



<b>INITIAL POLICY DATE</b>	1 January 2025
<b>EFFECTIVE DATE</b>	1 January 2025
<b>REVIEW DATE</b>	June 2027
<b>POLICY OWNER</b>	Chancery
<b>APPLIES TO</b>	This Policy applies to clergy, members of religious institutions, employees, board members, contractors (as defined and in relation to WHS and Children's Guardian legislation and a one member corporation), volunteers, work experience students and trainees ( <b>Workers</b> ) of the Diocese.
<b>EXCLUSIONS</b>	Where an agency or entity of the Diocese has its own policy, the relevant agency or entity policy will apply to Workers engaged by those agencies or entities. In the event of conflict between the policies of agencies or entities and the Diocesan policy, the Diocesan policy prevails.
<b>RELATED POLICIES, GUIDELINES &amp; PROCEDURES</b>	Code of Conduct Inappropriate Behaviours Policy Complaint Handling Policy Safeguarding Children, Young People and Adults at Risk Policy Working with Children Check Policy Commitment to Safeguarding Statement
<b>REFERENCE</b>	<i>Child Protection (Working with Children) Act 2012 (NSW)</i> <i>Child Protection (Working with Children) Regulation 2013 (NSW)</i> <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> <i>Children and Young Persons (Care and Protection) Regulation 2012 (NSW)</i> <i>Children's Guardian Act 2019 (NSW)</i> <i>Crimes Act 1900 (NSW)</i> <i>National Catholic Safeguarding Standards</i>
<b>RELATED FORMS</b>	There are no forms related to this policy
<b>HEADINGS</b>	Introduction and Purpose Scope Principles Definitions Legislative Framework

	<p>Responsibilities and Obligations</p> <ol style="list-style-type: none"> <li>1. Duty of Care</li> <li>2. Appropriate relationships and boundaries</li> <li>3. Working With Children Clearance</li> <li>4. Reportable Conduct <ol style="list-style-type: none"> <li>4.1 Principles</li> <li>4.2 Responsibilities under the Children's Guardian Act</li> <li>4.3 Reportable Allegations</li> <li>4.4 Reportable Convictions</li> <li>4.5 Reportable Conduct</li> <li>4.6 Diocesan Policy and Procedure</li> <li>4.7 Notification to the Children's Guardian</li> <li>4.8 Determine Immediate Actions to the Suspected Person</li> <li>4.9 Internal Investigation Pursuant to the Children's Guardian Act</li> <li>4.10 Investigation by NSW Police</li> <li>4.11 Outcome and Reporting</li> <li>4.12 Actioning and Outcome</li> <li>4.13 Procedural Fairness</li> <li>4.14 Requests from the Children's Guardian</li> <li>4.15 Exchange of Information</li> </ol> </li> <li>5. Confidentiality</li> <li>6. Victimisation</li> <li>7. Record Keeping</li> </ol> <p>Breaches of this Policy</p> <p>Revision/ Modification History</p> <p>Approval Date/ Revision History</p>
PAGES	15

## INTRODUCTION AND PURPOSE

Children and young people have a fundamental right to grow, develop and feel safe in environments that are free from violence, exploitation and harm. The Diocese of Lismore has clear expectations that all children and young people will be protected from all forms of harm including sexual, physical and psychological harm as well as ill-treatment and neglect.

Consistent with its mission and values, and in compliance with its legislative obligations, the Diocese of Lismore strives to ensure children in its care are safe and secure. Our strategy for building child safe communities includes regular and comprehensive assessment of risk and providing a safe and supportive environment for children and workers.

The purpose of this policy is to contribute to a framework for creating safe and supportive environments throughout the Diocese, particularly for Children and Young People. This policy identifies the way in which the Bishop, Safeguarding Office, Parish Priests and Workers, as defined by the Act, are to work together to act upon concerns about possible abuse or neglect of Children and Young People, in compliance with reporting obligations under the Children's Guardian Act 2019 (NSW) (**Children's Guardian Act**) and *the Children and Young Persons (Care and Protection) Act 1998* (**Care Act**).

This Policy identifies the need to:

- Ensure that everyone within the Diocese understands what they are required to do when reporting concerns that a Child is at Risk of Significant Harm.
- Recognise the importance of reporting concerns about Children at Risk of Significant Harm to the Department of Communities and Justice in promoting the safety and wellbeing of Children and Young People.
- Understand the importance of providing support to Children and Young People at risk in accordance with the Diocesan commitment to Safeguarding.
- Ensure that everyone within the Diocese understands what they are required to do in order to protect children from harm by reporting Reportable Allegations and Reportable Convictions.
- Recognise the role of Workers reporting Reportable Allegations and Reportable Convictions to the Safeguarding Office as an important strategy for promoting the safety and wellbeing of children and young people.
- Recognise the role of the Safeguarding Office in receiving reports from Workers regarding Reportable Allegations and Reportable Convictions and making appropriate reports to the NSW Office of the Children's Guardian (**Children's Guardian**) as an important strategy for promoting the safety and wellbeing of children and young people.

## SCOPE

This policy aims to:

- Clarify the expectations of Workers who work in child related employment;
- Provide a safe and supportive environment for children and workers; and
- Build and maintain a contemporary Catholic workplace that is safe, respectful, professional and legally compliant.

## PRINCIPLES

Within the Diocese of Lismore, the procedures to be followed in handling allegations of child protection concerns are based on the following principles:

- Jesus Christ, through the Scriptures, instructs us about the dignity and infinite value of every human being, especially children and young persons;

- The care and protection of children and young people is paramount;
- The value of the family unit is respected but not to the detriment of the well-being of the child;
- Persons involved in child protection concerns should be treated with sensitivity, dignity and respect;
- In any preventative and/or protective action, the total well-being of the child is the primary concern;
- All Workers have an obligation to promptly inform the head of relevant entity of serious matters concerning the welfare, care and protection of children;
- Information regarding allegations of child protection shall be made available only to those Workers who have a genuine and/or legislative need to be informed. Workers who have access to such information have the obligation to observe appropriate confidentiality in relation to this information.

## DEFINITIONS

**Bishop** means the Bishop of the Catholic Diocese of Lismore

**Care Act** means the Children and Young Persons (Care and Protection) Act 1998 (NSW)

**Child** means an individual under the age of 18 years, however for the purposes of Mandatory Reporting pursuant to the Care Act, a child is a person under the age of sixteen (16) years;

**Children's Guardian** means the NSW Office of the Children's Guardian;

**Complaint or Allegation**, for the purpose of this document, is any issue raised regarding the conduct of a Worker of the Diocese of Lismore in relation to children or young people;

**Diocese** means the Roman Catholic Diocese of Lismore and includes without limitation any Diocesan agencies, corporations, entities, parishes, parish corporations and parish entities where the Worker is employed or otherwise engaged;

**Head of relevant entity** means the Bishop of the Diocese of Lismore, who is deemed to be the Head of relevant entity, as per the *Children's Guardian Act 2019 (NSW)*. The head of relevant entity has delegated responsibility to the Diocesan Safeguarding Manager, where all complaints and allegations are to be reported and recorded in the first instance;

**Ill-Treatment** means the conduct towards a child that is:

- unreasonable; and
- seriously inappropriate, improper, inhumane or cruel.

This can include a range of conduct such as making excessive or degrading demands of a child; a pattern of hostile or degrading comments or behaviour towards a child; and using inappropriate forms of behaviour management towards a child;

**Reportable Allegation** means an allegation that a WWCC Holder has engaged in conduct that may be Reportable Conduct.

**Reportable Conduct** has the meaning as in section 4.5 of this policy.

**Reportable Conviction** means a conviction in NSW or elsewhere, of an offence involving Reportable Conduct. It includes a finding of guilt even if the court did not proceed to a conviction.

**Suspected Person** means a person who is suspected to have engaged in conduct that may be Reportable Conduct or to have been convicted of an offence involving Reportable Conduct.

**Worker** means all clergy, religious, employees, board members, contractors, volunteers, work experience students and trainees of the Diocese including those working in or visiting its Parishes.

**Working with Children Clearance (WWCC)** has the same meaning as set out in the WWCC Policy.

**WWCC Holders** means individuals who hold, or are required by the Diocese to hold, a WWCC Clearance for the purpose of engagement with the Diocese. Individuals who are exempt from holding a WWCC Clearance, as set out in the WWCC Policy are not WWCC Holders.

**Young Person** means a person who is aged 16 years or above but who is under the age of 18 years.

## LEGISLATIVE FRAMEWORK

Workers are required to be familiar and comply with child protection legislation as varied from time to time, including but not limited to:

- *Child Protection (Working with Children) Act 2012 (NSW)*
- *Child Protection (Working with Children) Regulation 2013 (NSW)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Children and Young Persons (Care and Protection) Regulation 2012 (NSW)*
- *Crimes Act 1900 (NSW)*
- *Children's Guardian Act 2019 (NSW)*

## RESPONSIBILITIES AND OBLIGATIONS

### 1. Duty of Care

A worker has a legal obligation to take reasonable care for their own safety and the safety of children and others with whom they come into contact with as part of their engagement with the Diocese.

These obligations arise from the specific role and responsibilities of the worker including (but are not limited to) the following:

- providing adequate supervision;
- following procedures relating to child safety, behaviour management, welfare and wellbeing (for example, reporting procedures);
- demonstrating personal behaviours that promote the safety, welfare and well-being of children;
- providing medical assistance (if competent to do so), or seeking assistance from a medically trained person to aid a child who is injured or becomes sick;
- protecting a child from hazards that pose a risk of harm and which can be reasonably predicted; and
- taking appropriate action where a child's safety, welfare or well-being is at risk.

The extent of the duty is impacted by various factors, such as a child's maturity, ability and circumstances.

The duty applies during all activities and functions conducted or arranged by the Diocese where children are in the care of workers. Workers must assess and manage the risk associated with any activity before undertaking the activity.

Actual harm to a child, or potential to cause significant harm to a child, caused by:

- a. a single serious failure to discharge their duty; or
- b. repeated less serious failures to discharge their duty

may constitute misconduct, neglect or negligence and/or a breach of this policy.

## **2. Appropriate relationships and boundaries**

Workers must act professionally and appropriately when dealing with children and others they come into contact with as part of their engagement with the Diocese. This obligation also extends to relationships workers have with children outside of work. Workers must maintain appropriate professional boundaries and levels of professional conduct with children. A single serious or repeated less serious breaches of the Diocesan Code of Conduct may constitute misconduct, sexual misconduct and/or a breach of this policy.

## **3 Working with Children**

Workers who are required to have a working with children check and do not have a current clearance, or are barred from working with children, cannot continue to be engaged in child related work. Consequently, their employment or engagement with the Diocese may be terminated.

## **4. Reportable Conduct**

### **4.1 Principles**

The Bishop is the head of entity for the purpose of the Children's Guardian Act, with the Vicar General, and the Diocesan Safeguarding Manager, as his delegates. The Bishop, assisted by his delegates, has a legal obligation to report to the Children's Guardian regarding Reportable Allegations and Reportable Convictions.

The Diocese acknowledges its responsibility to establish and maintain appropriate procedures that support the Bishop, his delegates and Workers in fulfilling their reporting obligations.

All WWCC Holders within the Diocese have a legal obligation to report to the Safeguarding Office regarding Reportable Allegations and Reportable Convictions. All other Workers within the Diocese are required to make a report to the Safeguarding Office if they become aware of allegations or complaints involving inappropriate or unsafe conduct towards or in the presence of Children involving a Worker.

This Policy also addresses the role of the Safeguarding Office, on behalf of the Bishop, in investigating and making findings in relation to Reportable Allegations and Reportable Conduct, and in managing the risks involved in such investigations.

### **4.2 Responsibilities Under the Children's Guardian Act** **4.2.1 General Provisions**

'Relevant entities' in NSW are required to comply with the Reportable Conduct Scheme set out in **Part 4 of the Children's Guardian Act**, by reporting to the Children's Guardian in respect of certain types of conduct by WWCC Holders and certain types of convictions affecting WWCC Holders. The Diocese is a 'relevant entity' to which the Reportable Conduct Scheme in the Children's Guardian Act applies. The Children's Guardian Act also requires WWCC Holders of relevant entities to report

to the head of their entity regarding certain types of conduct by a WWCC Holder and certain types of convictions affecting WWCC Holders.

#### **4.2.2 Application of the Children's Guardian Act to WWCC Holders**

The Reportable Conduct Scheme applies to all WWCC Holders.

This is a very broad definition that covers many persons who would not traditionally be considered employees, such as contractors, volunteers, and clergy and religious appointees. It also includes some persons who do not have a role that has any face to face or physical contact with Children. Advice should be sought from the Safeguarding Office if there is any uncertainty about whether or not a person comes under the Reportable Conduct Scheme.

#### **4.2.3 Head of Relevant Entity for the Purpose of the Children's Guardian Act**

The Bishop is the 'head of entity' for all parishes and agencies in the Diocese. The Bishop has delegated his responsibilities under **Part 4 of the Children's Guardian Act** to the **Diocesan Safeguarding Manager** in respect of the parishes and other agencies of the Diocese. In practice, the Safeguarding Office carries out the obligations of the Bishop and his delegates under the Children's Guardian Act relating to parishes and agencies and deals directly with the Children's Guardian on behalf of the Bishop and his delegates

#### **4.2.4 Reporting Obligations of the head of entity in accordance with the Children's Guardian Act**

The Diocesan Safeguarding Manager must, on behalf of the Bishop, notify the Children's Guardian immediately of any Reportable Allegation or Reportable Conviction involving a WWCC Holder of which it becomes aware. There are strict timeframes for reporting, and on-line reports must typically be filed within seven business days of the Safeguarding Office becoming aware of the Reportable Allegation or Reportable Conviction.

#### **4.2.5 Reporting Obligations of WWCC Holders in accordance with the Children's Guardian Act**

WWCC Holders must notify a Parish Priest or the Office for Safeguarding immediately of any Reportable Allegation or Reportable Conviction involving another WWCC Holder of which they become aware.

#### **4.2.5 General Reporting Obligations of Workers**

The Diocese requires all Workers (whether or not they hold a WWCC Clearance) to notify a Parish Priest or the Safeguarding Office immediately of all allegations or complaints involving any inappropriate or unsafe conduct towards or in the presence of Children involving a Worker of which they become aware, regardless of whether the Worker believed to have engaged in the conduct of concern is a WWCC Holder, or whether the conduct involves a Reportable Allegation or Reportable Conviction

### **4.3 Reportable Allegations**

A Reportable Allegation means an allegation that a WWCC Holder has engaged in conduct that may be Reportable Conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment. The threshold for reporting a Reportable Allegation is lower than what is required to make a finding of Reportable Conduct. If an allegation is, on its face, a Reportable Allegation, it must be reported.

#### **4.3.1 Current Allegations**

All Reportable Allegations must be reported to a Parish Priest or the Safeguarding Office immediately to ensure compliance with the Children's Guardian Act.

All Reportable Allegations must be reported by the Diocesan Safeguarding Manager to the Children's Guardian as soon as practicable, and no later than seven business days after the Safeguarding Office becomes aware of the matter.

#### **4.3.2 Historical Allegations**

Conduct that would constitute a Reportable Allegation or a conviction that may be a Reportable Conviction, which occurred prior to the commencement of the Children's Guardian Act, is captured by the Children's Guardian Act. On that basis, historical Reportable Conduct must also be reported to the Safeguarding Office and the Children's Guardian in accordance with this Policy.

### **4.4 Reportable Convictions**

A Reportable Conviction means a conviction in NSW or elsewhere, of an offence involving Reportable Conduct. It includes a finding of guilt even if the court did not proceed to a conviction. All convictions that are considered to be Reportable Convictions must be reported by WWCC Holders to a Parish Priest or the Safeguarding Office immediately.

All convictions that are considered to be Reportable Convictions must be reported by the Diocesan Safeguarding Manager to the Children's Guardian immediately, and no later than seven business days after the Safeguarding Office becomes aware of the matter.

From time to time, a Worker may become aware that another Worker has been convicted of a Child-related offence. Depending on the nature of the conviction and the status and role of the Worker, such a conviction may be a Reportable Conviction for the purposes of the Children's Guardian Act.

Where the Safeguarding Office receives information about a conviction that is vague or incomplete (for example where there is a rumour or other unsubstantiated report of a historical conviction), it may be difficult to determine whether or not the conviction is a Reportable Conviction. Options include seeking clarification from the relevant employee or taking other steps to verify the truth or otherwise of the information. In any case, if there is a possibility that the conviction is a Reportable Conviction, the information must be reported to the Children's Guardian.

### **4.5 Reportable Conduct**

#### **4.5.1 Reportable Conduct Defined**

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

- (a) a sexual offence committed against, with or in the presence of a child;
- (b) sexual misconduct with, towards or in the presence of a child;
- (c) ill-treatment of a Child;
- (d) neglect of a Child;
- (e) an assault against a Child;
- (f) an offence under s 43B of the Crimes Act 1900 (NSW) for failing to reduce or remove the risk of a Child becoming a victim of abuse;
- (g) any offence under s 316A of the Crimes Act 1900 (NSW) for concealing a Child Abuse Offence; or
- (h) behaviour that causes significant emotional or psychological harm to a Child.



#### **4.5.2 Reportable Conduct Exemptions**

Reportable Conduct does **not** extend to:

- (a) conduct that is reasonable for the purposes of the discipline, management or care of Children, having regard to the age, maturity, health or other characteristics of the Children and to any relevant codes of conduct or professional standards;
- (b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures;
- (c) conduct of a class or kind that the Children's Guardian has ruled does not need to be notified; and

Only the Bishop's Delegates may apply to the Children's Guardian to make a determination that certain conduct of a class or kind arising at the parishes and/or agencies need not be notified.

### **4.6 Diocesan Policy and Procedure**

#### **4.6.1 Notification to Supervisor, Parish Priest or Safeguarding Office**

The Diocese requires that all Workers must immediately report all Reportable Allegations, Reportable Convictions, and all other allegations, complaints or convictions involving any inappropriate or unsafe conduct towards or in the presence of Children by another Worker, to their supervisor, Parish Priest or to the Safeguarding Office. If the report is received by a supervisor or Parish Priest, then they must then immediately notify the Safeguarding Office.

If that conduct potentially constitutes a Serious Indictable Offence or a Child Abuse Offence, the Worker has a legal obligation to report to the NSW Police. In practice, where the Safeguarding Office is notified of a Serious Indictable Offence or a Child Abuse Offence, the Diocesan Safeguarding Manager will assist the Worker to, or make a report to the NSW Police on behalf of a Worker and notify the Worker once the report has been made.

Workers who are Mandatory Reporters should also consider, and if appropriate discuss with the Safeguarding Office, whether they should also make a report regarding a Child at Risk of Significant Harm to the Child Protection Helpline in accordance this policy.

No person should attempt to undertake their own investigation before reporting the matter to their supervisor, a Parish Priest or the Safeguarding Office.

#### **4.6.2 Notification by Supervisor or Parish Priest to the Safeguarding Office**

Upon notification of a Reportable Allegation, Reportable Conviction, or any other allegation, complaint or conviction involving any inappropriate or unsafe conduct towards or in the presence of Children by another Worker, the supervisor or Parish Priest must report the matter to the Safeguarding Office, regardless of whether:

- (a) there has been a formal complaint or allegation from the alleged victim or their parent or guardian; or
- (b) the relevant allegation has been made anonymously or confidentially.

A non-exhaustive list of matters that must be reported by Parish Priests includes:

- (a) allegations of inappropriate or unsafe conduct towards or in the presence of Children relating to clergy or religious appointees;
- (b) allegations of inappropriate or unsafe conduct towards or in the presence of Children relating to themselves;
- (c) allegations of inappropriate or unsafe conduct towards or in the presence of Children relating to Workers;

- (d) historical allegations involving any of the above categories;
- (e) allegations or complaints involving any of the above categories where the Child concerned may have 'consented' to the alleged conduct; and
- (f) allegations or complaints involving any of the above categories where there may be insufficient detail about either the Suspected Person or alleged victim to identify them.

If the supervisor or Parish Priest has concerns about whether the relevant allegation, conduct or conviction is reportable, they should contact the Safeguarding Office. No supervisor or Parish Priest should attempt to undertake their own investigation before reporting the matter.

#### **4.7 Notification to the Children's Guardian**

The Office for Safeguarding must determine whether the matter is required to be reported to the Children's Guardian. In making this determination, the Diocesan Safeguarding Manager may seek advice from the Children's Guardian or the Diocesan legal advisors.

If the matter is reportable to the Children's Guardian, the Diocesan Safeguarding Manager must notify the Children's Guardian of the matter immediately and no later than seven business days after it becomes aware of the matter. A notification to the Children's Guardian must be made online, using the 7-Day Notification Form on the Children's Guardian website. The notification must include (but not be limited to) the following information:

- (a) that the Safeguarding Office has received information about a Reportable Allegation or a Reportable Conviction;
- (b) details of the conduct that is the subject of the report;
- (c) the name of the employee and their date of birth and WWCC number;
- (d) the contact details for the 'relevant entity' being the Diocese and the 'head of the entity' being the Bishop. Given that the Diocesan Safeguarding Manager has delegated authority from the Bishop to report to the Children's Guardian, the notification should also include contact details for the Diocesan Safeguarding Manager;
- (e) whether any notification has been made to police or to the Department of Communities and Justice and any report reference number;
- (f) the nature of any initial risk assessment and/or risk management action being undertaken by the Safeguarding Office, Diocese, Parish or Agency;
- (g) the names of any other relevant entities with which the employee is employed or engaged; and
- (h) any other information requested or prescribed by the Children's Guardian.

If the Diocesan Safeguarding Manager decides that the matter is not reportable to the Children's Guardian, or if the Children's Guardian indicates the matter does not fall within its jurisdiction, the Diocesan Safeguarding Manager will exercise discretion to determine whether an Internal Investigation or report to NSW Police should still be completed. Depending on the circumstances of the matter, the Diocesan Safeguarding Manager may choose to seek advice from persons including the Bishop, Vicar General of the Diocese or Diocesan legal advisors.

#### 4.8 Determine Immediate Actions in Relation to the Suspected Person

The Safeguarding Office must promptly consider whether any steps need to be taken to manage risks associated with the Suspected Person. If the Safeguarding Office has engaged with NSW Police in relation to the allegations, clearance should be obtained from the NSW Police before any engagement with the Suspected Person. Once the Safeguarding Office has clearance to take actions in relation to the Suspected Person, they should promptly identify and assess the risks posed by the Suspected Person in their position or duties to the safety and wellbeing of a Child or Children under the care of the Diocese.

Once the potential risks have been identified, the Safeguarding Office will discuss the matter with appropriate persons, including the Bishop or Vicar General, to determine the appropriate action to mitigate those risks. Factors to be considered in making this decision include, but are not limited to, the:

- nature and seriousness of the allegation;
- vulnerability of the Children that the Suspected Person would be in contact with in their position or duties;
- nature of the Suspected Person's position (e.g. level of contact with Children);
- level of supervision available for the Suspected Person;
- availability of support for, and supervision/monitoring of, the Suspected Person on a day-to-day basis if their duties are unchanged; and
- Suspected Person's disciplinary history.

In making a determination as to the appropriate action to mitigate risks, the Safeguarding Office must take into consideration both the needs of the Child (and/or the complainant) and the Suspected Person.

Action to address risks may involve:

- (a) removing the Suspected Person from their position or duties where they may have contact with a Child or Children; or
- (b) suspending the Suspected Person from their position or altering duties so that they are not permitted to have contact with Children, pending the outcome of a more thorough investigation.

Depending on the circumstances and following consideration of civil or canonical legal advice if they consider it desirable to obtain such advice, the Bishop, Vicar General, or the Parish Priest in consultation with the Vicar General, may exercise their discretion not to stand the Suspected Person aside.

Under canon law, a member of clergy or religious appointee may be stood aside in order to prevent scandal, to protect the freedom of witnesses, and safeguard the course of justice (Canon 1722). Depending on the circumstances, the Bishop and/or the Vicar General will consider any imposition or prohibition regarding the Suspected Person's place of residency during the course of the investigation.

A decision to suspend or remove a Suspected Person on the basis of a risk assessment should not influence the investigation, particularly the findings of an investigation. It merely reflects the seriousness of allegations or risks that have been identified pending a determination of facts by the

investigator. Until the investigation is completed and a finding is made, any action, such as moving a Worker to alternate duties, is not considered to be an indication that the alleged conduct by the Worker did occur.

Before taking steps in relation to any Suspected Person (such as altering duties or standing the person aside from their position pending investigation of the allegation), the Suspected Person must be notified of the allegation.

#### **4.9 Internal Investigation pursuant to the Children's Guardian Act**

The Bishop must, immediately after receiving information about a Reportable Allegation or a Reportable Conviction, investigate or arrange for an appropriately qualified external investigator to investigate the matter. In practice, the Safeguarding Office will investigate or appoint an investigator to investigate the matter.

The Safeguarding Office or investigator appointed by the Safeguarding Office, must (on behalf of the Bishop) make a finding that the conduct in question is or is not, Reportable Conduct, on the balance of probabilities. The Safeguarding Office or investigator may take into account:

- (a) the nature of the reportable allegation and any defence; and
- (b) the gravity of the matters alleged.

The Safeguarding Office or investigator must also consider whether the conduct in question is in breach of established standards within the Diocese, and may have regard to:

- (a) professional standards;
- (b) codes of conduct, including any professional or ethical codes; and/or
- (c) accepted community standards.

#### **4.10 Investigation by NSW Police**

If the matter has also been reported to the NSW Police and the Police have advised that any concurrent investigation by the Diocese is likely to prejudice the police investigation or a court proceeding, the Safeguarding Office must advise the NSW Children's Guardian:

- (a) that the Diocese will not conduct its investigation pending the conclusion of the police investigation; and
- (b) of the steps it is taking to manage risks in the interim.

If any internal investigation by the Safeguarding Office is suspended as a result of there being a concurrent police investigation into the matter, the Diocese will be exempt from providing an interim report to the NSW Children's Guardian on its investigation, for a period of 30 days after the suspension has ended.

#### **4.11 Outcome and Reporting**

Within 30 days of receipt of the information about Reportable Conduct, the Safeguarding Office must:

- (a) provide the Children's Guardian with a report on its investigation and outcome (**Entity Report**); or
- (b) provide the Children's Guardian with an interim report on its investigation, outlining the further action it intends to take; or
- (c) a reason for not providing a final Entity Report and an estimated time frame within which the report will be provided.

The Safeguarding Office must include the following in an Entity Report:

- (a) information about the facts and circumstances of a Reportable Allegation and the findings that the Safeguarding Office / investigator made about the Reportable Allegation, including whether it is considered to be Reportable Conduct, the evidence considered, and the basis on which a finding was made;
- (b) information about the conviction considered to be a Reportable Conviction, including whether or not the Safeguarding Office / investigator have determined that the conviction is a Reportable Conviction;
- (c) a copy of any written submissions provided by the Suspected Person;
- (d) information about what action has been or will be taken in respect of the Suspected Person, and also in relation to any changes to systems or policies;
- (e) copies of any documents / evidence relevant to the report about the conduct and the investigation into it.

The Suspected Person may, during the investigation or determination, provide a written submission to the Safeguarding Office / investigator, in relation to the conduct in question in order to determine what disciplinary action should be taken against them (if any).

#### **4.12 Actioning the Outcome**

While the Safeguarding Office / investigator will make a finding of fact (i.e. did the conduct occur on the balance of probabilities), the person making decisions as a result of the investigator's report and findings is the Bishop's Delegates, or in some cases, the Bishop.

#### **4.13 Procedural Fairness**

In responding to Reportable Conduct matters, the Office for Safeguarding must have regard to the Diocesan principles of procedural fairness, including a right of appeal.

#### **4.14 Requests from the Children's Guardian**

The Safeguarding Office must comply with any requests for information from the Children's Guardian relating to procedures in place at the parishes and agencies to prevent, respond to, and handle Reportable Conduct, as this is a requirement under the Children's Guardian Act.

#### **4.15 Exchange of Information**

##### **4.15.1 Prescribed Bodies**

In the context of fulfilling obligations under the Reportable Conduct Scheme there are circumstances that may allow for information to be obtained from or shared with other agencies or bodies.

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* (Care Act) deals with the exchange of information between certain bodies that have responsibilities relating to the safety, welfare or wellbeing of children or young persons. Chapter 16A allows for 'prescribed bodies' to exchange information despite other laws that prohibit or restrict the disclosure of personal and private information, for example, that would normally be prohibited from being shared under the Privacy Act.

The Regulations specifically refer to designated agencies and education and care services which would include the Diocese as a prescribed body allowed to exchange information under the Care and Protection Act.

Whilst the definition does not specifically identify the Office of the Bishop, Diocesan entities or Parishes (**Religious Bodies**), prescribed bodies are also defined in the Care and Protection

Act and associated Regulations to include any *'organisation the duties of which 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'*.

To the extent that religious bodies, including the Office of the Bishop and the Parish, provide any of these services to children, they may be entitled to disclose and obtain information under Chapter 16A.

#### **4.15.2 Circumstances where Information may be obtained by a Religious Body**

In fulfilling obligations under the Reportable Conduct Scheme, information may be obtained from other prescribed bodies under Chapter 16A of the **Care and Protection Act** if the Religious Body:

- (a) is making a decision, assessment or plan for a child or class of children in response to concerns about an employee or volunteer who works with children within the religious body, which are or may be reportable allegations; or
- (b) is investigating a reportable allegation against an employee or volunteer who works with children within the religious body; or
- (c) is otherwise managing risk to a child or class of children arising in the religious body's capacity as an employer of a person (including engagement of a volunteer) to work with children; and
- (d) reasonably believes that the information requested can assist to fulfill these obligations.

#### **4.15.3 Circumstances where prescribed bodies are not required to provide information**

There are circumstances whereby prescribed bodies are not required to provide information requested under **Chapter 16A of the Care and Protection Act**. Some examples include where it is reasonably believed that to do so would prejudice or possibly prejudice care proceedings, a coronial inquest or inquiry, contravene any legal professional privilege, endanger a person's life or not be in the public interest.

If you experience difficulties obtaining information you consider falls within the parameters of Chapter 16A of the **Care and Protection Act** to the extent that they relate to fulfilling your obligations under the Reportable Conduct Scheme and this Policy, please contact Safeguarding Office who may seek advice from the Children's Guardian or legal advisors.

### **5. Confidentiality**

Workers must maintain confidentiality in relation to any matters of a child protection nature and only discuss the matter with those required to be notified or reported to. Where a worker is in doubt as to the requirements of confidentiality, they should seek advice from the Diocesan Safeguarding Manager.

### **6. Victimisation**

Workers must not take detrimental action against a complainant or person who reports information as required by legislation and this document. Such action is unlawful, may be regarded as serious misconduct and may result in disciplinary action, including termination of employment.

### **7. Record Keeping**

Workers must maintain appropriate records and data in relation to their professional practice in the care and protection of children. Records may include incident reports, case notes, student / client files and behaviour management plans.

Workers must keep records of any disclosure, observations and discussions regarding a child protection matter, including any alleged breach of this policy. These records must be kept in a secure location as provided for by the Diocese of Lismore.

## BREACHES OF THIS POLICY

Breaching this Policy may result in disciplinary action, which may include the termination of employment or engagement and, notification to external agencies including without limitation professional standards associations, regulatory agencies and police.

Further information about any of the matters outlined in this document can be sought from the Diocesan Safeguarding Manager at [safeguarding@lismore.catholic.org.au](mailto:safeguarding@lismore.catholic.org.au)

## REVISION/ MODIFICATION HISTORY

Date	Version	Current Title	Summary of Changes	Approval Date	Commencement Date
May 2024	1	Reportable Conduct Policy	Initial Policy	4 June 2024	1 January 2025

## APPROVAL DATE/ REVISION HISTORY

Approved by: Bishop Gregory Homeming

Date: 10 September 2024

To be revised: June 2027