



John Colet School

CHILD PROTECTION POLICY

Revision Schedule and Stakeholders

Revision Schedule

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Stakeholders

Document Owner
Headmaster

Document Reviewers
School Executive

Document Approval			
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1. Introduction

This policy accords with the Vision, Mission and Values of John Colet School. The particular elements of the Vision, Mission and Values of the school from which this policy flows are:

Vision:

- Giving children a moral and ethical framework for living based on the words of the wise

Mission:

That the children:

- Set an example of good character and service to others, in accordance with the School Values
- Are emotionally resilient

Values:

- Serve all and everything:
 1. Does this action benefit everyone?
 2. Am I setting a good example?
 - Work together with love, honour and respect for one another:
 1. Does this action unify?
 2. Is this safe for myself and others?
 3. Is it considerate of the happiness and comfort of others?
 4. Is it honourable, respectful and dignified?
 5. Does this action reflect well on my nation, school, family and myself?
- a. John Colet School is committed to fulfilling its duty of care to all its students by:
- i. providing them with a learning environment that is safe, supportive and caring;
 - ii. seeking to recognise promptly when any of its students are at **risk of significant harm**; and
 - iii. taking appropriate action to protect its students when the School or its **staff** become aware that its students are at **risk of significant harm**.
- b. Accordingly, **reportable conduct** or other inappropriate or unprofessional behaviour by **staff** towards students will not be tolerated under any circumstances. The School expects all **staff** to honour the School's

commitment in this Policy and to work with the School to achieve a safe learning environment.

- c. The School is committed to complying with its obligations under **NSW child protection legislation** and to educating its **staff** as to those obligations.
- d. The School recognises that there is a danger that its **staff** could be seriously affected by false, vexatious or misconceived allegations against them. The School is therefore also committed to investigating all allegations promptly and fairly.
- e. Terms that are defined in the Dictionary at the end of this policy are highlighted in **bold**.

2. Publication and Distribution

- a. This Policy must be published in the School's Staff Manual.
- b. This Policy must be given to all new **staff** who are required by the School to comply with their obligations under it.
- c. This Policy must be given to all members of the School Board of Governors.
- d. This Policy must also be given to:
 - i. any person who makes a **reportable allegation**; and
 - ii. any person, being a member of the School community, who requests a copy.

3. Creating a Safe Learning Environment

- a. The School must develop strategies to create a safe learning environment. These will include educating all members of the School community about child protection issues.
- b. All **staff** must become familiar with these strategies.
- c. All **reportable allegations** must be taken seriously.
- d. The strategies developed by the School must be monitored continuously and reviewed regularly.
- e. The School must provide professional development to meet the needs of the **staff** in implementing this Policy.
- f. The Headmaster must:
 - i. promote this Policy within the School, with particular regard to the professional development needs of **staff**; and
 - ii. monitor the strategies to create a safe learning environment.
- g. **Staff** must:
 - i. be aware of the content of **NSW child protection legislation**; and
 - ii. become familiar with Keep Them Safe (www.keepthemsafe.nsw.gov.au) – an initiative of the NSW Government which provides valuable information and resources for **staff**, including the Child Wellbeing and Child Protection NSW Interagency Guidelines; and
 - iii. report promptly in accordance with this policy whenever they:

1. have reasonable grounds to suspect that a student is at **risk of significant harm**; or
2. become aware of a **reportable allegation** against a **member of staff** whenever or wherever the **reportable conduct** took place.

4. Reporting Obligations

- a. Any **member of staff** to whom a **reportable allegation** is made or who becomes aware of a **reportable allegation or conviction** must report this to the Headmaster.
- b. Any **member of staff** who has reasonable grounds to suspect that any student is at **risk of significant harm** must report the name, or a description, of the student and the grounds for suspecting that the student is at **risk of significant harm** to the Headmaster.
- c. Any **member of staff** who has reasonable grounds to suspect that a child who is not a student and who is under the age of 16 is at **risk of significant harm** and those grounds arise during the course of or from the **member of staff's** work must report the name, or a description, of the child and the grounds for suspecting that the child is at **risk of significant harm** to the Headmaster.
- d. Any **member of staff** who has reasonable grounds to suspect that a student who is under the age of 16 or a child who is not a student who is under the age of 16 is at **risk of significant harm** and those grounds arise during the course of or from the **member of staff's** work must, in addition to reporting this to the Headmaster, satisfy himself or herself that the Headmaster has reported the matter to the Director-General of the Department of Family and Community Services (Community Services). Where, for any reason, the **member of staff** is unable to satisfy himself or herself that the Headmaster has reported the matter to the Director-General, the **member of staff** has a duty to report the name, or a description, of the student and the grounds for suspecting that the student is at **risk of significant harm** to the Director-General as soon as practicable.
- e. If the **reportable allegation** is against the Headmaster or if the student is at **risk of significant harm** from the Headmaster, the report should be made to the Chairman of the School Board of Governors who must then comply with the obligations under this policy that would otherwise fall upon the Headmaster.
- f. When the Headmaster receives a report from a **member of staff** under this section of this policy, the Headmaster must, where required by law, report the matter to the Police, Community Services and/or the NSW Ombudsman.
- g. Where the report is to the Ombudsman, it must be made as soon as practicable and, in the case of the notification of a **reportable allegation or conviction**, must be made, in any event, within 30 days of the Headmaster

becoming aware of the allegation or conviction (or within such further period as may be agreed to by the Ombudsman).

- h. The Headmaster must set up structures which make it easy for **staff** and other members of the School community to report to the Headmaster **reportable allegations** or **convictions** and situations in which they suspect that a student is at **risk of significant harm**. The Headmaster must also educate the **staff** and the School community about these structures and actively encourage them to make use of these structures.
- i. The Headmaster must ensure that no person reporting to the Headmaster under this section of this policy is disadvantaged as a result.

5. Risk Management

- a. Pending completion of any investigation (whether by the School or an external authority), the Headmaster may limit the contact the **member of staff** is to have with students or other **staff**, direct the **member of staff** to undertake duties other than normal duties or at different locations or suspend the **member of staff** (but on normal pay). Before taking such action, the Headmaster must consider what risk, if any, the **member of staff** might pose to students. The Headmaster must take into account all relevant circumstances, including:
 - i. the nature of the allegation;
 - ii. the vulnerability of the students (for example, because of their age);
 - iii. the nature of the position occupied by the **member of staff**;
 - iv. the extent to which the **member of staff** is supervised;
 - v. the disciplinary record of the **member of staff**;
 - vi. the safety of the **member of staff**; and
 - vii. the extent to which the investigation could be compromised by the **member of staff** continuing his or her normal duties.
- b. Any action taken by the Headmaster under this section of the policy is not an indication that the Headmaster has made, or is likely to make, any particular findings in relation to the allegation against the **member of staff**.

6. Investigation

- a. This section of the policy applies unless an investigation is being carried out by the Police, Community Services, the Ombudsman or some other state or federal authority. This section also applies to any investigation carried out by the School once an investigation carried out by an external authority has been completed.
- b. The guidelines set out in the Recommended Protocols for Internal Investigative and Disciplinary Proceedings - 2001 (developed by the NSW Independent Education Union and the Association of Independent Schools) (www.aisnsw.edu.au/Services/ER/Employment%20Related%20Legislation/Recommended%20protocols%20for%20Internal%20Investigative%20and%20Di)

[disciplinary%20Proceedings.pdf](#)) must be followed in any investigation to which they apply.

- c. The Headmaster must investigate or must cause to be investigated all **reportable allegations** and all allegations that do not amount to **reportable conduct** because they fall within paragraphs 11.n.v. and 11.n.vi. of the Dictionary
- d. The Headmaster must carry out all investigations in a way which affords procedural fairness to the **member of staff** involved. This means that, before completing an investigation of a **reportable allegation**, the Headmaster must inform the **member of staff** of the substance of the allegation against them and provide them with a reasonable opportunity to put their case forward (if required by the **member of staff**, with the assistance of a support person of the **member of staff's** choice). Normally, the Headmaster is to decide the timing and the particular form this will take, ensuring the investigation is not compromised. It also means that the Headmaster must:
 - i. act fairly and without bias;
 - ii. conduct an investigation without undue delay;
 - iii. ensure the case is not investigated or determined by someone with a conflict of interest;
 - iv. ensure the outcome is supported by evidence;
 - v. take steps to maintain confidentiality for the sake of all parties involved in the investigation.
- e. At the conclusion of the investigation, the Headmaster may:
 - i. if the breach is minor, resulting from a misunderstanding of how certain words or behaviour were understood, require from the **member of staff** an apology and a commitment not to repeat the offence;
 - ii. if it is more serious, require from the **member of staff**:
 1. an undertaking to attend counselling;
 2. a written apology;
 3. a commitment not to offend again; and
 - iii. in the most serious case, suspend or terminate the employment of the **member of staff**.
- f. The Headmaster must advise the victim and the **member of staff** in writing of the result of the investigation and the action taken.
- g. If the victim or the **member of staff** is unhappy with the conduct or result of investigation, they may take their complaint to the Headmaster and, if dissatisfied with the Headmaster's response to their complaint, to the NSW Ombudsman, Community Services, the Police or any other relevant authority depending on the circumstances.
- h. The Headmaster must, as soon as practicable after being satisfied that the investigation has been concluded:
 - i. send to the Ombudsman a copy of any report prepared by or provided to the Headmaster as to the progress or results of the

- investigation, and copies of all statements taken in the course of the investigation and of all other documents on which the report is based;
- ii. provide the Ombudsman with such comments on the report and statements as the Headmaster thinks fit;
 - iii. inform the Ombudsman of the action that has been taken or is proposed to be taken with respect to the **reportable allegation** the subject of the investigation, and whether or not the School proposes to take any disciplinary or other action in relation to the **member of staff** and the reasons why it intends to take or not to take any such action; and
 - iv. send to the Ombudsman any written submissions made to the Headmaster concerning any such allegation that the **member of staff** wished to have considered in determining what (if any) disciplinary or other action should be taken in relation to him or her.
- i. The Headmaster must notify the Commission for Children and Young People of the name and other identifying particulars of any **member of staff** against whom **relevant employment proceedings** have been completed by the Headmaster (other than proceedings in which a finding is made that the alleged conduct, offence or **act of violence** did not occur or that the allegations in respect of which the proceedings were brought were vexatious or misconceived). **Relevant employment proceedings** are taken to have been completed when a finding has been made by the School as to whether the alleged conduct, offence or act of violence occurred or may have occurred, and a decision has been made by the School as to what action (if any) is to be taken against the **member of staff** in respect of the finding.
 - j. Notification to the Commission for Children and Young People must be in such form as required by the Commission's Guidelines which can be found at <https://check.kids.nsw.gov.au/employer-guidelines.php>.
 - k. If the Commission or an approved screening agency so requests, the Headmaster must also notify sufficient details of the proceedings concerned to the Commission or that approved screening agency for the purposes of **background checking** or the Commission exercising its function of maintaining a database of completed **relevant employment proceedings**.

7. Pastoral Care

- a. Where a student is at **risk of significant harm** or is the person to whom the **reportable conduct** has allegedly been directed, the Headmaster must as soon as possible advise the student's parents or caregivers unless the Headmaster is satisfied that:
 - i. Community Services intends to notify the student's parents or caregivers promptly; and

- ii. the School will not be in breach of its duty of care to the student or to other students by not advising the student's parents or caregivers.
- b. The School must:
 - i. make available its counselling **staff** to provide counselling and other support as required to:
 - 1. any student who is at **risk of significant harm** or is the person to whom **reportable conduct** has allegedly been directed; and
 - 2. any **member of staff** against whom a **reportable allegation** has been made; and
 - 3. where relevant, their families; and
 - ii. refer these people to external agencies able to provide relevant care and support.

8. Employment

- a. The School must not employ a person (whether as an employee, volunteer, or self-employed contractor) in child-related employment without first requiring that person to disclose whether or not that person is a **prohibited person**. Child-related employment primarily involves direct contact with children where that contact is not directly supervised by another person having the capacity to direct the first person in the course of the employment.
- b. The School must not commence employing, or continue to employ, in child-related employment a person (whether as an employee, volunteer, or self-employed contractor) that the School knows is a **prohibited person**.
- c. A **member of staff** who becomes a **prohibited person** must immediately inform the Headmaster and resign from employment with the School.
- d. The School must carry out all the relevant procedures of **background checking** of a preferred applicant before employing that applicant in paid child-related employment. However, the School may engage an approved screening agency to carry out those procedures. Further, some or all of the procedures of background checking may be deferred in a particular case if the School can establish that it was not reasonably practicable to carry out those procedures in the circumstances. In that case, those procedures are to be carried out as soon as reasonably practicable after the person is employed.
- e. The School must notify the Commission for Children and Young People of the name and other identifying particulars of any person whose application for child-related employment with the School has been rejected primarily because of an estimate of risk in **background checking**.

9. Record Keeping

- a. The School is committed to keeping accurate records of all matters required by this policy.

- b. The School will collect and hold personal information relating to the Working With Children Check in accordance with the Data Protection Principles endorsed by the NSW Privacy Commissioner.
- c. The School will keep securely and indefinitely records relating to reports to the Ombudsman.
- d. The School will not disclose any information obtained by it in connection with **background checking**, except as allowed by law.
- e. The School will take all reasonable measures to prevent unauthorised access to information held on paper or electronic systems.
- f. A **member of staff** who is the subject of **relevant employment proceedings** can:
 - i. apply for access to any documents held by the School containing information about those proceedings; and
 - ii. apply for the amendment of any School records which contain information about the proceedings on the grounds that such records are incorrect or misleading.

Such applications must be made under the legislation set out in section 43 of the *Commission for Children and Young People Act 1998*.

10. Review of Policy

- a. The Headmaster is to ensure that this policy is regularly monitored and revised in the light of legislative or best practice changes.
- b. In any event, the School Board of Governors is to review this policy every three years.

11. Dictionary

- a. **Act of violence** means an act or series of related acts that involves violent conduct committed by a **member of staff** in the course of employment, against or in the presence of a **child**.
- b. **Assault** includes **physical assault** and **sexual assault**.
- c. **Background checking** means any or all of the following procedures with respect to a **member of staff** or to a person who has applied to be a **member of staff**:
 - i. a check for any relevant criminal record of the person, for any relevant apprehended violence orders made against the person, for any child protection prohibition orders made against the person or for any **relevant employment proceedings** completed against the person,
 - ii. any other relevant probity check relating to the previous employment or other activities of the person,
 - iii. an estimate of the risk to students arising from anything disclosed by such a check, having regard to all the circumstances of the case, including any risk arising from the particular workplace,

- iv. the disclosure of the results of any such check or estimate of risk to any person who determines whether the person is to be employed or continue to be employed (or to a person who advises or makes recommendations on the matter).
- d. **Child** means a person under the age of eighteen years.
- e. **Child-related personal violence offence** means :
 - i. an offence committed by an adult involving intentionally wounding or causing grievous bodily harm to a **child**, or
 - ii. an offence committed by an adult of attempting, or of conspiracy or incitement, to commit an offence referred to in paragraph i.,
 but does not include an offence committed by an adult who is not more than 3 years older than the **child** concerned.
- f. **Grooming behaviour** means a pattern of behaviour aimed at engaging a **child** as a precursor to sexual abuse. The grooming process can include:
 - i. persuading the **child** that a “special” relationship exists such as: spending inappropriate special time with the **child**, inappropriately giving gifts, showing special favours to them but not other children, allowing the **child** to overstep rules, etc.;
 - ii. testing of boundaries, such as: undressing in front of the **child**, allowing the **child** to sit on the lap, talking about sex, “accidental” touching of genitals, etc.

These behaviours may not indicate risk if occurring in isolation but, if there is a pattern of behaviour occurring, it may indicate grooming. **Grooming behaviour** constitutes a form of **sexual misconduct**.

- g. **Neglect** occurs when a **child** is harmed by the failure of a person whose job includes care responsibilities towards a **child** to provide basic physical and emotional necessities of life, including failure of such a person to provide or arrange for the provision of adequate and proper food, nursing, clothing, medical attention or lodging for a **child** in that person’s care.
- h. **NSW child protection legislation** means:
 - i. *Children and Young Persons (Care and Protection) Act 1998*;
 - ii. *Commission for Children and Young People Act 1998*;
 - iii. *Ombudsman Act 1974*; and
 - iv. *Child Protection (Offenders Registration) Act 2000*.
- i. **Physical assault** means an act:
 - i. which is committed on or towards a **child**; and
 - ii. that involves the application of force to a **child** or that causes a **child** to think that immediate force will be used on the **child**; and
 - iii. which is hostile or reckless (a reckless act is one where the person foresees the likelihood of inflicting injury or fear, and ignores the risk).

Actual physical harm does not have to occur for an **assault** to have taken place. That is, the **child** does not have to be injured. Physical contact which is an inevitable part of everyday life does not amount to an **assault**.

- j. **Prohibited person** means a person convicted of a serious sex offence, the murder of a child or a **child-related personal violence offence** or a person who is a registrable person within the meaning of the *Child Protection (Offenders Registration) Act 2000*.
- k. **Psychological harm** means significant emotional harm or trauma.
- l. **Relevant employment proceedings** means proceedings (including disciplinary proceedings) in New South Wales or elsewhere, against a **member of staff** by the School or by a professional or other body that supervises the professional conduct of the **member of staff**, being proceedings involving:
 - i. **reportable conduct** by the **member of staff**, or
 - ii. any child pornography offence or misconduct involving child pornography, or
 - iii. any offence or misconduct involving child abuse material as defined in the *Crimes Act 1900*; or
 - iv. any **child-related personal violence offence**, or
 - v. any offence with respect to filming for indecent purposes or installing devices to facilitate filming for indecent purposes committed against, with or in the presence of a child, or
 - vi. an **act of violence** committed by the **member of staff** in the course of employment and in the presence of a **child**.
- m. **Reportable allegation** means an allegation of **reportable conduct** against a person or an allegation of misconduct that may involve **reportable conduct**.
- n. **Reportable conduct** means:
 - i. any sexual offence, or **sexual misconduct**, committed against, with or in the presence of a **child** (including a child pornography offence), or
 - ii. any **assault**, ill-treatment or **neglect** of a **child**,
 - iii. any behaviour that causes **psychological harm** to a **child**, whether or not, in any case, with the consent of the **child**.

Reportable conduct does not extend to:

- iv. 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
- v. 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
- vi. conduct of a class or kind exempted from being **reportable conduct** by the Ombudsman.

Examples of conduct that would not constitute **reportable conduct** include (without limitation) touching a **child** in order to attract a **child's** attention, to guide a **child** or to comfort a distressed **child**; a school teacher raising his or her voice in order to attract attention or to restore order in the classroom;

and conduct that is established to be accidental. Further examples of behaviours that are not **reportable conduct** include providing appropriate medical care to a **child** who is hurt; guiding a **child** by the shoulders, arms or hands; not providing supervision where this was for good reason, and for a short period of time and where the risk of harm was reasonably perceived at the time to be low; and actions found to have been appropriate physical contact in classes such as sport and drama.

- o. **Reportable conviction** means a conviction (including a finding of guilt without the court proceeding to a conviction), in New South Wales or elsewhere, of an offence involving **reportable conduct**.
- p. A **child** is at **risk of significant harm** if current concerns exist for the safety, welfare or well-being of the **child** because of the presence, to a significant extent, of any one or more of the following circumstances:
 - i. the **child's** basic physical or psychological needs are not being met or are at risk of not being met,
 - ii. the parents or other caregivers have not arranged and are unable or unwilling to arrange for the **child** to receive necessary medical care,
 - iii. in the case of a **child** 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** to receive an education in accordance with that Act,
 - iv. the **child** has been, or is at risk of being, physically or sexually abused or ill-treated,
 - v. the **child** is living in a household where there have been incidents of domestic violence and, as a consequence, the **child** is at risk of serious physical or **psychological harm**,
 - vi. a parent or other caregiver has behaved in such a way towards the **child** that the **child** has suffered or is at risk of suffering serious **psychological harm**,
 - vii. the **child** was the subject of a pre-natal report under the *Children and Young Persons (Care and Protection) Act 1998* 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.

Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

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

Physical or sexual abuse may include an **assault** and can exist despite the fact that consent has been given.

The Child Wellbeing and Child Protection - NSW Interagency Guidelines (www.keepthemsafe.nsw.gov.au/interagency_guidelines) provide a list of indicators that may raise concern about **risk of significant harm**.

A practical test when considering whether a child is at risk of significant harm is to ask whether the concern for the child is sufficiently serious to warrant a response by authorities such as the Police or Community Services irrespective of a family's consent.

- q. **Sexual assault** refers to a sexual offence against, with or in the presence of a **child**. It includes the involvement of children in sexual acts or acts of indecency and any sexual threat imposed on a **child**.
- r. **Sexual misconduct** includes a range of behaviours or a pattern of behaviour aimed at the involvement of children in sexual acts. Some of these behaviours may include:
 - i. inappropriate conversations of a sexual nature;
 - ii. comments that express a desire to act in a sexual manner;
 - iii. unwarranted and inappropriate touching; sexual exhibitionism;
 - iv. personal correspondence (including electronic communication) with a **child** in respect of the adult's sexual feelings for a **child**;
 - v. deliberate exposure of children to sexual behaviour of others including display of pornography;
 - vi. possession of child pornography in the workplace;
 - vii. **grooming behaviour**.
- s. **Staff** or **member of staff** includes any School employee and any individual engaged by the School to provide services to its students (even as a volunteer, student teacher, gap student, private tutor or contractor).