



# Safeguarding

## Safeguarding Complaints Management Policy and Procedures

### 1 BACKGROUND

Section 47(1) of the Education Act 1990 (NSW) sets out the requirements for the registration of non-government schools in NSW. One of these requirements, under section 47(1)(g), is that “a safe and supportive environment is provided for students”.

The NSW Education Standards Authority (NESA) provides guidance on how to meet these obligations in section 3.6 of the Registered and Accredited Individual Non-government Schools (NSW) Manual (Registration Manual).

### 2 PURPOSE

This Policy and its Procedures support the creation of a culture for students and their families to have their complaints heard, considered and responded to, and a culture of transparency in our complaints management processes, including, but not limited to, complaints about staff misconduct and Reportable Conduct. This document must be read in conjunction with the Safeguarding Policy.

They set out how the School, as a child safe organisation:

- has and implements a child-focused complaints handling system
- manages safeguarding-related complaints in a timely, fair and transparent manner.

## 3 SCOPE

This Policy and its Procedures apply to all Staff, Volunteers and Contractors (together referred to as “Staff” or “staff members” for the purposes of this Policy and its Procedures).

## 4 DEFINITIONS

Definitions of terms used in this Policy and its Procedures can be found in the Safeguarding Policy. Of particular importance to these Procedures are the following summarised definitions:

### Complaint

A “complaint” is an expression of dissatisfaction with an action taken, decision made, or service provided, or with the failure to provide a service, take action or make a decision at the School.

A complaint can be made by anyone including a student, former student, parent/carer, other family member, staff member or member of the wider community.

### Safeguarding-Related Complaint

A “safeguarding-related complaint” is any disclosure, allegation, suspicion, concern or internal report of:

- a breach of the School’s Safeguarding Codes of Conduct
- a child safety incident or concern alleged to have occurred, be occurring or be at risk of occurring at school or a School event
- Reportable Conduct
- other staff misconduct related to the safeguarding policies and procedures (such as failing to follow the Working with Children Checks Policy and Procedures)
- any complaint about the School’s or a staff member’s response to or management of a child safety incident or concern, including complaints alleging non-compliance with our safeguarding policies and procedures.

“child safety incidents or concerns” are defined as an incident of or concern about:

- a child or young person being “at risk of significant harm”, as defined in the Children and Young Persons (Care and Protection Act) 1998 (NSW) (Care and Protection Act), such as:
  - being, or at risk of being, physically or sexually abused or ill-treated

- living in a household where there have been incidents of domestic violence and, as a consequence, being at risk of serious physical or psychological harm
- their parents/carers failing to meet their physical, psychological, educational or medical needs
- their parents/carers behaving in such a way towards them that they are suffering or at risk of suffering serious psychological harm
- a child or young person being, or at risk of being, the victim of a “child abuse offence” as defined in the Crimes Act 1900 (NSW) (Crimes Act), or a student aged 18 or over being, or at risk of being, the victim of a similar offence, such as:
  - a sexual offence (a sexual act, sexual intercourse, sexual touching, production of child abuse material, voyeurism or grooming offence) or an attempt to commit such an offence
  - assault and physical harm (wounding or causing grievous bodily harm, assault causing actual bodily harm, assault at a school, administering or causing the ingestion of an intoxicating substance, and female genital mutilation)

## 5 ROLES AND RESPONSIBILITIES

In addition to relevant roles and responsibilities as set out in the Safeguarding Policy, the following people have particular responsibilities under this Policy and its Procedures:

- All Staff are responsible for responding appropriately to a student who raises or is affected by a safeguarding-related complaint.
- All Staff are responsible for understanding their internal and external reporting requirements relevant to safeguarding-related complaints and for complying with this Policy and its Procedures.
- Child Safeguarding Officers and the Principal are responsible for:
  - providing assistance and advice to Staff about their obligations under this Policy and its Procedures.
  - ensuring that all safeguarding-related complaints are taken seriously, escalated, reported and responded to.
  - ensuring that the School responds appropriately to a student who raises or is affected by a safeguarding-related complaint.
  - promptly and thoroughly managing the School’s response to safeguarding-related complaints as set out in the **Procedures** below.
  - monitoring the School’s compliance with this Policy and its Procedures.

- Where a particular safeguarding-related complaint involves the Principal and they therefore cannot perform the above roles, the Director of Safeguarding undertakes these responsibilities.

Insert Responsibilities

## 6 School's COMPLAINTS MANAGEMENT POLICY

6.1. The School's system for handling complaints that involve students (whether as complainant, victim, witness or person being complained about) is child-focused, and follows the National Office for Child Safety's Complaint Handling Guide: Upholding the rights of children and young people.

6.2. The School's system for handling complaints that involve students (whether as complainant, victim, witness or person being complained about) is culturally safe. Relevant communities are consulted (such as Aboriginal and Torres Strait Islander communities, culturally and linguistically diverse communities, and other communities that make up our Staff and student cohorts) about how to enable, support and respond to complaints in a culturally sensitive way.

6.3. When making a safeguarding related complaint, the School provides:

- simple age and culturally appropriate avenues for students, Staff, parents/carers and the wider community to make a complaint, including safeguarding-related complaints
- confidentiality and accessibility for all members of the School community.

6.4. The School supports students, families, and relevant Staff, Volunteers and Contractors involved in a safeguarding-related complaint in age and culturally appropriate ways<sup>\*\*</sup>.<sup>\*\*</sup>

6.5. The School, and its staff members, **must** respond to safeguarding-related complaints by following the Procedures set out in this document.

6.6. The School does not hold records of complaints that contain information about child safety incidents or concerns within our general Complaints Handling record keeping system, because of the confidentiality and privacy issues that arise with respect to child safety incidents and concerns. These complaints are instead recorded as a child safety incident or concern.

6.7. The School regularly reviews and analyses safeguarding-related complaints to inform the continuous improvement of the School's safeguarding policies, procedures and practices, as set out in General Reviews of Safeguarding Complaints Management below (7.6).

6.8. The School reports all child safety incidents or concerns that occur at the School or involve its staff members, including those raised in safeguarding-related complaints, to the EREA NSW Colleges Ltd CEO and the Director Safeguarding as soon as practicable after the School becomes aware of the incident or concern.

6.9. The EREA NSW Colleges Ltd Director Safeguarding analyses the School's safeguarding-related complaint reports and, where appropriate, directs and monitors improvements to the School's approach to child safety incidents or concerns.

## **7 PROCEDURES**

### **7.1 Responding to a Safeguarding-Related Complaint – Staff Members' Obligations**

#### **7.1.1 Support for Complainants**

Whenever a complaint containing information about child safety incidents or concerns is received, the staff member must offer the complainant and any student involved in the complaint (if they are not the complainant) age and culturally appropriate support and assistance<sup>\*\*</sup>.

Where the complaint relates to a sexual offence or sexual misconduct that occurred before 1 July 2018, complainants must be informed about the [National Redress Scheme](#) for people who have experienced institutional child sexual abuse.

#### **7.1.2 Internal and External Reporting of Complaint Information**

All Staff must follow the School's safeguarding policies and related procedures if any information contained in a complaint that is made to them raises a concern that a student may have been subject to, or may be at risk of, abuse or other harm at the School or a School event or from a staff member.

All Staff must also report any safeguarding-related complaint that is made to them to a Safeguarding Officer or the Principal in addition to making any required external reports. If a safeguarding-related complaint is about the Principal, the complaint must be referred to the Director of Safeguarding.

### **7.1 Managing Safeguarding-Related Complaints – The School's Obligations**

The School manages safeguarding-related complaints as follows:

*(a) safeguarding-related complaints that involve, or raise the possibility of a risk of, child abuse or other harm to a child or young person are managed under the safeguarding policies and procedures*

The following safeguarding-related complaints must be managed pursuant to any relevant safeguarding policies and procedures:

- complaints involving, or raising the possibility of a risk of, child abuse or other harm occurring at the School or a School event, or by a staff member.
- complaints alleging a breach of the Safeguarding Codes of Conduct that involves, or raises the possibility of a risk of, child abuse or other harm by a staff member.

These kinds of safeguarding-related complaints **must be immediately referred** to the Principal or the Director of Safeguarding if the complaint involves the Principal.

The Principal may, where appropriate, delegate management of these kind of safeguarding-related complaints to a Child Safeguarding Officer.

*(b) Other safeguarding-related complaints that are managed under the safeguarding policies and procedures*

The following safeguarding-related complaints must also be managed pursuant to any relevant safeguarding policies and procedures:

- complaints about the School's investigation of and/or response to a specific incident of, or concern about, child abuse and other harm to a child or young person
- complaints that the School, when responding to a specific incident of, or concern about, child abuse and other harm to a child or young person, has not correctly followed the School's own policies and procedures (for example, a complaint that we did not follow our Reportable Conduct policies)
- complaints that the School has not correctly followed legislative or regulatory requirements regarding child safety and protection in relation to a specific incident of, or concern about, child abuse or other harm to a child or young person (for example, a complaint that we shared information about a child safety incident or concern with an external agency when not permitted by law to do so).

These kinds of safeguarding-related complaints **must be immediately referred** to the Principal or the Director of Safeguarding if the complaint involves the Principal.

The Principal may, where appropriate, delegate management of these kinds of safeguarding-related complaints to a Child Safeguarding Officer.

*(c) safeguarding-related complaints that may be managed under other School policies and procedures*

The following safeguarding-related complaints may be managed pursuant to other relevant School policies:

- complaints alleging a breach of the Safeguarding Codes of Conduct that **do not** involve, and **do not** raise the possibility of a risk of, child abuse or other harm to a child or young person by a staff member (for example, a complaint that a staff member has expressed personal views on sexuality in the presence of students)
- complaints alleging procedural breaches of the safeguarding policies and procedures by Staff that **do not** involve, and do not raise the possibility of a risk of, child abuse or other harm to a child or young person (for example, a complaint that a staff member has not renewed their WWCC clearance)
- general complaints about our safeguarding policies and procedures themselves (for example, a complaint that our policies and procedures do not accurately reflect the law or that they do not take into account the needs of a particular student or community cohort).

Although these kinds of safeguarding-related complaints may be managed pursuant to other relevant School policies, the Complaints Officer or other person managing the complaint should – where appropriate – consult with a Child Safeguarding Officer as part of the investigation.

With respect to the final dot point above, given the high risk to the School of not having compliant safeguarding policies and procedures, it is likely that the outcome of these kinds of complaints will need to be reported to The EREA NSW Colleges Ltd Board.

*(d) Guidance and Resources for Managing Safeguarding-Related Complaints*

The Complaints Handling Program provides general guidance on complaints handling principles and a step-by-step guide to managing a complaint.

The National Office for Safety publishes a guide for complaints that involve children and young people: [Complaint Handling Guide: Upholding the rights of children and young people.](#)

### **7.3 Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct**

Complaints regarding allegations of staff misconduct and reportable conduct are managed in a different manner to other complaints received by the School. This is because often these complaints are of a sensitive nature and raise potential privacy and confidentiality issues.

The School requires all staff to comply with the EREA Code of Conduct and standards of behaviour that are intended to prevent staff misconduct and reportable conduct, and staff are encouraged to report any breaches of the Code or standards. It is also critical that the broader School community reports staff misconduct and reportable conduct (both defined below) to ensure the safety and wellbeing of students, and that the School complies with its legislative reporting obligations. EREA NSW has a legal obligation to investigate and notify to the NSW Office of the Children's Guardian of all allegations of reportable conduct made against EREA NSW Colleges employees as defined by the Children's Guardian Act 2019 (Children's Guardian Act).

### **7.3.1 Making a Complaint or Allegation of Staff Misconduct or Reportable Conduct**

If you would like to make a formal complaint or allegation of staff misconduct or reportable conduct, you can do so by:

1. Sending an email to [office@cbhslewisham.nsw.edu.au](mailto:office@cbhslewisham.nsw.edu.au)
2. Writing a letter to the School addressed to the Complaints Manager Mr. Mark Woodbury
3. Telephoning the School and asking to speak to the Complaints Manager via (02) 8585 1744

If the Complaints Manager is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the EREA NSW Colleges Ltd Director of Safeguarding.

### **7.3.2 Investigating and Managing Staff Misconduct and Reportable Conduct**

The School collates initial information in relation to all complaints and allegations to determine whether the conduct in question amounts to staff misconduct, as defined in this Policy. As the relevant entity all allegations regarding employee misconduct are escalated to EREA NSW for assessment as to whether the alleged conduct amounts notification reportable conduct that requires further investigation and reported to the NSW Office of the Children's Guardian. All investigations uphold the principles of procedural fairness and confidentiality - information is only shared with those who are permitted to receive, in line with the provisions of the Childre\_n's Guardian Act 2019.\_

### **7.3.3 Staff Misconduct**

When a complaint or allegation does not include conduct that is defined as reportable conduct following the initial assessment, and it is determined through the School's investigation that staff



misconduct has occurred, the School will notify the complainant of the finding and corrective actions that will be taken. Staff misconduct is managed through our Human Resources policies and procedures relating to internal grievances, discipline and termination.

### **7.3.4 Reportable Conduct**

After the Director of NSW Colleges and CEO becomes aware of a reportable allegation or conviction against an employee, they must ensure that an appropriate investigation of the reportable allegation or conviction is conducted and completed within a reasonable time.

The Director of NSW Colleges and CEO, or their delegate, must notify the Children's Guardian of the findings of the School's internal investigation into the matter within seven (7) days.

The Director of NSW Colleges and CEO must inform the affected child and their parents/carers about any reportable conduct investigation unless it is "not in the public interest" to inform them.

Sometimes, where reportable conduct obligations arise, the School will also have other mandatory reporting obligations. In these situations, the School will prioritise its procedures for mandatory reporting to the Department of Communities and Justice and/or to Police and will seek advice from those agencies on the best way to proceed with the reportable conduct internal investigation.

### **7.3.5 Making a Finding of Reportable Conduct**

If the investigation results in a finding of reportable conduct, EREA NSW will notify the Office of the Children's Guardian and we will conduct a final risk assessment of the conduct, the staff member and the circumstances, and take action to mitigate ongoing risks.

### **7.3.6 Disclosing Information to the School Community**

A parent or carer has a legitimate interest in being told of the process that is being followed to investigate an allegation that their child was a victim of staff misconduct or reportable conduct.

Section 57 of the Children's Guardian Act imposes disclosure obligations and prohibitions on the Director of NSW Colleges and CEO.

The disclosure obligations and prohibitions apply to information about a reportable conduct investigation. This includes information about the progress of an investigation, the findings and any action taken in response to the findings.

The Director of Safeguarding or an investigator working for the Director of NSW Colleges and CEO must inform the affected child and their parents/carers about the reportable conduct investigation unless it is “not in the public interest” to inform them.

The Director of Safeguarding or an investigator working for the Director of NSW Colleges and CEO must not disclose information about a reportable conduct investigation to anyone other than the affected child and their parents/carers. However, there are some exceptions to this rule. Disclosures can be made to certain people and entities, such as investigators and carers, if the disclosure is made to promote the safety or wellbeing of the child.

## **7.4 Internal Reviews of Safeguarding-Related Complaint Outcomes**

Complainants or other persons who are involved in the safeguarding-related complaint (for example, a staff, member whose behaviour is the subject of the complaint, a student who is the victim of the alleged behaviour or the parent/carer of a student involved in the complaint) and who are not satisfied with the way it was managed or its outcome may request an internal review of:

- procedures undertaken
- findings made
- disciplinary actions proposed or taken
- other outcomes (including a decision not to make a finding or to take disciplinary or other action).

Requests for internal reviews should be made to the Director and CEO of EREA NSW Colleges.

Internal reviews are undertaken by Director and CEO of EREA NSW Colleges.

## **7.5 Responding to allegations that are historical in nature**

Complaints of a historical nature involve allegations made by an adult who was allegedly abused as a child and the abuse occurred at a EREA NSW School, or where the person subject to the allegations is no longer an employee or volunteer of the School. EREA NSW will undertake an assessment of the nature of the complaint. The complaint may be referred to the appropriate agencies and the complainant will be informed of this.

A person reporting an allegation of a potentially criminal nature is encouraged to make their report directly to the NSW Police. EREA NSW will make a report to the police if the information is identified as possibly criminal in nature, regardless of the decision of the complainant to report to the police.

## **7.6 General Reviews of Safeguarding Complaints Management**

The School and Director Safeguarding regularly reviews safeguarding-related complaints to ensure that any child safety-related feedback, comments or complaints from the School community members and relevant stakeholders are captured, analysed and acted on where appropriate.

In particular, safeguarding-related complaints are regularly analysed to identify causes and systemic failures to inform continuous improvement.

Our Safeguarding Complaints Management Policy and Procedures is also itself regularly reviewed as part of our reviews of the safeguarding policies and procedures.

## **8 IMPLEMENTATION**

This Policy and Procedures are made available to all Staff, via the School's Intranet/internal website. They are included in induction training and in ongoing refresher training for Staff and relevant Volunteers and Contractors.

This document is made available to parents/carers, students and the wider School community on our public website.

They are also available in hard copy by request.

The School makes this Policy and its Procedures accessible to students by providing a child-friendly version to students and by communicating them through \*under development.

## **9 BREACH OF SAFEGUARDING COMPLAINTS MANAGEMENT POLICIES AND PROCEDURES**

Christian Brothers' High School, Lewisham enforces this Policy and its Procedures. In the event of any non-compliance, we will instigate a review, in a timely and fair manner, that may result in a range of measures including (depending on the severity of the breach):

- remedial education
- counselling
- increased supervision
- the restriction of duties
- suspension
- in the case of serious breaches, termination of employment, contract or engagement.

## 10 DOCUMENT REVIEW

A review of the Safeguarding Complaints Management Policy and Procedures is conducted EREA NSW Colleges every three years or earlier if required.

The EREA NSW Colleges Ltd Board is responsible for ensuring that this Policy and its Procedures are reviewed and updated as needed and for approving this Policy and its Procedures.

## 11 RELATED DOCUMENTS AND LEGISLATIVE INSTRUMENTS

- Safeguarding Policy
- Code of Conduct
- **The Complaints Handling Program**
- Education Act 1990 (NSW), section 47(1)(g)
- **NSW Child Safe Standards**, Standard 6
- **National Catholic Child Safeguarding Standards**, Standard 6
- NSW Education Standards Authority (NESAs), **Registered and Accredited Individual Non-government Schools (NSW) Manual**
- National Office of Child Safety, **Complaint Handling Guide: Upholding the rights of children and young people**
- Office of the Children’s Guardian, **Guide to the Child Safe Standards**

## 12 POLICY ADMINISTRATION

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Responsible Director	Director Safeguarding
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