

Child Protection – Code of Conduct



1.0 INTRODUCTION AND PURPOSE

1.1 This Code is to inform and remind staff members of the Archdiocese of Canberra and Goulburn of the standards of behaviour and other requirements that must be adhered to when working with children.

1.2 Consistent with its mission and values, and in compliance with its legislative obligations, the Archdiocese of Canberra and Goulburn strives to ensure children in its care are safe and secure.

1.3 This Code aims to:

- Clarify the expectations of staff members who work in child related employment
- Provide a safe and supportive environment for children and staff members
- Build and maintain a contemporary Catholic workplace that is safe, respectful, professional and legally compliant.

1.4 This Code is not exhaustive and does not identify every potential scenario of concern in the workplace.

2.0 SCOPE

The Code applies to all staff members engaged to work in, or provide services to the Archdiocese of Canberra and Goulburn.

3.0 DEFINITIONS

3.1 "Staff member" includes:

Paid employees whether employed on a permanent, temporary or casual basis religious, volunteers, contractors, sub-contractors, consultants and students on tertiary practicum placements.

3.2 "Child" or "children" refers to any person under the age of 18 years.



4.0 LEGISLATION FRAMEWORK

4.1 Staff members are required to be familiar and comply with child protection legislation as varied from time to time, including but not limited to:

- Child Protection (Working with Children) Act 2012 (NSW)
- Child Protection (Working with Children) Regulation 2013 (NSW)
- Children and Young Persons (Care and Protection) Act 1998 (NSW)
- Children and Young Persons (Care and Protection) Regulation 2012 (NSW)
- Crimes Act 1900 (NSW)
- Ombudsman Act 1974 (NSW)
- Child and Young People Act 2008 (ACT)
- Child and Young People Regulation 2009 (ACT)
- Crimes Act 1900 (ACT)
- Ombudsman Act 1989 (ACT)
- Working with Vulnerable People (Background Checking) Act 2011 (ACT)
- Working with Vulnerable People (Background Checking) Regulation 2012 (ACT)

4.2 Failure to comply with the child protection responsibilities and obligations required by legislation or this Code may result in disciplinary action including immediate termination of employment, termination of contractor agreement, notification to external agencies and/or criminal charges.

4.3 A staff member who becomes aware of a possible breach of this Code or legislation by another staff member must report this to the Manager (IPSS) or as delegated. Failure to do so may result in disciplinary action.

5.0 RESPONSIBILITIES AND OBLIGATIONS

5.1 Duty of Care

A staff member has a legal obligation to take reasonable care for their own safety and the safety of children and others they come into contact with as part of their engagement with the Archdiocese of Canberra and Goulburn.

These obligations will arise from the specific role and responsibilities of the staff member include (but are not limited to) the following:

- Providing adequate supervision.
- Following procedures relating to child safety, behaviour management, welfare and well-being (for example, reporting procedures).
- Demonstrating personal behaviours that promote the safety, welfare and well-being of children.
- Providing medical assistance (if competent to do so), or seeking assistance from a medically trained person to aid a child who is injured or becomes sick.
- Identifying and protecting a child from hazards that pose a risk of harm and which can be reasonably predicted.
- Taking appropriate action where a child's safety, welfare or well-being is at risk.

The standard of care that is required needs to take into consideration various factors, such as a child's maturity, ability and circumstances.

Duty of care to children applies during all activities and functions conducted or arranged by the Archdiocese of Canberra and Goulburn where children are in the care of staff members.



Staff members must assess and manage the risk associated with any activity before undertaking the activity.

Actual harm to a child, or potential to cause significant harm to a child, caused by:

- A single serious failure to exercise appropriate duty of care; or
- repeated less serious failures to exercise appropriate duty of care may constitute misconduct, neglect or negligence and/or a breach of this Code.

Staff members should not put themselves in a position that may create a risk of an allegation of a child protection nature. For example, staff members must not:

- Transport a child or children in a car alone, except with the prior consent of the Manager (IPSS) or as delegated; and
- otherwise be alone with a child, unless they are in the view of others and/or there is a reasonable requirement to do so.

5.1.1 **Professional conduct** - staff members must act professionally and appropriately when dealing with children and others they come into contact with as part of their engagement with the Archdiocese of Canberra and Goulburn. This includes using appropriate language and tone toward children and others. Rude or insulting behaviour, including verbal aggression; abusive, threatening or derogatory language or conduct; or intimidating words or actions towards children is unacceptable. It is also unacceptable to engage in such conduct towards others in the presence of children.

5.1.2 **Physical contact** - staff members must not engage in inappropriate physical contact with children, or act in ways that may cause a child to reasonably fear that unjustified force will be used against them.

Examples of inappropriate physical contact include (but are not limited to):

- Intentional and unjustified use of physical force.
- Throwing an object to gain a child's attention in a hostile way.
- Restraining a child (unless as part of an approved behaviour management plan).
- Pushing, pulling, shoving, grabbing, pinching, poking, shaking or throwing a child.

Examples of conduct that involves the reasonable use of physical contact for exercising appropriate control over a child include (but are not limited to):

- Disarming a child who is at risk of harming themselves or another person.
- Separating children who are fighting.
- Reasonable use of physical force for the protection of self or others.

5.1.3 **Discipline** - staff members must not correct or discipline a child in excess of what is reasonable or appropriate for the situation and the child's maturity, ability and circumstances. Discipline is excessive if it is a disproportionate response to a child's behaviour.

Examples of inappropriate discipline or ill-treatment include (but are not limited to):

- Locking a child in a cupboard as punishment.
- Tying a child to a chair.
- Keeping a child on detention during lunch without allowing them to eat or go to the toilet.

5.1.4 **Medication, drugs and other substances** - staff members must not purchase for or offer, supply, give or administer to children, or condone or encourage, illegal drugs, restricted substances, prescribed or non-prescribed medication (unless dealing with or administering medication in accordance with relevant policy), alcohol or tobacco.

5.2 Appropriate Relationships and Boundaries

Staff members must act professionally and appropriately when dealing with children and others they come into contact with as part of their engagement with the Archdiocese of Canberra and Goulburn. This obligation also extends to relationships staff members have with children outside of work.

Staff members must maintain appropriate boundaries with children. A single serious 'crossing of professional boundaries' by a staff member, or repeated less serious breaches of professional conduct or exercise of poor judgment in the following areas, may constitute misconduct, sexual misconduct and/or a breach of this Code.

5.2.1 **Relationships** - staff members must not behave in a way that could reasonably be construed as involving an inappropriate relationship with a child or a group of children.

Staff members must not invite children they come into contact with as part of their engagement with the Archdiocese of Canberra and Goulburn to join their personal electronic social networking or messaging sites/apps or accept children's invitations to join theirs. They must not attend parties or socialise with children or invite a child to their home or attend a child's home without an appropriate professional reason and without the parents/carers' consent and the consent of the Manager (IPSS) or delegate.

Where there are existing personal relationships, such as a family relationship or close friendships that involve a staff member and a child, the staff member needs to take care to be transparent, prudent and behave appropriately and be mindful of any perceived conflict of interest.

A staff member who is unsure about the appropriateness of a relationship with a child or a child's family must disclose it to the Manager (IPSS) or as delegated.

5.2.2 **Grooming** - staff members must not engage in grooming behaviour. Grooming behaviour involves a pattern of conduct that is consistent with grooming a child for sexual activity, where there is no other reasonable explanation for it.

Examples of grooming behaviours include:

- Persuading a child or group of children that they have a 'special' relationship, for example, by spending inappropriate special time with a child, inappropriately giving gifts or showing special favours to them but not other children, inappropriately allowing the child to overstep rules, or asking the child to keep this relationship to themselves.
- Testing boundaries, for example, by undressing in front of a child, encouraging inappropriate physical contact (even where it is not overtly sexual), talking about sex, or 'accidental' intimate touching.

- Inappropriately extending a relationship outside of work.
- Inappropriate personal communication (including emails, telephone calls, letters, text messages, social media and web forums of a sexual nature).

If there are reasons for a staff member to communicate with children or their families using electronic information and communication technology (ICT) for reasons other than work purposes, it is important to discuss this with and gain the approval of the Manager (IPSS) or as delegated.

5.2.3 **Sexually inappropriate behaviour** - staff members must not make sexually explicit comments or engage in other sexually overt or implied behaviour towards or in the presence of children. Such behaviour may constitute sexual misconduct.

Examples of sexual behaviours include:

- Inappropriate conversations of a sexual nature.
- Unwarranted and inappropriate touching.
- Exposure of children to sexual behaviour of others.
- Watching children undress in circumstances where supervision is not required.

Staff members must not have an intimate, romantic or sexual relationship with any child or student who is under their care or supervision regardless of their age. It is irrelevant whether the relationship is consensual, non-consensual, known to or condoned by parents, guardians or caregivers.

Staff members must not commit a sexual offence. This encompasses all criminal offences involving a sexual element that is committed against, with or in the presence of a child and includes indecent assault, sexual assault, possession/dissemination/production of child pornography or child abuse material.

Extreme care must be taken in any relationship between a staff member and a former child client or student, even if the person is now over 18 years of age.

A personal or sexual relationship with a former child client or student entered into by any staff member may be considered sexual misconduct if it is established that the staff member used his or her position to develop and/or maintain an inappropriate personal or intimate relationship with the person when they were a client or student of the Archdiocese of Canberra and Goulburn.

5.3 Working with Children Clearances

The Archdiocese of Canberra and Goulburn must ensure that verified clearances are in place for all relevant persons as required under the Child Protection (Working with Children) Act 2012 for staff employed in NSW and as required under the Working With Vulnerable People (Background Check) Act (2011) for staff employed in the ACT.

A NSW Working With Children Check is valid for five years, while an ACT Working With Vulnerable People Registration is valid for three years. Staff members are responsible for ensuring their clearance or registration is renewed.



Staff members who do not have a verified Working With Children Check (in NSW) or a valid registration allowing them to Work With Vulnerable People (in the ACT) cannot continue to be engaged in child related work. Consequently, their employment or engagement with the Archdiocese of Canberra and Goulburn may be terminated.

5.4 Notification and Reporting

To satisfy reporting and notification requirements under the law, including;

- mandatory requirements under the Children and Young Persons (Care and Protection) Act 1998 (NSW),
- reportable conduct requirements under Part 3A of the Ombudsman Act 1974 (NSW) reporting requirements to the Office of the Children's Guardian under the Child Protection (Working with Children) Act 2012 (NSW),
- mandatory requirements to the Child and Youth Protection Services under the Child and Young People Act 2008 (ACT),
- reportable conduct requirements under Part 17G of the Ombudsman Act (1989) (ACT),
- reporting requirements to Access Canberra under the Working With Vulnerable People (Background Check) Act (2011) (ACT), and in line with the Archdiocese of Canberra and Goulburn's values, staff members are required to notify or report certain matters of concern as outlined in the following sections.

Staff members must make reports to the Manager (IPSS) or as delegated in accordance with sections 5.4.1, 5.4.2 and 5.4.3 below. The Manager (IPSS) or delegate will determine if reporting or notification needs to be made to the relevant authority and will make the report. For staff members in NSW the relevant authority includes the NSW Ombudsman's Office, Office of the Children's Guardian, Community Services and/or the NSW Police. For staff members in the ACT the relevant authority includes the ACT Ombudsman, Community Services – Child and Youth Protection Services, Access Canberra and/or the ACT Police.

5.4.1 **Mandatory Reporting in NSW** - staff members in NSW, who deliver health care, welfare, education, children's services or residential services, wholly or partly, to children as part of their paid or professional work are mandatory reporters of children who are at risk of significant harm. This also applies to staff members in a management position with direct responsibility for or supervision of such services.

A child or young person¹ is at risk of significant harm if current concerns exist for the safety, welfare or well-being of a child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

- The basic physical or psychological needs of the child or young person are not being met (neglect).
- The parents or caregivers have not arranged necessary medical care for the child or young person (unwilling or unable to do so).
- The parents or caregivers have not arranged for the child or young person to receive an education in accordance with the Education Act 1990 (NSW) (unwilling or unable to do so).
- Risk of physical or sexual abuse or ill-treatment (physical or sexual abuse).

¹ For the purposes of reporting risk of significant harm, in NSW a child is aged up to 15 years and a young person is aged 16 to 17 years. For reporting purposes in the ACT a child is aged up to 12 and a young person aged up to 18.

- Parent or caregiver's behaviour towards the child causes or risks serious psychological harm (emotional abuse).
- Incidents of domestic violence and as a consequence a child or young person are at risk of serious physical or psychological harm (domestic or family violence).
- The child was the subject in a pre-natal report and the birth mother did not engage successfully with support services.

If a mandatory reporter has reasonable grounds to suspect a child is at risk of significant harm and those grounds arise during the course of or from their work, they must make a report to the Manager (IPSS) or as delegated.

While it is not mandatory under NSW legislation to report about young persons (children aged 16-17 years), staff members should make reports about concerns for young persons to the Manager (IPSS) or as delegated who will use professional judgement in deciding whether the concerns warrant a report to the relevant authority.

5.4.2 Mandatory Reporting in the ACT - mandatory reporters in the ACT include staff members who are employed as a doctor, dentist, nurse, teacher or teacher's aid at a school, counsellor, a person caring for a child at a childcare centre and a person coordinating or monitoring home-based care for a family day care scheme proprietor. The staff members are required to make a report if, due to information obtained during the course of, or because of their employment, they believe on reasonable grounds that a child or young person has experienced, or is experiencing:

- Sexual abuse or;
- non-accidental physical injury.

Staff members must make a mandatory report to the Manager (IPSS) or as delegated.

While it is not mandatory under the ACT legislation to report about the neglect, emotional abuse of a child or young person, staff members must make reports about concerns for young persons to the Parish Priest or Manager (IPSS) who will use professional judgement in deciding whether the concerns warrant a report to the relevant authority.

5.4.3 Reporting of Inappropriate Conduct of Staff Members

Staff members must report to the Manager (IPSS) or delegate:

- Any convictions or allegations of reportable conduct² involving any other staff member that they are aware of, or reasonably suspect.

² In NSW "Reportable conduct" is defined as any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including child pornography) or any assault, ill-treatment or neglect of a child or any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child. Reportable conduct includes conduct which occurs outside the course of employment.

In the ACT "Reportable conduct" includes sexual offences and convictions where a child is a victim or is present; offences against the person, including physical offenses and convictions, where a child is a victim or present; conviction, or finding of guilt, under a territory law or state or Commonwealth law, involving reportable conduct; offences against the Education and Care Services National Law (ACT) Act 2011; ill-treatment of a child; psychological harm; and misconduct of a sexual nature. It does not matter whether or not the employee engaged in the conduct in the course of employment or whether a child consents to the conduct.

- If they are charged with or convicted of an offence relevant to working in child-related employment, or if they have had any reportable conduct allegation made against them.
- Any information or concerns about inappropriate behaviour by any staff member that involves a child or children, including behaviour that has occurred either inside or outside of work. Inappropriate behaviour includes behaviour which is inconsistent with Sections 5.1 and 5.2 of this Code.

A staff member who is unsure of whether they are required to make a report should discuss the matter with the Manager (IPSS) or delegate.

5.5 Confidentiality

Staff members must maintain confidentiality in relation to any matters of a child protection nature and only discuss the matter with those required to be notified or reported to. Where a staff member is in doubt as to the requirements of confidentiality, they should seek advice from the Manager (IPSS) or delegate.

5.6 Victimisation

Staff members must not take detrimental action against a complainant or person who reports information as required by legislation and this Code. Such action is unlawful.

5.7 Record keeping

A staff member must maintain appropriate records and data in relation to their professional practice in the care and protection of children. Records may include case notes, student/client files and behaviour management plans.

5.7.1 A staff member must keep contemporaneous records of any disclosure, observations and discussions regarding a child protection matter, including any alleged breach of this Code. These records must be kept in a secure location as provided for by the Archdiocese of Canberra and Goulburn.

5.8 Investigations

Allegations of a child protection nature against a staff member will be investigated and dealt with in line with the Archdiocese of Canberra and Goulburn investigation policy.

6.0 FURTHER INFORMATION

Further information about any of the matters outlined in this Code can be sought from the Manager (IPSS).

