

# Procedures for Handling Allegations of Staff Misconduct and Reportable Conduct

## Introduction

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

The College requires all staff to comply with Codes of Conduct and standards of professional behaviour that are intended to prevent staff misconduct and reportable conduct from happening. Staff are required to report any breaches of these Codes or standards.

It is also critical that the broader College community reports incidents of or concerns about staff misconduct and reportable conduct (both defined below) to ensure the safety and wellbeing of students, and that the College complies with its legislative reporting obligations. The safety and wellbeing of all students and staff is of utmost importance. The McDonald College has a legal obligation to investigate and report to the NSW Children's Guardian all allegations of reportable conduct made against staff at the College as defined by the Children's Guardian Act 2019 (NSW).

If a situation is considered to be an emergency or there is potential evidence of a crime, the appropriate contact should be made to NSW Police or Emergency services and then the Principal of the College.

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

## Definition of Staff Misconduct

The College defines "staff misconduct" as conduct by a staff member that:

- breaches the College'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 College.

Staff misconduct is considered a child safety incident or concern for the purpose of our Child Safe Policy.

## 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.

Reportable conduct is considered a child safety incident or concern for the purposes of our Child Safe Policy.

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 About or Allegation of Staff Misconduct or Reportable Conduct

To make a formal complaint or allegation of staff misconduct or reportable conduct, you can do so by:

1. Sending an email to the Principal, [principal@mcdonald.nsw.edu.au](mailto:principal@mcdonald.nsw.edu.au)
2. Writing a letter to the College addressed to  
The Principal, The McDonald College, 17 George Street, North Strathfield 2127
3. Telephoning the College and asking to speak to the Principal, 02 9752 0500
4. If the Principal is the subject of your complaint or allegation of misconduct or reportable conduct, please contact the Chair of the College Council,  
[chairofcouncil@mcdonald.nsw.edu.au](mailto:chairofcouncil@mcdonald.nsw.edu.au)

## Investigating and Managing Staff Misconduct and Reportable Conduct

The College 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 (OCG). All investigations uphold the principles of procedural fairness and confidentiality - information is only shared with those who need to know. Section 57 of The Children's Guardian Act 2019 (NSW) outlines some prohibitions the Principal is responsible to keep when an investigation is being conducted and external authorities are involved. In some scenarios, this can mean families and/or the affected child are not involved in any information exchange.

## Staff Misconduct

When a complaint or allegation does not include conduct that is defined as reportable conduct following the College's initial investigation, and it is determined through the College's investigation that staff misconduct has occurred, the College will notify the complainant of the finding and any corrective actions that will be 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 NSW Children's Guardian of the findings of the College's internal investigation into the matter within seven (7) days.

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 College will also have other mandatory reporting obligations. In these situations, the College will prioritise its procedures for mandatory reporting to the Department of Communities and Justice and/or to NSW Police and will seek advice from those agencies on the best way to proceed with the reportable conduct internal investigation. The safety of children or young people involved is paramount.

## Making a Finding of Reportable Conduct

If the College's internal investigation results in a finding of reportable conduct, following the College'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. Any external consequence will be applied via the OCG, NSW Police and the justice system.

## Disclosing Information to the College Community

There are considerations for the Principal regarding disclosure to both the family of the impacted student or to the wider college community. Section 57 of the Children's Guardian Act imposes disclosure obligations and prohibitions on the Principal.

A parent or carer of a student who is an alleged victim of staff misconduct or reportable conduct has a legitimate interest in being told of process and progress around investigations of staff misconduct or reportable conduct and any action that might be taken after the investigation is completed. However, there may be some circumstances where prohibitions limit this information which can be released in the case of reportable conduct due to the nature of allegations and the involvement of external investigators.

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. If it is not deemed in the best interest of the students or investigation, then information will remain confidential.

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.

Community disclosure is also limited via this legislation and the Privacy Act.

## Where to Find More Information

The NSW Children's Guardian provides information on reportable conduct and the College's obligations to report. For more information about the College's policies and procedures relating to staff misconduct, reportable conduct or complaints handling generally, please contact the Principal.