

CCW Policy 5

Child Safeguarding Disciplinary and Misconduct (Reportable Conduct)

Controlled Document

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Document Owner:		Executive Manager, Quality & Risk		Approved by:	Chief Executive Officer	
Reviewed by:		CatholicCare Leadership Team Child Safeguarding Committee		Quality Systems Committee Quality & Risk		

Statement

CatholicCare Wollongong has developed this policy to promote and maintain appropriate standards of conduct and performance and to ensure that an equitable and consistent procedure is applied when addressing issues relating to misconduct, poor performance and breaches of the law and/or CatholicCare Wollongong's policies and procedures on Child Safeguarding.

Any individual that becomes aware of any alleged misconduct against a child or young person, must report the allegation immediately to their Line Manager. As soon as reasonably practicable, the Line Manager is required to notify the program Executive Manager who informs the Chief Operating Officer; Executive Manager, People and Culture; the Executive Manager Quality and Risk, and the Principal Officer if the child or young person is in out of home care.

Any alleged misconduct against a child or young person will launch an investigation, with the Chief Operating Officer nominating the investigator. In addition, depending on the nature of the allegation, a critical incident may be determined by the Chief Operating Officer. This includes notifying the Office of the Children's Guardian of allegations of "reportable conduct".

It is important to note that abuse and neglect can occur in various forms, and the impact can be just as damaging, regardless of the type. Any form of abuse or neglect is unacceptable and will not be tolerated.

In application, depending on the specific circumstances of the case and the nature of the allegations, an employee may be moved to another service program, or suspended with or without pay, until the investigation has completed to ensure there is no compromise, and to protect the safety and welfare of all concerned. The disciplinary process will be conducted in a fair, just and confidential manner, and in accordance with applicable law.

Any disciplinary outcome shall be recorded on the employee's employment file with CatholicCare. Disciplinary warnings or other actions do not have a life span and may remain on the employees file at the discretion of CatholicCare for an unlimited period of time.

Any outcome against an authorised carer shall be recorded on the NSW Carer Register.

Scope

The content and directions of this document and associated procedures, applies to all CatholicCare Wollongong employees and authorised carers, including part-time and casual employees as well as

contractors and consultants that are reported to display actions or behaviour of misconduct or serious misconduct toward a child or young person.

CatholicCare Wollongong will treat each case on its own merits on the facts provided. All decisions are to be dealt with as soon as practicable in accordance with legislative requirements, Award/Enterprise Agreement provisions and the principles of Natural Justice.

This policy does not include conviction of criminal offences that are not in breach of the Child Safeguarding portfolio of Policies and procedures e.g., speeding fines.

Principles

A number of other policies may be relevant for managing child related allegations, charges and convictions. References to these policies are made throughout this document where relevant. This policy directive includes the requirements of the Children's Guardian Act 2019 in relation to 'reportable allegations' and 'reportable convictions', as specified under Part 4 of the Act. Management of child-related allegations, charges and convictions against employees is only one aspect of keeping children safe in CatholicCare Wollongong. A 'child-safe organisation' is one that takes deliberate steps to create and embed workplace cultures, adopt strategies and take actions to promote child wellbeing and prevent harm to children and young people.

Obligations

The safety, welfare and wellbeing of children and young people are paramount. CatholicCare Wollongong employees and all stakeholders connected to CatholicCare Wollongong service programs will:

- be made aware and made accountable to their obligations to report any suspected or actual incidents of child abuse or neglect the Child Protection Helpline (132 111) and to their line manager or designated person
- risk assessment to be completed to ensure the safety of the child or young person making the allegation, including any other parties that may be negatively affected
- ensure employees are treated fairly and the rights of individuals are respected during an investigation and disciplinary process
- report to external agencies including the Department of Communities and Justice, NSW Police and the Independent Commission Against Corruption when appropriate
- report to the Office of the Children's Guardian (Reportable Conduct Unit) reportable allegations and convictions against an employee
- report to the Office of the Children's Guardian (Working with Children Unit) the names of employees found to have seriously physically assaulted a child or engaged in sexual misconduct towards a child.

Natural justice

The principles of natural justice include

- the affected employee having sufficient details about the allegations being made against them and has the opportunity to present their own case before a decision is made
- all investigations and decisions must be made by persons with appropriate authority that holds no bias, conflict of interest or prejudice
- confidentiality shall be maintained in all instances
- an employee shall have the opportunity to have an employee representative/support person
- an employee shall have the opportunity to have an interpreter or other supports that are

reasonable in nature

Savings

This policy does not change any other rules or laws that already apply to employee conduct. CatholicCare employees will still follow all other rules and laws in place, even if they are not mentioned in this policy.

If disciplinary action or an employment proceeding has commenced in relation to a child protection allegation (regardless of whether the matter is reportable or exempt from reporting to external bodies), this policy continues to apply to a person even after they have ceased their association or employment with CatholicCare.

Summary of the disciplinary process

Any alleged misconduct against a child or young person will follow the outlined disciplinary process, with more detail provided in the procedure attached to this policy.

- **Report of misconduct:** An employee, child or young person, parent, or other individual reports an alleged violation of the child safeguarding policy to a designated person or department.
- **Initial notification to the employee:** the employee is given a brief that an allegation has been made.
- **Initial assessment:** A preliminary assessment is conducted to determine if the alleged misconduct poses a risk to the safety and wellbeing of children or young people.
- **Risk assessment:** dependant on the risk posed to the safety and wellbeing of children or young people, the individual may be moved to a different service area or suspended, either paid or unpaid, while an internal investigation is conducted.
- **Notification of relevant authorities:** If the assessment determines that the alleged misconduct poses a risk to the safety and wellbeing of children and young people, the relevant authorities are notified.
- **Investigation:** An investigation is conducted to determine the facts of the situation, including interviews with relevant parties and review of documentation/ information.
- **Notification to the employee:** If the investigation determines that further action is necessary, the employee is notified in writing of the specific allegations and the possible consequences of violating the child safeguarding policy and/or code of conduct.
- **Opportunity to respond:** The employee is given an opportunity to respond to the allegations and provide any relevant information or evidence.
- **Decision making:** Based on the information gathered, a decision is made regarding the appropriate disciplinary action, if any.
- **Notification of decision:** The employee is notified in writing of the decision, including the reasons for the decision and outcomes, including any disciplinary action where relevant, that will be taken.
- **Implementation of disciplinary action:** The disciplinary action is implemented, which may include verbal or written warnings, suspension, or termination of employment.

- **Record-keeping:** Documentation of the disciplinary process and decision is maintained in accordance with the policy's record-keeping provisions, and all relevant authorities are notified.
- **Follow-up:** The employee's performance and compliance with the disciplinary action are monitored, and additional action may be taken if necessary to ensure the safety and wellbeing of children or young people.

Definitions

Term	Definition
Head of Entity	Under the <i>Children's Guardian Act 2019</i> , the Chief Executive Officer of CatholicCare, Diocese of Wollongong represents the Bishop of Wollongong as head of relevant entity.
Principal Officer	For the purposes of fulfilling CatholicCare Wollongong's responsibilities under the Children & Young Persons (Care and Protection) Act 1998 and the Children & Young Persons (Care & Protection) Regulation 2012 the Executive Manager, Children & Youth Services, Michelle Ferrara, is the designated Principal Officer (in her absence, Executive Manager, Family Services, Roseanne Plunket) and also has overall responsibility for supervising CatholicCare Wollongong's arrangements for providing Out of Home Care.
CatholicCare Executive Leadership Team (CELT)	The CELT considers and provides advice to the Chief Executive Officer on high level strategic issues and significant policy and operational matters impacting on CatholicCare. It comprises of Executive Managers of CatholicCare.
Quality Systems Committee (QSC)	A diverse team that oversees & contributes to the promotion, development, and implementation of systems to ensure continuous improvement in the provision of high-quality client-centric services that achieve positive outcomes for clients
Employees	A person employed by CatholicCare, students (work experience or professional placement), or a person who volunteers for CatholicCare Wollongong, but excludes authorised carers
Child	<p>A person under the age of 18 years (unless otherwise specified in relevant legislation) – Children's Guardian Act 2019 and Child Protection (Working with Children) Act 2012</p> <p>A person under the age of 16 years - Children and Young Persons (Care and Protection) Act 1998</p>

Young Person	A person who is aged 16 years or above but who is under the age of 18 years - Children and Young Persons (Care and Protection) Act 1998.
Authorised carer	A person authorised by CatholicCare as a foster or relative kinship carer who, for a period of time, takes on the responsibilities of parents to provide a safe, nurturing and secure family environment for children and young people needing care.
Authorised carer household member	Adult household members living in the home of a foster/kinship carer.
Child Protection Helpline 132 111	The Child Protection Helpline is available 24 hours a day, 7 days a week, to receive reports of suspected child abuse and neglect and to provide advice and support. The helpline is staffed by trained professionals who can assess the situation and make appropriate referrals for investigation and support.
Office of the Children's Guardian (OCG)	An independent statutory authority in NSW Government, promoting, regulating, and overseeing the quality of child safe organisations in NSW to uphold children and young people's right to be safe
Department of Community & Justice	The Department of Communities and Justice works with children, adults, families and communities to improve lives and help people realise their potential.
Employee representative/ Support person	Any individual accompanying an employee to a formal meeting. This could be an internal (provided there is no conflict of interest) or external party such as a union delegate/representative. If an employee chooses a colleague or another employee as a representative this shall be agreed to by CatholicCare.
Misconduct	Intentional, deliberate or reckless conduct by an individual that a reasonable person would consider is inconsistent with the employee's obligations under their contract of employment and their obligations to the Child Safeguarding Code of Conduct, Child Safeguarding policies and procedures, and the legislative and regulatory frameworks by which CatholicCare must abide.
Serious Misconduct	Involves an employee behaving in a way that is inconsistent with continuing their employment

Reportable Allegation/Conduct	<p>A reportable allegation is an allegation that an employee (including Authorised Carers) has engaged in conduct that may be reportable conduct.</p> <p>It includes sexual offences or sexual misconduct, assault, ill-treatment or neglect of a child or young person or any behaviour that causes psychological or emotional harm to a child or young person or any offences relating to failure to report, or failure to reduce or remove a risk of, child abuse.</p>
Reportable Conduct Scheme	<p>From 1 March 2020, the Reportable Conduct Scheme is operated by the Office of the Children's Guardian (OCG) under the Children's Guardian Act 2019. The scheme monitors how organisations investigate and report on reportable allegations and convictions made against their employees, volunteers or contractors who provide services to children.</p>
Natural Justice	<p>Refers to procedural fairness, ensuring a fair decision is reached by an objective decision maker</p>
Suspension of Employment	<p>An employee is instructed not to attend work, enter the premises or contact any CatholicCare employee during the process of an investigation into an allegation or serious misconduct; this may include instructing the employee to leave the premises immediately.</p> <p>The employee will be suspended on full pay whilst the allegations are investigated.</p> <p>In imposing a suspension, CatholicCare may require the employee to utilise accrued leave for whole or part of the period of the suspension. Suspension from duty shall not affect an employee's continuity of service, for the purposes of accruing leave entitlements.</p>

Roles and Responsibilities

Role	Responsibility
Chief Executive Officer	<ul style="list-style-type: none"> Legally responsible and must ensure the agency implements the Child Safe Standards through systems, policies and procedures Assess, review and approve Agency policies to be distributed
Chief Operating Officer	<ul style="list-style-type: none"> For a reportable conduct allegation, brief the Chief Executive Officer Confirm the need for a critical incident investigation Determine investigation team Ensure a risk assessment is immediately undertaken

Executive Manager People & Culture	<ul style="list-style-type: none"> Follow instruct from Chief Operating Officer when there is a reportable conduct allegation reported
Executive Manger Quality & Risk	<ul style="list-style-type: none"> Follow instruct from Chief Operating Officer when there is a reportable conduct allegation reported
Child Safeguarding Committee	<ul style="list-style-type: none"> Assess and review child safeguarding documentation and procedures and report non-conformance or improvement opportunities to CELT Champion the values of CatholicCare' child safe culture of a set of values and practices that guide the attitudes and behaviour of all employees and embed them in organisational governance.
Executive Manager	<ul style="list-style-type: none"> Consult all relevant stakeholders including employees, families and foster and other carers when developing and implementing the child risk management policy Publicise and promote this policy to all relevant stakeholders Formally induct this policy as part of agency procedures Ensure risks and management of those risks is an agenda item at employee, CELT and CatholicCare Advisory Council meetings Ensure children and young people are given avenues to contribute to the risk management strategy by having a say about what makes them feel safe and unsafe in the agency, and how things could be better Ensure employees are competent in identifying signs of child-specific harm, abuse, neglect, and grooming Ensure families and/or carers are aware of who in the agency is responsible for implementing risk management procedures See Assess, review, socialise and train employees in policies and associated procedure, and Monitor employees in compliance to the policies and associated procedures
Managers overseeing child related services	<ul style="list-style-type: none"> Understand the legal and regulatory obligations to lead and report children and young people care Hold employees accountable for adhering to the Child Safeguarding policies and procedures Monitor employees in compliance to the policies and associated procedures See assess, review, socialise and train employees in policies and associated procedures Timely escalation of concerns or issues that are unable to be resolved at this level

Line Managers	<ul style="list-style-type: none"> • Hold employees accountable for adhering to the Child Safeguarding policies and procedures • Monitor employees in compliance to the policies and associated procedures • See assess, review, socialise and train employees in policies and associated procedures
Employees	<ul style="list-style-type: none"> • Be competent in identifying types of risks a child may be subjected to, including physical, psychological, sexual and neglect • Be competent in identifying signs a child may have experienced harm, abuse, neglect and grooming • Inform Line Manager and/or the Child Safeguarding Committee if they have concerns regarding the contents of this policy • Make identification of risk and signs of harm a daily part of their role at the agency • Follow this policy and associated procedures
Employee Representative	<ul style="list-style-type: none"> • Support the employee • Act as a witness to the disciplinary proceedings, and • If required by the employee, to take notes of discussions on behalf of the employee. <p>It is <u>not</u> the roles of an Employee Representative to</p> <ul style="list-style-type: none"> • Act as an Advocate for the employee and as such • They will not be permitted to make representations on behalf of the employee during disciplinary proceeding <p><i>This should be made clear to both the employee and their representative before the commencement of proceedings.</i></p>
Quality Systems Committee	<ul style="list-style-type: none"> • Provide support in assessing, reviewing, and collaborate policies to have ready for the CELT

Induction and ongoing training

- Induction and ongoing training will be implemented, on commencement and during employee meetings as required, focusing on this policy and related procedures.
- Communications through internal channels as required.
- Training occurs through socialisation as part of policy review.

Monitoring, Evaluation and Review

This policy will be monitored to ensure compliance with legislative and standard requirements and unless deemed necessary through the identification of practice gaps, or incident or feedback, the agency will review this Policy annually.

References

Legislation

- Care and Protection Act 1998
- Children and Young Persons (Care and Protection) Act 1998 (NSW)
- Children and Young Persons (Care and Protection) Regulation 2012
- Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015
- Child Protection (Working with Children) Act 2012
- Child Protection (Working with Children) Regulation 2013
- Children's Guardian Act 2019
- Crimes Act 1900
- Disability Inclusion Act 2014 (NSW)
- Education and Care Services National Regulations (2011 SI 653)
- Family Law Act 1975 (Commonwealth)
- National Disability Insurance Scheme Act 2013
- NDIS (Quality & Safeguards Commission and Other Measures) Act 2018
- Fair Work Act 2009
- United Nations Convention on the Rights of the Child

Standards

- National Catholic Safeguarding Standards
- NSW Office of the Children's Guardian - NSW Child Safe Standards for Permanent Care 2015
- Australian Children's Education & Care Quality Authority – National Quality Standard
- Department of Social Services – Families and Children Activity Administrative Approval Requirements
- National Disability Standards
- NDIS Quality and Safeguarding Commission – NDIS Practice Standards

Agency Policies

- Code of Ethics and Conduct
- Child Safeguarding Code of Conduct
- CCW Policy 2 Child Safeguarding – Risk Management
- CCW Policy 3 Child Safeguarding – Equity and Inclusion for Children and Young People
- CCW Policy 4 Child Safeguarding – Complaints Management
- CCW 5 Child Safeguarding Disciplinary and Misconduct (Reportable Conduct)
- CS Policy 9 - Preventing and Responding to Harm and Abuse of Vulnerable People
- WS Policy 4.1 Performance Planning and Review
- WSP Procedure 4.2.1 Managing Conduct and Performance
- Code of Ethics and Conduct

Forms, Record Keeping and Other Documents

NSW Dept of Family & Community Services - [Family & Community Services \(nsw.gov.au\)](https://www.nsw.gov.au/family-community-services)
NSW Office of the Children's Guardian - [Home | Office of the Children's Guardian \(nsw.gov.au\)](https://www.nsw.gov.au/childrens-guardian)

Appendix 1 – CatholicCare Reportable allegation against and employee

Reportable allegation against an employee

