TAS
THE ARMIDALE SCHOOL

Title:	Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct
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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 the School. This is because often these complaints are of a sensitive nature and raise potential privacy and confidentiality issues.

The Armidale School ('TAS') requires all staff to comply with a Staff Code of Conduct, Child Safety Code of Conduct and standards of behaviour that are intended to prevent staff misconduct and reportable conduct, and students, parents, and staff are encouraged to report any breaches of the Codes or standards.

It is also critical that the broader School 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. TAS 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, Board members, volunteers, contractors and external providers.

Definition of Staff Misconduct

The School defines "Staff Misconduct" as conduct by a staff member that:

- breaches the School's Code of Conduct or other key policies/procedures; or
- displays purposeful neglect of duties/responsibilities; or
- involves alcohol and/or other substance abuse; or
- is physically, verbally or emotionally abusive; or
- 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 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
- Any offence under section 43B or 316A of the Crimes Act 1900, whether or not, with the consent of the 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. Sending an email to principal@as.edu.au
2. Writing a letter to the School addressed to the Principal
3. Telephoning the School and asking to speak to the Executive Assistant to the Principal (6776 5806)

If the Principal is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the Chair of the Board at chair@as.edu.au

Investigating and Managing Staff Misconduct and Reportable Conduct

The School initially investigates, or engages a third party to investigate, 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 natural justice and procedural fairness and 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 corrective actions that will be taken. Staff misconduct is managed through our Staff policies and procedures relating to internal grievances, conduct, 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, the School 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 the School'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 School 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 the School's obligations to report. For more information about the School's policies and procedures relating to staff misconduct, reportable conduct or complaints handling generally, please contact the Director of Human Resources at hr@as.edu.au.