Child Protection Policy

It is mandatory for all employees of The Armidale School to have submitted the Working with Children Check Employment Screening Consent Form and the Prohibited Employment Declaration to complete the employment process. This will form part of your personal record.

The focus of this school’s duty of care is the protection of children from abuse. The procedures followed must also be in accordance with all relevant legislation and will take into account other appropriate practices and guidelines aimed at the protection of children. The school’s policy and detailed procedures will be amended from time to time to take into account amendments to legislation and regulations.

This document sets out the school’s policy in broad and general terms. Further information and advice can be gained from the Headmaster and further detail can be found in the ‘AIS Child Protection Guidelines’ as amended from time to time and from the various Acts and Regulations. References shown in brackets in this policy statement are to clauses in the ‘AIS Child Protection Guidelines’.

Mandatory Reporting
As a member of staff of this school you are required to report (PART 2 2.5) to the Headmaster or to the Headmaster’s nominee (the Business Manager) any situation where:

a. You are aware that there has been an allegation of child abuse; or
b. you have formed a belief on reasonable grounds (PART 1, cl. 2.7) that a child is in danger of being abused (PART 1, cl. 2.2.2b)
c. is a child in need of care (PART 1, cl. 2.2.3)

See also: New South Wales Mandatory Reporter Guide - 14 December 2010

It is important to realise that failure to report allegations of child sexual abuse or a suspicion of child sexual abuse of a child who is under 16 years of age, based on reasonable grounds, is an offence under Section 316 of the NSW Crimes Act.

You are not to investigate allegations of suspicions of abuse. Investigations must only be carried out by investigators specifically appointed for the purpose.
You are required to report any allegations or evidence of abuse only to the nominated person and discussion with others should be avoided or limited to persons in your privileged communication path (normal reporting line). Failure to limit your communication in this way will not only be a breach of this policy but will result in your not being protected under the law from potential civil proceedings for defamation.
The Headmaster or the Headmaster’s nominee will report any matter that has been notified as required by the relevant legislation. You will be advised of the action taken. If it is decided that there are not ‘reasonable grounds to suspect’ abuse and consequently the matter is not going to be reported by the Headmaster, you, as the original notifier, will have an obligation under the legislation to report if you believe that reasonable grounds exist (PART 1, cl. 2.4 & 2.5)

If a student discloses abuse to you, you are obliged to report the disclosure as stated above but you must not investigate the matter. Guidelines for assisting a child who has disclosed abuse can be found in PART 2, clause 1.2.
Investigation of allegations or evidence of abuse must only be carried out by appointed investigators (from DOCS or elsewhere) whose duties will include informing parents or caregivers that a notification has been made. You should not make any contact with parents or caregivers regarding the notification unless specifically authorised to do so.

You are required to confer with the Headmaster before responding to a request by DOCS or any other officers to attend an interview with a child (victim). You cannot be required by DOCS to attend such an interview (PART 2, cl. 6.2) and the pros and cons of attendance need to be carefully assessed before a decision is made.

You may be required to report in a detailed manner on any matter regarding child abuse about which you have notified or been notified. The confidentiality of such a report will be maintained unless otherwise required by a court order (PART 1, cl. 2.8.3). Information relating to any matter of child abuse is to be entered on the appropriate form (Part 5 of the AIS Guidelines).

Recent legislation requires that, to continue to be employed, you must give the school an assurance that you have not been found guilty of a sexual offence or an offence against the person of a student or a child. [Child Protection (Prohibited Employment) Act 1998]. (Note: defer the implementation of this requirement until the Act has been proclaimed.

The school places a very high priority on its efforts:

* to protect children in its care from abuse; and
* to protect staff from mischievous and false allegations.

Your compliance with the requirements of this policy will assist in the school’s efforts to achieve these important objectives.

Murray Guest
Headmaster
August 2002

**PART 2 2.5 – Obligations of the Headmaster**

2.5.1 The Headmaster must inform the staff member whether or not a notification has been made. If the Headmaster decides that, in his or her opinion, reasonable grounds do not exist it is essential that the Headmaster advises the person raising the concern that under the legislation, if that person believes reasonable grounds exist, the person must notify.

2.5.2 If a child discloses abuse while at school the Headmaster should make sure that the child is supported and cared for at school until the DOCS officers advise the Headmaster on the course to be taken.

2.5.3 The Headmaster and any relevant staff member must not make any contact with parents or caregivers regarding the notification. It is the role of DOCS to investigate notifications and inform parents or caregivers that a notification has been made.

**PART 1, cl. 2.7 – What constitutes Reasonable Grounds to Suspect?**

2.7.1 There have not been any cases of child sexual abuse reported under Children (Care and Protection) Act in which the courts have defined what constitutes ‘reasonable grounds to suspect’. There has, however, been much deliberation by the courts over what meets the requirement of “reasonable grounds to suspect” in relation to other legislation.

2.7.2 What constitutes ‘reasonable grounds to suspect’ is to be considered objectively. The most useful guideline to follow is that provided in George v Rocket (1990) 170 CLR 104 at 112:

> “When a statute prescribes that there must be ‘reasonable grounds’ for a state of mind – including suspicion and belief – it requires the existence of facts which are sufficient to induce that state of mind in a reasonable person”.

2.7.3 Reasonable grounds to suspect may exist when:

- a child speaks about being sexually assaulted – about what has been happening, what they feel
• someone else (perhaps a relative, friend, acquaintance or sibling of the child) informs a member of staff
• a child tells a member of staff that they know someone who has been sexually abused (often the child is referring to him/herself)
• a member of staff observes a particular child’s behaviour, physical appearance, condition or behaviour; or their knowledge of children generally leads to suspicion of child sexual abuse.

PART 1, cl. 2.2.2b - Definitions
Section 3 of Children (Care and Protection) Act defines:
b. ‘abuse’ in relation to a child, to mean:
   i. assault (including sexual assault) of the child; or ill treatment of the child; or
   ii. expose or subject the child to behaviour that psychologically harms the child, whether or not, in any case, with the consent of the child.

Significant Harm Definition
Members of the community and mandatory reporters who suspect that a child/young person is at ‘risk of significant harm’ (the statutory threshold) should report their concerns to the Child Protection Helpline. This new statutory threshold has replaced ‘risk of harm’ in the Children and Young Persons (Care and Protection) Act 1998.

PART 1, cl. 2.2.3 – Definitions
Section 10 of Children (Care and Protection) Act states in part that:
‘For the purposes of this Act, a child is in need of care if:
adequate provision is not being made, or is likely not to be made, for the child’s care
the child is being, or is likely to be, abused or
there is a substantial and presently irretrievable breakdown in the relationship between the child and one or more of the child’s parents.

PART 1, cl. 2.4 – Voluntary Reporting
2.4.1 Section 22(1) of Children (Care and Protection) Act provides:
‘Any person who forms the belief upon reasonable grounds that a child who is under 16 years of age
a. has been, or is in danger of being, abused; or
b. is a child in need of care
may cause the Director-General (of DOCS) to be notified of that belief and the grounds therefore, either orally or in writing.’
2.4.2 Section 22(1A) of Children (Care and Protection) Act provides:
‘Any person who forms the belief on reasonable grounds that a child who is aged 16 or 17 years has been, or is in danger of being, abused may notify the Director-General of that belief, either orally or in writing.’
2.4.3 It will be seen that the legislation contains a distinction between younger students and those that are 16 or 17 years old in that there is no provision for the notification of the older group as being in need of care. A Children’s Court only has the power to make care orders if the child is under 16 years of age.
2.4.4 Children (Care and Protection) Act thus establishes a discretionary reporting process whereby people who believe, on reasonable grounds, that a child is being, or is in danger of being abused and/or neglected, can give information to the DOCS so that action may be taken to protect the child.

PART 1, cl. 2.5 – Mandatory Reporting
2.5.1 It is mandatory under children (Care and Protection) Act for staff holding the nominated positions to notify that suspicion to the Director General of DOCS or cause it to be notified. The procedures set out in these guidelines envisage that teachers will refer their suspicions to the Headmaster of the School who will in turn notify the Director General (DOCS).
2.5.2 Section 22(3) of the Children (Care and Protection) Act 1987 together with Clause 16(1) of the Children (Care and Protection) Regulation 1996 prescribes the following professions, vocations and callings as mandatory notifiers of child sexual abuse:

- teaching (at school)
- counselling (at school)
- social work (at school)
- early childhood teaching (at school)

2.5.3 Clause 16(2) of the Regulation prescribes officers such as the Headmaster of a school and the Deputy Headmaster of a school as mandatory notifiers.

**PART 2, cl 1.2 – Assisting a child or young person who has disclosed abuse**

1.2.1 When a student discloses abuse, staff need to be well prepared so that they can be supportive of the student and at the same time be very clear about their responsibility which in the first instance is to report to the Headmaster and not investigate. However, when in a one-to-one situation, children generally disclose with great hesitation and often with a mix of intense emotions, including fear, embarrassment and guilt. Sometimes they may only hint at or tell a small part of their experience to see how the staff member reacts before fully disclosing. It is essential that the staff member remains calm and supportive of the student.

1.2.2 The staff member should:

a) actively listen to the student and never probe for details or ask leading questions eg. “Did s/he touch your vagina/penis?”

b) refrain from questioning excessively through fear of making a mistake in deciding to notify

c) talk gently and reassuringly, in private, pointing out that you are there to help

d) only ask questions that are open-ended and designed to provide sufficient information to decide whether the suspicion of abuse is sufficiently strong to warrant a report being made.

1.2.3 Members of staff will help a student making a disclosure by:

a) listening in a calm way

b) reassuring the student that you believe him/her

c) saying that you are pleased that the student has told you as it was the right thing to do

d) avoiding any reaction that could make the student regret having talked about the experience

e) emphasising that what has happened is definitely not the student’s fault

f) acknowledging that it is very hard to talk about such things

g) telling the student that the best way to stop the abuse happening is to report it to the people who have the responsibility for the care and protection of children.

1.2.4 When a student discloses:

a) do not make promises that you will not tell anyone; in fact, you must tell the child that you have a responsibility to tell the Headmaster.

b) never assure the child that the abuse will stop, as that cannot be guaranteed.

1.2.5 Inter-agency Guidelines emphasise the importance of “being honest with the child about your responsibility for taking action to protect them and what is likely to happen. [However] it is important not to do anything that may make the situation worse and cause further harm to the child by asking probing questions, accusing parents or discussing the circumstances of the notification with potential witnesses or colleagues” (Inter-agency Guidelines for Child Protection Intervention).

**PART 2, cl. 6.2 – Maintenance of Records**

6.2 A staff member who attends an interview of a student at school may make a written record of the interview. This record is private and confidential and should only be made available to the DOCS interviewers at the discretion of the staff member and Headmaster or to a court by subpoena. A written contemporaneous record may assist staff members in the event that they are required to give evidence in subsequent court proceedings.
PART 1, cl. 2.8.3 – Legal Protection of Notifiers

Children (Care and Protection) Act does not impose a total prohibition on the details of a person making a notification every being disclosed. This information can be sought by way of subpoena by the legal representative of one of the parties in court proceedings. This information will usually be by sworn Affidavit. A person providing an affidavit may be required to attend Court to be cross examined in relation to the affidavit.