

## Child Protection Policy

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### 1. Introduction

In South Australia, the 3 following documents outline organisational responsibility for the safety of children and young people. These are:

- *The Children and Young People (Safety) Act 2017*
- *The Child Safety (Prohibited Persons) Act 2016*
- *The National Principles for Child Safe Organisations*
- [Statutes Amendment \(Child Sexual Abuse\) Act 2021](#)

The objects of these Acts are to:

- Ensure that organisations provide safe environments for children and young people
- ensure that all children are safe from harm and risk of harm



- ensure that as far as practicable all children are cared for in a way that allows them to reach their full potential
- recognise the importance of families to children and promote caring attitudes and responses towards children among families and all sections of the community so that the need for appropriate nurture and care and protection (including protection of the child's cultural identity) is understood, risks to a child's well-being are quickly identified and any necessary support, protection or care is promptly provided
- Define the obligations of persons or bodies who provide a service or undertake an activity that constitutes child-related work including ensuring these people have a valid Working with Children Check (WWCC).

## 2. Purpose

The purpose of this policy is:

1. to articulate Scotch College's commitment to the safety and protection of students
2. To prevent and facilitate the prevention of child harm and risk of harm occurring within Scotch College
3. To work towards an organisational culture that is both safe and friendly for children and young people.
4. To ensure that all parties are aware of their responsibilities for identifying possible occasions for child harm and risk of harm and for establishing controls and procedures for preventing such harm and/or detecting such harm when it occurs.
5. To provide guidance to staff/volunteers/contractors as to action that should be taken where they suspect any harm or risk of harm within or outside of the organisation.

Consistent with the Mission and Values statements, Scotch College is committed to providing a safe and caring environment to assist children and young people to reach their full potential. Adults are the people in our society who have the responsibility for child protection and therefore, staff and volunteers of Scotch College will act in a positive way to develop a safe environment for the children and young people in their care. They will take action to fulfil their duty of care.

Children are the most vulnerable members of our society. Scotch College acknowledges its responsibility to protect the safety and wellbeing of children and young people whilst they are at College or involved in activities organised by the College.

We also recognize that children and young people can act in ways that may jeopardise the physical and emotional well-being of other children and young people, and that adults have a responsibility to prevent, limit or address such behaviours.

### 3. Scope

**This policy applies to:**

- All Scotch College employees, staff and volunteers, irrespective of whether or not they are working directly with children and young people;
- All third-party providers and users of our site and or services who are identified as working directly with children and young people, working in unsupervised proximity to children and young people or accessing records relating to children and young people at Scotch College;
- All members of Scotch College Governing Council and Council sub-committees.
- In relation to students aged 18 years or over, enrolled at the College; see Section 11: Students Aged 18 and Over
- Any individuals living on College grounds that are not enrolled as a student, volunteer or staff member.

**It applies:**

- On and off Scotch College's site, for example including camps, excursions and overseas trips organised by the College
- At functions where individuals are representing the College
- In relation to Boarding and Homestays that are part of Scotch College's service offerings.

### 4. Legal and Policy Framework

***Children's rights***

Children have the right to special protection due to their increased vulnerability to harm, exploitation, neglect and abuse. **The Convention on the Rights of a Child 1990 (CRC)**, of which Australia is a signatory, identifies 54 articles across the following 4 guiding principles:

- **Non-discrimination:** No child should be discriminated against for any reason, no matter their religion, race or abilities; whatever they think or say; what their culture is; whether they are boys or girls or whether they are rich or poor.
- **The best interests of the child:** Any decision made or action taken that may affect children must prioritise the best interests of the child, **always** and benefit them in the best possible way. This means that when adults make decisions that affect children, they should consider what would be best for the child.
- **Ensuring the child's survival and development:** Every child has the inherent right to life, and it is the responsibility of decision-makers to ensure they are



provided every opportunity to develop and reach their potential physically, spiritually, morally and socially.

- **Participation:** Children are experts in their own lives and experiences, and have the right to have their say in decisions that affect them. Every child has the right to express his or her opinion, and can provide advice and valuable insight into how their rights can best be protected and fulfilled.

## 5. Definitions

**Child** means a person under 18 Years of age, enrolled as a student at the College or a non-enrolled person under 18 years of age on the College site.

**Children and Young People** refers to all students enrolled as students at the College, or a non enrolled person including students aged 18 years and above.

**Child Protection** means any responsibility, measure or activity undertaken to safeguard children from harm

**Child Sexual Assault** is any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards. Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis or finger or any other object, fondling of breasts, voyeurism, exhibitionism, and exposing the child to or involving the child in pornography. It includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child to lower the child's inhibitions in preparation for sexual activity with the child.

**Duty of Care** is a common law concept that refers to the responsibility of employees and volunteers to provide children with an adequate level of protection against harm. It is usually expressed as a duty to take reasonable care to protect children from all reasonably foreseeable risk of harm. The question of what constitutes reasonable care in any given case will be determined objectively by a court and will depend on the individual circumstances of each case. In their relationships with children, employees and volunteers are required to ensure that the physical and emotional welfare of students is safeguarded, and that their own behaviour with children is always regulated by this duty of care

**Harm** - Section 17 of the Safety Act defines 'harm' to mean physical or psychological harm (whether caused by an act or omission), including harm caused by sexual, physical, mental or emotional abuse or neglect.



**National Police Check** - a summary of an individual's offender history in Australia and a record of their criminal history relating to convictions, finding of guilt or pending court proceedings. They are available from South Australia Police (SAPOL) or organisations accredited by the Australian Criminal Intelligence Commission.

It is an organisational decision if a National Police Certificate (NPC) is required for workers or volunteers, however the organisation can no longer use the NPC to assess if a person is suitable to work or volunteer with children in South Australia, this must be determined by a valid, not prohibited Working with Children Check.

**Reasonable Grounds** is a belief based on reasonable grounds that harm or risk of harm to a child or young person has occurred when all known considerations or facts relevant to the formation of a belief are taken into account and these are objectively assessed.

**Working with Children Check** - People working or volunteering with children in South Australia must, by law, have a valid, not prohibited Working with Children Check. A Working with Children Check is an assessment of whether a person poses an unacceptable risk to children. As part of the process, the Screening Unit will look at criminal history, child protection information and other information.

## 6. Prevention

### Curriculum and Wellbeing Strategies

Scotch College students will be supported to recognise harm and risk to a child or young person through the College's pastoral care and student wellbeing programs.

All children and young people will be supported to build positive, respectful relationships with other children and young people and with adults.

All students will have the opportunity to build trusted relationships with all adults in the College. These adults can be approached with issues and concerns, such as Heads of House, Mentors and Class Teachers.

### Student Voice

Students are encouraged and provided a forum to communicate their areas of concern and vulnerability. Any student seeking to report a Child Safety concern is encouraged to contact the Child Protection Officer, Head of Campus, Principal or another adult in the College with whom they feel safe.

Structures including House Captains and Student Action Team leaders provide nominated students to act as key agents in the communication of student opinion. Inclusion of students in major decisions affecting the College is encouraged, from the



appointment of the Principal to the adoption of new procedures.

### **Physical environment**

The College will regularly review and monitor its physical environment, and adjust as required to ensure student safety. Monitoring will occur through yard duty, inspections and general vigilance.

### **External Support Organisations**

In addition to the education and support provided by College staff, all students are reminded that external organisations, including Kids Helpline on 1800 55 1800 and Youth Helpline on 1300 13 17 19 may be accessed.

## **7. Reporting**

### **Key Principles**

1. The safety and care of the child is the paramount consideration.
2. Any concerns are addressed expeditiously.
3. Reporting harm and risk of harm to a child or young person requirements as specified in the **Student Protection Policy and Procedures** document are adhered to and followed.
4. Risk of inappropriate behaviour in the future is considered and addressed.
5. Any allegations are addressed fairly having regard to the interests of all those involved.
6. A detailed record of key matters is made when an issue arises and includes all observations, reports, communications and actions taken including follow-up support provided.
7. Details regarding alleged harm or risk of harm to a child or young person should be kept confidential for the sake of both the alleged victim and the alleged offender wherever possible. It is important to acknowledge the following:
  - a. A person is presumed innocent unless and until proven guilty as a result of evidence presented to a properly constituted and conducted inquiry by an appropriate authority.
  - b. A person against whom allegations are made is entitled to natural justice, to know all the details of any allegations made and be afforded all reasonable opportunities to seek legal advice and/or representation and to respond to and/or challenge the allegations.

In order to uphold the principles enunciated in 7 a. and b. above, it would therefore be inappropriate for any allegations to be the subject of speculation, innuendo or discussion by staff or others, or for inferences or conclusions to be drawn that may be without objective, proven foundation and are not as a direct result of a properly conducted enquiry.





The exception would apply where non-disclosure of information could pose a risk to the safety of other children or the Department for Child Protection has advised that disclosure is appropriate.

### **Reasonable Grounds**

Is a belief based on reasonable grounds that harm or risk of harm to a child or young person has occurred, when all known considerations or facts relevant to the formation of a belief are taken into account. Circumstances or considerations may include the source of the allegation and how it was communicated, the nature and details of the allegation, and whether there are other related matters known regarding the perpetrator. In all cases, the staff member, volunteer or contractor who has reasonable grounds to suspect harmful activity must immediately notify the Child Abuse Report Line 13 14 78.

A reasonable belief is formed if a reasonable person believes that:

- (a) The child is in need of protection,
- (b) The child has suffered or is likely to suffer “significant harm as a result of physical injury”,
- (c) The parents are unable or unwilling to protect the child.

A ‘reasonable belief’ or a ‘belief on reasonable grounds’ is not the same as having proof, but is more than mere rumour or speculation.

A ‘reasonable belief’ is formed if a reasonable person in the same position would have formed the same belief on the same grounds. For example, a ‘reasonable belief’ might be formed if one of more of the following applies (although this list is not exclusive):

- a) A child states that they have been physically or sexually harmed.
- b) A child states that they know someone who has been physically or sexually harmed (sometimes the child may be talking about themselves).
- c) Someone who knows a child states that the child has been physically or sexually harmed.
- d) Professional observations of the child’s behaviour or development leads a professional to form a belief that the child has been physically or sexually harmed or is likely to be harmed
- e) Signs of harm lead to a belief that the child has been physically or sexually harmed.

### **Incident Reporting**

Any staff member, volunteer or contractor who has grounds to suspect harmful activity must immediately notify the Child Abuse Report Line 13 14 78.



Disclosures of harm or risk of harm by children and young people must be treated with the utmost care and respect, in line with the recommended practice in the current Responding to Risks of Harm Abuse and Neglect training program.

**Under the Statutes Amendment (Child Sexual Abuse) Act 2021 the following penalties apply for failure to report and failure to protect:**

- **Failure to report** provisions (section 64) require that a 'prescribed person' must report to the police if they know of, or suspect, that another person (while employed within an institution or providing out of home care) has sexually abused a child. The maximum penalty is 3 years imprisonment for failure to do so.
- **Failure to protect** provisions (section 65) require that a 'prescribed person' in a position of authority must not fail to protect a child where they know there is substantial risk that another person (employed by an institution or providing out of home care) will sexually abuse a child. The maximum penalty is 15 years imprisonment for negligently failing to remove or reduce risk to the child.

**Mandated Notifiers**

Staff and volunteers with a legally mandated notification responsibility must notify the Department for Child Protection Child Abuse Report Line 13 14 78 if they form a suspicion on reasonable grounds in the course of their work or in carrying out their official duties that a child/young person has been harmed or is at risk of harm.

The Child Protection Officer or Head of Campus must report suspected harmful behaviour or misconduct to the Principal and also to relevant external regulatory bodies, including the Police and Department for Child Protection through the Child Abuse Report Line.

The specific steps and procedures to follow when making a report are outlined in the Student Protection Policy and Procedures Document.

**Care and Confidentiality**

All staff and volunteers have an ethical responsibility to report suspected harm or risk of harm to a child or young person, and should report any reasonable belief or concerns with the Child Abuse Report Line 13 14 78.

In situations where the Child Protection Officer is suspected of involvement in the activity, or if the person having the suspicion does not believe that the matter is being appropriately addressed or dealt with, the matter should be reported to the Head of Campus or the Principal.





## 8. Investigating

It is not appropriate for a staff member to investigate a potential case of harm or risk of harm to a child or young person. On the basis discussed in Section 7: Reporting above, if reasonable grounds are formed staff are to report the information to the Child Abuse Report Line 13 14 78. All employees, contractors or volunteers must co-operate fully with an investigation by the Police or the Department for Child Protection as per the Criminal Law Consolidation Act 1935 and the Children and Young People (Safety) Act 2017. If no investigation is undertaken by the police or child protection services, an internal investigation may be conducted.

Whether or not the authorities decide to conduct an investigation, the Child Protection Officer in conjunction with the Principal will consult with the authorities to determine whether an internal investigation is appropriate. If it is decided that such an investigation will not conflict with any proceeding of the authorities, the Principal may decide to conduct such an investigation. All employees, contractors and volunteers must co-operate fully with the investigation. Any such investigation will be conducted according to the rules of natural justice.

The Principal will make every effort to keep any such investigation confidential; however, from time to time other members of staff or other parties may need to be consulted in conjunction with the investigation.

## 9. Employment

### Screening and suitability processes

Child related employment screening relates to all persons who are employees, third party providers, contractors, site users, volunteers (including School Governing Council members), host families or adult residents of the College who are not currently enrolled.

An essential element of a safe learning or care environment is that adults working and volunteering in that environment pose no threat to the wellbeing of children and young people. Screening is the first step in establishing safe environments.

Further details pertaining to the College's employment screening processes are accessible in the Screening and Suitability policy.

### Training and support for staff and volunteers

This policy is required reading for all new employees through the induction process. It is available through the College's communication platform ScotchLife and on the College's website.

All staff are to complete and maintain Responding to Risks of Harm Abuse and



Neglect certification requirements associated with their roles within prescribed timelines.

The College supports staff members and volunteers to fulfil their child protection responsibilities, including Mandatory Notification responsibilities, through:

- The provision of Reporting Risks of Harm Abuse and Neglect training
- The provision of a Child Protection Officer for advice or support in understanding harm or risk of harm to a child or young person.
- Scheduling professional learning opportunities in response to emerging needs

## 10. Responsibilities

### Responsibilities of College Staff and Volunteers

- Provide a physically and psychologically safe environment for children.
- Develop positive, responsible and caring attitudes and behaviours which recognise the rights of all people to be safe and free from both harassment and harm.
- Support children to gain confidence in their identity and develop their capabilities and strengths.
- Provide the skills, knowledge and understanding of personal safety interventions for children.
- Respect the diverse and special needs of children.
- Complete required training and development relevant to child protection.
- Apply point of engagement screening and suitability procedures where relevant to their role.
- Monitor the physical environment and report issues which create an opportunity for harm or risk of harm to a child or young person to occur.
- Be sensitive and responsive to changes in behaviour which may be indicative of harm or risk of harm to a child or young person.
- Maintain current and appropriate criminal and other history screening clearances as required.
- Make full and honest disclosure of any relevant matters throughout the period of engagement with Scotch College.
- Maintain familiarity with and adhere to the current version of ***Protective Practices for Staff in their Interactions with Children or Young People***.
- Adhere to the policies outlining the use of personal multimedia devices for recording of photo, audio and video.

### Responsibilities of the Child Protection Officer

- Ensure all College personnel understand their obligations and responsibilities as



Mandated Notifiers and develop appropriate procedures.

- Provide access to ongoing training and development for staff to enable them to fulfil their key responsibilities.
- Inform and consult with parents and encourage the participation of families in child protection issues.
- Provide ongoing child protection and harm prevention programs in the College.
- Apply point of engagement screening and suitability procedures where relevant to their role.
- Continuously monitor the suitability of Scotch staff, volunteers and contractors to be working directly or indirectly with children and young people, and respond to information suggesting unsuitability as soon as that information is made available.
- Monitor, evaluate and review child protection and abuse prevention programs.
- Assist staff in their role as advocates for all children in their care.
- Oversee and monitor the implementation of the ***National Principles for Child Safe Organisations***.

### **Responsibilities of the Principal**

- Foster and support a whole College approach to the management of child protection.
- Ensure a safe environment for children at Scotch College.
- Provide advice and support for College personnel dealing with issues of harm or risk of harm to a child or young person.
- Allocate training resources for personnel to assist in the delivery of professional development programs for Mandated Notifiers.
- Provide current information on child protection issues.
- Encourage College personnel to regularly review their legal obligations under the ***Children and Young People (Safety) Act 2017*** and the ***Child Safety (Prohibited Persons) Act 2016***
- Ensure staff and volunteers undergo and hold Working With Children Check and Responding to Risks of Harm Abuse and Neglect Training prior to commencement and at Five early intervals.
- Ensure appropriate adjustments to the physical environment as required to reduce the opportunity for harm or risk of harm to a child or young person to occur.



## 11. Students Enrolled at the College

All students aged 14 and above that are engaged in child related work are required to complete a Working with Children Check. This includes students engaged in a volunteer capacity.

As adults, students aged 18 years and above are required to observe the tenets of the ***Children and Young People (Safety) Act 2017*** and the ***Child Safety (Prohibited Persons) Act 2016***. These students are required to demonstrate a higher duty of care than children. Students in this category possessing a leadership position within the College have the highest level of duty of care to the children enrolled at the College.

Students aged 18 years and over have responsibilities under the **Work Health and Safety Act 2012**. The Act defines the following duties of other persons at a workplace:

- A person at a workplace (Whether or not the person has another duty under this part) must:
  - Take reasonable care for his or her own health and safety; and
  - Take reasonable care that his or her acts or omissions do not adversely affect the health and safety of other persons; and
  - Comply, so far as the person is reasonably able, with any reasonable instruction that is given by the person conducting the business or undertaking to allow the person conducting the business or undertaking to comply with this Act.

Training and support is offered for all Students before they reach 18 years of age. This training, administered annually covers the change in legal obligations once a student becomes an adult in a child safe environment

## 12. Reviewing

Every year, and following every incident necessitating a report to the Police or Department for Child Protection, a review shall be conducted to assess whether Scotch College's policies or procedures require modification to better protect the children under their care.



### **13. Related Legislation**

- Children and Young People (Safety) Act 2017
- Child Safety (Prohibited Persons) Act 2016
- Convention on the Rights of a Child 1990
- Criminal Law Consolidation Act 1935
- Work Health and Safety Act 2012
- Statutes Amendment (Child Sexual Abuse) Act 2021

### **14. Relevant Documents**

- Scotch College Screening and Suitability policy
- Scotch College Student Protection and Procedures policy
- Screening and Criminal History Checks Policy Guidelines: A Framework for Guiding Screening Practice in Education and Care Settings and Children's Services, AISSA, Catholic Education SA)
- Protective Practices for Staff in their Interactions with Children or Young People
- National Principles for Child Safe Organisations, Australian Human Rights Commission 2018
- Sexual behaviour in children and young people and young people procedure and guideline
- Managing allegations of sexual misconduct in SA education and care settings
- Responding to online safety incidents in South Australian schools.