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## 1. Sources of Obligation

### 1.1 Child Safe Standards

#### **Standard 1- Child safety is embedded in organisational leadership, governance and culture**

Staff appropriately respond to and report child abuse and to understand their obligations in reporting, sharing information and keeping records.

#### **Standard 6 Processes to respond to complaints of child abuse (or other concerns) are child-focused.**

All adults understand their reporting obligations, including to external authorities.

Child safe cultures create environments where staff can identify and report suspected harm of children.

Staff are given support and information on what and how to report, including to external bodies.

### 1.2 Children and Young Persons (Care and Protection) Act 1998

Establishes the legal obligation for selected classes of people to report suspected child abuse and neglect to Heads of Agency and to government authorities. This is known as the Mandatory Reporting Scheme.

### 1.3 Children's Guardian Act 2019

Establishes the obligation for individuals and organisations to report and respond to and investigate allegations of certain conduct towards children – known as the Reportable Conduct Scheme

### 1.4 NSW Crimes Act

**Section 316A** – Concealing a child abuse offence (also known as 'failure to report'):

Subject to having a "reasonable excuse", all adults must report information to police if they know, believe, or reasonably ought to know that:

- a child abuse offence has been committed against another person; and
- they have information that might be of material assistance to arrest, prosecute or convict the offender.

**Section 43B** - Failure to reduce or remove risk of child becoming victim of child abuse (also known as 'failure to protect').

A 'failure to protect' offence occurs where an adult:

- does work for an organisation, as an employee, volunteer or otherwise,
- knows there is a serious risk of a child under 18 years, who may come under the authority of this organisation, being subject to a sexual or other child abuse offence by an adult employed by the organisation who does child-related work,
- as a result of their position, has the power or responsibility to reduce or remove that risk; and
- negligently fails to reduce or remove that risk.

### 1.5 Civil Liability Act 2002 (NSW)

**Section 6F(2)** states that, *An organisation that has responsibility for a child must take reasonable precautions to prevent an individual associated with the organisation from perpetrating child abuse of the child in connection with the organisation's responsibility for the child.*

**Section 6F(3) states**, *In proceedings against an organisation involving a breach of the duty of care imposed by this section, the organisation is presumed to have breached its duty if the plaintiff establishes that an individual associated with the organisation perpetrated the child abuse in connection with the organisation's responsibility for the child, unless the organisation establishes that it took reasonable precautions to prevent the child abuse.*

The ways in which King's demonstrates the reasonable steps taken to prevent child abuse include:

- making this policy (or a version of it) available to all staff, volunteers, and contractors through the School's policy portal;
- mandatory annual training of employees, volunteers, and contractors on their reporting obligations in relation to inappropriate behaviour of staff towards students and concerns that a student has been, is, or could be the victim of child abuse by others.

### 1.6 The King's School Staff Code of Conduct

The Staff Code of Conduct sets out:

- clear expectations of acceptable and unacceptable behaviour of staff,
- staff obligations to report concerns or issues related to student wellbeing and staff conduct.

## 2. Definitions

**Carriage service:** any form of electronic communication method, regardless of whether it uses wires or electromagnetic energy. This includes telephones, mobile service (calls and texts), radio waves (UHF and CB) and internet and intranet services.

**Child:** a person who is under the age of 16.

**Child protection:** relates to procedures to respond to children who are suspected of being at risk of harm and guidance about what to do if it is believed a child is being harmed.

**Child safety:** refers to policies and practices designed to prevent children being harmed in an organisation. It involves guidance and processes on how to keep children safe.

**Compulsory school age** - NSW students must complete Year 10. After Year 10 and until the age of 17, students must be:

- in school, or registered for home schooling OR
- in approved education or training OR
- in full-time, paid employment (average 25 hours/week) OR
- in a combination of these three

**Criminal conduct:** conduct by an employee, volunteer, contractor, or student that breaks a law where a criminal penalty can apply.

**Mandatory reporter:** selected classes of people, under *Children and Young Persons (Care and Protection) Act 1998*, required to report suspected child abuse and neglect to government authorities. At The King's School mandatory reporters are set out in 5.5.1 of this policy

**Mandatory reporting:** is the legislative requirement under *Children and Young Persons (Care and Protection) Act 1998* for mandatory reporters to notify the Child Protection Helpline of children or young persons who are at 'risk of significant harm'.

**'reasonable excuse'** Section 316A(2) of the *Crimes Act 1900* defines reasonable excuse for failing to bring information to the attention of a member of the NSW police. Reasonable excuses include *'the person believes on reasonable grounds that the information is already known to police'*

**Reportable conduct:** employee, volunteer or contractor behaviour that meets the definition of 'reportable conduct' as set out in the *Children's Guardian Act 2019* which includes:

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

**Reportable Conduct Scheme** The NSW Reportable Conduct Scheme monitors how organisations investigate and report on allegations of certain conduct towards children as outlined in the *Children's Guardian Act 2019*. It is administered by the Office of the Children's Guardian.

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

**Student** – a child or young person enrolled at The King’s School.

**Unprofessional conduct:** behaviour by an employee, volunteer or contractor which breaches the *Staff Code of Conduct*.

**Young person:** a person who is aged 16 or 17.

### 3. Our Policy

- 3.1 In responding to and reporting concerns regarding child abuse or staff misconduct the primary concern will always be the welfare of the student.
- 3.2 All staff are required to comply fully with reporting obligations outlined in the *Staff Code of Conduct*.
- 3.3 All staff are required to comply fully with the obligations and requirements of the Mandatory Reporters Scheme and requirements for reporting children at risk of significant harm to nominated School leaders, the Department of Communities and Justice and NSW Police.
- 3.4 All staff are required to comply fully with the *Reportable Conduct Scheme* and requirements for reporting staff conduct to nominated School leaders, the Office of the Children’s Guardian and NSW Police.
- 3.5 The King’s School has established clear processes for reporting possible child abuse and certain types of staff misconduct internally and to external authorities such as the Department of Communities and Justice, the Office of the Children’s Guardian and NSW Police.
- 3.6 Staff are required to make their own reports to external authorities if they are not satisfied that appropriate reports, regarding child abuse or staff misconduct, have been made to external authorities.

### 4. Reporting Matters Relating To Self

- 4.1 All staff are required to report the following personal matters to the Headmaster:
  - a) If you are charged with or convicted of a criminal offence;
  - b) If you become the subject of an Apprehended Violence Order (Apprehended Domestic Violence Order or Apprehended Personal Violence Order).
- 4.2 You should notify the Head of Campus or the Headmaster if you:
  - a) Become the subject of allegations you have engaged in conduct that may be reportable conduct;
  - b) Are the subject of a reportable conviction;whether the allegation or conviction relates to your employment with the School or elsewhere.

### 5. Reporting Concerns Relating To Students

#### 5.1 What to report

You must report to the Head of Campus or Headmaster:

- a) any suspicions or concerns that you may have about the safety, welfare and well-being of a student as a result of:
  - i. **physical abuse:**
    - Any injury ranging from a bruise, cut or burn, to a severe injury OR
    - You suspect that a child/young person has an injury even if you cannot see it. For example:

- The child/young person tells you he/she has an injury that you are unable to see because it is covered by clothing;
  - The child/young person is acting as if he/she may have injuries to joints, bones or muscles such as limping, holding an arm or leg in an awkward position, or not bearing weight;
  - The child/young person is acting as if he/she may have internal injuries such as being in pain, vomiting, growing pale or losing consciousness;
  - The child/young person is acting as if he/she may have head injuries such as losing consciousness, blurred vision or stopped breathing;
  - The child/young person is acting as if he/she may have experienced genital mutilation, such as being reluctant to be involved in sports/activities he/she previously enjoyed, has difficulty toileting or difficulty with menstruation.
- ii. **sexual abuse:**
- Sexual activity or behaviour that is imposed, or is likely to be imposed, on a student by another person, including the following:
    - Contact behaviours. Kissing; touching; fondling young child in a sexual manner; penetration of the vagina or anus by digital, penile, or any other object; oral sexual contact; or coercing the child to perform such an act on him/herself or anyone else.
    - Non-contact behaviours. Flashing/exposing to child, having a child pose or perform in a sexual manner, looking at child's genitals for sexual gratification, exposure to sexually explicit material or acts (including pornographic material), communication of graphic sexual matters (including by social media or any other electronic means).
    - Prostitution or exposure to circumstances where there is a risk that he/she may be sexually exploited.
- iii. **emotional abuse:**
- Chronic/Severe domestic violence
 

Student's parent(s)/carer(s) are involved in a violent/abusive relationship that is chronic and/or severe.

    - Physical altercations that have already occurred or are threatened.
    - May include verbal, demeaning, stalking, controlling behaviour, or threats of harm.
    - Pattern of ongoing incidents or resulted in an injury to any participant or bystander that required medical care, or that involved use of a dangerous weapon (e.g., gun, knife, throwing an object heavy enough to cause an injury requiring medical care).
  - Severe parental/carer mental health or substance abuse concerns
    - Parent/carer has a mental health or substance abuse concern that is apparent in behaviours such as the following:
      - Parent/carer expresses ideas that are out of touch with reality.
      - Parent/carer does not provide even minimal emotional support for student.
      - Parent/carer threatens or attempts suicide, homicide, harms pets.
      - Parent/carer behaviour is extremely erratic.
  - Parental/carer behaviours that are persistent, repetitive, and have a negative impact on a student's development, social needs, self-worth or self-esteem
    - Criticising - There is a pattern in which virtually everything the student does is criticised and there is little or no praise to balance the criticism, AND the criticism is not constructive or helpful, but rather is personally attacking.
    - Punishing - There is a pattern in which the student is nearly always under punishment; punishment is meted out for minor infractions or for

behaviours that are within expected child/young person behaviour for age/development OR punishment is emotionally brutal (physical brutality should be considered under physical abuse). This includes threats of harm, threats of abandonment, isolation, etc.

- Demeaning - Parent/carer publicly humiliates student; for example, makes a child/young person appear publicly wearing nappies for having a toileting accident.
- Scapegoating – Blaming a child/young person for conditions in the family that are not the fault of the child/young person, or consistently accusing one child/young person of fault for incidents that were caused by other household members.
- Parental/carer criminal and/or corrupting behaviour
  - Parent/carer engages in illegal behaviour and exposes or involves child/young person in this behaviour.
- Parental/carer behaviour that deliberately exposed a child/young person to traumatic events
  - a parent or carer knowingly allowing, forcing or deliberately exposing a child or young person to:
    - live or depicted acts of extreme violence,
    - family violence (with or without a weapon),
    - physical or sexual violence, including repeated exposure or media depicting these,
    - sexual acts,
    - threatening or attempting suicide in a child/young person's presence
    - illicit drug use
    - acts of violence or cruelty against pets or other animals.

iv. **Neglect:**

- Supervision
  - A child/young person has been or is going to be alone.
  - A parent/carer is persistently inattentive or leaving a child/young person alone or in dangerous company, resulting in or likely to result in significant adverse effects (e.g. social/developmental delays).
  - A child/young person is a danger to self or others and parent/carer is not providing adequate supervision.
- Shelter/Environment
  - A child/young person or family is homeless.
  - A child/young person is living in a dangerous environment.
  - A child/young person is refusing to stay in an available safe place.
  - For reports concerning a young person (age 16 or 17) who is homeless, their consent is necessary prior to making a report.
- Food
  - A child/young person is not receiving appropriate nutrition or is underweight or morbidly obese.
- Hygiene/Clothing
  - A child/young person appears extremely dirty.
  - A child/young person is wearing clothing that is not at all appropriate for conditions.
  - A parent/carer is not attending to the child/young person's need for personal hygiene and/or appropriate clothing.
- Medical Care
  - A child/young person has an untreated/inappropriately treated medical condition.
- Mental Health Care

- A child/young person has an untreated/inappropriately treated mental health condition.
  - A child/young person is a danger to self or others and parent/carer is not providing intervention.
  - Education - Not Enrolled - Habitual Absence
    - A child/young person of compulsory school age is not enrolled.
    - A child/young person of compulsory school age is habitually absent.
  - Exposure to family violence.
    - You are aware of an incident of domestic violence (observed by you or reported to you) that did not result in injury to a child/young person or psychological harm to a child/young person.
    - You suspect domestic violence based on observations of extreme power/control dynamics (e.g., extreme isolation) or threats of harm to adults in household.
- b) any suspicions or concerns you may have about problematic sexual behaviour by a student toward another student. You are concerned/worried that a child or young person may be sexually harming another child or young person where:
- i. the victim was substantially younger, smaller, weaker, less mature or intellectually or psychologically/physically less capable than the perpetrator
  - ii. the initiating child/young person used pressure, coercion, aggression, bribery, secrecy, or other grooming behaviours

## **5.2 Responding to a child or young person who may be the victim or potential victim of abuse**

- a) The safety, welfare and wellbeing of children, including protecting children from child abuse, is the paramount consideration in responding to concerns.
- b) In responding to concerns staff SHOULD:
- Provide support and reassurance to the child/young person that you are there to assist them. As much as is possible remain with the victim until they can be handed to an appropriate School leader for further support
  - Ensure the child/young person's immediate safety by:
    - Administering first aid
    - Removing the child/young person from immediate danger from others
    - Notifying the Headmaster or Head of Campus immediately
    - Remain with the child/young person if possible
  - Preserve any evidence that may be present
  - Ensure any witnesses are alerted not to discuss the incident
  - Document as soon as possible your observations and actions. These will become part of the material regarding any notifications to external authorities and investigations
  - Explain clearly to the victim the actions you are going to undertake in relation to the matter and why
- c) In responding to concerns staff SHOULD NOT:
- Undertake to maintain confidentiality to the victim – explain that you have an obligation to care for them by reporting the matter
  - Make additional enquiries or conduct any investigation – including asking the victim for further details of what may have happened or asking witnesses to write an account of what they saw.

Such actions can seriously compromise future investigations and should only be undertaken by persons who have completed specialised child protection investigation training

- Approach or confront the person who is the alleged perpetrator

### **5.3 Responding to different types of disclosures**

There is no required way for staff to be aware that a child/young person is a victim, or possible victim, of abuse.

#### **5.3.1 Witnessing a child safety incident**

Staff who witness an incident where they believe that a student has been, or may become, subject to abuse or other harm must take immediate action to protect the safety of the student/s involved.

#### **5.3.2 Observation of abuse or other harm indicators**

If you observe indicators that raise a concern that a student may be experiencing abuse or other harm, you should:

- make written notes of your observations recording both dates and times.
- raise the matter with *Deputy Head - Students and Community* who can assist you in clarifying your concerns and managing the next steps.

#### **5.3.3 Private disclosure by a student**

If a current student discloses a situation of abuse or other harm to staff privately, the staff should:

- Maintain a calm and professional demeanour.
- Reassure the student:
  - that you believe them,
  - that disclosing and reporting the matter is the right thing to do .
- Inform the student of your professional obligation to report the matter to others
- Make an immediate report to the Head of Campus or the Headmaster

#### **5.3.4 Public disclosure by a student**

Public disclosure occurs where a student discloses abuse or other harm in a public place to another student or group of students – e.g. in a classroom, at a training session or in the playground.

It is important to calmly try and prevent a student from disclosing details of abuse or other harm in front of other students, while at the same time providing the student with the opportunity to disclose later, in a safe and confidential manner.

Ask the student if you can talk privately or move the student away from the other students to a quiet space and then respond as per a private disclosure.

#### **5.3.5 Third party disclosure**

Staff may be alerted to the possible abuse of a student by another student or a concerned adult (such as a parent or parent of another student).

When a third party makes a disclosure, you should:

- Listen to the person's concerns seeking clarification where required and thank the person for raising their concern.
- Advise the person that we have procedures for dealing with situations like this.
- Advise the person that you will discuss their concerns with the relevant authorities.
- Notify the Head of Campus or Headmaster immediately.

As with private disclosure by a student, you should reassure and support the person providing the information. You should not undertake to treat the matter confidentiality nor to investigate the matter or make further enquiries.

### 5.3.6 Anonymous disclosure

Disclosures received anonymously should be immediately reported to the Head of Campus or Headmaster without any attempt to seek additional information regarding who may have made the anonymous disclosure, the possible victim or the alleged perpetrator.

Often anonymous disclosures contain enough information for trained investigators to make additional enquiries that could lead to a victim being supported and removed from harm.

### 5.3.7 Disclosure by a former student

A former student – who may be a child, young person or adult, may disclose past abuse or harm towards themselves or others from their time at the School.

- a) Any disclosure by a former student, whether they are still a child or young person, or an adult, must be notified to the Head of Campus or Headmaster immediately.
- b) If the disclosure includes an allegation against a current staff member or teacher at the School, this may trigger obligations under the duty to protect/failure to report requirements of the NSW Crimes Act that requires the removal the risk of abuse or harm to current students.

### 5.4 How to report concerns of Child abuse

You should immediately notify the Head of Campus or the Headmaster of any concern you have regarding a child or young person being at risk of harm in any of the categories identified in 5.1 or when any disclosure is made as in 5.3.

### 5.5 Additional reporting obligations relating to child abuse – Mandatory Reporting Scheme

#### 5.5.1 Mandatory Reporters

- a) The following employees are **mandatory reporters** under the *Children and Young Persons (Care and Protection) Act 1998* and have additional obligations regarding reporting concerns about a child at risk of significant harm:
  - the Headmaster,
  - teachers, including casual or temporary teachers,
  - all other paid employees at the School who interact with students,
  - the School nurses,
  - the School counsellors,
  - any person in religious ministry (such as clergy) or other religious leadership roles (including voluntary roles),
  - any staff, volunteers or contractors who provide religion-based activities to students,
  - direct contact contractors (including external education providers engaged by the School).
- b) Under the Act, if a mandatory reporter
  - has reasonable grounds to suspect that a child (aged under 16 years) is at risk of significant harm and,
  - those grounds arose as a result of their work or role at the School,the mandatory reporter should make a report to the Department of Communities and Justice (DCJ).
- c) A *Memorandum of Understanding* between DCJ and the Association of Independent Schools of NSW (AISNSW) enables mandatory reporters to report directly to the Headmaster (or his delegate) provided the mandatory reporter can be assured an appropriate report has been made to DCJ.

If a mandatory reporter is not assured that a report has been made to DCJ then they must make a report directly to DCJ to protect themselves from possible criminal charges related to 'failure to protect' or 'failure to report',

- d) Concerns a child (aged under 16 years) may be at risk of significant harm must be reported to DCJ,
- e) Reports regarding a young person (aged 16 or 17) being at risk of significant harm are not mandated – but they may be made to DCJ
- f) The King's School policy is that concerns a young person is at risk of significant harm will be made to the DCJ

### 5.5.2 Risk of significant harm

- a) A child or young person is at risk of significant harm (often referred to as "ROSH") 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 —
  1. the child or young person's basic physical or psychological needs are not being met or are at risk of not being met,
  2. 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,
  3. in the case of a child or young person who is required to attend school in accordance with the Education Act 1990—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,
  4. the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
  5. 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,
  6. 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,
- b) To determine if a child or young person is at risk of significant harm – and a report should be made to DCJ – you should complete the NSW Mandatory Reporter Guide Decision Tree (MRG) (<https://reporter.childstory.nsw.gov.au/s/mrg>)
- c) Staff can complete the MRG either before they raise their concerns with the Head of Campus or the Headmaster, or in the context of raising their concerns

### 5.5.3 Making a report to Department of Communities and Justice (Child Protection Helpline)

- a) Reports to the Department of Communities and Justice are made through the *Child Protection Helpline*

Once the MRG Decision Tree is completed a Decision Report will be generated advising the action that should be taken, such as:

- *Document and continue relationship/monitor. Maintain your relationship with the child/ young person and their family as far as appropriate and possible.*
  - *Immediate Report to the Child Protection Helpline. Please create an eReport or phone 132 111.*
- b) The School's policy is that Heads of Campus (or their delegate) make the immediate report to the *Child Protection Helpline*.
  - c) In the event the Decision Report recommends an *Immediate Report to the Child Protection Helpline* mandatory reporters who have raised the concerns should be assured that a report to the Helpline was made.

- d) If there is any doubt about a report being made to the Helpline then the staff member who raised the concern MUST make a report directly to the Child Protection Helpline.

### 5.6 Additional reporting obligations relating to child abuse – NSW Police

- a) Under the Crimes Act 1900 (NSW) the following must be reported to Police when a child or young person is a victim or suspected victim of:
- i. sexual offences (and attempts to commit these offences) such as:
  - ii. sexual acts
  - iii. sexual intercourse
  - iv. sexual touching
  - v. production of child abuse material
  - vi. voyeurism
  - vii. grooming
  - viii. assaults and physical harm (and attempts to commit these offences), such as:
    - wounding or causing grievous bodily harm
    - assault causing actual bodily harm
    - assault at a school (whether or not causing actual bodily harm)
  - ix. administering or causing the ingestion of an intoxicating substance
- b) The School's policy is that staff should first report concerns a student is a victim, or possible victim, to the Head of Campus or Headmaster (or their delegate).
- c) The Head of Campus or Headmaster will provide assurance to the staff member that a report has been made to Police.
- If staff are not assured that a report has been made to Police, then staff should make their own report directly to the Police.
- d) Failure to report concerns regarding child abuse or possible child abuse – or to be assured that a report has been made to Police by the Headmaster or Head of Campus – could lead to a staff member being charged with 'failure to report' or 'failure to prevent' child abuse offences.

## 6. Reporting Concerns Related To Staff Conduct

### 6.1 What to report

All School employees, volunteers, and contractors are required to report to the Head of Campus or the Headmaster any staff conduct that *may* be:

- a) Unprofessional or
- b) Reportable or
- c) Criminal

whether it relates to interactions with students or not.

### 6.2 Unprofessional conduct

- a) Unprofessional conduct is any conduct that contravenes the *Staff Code of Conduct*.
- b) Unprofessional conduct should be reported to the Head of Campus or the Headmaster.

### 6.3 Reportable conduct

- a) Reportable conduct is defined in the *Children's Guardian Act 2019* as:
- i. a sexual offence;

- ii. sexual misconduct;
- iii. an assault against a child;
- iv. ill-treatment of a child;
- v. neglect of a child;
- vi. an offence under s 43B (failure to protect) or s 316A (failure to report) of the Crimes Act 1900 and
- vii. behaviour that causes significant emotional or psychological harm to a child.

b) **Sexual offences** are offences of a sexual nature, with or in the presence of a child, such as

- i. sexual touching of a child;
- ii. a child grooming offence;
- iii. production, dissemination or possession of child abuse material.

An alleged sexual offence does not have to be the subject of criminal investigation or charges for it to be categorised as a reportable allegation of a sexual offence.

c) **Sexual misconduct** means any conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence). It includes, but is not limited to:

- i. descriptions of sexual acts without a legitimate reason to provide the descriptions;
- ii. sexual comments, conversations, or communications;
- iii. comments to a child that express a desire to act in a sexual manner towards the child, or another child.

d) **Assault** occurs when a person intentionally or recklessly (ie. knows the assault is possible but ignores the risk):

- i. applies physical force against a child without lawful justification or excuse - such as hitting, striking, kicking, punching, or dragging a child (actual physical force); or
- ii. causes a child to apprehend the immediate and unlawful use of physical force against them– such as threatening to physically harm a child through words and/or gestures and regardless of whether the person actually intends to apply any force (apprehension of physical force).

The Act explicitly exempts from notification assaults that are, in all the circumstances, trivial or negligible – as long as they are investigated under workplace procedures.

e) **Ill-treatment** refers to conduct towards a child that is:

- i. unreasonable; and
- ii. 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.

f) **Neglect** of a child means a significant failure – by an authorised carer or an employee if the child is in the employee’s care – to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for the child that causes or is likely to cause harm to the child. Neglect can be an ongoing situation of repeated failure by a caregiver to meet a child’s physical or psychological needs, or a single significant incident where a caregiver fails to fulfil a duty or obligation, resulting in actual harm to a child or where there is the potential for significant harm to a child.

- g) **Emotional or psychological** harm caused by behaviour that is intentional or reckless (without reasonable excuse), obviously or very clearly unreasonable and which results in significant emotional harm or trauma to a child.

For a reportable allegation involving psychological harm, the following elements must be present:

- i. an obviously or very clearly unreasonable or serious act or series of acts that the employee knew or ought to have known was unacceptable, and
  - ii. evidence of psychological harm to the child that is more than transient, including displaying patterns of 'out of character behaviour', regression in behaviour, distress, anxiety, physical symptoms or self-harm, and
  - iii. an alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.
- h) Reportable conduct concerns should be immediately reported to the Head of Campus, or the Headmaster (and in exceptional circumstances no later than within 24 hours of you developing a concern.
- i) Once an allegation of reportable conduct is received The Children's Guardian Act requires the School to:
- i. Investigate all allegations of staff misconduct that could be 'reportable conduct'.
  - ii. Notify the Office of the Children's Guardian (within 7 days of the Headmaster being informed of the allegation) that a Reportable Conduct Investigation is being undertaken. At King's the General Counsel has been delegated by the Headmaster to make these notifications.
  - iii. Keep the Office of the Children's Guardian updated on the progress of the investigation.
  - iv. Submit a detailed Investigation Report to the Office of the Children's Guardian upon completion of the investigation.

#### **6.4 Criminal conduct**

- a) Under the Crimes Act 1900 (NSW) the following must be reported to Police when an employee, volunteer or contractor is suspected of committing the following sexual offences against a child – under the age of 16 - (or attempting to commit them):
- i. sexual offences;
  - ii. sexual acts;
  - iii. sexual intercourse;
  - iv. sexual touching;
  - v. production of child abuse material ;
  - vi. voyeurism;
  - vii. grooming;
  - viii. assaults and physical harm, such as:
    - wounding or causing grievous bodily harm;
    - assault causing actual bodily harm;
    - assault at a school (whether or not causing actual bodily harm);
  - ix. administering or causing the ingestion of an intoxicating substance.

- b) Generally, in NSW a person can legally consent to sexual activity once they are 16 years of age. However, it is a crime for adults to engage in sexual intercourse or sexual touching with a young person (aged 16 or 17) who is 'under special care'.

The following School staff would be considered to have a young person under their 'special care':

- a teacher at, or the principal or, deputy principal of, a school that the young person attends;
- any other (paid or volunteer) staff member at a school that the young person attends who has students, including the relevant young person, under their authority;
- a person who has an established personal relationship with the young person in connection with the provision of religious, sporting, musical or other instruction, in which relationship the young person is under the authority of the worker.

- c) Section 66EC of the Crimes Act makes it a crime to groom an adult by providing any financial or material benefit to the adult for the purposes of making it easier to procure a child (aged under 16), who is under the adult's authority, for unlawful sexual activity.

A child is "under the authority of a person" if the child is under the person's care, supervision or authority.

This is a criminal offence for which an adult associated with the School could be either the victim or the perpetrator.

- d) 'grooming' as defined in the Crimes Act involves:

- engaging in any conduct that exposes a child to indecent material;
- providing a child with an intoxicating substance or a financial or material benefit;
- providing any financial or other material benefit to another adult with authority for the child;

with the intention of procuring the child or a child under the authority of the adult for unlawful sexual activity.

- e) Under the Criminal Code, "Using a carriage service to procure persons under 16 years of age", and "Using a carriage service to groom persons under 16 years of age" are additional criminal offences which must be reported.

Carriage services include services for carrying communications, such as telephone services, internet access services and 'voice over internet' services.

For both of these offences, it is a crime for an adult (the sender) to use a carriage service to transmit communications to a person aged (or who the sender believes to be aged) under 16 (the recipient) with the intention of procuring the recipient to engage in sexual activity with or in the presence of either the sender or another person (the participant).

- f) The School's policy is that staff should first report concerns of possible staff criminal conduct to the Head of Campus or Headmaster unless a student is in immediate danger in which case staff should report to Police first (000 or Police HelpLine 131 444), then to the Head of Campus or Headmaster.
- g) Once a report has been made to Head of Campus or the Headmaster staff should be assured the Head of Campus or Headmaster has reported the concerns to Police. If they are not assured, staff should make a report directly to the Police.
- h) Failure to report concerns regarding child abuse or possible child abuse – or to be assured that a report has been made to Police – could lead to a staff member being charged with 'failure to report' or 'failure to prevent' child abuse offences

### 6.5 How to report concerns regarding staff conduct

- a) Allegations of *unprofessional conduct* should be reported to your line manager or the Head of Campus.
- b) Allegations or concerns regarding *reportable conduct*, should be made to the Head of Campus, or the Headmaster in writing.
- c) Possible *criminal conduct* by a staff member should be reported to the Head of Campus or Headmaster – or immediately to NSW Police if a student is in immediate danger of harm.

### 6.5 Additional reporting obligations related to staff misconduct

- a) If staff conduct presents a current or ongoing threat to the wellbeing or health of a student, then it may be necessary for a report to be made (concerning the student being at risk of significant harm) to the Department of Communities and Justice (refer to Section 5.5).

### 6.6 Protection for those making reports

- a) It is an indictable offence for the School to dismiss or prejudice any employee for or on account of the employee reporting to or assisting the Children's Guardian.
- b) No person is permitted to take, or threaten to take, detrimental action against a School employee, volunteer, contractor because of a report, complaint or notification regarding staff unprofessional, reportable or criminal conduct. Detrimental action means:
  - i. injury, damage or loss,
  - ii. intimidation or harassment,
  - iii. discrimination, disadvantage or adverse treatment in relation to employment,
  - iv. dismissal from, or prejudice in, employment,
  - v. prejudice in the provision of a community service,
  - vi. disciplinary proceedings.
- c) Any detrimental action taken as a consequence of a report, complaint or notification will be:
  - i. reported to the Children's Guardian – which could lead to criminal prosecution and also
  - ii. treated as serious staff misconduct by the School

### 6.7 Responding to staff misconduct incidents, situations, or concerns

- a) The safety, welfare and wellbeing of children, including protecting children from child abuse, is the paramount consideration in responding to concerns.
- b) In responding to staff misconduct incidents, situations, or concerns staff SHOULD:
  - Ensure no child or young person is in immediate danger or threat of harm. If they are, staff should take appropriate steps to ensure the safety and wellbeing of the child or young person
  - Report your concern as soon as is practicable
  - Document as soon as possible your observations and actions. These will become part of the material regarding any notifications to external authorities and investigations
- d) In responding to concerns staff SHOULD NOT:
  - Discuss your concerns directly with the other staff member. Such discussions could:
    - compromise future investigations
    - mask a pattern of behaviour that could have serious consequences for students or the staff member
    - inhibit appropriate professional support and guidance being provided to the staff member in a timely manner that prevents relatively minor infractions from evolving into more serious behaviours

- Undertake to maintain confidentiality to the staff member
- Make additional enquiries or conduct any investigation – including asking potential victims for further details of what may have happened or asking witnesses to write an account of what they saw.

## 7. Confidentiality

Staff should observe confidentiality at all times in the management of a mandatory reporting or criminal case.

The School makes everyone at the School, including students, aware that all child safety incidents and concerns will be reported internally and/or to the relevant external bodies, and that confidentiality cannot be maintained in these instances. You must not provide undertakings that are inconsistent with your reporting obligations in the School's Child Safety Program. You must not promise a student that you will not tell anyone about the student's disclosure.

However, in all other respects, all Staff, Volunteers and Contractors must maintain confidentiality and privacy and information regarding a child safety incident or concern should only be shared on a 'need to know' basis. For more information about when and how to share information, refer to Sharing Information Relating to a Student's Safety, Welfare or Wellbeing.

Because of the confidentiality and privacy issues that arise with respect to child safety-related complaints, records of complaints that contain information about child safety incidents or concerns are not held within our general complaints handling record keeping system.

## 8. Maintaining Records Of Reporting Concerns

### 8.1 School records

- 8.1.1 The School maintains records of all child safety incidents or concerns – even those that do not meet the threshold for reporting to the Department of Communities and Justice to ensure that all information about individual students can be considered should future child safety incidents or concerns arise
- 8.1.2 The Heads of Campus are responsible for maintaining records of all child safety incidents or concerns regarding students under their care
- 8.1.3 The School maintains records of all allegations or concerns regarding staff, volunteers or contractors' behaviour towards students– even those that do not meet the threshold for conducting a Reportable Conduct Investigation and notification to the Office of the Children's Guardian. This is to ensure that all information about individual staff can be considered should allegations or concerns be raised
- 8.1.4 The General Counsel, Director of People and Culture and Headmaster (or their delegate) are responsible for maintaining records of all allegations or concerns regarding staff behaviour towards students

### 8.2 Staff Records

- 8.2.1 Staff are responsible for maintaining their personal records of notifications regarding:
  - a) concerns for students – including as victims of unprofessional conduct, child abuse and criminal conduct
  - b) staff behaviour that is unprofessional, 'reportable' or criminal conduct in dealing with students
- 8.2.2 Staff should maintain personal records of:
  - a) notifications to the Headmaster or Heads of Campus regarding concerns of students being:
    - subject to unprofessional, 'reportable' or criminal behaviour
    - conversations and decisions with the Headmaster or Head of Campus regarding why concerns were not notified to DCJ or the NSW Police

- copies of Mandatory Reporters Guide – Decision Reports
- b) allegations or notifications made to the Headmaster, Director – People and Culture, Head of School regarding:
  - employee, volunteer, or contractor unprofessional, ‘reportable’, or criminal conduct
  - copies of notes of meetings, conversations, and decisions regarding why concerns were not notified to OCG or the NSW Police

8.2.2 Staff have an obligation to protect the privacy of students – as potential victims or perpetrators of child abuse – and staff whose behaviour is reported as potentially unprofessional, ‘reportable’ or criminal. Staff should also ensure that they have copies of records relating to their notifications or allegations should they leave the employ of, or cease their association with, The King’s School.

To maintain privacy and records staff should NOT:

- a) save records of notifications and associated actions on School devices or on the School network
- b) save hard copies of emails, Mandatory Reporters Guide Decision Reports or other communications relating to notifications and allegations at School

## 9. Implementation and Review

9.1 This policy is implemented by:

- a) Being available to all staff on the School’s policy portal;
- b) Being included in new staff induction processes;
- c) Annual child safety training for all staff, volunteers, and contractors

9.2 This policy will be annually reviewed by the Quality and Compliance Manager to ensure it is compliant with regulatory and legislative changes

School processes will be reviewed annually by the Director – People and Culture and Heads of School to ensure this policy is fully and effectively implemented

## 10. Consequences

Failure to adhere to, or comply with, this policy would be considered serious professional misconduct, and in some circumstances ‘reportable’ or criminal conduct and could lead to:

- a) Disciplinary action – including dismissal
- b) Reporting to external authorities such as the Children’s Guardian or NSW Police

## 10. Management

<b>Category</b>	Operational
<b>Endorsed by</b>	Child Safeguarding Committee
<b>Approved by</b>	Core School Executive
<b>Reviewer</b>	Chair – Child Safeguarding Committee
<b>Version</b>	1. June 2023 Replaced <i>Child Protection Policy</i> 2. June 2025 Updated Management Table
<b>Review Period</b>	Annual
<b>Location</b>	Website; staff portal; parent portal
<b>Next Review</b>	June 2026