

# Child Protection Policy

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*Proudly a School of the Presbyterian Church of Queensland*



## PURPOSE

The purpose of this policy is to provide processes which guide the appropriate conduct of College staff, students and volunteers, involving the care and protection of children. Information herein supports compliance in the State of Queensland. This Child Protection Policy is to be read in conjunction with the Child Protection Management Strategy and all other guidelines and policies of Fairholme College.

## SCOPE

Applies to all staff, students, volunteers, contractors, directors of the College Board and people undertaking work experience or vocational placements at Fairholme College and covers information about: reporting harm and suspected harm; inappropriate behaviour; sexual abuse and likely sexual abuse.

## DEFINITIONS

### Child in need of Protection

**Section 10 of the *Child Protection Act 1999 (Qld)*** – A ‘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.

Beyond the definitions in the *Child Protection Act 1999 (Qld)*, our internal processes and procedures for reporting harm includes enrolled students 18 years and over. Of note are privacy issues for those aged 18 and over. Refer specifically to information about reporting harm as outlined within the Child Protection Management Strategy.

### Harm

**Section 9 of the *Child Protection Act 1999 (Qld)*** – ‘Harm’, to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.

1. It is immaterial how the harm is caused.
2. Harm can be caused by—
  - a) physical, psychological or emotional abuse or neglect; or
  - b) sexual abuse or exploitation.
3. Harm can be caused by—
  - a) a single act, omission or circumstance; or
  - b) a series or combination of acts, omissions or circumstances.

### Reportable Suspicion

**Section 13E *Child Protection Act 1999 (Qld)*** – A reportable suspicion about a child is a reasonable suspicion that the child: -

- a) has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and
- b) may not have a parent able and willing to protect the child from the harm.

## Sexual Abuse

**Section 364 of the *Education (General Provisions) Act 2006 (Qld)* – ‘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

### **‘Parent Willing and Able’ Test – *Child Protection Act 1999 (Qld)***

According to the legislation, a parent may be willing to protect a child, but not have capacity to do so and therefore they are not considered ‘able’. This includes situations such as where the parent’s inability is due to factors such as intellectual impairment or ill health.

Alternatively, a parent may have the capacity to protect a child (able) but may choose not to do so (not willing). This might include situations where parents choose an ongoing relationship with a person who is abusing their child and are thus ‘unwilling’ to protect the child.

If there is considered to be at least one parent ‘able’ and ‘willing’ to protect the child, the child is not considered to be in ‘need of protection’.

### **‘Significant Harm’ Test**

**Section 13C *Child Protection Act 1999 (Qld)* – The matters that the person may consider include—**

- 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
  - ii. That the person considers are likely to become evident in the future
- b) In relation to any detrimental effects to the child the reporter may consider:
  - i. Their nature and severity; and
  - ii. The likelihood that they will continue, and
- c) The child’s age.

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. This recognises that a College staff member may detect an impact of harm for a child that the ordinary person may not identify.

## Family and Child Connect

Family and Child Connect is a community-based intake and referral service to provide an additional pathway for registering concerns about children and their families. Families who are at risk of entering or re-entering the child protection system can be referred to Family and Child Connect. This service provides an identifiable and accessible central referral point for families and professionals to access family services.

## Principal

Within this document, the term Principal refers to the Principal or the Principal’s delegate.

## RATIONALE

Fairholme College takes seriously its role in protecting and supporting all members of its community. Specifically, the welfare of all students remains critical. Fairholme works in accordance with the aforementioned legislation in order to protect students from harm and engage and/or initiate suitable support for individuals and families.

## STAFF RESPONSIBILITY

Staff members at Fairholme College are expected to reflect the highest standards of care and professional conduct in their behaviour towards, and relationships with, students. Staff, contractors and volunteers must not cause harm to students,<sup>1</sup> employees of Fairholme College must not under any circumstances engage in physical or emotional abuse or engage in sexual contact of any nature with a student of the College. It is irrelevant whether the conduct is consensual or non-consensual, or condoned by parents or caregivers. The age of the student is also irrelevant. Failure to behave in an appropriate manner may result in criminal proceedings and/or disciplinary action, including dismissal.

## PROTECTION

The Principal will undertake that the following occurs in order to reduce the chance of harm occurring:

- Guide staff members to understand how to fulfil their obligations under this Policy.
- Within the recruitment process, ensure there is a suitable reference obtained from previous employers for all new staff members.
- Ensure that each non-teaching staff member and volunteer [including members of the College Board] has a current positive suitability notice issued by Blue Card Services. The *Working with Children (Risk Management Screening) Act 2000 (Qld)* currently exempts volunteers who are parents of a student enrolled at the College from the requirement to hold a card.
- In cases where volunteer work is, or could be, beyond the direct supervision of a teacher, a Blue Card may be required. (eg. College camps/excursions). This will be managed on a case-by-case basis.
- Ensure teaching staff member are currently Registered with the Queensland College of Teachers.

## HEALTH AND SAFETY

The College has written policies in place about the health and safety of its staff and students in accordance with relevant workplace health and safety legislation. College policies to be read in conjunction with this strategy, in order to support safety and wellness, are listed in the references at the end of this document.

## AWARENESS AND TRAINING

Fairholme College is committed to making the Child Protection Policy available to students, parents, volunteers, contractors and employees. It is available via its enrolment package, at induction or upon engagement; it will remain available via the College website. Staff members will also have access to the strategy associated with this policy, via the staff website. Further, the College will train its staff in processes relating to the health, safety and conduct of staff and students on their induction and will refresh training annually.<sup>2</sup> Further details regarding implementation and accessibility can be seen on Page 7.

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<sup>1</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s16(1).

<sup>2</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s16(4)(c).

## **PUBLICATION AND REVIEW**

The Principal will ensure that this policy is reviewed biennially and published thus:

- to staff members generally, at least once each year
- to each new staff member, at induction and orientation
- on the College's website

## **CONFIDENTIALITY**

Each person who has access to information regarding suspected or disclosed harm has an obligation to observe appropriate confidentiality at all times in the management of a child protection situation. Fairholme College is unable to promise absolute confidentiality since its policies will require disclosing, internally and externally, certain details involved in responding appropriately to any complaint; it will, however, always act with discretion. State authorities can compel people to provide evidence and to produce documents about actions within the scope of the policy in response to a report.

## **CRIMINAL LAW**

Where there are allegations of criminal misconduct, the allegations should be referred to the Police.

## **NO CIVIL OR CRIMINAL LIABILITY FOR REPORTING**

A person making an honest report of abuse or likely abuse is not liable, civilly, criminally or under an administrative process, for giving the information contained in the report. Additionally, the person will not be held to have breached any code of professional etiquette or ethics nor departed from acceptable standards of professional conduct.

## **DEALING WITH ALLEGATIONS OF HARM**

### **Suspicion of Harm**

You have 'reasonable grounds' to suspect harm if:

- A child or young person tells you they have been harmed
- Someone else, for example another child, a parent, or staff member, tells you that harm has occurred, was likely to have occurred, or is likely to occur in the future.
- A child or young person tells you they know of someone who has been harmed (it may be them)
- You are concerned by significant changes in the behaviour of a child or young person, or the presence of new unexplained and suspicious injuries, or
- You see the harm happening.

### **Responding to Reports of Harm**

When the College receives any information alleging harm<sup>3</sup> to a student (other than harm arising from physical or sexual abuse) it will deal with the situation compassionately and fairly as it can reasonably manage, with the aim of minimising any likely harm. This is set out in the College's Child Protection Management Strategy. Information relating to physical or sexual abuse is handled under obligations to report set out in this policy.<sup>4</sup>

<sup>3</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s16(7): the definition of 'harm' for this regulation is the same as in the Child Protection Act 1999 (Qld) s9

<sup>4</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s16(1)

### Reporting Inappropriate Behaviour

If a student considers the behaviour of a staff member to be inappropriate, the student should report the behaviour to any of the following:-

- a) Principal
- b) Deputy Principal, Head of Senior School
- c) Head of Junior School
- d) Head of Middle School
- e) Head of Boarding<sup>5</sup>

### Dealing with Report of Inappropriate Behaviour

A staff member who receives a report of inappropriate behaviour must report it to the Principal. Where the Principal is the subject of a report of inappropriate behaviour, the staff member must inform the Chair of the Board.<sup>6</sup>

### Reporting Sexual Abuse<sup>7</sup>

Section 366 of the *Education (General Provisions) Act 2006* (Qld) states that if a staff member becomes aware, or reasonably suspects, in the course of their employment at the school, that any of the following has been sexually abused by another person:

- a) a student under 18 years attending the school\*;
- b) a kindergarten age child registered in a kindergarten learning program at the school;
- c) a person with a disability who:
  - i. under section 420(2) of the *Education (General Provisions) Act 2006* (Qld) is being provided with special education at the school; and
  - ii. is not enrolled in the kindergarten year at the school.

then the staff member must give a written report about the abuse or suspected abuse to the Principal or to the Chair of the Board of Directors immediately. [College's reporting form available on staff portal of College website] The College's Principal or the Chair must immediately give a copy of the report to the Police.

*\*College protocol notes internal reporting requirements extends to all students, regardless of age.*

If the College Principal is the first person to become aware of or reasonably suspect sexual abuse they must give a written report about the abuse, or suspected abuse, to the Police immediately and must also give a copy of the report to the Chair of the College Board of Directors.

A report under this section must include the following particulars:-

- a) the name of the person giving the report in the first instance (the **first person**);
- b) the student's name and sex;
- c) details of the basis for the first person becoming aware, or reasonably suspecting, that the student has been sexually abused by another person;
- d) details of the abuse or suspected abuse;
- e) any of the following information of which the first person is aware:-
  - i. the student's age;
  - ii. the identity of the person who has abused, or is suspected to have abused, the student;
  - iii. the identity of anyone else who may have information about the abuse or suspected abuse.<sup>8</sup>

<sup>5</sup> *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) s16(2) and s16(3)

<sup>6</sup> *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) s16(2)

<sup>7</sup> *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) s16(2)(c)

<sup>8</sup> *Education (General Provisions) Regulation 2017* (Qld) s 68

### Reporting Likely Sexual Abuse<sup>9</sup>

Section 366A of the *Education (General Provisions) Act 2006 (Qld)* states that if a staff member becomes aware, or reasonably suspects in the course of their employment at the College, that any of the following is likely to be sexually abused by another person:-

- a) a student under 18 years attending the school\*;
- b) a kindergarten aged child registered in a kindergarten learning program at the school;
- c) a person with a disability who:-
  - i. under section 420(2) of the *Education (General Provisions) Act 2006 (Qld)* is being provided with special education at the school; and
  - ii. is not enrolled in the preparatory year at the school.

then the staff member must give a written report about the abuse or suspected abuse to the Principal or to the Chair of the Board of Directors immediately. [College's reporting form available on staff portal of College website] The College's Principal or the Chair must immediately give a copy of the report to the Police.

*\*College protocol notes internal reporting requirements extends to all students, regardless of age.*

If the College Principal is the first person to become aware or reasonably suspects sexual abuse they must give a written report about the abuse, or suspected abuse to the Police immediately and must also give a copy of the report to the Chair of the College Board of Directors.

A report under this section must include the following particulars:-

- a) the name of the person giving the report in the first instance (the **first person**);
- b) the student's name and sex;
- c) details of the basis for the first person reasonably suspecting that the student is likely to be sexually abused by another person;
- d) any of the following information of which the first person is aware:-
  - i. the student's age;
  - ii. the identity of the person who has abused, or is suspected to be likely to abuse, the student;
  - iii. the identity of anyone else who may have information about suspected likelihood of abuse.<sup>10</sup>

### Reporting Physical and Sexual Abuse<sup>11</sup>

Under Section 13E(3) of the *Child Protection Act 1999 (Qld)*, if a doctor, a registered nurse or a teacher forms a 'reportable suspicion' about a child in the course of their engagement in their profession, they must make a written report.

A **reportable suspicion** about a child is a reasonable suspicion that the child: -

- a) has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and
- b) may not have a parent able and willing to protect the child from the harm.

The doctor, nurse or teacher must give a written report to the Chief Executive of the Department of Child Safety, Youth and Women (or other department administering the *Child Protection Act 1999 (Qld)*). The doctor, nurse or teacher should give a copy of the report to the Principal.

<sup>9</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s16(2)(c)*

<sup>10</sup> *Education (General Provisions) Regulation 2017 (Qld) s68*

<sup>11</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s16(2)(d)*

A written report under this section must include the following particulars:-

- a) state the basis on which the person has formed the reportable suspicion; and
- b) include the information prescribed by regulation, to the extent of the person's knowledge as follows:<sup>12</sup>
  - i. the child's name and sex;
  - ii. the child's age;
  - iii. details of how to contact the child;
  - iv. details of the harm to which the reportable suspicion relates;
  - v. particulars of the identity of the person suspected of causing the child to have suffered, suffer, or be at risk of suffering the harm to which the reportable suspicion relates;
  - vi. particulars of the identity of any other person who may be able to give information about the harm to which the reportable suspicion relates.

### IMPLEMENTING THE PROCESSES

The College will ensure it is implementing processes relating to the health, safety and conduct of staff and students by auditing compliance with the processes annually.<sup>13</sup> Training for staff will occur annually;<sup>14</sup> further professional learning will be included for key personnel most likely to be involved in the child protection reporting and support mechanisms, for example members of the Wellness Team. The College complements child protection specific processes through the implementation, review and training around other relevant policies, namely the Staff Code of Conduct and Workplace Health and Safety Policy.

### ACCESSIBILITY OF PROCESSES

Processes relating to the health, safety and conduct of staff and students are accessible on the College website and will be available on request from the College's Main Office.<sup>15</sup> Further, within an age-appropriate focus session each year, students are led through a discussion around their health and safety, particularly focussing on child protection concerns. Key discussion points include each child's right to safety, which people at the College and in the community can provide support and how reports can be made. Appropriate support is offered in this regard to international students upon arrival at the College. This may be delivered by College staff or by external parties who can assist the incoming student with a clear understanding of the policy, their rights and the support available to them. This extends to other students in the community whose communication or cultural necessitates similar support.

A College-devised brochure is provided to each student which outlines such aspects as their rights and child protection reporting. This is shared with families via the College newsletter. Families receive a parent and a student child protection brochure at enrolment. Additionally, child protection posters are displayed throughout the College.

### COMPLAINTS PROCEDURE

Concerns around non-compliance are to be submitted via the Complaints & Dispute Resolution Policy.<sup>16</sup>

<sup>12</sup> *Child Protection Regulation 2011* (Qld) s10

<sup>13</sup> *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) s16(4)(d).

<sup>14</sup> *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) s16(4)(c)

<sup>15</sup> *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) s16(4)(a)

<sup>16</sup> *Education (Accreditation of Non-State Schools) Regulation 2017* (Qld) s16(5) and s16(6)

## **HARM NOT COVERED BY LEGISLATION**

The management of student relationships, student behaviour and incidents of self-harm do not fall explicitly within this legislation. The College acknowledges, however, that these aspects are closely linked to some elements covered under the legislation. To this end, on a case-by-case basis and where appropriate, Fairholme will deploy similar strategies in order to support individuals and families and refer to external parties as necessary.

## **REFERENCES**

### **Legislation**

*Child Protection Act 1999 (Qld)*

*Education (Accreditation of Non-State Schools) Act 2017 (Qld)*

*Education (Accreditation of Non-State Schools) Regulation 2017 (Qld)*

*Education (General Provisions) Act 2006 (Qld)*

*Education (General Provisions) Regulation 2017 (Qld)*

*Education (Overseas Students) Regulation 2018 (Qld)*

*Education (Queensland College of Teachers) Act 2005 (Qld)*

*Education Services for Overseas Students (ESOS) Act 2000 (Cth)*

*Working with Children (Risk Management and Screening) Act 2000 (Qld)*

*Working with Children (Risk Management and Screening) Regulation 2011 (Qld)*

*Public Health Act 2005 (Qld)*

*Family Law Act 1975 (Cth)*

### **Fairholme College Policies**

Blue Card Register

Community Code of Conduct

Child Protection Management Strategy

Critical Incident Policy and Management Plan

Complaints and Dispute Resolution Policy

Recruitment Policy

Staff Code of Conduct

Wellbeing Policy

Work Place Health and Safety Policies and Procedures