



Child Protection Code of Conduct

July 2020



1.0 INTRODUCTION AND PURPOSE

1.1 This Code is to guide, inform and remind staff members (refer definition page 2) of the Archdiocese of Canberra and Goulburn (the Archdiocese) 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 strives to ensure children in its care are safe and secure.

1.3 This Code aims to:

- Clarify the expectations of staff members engaged in any child related activity.
- Provide a safe and supportive environment staff members and children (per the child safe standards)
- 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, including but not limited to Parishes, Youth Ministry and the Chancery noting each Archdiocesan Agency (Catholic Education, Marymead and CatholicCare) may have their own Code relevant to the delivery of their services.

3.0 DEFINITIONS

“**Staff member**” includes:

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

“**Child**” or “**children**” refers to any person under the age of 18 years.

“**Adult**” refers to any person over the age of 18 years.



4.0 RESPONSIBILITIES AND OBLIGATIONS

4.1 Duty of care – **physical environment**

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.

These obligations arise from the specific role and responsibilities of the staff member and 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 to reduce or remove risks impacting on a child’s safety, welfare or well-being.
- ensuring children are aware of their rights and responsibilities.

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 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. This includes developing and implementing a risk assessment.

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

- (a) a single serious failure to exercise appropriate duty of care; or
 - (b) 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:

- (a) transport a child or children in a car alone; and
- (b) otherwise be alone with a child, unless they are in the view of others and/or there is a reasonable requirement to do so.

Staff members should seek out a child's parents/guardians or another adult, if to keep a child safe, a need to transport a child arises. Any such incident should be documented and provided to the IPSS Manager within 24 hours.

4.1.1 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.

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.

4.1.2 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
- use of physical contact to have a child or student follow directions
- 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)
- hitting, kicking, pushing, pulling, shoving, grabbing, pinching, poking, shaking or throwing a child.

"Justice should not only be done, but should be manifestly and undoubtedly be seen to be done."

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.

Staff members when assisting a distressed child, should seek the child's permission prior to placing a hand or one arm around them for comfort, given this act could unintentionally cause further distress.

4.1.3 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.

4.1.4 Medication, drugs and other substances

Staff members must not purchase for, offer, supply, give or administer to children, illegal drugs, restricted substances, prescribed or non-prescribed medication (unless dealing with or administering medication in accordance with relevant policy), alcohol or tobacco. Neither should the use of such substances be condoned or encouraged.

4.2 Duty of care - 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. This obligation also extends to relationships staff members have with children outside of work.

Staff members must maintain appropriate physical, social and emotional 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.

4.2.1 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 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 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 Manager (IPSS) or their delegate. 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.

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.

4.2.2 Grooming

Staff members must not engage in grooming behaviour with either a child, their family and/or community. 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 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 IPSS Manager or delegate.



4.2.3 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 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 exploitation or child abuse material.

4.3 Working with children clearances

The Archdiocese 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, and from 1 July 2020 an ACT Working With Vulnerable People Registration is valid for five years (previously it was valid for three years). Staff members are responsible for ensuring their clearance or registration is renewed.

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

4.4 Notification and reporting

Staff members must satisfy reporting and notification requirements under the law, including:

- mandatory reporting requirements to the Department of Communities and Justice under the Children and Young Persons (Care and Protection) Act 1998 (NSW)
- reportable conduct requirements under the Children's Guardian Act 2019 (NSW)
- reporting requirements to the Office of the Children's Guardian under the Child Protection (Working with Children) Act 2012 (NSW)
- reporting child abuse offences under section 316A of the Crimes Act 1900 (NSW)
- mandatory reporting requirements to the Children and Youth Protection Services under the Child and Young People Act 2008 (ACT)

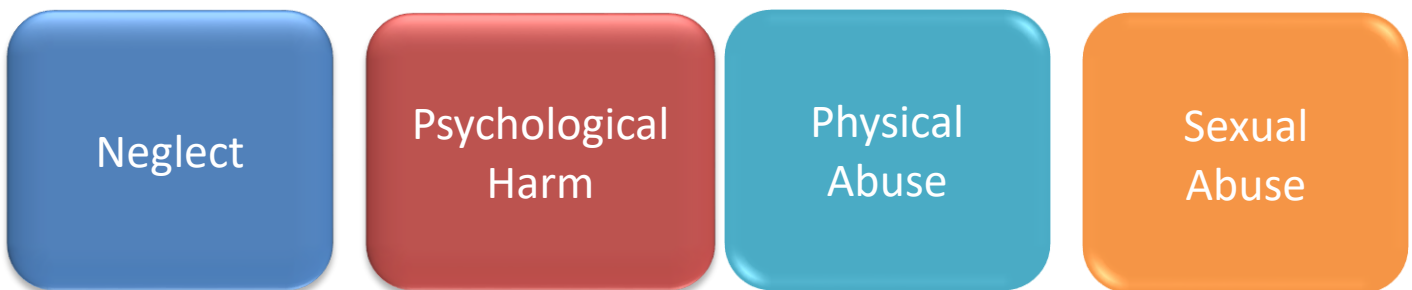


- reportable conduct requirements under Part 17G of the Ombudsman Act (1989) (ACT)
- reporting requirements to Access Canberra under the Working With Vulnerable People (Background Check) Act (2011) (ACT)
- reporting child sexual offences under section 66AA of the Crimes Act 1900 (ACT)

Staff members must make reports to the IPSS Manager in accordance with sections 4.4.1 and 4.4.2. The IPSS Manager 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, Office of the Children’s Guardian, Department of Communities and Justice 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.

4.4.1 Mandatory reporting



4.4.1.1 Mandatory reporting in NSW

Staff members in NSW, who deliver health care, welfare, education, children’s services, religious based activities to children 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 clergy and 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 the 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) or are at risk of not being met
- 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
- parent or caregiver’s behaviour towards the child causes or risks serious psychological

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.

harm (emotional abuse)

- incidents of domestic violence and as a consequence the child or young person is 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 NSW Department of Communities and Justice. Assistance can be provided by calling the IPSS Manager or delegate on 6239 9806.

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 IPSS Manager or delegate who will use professional judgement in deciding whether the concerns warrant a report to the relevant authority.

Reporting to NSW Police

In accordance with section 316 (A) of the Crimes Act 1900 (NSW), all adults in NSW are required to bring information to the attention of NSW Police if they:

- know, believe or reasonably ought to know that a child (under 18 years) has been abused, or
- know, believe, or reasonably ought to know that they have information that might materially assist in securing the apprehension, prosecution or conviction of the offender.

A reasonable excuse for a person not bringing information to the attention of the police, includes the alleged victim was an adult at the time that the information was obtained by the person and the person believes on reasonable grounds that the alleged victim does not wish for the information to be reported to police.

If a staff member believes this to be a reasonable excuse for not bringing information to the attention of the police, but the offender is a current staff member of the Archdiocese, this information must be brought to the attention of the IPSS manager to comply with section 43B of the Crimes Act 1900 (NSW).

If you require assistance making a report, please call IPSS Manager on 6239 9806.

4.4.1.2 Mandatory reporting in the ACT

Mandatory reporters in the ACT include staff members who are a doctor, dentist, nurse, teacher or teacher's aid at a school, counsellor, minister of religion, religious leader or member of the clergy of a church or religious denomination, a person caring for a child at a childcare centre, a person coordinating or monitoring home-based care for a family day care scheme proprietor, a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.

The staff members are required to make a report if, due to information obtained during the course of, or because of their work (including information disclosed in a religious confession), they believe on reasonable grounds that a child or young person has experienced, or is experiencing:

- sexual abuse or;
- non-accidental physical injury (physical abuse).

Staff members must make a mandatory report to Child and Youth Protection Services. Assistance can be provided by the IPSS Manager or delegate in making a mandatory report.

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 IPSS Manager who will use professional judgement in deciding whether the concerns warrant a report to the relevant authority.

Reporting to ACT Police

In accordance with section 66(AA) of the Crimes Act 1900 (ACT), all adults in the ACT are required to report information they obtain that leads them to reasonably believe that a sexual offence has been committed against a child to Police.

4.4.2 Reporting of inappropriate conduct of staff members

Staff members must report to the IPSS Manager or delegate:

- any convictions or allegations of reportable conduct² involving any other staff member that they are aware of, or reasonably suspect
- 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.
- any information or concerns where a fellow staff member may know of a child being abused (in any context) and has not met their reporting obligation under s316A of the Crimes Act 1900 (NSW) or s66AA of the Crimes Act 1900 (ACT).



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.

² In NSW “Reportable conduct” is defined as any sexual offence (including touching or grooming of a child and production, dissemination or possession of child abuse material, or sexual misconduct, committed with towards or in the presence of a child 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 offences 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 (inappropriate discipline or offences relating to protecting children from harm); ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, neglect and restrictive intervention); 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. Information disclosed in a religious confession will need to be reported if it relates to sexual abuse against a child, or non-accidental physical injury to a child.

4.4.3 Reporting Child Abuse Offences

There may be situations where a staff member suspects that a child abuse offence has occurred, but it is not covered by the reporting obligations set out in sections 5.4.1 or 5.4.2.

Staff members must report this to the IPSS Manager if it involves an Archdiocesan staff member, regardless of the context in which it occurs.

4.5 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 IPSS Manager or delegate.

4.6 Victimization

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.

4.7 Record keeping

FORM: DETAILS OF A CHILD PROTECTION MATTER

This form is to record details of a child protection matter brought to the attention of Parish Priests or Parish workers.

This form should be completed by Parish Priests (or delegate) in respect of all child protection matters. It should then be provided to the Institute of Professional Standards and Safeguards (IPSS). If any additional documents come to hand after the form has been provided to your Parish Priest and IPSS these should be sent separately.

Parish/Organisation details	
Name of Parish/Organisation	
Name of person completing this form	
Position of person completing this form	
Details of child protection matter	
Name of person who raised the matter	
Date the matter was raised	
Name of the alleged victim *	
Name of the alleged offender	
Brief details of the matter	
Has this matter been reported to IPSS? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Has this matter been reported to other agencies? <input type="checkbox"/> CYPs <input type="checkbox"/> FaCS <input type="checkbox"/> AFP <input type="checkbox"/> NSW Police	
<i>*Note: If the alleged victim has requested their details be kept confidential, you do not need to record them here.</i>	
Attach all relevant documents to this form	
<input type="checkbox"/> Copy of report made to CYPs or FaCS (if relevant)	
<input type="checkbox"/> Copy of report made to the AFP / NSW Police (if relevant)	
<input type="checkbox"/> Other documents	
Signature:	
Date:	

Store this form following standard Parish records processes.
Email a copy of this form to ipss@ca.org.au.

THE GIFT OF OUR CHILDREN
The Catholic Archdiocese of Canberra & Goulburn

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.

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. Records relating to the care and protection of children are not to be destroyed.

4.8 Investigations

Allegations of a child protection nature against a staff member will be investigated and dealt with in line with the Archdiocese's Investigation Policy.

5.0 CIVIL LEGISLATION AND MINISTRY FRAMEWORK

Staff members are required to be familiar and comply with child protection legislation as varied from time to time, as well as Church resources, 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)
- Children's Guardian Act 2019 (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)
- Integrity in Ministry 2004 (updated 2010)
- Integrity in the Service of the Church

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.

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

6.0 FURTHER INFORMATION

Further information about any of the matters outlined in this Code can be sought from the IPSS Manager at ipss@cq.org.au or phone 02-6239 9806.