduct involving any other worker that they are aware of, or reasonably suspect,
- reporting any information or concerns about inappropriate behaviour by any worker that involves a child or children, including behaviour that has occurred either inside or outside of work, and,
- reporting suspected risk of significant harm to a child.

The Diocesan Safeguarding Manager will then determine if reporting or notification needs to be made to the relevant authority, including the Office of the Children's Guardian, Department of Communities and Justice, and/or the Police.

If the Diocesan Safeguarding Manager determines it is required to provide a report or notification to the Office of the Children's Guardian, it will do so within 7 business days after becoming aware of the concerns. Within 30 calendar days of becoming aware of the concerns, the Diocesan Safeguarding Manager will conduct an investigation and provide an update on the status of the investigation to the Office of the Children's Guardian.

Any suspected child abuse offence that has not arisen in an employment context must be reported by employees to the Police.

#### 4.1 *Mandatory Reporting*

Workers who deliver certain services, wholly or partly, to children as part of their professional work, or other paid employment, are mandatory reporters of children who are at risk of significant harm. Such services include: health care, welfare, education, children's services, residential service, registered psychologists, and *persons in religious ministry or persons providing religion-based activities to children.*

A child or young person is at risk of significant harm if there are current concerns exist for their safety, welfare or well-being because of the presence, to a significant extent, of any one or more of the following circumstances:

- the child or young person's basic physical or psychological needs are not being met, or at risk of not being met,
- the parents or caregivers have not arranged necessary medical care for the child or young person (unwilling or unable to do so),
- the parents or caregivers have not arranged for the child or young person to receive an education in accordance with the Education Act 1990 (NSW) (unwilling or unable to do so),
- the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- 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 psychological harm.
- a parent or 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 psychological harm,
- the child was the subject of a pre-natal report and the birth mother did not engage successfully with support services.

If a mandatory reporter has reasonable grounds to suspect a child is at risk of significant harm and those grounds arise during the course of, or from their work or role, they must make a report and also notify the Diocesan Safeguarding Manager of this report.

While it is not mandatory under NSW legislation to report about young persons (children aged 16-17 years), workers should make reports about concerns for young person to the Diocesan Safeguarding Manager who will use professional judgement in deciding whether the concerns warrant a report to the relevant authority.

## **5. Confidentiality**

Workers must maintain confidentiality in relation to any matters of a child protection nature and only discuss the matter with those required to be notified or reported to. Where a worker is in doubt as to the requirements of confidentiality, they should seek advice from the Diocesan Safeguarding Manager.

## **6. Victimisation**

Workers must not take detrimental action against a complainant or person who reports information as required by legislation and this document. Such action is unlawful, may be regarded as serious misconduct and may result in disciplinary action, including termination of employment.

## **7. Record Keeping**

Workers must maintain appropriate records and data in relation to their professional practice in the care and protection of children. Records may include incident reports, case notes, student / client files and behaviour management plans.

Workers must keep records of any disclosure, observations and discussions regarding a child protection matter, including any alleged breach of this policy. These records must be kept in a secure location as provided for by the Diocese of Lismore.

## 8. Investigations

Allegations of a child protection nature against a worker will be investigated and dealt with in line with the Diocese of Lismore's Complaint Handling Policy.

### BREACHES OF THIS POLICY

Breaching this Policy may result in disciplinary action, which may include the termination of employment or engagement and, notification to external agencies including without limitation professional standards associations, regulatory agencies and police.

Further information about any of the matters outlined in this document can be sought from the Diocesan Safeguarding Manager at [safeguarding@lismore.catholic.org.au](mailto:safeguarding@lismore.catholic.org.au)

### REVISION/ MODIFICATION HISTORY

Date	Version	Current Title	Summary of Changes	Approval Date	Commencement Date
9 July 2020	1	Child Protection Policy	Initial Policy	1 October 2020	1 October 2020

### APPROVAL DATE/ REVISION HISTORY

Approved by: Bishop Gregory Homeming

Date: 1 October 2020

To be revised: 1 October 2023

I have read, understood and will be compliant to the Diocese of Lismore Child Protection Policy for the duration of my employment/engagement.

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

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

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