

ALLEGRA SCHOOL COFFS HARBOUR CHILD PROTECTION POLICY

1. Introduction

1.1 Preamble

Allegra School Coffs Harbour is committed to providing a safe and secure environment to facilitate the growth and development of all Students. This policy sets out the roles and responsibilities of Staff in relation to Child Protection and the processes that Staff must follow in relation to Child Protection matters. This includes training, reporting on safety and legislation requirements.

1.2 Scope

Relates to the Board, Principal, and all Staff including, employees, contractors and volunteers, Students, Parents/Guardians and Caregivers. All stakeholders must ensure they know their legislative requirements, responsibilities and obligations in the support and protection of Students, for the operation of the School and in reportable conduct.

Staff who fail to adhere to this policy may be in breach of their terms of employment.

1.3 Legislation

- the Children and Young Persons (Care and Protection) Act 1998 (NSW) ("Care and Protection Act")
- the Child Protection (Working With Children Act 2012) (NSW) ("WWC Act")
- the Ombudsman Act 1974 (NSW) ("Ombudsman Act")
- the Crimes Act 1990 ("Crimes Act")
- Privacy and Personal Information Protection Act 1998
- Health Records and Information Act 2002
- Commission for Children and Young People Act 1998
- Education Act 1990
- Work Health and Safety Regulation 2017.

1.4 Related Policies

Anti-Bullying and Harassment Policy

Employee Code of Conduct

Closed Circuit Television (CCTV) Surveillance Policy

Complaints and Grievances Policy

Work Health and Safety Policy

Risk Management Framework Policy

Attendance Policy

1.5 Record Keeping

The Principal and/or delegate of Allegra School Coffs Harbour is responsible for monitoring the compliance of this policy and securely maintaining School Records relevant to this policy, which include:

- register of Staff members who have read and acknowledged that they have read and understood this policy;
- register of Working with Children Check clearance verifications, and reverifications, updated each January for School Staff and following the Annual General Meeting ("AGM") for Board members;
- signed copies of Prohibited Employment Declarations stored in individual employee files
- register of mandatory reports made to the Department of Communities and Justice (Child Protection Helpline phone: 132 111);
- outcomes of Mandatory Reporter Guide that indicate that a child is 'not at risk of significant harm' and
- reports of reportable conduct allegations, the outcome of reportable conduct investigations, and/or criminal convictions.

2. Child Protection

Children have a right to grow up safely, to participate as active and valued members of the community and to have opportunities to reach their full potential at all stages of their lives. At Allegra School Coffs Harbour, the safety, protection, wellbeing and welfare of Students is the responsibility of all Staff members and encompasses:

- respecting their dignity and providing a safe and secure environment
- a duty of care to ensure that reasonable steps are taken to prevent harm, neglect, exploitation or abuse to students which could reasonably have been foreseen
- obligations under Child Protection Legislation
- obligations under NSW Work Health and Safety Regulations 2017
- adhering to the requirements detailed in School policies including, but not limited to, Employee Code of Conduct.

2.1 Children Protection Concerns

There are different forms of child abuse. Whilst some cases of child abuse are identifiable based on a single event or indicator, this may not always be the case. Abuse may include, but may not be limited to, neglect, sexual, physical and emotional abuse.

Neglect is either an action or inaction, or the continued failure by a Parent or Caregiver to provide a child with the basic things needed for their proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

Sexual abuse is when someone involves a child or young person in a sexual activity by using their power over them or taking advantage of their trust. Often children are bribed or threatened physically and psychologically to make them participate in the activity. Child sexual abuse is a crime.

Physical abuse is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes, but is not limited to, injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation.

Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints.

Hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punishing a child (in a non-trivial way) is a crime.

Emotional abuse can result in serious psychological harm, where the behaviour of their parent or caregiver damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma.

Although it is possible for 'one-off' incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child.

This can include a range of behaviours such as excessive criticism, withholding affection, exposure to domestic violence, intimidation or threatening behaviour.

2.2 Child Wellbeing Concerns

Child wellbeing concerns are safety, welfare or wellbeing concerns for a child or young person that do not meet the mandatory reporting threshold, risk of significant harm in section 5.1.2.

2.3 Staff Member Responsibilities

Key legislation requires reporting of particular Child Protection concerns. As part of the overall commitment Allegra School Coffs Harbour has to responding appropriately and supportively to any concerns about Child Protection, all Staff are required to report any Child Protection or child wellbeing concerns about the safety, welfare or wellbeing of a child or young person to the Principal and/or delegate.

- The Principal of Allegra School Coffs Harbour will respond to allegations of a Child Protection nature specifically related to the actions of an employee and ensure appropriate action is taken in relation to the finding.
- The Principal and/or delegate of Allegra School Coffs Harbour will make a report of the allegations to the Department of Communities and Justice, New South Wales and/or Police if urgent for the threat of danger, serious harm, physical or sexual assault.
- If the allegation involves the Principal, or is considered a conflict of interest, Staff are required to report directly to the Chairperson of the Board, who will be responsible for conducting the investigation.

3. Training

3.1 The School

Allegra School Coffs Harbour provides all staff members with a copy of this policy and will provide all staff members with the opportunity to participate in Child Protection training annually.

The Principal will support and guide Staff by ensuring that all Staff are aware of the indicators of abuse and neglect of children and young people, and their obligation to advise the Principal and/or delegate of concerns.

All new and existing Staff members, including casual, part-time and full-time, will participate in an initial Child Protection Induction upon commencement of working at the School. They will be made aware of their mandatory obligation to report suspected risk of significant harm and of the procedures for doing so. The Prohibited Employment Declaration will be signed and completed as part of the induction process and stored in the individual employee files.

The Principal and/or delegate is responsible for retaining a register of all Staff participation in annual updates and of inductions of existing and new Staff. Mandatory Reports are registered and recorded on the Mandatory Reporting Guide Register. The registers are maintained by the Principal.

3.2 Staff Members

All new Staff members must read this policy and sign an acknowledgement that they have read and understood the policy.

All staff members must participate in annual Child Protection training and additional training, as directed by the Principal. The training compliments this policy and provides information to staff about their legal responsibilities related to child protection and school expectations, including:

- mandatory reporting
- reportable conduct
- working with children check, and
- professional boundaries.

4. Working with Children

The Allegra School Coffs Harbour abides by the WWC Act and protects children by requiring any Staff member, including members of the Board, to have a Working with Children's Check clearance or current application to engage in child related work. Potential employees are screened as part of the recruitment process. The Office of the Children's Guardian (OCG) is responsible for determining applications for a Working with Children Check clearance (WWCC clearance). It involves a national criminal history check and review of reported workplace misconduct findings. The result is either to:

- grant a WWCC clearance (generally valid for 5 years)
- refuse a WWCC clearance (further applications cannot be made for 5 years)

In addition, the OGC may impose an interim bar on engaging in child related work for both applicants and WWCC clearance holders.

WWCC clearance holders are subject to ongoing monitoring by the OGC.

4.1 Responsibilities for Working with Children Checks

4.1.1 Staff Members

All Staff members who engage in child-related work at Allegra School Coffs Harbour, including volunteers, are required to:

- hold and maintain a valid WWCC clearance;
- provide a valid WWCC number to the Principal and/or delegate as part of the recruitment process
- not engage in child-related work at any time that they are subjected to an interim bar or a bar;
- report to the Principal if they are no longer eligible for a WWCC clearance, the status of their WWCC clearance changes or are notified by the OGC that they are subjected to a risk assessment; and
- notify the Children's Guardian of any change to their personal details within 3 months of the change occurring. Failure to do so may result in a fine.
- to be aware and follow the expectations of conduct expressed in the School Staff Code of Conduct.

It is an offence for an employee to engage in child-related work when they do not hold a WWCC clearance or if they are subject to a bar.

4.1.2 The School

The Allegra School Coffs Harbour is required to:

- verify online and record the status of each child-related worker's Check prior to employment or engagement in child related work;
- only employ or engage child-related workers or eligible volunteers who have a valid Check; and
- report sustained findings of serious physical assault or sexual misconduct findings involving children made against child-related workers or volunteers to the OGC
- re-verify online and record in the Working with Children Check WWCC register the status of each child-related worker's Check each January.
- notify employees three months prior to the expiry of the Working with Children Check and issue a second notification two months prior to the expiry to allow the employee adequate time to reapply to the Office of the Children's Guardian for renewal
- maintain the records of notification and continually monitor for relevant new records within the 5 years that the clearance is valid
- suspend or terminate the employment of an employee if they fail to meet the requirements for clearance.

It is an offence for an employer to knowingly engage a child-related worker when they do not hold a WWCC clearance or who has a bar.

4.2 Process for Reporting to Office of the Children's Guardian ("OCG")

4.2.1 The School

The Principal and/or delegate of Allegra School Coffs Harbour is required to notify the OCG of sustained findings of serious physical assault or sexual misconduct findings involving children made against child-related workers or volunteers to the OGC.

The Principal and/or delegate may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act. Records of any reports will be securely maintained.

If the report involves the Principal and or/delegate, the report will be made by the Chairperson of the Board.

4.2.2 Finding of Misconduct Involving Children

The Principal will report to the OCG when a sustained finding has been made against an employee that they engaged in:

- sexual misconduct committed against, with or in the presence of a child, including grooming of a child; or
- any serious physical assault of a child.

The School will advise the person that the OCG has been notified of a finding of misconduct involving children.

The WWC Act enables a person who has a sustained finding referred to the OCG under the Act to request access to the records held by the School in relation to the finding of misconduct involving children once final findings are made. The entitlements of a person to access information in terms of section 46 of the CPWWC Act is enlivened when a finding of misconduct involving children has been made.

A request for records should be made directly to the OCG.

4.2.3 Other Information

The School may also be required to provide information to the OGC that is relevant to an assessment of whether a person poses a risk to the safety of children or the OCG's monitoring functions.

5. Mandatory Reporting

The Care and Protection Act provides for mandatory reporting of children at risk of significant harm. A child is a person under the age of 16 years and a young person is aged 16 years or above but who is under the age of 18, for the purposes of the Care and Protection Act.

Under the Care and Protection Act, Allegra School Coffs Harbour considers all Teaching and Student Support Staff as mandatory reporters. Any queries about whether other Staff members are mandatory reporters should be directed to the Principal.

5.1 Reports to Department of Communities and Justice

A mandatory reporter must, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, report to the Department of Communities and Justice as soon as practicable. The report must include the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

In addition, while not mandatory, we consider that a report should also be made where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and well-being of the young person.

The School requires all Staff to report any concern they may have about the safety, welfare or wellbeing of a child who is at risk of significant harm, to the Principal and/or delegate.

5.1.1 Reasonable Grounds

'Reasonable grounds' refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

- first hand observations of the child, young person or family
- what the child, young person, parent or another person has disclosed
- what can reasonably be inferred based on professional training and/or experience.

'Reasonable grounds' does not mean a person is required to confirm their suspicions or have clear proof before making a report.

5.1.2 Significant Harm

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

- the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
- the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,

- in the case of a child or young person who is required to attend school, in accordance with the Education Act 1990, where the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,
- 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 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 psychological harm,
- the child was the subject of a pre-natal report under section 25 of the Care and Protection Act and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

What is meant by 'significant' in the phrase 'to a significant extent' is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well-being.

The significance can result from a single act or omission or an accumulation of these.

5.2 Process for Mandatory Reporting

5.2.1 Staff Members

Allegra School Coffs Harbour is committed to responding appropriately and supportively to any concerns about children at risk. All concerns or allegations raised will be treated seriously and fairly and will be dealt with confidentially. Staff members must raise concerns about a child or young person who may be at risk of significant harm with the Principal and/or delegate as soon as possible to discuss whether the matter meets the threshold of 'risk of significant harm' and the steps required to report the matter.

However, if there is an immediate danger to the child or young person and the Principal or next most senior member of staff is not contactable, Staff members should contact the Police and/or the Child Protection Helpline (13 21 11) directly and then advise the Principal or next most senior member of staff at the school as soon as possible.

Staff members are not required to, and must not, undertake any investigation of the matter. Staff members are not permitted to inform the Parents or Caregivers that a report has been made.

Staff members are required to deal with the matter confidentially and only disclose it to the persons referred to above or as required to comply with mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this policy, but could incite potential civil proceedings for defamation.

5.2.2 The School

In general, the Principal will report these matters to the Department of Communities and Justice and, where necessary, the Police. This is supported by Department of Communities and Justice in accordance with best practice principles.

5.3 Process for Reporting Concerns about Students

5.3.1 Staff Members

While the Care and Protection Act outlines a mandatory reporter's obligation to report concerns about risk of significant harm; to ensure centralised reporting all Staff members are required to report any concern regarding the safety, welfare and wellbeing of a Student to the Principal. Staff members who are unsure as to whether a matter meets the threshold of 'risk of significant harm' should report their concern to the Principal regardless.

- The Principal of Allegra School Coffs Harbour will respond to allegations of a Child Protection nature specifically related to the actions of an employee and ensure appropriate action is taken in relation to the finding.
- The Principal and/or delegate of Allegra School Coffs Harbour will make a report of the allegations to the Department of Communities and Justice, New South Wales and or Police if urgent for the threat of danger, serious harm, physical or sexual assault.
- If the allegation involves the Principal, or is considered a conflict of interest, Staff are required to report directly to the Chairperson of the Board, who will be responsible for conducting the investigation.
- The Student may be offered a referral to the Student Support Officer to to higher level support through agencies such as Headspace or Interrelate.

Staff are encouraged to use the Mandatory Reporting Guide (MRG) located on the Child Story Reporter website <https://reporter.childstory.nsw.gov.au/s/mrg>, before making a report to the helpline for all non-imminent suspected risk of harm.

- If the outcome from using the MRG is that the concern is not considered to be Risk of Significant Harm, the reporting Staff member will provide a printed copy of the outcome of the Mandatory Reporting Guide to the Principal and/or delegate
- The Principal and/or delegate will record the details including the allocated report number in the Mandatory Reporting Guide Register and will retain all documentation in secure storage and kept confidential.

6. Reportable Conduct

Part 3A of the Ombudsman Act 194 (NSW) requires the heads of certain agencies, including the Principal of Allegra School Coffs Harbour, to notify the New South Wales Ombudsman of all allegations of reportable conduct by an 'employee' and the outcome of the investigation of these allegations.

Under the Ombudsman Act allegations of child abuse only fall within the reportable conduct jurisdiction if the involved individual is an employee of the relevant agency at the time when the allegation becomes known by the Head of Agency (the Principal).

The Ombudsman:

- must keep under scrutiny the systems for preventing reportable conduct by employees of Allegra School Coffs Harbour and the handling of, or response to, reportable allegations (including allegations which are exempt from notification) or convictions;
- must receive and assess notifications from Allegra School Coffs Harbour concerning reportable conduct or reportable convictions;
- is required to oversee or monitor the conduct of investigations by the School into allegations of reportable or reportable convictions;
- must determine whether an investigation that has been monitored has been conducted properly, and whether appropriate action has been taken as a result of the investigation;
- may directly investigate an allegation of reportable conduct or reportable conviction against an employee of Allegra School Coffs Harbour, or the handling of or response to such a matter (e.g. arising out of complaints by the person who is the subject of an allegation); and
- may undertake 'own motion' investigations of Allegra School Coffs Harbour where the Ombudsman considers it appropriate to do so, including where there is evidence of systemic failure or serious conflict of interests.

Head of Agency:

The Principal of Allegra School Coffs Harbour, acting as the Head of Agency, must:

- Ensure that they are advised of any allegations of reportable conduct against employees
- Notify the Ombudsman as soon as possible and no later than thirty days after being made aware of an allegation
- Notify the Ombudsman whether or not the Allegra School Coffs Harbour plans to take disciplinary or other action in relation to an employee who is the subject of a reportable allegation or conviction, and the reasons for taking or not taking any such action as soon as practicable
- Provide the Ombudsman with any documentary and other information as the Ombudsman may from time to time request to assist in the Ombudsman's monitoring of an investigation

6.1 Reportable Conduct

Under the Ombudsman Act *reportable conduct* means:

- any sexual offence or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material);
- any assault, ill-treatment or neglect of a child; and
- any behaviour that causes psychological harm to a child whether or not, in any case, with the consent of the child.

Whether or not, in any case, with the consent of the child concerned. Reportable conduct does not extend to:

- 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 under section 25CA.

6.1.1 Definitions

The following definitions relate to reportable conduct:

psychological harm is caused by behaviour that is obviously or very clearly unreasonable and results in significant harm or trauma to a child. There needs to be a proven causal link between the inappropriate behaviour and the harm, and the harm must be more than transient.

child is a person under the age of 18 years for the purposes of the Ombudsman Act.

ill-treatment captures those circumstances where a person treats a child in an unreasonable and seriously inappropriate, improper, inhumane or cruel manner. The focus is on the alleged conduct rather than the actual effect of the conduct on the child.

Ill-treatment can include disciplining or correcting a child in an obviously unreasonable and seriously inappropriate manner; making excessive and/or degrading demands on a child; hostile use of force towards a child; and/or pattern of hostile or unreasonable and seriously inappropriate, degrading comments or behaviour towards a child.

neglect includes either an action or inaction by a person who has care and/or responsibility towards a child. The nature of the employee's responsibilities provides the context against which the conduct needs to be assessed.

supervisory neglect

- An intentional or reckless failure to adequately supervise a child that results in the death of, or significant harm to, a child, or
- An intentional or reckless failure to adequately supervise a child or a significantly careless act or failure to act, that:
 - involves a gross breach of professional standards, and
 - has the potential to result in the death or significant harm to a child.

carer neglect

- Grossly inadequate care that involves depriving a child of the basic necessities of life: such as the provision of food and drink, clothing, critical medical care or treatment, or shelter.

failure to protect from abuse

- An obviously or very clearly unreasonable failure to respond to information strongly indicating actual or potential serious abuse of a child.

reckless act (or failure to act)

- A reckless act, or failure to act, that:
 - Involves a gross breach of professional standards, and
 - Has the potential to result in the death of, or significant harm to, a child.

physical assault is any act by which a person intentionally inflicts unjustified use of physical force against another. An assault can also occur if a person causes another person to reasonably apprehend that unjustified force is going to be used against them. Even if a person who inflicts physical harm or causes another person to reasonably apprehend physical harm does not actually intend to inflict the harm or cause fear, they may still have committed an assault if they acted 'recklessly'.

'Recklessness' in this context relates to circumstances when the person ought to have known that their actions would cause a person physical harm or cause them to fear injury.

Assaults can include hitting, pushing, shoving, throwing objects or making threats to physically harm a child.

PSOA 'person subject to the allegation'.

reportable conviction means a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.

sexual misconduct has three categories: crossing professional boundaries, sexually explicit comments and other overtly sexual behaviour, and grooming. The alleged conduct must have been committed against, with or in the presence of a child.

crossing professional boundaries

Sexual misconduct includes behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate:

- relationship with;
 - conduct towards; or
 - focus on;
- a child or young person, or a group of children or young persons.

The School's Employee Code of Conduct outlines the nature of the professional boundaries which should exist between employees and children/young people. Employees who either intentionally breach such codes or have demonstrated an inability to apply them appropriately may face disciplinary action.

sexually explicit comments and other overtly sexual behaviour

Behaviour involving sexually explicit comments and other overtly sexual behaviour which can constitute sexual misconduct. Some forms of this behaviour also involve crossing professional boundaries. This conduct may include:

- inappropriate conversations of a sexual nature
- comments that express a desire to act in a sexual manner
- unwarranted and inappropriate touching
- sexual exhibitionism
- personal correspondence (including electronic communications such as e-mails and text messages) with a child or young person in relation to the adult's sexual feelings for a child or young person
- exposure of children and young people to sexual behaviour of others including display of pornography
- watching children undress. For example, in change rooms or toilets when supervision is not required or justified.

sexual offences encompasses all criminal offences involving a sexual element that are 'committed against, with or in the presence of a child'.

These offences include (but are not limited to) the following:

- indecent assault
- sexual assault
- aggravated sexual assault
- sexual intercourse and attempted sexual intercourse
- possession/ dissemination/ production of child pornography or child abuse material
- using children to produce pornography
- grooming or procuring children under the age of 16 years for unlawful sexual activity
- deemed non-consensual sexual activity on the basis of special care relationships

grooming refers to patterns of behaviour or conduct aimed at engaging with an alleged victim for sexual activity. Types of grooming behaviours may include:

- persuading child/ren that there is a 'special' relationship'
- inappropriate gift giving
- special favours / breaking rules
- spending inappropriate amounts of time with a child
- secret relationship, tactics to keep relationship secret
- testing boundaries (touching, physical contact, undressing in front of child, talking about sex)
- extending relationship outside of work
- personal communication about personal or intimate feelings

Definitions of 'grooming', within child protection legislation, are complex. Under the *Crimes Act*, grooming or procuring a child under the age of 16 years for unlawful sexual activity is classed as a sexual offence. The *Crimes Act* (s73) also extends the age of consent to 18 years

when a child is in a 'special care' relationship. Under Schedule 1(2) of the *Child Protection (Working With Children) Act*, grooming is recognised as a form of sexual misconduct. The *NSW Ombudsman Act, 1974* and this Child Protection Policy reflect all of these definitions within the context of the Reportable Conduct Scheme (Part 3A).

6.2 Process for Reporting of Reportable Conduct Allegations or Convictions

6.2.1 Staff Members

Any concerns about any other employee engaging in conduct that is considered inappropriate, or reportable conduct, or any allegation of inappropriate, or reportable conduct made to the employee or about the employee themselves must be reported to the Principal. Where it is uncertain if the conduct is reportable conduct but is considered inappropriate behaviour this must also be reported.

Staff members must also report to the Principal when they become aware that an employee has been charged with or convicted of an offence (including a finding of guilt without the court proceeding to a conviction) involving reportable conduct. This includes information relating to the employee themselves.

If the allegation involves the Principal, the staff member must report to the Chairman of the School Board.

6.2.2 Parents, Carers and Community Members

Parents, carer and community members are encouraged to report any conduct that is in their view inappropriate, reportable or criminal conduct to the Principal and/or delegate. All such reports will be dealt with in accordance with the School's Complaint Handling procedures.

6.2.3 The School

The Principal, as the Head of Agency under the Ombudsman Act, must:

- Ensure that they are advised of any allegations of reportable conduct against employees
- Notify the Ombudsman as soon as possible and no later than thirty days after being made aware of an allegation
- Notify the Ombudsman whether or not the Allegra School Coffs Harbour plans to take disciplinary or other action in relation to an employee who is the subject of a reportable allegation or conviction, and the reasons for taking or not taking any such action as soon as practicable
- Provide the Ombudsman with any documentary and other information as the Ombudsman may from time to time request to assist in the Ombudsman's monitoring of an investigation

6.3 Process for Investigating an Allegation of Reportable Conduct

The Principal ensures that the following steps are taken to investigate an allegation of reportable conduct.

6.3.1 Initial Steps

Once an allegation of reportable conduct against an employee is received, the Principal of Allegra School Coffs Harbour will:

- Determine whether it is an allegation of reportable conduct
- Assess whether the Department Communities and Justice or the Police need to be notified (i.e. if reasonable grounds to suspect that a child is at risk of significant harm or a potential criminal offence)
- Notify the child's parents (unless to do so would be likely to compromise the investigation or any investigation by the Department of Communities and Justice or the Police)
- Notify the Ombudsman within 30 days of receiving the allegation
- Carry out a risk assessment and take action to reduce/remove risk, where appropriate provide an initial letter to the PSOA advising that an allegation of reportable conduct has been made against them and the school's responsibility to investigate this matter under Part 3A of the *Ombudsman Act 1974*; and
- Investigate the allegation or appoint someone to investigate the allegation

6.3.2 Investigation Principles

During the investigation of a reportable conduct allegation the Allegra School Coffs Harbour will:

- Be mindful of the principles of procedural fairness
- Inform the person subject of the allegation (PSOA) of the substance of any allegations made against them and provide them with a reasonable opportunity to respond to the allegations
- Make reasonable enquiries or investigations before making a decision
- Avoid conflicts of interest
- Conduct the investigation without unjustifiable delay
- Handle the matter as confidentially as possible
- Provide appropriate support for all parties including the child/children, witnesses and the PSOA

6.3.3 Investigation Steps

In an investigation the Principal and/or delegate of Allegra School Coffs Harbour as an appointed investigator, will generally:

- Interview relevant witnesses and gather relevant documentation;
- Provide a letter of allegation to the PSOA; providing the PSOA with the opportunity to provide a response to the allegations either in writing or interview
- Interview the PSOA
- Consider relevant evidence and make a preliminary finding in accordance with the NSW Ombudsman guidelines
- Inform the PSOA of the preliminary finding and provide them with an opportunity to respond
- Consider any response provided by the PSOA;
- Make a final finding in accordance with the NSW Ombudsman Guidelines;
- Decide on the disciplinary action, if any, to be taken against the PSOA;
- Apply the NSW Office of the Children's Guardian (OCG) Guidelines and decide if the Matter is reportable to the OCG; and
- Send the final report to the Ombudsman and report to the OCG (where required)

The steps outlined above may need to be varied on occasion to meet particular circumstances. For example, it may be necessary to take different steps where the matter is also being investigated by Department of Communities and Justice or the Police.

A PSOA may have an appropriate support person with them during the interview process. Such a person is there for support only and as a witness to the proceedings and not as an advocate or to take an active role.

6.4 Risk Management throughout an Investigation of a Reportable Conduct Allegation

Risk management means identifying the potential for an incident or accident to occur and taking steps to reduce the likelihood or severity of its occurrence.

The Principal of Allegra School Coffs Harbour is responsible for risk management throughout the investigation and will assess risk at the beginning of the investigation, during and at the end of the investigation.

6.4.1 Initial Risk Assessment

The Principal and/or delegate of Allegra School Coffs Harbour will conduct a risk assessment. The purpose of this initial risk assessment is to identify and minimise the risks to:

- The child(ren) who are the subject of the allegation
- Other children with whom the employee may have contact

- The PSOA
- The School, and
- The proper investigation of the allegation

Factors which will be considered during the risk assessment include:

- The nature and seriousness of the allegations;
- The vulnerability of the child(ren) the PSOA has contact with at work;
- The nature of the position occupied by the PSOA;
- The level of supervision of the PSOA; and
- The disciplinary history or safety of the PSOA and possible risks to the investigation.

The Principal of Allegra School Coffs Harbour will take appropriate action to minimise risks. This may include the PSOA being temporarily relieved of some duties, being required not to have contact with certain students, being asked to take paid leave, or being suspended from duty. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the PSOA.

A decision to take action on the basis of a risk assessment is not indicative of the findings of the matter. Until the investigation is completed and a finding is made, any action, such as an employee being suspended, is not to be considered to be an indication that the alleged conduct by the employee did occur.

6.4.2 Ongoing Risk Assessment

The Principal of Allegra School Coffs Harbour will continually monitor risk during the investigation including in the light of any new relevant information that emerges.

6.4.3 Findings

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

6.4.4 Information for the PSOA

The PSOA will be advised:

- that an allegation has been made against them (at the appropriate time in the investigation); and
- of the substance of the allegation, or of any preliminary finding and the final finding.

The PSOA does not automatically have the right to:

- know or have confirmed the identity of the person who made the allegation; or
- be shown the content of the Ombudsman notification form or other investigation material that reveals information provided by other employees or witnesses.

The WWC Act enables a person who has a finding referred to the OCG under the Act to request access to the records held by the School in relation to the finding of misconduct involving children.

6.4.5 Disciplinary Action

As a result of the allegations, investigation or final findings, the Allegra School Coffs Harbour may take disciplinary action against the PSOA (including termination of employment).

In relation to any disciplinary action the school will give the PSOA:

- details of the proposed disciplinary action; and
- a reasonable opportunity to respond before a final decision is made.

6.4.6 Confidentiality

It is important when dealing with allegations of reportable conduct that the matter be dealt with as confidentially as possible.

We require that all parties maintain confidentiality during the investigation including in relation to the handling and storing of documents and records.

Records about allegations of reportable conduct against employees will be kept in a secure area and will be accessible by the Principal of Allegra School Coffs Harbour.

No employee may comment to the media about an allegation of reportable conduct unless expressly authorised by the Principal to do so.

Staff members who become aware of a breach of confidentiality in relation to a reportable conduct allegation must advise the Principal of Allegra School Coffs Harbour.

7. Criminal Offences

In 2018 the Crimes Act was amended to adopt recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*. The new offences are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the police.

7.1 Failure to Protect Offence

An adult working in a school, therefore all staff members, will commit an offence if they know another adult working there poses a serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they negligently fail to do so either by acts and/or omissions.

This offence is targeted at those in positions of authority and responsibility working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.

7.2 Failure to Report Offence

Any adult, therefore all Staff members, will commit an offence if they know, believe or reasonably ought to know that a child abuse offence has been committed and fail to report that information to police, without a reasonable excuse. A reasonable excuse would include where the adult has reported the matter to the Principal and is aware that the Principal has reported the matter to the police.

References

NSW Department of Communities and Justice <https://www.dcj.nsw.gov.au/>

NSW Ombudsman www.ombo.nsw.gov.au

Office of the Children's Guardian <https://www.kidsguardian.nsw.gov.au/>

Version History

| Version | Approved By | Approval Date | Date of Effect | Sections Modified |
|----------|-------------|---------------|----------------|--|
| Original | Board | 21 Jan 2020 | 22 Jan 2020 | Change of Name; minor edits; general review |
| V1 | Board | 18 Feb 2020 | 19 Feb 2020 | Combination and consolidation of Child Protection Policies (formerly Child Protection, Mandatory Reporting; Ombudsman Act, & Working with Children Policies). Change to legislation dates. Contextualization |

Attachment A: Policy Acknowledgement

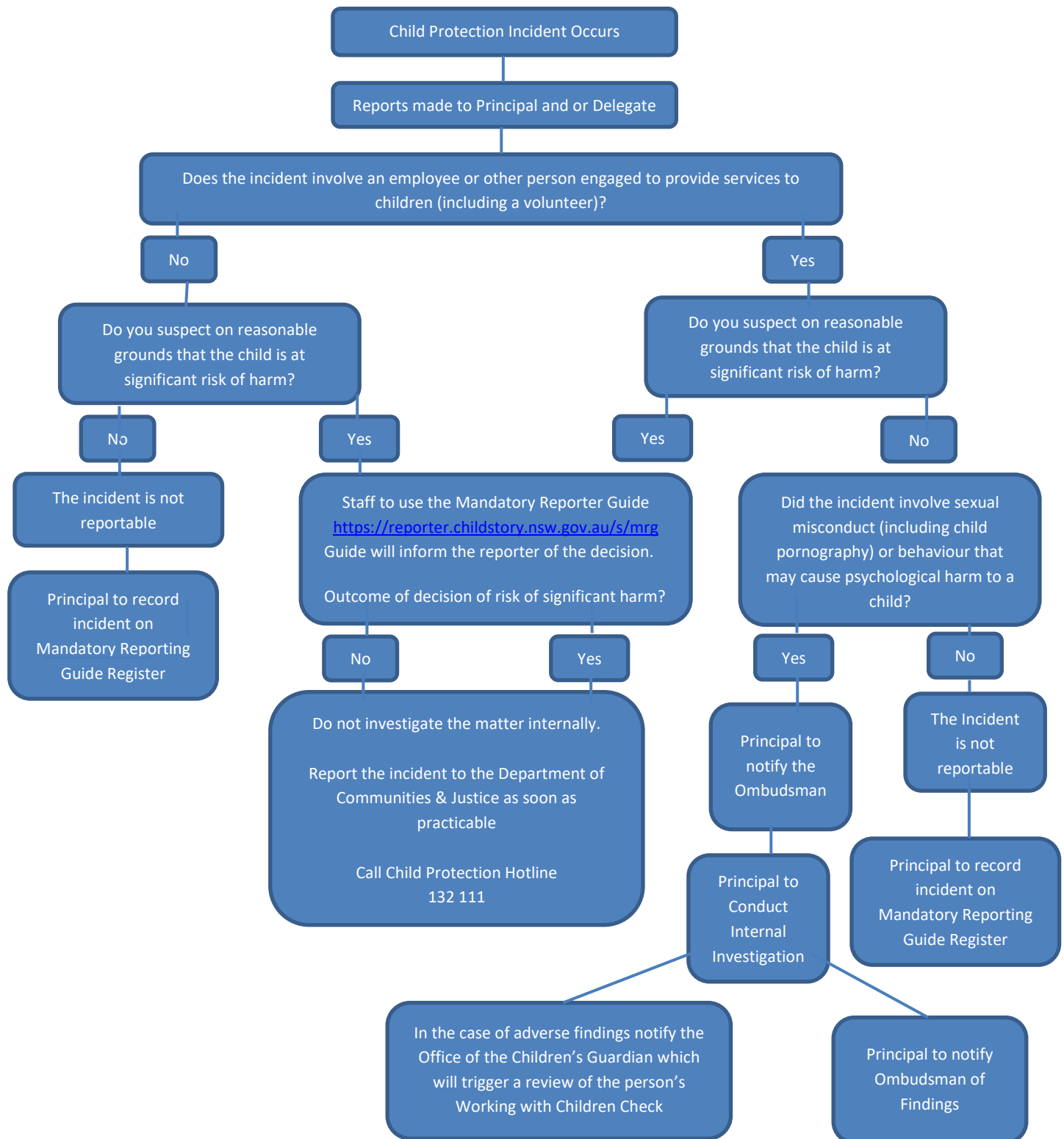
Acknowledgement

I _____ have read, understood and agree to comply with the terms of this Child Protection Policy.

Signed

Dated

Attachment B: Child Protection Mandatory Reporting Flowchart



Attachment C: Working with Children Check Flowchart

