

CCW Policy 5
Child Safeguarding Disciplinary and Misconduct
(Reportable Conduct)
 Controlled Document

**Approval
rating
3**

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Document Owner:	Executive Manager, Children & Youth Services		Approved by:	Chief Executive Officer	
Reviewed by and consulted with:	CatholicCare Leadership Team Child Safeguarding Committee		Quality Systems Committee Quality & Risk		

Audience

The content and directions of this document and associated procedures, applies to all CatholicCare Wollongong employees and authorised carers, including part-time and casual employees as well as contractors and consultants that are reported to display actions or behaviour of misconduct or serious misconduct toward a child or young person.

Implementation responsibility

Implementation responsibility for this policy lies with all CatholicCare employees.

Objective and Purpose

CatholicCare Wollongong (We/Our/CatholicCare) recognise that to achieve our vision of advocating with and on behalf of children and young people and intervening to protect them from all forms of abuse, violence, injury, neglect, and exploitation, it is the intention of CatholicCare Wollongong that children and young people are empowered, valued, listened to and wherever possible, participate in decision making.

This policy sets out our commitment to being a Child Safe Organisation with a child safe culture embedded in all levels of our Agency. We have a zero tolerance towards the harm of children and young people. In doing this we will uphold the rights of all children to participate to their full capacity, regardless of their gender, race, ability, or cultural background,

Our objectives include:

- to promote and maintain appropriate standards of conduct and performance and to ensure that an equitable and consistent procedure is applied when addressing issues relating to misconduct, poor performance and breaches of the law and/or CatholicCare Wollongong's policies and procedures on Child Safeguarding.
- Any individual that becomes aware of any alleged misconduct against a child or young person, must report the allegation immediately to their Line Manager. As soon as reasonably practicable, the Line Manager is required to notify the program Executive Manager who informs the Chief Operating Officer; Executive Manager, People and Culture; the Executive Manager Quality and Risk, and the Principal Officer if the child or young person is in out of home care.

- Any alleged misconduct against a child or young person will launch an investigation, with the Chief Operating Officer nominating the investigator. In addition, depending on the nature of the allegation, a critical incident may be determined by the Chief Operating Officer. This includes notifying the Office of the Children's Guardian of allegations of "reportable conduct".

It is important to note that abuse and neglect can occur in various forms, and the impact can be just as damaging, regardless of the type. Any form of abuse or neglect is unacceptable and will not be tolerated.

In application, depending on the specific circumstances of the case and the nature of the allegations, an employee may be moved to another service program, or suspended with or without pay, until the investigation has completed to ensure there is no compromise, and to protect the safety and welfare of all concerned. The disciplinary process will be conducted in a fair, just and confidential manner, and in accordance with applicable law.

CatholicCare Wollongong will treat each case on its own merits on the facts provided. All decisions are to be dealt with as soon as practicable in accordance with legislative requirements, Award/Enterprise Agreement provisions and the principles of Natural Justice.

A number of other policies may be relevant for managing child related allegations, charges and convictions. References to these policies are made throughout this document where relevant. This policy directive includes the requirements of the Children's Guardian Act 2019 in relation to 'reportable allegations' and 'reportable convictions', as specified under Part 4 of the Act. Management of child-related allegations, charges and convictions against employees is only one aspect of keeping children safe in CatholicCare Wollongong. A 'child-safe organisation' is one that takes deliberate steps to create and embed workplace cultures, adopt strategies and take actions to promote child wellbeing and prevent harm to children and young people.

Any disciplinary outcome shall be recorded on the employee's employment file with CatholicCare. Disciplinary warnings or other actions do not have a life span and may remain on the employees file at the discretion of CatholicCare for an unlimited period of time.

Any outcome against an authorised carer shall be recorded on the NSW Carer Register.

What 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. a sexual offence,
- b. sexual misconduct,
- c. ill-treatment of a child,
- d. neglect of a child,
- e. an assault against a child,
- f. an offence under section 43B or 316A of the Crimes Act 1900,
- g. behaviour that causes significant emotional or psychological harm to a child.

Examples of indicators of significant emotional or psychological harm for paragraph (g) —

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

Our Disciplinary and Misconduct (Reportable Conduct) Principles

For everyone

Fairness: Ensure fair and unbiased treatment for all individuals involved, including those accused of misconduct and those reporting it. Provide an opportunity for all parties to present their side of the story and be heard in a neutral and non-judgmental environment.

Transparency: Clearly define what constitutes misconduct and the disciplinary process. Communicate policies and procedures related to reporting and addressing misconduct openly and transparently to all stakeholders.

Accountability: Hold individuals accountable for their actions, ensuring that consequences are proportional to the severity of the misconduct. Establish clear lines of responsibility for investigating and addressing misconduct, including oversight mechanisms to ensure accountability at all levels.

Safety and Well-being: Prioritise the safety, well-being, and rights of all individuals, particularly vulnerable populations such as children, in every aspect of the disciplinary process. Take immediate action to protect individuals from harm or further harm when misconduct is reported or suspected.

About the team

Open Communication: Foster an environment where team members feel comfortable raising concerns about misconduct without fear of reprisal. Communicate clearly about what behaviors constitute misconduct and the process for reporting and addressing it.

Confidentiality and Privacy: Respect the confidentiality and privacy of individuals involved in the disciplinary process, ensuring that sensitive information is handled with care and only disclosed on a need-to-know basis. Safeguard against retaliation or victimisation of those who report misconduct, maintaining confidentiality to the extent possible.

Leader Led

Prevention and Education: Implement measures to prevent misconduct through education, training, and fostering a culture of respect, dignity, and integrity. Provide ongoing training and resources to all stakeholders on recognising, reporting, and addressing misconduct effectively.

Continuous Improvement: Regularly review and evaluate disciplinary policies and procedures to identify areas for improvement and ensure alignment with best practices and legal requirements. Solicit feedback from stakeholders, including those who have been involved in the disciplinary process, to inform ongoing improvements and adaptations.

Act Promptly and Fairly: Address issues as soon as they arise and escalate the severity of actions if the behaviour does not improve. Be prepared to take final action if necessary, ensuring it is done legally and ethically.

Context matters

Organisational Culture: The existing culture within the agency can shape how disciplinary measures are perceived and implemented. If there's a culture of transparency, accountability, and respect, it may facilitate the application of disciplinary principles. Conversely, a culture that tolerates misconduct or lacks clear procedures may present challenges.

Legal and Regulatory Framework: Compliance with legal and regulatory requirements is essential. Different jurisdictions may have specific laws governing reporting and handling misconduct, especially when it involves vulnerable individuals like children. It's crucial to ensure that disciplinary actions align with these legal standards.

Crisis Management Preparedness: Protocols should be in place for managing crises related to misconduct, including media inquiries and public relations responses. Being prepared to address potential reputational risks can help mitigate the impact of misconduct incidents on the agency.

Obligations

The safety, welfare and wellbeing of children and young people are paramount. CatholicCare Wollongong employees and all stakeholders connected to CatholicCare Wollongong service programs will:

- be made aware and made accountable to their obligations to report any suspected or actual incidents of child abuse or neglect the Child Protection Helpline (132 111) and to their line manager or designated person
- risk assessment to be completed to ensure the safety of the child or young person making the allegation, including any other parties that may be negatively affected
- ensure employees are treated fairly and the rights of individuals are respected during an investigation and disciplinary process
- report to external agencies including the Department of Communities and Justice, NSW Police and the Independent Commission Against Corruption when appropriate
- report to the Office of the Children's Guardian (Reportable Conduct Unit) reportable allegations and convictions against an employee
- report to the Office of the Children's Guardian (Working with Children Unit) the names of employees found to have seriously physically assaulted a child or engaged in sexual misconduct towards a child.

Natural justice

The principles of natural justice include

- the affected employee having sufficient details about the allegations being made against them and has the opportunity to present their own case before a decision is made
- all investigations and decisions must be made by persons with appropriate authority that holds no bias, conflict of interest or prejudice
- confidentiality shall be maintained in all instances
- an employee shall have the opportunity to have an employee representative/support person
- an employee shall have the opportunity to have an interpreter or other supports that are reasonable in nature

Savings

This policy does not change any other rules or laws that already apply to employee conduct. CatholicCare employees will still follow all other rules and laws in place, even if they are not mentioned in this policy.

If disciplinary action or an employment proceeding has commenced in relation to a child protection allegation (regardless of whether the matter is reportable or exempt from reporting to external bodies), this policy continues to apply to a person even after they have ceased their association or employment with CatholicCare.

Summary of the disciplinary process

Any alleged misconduct against a child or young person will follow the outlined disciplinary process, with more detail provided in the procedure attached to this policy.

- **Report of misconduct:** An employee, child or young person, parent, or other individual reports an alleged violation of the child safeguarding policy to a designated person or department.
- **Initial notification to the employee:** the employee is given a brief that an allegation has been made.
- **Initial assessment:** A preliminary assessment is conducted to determine if the alleged misconduct poses a risk to the safety and wellbeing of children or young people.
- **Risk assessment:** dependant on the risk posed to the safety and wellbeing of children or young people, the individual may be moved to a different service area or suspended, either paid or unpaid, while an internal investigation is conducted.
- **Notification of relevant authorities:** If the assessment determines that the alleged misconduct poses a risk to the safety and wellbeing of children and young people, the relevant authorities are notified.
- **Investigation:** An investigation is conducted to determine the facts of the situation, including interviews with relevant parties and review of documentation/ information.
- **Notification to the employee:** If the investigation determines that further action is necessary, the employee is notified in writing of the specific allegations and the possible consequences of violating the child safeguarding policy and/or code of conduct.
- **Opportunity to respond:** The employee is given an opportunity to respond to the allegations and provide any relevant information or evidence.
- **Decision making:** Based on the information gathered, a decision is made regarding the appropriate disciplinary action, if any.
- **Notification of decision:** The employee is notified in writing of the decision, including the reasons for the decision and outcomes, including any disciplinary action where relevant, that will be taken.
- **Implementation of disciplinary action:** The disciplinary action is implemented, which may include verbal or written warnings, suspension, or termination of employment.
- **Record-keeping:** Documentation of the disciplinary process and decision is maintained in accordance with the policy's record-keeping provisions, and all relevant authorities are notified.
- **Follow-up:** The employee's performance and compliance with the disciplinary action are monitored, and additional action may be taken if necessary to ensure the safety and wellbeing of children or young people.

Definitions

Term	Definition
Head of Entity	Under the <i>Children's Guardian Act 2019</i> , the Chief Executive Officer of CatholicCare, Diocese of Wollongong represents the Bishop of Wollongong as head of relevant entity.

Term	Definition
Principal Officer	For the purposes of fulfilling CatholicCare Wollongong's responsibilities under the Children & Young Persons (Care and Protection) Act 1998 and the Children & Young Persons (Care & Protection) Regulation 2012 the Executive Manager, Children & Youth Services, Michelle Ferrara, is the designated Principal Officer (in her absence, Executive Manager, Family Services, Roseanne Plunket) and also has overall responsibility for supervising CatholicCare Wollongong's arrangements for providing Out of Home Care.
CatholicCare Executive Leadership Team (CELT)	The CELT considers and provides advice to the Chief Executive Officer on high level strategic issues and significant policy and operational matters impacting on CatholicCare. It comprises of Executive Managers of CatholicCare.
Quality Systems Committee (QSC)	A diverse team that oversees & contributes to the promotion, development, and implementation of systems to ensure continuous improvement in the provision of high-quality client-centric services that achieve positive outcomes for clients
Employees	A person employed by CatholicCare, students (work experience or professional placement), or a person who volunteers for CatholicCare Wollongong, but excludes authorised carers
Child	A person under the age of 18 years (unless otherwise specified in relevant legislation) – Children's Guardian Act 2019 and Child Protection (Working with Children) Act 2012 A person under the age of 16 years - Children and Young Persons (Care and Protection) Act 1998
Young Person	A person who is aged 16 years or above but who is under the age of 18 years - Children and Young Persons (Care and Protection) Act 1998.
Authorised carer	A person authorised by CatholicCare as a foster or relative kinship carer who, for a period of time, takes on the responsibilities of parents to provide a safe, nurturing and secure family environment for children and young people needing care.
Authorised carer household member	Adult household members living in the home of a foster/kinship carer.
Child Protection Helpline 132 111	The Child Protection Helpline is available 24 hours a day, 7 days a week, to receive reports of suspected child abuse and neglect and to provide advice and support. The

Term	Definition
	helpline is staffed by trained professionals who can assess the situation and make appropriate referrals for investigation and support.
Office of the Children's Guardian (OCG)	An independent statutory authority in NSW Government, promoting, regulating, and overseeing the quality of child safe organisations in NSW to uphold children and young people's right to be safe
Department of Community & Justice	The Department of Communities and Justice works with children, adults, families and communities to improve lives and help people realise their potential.
Employee representative/ Support person	<p>Any individual accompanying an employee to a formal meeting.</p> <p>This could be an internal (provided there is no conflict of interest) or external party such as a union delegate/representative.</p> <p>If an employee chooses a colleague or another employee as a representative this shall be agreed to by CatholicCare.</p>
Misconduct	Intentional, deliberate or reckless conduct by an individual that a reasonable person would consider is inconsistent with the employee's obligations under their contract of employment and their obligations to the Child Safeguarding Code of Conduct, Child Safeguarding policies and procedures, and the legislative and regulatory frameworks by which CatholicCare must abide.
Serious Misconduct	Involves an employee behaving in a way that is inconsistent with continuing their employment
Reportable Allegation/Conduct	<p>A reportable allegation is an allegation that an employee (including Authorised Carers) has engaged in conduct that may be reportable conduct.</p> <p>It includes sexual offences or sexual misconduct, assault, ill-treatment or neglect of a child or young person or any behaviour that causes psychological or emotional harm to a child or young person or any offences relating to failure to report, or failure to reduce or remove a risk of, child abuse.</p>
Reportable Conduct Scheme	From 1 March 2020, the Reportable Conduct Scheme is operated by the Office of the Children's Guardian (OCG) under the Children's Guardian Act 2019. The scheme monitors how organisations investigate and report on reportable allegations and convictions made against their

Term	Definition
	employees, volunteers or contractors who provide services to children.
Natural Justice	Refers to procedural fairness, ensuring a fair decision is reached by an objective decision maker
Suspension of Employment	<p>An employee is instructed not to attend work, enter the premises or contact any CatholicCare employee during the process of an investigation into an allegation or serious misconduct; this may include instructing the employee to leave the premises immediately.</p> <p>The employee will be suspended on full pay whilst the allegations are investigated.</p> <p>In imposing a suspension, CatholicCare may require the employee to utilise accrued leave for whole or part of the period of the suspension. Suspension from duty shall not affect an employee's continuity of service, for the purposes of accruing leave entitlements.</p>
Sexual Offence	<p>Sexual offence means an offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child.</p> <p>Examples of sexual offences—</p> <ol style="list-style-type: none"> 1. sexual touching of a child 2. a child grooming offence 3. production, dissemination, or possession of child abuse material
Sexual Misconduct	<p>Sexual misconduct means conduct with, towards or in the presence of a child that—</p> <ol style="list-style-type: none"> a. is sexual in nature, but b. is not a sexual offence. <p>Examples of sexual misconduct—</p> <ol style="list-style-type: none"> 1. descriptions of sexual acts without a legitimate reason to provide the descriptions, 2. sexual comments, conversations, or communications 3. comments to a child that express a desire to act in a sexual manner towards the child or another child
Ill-Treatment	<p>Ill-treatment, of a child, means conduct towards a child that is unreasonable and seriously inappropriate, improper, inhumane or cruel.</p> <p>Examples of ill-treatment—</p> <ol style="list-style-type: none"> 1. making excessive or degrading demands of a child 2. a pattern of hostile or degrading comments or behaviour towards a child

Term	Definition
	3. using inappropriate forms of behaviour management towards a child
Neglect	<p>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—</p> <ol style="list-style-type: none"> a. a person with parental responsibility for the child, or b. an authorised carer of the child, or c. an employee, if the child is in the employee’s care. <p>Examples of neglect—</p> <ol style="list-style-type: none"> 1. failing to protect a child from abuse 2. exposing a child to a harmful environment, for example, an environment where there is illicit drug use or illicit drug manufacturing
Assault	<p>Assault means—</p> <ol style="list-style-type: none"> a. the intentional or reckless application of physical force without lawful justification or excuse, or b. any act which intentionally or recklessly causes another to apprehend immediate and unlawful violence. <p>Examples of assault—</p> <ol style="list-style-type: none"> 1. hitting, striking, kicking, punching or dragging a child 2. threatening to physically harm a child
Finding of Reportable Conduct	<p>Finding of reportable conduct means a finding, by a relevant entity or the Children’s Guardian, as a result of an investigation conducted under this Part, that a reportable allegation is sustained.</p>

Induction and ongoing training

- Upon commencing employment with CatholicCare, employees will undergo an induction process that includes training on the principles and guidelines outlined in this policy. Furthermore, ongoing training and educational resources will be made available to ensure that employees maintain a thorough understanding of these principles and guidelines throughout their tenure with CatholicCare.
- Regular updates and reminders may also be provided to keep employees informed about changes in best practice.

Monitoring, Evaluation and Review

This policy will be reviewed periodically to ensure its effectiveness and relevance. Any necessary updates or modifications to ensure compliance with legislative and standard requirements will be communicated to all employees, contractors, and representatives of CatholicCare Wollongong.

Other situations may include:

- Following an incident, to identify gaps and strengthen data protection measures.
- adoption of new tools or systems.
- mergers, restructuring, or shifts in services that impact on current processes.
- As part of routine evaluations to ensure policies remain effective and aligned with best practices.
- If client/s provide feedback or complaints, prompting a review for improvement.
- When inefficiencies or errors are identified.

The agency will formally review this Policy every three years as part of the policy's known life cycle period.

References

Legislation

- Care and Protection Act 1998
- Children and Young Persons (Care and Protection) Act 1998 (NSW)
- Children and Young Persons (Care and Protection) Regulation 2012
- Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015
- Child Protection (Working with Children) Act 2012
- Child Protection (Working with Children) Regulation 2013
- Children's Guardian Act 2019
- Crimes Act 1900
- Disability Inclusion Act 2014 (NSW)
- Education and Care Services National Regulations (2011 SI 653)
- Family Law Act 1975 (Commonwealth)
- National Disability Insurance Scheme Act 2013
- NDIS (Quality & Safeguards Commission and Other Measures) Act 2018
- Fair Work Act 2009
- United Nations Convention on the Rights of the Child

Standards

- National Catholic Safeguarding Standards
- NSW Office of the Children's Guardian - NSW Child Safe Standards for Permanent Care 2015
- Australian Children's Education & Care Quality Authority – National Quality Standard
- Department of Social Services – Families and Children Activity Administrative Approval Requirements
- National Disability Standards
- NDIS Quality and Safeguarding Commission – NDIS Practice Standards

Agency Policies

- Code of Ethics and Conduct
- Child Safeguarding Code of Conduct
- CCW Policy 1 Child Safeguarding
- CCW Policy 2 Child Safeguarding – Risk Management
- CCW Policy 3 Child Safeguarding – Equity and Inclusion for Children and Young People
- CCW Policy 4 Child Safeguarding – Complaints Management
- CCW Policy 6 Child Safeguarding – Training and Development

- CCW Policy 7 Child Safeguarding – Mandatory Reporting of Harm, Abuse & Neglect of a child (MRG)
- CS Policy 9 - Preventing and Responding to Harm and Abuse of Vulnerable People
- WS Policy 4.1 Performance Planning and Review
- WSP Procedure 4.2.1 Managing Conduct and Performance
- Code of Ethics and Conduct

Forms, Record Keeping and Other Documents

NSW Dept of Family & Community Services - [Family & Community Services \(nsw.gov.au\)](http://Family & Community Services (nsw.gov.au))
NSW Office of the Children's Guardian - [Home | Office of the Children's Guardian \(nsw.gov.au\)](http://Home | Office of the Children's Guardian (nsw.gov.au))

Approval Rating	Type of Policy
Approval rating 1	New agency policy/adjustments that are legislated or are a Diocesan directive. Minimal collaboration required.
Approval rating 2	High level agency policies that are developed at executive management level (such as employee entitlements) go to CELT for final review before COO recommendation for approval by the CEO.
Approval rating 3	Operational agency policies are endorsed by the QSC to ensure policy is applicable across all program areas. Then go to CELT for final review before COO recommendation for approval by the CEO.
Approval rating 4	Program specific where it is only the individual program that need to ensure that the policy meets practice requirements. No QSC, CELT or CEO. However, if it is a new policy, courtesy email outlining what they are should go to the CEO, COO and EM Quality & Risk (EM Q&R) for information only.

Appendix 1 – CatholicCare Reportable allegation against an employee



Reportable allegation against an employee

