

ANNEXURE 5 DEFINITIONS - CHILD PROTECTION POLICY

Child

A child is a person under 18 years of age.

Child in Need of Protection is a Child Who:

- a) Has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm and;
- b) Does not have a parent able and willing to protect the child from the harm.

Child Protection Contact

A Student Protection Contact (SPC) is one of at least four persons nominated at this College in compliance with the Education (Accreditation of Non-State Schools) Regulations 2017 (regulation 16, (3)) to whom a student or parent or staff member can report behaviour by a staff member that the student or parent or staff member considers inappropriate. At St Ursula's College, the Principal will be one of the Student/Child Protection Contacts.

Colleague

As defined by section 13H of the Child Protection Act 1999, Colleague, of a Relevant Person, means a person working in or for the same entity as the Relevant Person.

Contractor

A person periodically employed by the College.

Chairperson/Director of the Governing Body

As defined by section 364 of the Education (Provisions) Act 2006:

Director, of a non-State College's governing body, means a Director of the governing body within the meaning of the Education (Accreditation of Non-State Schools) Act 2017, section 9

First Person

The "First Person" is a staff member who reasonably suspects, in the course of the staff member's employment at the College, that a student under 18 years attending the College has been sexually abused by another person or is likely to be sexually abused by another person

Harm

As defined by section 9 of the Child Protection Act 1999:

- (1) Harm to a Child, is any detrimental effect of a significant nature on the student's physical, psychological or emotional wellbeing
- (2) It is immaterial how the Harm is caused
- (3) Harm can be caused by:
 - (a) physical, psychological or emotional abuse or neglect; or
 - (b) Sexual abuse or exploitation.
- (4) Harm can be caused by:

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- (a) a single act, omission or circumstance: and or
- (b) a series or combination of acts, omissions or circumstances

Inappropriate Behaviour

Inappropriate Behaviour includes but is not limited to any behaviour, including words, towards a student that is contrary to what is required of staff members under the St Ursula's College Code of Conduct. Further, any report from a person, including a student, about a staff member's behaviour towards a student that the person making the report considers to be inappropriate is to be taken as an allegation of Inappropriate Behaviour and must be responded to in accordance with the processes contained within this document

Reasonable Suspicion

A Reasonable Suspicion is a suspicion that would be formed by a reasonable person based on a reasonable view of the evidence available to them. In other words, a Reasonable Suspicion is an objectively justifiable suspicion that is based on specific facts or circumstances

Reportable Suspicion

As defined by section 13E of the Child Protection Act 1999 means a Reasonable Suspicion that a child has suffered, is suffering, or is at unacceptable risk of suffering, Significant Harm caused by Physical or Sexual Abuse; and may not have a parent able and willing to protect the child from the harm

Relevant Person (Child Protection Act 1999)

A Relevant Person for the purposes of mandatory reporting under section 13E of the Child Protection Act 1999 is any of the following:

- (a) a doctor
- (b) a registered nurse
- (c) a teacher
- (d) Police officer who, under a direction given by the commissioner of the Police Service under the Police Service Administration Act 1990, is responsible for reporting under this section
- (e) a person engaged to perform a child advocate function under the Public Guardian Act 2014

Sexual Abuse

As defined by section 364 of the Education (General Provisions) Act 2006:

Sexual Abuse, in relation to a Relevant Person, includes sexual behaviour involving the Relevant Person and another person in the following circumstances—

- (a) the other person bribes, coerces, exploits, threatens or is violent toward the Relevant Person
- (b) the Relevant Person has less power than the other person
- (c) there is a significant disparity between the Relevant Person and the other person in intellectual capacity or maturity

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Staff Member

A staff member is any person who is employed by St Ursula's College on a casual, fixed term, or continuing basis, either pursuant to a contract of employment or appointed to a role at the College pursuant to an agreement with a religious order

Student

A student is any person enrolled as such at St Ursula's College. This includes a "Relevant Person" for the purposes of mandatory reporting under sections 366 and 366A of the Education (General Provisions) Act 2006:

- (a) a student under 18 years attending the College;
- (b) a kindergarten age child registered in:
 - (i) a kindergarten learning program at the College
- (c) a person with a disability who:
 - (i) under section 420(2), is being provided with special education at the College
 - (ii) is not enrolled in the preparatory year at the College

Teacher

Means an approved teacher under the Education (Queensland College of Teachers) Act 2005 employed at this College.

Principal

Is the person appointed by the Governing Body to be the religious and educational leader of St Ursula's College; otherwise, it is a person who has the delegated authority to act in the position of Principal from time to time.

Volunteer

A volunteer is any person who gives freely of his or her time and experience to participate in activities and perform work for St Ursula's College. The relationship between the volunteer and St Ursula's College is not bound by a contract of employment and no payment is made by St Ursula's College to the volunteer or anybody on their behalf, for the work performed.

Legislative References

Child Protection Act 1999

Reporting of a Child in need of Protection	Section 13 A states <i>"(1) Any person may inform the Chief Executive if the person reasonably suspects— (a) a child may be in need of protection; or (b) an unborn child may be in need of protection after he or she is born. (2) The information given may include anything the person considers relevant to the person's suspicion."</i>
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<p>Forming a Reasonable Suspicion of Significant Harm</p>	<p>Section 13C of the <i>Child Protection Act 1999</i> offers some guidance around forming a Reasonable Suspicion that a Student has suffered, is suffering or is at unacceptable risk of suffering significant Harm:</p> <p><i>(2) (a) whether there are detrimental effects on the child's body or the child's psychological or emotional state— (i) that are evident to the person; or</i> <i>(ii) that the person considers are likely to become evident in the future; and</i></p> <p><i>(b) in relation to any detrimental effects mentioned in paragraph (a) (i) their nature and severity; and</i> <i>(ii) the likelihood that they will continue; and</i> <i>(c) the child's age.</i></p> <p><i>(3) The person's consideration may be informed by an observation of the child, other knowledge about the child or any other relevant knowledge, training or experience that the person may have.</i></p>
<p>Reportable suspicions</p>	<p>Section 13E of the <i>Child Protection Act 1999</i> includes the mandatory reporting requirement for Teachers to report a Reasonable Suspicion to the Department of Child Safety, Youth and Women, that a child has suffered, is suffering, or is at unacceptable risk of suffering, Significant Harm caused by Physical or Sexual Abuse where there may not be a parent willing and able to protect the Child from the Harm (a "Reportable Suspicion").</p> <p>Section 13G(5) states that a person does not commit an offence under the <i>Child Protection Act 1999</i> or any other act for failing to make a mandatory report under section 13E.</p>
<p>Conferral with Colleagues</p>	<p>13H of the <i>Child Protection Act 1999</i> - Conferrals with Colleague and related information sharing, states that:</p> <p><i>(1) A Relevant person may give information to a Colleague, and a Colleague may give information to a Relevant Person, for any of the following purposes—</i></p> <p><i>(a) for the Relevant Person to form a suspicion about whether a Child has suffered, is suffering, or is at unacceptable Risk of Suffering, Significant Harm caused by Physical or Sexual Abuse;</i> <i>(b) in the case of a Relevant Person under section 13E—for the Relevant Person to form a suspicion about whether a Child has a parent able and willing to protect the Child from Harm mentioned in paragraph (a);</i> <i>(c) for the Relevant Person to give a report under section 13G or keep a record about giving a report;</i> <i>(d) for the Relevant Person or Colleague to take appropriate action to deal with suspected Harm or Risk of Harm to a Child.</i></p>

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Interviews with Children at School	Section 17 of the <i>Child Protection Act 1999</i> provides Department of Child Safety, Youth and Women and Queensland Police Service officers with the legislative authority to have contact with a child at a school prior to the parents being told of the contact with the child and the reasons for the contact, as part of an investigation and assessment.
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Education (Accreditation of Non-State Schools) Act 2017 and Education (Accreditation of Non- State Schools) Regulation 2017

The Education (Accreditation of Non-State Schools) Act 2017 establishes an accreditation regime for the accreditation of non-state schools. The Act also establishes the penalties for non-compliance with the accreditation criteria.

The Education (Accreditation of Non-State Schools) Regulation 2017 prescribes the accreditation criteria relevant for a non-state school's accreditation as mentioned in section 11 of the Act.

Sections 16(1) to 16(7) of the Regulation deal with the accreditation requirements relating to the Conduct of staff and students and response to harm.

Education (General Provisions) Act 2006 and Education (General Provisions) Regulation 2017.

The Education (General Provisions) Act 2006 contains mandatory reporting requirements for all non-state school staff who become aware of or who reasonably suspect that a student has been sexually abused or is likely to be sexually abused by another person (sections 366 and 366A).

These requirements are designed to capture Sexual Abuse, suspected Sexual Abuse and likely Sexual Abuse of students by another person. A staff member or Principal who fails to comply with the mandatory reporting requirements in relation to the *Sexual Abuse or Suspected Sexual Abuse of a Student* commits an offence under section 366 of the *Education (General Provisions) Act 2006* and is liable for a penalty of up to 20 penalty units. However, a person does not commit an offence for failing to report the likely Sexual Abuse of a Student under section 366A of the *Education (General Provisions) Act 2006*.

Staff making a report pursuant to the Education (General Provisions) Act 2006 will be protected from civil or criminal liability e.g. from defamation or breach of confidence (Sections 366 (5) and (6) and Sections 366A(6) and (7) and s22 Child Protection Act 1999 (QLD)); however, staff making a knowingly false, malicious or vexatious report will not be protected by this immunity and may risk action for defamation, disciplinary action by their employer or disciplinary action by the Queensland College of Teachers.

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St Ursula's College, through the terms and conditions of its insurer's policy, will indemnify those College personnel who have acted conscientiously within the scope of their professional duties.

Criminal Code Act 1899

Section 229BC of *Criminal Code Act 1899* establishes a general requirement that applies to all adults (18 years or over) in Queensland to report to the Queensland Police Service any information that causes the adult to believe on reasonable grounds, or ought reasonably to cause the adult to believe, that a child sexual offence being or has been committed against a child by another adult.

At the relevant time of the offending behaviour, the child victim must be under 16 years of age or a person with an impairment of the mind. A 'child sexual offence' means an offence of a sexual nature (whether or not it meets the definition of sexual abuse under the *Education (General Provisions) Act 2006* committed in relation to a child, including for example, an offence against a provision of chapter 22 and 3e2 of the *Criminal Code Act 1899*.

Failure to make a report, without a reasonable excuse, is a criminal offence. A reasonable excuse not to make a report under the *Criminal Code Act 1899*, includes that a report has already been made under:

- a) the *Education (General Provisions) Act 2006* (reporting sexual abuse or likely sexual abuse)
- b) the *Child Protection Act 1999* (reporting significant harm or risk of significant harm)

Education (Queensland College of Teachers) Act 2005

The Education (Queensland College of Teachers) Act 2005 requires an employing authority to notify the Queensland College of Teachers (QCT):

- about particular allegations to as soon as practicable, after starting to deal with an allegation of harm or likely harm to a child due to the teacher's conduct (section 76)
- about the outcome of particular allegations to as soon as practicable, after dealing with the allegation, the employing authority must also inform QCT of the outcome (section 77)
- about certain dismissals to an employing authority must notify QCT within 14 days if the authority has dismissed a teacher in circumstances that call the teacher's competence to be employed as a teacher into question (section 78).

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Evidence Act 1977

Section 93A provides the legislative authority for the Queensland Police Service and the Department of Child Safety, Youth and Women to conduct an interview and obtain a recorded statement from a Child under 16 years, or a person who was 16 or 17 years when the statement was made and who, at the time of the proceeding, is a special witness, or an intellectually impaired person who has personal knowledge of the matters dealt with by the statement.

Working with Children (Risk Management and Screening) Act 2000 - ([click here](#))

The Act establishes the requirement for the screening of persons who wish to work in child-related work. Screening is administered through the Blue Card System. The Act sets the requirement to have a Child and Youth Risk Management Strategy. The Act imposes penalties for non-compliance.

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