

Procedures for handling allegations of staff misconduct and reportable conduct

Introduction

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

Kambala requires all staff to comply with a 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 Kambala 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. Kambala has a legal obligation to investigate and report to the NSW Children's Guardian all allegations of reportable conduct made against staff at the school as defined by the Children's Guardian Act 2019 (NSW) (Children's Guardian Act).

For the purposes of this policy, 'staff' and 'staff member' is defined to include teaching and non-teaching staff, School Council members, volunteers, contractors, and external providers.

Definition of staff misconduct

Kambala defines "staff misconduct" as conduct by a staff member that:

- breaches the School's Code of Conduct or other key policies/procedures
- displays purposeful neglect of duties/responsibilities
- involves alcohol and/or other substance abuse
- is physically, verbally, or emotionally abusive
- endangers the safety or wellbeing of students or others at the School.

Definition of reportable conduct

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, sexual touching 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 would not constitute reportable conduct include touching a child to get their attention, guide them or comfort them, a teacher raising their voice to attract attention or restore order in a classroom, or conduct that is established to be accidental.

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. Using the Complaint form available via the Feedback link on the Sundial parents or senior students' homepage or by clicking on this [link](#) and indicating on the form that the allegation relates to staff misconduct or reportable conduct.



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2. Writing a letter to the School addressed to the Principal at:
**Principal
Kambala
794 New South Head Road, Rose Bay NSW 2029**
3. Telephoning the School and asking to speak to the Principal at: **02 9388 6777**

Complaints regarding the Principal will be referred to the Chair of the School Council by [email](#).

Some concerns may not fit squarely within existing channels. In those circumstances and to ensure matters are appropriately received and dealt with, the School is introducing a new, independent avenue to raise concerns through an external provider. This external provider can be used as an avenue for those wishing to make anonymous complaints about staff misconduct or reportable conduct. Details to be confirmed.

Investigating and managing staff misconduct and reportable conduct

Kambala initially investigates all complaints and allegations to determine whether the conduct in question amounts to staff misconduct, as defined in this policy, or reportable conduct that must be further investigated and reported to the NSW Children's Guardian. All investigations uphold the principles of procedural fairness confidentiality - information is only shared with those who need to know.

Staff misconduct

When a complaint or allegation does not include conduct that is defined as reportable conduct following the School's initial investigation, and it is determined through the School's investigation that staff misconduct has occurred, the School will notify the complainant of the finding and will advise that corrective action has been taken. Staff misconduct is managed through our Human Resources policies and procedures relating to internal grievances, discipline, and termination.

Reportable conduct

After the Principal 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 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.

Sometimes, where reportable conduct obligations arise, Kambala 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.

Making a finding of reportable conduct

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

Disclosing information to the Kambala 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 Principal.

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 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 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 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.

Where to find more information

The NSW Children’s Guardian provides information on reportable conduct and Kambala’s obligations to report. For more information about Kambala’s policies and procedures relating to staff misconduct, reportable conduct or complaints handling generally, please contact the HR Manager on (02) 9388 6853.