

Child Protection - Child Abuse and Harm Definitions, Identification and Initial Responses

Cedars Christian College's Policy

All children and young people have the right to be protected from abuse and harm.

Cedars Christian College is committed to providing a safe environment for all our students.

It is our policy that:

- all staff are trained with respect to identification of child abuse and harm (including grooming) and relevant procedures
- all suspected cases of child abuse or harm (including grooming) that meet the relevant thresholds are reported to DCJ and/or the Police
- we maintain up-to-date procedures to assist staff in identifying and reporting child abuse or harm (including grooming)
- we work collaboratively with relevant external agencies that may be involved in child protection
- we act immediately to ensure the safety of students who have been or at risk of being abused or harmed
- we provide ongoing support and assistance to students who have been abused or harmed.

Definitions of Child Abuse and Harm

There are different legal definitions in NSW that are relevant to child abuse and harm. All of the below are considered child abuse and harm for the purposes of our Child Protection Policies.

Child abuse or harm may involve ongoing, repeated or persistent behaviour, actions or inactions, or it may arise from a single incident.

The perpetrator may be a parent/carer, other family member, staff member, Volunteer, Contractor, another adult or another child or young person.

Children and Young Persons (Care and Protection) Act 1998

There is no definition of 'child abuse' in the Children and Young Persons (Care and Protection) Act. Rather, children and young people may be "at risk of significant harm". A child (aged under 16) or a young person (aged 16 or 17) may be "at risk of significant harm" if current concern exists for their safety, welfare or wellbeing because:

- 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 carers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care
- the parents or carers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with the Education Act 1990 (NSW)
- 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 carer 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.

Crimes Act 1900

The definition of "child abuse offences" in the Crimes Act 1900 (NSW) may assist in understanding what is considered 'child abuse and harm' in NSW. The phrase is also central to understanding obligations under our **Child Protection – Duty to Protect Students from Child Abuse or Harm** and **Child Protection – Mandatory Reporting of Child Abuse Offences to Police** policies.

Under sections 343B and 16A of the Crimes Act, a "child abuse offence" includes sexual offences (and attempts to commit these offences) such as:

- rape
- sexual abuse
- sexual touching
- production of child abuse material
- voyeurism
- grooming.

It also includes 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)
- administering or causing the ingestion of an intoxicating substance
- female genital mutilation.

Some of these offences are only child abuse offences if the child is aged under 16.

There are also particular offences in the Crimes Act 1900 that are relevant to the College context and that are considered child abuse and harm for the purposes of our Child Protection Policies.

- **Grooming of a person with respect to a child "under the authority of the person"**
- **Sexual intercourse with or sexual touching of a young person between 16 and 18 "under special care".**

In the College context, adults with "special care" of young people include the Principal and Deputy Principal, all teaching staff, all non-teaching staff who have students under their care or authority (such as counsellors, nurses, religious leaders or officials, sports coaches, music tutors, learning assistance staff and youth workers) as well as all Direct Contact Volunteers and Direct Contact Contractors.

Family Violence as Harm to a Child or Young Person

Family (or 'domestic') violence is incorporated into the definition of 'child abuse and harm' because it is one of the reasons by which a child or young person might be at risk of significant harm under the Children and Young Persons (Care and Protection) Act 1998 (NSW).

The Crimes (Domestic and Personal Violence) Act 2007 (NSW) sets out the various criminal offences and procedural matters relating to domestic violence in NSW and as such is useful when considering a definition of "domestic" violence.

That Act defines a "domestic violence offence" as a "personal violence offence" committed by a person against another person with whom they have or had a domestic relationship. A personal violence offence includes multiple physical, sexual and intimidation offences under the Crimes Act 1900 (NSW) as well as behaviour intended to coerce or control the victim or to cause that person to be intimidated or fearful.

Grooming as Harm to a Child or Young Person

Grooming of a child or young person, or of an adult with authority for a child or young person, is incorporated into the definition of 'child abuse and harm' for the purposes of our Child Protection Policies because it is:

- conduct which may place a child or young person at risk of significant harm, which must be reported under the Children and Young Persons (Care and Protection) Act 1998 (NSW) (see **Child Protection – Mandatory Reporting of Child Abuse or Harm to DCJ**)
- in certain circumstances, an offence under sections 66EB and 66EC of the Crimes Act 1900 (NSW) that must be reported to the NSW Police (see **Child Protection – Mandatory Reporting of Child Abuse Offences to Police**) and from which persons at the College, who have the authority to do so, must protect students (see **Child Protection – Duty to Protect Students from Child Abuse or Harm**)
- a sexual offence or sexual misconduct which must be reported to the NSW Children's Guardian under the Children's Guardian Act 2019 (NSW) (see **Child Protection – Reportable Conduct of Staff, Volunteers and Others**).

Cedars Christian College treats the commission of grooming behaviours on its premises, online, using College equipment, during its extra-curricular activities or in other related settings (e.g. the home of a teacher) as conduct which threatens the safety of students, and action must be taken as part of our Child Protection Program.

For more information, see our **Child Protection - Detecting, Reporting and Addressing Grooming Behaviours** policy.

Mandatory Reporting of Child Abuse and Harm to DCJ

In NSW, some professionals are legally required to make a report to DCJ if they:

- have reasonable grounds to suspect that a child (aged under 16) is, or a particular group of children are, at risk of significant harm; and
- those grounds arise during the course of the person's work.

In NSW, the following people are Mandatory Reporters:

- anyone who in the course of their professional work or other paid employment delivers health care, welfare, education, children's services, residential services or law enforcement wholly or partly to children
- anyone who holds a management position in an organisation and whose duties include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services or law enforcement wholly or partly to children
- anyone in religious ministry or who provides religion-based activities to children
- all registered psychologists, when providing professional services as a psychologist.

Where a Mandatory Reporter has concerns that a child or young person has been or is at risk of being abused or harmed, the **Mandatory Reporter Guide** (MRG) must be used to determine whether or not those concerns reach the Risk of Significant Harm (ROSH) threshold. If they do reach that threshold, the concerns must then be reported either to DCJ on the Child Protection Helpline (132 111) or the College's Head of Entity (HoE) under the Memorandum of Understanding.

At Cedars Christian College, the HoE is the College Principal, however, should the allegation involve the Principal, the report is to be made to the College Board Chair.

For procedures about Mandatory Reporting to DCJ refer to our **Child Protection – Mandatory Reporting of Child Abuse or Harm to DCJ** policy.

Voluntary Reporting to DCJ

Any person who believes, on reasonable grounds, that a child or young person is at risk of significant harm may voluntarily report to DCJ. This includes staff, Volunteers and Contractors at the College who are not Mandatory Reporters, Mandatory Reporters whose concerns arise outside the course of their work, parents/carers and students.

You do not have to prove that abuse has taken place.

If you need to report an offence that requires immediate Police attention, call the Police on 000.

If you suspect on reasonable grounds that a child or young person is suffering abuse or harm, call the Child Protection Helpline on 132 111 (24 hours a day, 7 days a week).

If you are not sure whether your concerns can or should be reported to DCJ, or if you wish to discuss your concerns about a child or young person, you can discuss your concerns with your sub-school Coordinator, the Director of Wellbeing, the Deputy Principal, or call the Child Protection Helpline on 132 111 or 1800 212 936 (24 hours a day, 7 days a week) for advice.

Allegations against a Staff Member/Volunteer/Others

The Reportable Conduct Scheme seeks to improve how organisations respond to allegations of child abuse or harm and child-related misconduct made against employees, volunteers and contractors.

NSW law requires the Head of Entity at Cedars Christian College to report to the NSW Children's Guardian any allegation that a College staff member, Volunteer or Contractor has committed child abuse or child-related misconduct (Reportable Conduct).

Reportable Conduct includes:

- any sexual offence or sexual misconduct, committed against, with or in the presence of a child (aged under 18) (including child pornography offences or an offence involving child abuse material) including grooming behaviours;
- any assault, ill-treatment or neglect of a child (aged under 18); or
- any behaviour that causes psychological harm to a child (aged under 18).

If you have any concern that a staff member, volunteer or contractor has engaged in Reportable Conduct, you must immediately report your concerns to the Principal or Deputy Principal or the College Board Chair should the allegation involve the Principal. You can also report directly to the NSW Children's Guardian.

The Principal will then report this to the NSW Children's Guardian.

For procedures about Reportable Conduct refer to our **Child Protection – Reportable Conduct of Staff, Volunteers and Others** policy.

Mandatory Reporting of Child Abuse Offences to Police

Section 316A of the Crimes Act requires that, in NSW, all adults must report to Police any information they may have that a child abuse offence has been committed, except in certain circumstances.

The information must be brought to the attention of a member of the NSW Police as soon as it is practicable to do so.

In emergencies, or if the child abuse offence is happening now or has just happened and the suspected offender may still be in the area: call 000.

All other matters: call the Police Assistance Line on 131 444. This line operates 24 hours per day, 7 days per week.

For procedures about mandatory reporting to Police refer to our **Child Protection – Mandatory Reporting of Child Abuse Offences to Police** policy.

Ongoing Management Plan

Together with DCJ and/or the Police, if an external report has been made, the College will develop and implement a management plan designed to provide ongoing support to the student who has been the subject of abuse or harm.

Record Keeping

Where a staff member suspects child abuse or harm but does not have enough information, written and dated records of their observations and concerns should be kept until reasonable belief is formed.

All verbal and written communications regarding child protection matters (including notes of observations, meetings and telephone calls) must be properly documented. The documented records should include dates and times and enough detail to record key conversations, especially those relating to the student's disclosure.

The records of child protection matters including allegations, investigations and findings must be stored securely.

This documentation is maintained by Deputy Principal and located in the relevant Child Protection file folder on SharePoint.

Confidentiality

Staff who have access to information regarding suspected or disclosed child abuse or harm must keep such information confidential and secure and must not disclose this information unless required to do so as part of the ongoing investigation or by law.

Staff must not provide undertakings that are inconsistent with their reporting obligations under this policy. In particular, staff must not promise a student that they will not tell anyone about the student's disclosure.

Students and any other parties who become involved in the investigation (this may include other students) should be informed of the reporting process and be requested to maintain confidentiality.

Inappropriate disclosure will be subject to disciplinary action.

Staff Responsibilities

Staff must ensure that:

- internal reports of child abuse or harm are made as soon as practicable to the Deputy Principal
- they comply with their obligation for Mandatory Reporting of child abuse or harm to DCJ
- they comply with their Reportable Conduct obligations
- they comply with their obligation for reporting child abuse offences to Police
- they take any reasonable steps that are within their power to take to protect students from child abuse offences that maybe committed by another adult working (whether paid or unpaid) at the College
- confidentiality is maintained throughout the process
- immediate support is given to students making disclosures
- records of all verbal and written communication are maintained and stored securely
- no attempts to investigate the incident are made
- they participate in child protection training.