

## Child Protection - Reportable Conduct of Staff, Volunteers and Others

### Source of Obligation

The Children's Guardian Act 2019 (NSW) (the Children's Guardian Act) requires Kambala to investigate and report to the NSW Office of the Children's Guardian (Children's Guardian) all allegations of Reportable Conduct that are made against "employees" at the School or any conviction of an "employee" for an offence involving Reportable Conduct as defined by the Children's Guardian Act.

### Kambala's policy

To enable the School to meet its obligations under the Children's Guardian Act, all staff members are required to report any concerns about, allegations or knowledge of Reportable Conduct, or behaviour that may be Reportable Conduct, to the Head of Agency (HoA).

Staff members must also:

- cooperate in any internal investigation
- maintain confidentiality
- ensure that records of all verbal and written communications are maintained and stored securely.

It is Kambala's policy that if a reportable allegation or reportable conviction is made against the Principal, who is our HoA, then the President of Council will take on the role of the HoA.

Reference to the Principal's responsibilities therefore include the President of Council if the allegation involves the Principal.

### How to Report Internally

At Kambala our HoA is the Principal, however, should the allegation involve the Principal, the report is to be made to the President of Council by [email](#).

An internal report may be made to the HoA verbally or in written form.

Where a verbal report is made by a staff member, it should be followed up with a written report within 48 hours of the verbal report.

### Who is an Employee?

The Children's Guardian Act defines an employee as:

- an individual employed by, or in, the School, or
- if an individual is engaged directly, or by a third party, as a volunteer to provide services to children – the volunteer, or
- if an individual is engaged directly, or by a third party, as a contractor and the contractor holds, or is required to hold, a working with children check clearance for the purpose of the engagement – the contractor.

All staff members at the School are employees under the Children's Guardian Act. The following people at the School are also considered employees for the purposes of Reportable Conduct:



- School Council directors
- the Principal
- Direct Contact Volunteers
- Direct Contact Contractors
- external education providers.

## What is Reportable Conduct?

Section 20 of the Children’s Guardian Act defines what type of conduct is Reportable Conduct.

Reportable Conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded:

- a sexual offence
- sexual misconduct
- ill-treatment of a child
- neglect of a child
- an assault against a child
- an offence under 43B or 316A of the Crimes Act 1900 (NSW) (failing to prevent child abuse or concealing child abuse)
- behaviour that causes significant emotional or psychological harm to a child.

For more information see the [Office of the Children’s Guardian Fact Sheet: Identifying Reportable Allegations](#).

For the purposes of Reportable Conduct, a child is defined as a person under the age of 18 years.

The conduct does not have to have occurred at or in the course of the employee’s work at or for the School.

The child does not have to be a student at the School.

For more information, see the **Key Definitions** section of this policy.

## What Conduct is Not Reportable Conduct?

Section 41 of the Children’s Guardian Act defines what conduct is not Reportable Conduct.

Reportable Conduct does not include:

- conduct that is reasonable for the purpose of discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and any relevant codes of conduct or professional standards, or
- the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter has been investigated and the result of the investigation has been recorded under workplace employment procedures.

Some examples of conduct that would not be Reportable Conduct include touching a child to get their attention, to guide them or comfort them, momentarily restraining a child to prevent the child hurting themselves or others or a teacher raising their voice in order to attract attention or restore order in the classroom.

## What to do if unsure whether Employee Behaviour is Reportable Conduct?

In some cases, an investigation by the School may still be needed to determine whether the alleged conduct is



Reportable Conduct or not, for example to determine if the conduct was reasonable or – in the case of the use of physical force – trivial or negligible.

Staff members who are unsure whether employee behaviour constitutes Reportable Conduct, or whether an investigation may be necessary to determine whether it constitutes Reportable Conduct, should discuss this with the **HR Manager**, who can assist in clarifying concerns and reporting obligations under this policy.

## Reportable Conduct and Other Reporting Obligations

In some cases, conduct that is Reportable Conduct which must be reported internally and/or to the Children's Guardian under this policy would also be conduct that meets the threshold for reporting to the Department of Communities and Justice (DCJ) in accordance with our **Child Protection – Mandatory Reporting of Child Abuse or Harm to DCJ** and/or to Police in accordance with our **Child Protection – Mandatory Reporting of Child Abuse Offences to Police** procedures.

It is important to understand that the Reportable Conduct reporting obligations covered in this policy are separate and distinct from these other Mandatory Reporting obligations.

The threshold for reporting allegations of Reportable Conduct is much lower than the thresholds for Mandatory Reporting to DCJ and Mandatory Reporting to Police. Therefore, if a child safety incident or concern involving conduct by an employee requires Mandatory Reporting to DCJ or Mandatory Reporting to Police, it must also be reported internally and to the Children's Guardian by the School under this policy.

A failure to make a report in accordance with this policy may amount to an offence under the Crimes Act 1900 (NSW).

## Key Definitions

The Children's Guardian Act provides definitions and examples of some of the key terms used in the definition of Reportable Conduct. The below are all Reportable Conduct:

- sexual offence
- sexual misconduct
- assault
- ill-treatment
- neglect
- an offence under 43B or 316A of the Crimes Act 1900 (NSW) (failing to prevent child abuse or concealing child abuse)
- behaviour that causes emotional or psychological harm.

The definitions and examples of these terms set out below are from the Children's Guardian Act and are relevant for the purposes of the Reportable Conduct scheme only. They may or may not be similar to definitions provided in our **Child Protection – Child Abuse and Harm Definitions, Identification and Initial Responses** and **Child Protection – Mandatory Reporting of Child Abuse or Harm to DCJ** policies.

### **Reportable Allegations and Reportable Convictions**

**Reportable allegation** means an allegation of Reportable Conduct against an employee, regardless of whether or not the conduct is alleged to have occurred during the course of employment.

**Reportable conviction** means a conviction of an employee for an offence involving Reportable Conduct, regardless of whether the offence occurred in NSW or elsewhere. It includes a finding of guilt without the court proceeding to record a conviction.

### **Sexual Offence**

A sexual offence is an offence of a sexual nature, as set out under NSW law or the law of another State, Territory or the Commonwealth, and that is committed against, with or in the presence of a child. Examples of sexual offences set out in the Children's Guardian Act include:

- sexual touching of a child
- a child grooming offence
- production, dissemination or possession of child abuse material.

For more information, refer to the descriptions of criminal offences relevant to child abuse and harm, including grooming, in **Child Protection – Child Abuse and Harm Definitions, Identification and Initial Responses** and to the description of child grooming offences in **Child Protection – Detecting, Reporting and Addressing Grooming Behaviours**.

### **Sexual Misconduct**

Sexual misconduct means conduct with, towards or in the presence of a child that is sexual in nature but not a sexual offence.

Examples of sexual misconduct set out in the Children's Guardian Act include:

- describing sexual acts to a child, without a legitimate reason to provide the descriptions
- sexual comments, conversations or communications with or in the presence of a child
- comments to a child that express a desire to act in a sexual manner towards the child or another child.

Sexual misconduct may also include:

- sexualised behaviour, including exhibitionism
- exposing children to pornography
- watching children undress in circumstances where supervision is not required and clearly inappropriate.

For more information refer to our **Staff and Student Professional Boundaries** policy and **Child Protection – Detecting, Reporting and Addressing Grooming Behaviours**.

### **Assault**

Assaults that amount to Reportable Conduct are defined as:

- the intentional or reckless application of physical force without lawful justification or excuse, or
- any act which intentionally or recklessly causes another to apprehend immediate and unlawful violence.

Examples of assault set out in the Children's Guardian Act include:

- hitting, striking, kicking, punching or dragging a child
- threatening to physically harm a child.

Injury is not an essential element of assault, and, alternatively, the existence of an injury does not necessarily mean that there was an assault.

### **Ill-Treatment**

Ill-treatment of a child means conduct towards a child that is unreasonable and seriously inappropriate, improper, inhumane or cruel.

Examples of ill-treatment set out in the Children's Guardian Act include:

- making excessive or degrading demands of a child
- a pattern of hostile or degrading comments or behaviour towards a child
- using inappropriate forms of behaviour management towards a child.

### **Neglect**

Neglect of a child means a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for the child, that causes or is likely to cause harm to a child, by:

- a person with parental responsibility for the child, or
- an authorised carer of the child, or
- an employee, if the child is in the employee's care.

Examples of neglect set out in the Children's Guardian Act include:

- failing to protect a child from abuse
- exposing a child to a harmful environment, for example, an environment where there is illicit drug use or illicit drug manufacturing.

### **Behaviour that Causes Emotional or Psychological Harm**

Behaviour that causes significant emotional or psychological harm is not defined in the Children's Guardian Act.

However, the Children's Guardian Act does provide the following examples of indicators (in a child) of significant emotional or psychological harm:

- displaying behaviour patterns that are out of character
- regressive behaviour
- anxiety or self-harm.

It would appear that **any** behaviour by an employee that has caused significant emotional or psychological harm to a child is Reportable Conduct.

## **Head of Agency Responsibilities**

Our Head of Agency (HoA) is the Principal. However, if a reportable allegation or reportable conviction is made against the Principal, then the President of Council will take on the role of the HoA.

References in this policy to the Principal therefore include the President of Council when undertaking the Principal's functions under the Children's Guardian Act.

The Principal has distinct responsibilities under the Reportable Conduct Scheme:

- The Principal must set up systems at the School to prevent Reportable Conduct by an employee and to ensure that they are advised of any reportable allegations or convictions against their employees.
- The Principal **must** notify the Children's Guardian of all reportable allegations and reportable convictions



against School employees.

- After the Principal becomes aware of a reportable allegation or conviction against an employee (which does not also require reporting to DCJ under **Child Protection – Mandatory Reporting of Child Abuse or Harm to DCJ** or to the Police under **Child Protection – Mandatory Reporting of Child Abuse Offences to Police**), they **must** ensure that an appropriate investigation of the reportable allegation or conviction is conducted and completed within a reasonable time.
- The Principal **must** notify the Children’s Guardian of the findings of the School’s internal investigation into the matter.
- The Principal **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.

It is a criminal offence under the Children’s Guardian Act for the Principal to fail to disclose a reportable allegation or reportable conviction to the Children’s Guardian without lawful excuse.

A failure to make a report to the Children’s Guardian in accordance with this policy may also amount to an offence under the Crimes Act 1900 (NSW).

For more information see the [Office of the Children’s Guardian Fact Sheet: Heads of entities and reportable conduct responsibilities](#).

## Initial Response to Internal Report of Reportable Conduct

Once the Principal becomes aware of or receives information about an allegation or conviction that may involve Reportable Conduct, they must:

- clarify the allegation, including the identity of the person making the allegation and the relevant employee, and the acts and/or omissions which form the basis of the allegation
- conduct a risk assessment to identify and avoid or minimise risks (see the **Risk Management: Risk Assessments** section of this policy)
- consider whether a child or young person is ‘at risk of significant harm’, and if so, follow the procedures for **Child Protection – Mandatory Reporting of Child Abuse or Harm to DCJ**
- consider whether the allegation may constitute a criminal offence and if so, follow the procedures for **Child Protection – Mandatory Reporting of Child Abuse Offences to Police** before taking any further action
- assess any possible risks posed by the relevant employee to all children and young people in the School’s care and take any necessary interim action to ensure their safety and wellbeing (see **Child Protection – Duty to Protect Students from Child Abuse or Harm**)
- assess whether or not the allegation/conviction relates to Reportable Conduct and if so, notify the Children’s Guardian as soon as practicable (see the **Notifying the NSW Children’s Guardian** section of this policy)
- consider other requirements for communicating details of the allegation/conviction within or outside the School
- address any support needs of both the student and the employee who is the subject of the allegation/conviction.

Prior to making the report to the Children’s Guardian, Kambala may contact the Children’s Guardian on **(02) 8219 3800** or at [reportableconduct@kidsguardian.nsw.gov.au](mailto:reportableconduct@kidsguardian.nsw.gov.au) for guidance on how to manage the reporting process.

## Notifying the Children's Guardian

Where the Principal receives a reportable allegation from any person, including a staff member, or becomes aware of a reportable conviction, they must notify the Children's Guardian at several stages of the matter:

- the Principal must provide a written notice within seven business days after the Principal is made aware of the reportable allegation or reportable conviction, unless the Principal has a reasonable excuse (use the [7-day notification form](#)), and
- the Principal must, within 30 days, provide:
  - an interim report about the actions taken since the initial notification, any further actions proposed to be taken and an estimated time frame for providing the final report (use the [30-day interim report form](#)) or
  - a final report about the outcome of the investigation or determination (use the [Entity Report Form](#)).

## Disclosure to Children's Guardian of Information About Reportable Conduct

The Principal, or other employee of the School, may disclose to the Children's Guardian, or an officer of the Children's Guardian, any information that gives the Principal, or other employee, reason to believe that Reportable Conduct by an employee of the School has occurred.

## Risk Management: Risk Assessments

The Principal is responsible for assessing the risk that the employee poses to students at three separate stages:

- after a reportable allegation is made
- during the investigation
- at the end of the investigation.

### Stage One: After becoming aware of a reportable allegation or conviction

Immediately after becoming aware of a reportable allegation or conviction, the Principal will conduct a risk assessment which considers:

- the nature and seriousness of the allegation(s)
- the vulnerability of the children who the employee would be in contact with while at the School – considering their age, communication skills etc
- the nature of the position occupied by the employee including the level of contact and interaction they have with children
- the level of supervision available for the employee
- the availability of support for the employee on a day-to-day basis if their duties are unchanged
- the employee's disciplinary history
- other possible risks to the investigation.

These factors will assist the Principal to make an initial decision about whether to move the employee into indirect contact work, or suspend them from work during the investigation. The decision the Principal makes after the first risk assessment should not influence the final findings of the investigation.

### Stage Two: During the investigation

New risks may emerge during the investigation into an allegation and it is important that such risks are

managed. As part of managing the investigation, Principal should ensure that appropriate support is provided for:

- the child(ren) who were the subject of the allegation
- the employee who was the subject of the allegation
- other relevant parties, including parents/carers.

### **Stage Three: At the end of the investigation**

Refer to the **Making a Finding of Reportable Conduct** section of this policy.

## **Investigating Reportable Conduct**

After the Principal becomes aware of a reportable allegation or a reportable conviction and the Children's Guardian has been notified, they must ensure that an appropriate internal investigation of the reportable allegation or convictions is conducted.

Internal investigations of reportable allegations can be conducted by the Principal, or another person on behalf of the Principal, such as the President of Council or an independent investigator appointed by the Principal, in such a manner as the particular circumstances demand.

The investigation must be conducted in accordance with the rules of procedural fairness and natural justice. For example, the investigation should be conducted without bias and the person against whom the allegation is made should be given the right to respond.

Internal investigations have the potential to create conflicts of interest. Conflicts may arise between an investigator's official duties and their private interests, which could influence the performance of the official duties. Investigators should be objective and impartial, and be seen as such. The School manages actual or reasonably perceived conflicts of interest through our **Conflicts of Interest Policy**.

The Children's Guardian can ask for further information during the course of the internal investigation and can monitor the internal investigation.

For more information see the [Office of the Children's Guardian Fact Sheet: Risk management following an allegation](#).

## **Internal Investigations and Investigations by External Agencies**

### **Criminal investigations**

Where allegations of Reportable Conduct by an employee involve, or an investigation into alleged Reportable Conduct has led to findings against the employee that involve, Offences under the Crimes Act 1900 (NSW), the Principal must notify the Police as a priority over the School's own internal investigation.

If the Police or the Director of Public Prosecutions advise the Principal that the School's internal investigation of a reportable allegation is likely to prejudice their own investigation or a court proceeding, the Principal may – in consultation with the Police or the Director of Public Prosecutions – suspend the internal investigation until otherwise advised.

If the Principal decides to suspend the internal investigation, the Children's Guardian must be notified that the investigation is suspended and of steps taken to manage any risks.



If the Principal decides not to suspend the investigation, the Children's Guardian must ensure that the internal investigation is conducted in a way that does not prejudice the Police investigation or court proceeding.

### **Investigations by other agencies**

The Children's Guardian may require that the Principal defer or cease an internal investigation, so that the Children's Guardian can itself investigate the matter.

The Children's Guardian may also exempt the Principal from commencing or continuing an internal investigation, or from making a determination, if another relevant entity is investigating the matter. This may occur, for example, if the matter has been reported to and is being investigated by the Department of Communities and Justice.

## **Internal Investigation Processes Outline**

When conducting the investigation, the following key steps must be taken.

The person who is the subject of the reportable allegation will be advised of these steps, to ensure that they know what to expect during the School's investigation processes.

The affected child or young person and/or their parent/carer must be advised of these steps and of the progress of the investigation, unless to do so would not be in the public interest. If appropriate, the child or young person and/or their parents/carers may be asked for permission to interview the child or young person. See the **Disclosing Information about Reportable Conduct to Affected Children, Parents and Carers** section of this policy.

### **Information Gathering**

The first step in an investigation is to gather all relevant information. This can be obtained from a range of sources:

- direct evidence or information can be obtained by speaking with those involved in the alleged incident (e.g. the child, witnesses or the employee)
- physical evidence can be obtained by collecting documents (e.g. rosters, emails), securing and inspecting objects (e.g. mobile phones, computers) and inspecting locations to check the relevant positions of parties and witnesses to the alleged incident (e.g. playgrounds, classrooms). This process may include taking photographs and making drawings or diagrams of the location
- expert evidence can be obtained from people who have specialised knowledge in a specific field that the general public do not have, for example a medical practitioner may be relevant if they had examined a child or young person
- where the Police or DCJ have been involved, requests for information from, and the provision of information to these agencies can be made in accordance with Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (NSW). See **Child Protection – Information Sharing About Students' Safety and Wellbeing**.

### **Employee Response:**

The point at which an employee is told about the allegation and given an opportunity to respond can be critical to the success of an investigation and can affect the degree and duration of stress experienced by the employee.

If the Police and/or DCJ wish to interview the employee, the School must consult with the relevant agency about what should be disclosed to the employee during the internal investigation.

When all relevant information has been obtained, the allegation will be formally put to the employee and the



employee will be given an opportunity to respond, either at an interview or in writing. At an interview, the employee may wish to have a support person there, who may observe only and must not interrupt. The interview will be recorded verbatim where possible and all records will be verified as a true record of the interview by being signed and dated by all involved.

It may be necessary to re-interview the employee if new information or allegations come to light during the investigation.

### **Key Considerations:**

To ensure that an investigation is properly conducted:

- systems must be implemented to uphold confidentiality and deal with any breaches of confidentiality
- everyone involved in the investigation should be reminded of the importance of confidentiality
- the parents/carers of any child involved should be advised and asked for permission to interview their child, if appropriate
- all interviews should be recorded verbatim where possible, and records should be verified, signed and dated by all involved
- any other allegations that emerge during the investigation process should be documented, together with details of any action taken by the School
- all decisions, advice and discussions made in relation to the investigation must be documented
- all relevant parties should be advised of the outcome of the investigation.

For more information see the [Office of the Children's Guardian Fact Sheet: Planning and conducting an investigation](#).

## **Matters for Consideration When Making a Finding After Investigation**

Once the investigation has concluded, the Principal, as the decision-maker, should assess the evidence regarding the reportable allegations against the employee, as well as any conclusions or recommendations made by others involved in the investigation.

A finding of Reportable Conduct can only be made if the Principal is satisfied that the case has been proved on the balance of probabilities.

The Principal **must** consider whether the reportable allegation relates to conduct that is in breach of established standards applying to the employee, having regard to:

- professional standards
- codes of conduct, including professional or ethical codes
- accepted community standards.

Without limiting other matters that the Principal **may** take into account when determining whether the case has been proved on the balance of probabilities, they may take into account:

- the nature of the reportable allegation and any defence, and
- the gravity of the matters alleged.

Caution should be exercised when reaching a finding of Reportable Conduct where the matter involves a criminal allegation, such as an allegation of sexual assault. The Principal must take care to base their decision on clear and cogent evidence, rather than guesswork, suspicion or rumour. The more serious the alleged wrongdoing, the more



care the Principal should exercise in making their decision as to whether they are satisfied the alleged conduct has occurred.

If the Principal is satisfied that the reportable allegation has been proved on the balance of probabilities, the Principal **must** make a finding of Reportable Conduct.

The Principal's finding will inform the School's child protection risk assessment and any future action taken to mitigate ongoing risks.

For more information see the [Office of the Children's Guardian Fact Sheet: Making a finding of reportable conduct](#).

### Post-Investigation Actions

Once the investigation has concluded, the Principal must take the following actions:

- review the investigation and ensure that all relevant risk issues have been considered, including environmental factors and work practices
- send the final report and results of the investigation to the Children's Guardian (see the *Notifying the Children's Guardian* section of this policy)
- decide on what measures should be put in place to minimise any further risk of harm to children in the School's care, including possible disciplinary action in relation to the employee who is the subject of the allegation, amendments to policy and procedures, and any strategies to minimise future risk of Reportable Conduct by the relevant employee or other employees
- if the allegation was found to be false and vexatious, decide on what action, if any, should be taken against the person/s who made the vexatious allegation. However, it is a criminal offence to take or threaten to take detrimental action against a person who has made a reportable allegation against an employee in good faith, even if the conduct is found – after investigation – to not constitute Reportable Conduct.
- store all information relating to the investigation in a secure location, in accordance with the **Record Keeping** section of this policy.

Where the investigation has led to a finding of Reportable Conduct against the employee that involve offences under the Crimes Act 1900 (NSW), the Principal will need to notify the Police, if they are not already involved. See **Child Protection – Mandatory Reporting of Child Abuse Offences to Police**.

### Disclosing Information about Reportable Conduct to Affected Children, Parents and Carers

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

The disclosure obligations 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 Principal Must Inform the Affected Child and Their Parents/Carers About the Reportable Conduct Investigation**

The Principal or an investigator working for the Principal 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 Children's Guardian Act does not give any guidance as to when it may not be in the public interest to inform the affected child or their parents/carers. The Children's Guardian will publish guidelines setting out what the



Principal must have regard to when deciding whether or not to disclose information.

### **The Principal Must Not Disclose Reportable Conduct Information to Anyone Else (Unless an Exception Applies)**

This is the basic rule: The Principal or an investigator working for the Principal must not disclose information about a Reportable Conduct investigation to anyone other than the affected child and their parents/carers.

However, there are exceptions to this rule.

The Principal or an investigator working for the Principal is allowed to disclose Reportable Conduct information if:

- the disclosure is made to promote the safety or wellbeing of a child or children and
- the disclosure is made to one of these people/entities:
  - the Children’s Guardian
  - a person who needs to be told for the purpose of investigating the Reportable Conduct
  - the head of the company that employs the person who is being investigated (if the person is a contractor and not employed by the School)
  - the Secretary or Minister (if the affected child is under the care of the Secretary or Minister)
  - a person who has “daily care and control” of the affected child (if the child is in care)
  - anyone else who, under the Regulations, is allowed to receive this information (although there are not yet any Regulations setting out who else may be told Reportable Conduct information).

These provisions permit the employee who is the subject of a reportable allegation, as well as any witnesses who are to be interviewed, to be told Reportable Conduct information, for the purposes of the internal investigation.

Under section 36 of the Children’s Guardian Act, the employee may also be given a copy of the final report that was provided to the Children’s Guardian.

The Children’s Guardian will publish guidelines setting out what the Principal must have regard to when deciding whether or not to disclose information.

### **The Children’s Guardian Must Not Disclose Reportable Conduct Information (Unless an Exception Applies)**

Although the general rule is that the Children’s Guardian must not disclose any information obtained in the course of an investigation or a determination (whether the information was obtained by itself or as a result of the School’s investigation and notifications), the Children’s Guardian has a wider list of exceptions that enable disclosure to a wider category of people.

In particular, the Children’s Guardian can disclose information relating to the safety, welfare or wellbeing of a child or a class of children to the Police, the Department of Communities and Justice or any other government agency that they consider appropriate.

In addition, under section 51 of the Children’s Guardian Act, if the Children’s Guardian has itself conducted an investigation and made a finding of Reportable Conduct, and has recommended dismissal, removal or punishment of the employee, it **must** advise the Principal of the recommendation and the reasons. It **must** also advise the employee of the recommendation and the reasons, unless it believes that doing so would:

- put a person’s health or safety seriously at risk
- put a person who made the report, complaint or notification – or another person – at risk of being harassed or intimidated
- prejudice any other investigation or inquiry.



For more information see the [Office of the Children's Guardian Fact Sheet: Disclosing information to children, parents and carers.](#)

## Staff Responsibilities

Staff must:

- report concerns about, allegations or knowledge of Reportable Conduct, or behaviour that may be Reportable Conduct, as soon as possible to the Principal
- ensure the Principal is notified of any Reportable Convictions
- cooperation in any internal investigation
- maintain confidentiality
- ensure records of all verbal and written communications are maintained and stored securely.

All staff members are protected from retribution when they act in good faith to make an internal report of, or to themselves notify the Children's Guardian of, a reportable allegation or a reportable conviction. It is a criminal offence for the School to:

- dismiss or otherwise prejudice an employee for assisting the Children's Guardian
- take or threaten to take detrimental action against a person who has made a reportable allegation against an employee in good faith, even if the conduct is found – after investigation – to not constitute Reportable Conduct.

For more information see the [Office of the Children's Guardian Fact Sheet: FAQ for employees.](#)

## Record Keeping

When a reportable allegation is made the following information must be documented:

- the allegation
- the School's initial response to the person making the allegation, the alleged victim(s) and the employee who is the subject of the allegation
- any communication with the Police or other authorities
- a plan detailing how the investigation is to be carried out including any notifications to Police or other authorities
- the Stage One risk assessments conducted by the Principal (or President of Council, where appropriate) and outlined above
- all interviews including details of questions and responses. Details should also include the location of the interview, who was present and start and finish times
- any decision made, either during or at the conclusion of the investigation, including the rationale, the position and name of the person making the decision and the date the decision was made
- any personal contact, discussions or emails with anyone about the matter (including dates, details of discussions, questions, advice, outcomes, the name and position of the person making the contact, and, where appropriate, the reason for the contact)
- a final report that details the allegation, the investigation process, the findings in relation to each allegation (including the rationale for the finding), the final risk assessment (which includes any final decision about the employee and the factors that have been considered) and any subsequent action that is to be or has been taken.



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Where possible, records should be verbatim and verified, signed and dated by all involved. Records should be kept separate, but linked by reference, to the employee's personnel file.

All records created in accordance with this policy, including all allegations, outcomes of internal investigations and decisions to make or not make a Reportable Conduct report to the Children's Guardian are maintained by the **HR Manager** and located in the **HR Office**.

For more information see the [Office of the Children's Guardian Fact Sheet: Keeping records](#).

## 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.

## 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 (where appropriate).

## Version details

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Owner: Risk and Compliance Officer