

## Child Protection - Mandatory Reporting of Child Abuse or Harm to DCJ

### Source of Obligation

Under the Children and Young Persons (Care and Protection) Act 1998 (NSW), certain people are required by law to report child abuse and harm to the Department of Communities and Justice (DCJ), where they:

- have **reasonable grounds to suspect** that a child (under the age of 16) is **at risk of significant harm** and
- those grounds arose during the course of the person's work.

The Memorandum of Understanding (MOU) between DCJ, the Catholic Education Commission NSW (CECNSW) and the Association of Independent Schools of NSW (AISNSW) prescribes certain Mandatory Reporting procedures.

The MOU introduces centralised reporting procedures for non-government schools coordinated and represented by the CECNSW or AISNSW and those procedures are referenced in this policy.

### Kambala's Policy

Kambala has developed a detailed policy, set out in **Child Protection - Child Abuse and Harm Definitions, Identification and Initial Responses**, which outlines definitions and indicators of abuse and harm, key requirements when managing incidents, concerns and disclosures of child abuse and harm, initial notification procedures, the development of a management plan, the provision of ongoing support, record keeping and confidentiality.

This policy is designed to set out in plain English, staff members' obligations in relation to Mandatory Reporting of child abuse and harm in NSW.

### Who is a Mandatory Reporter at the School?

In NSW, the following people are Mandatory Reporters:

- anyone who in the course of their professional work or other paid employment delivers health care, welfare, education, children's services, residential services or law enforcement wholly or partly to children
- anyone who holds a management position in an organisation and whose duties include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services or law enforcement wholly or partly to children.
- anyone in religious ministry or who provides religion-based activities to children
- all registered psychologists, when providing professional services as a psychologist.

This means that at Kambala, the following persons are to be Mandatory Reporters:

- Council members
- the Principal
- the School's Executive Team
- teachers, including casual or temporary teachers
- all other paid employees at the School who interact with students
- the School nurse
- the School counsellor

- any person in religious ministry (such as clergy) or other religious leadership roles (including voluntary roles)
- any Staff, Volunteers or Contractors
- External Education Providers engaged by the School.

## When to Make a Mandatory Report

A Mandatory Report must be made when you have **reasonable grounds to suspect** that a child (aged under 16) is, or a particular group of children are, **at risk of significant harm**, and those grounds arose during the course of your work.

Where a Mandatory Reporter has concerns that a child or young person has been or is at risk of being abused or otherwise harmed, the Mandatory Reporter Guide (MRG) must be used to determine whether or not those concerns reach the Risk of Significant Harm (ROSH) threshold.

The MRG can be accessed [here](#).

If your concerns do reach the ROSH threshold, a report must be made as soon as practicable after you consider that you have the required reasonable grounds to suspect the significant risk of harm.

## What Does 'Reasonable Grounds to Suspect' Mean?

The concept of '**reasonable grounds to suspect**' requires you to consider whether another person, when faced with similar information, would also draw the same conclusion. It does not mean reporters are required to be certain, but rather reporters should ensure their concerns are well founded and based on information from a reliable source. There may be reasonable grounds to suspect that a child or young person is at risk of significant harm if:

- a student states they have been physically or sexually abused
- a student states that they know someone who has been physically or sexually abused
- someone who knows the student states that the student has been physically or sexually abused
- a student shows signs of being physically or sexually abused
- the staff member is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability that is impacting on a student's safety, stability or development
- the staff member observes signs of abuse or other harm, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision
- a student's actions or behaviour indicate that they may be at risk of significant harm and the student's parents are unwilling or unable to protect the student.

Grounds for belief include matters of which a person has become aware and any opinions based on those matters.

Refer to the **Child Protection – Child Abuse and Harm Definitions, Identification and Initial Responses** policy for more information on the indicators of child abuse and harm.

## What is a 'Risk of Significant Harm'?

The **risk of significant harm** must be as a result of one or more of the following circumstances:

- the child or young person's basic physical or psychological needs are not being met or are at risk of not being met



- the parents/carers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care
- the parents/carers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with the Education Act 1990 (NSW)
- the child or young person has been or is at risk of being physically or sexually abused or ill-treated
- the child or young person is living in a household where there have been incidents of domestic violence and as a consequence the child or young person is at risk of serious physical or psychological harm
- a parent/carer has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious physical or psychological harm
- the child was the subject of a pre-natal report (because there were reasonable grounds to suspect that the child could be at risk of significant harm after his or her birth) but the birth mother did not engage successfully with support services to eliminate or minimise that risk.

Additional grounds for making a mandatory report, which are not included in the Children and Young Persons (Care and Protection) Act 1998 (NSW), are listed in the MRG, being 'Danger to Self or Others', 'Relinquishing Care' and 'Unborn Child'. Refer to the MRG for more information on these grounds for making a mandatory report.

Grooming behaviours are conduct which may place a child at risk of sexual abuse, and must be reported under the Children and Young Persons (Care and Protection) Act 1998 (NSW). Refer to our **Child Protection - Detecting, Reporting and Addressing Grooming Behaviours** policy.

The circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person must be present to a 'significant extent'.

'**Significant**' means that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

'Significant harm' is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing.

Significant harm can result from a single act or omission or an accumulation of these.

Refer to the [New South Wales Mandatory Reporter Guide \(MRG\)](#) for guidance on making a decision on whether to report abuse and neglect. This guide includes 'decision trees'.

## How to Make a Report

In accordance with the terms of the MOU, where a mandatory reporter forms a reasonable belief that a child is at risk of significant harm, they must either report directly to DCJ, or to the Head of Agency (HOA), who will then make the necessary report to DCJ.

### How to make a Mandatory Report Internally under the MOU

At Kambala, internal reports should be made to the HOA, who is the Principal. However, should the allegation involve the Principal, the report is to be made to the President of Council by [email](#).

The Principal, or the President of Council, must make the report of risk of significant harm to DCJ as soon as practicable and must provide feedback to the mandatory reporter that a report to DCJ has been made. Mandatory reporters are encouraged to follow up with the Principal or President of Council if a reasonable time has passed and they haven't received such feedback.



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Nothing in the MOU precludes any person at the School, including mandatory reporters, from making a report directly to DCJ.

### **How to make a Mandatory Report to DCJ**

Concerns that require immediate attention should be reported by the Mandatory Reporter or the Principal, by calling the DCJ Child Protection Helpline on **132 111**.

Concerns that do not require immediate attention can be reported using an **eReport**.

Kambala is registered to lodge eReports via the DCJ eReport Portal. Please contact the Principal should you wish to lodge an eReport.

When preparing to make a report, all circumstances that supported the decision to report the matter (including the specific circumstances used for the MRG and its responses) should be readily available to assist DCJ, as well as the following information:

- full name, date of birth (or approximate age), address and phone number of the child or young person, or children or young people, you are concerned about
- full name (including any known aliases), approximate age, address and phone number of the parents or carers
- a description of the child or young person and their current whereabouts
- why you suspect the child or young person is at risk of significant harm (what you have seen, heard or been told)
- whether a language or sign interpreter may be required
- cultural identity, including whether the child identifies as Aboriginal or Torres Strait Islander
- whether support is required for a person with a disability or an Aboriginal agency is involved
- your name and contact details.

Sometimes all of this information will not be known to the reporter. As a minimum, DCJ needs to be able to identify and locate the child.

Additionally, information about the child or young person's reaction to the report should also be provided to enable DCJ to take into account any view or wish expressed by the child or young person, including their opposition to the report being made.

### **Staff/Volunteer/Others Misconduct**

Where a matter that is subject to Mandatory Reporting to DCJ involves an allegation against a staff member or any other person engaged by the School to provide services to children, including volunteers and contractors, it must also be reported to the NSW Children's Guardian.

For details refer to our **Child Protection – Reportable Conduct of Staff, Volunteers and Others** policy.

Staff members must also take any other action that is within their power to take to protect the student, or other students, from potential criminal child abuse offences by the staff member or other person engaged by the School.

For details refer to our **Child Protection – Duty to Protect Students from Child Abuse or Harm** policy.

## Confidentiality of the Reporter's Identity

Reports made to DCJ are confidential and the reporter's identity is generally protected by law.

It is important to note however that NSW Police may be granted access to the identity of the reporter if this is needed in connection with the investigation of a serious offence against a child or young person. The request must come from a senior NSW Police officer and the reporter must be informed that their identity is to be released, unless informing them of the disclosure will prejudice the investigation.

## What Happens After a Report is Made?

The Child Protection Helpline will assess the information that is provided, along with information that may be known to DCJ, to determine whether the child or young person is actually at risk of significant harm. DCJ may then do one of the following:

- screen out the report because it does not meet the threshold for risk of significant harm
- refer the family to an early intervention program designed to assist families and children at risk
- assess the report but not open it for ongoing services
- arrange ongoing services/further assessment to the child or young person, other individual family members, or to the family together
- arrange protective placement of the child or young person.

Mandatory Reporters will be informed in writing of the action that will be taken by DCJ, including whether the report made met the threshold of significant harm and/or whether no further action was recommended.

Mandatory Reporters should note that the MRG is a tool that assists Mandatory Reporters to make an appropriate reporting decision. It is not designed to determine whether the matter constitutes actual risk of significant harm. If a decision is made by DCJ that a report did not meet the ROSH threshold, even though the Mandatory Reporter used the MRG to guide the making of the report, this does not mean the report should not have been made. Ultimately, every report made that raises a concern that a child or class of children is at ROSH is in their best interests.

Even after a report to the Child Protection Helpline has been made, reporters must continue to respond to the needs of the child or young person within the terms of their work role. This may include providing a report to the NSW Police and/or arranging for medical care.

## Implementation

This policy is implemented through a combination of:

- staff training
- effective communication and incident notification procedures
- effective record keeping procedures
- initiation of corrective actions where necessary.

## Record Keeping

The documentation relating to the making of a mandatory report to DCJ is maintained by the **HR Manager** or the **Head of Counselling** and located **in their respective offices**.



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## **Discipline for Breach of Policy**

Where a staff member breaches this policy, Kambala may take disciplinary action, including in the case of serious breaches, summary dismissal.

## **Version details**

Version 2. Approved by Executive on 18 May 2020

Owner: Risk and Compliance Officer