SCOTS ALL SAINTS COLLEGE



PROCEDURES FOR HANDLING ALLEGATIONS OF STAFF MISCONDUCT AND REPORTABLE CONDUCT

1. INTRODUCTION

How complaints regarding allegations of staff misconduct and reportable conduct are managed by the College is set out below. These complaints are of a sensitive nature and raise potential privacy and confidentiality issues.

2. PURPOSE

The College requires all staff to comply with Scots All Saints College's Staff Code of Conduct (Code) and the standards of behaviour (Standards) that are set out in its Code, College policies / procedures more broadly and / or in staff employment contracts.

These documents are intended to inform staff of what the College considers to be appropriate and inappropriate workplace conduct to prevent and / or minimise the risk of staff engaging in inappropriate conduct and / or reportable conduct.

In addition to taking steps to ensure that they do not engage in inappropriate conduct, staff and the broader College community are encouraged to report any breaches of the Code or Standards that they witness to ensure the safety and wellbeing of all members of the College community. The College has a legal obligation to provide staff with a safe environment and to investigate and report to the NSW Children's Guardian all allegations of reportable conduct made against staff at the College as defined by the Children's Guardian Act 2019 (Children's Guardian Act).

3. DEFINITIONS

For the purposes of this policy, "staff" and "staff member" are terms defined to include teaching and non-teaching staff, College Council members, volunteers, contractors and external providers of service to the College.

The College defines "staff misconduct" as conduct engaged in by a staff member that:

- breaches the Code or other College policies/procedures which contain Standards
- amount to a neglect of their duties/responsibilities
- involves alcohol abuse and/or other substance abuse at the College
- is physically, verbally or emotionally abusive
- endangers the safety or wellbeing of students or others at the College.

The Children's Guardian Act defines "reportable conduct" as including:

- any sexual offence or sexual misconduct, committed against, with or in the presence of a child (including child pornography offences or an offence involving child abuse material) including grooming behaviours
- any assault, ill-treatment or neglect of a child
- any behaviour that causes significant emotional or psychological harm to a child.

Some examples of conduct that may not constitute reportable conduct include touching a child to get their attention, to guide them or to comfort them, a teacher raising their voice to attract the attention of students or to restore order in a classroom, or conduct that is established to be accidental.

4. PROCEDURES

4.1 MAKING A COMPLAINT OR ALLEGATION OF STAFF MISCONDUCT OR REPORTABLE CONDUCT

An individual may make a complaint about staff conduct or reportable conduct, you can do so by:

1. Sending an email to the Head of College: hoc@scotsallsaints.nsw.edu.au
2. Writing a letter to the College addressed to the Head of College and marked “Private and Confidential”
3. Telephoning the College and asking to speak to the Head of College

If the Head of College is the subject of your complaint or allegation of misconduct or reportable conduct, please write a letter to the Chair of the College Council and send or deliver it to 4173 O’Connell Road White Rock NSW 2795.

4.2 INVESTIGATING AND MANAGING STAFF MISCONDUCT AND REPORTABLE CONDUCT

The College initially investigates all complaints to determine whether the conduct in question amounts to staff misconduct, as defined in this procedure, or reportable conduct that must be further investigated and reported to the NSW Children’s Guardian. Investigations are conducted in accordance with the principles of procedural fairness and confidentiality where information is only shared with those who need to know.

4.3 STAFF MISCONDUCT

When the College determines that a complaint does not include allegations of conduct that is defined as reportable conduct following the College’s initial investigation, and if it is determined through the College’s investigation that staff misconduct has occurred, the College will notify the complainant of the investigation findings and any corrective actions to be taken, if any. Staff misconduct is managed through our policies and procedures relating to internal grievances, discipline and termination.

4.4 REPORTABLE CONDUCT

Once the Head of College 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 Head of College or delegate must notify the Children’s Guardian of the findings of the College’s internal investigation into the matter within seven (7) days.

The Head of College or delegate 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.

The College may also have other mandatory reporting obligations. In these situations, the College 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.

4.5 MAKING A FINDING OF REPORTABLE CONDUCT

If the College’s internal investigation results in a finding of reportable conduct, following the College’s notification to the NSW Children’s Guardian, the College will conduct a final risk assessment of the conduct, the staff member and the circumstances, and take action to mitigate ongoing risks.

4.6 DISCLOSING INFORMATION TO THE SCOTS ALL SAINTS COLLEGE COMMUNITY

A parent or carer has a legitimate interest in being informed of the process undertaken to investigate an allegation that their child was subject to staff misconduct or reportable conduct.

Section 57 of the Children's Guardian Act imposes disclosure obligations and prohibitions on the Head of College.

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 Head of College or delegate or an investigator working for the Head of College 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 Head of College or delegate or an investigator working for the Head of College 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, including investigators and carers, if the disclosure is made to promote the safety or wellbeing of the child.

REFERENCES

The NSW Children's Guardian provides information on reportable conduct and the College's obligations to report. For more information about the College's policies and procedures relating to staff misconduct, reportable conduct or complaints handling generally, please contact the Office of the Head of College.

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