

Child Protection Policy

Preamble

The Child Protection Policy serves to support student safety, protection and wellbeing at TLK Youth College through policy and procedures involving:

- Employment screening for child related employment
- Mandatory reporting of children at risk of significant harm and
- Dealing appropriately with allegations of 'reportable conduct' concerning an employee.

Scope

This policy prescribes child protection responsibilities and requirements applicable to all staff at TLK Youth College, including contractors and volunteers. Staff who fail to adhere to this policy may be in breach of their terms of employment.

Definitions

Definitions are included at different intervals within this policy as they relate to the particular legislation covered by the given section of policy.

Policy Statement

TLK Youth College is committed to the creation of a positive and robust child protection culture that serves to provide a safe and supportive physical and online school environment. TLK Youth College has a zero tolerance for child abuse and is committed to all reasonable measures to ensure the protection of students in accordance with child protection laws and regulations.

Records and Compliance

The TLK Youth College Principal, as Head of Entity, or appointed delegate, ensures school records are maintained and secured relating to this policy, including records of:

- Staff members who have read and acknowledged that they read and understood this policy
- Working with Children Check Clearance (WWCC) verifications
- Mandatory reporting to the Department of Communities and Justice (DCJ), previously known as Family and Community Services and
- 'Reportable conduct' allegations, including the outcome of 'reportable conduct' investigations and/or criminal convictions.

The TLK Youth College Principal reports to the Chief Executive Officer, Tuggerah Lakes Community College Limited, on compliance with this policy and any concerns of safety for children and young people including 'reportable conduct'.

Related Legislation

There are three key pieces of child protection legislation in New South Wales, being:

- Child Protection (Working With Children) Act 2012 (NSW) (the WWC Act)
- Children and Young Persons (Care and Protection) Act 1998 (NSW) (the Care and Protection Act)
- Children's Guardian Act 2019.

Other legislation also applies, including:

- Crimes Act and Civil Liability Act 2002 (NSW) and
- Education Act 1990 (NSW).

The above nominated legislation collectively forms a child protection framework in New South Wales, supported by three key NSW government Agencies, being:

- The Department of Communities and Justice (referred hereafter as Community Services)
- The Ombudsman's Office and
- The Office of the Children's Guardian.

Child Protection Outline

The safety, protection and welfare of students is the responsibility of all staff members of TLK Youth College and encompasses:

- A duty of care to ensure that reasonable steps are taken to prevent harm to students which could reasonably have been foreseen and
- Obligations under child protection legislation.

Child Protection Definitions

Child abuse: refers to any behaviour that harms a child. This may occur in various forms including neglect, exploitation and/or physical, sexual or emotional abuse.

Neglect: refers to the continued failure by a parent/guardian/carer to provide a child with the basic things needed for their proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

Sexual abuse: refers to any act which exposes or involves a child below the age of consent in sexual processes, which may be beyond their understanding. This includes the use of power or authority, including taking advantage of trust, or physically and/or psychologically threatening a child, so that they participate. Child sexual abuse is a criminal offence.

Physical abuse: refers to non-accidental injury or pattern of injuries to a child caused by a parent/guardian/carer or any other person. It includes but is not limited to injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation. Injuries may include bruising, lacerations or welts, burns, fractures or dislocation of joints. Note: hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punish a child (in a non-trivial way) is a criminal offence.

Emotional abuse: refers to any kind of abuse that is emotional rather than physical in nature. This may include verbal abuse, constant criticism, intimidation and/or manipulation. Emotional abuse can result in serious psychological harm, where the behaviour of, for example, a parent/guardian/carer damages the confidence and self-esteem of the child or young person, resulting in serious emotional deprivation or trauma. Although possible for 'one-off' incidents to cause serious harm, in general it is the frequency, persistence and duration of the parent/guardian/carer behaviour that is instrumental in defining the consequences for the child.

Child wellbeing concerns: refers to risk of harm **concerns** about a **child or** young person, including safety, welfare or wellbeing concerns, which do not meet the mandatory reporting threshold of suspected risk of significant harm (see '12.8 Mandatory Reporting').

Child Protection Reporting Responsibilities

Legislation requires reporting of particular child protection concerns. However, as part of the TLK Youth College overall commitment to child protection, all staff are required to report any child protection or child wellbeing concerns about the safety, welfare or wellbeing of a child or young person to the Principal and/or appointed delegate.

If an allegation involves the Principal, the report should be made to the Chief Executive Officer, Tuggerah Lakes Community College Limited.

Child Protection Training and Awareness

TLK Youth College provides staff with access to this policy and takes all reasonable measures to ensure staff are aware of their child protection responsibilities annually. Awareness of child protection, including the requirements of this policy, forms a part of staff induction and the ongoing training and development of TLK Youth College staff.

Staff must participate in annual child protection training and development. This training will generally be completed in term four as determined by the Principal, who will direct staff regarding requirements via email. This will include signing a register attesting they have read and understood the latest Child Protection Policy, with certificate of training completion to be placed on staff members Human Resource file. There may be a need to attend additional training, this will be at the discretion of the Principal.

Training complements this policy and provides information to staff about legal responsibilities related to child protection and TLK Youth College expectations, including:

- Mandatory reporting
- Reportable conduct
- Working with Children Checks and
- Professional boundaries.

Child Related Employment Screening and Reporting

Overview

The Child Protection (Working with Children) Act 2012 (NSW) (WWC Act) serves to protect children by requiring workers to have a WWCC clearance to engage in child related work. A WWCC clearance provides authorisation under the WWC Act for a person to engage in child-related work. Failure not to have a WWCC as and when required may result in a fine or imprisonment.

The Office of the Children's Guardian (OCG) is responsible for determining applications for a WWCC clearance. It involves a national criminal history check and review of reported workplace misconduct findings. The result is either to:

- Grant a WWCC clearance (generally valid for five (5) years) or
- Refuse a WWCC clearance (further applications cannot be made for five (5) years)

In addition, the OGC may impose an interim bar on engaging in child related work for both applicants and WWCC clearance holders.

WWCC clearance holders are subject to ongoing monitoring by the OGC.

Defining Child-Related Work

Child-related work involves direct contact by the worker with a child or children and that contact is a usual part of, and more than incidental to, the work. Any queries about whether roles or duties directly relate to child-related work should be directed to the Principal or appointed delegate.

WWCC OCG Applications and Renewals

A WWCC application or renewal can be made through Service NSW or its replacement agency. The process for applying for and renewing a WWCC clearance with the OCG involves a national police check and a review of findings of misconduct. If the OCG grants or renews a WWCC clearance the holder will be issued with a number which is to be provided to the School to verify the status of a staff member's WWCC clearance.

WWCC OCG Refusals and Cancellations

The OCG can refuse to grant a WWCC clearance or cancel a WWCC clearance. The person is then restricted from engaging in child-related work and not able to apply for another clearance for five (5) years. Employers are notified by the OGC and instructed to remove such persons from child-related work.

Interim Bars

The OCG may issue an interim bar, for up to 12 months, to high risk individuals to prevent them from engaging in child-related work while a risk assessment is conducted. If an interim bar remains in place for six months or longer, it may be appealed to the Administrative Decisions Tribunal. Not everyone who is subject to a risk assessment will receive an interim bar; only those representing a serious and immediate risk to children.

Disqualified Persons

A disqualified person is a person who has been convicted, or against whom proceedings have been commenced for a disqualifying offence outlined in Schedule 2 of WWC Act. A disqualified person cannot be granted a WWCC clearance and is therefore restricted from engaging in child related work.

OCG Risk Assessments

A risk assessment is an evaluation of an individual's suitability for child-related work. The OCG will conduct a risk assessment on a person's suitability to work with children when a new record is received which triggers a risk assessment. This may include an offence under Schedule 1, pattern of behaviour or offences involving violence or sexual misconduct representing a risk to children and findings of misconduct involving children.

OCG Ongoing Monitoring

The OCG will continue to monitor criminal records and professional conduct findings of all WWCC clearance holders through a risk assessment process.

Working with Children Check Responsibilities**Staff Members**

TLK Youth College staff members, including volunteers, who engage in child-related work are required to:

- Hold and maintain a valid WWCC clearance
- Not engage in child-related work at any time if subjected to a Bar or Interim Bar
- Report to the Principal if they are no longer eligible for a WWCC clearance, or if the status of their WWCC clearance changes or if they are notified by the OCG that they are subjected to a risk assessment and

- Notify the OCG of any change to their personal details within three (3) months of the change occurring; failure to do so may result in an OCG fine.

It is an offence for an employee to engage in child-related work when they do not hold a WWCC clearance or if they are subject to a bar.

All volunteers are required to be aware and follow the expectations of conduct expressed in the Tuggerah Lakes Community College Limited Staff Code of Conduct.

TLK Youth College

TLK Youth College is required to:

- Verify online and record the status of each child-related worker's WWCC clearance and maintain a record of the clearance check in their personnel file
- Only employ or engage child-related workers or eligible volunteers who have a valid WWCC clearance
- Monitor the currency and expiry date of each child-related worker's WWCC and follow-up for renewal prior to expiry dates
- Advise the OCG of findings on completion of a 'reportable conduct' investigation, including whether TLK Youth College has made a finding of 'reportable conduct'.

Note: a finding of 'reportable conduct' in relation to sexual misconduct, a sexual offence or a serious physical assault must be referred to the OCG's Working with Children Check Directorate (WWCC Directorate).

It is an offence for an employer to knowingly engage a child-related worker who does not hold a WWCC clearance or who has a 'bar' from child-related employment.

Process for Reporting to OCG

TLK Youth College

Independent Schools, like TLK Youth College, are defined as a 'reporting body' by the WWC Act. TLK Youth College is required to notify the OCG of findings made after the completion of a 'reportable conduct' investigation, including whether there has been a finding of 'reportable conduct'. A finding of 'reportable conduct' in relation to sexual misconduct, a sexual offence or a serious physical assault must, and will be, reported to the OCG's WWCC Directorate. Information must also be referred internally to the OCG's WWCC Directorate if it meets the threshold for consideration of an interim WWCC bar (Section 17 of the WWCC Act) pending a formal risk assessment. TLK Youth College may also be obliged to report, amend or provide additional information to the OCG as outlined in the WWC Act and the Children's Guardian Act.

Findings of Misconduct Involving Children

TLK Youth College will report any finding of 'reportable conduct' to the OCG.

When informing an employee of a finding of 'reportable conduct' against them, TLK Youth College will alert the employee to the consequent report to the WWCC Directorate in relation to sustained findings of sexual misconduct, a sexual offence or a serious physical assault.

The WWC Act enables a person who has a 'sustained finding' referred to the OCG to request access to the records held by TLK Youth College in relation to the finding of misconduct involving children, once these final findings have been made. The entitlements of a person to request access to information in terms of Section 46 of the WWC Act are triggered when a

finding of misconduct involving children has been made. A request for records should be made directly to the OCG.

Other Information

TLK Youth College may also be required to provide information to the OGC that is relevant to an assessment of whether a person poses a risk to the safety of children or the OCG's monitoring functions.

Mandatory Reporting of Children at Risk of Significant Harm

The Children and Young Persons (Care and Protection) Act 1998 (NSW) provides for mandatory reporting of children at risk of significant harm. A child is a person under the age of 16 years and a young person is aged 16 years or above but who is under the age of 18, for the purposes of the Care and Protection Act. Under the Care and Protection Act, mandatory reporting applies to persons who:

- In the course of their employment, deliver services including health care, welfare, education, children's services and residential services, to children or
- Hold a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of services including health care, welfare, education, children's services and residential services, to children, are mandatory reporters.

All TLK Youth College teachers are mandatory reporters. Other staff members may also be mandatory reporters. Any queries about whether other staff members are mandatory reporters should be directed to the Principal or appointed delegate.

Key Definitions

Reasonable grounds: refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm, based on:

- First-hand observations of the child, young person or family
- What the child, young person, parent/guardian/carer or another person has disclosed
- What can reasonably be inferred based on professional training and/or experience.

'Reasonable grounds' does not mean a person is required to confirm their suspicions or have clear proof before making a report.

At risk of significant harm: refers to current concerns that exist for the safety, welfare or wellbeing of a child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:

- The child's/young person's basic physical or psychological needs are not being met or are at risk of not being met
- The parents/guardians/carers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care
- The parents/guardians/carers of a young person have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with the Education Act 1990 (NSW), which requires a child or young person under 17 years to attend school unless exempt
- The child or young person has been, or is at risk of being, physically or sexually abused or ill-treated

- The child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm
- A parent/guardian/carer has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm
- The child was the subject of a pre-natal report under section 25 of the Care and Protection Act and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

What is meant by 'significant' in the phrase 'to a significant extent' is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent.

What is significant, is not minor or trivial and, may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well-being.

The significance can result from a single act or omission or an accumulation of these.

Reporting to Communities and Justice

A mandatory reporter must, where they have reasonable grounds to suspect that a child (under 16 years of age) is at risk of significant harm, report initially to the Principal or appointed delegate, who will then work with the staff member and/or volunteer to complete a report to the Department of Communities and Justice (DCJ) as soon as practicable. The report must include the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm.

In addition, the Principal or appointed delegate may choose to act on behalf of TLK Youth College to make a report to the DCJ where there are reasonable grounds to suspect a young person (16 or 17 years of age) is at risk of significant harm and there are current concerns about the safety, welfare and wellbeing of the young person.

Process for Mandatory Reporting

Staff Members

Staff members must raise concerns about a child or young person who may be at risk of significant harm with the Principal as soon as possible to discuss whether the matter meets the threshold of at 'risk of significant harm' and to confirm steps required to report the matter.

However, if there is an immediate danger to the child or young person and the Principal is not contactable, staff members should raise the concern with the Principal's appointed delegate. If neither are available staff members should contact the police and/or the Child Protection Helpline (13 21 11) directly and then advise the Principal or appointed delegate as soon as possible.

Staff members are not required to, and must not, undertake any investigation of the matter. Staff members are not permitted to inform the parents/guardians/carers that a report to the DCJ has been made.

Staff members are required to deal with the matter confidentially and only disclose to the persons referred to above or as required to comply with mandatory reporting obligations. Failure to maintain confidentiality will not only be a breach of this policy but could incite potential civil proceedings for defamation.

TLK Youth College

In general, the Principal will report these matters to the DCJ and, where necessary, the police. This is supported by the DCJ in accordance with best practice principles.

Process for Reporting Concerns about Students

The Care and Protection Act outlines a mandatory reporter's obligation to report to the DCJ concerns about risk of significant harm. However, to ensure centralised reporting all staff members are required to report any concern regarding the safety, welfare and wellbeing of a student to the Principal. Staff members who are unsure as to whether a matter meets the threshold of 'risk of significant harm' should report their concern to the Principal regardless.

Staff members are required to deal with all reports regarding the safety, welfare or wellbeing of a student confidentially and only disclose such information to the Principal or appointed delegate.

Allegations of 'Reportable Conduct' Concerning an Employee

Section 29 of the Children's Guardian Act 2019 (NSW) requires the Heads of Entities, including non-government schools in New South Wales, to notify the OCG of all allegations of 'reportable conduct' and convictions involving an 'employee' and the outcome of the School's investigation of these allegations. Under the Children's Guardian Act 2019 (NSW) allegations of child abuse only fall within the 'reportable conduct' jurisdiction if the involved individual is an employee of the relevant entity at the time when the allegation becomes known by the Head of Entity.

Definitions

Assault: refers to intentional or reckless action (i.e. knows the assault is possible but ignores the risk) that:

- Involves physical force against a child without lawful justification or excuse, such as hitting, striking, kicking, punching or dragging a child (actual physical force) **or**
- Causes a child to apprehend the immediate and unlawful use of physical force against them, such as threatening to physically harm a child through words and/or gestures regardless of whether the person actually intends to apply any force (apprehension of physical force).

Emotional or psychological harm: refers to behaviour or conduct against child that is intentional or reckless (without reasonable excuse) and is obviously or very clearly unreasonable and which results in significant emotional harm or trauma to the child. For a reportable allegation involving psychological harm, the following elements must be present:

- An obviously or very clearly unreasonable or serious act or series of acts that the employees knew or ought to have known was unacceptable, and
- Evidence of psychological harm to the child that is more than transient, including displaying patterns of 'out of character behaviour', regression in behaviour, distress, anxiety, physical symptoms or self-harm and
- An alleged causal link between the employee's conduct and the significant emotional or psychological harm to the child.

Employee of an entity: refers to:

- An individual employed by, or in, the entity
- A volunteer providing services to children
- A contractor engaged directly by the entity (or by a third party) where the contractor holds, or is required to hold, a WWCC clearance for the purposes of their work with an entity and

- A person engaged by a religious body where that person holds, or is required to hold, a WWCC clearance for the purposes of their work with the religious body.

Grooming: refers to a form of sexual misconduct involving patterns of behaviour or conduct aimed at engaging with an alleged victim for sexual activity. Types of grooming behaviours may include:

- Persuading a child or children that there is a 'special' relationship'
- Inappropriate gift-giving
- Special favours/breaking rules
- Spending inappropriate amounts of time with a child
- Secret relationship, tactics to keep relationship secret
- Testing boundaries (touching, physical contact, undressing in front of child, talking about sex)
- Extending relationship outside of work.
- Personal communication about personal or intimate feelings

Under the Crimes Act 1900 (NSW), grooming or procuring a child under the age of 16 years for unlawful sexual activity is classed as a sexual offence. Section 73 of the Crimes Act 1900 (NSW) also extends the age of consent to 18 years when a child is in a 'special care' relationship. Under Schedule 1(2) of the WWC Act (NSW), grooming is recognised as a form of sexual misconduct. The Children's Guardian Act 2019 (NSW) and this reflects these definitions within the context of the Reportable Conduct Scheme (Division 2).

An alleged sexual offence does not have to be the subject of criminal investigation or charges for it to be categorised as a reportable allegation of sexual offence.

Ill-treatment: refers to conduct towards a child that is:

- Unreasonable and
- Seriously inappropriate, improper, inhumane or cruel.

Ill-treatment 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.

Neglect: refers to a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for a child that causes, or is likely to, cause harm by a person who has care and/or has responsibility towards a child. Neglect can be an ongoing situation of repeated failure by a caregiver to meet a child's physical or psychological needs, or a single significant incident where a caregiver fails to fulfil a duty or obligation, resulting in actual harm to a child where there is the potential for significant harm to a child. Examples of neglect include failing to protect a child from abuse and exposing a child to a harmful environment.

PSOA: refers to 'Person Subject of the Allegation'.

Reportable allegation: refers to an allegation that an employee has engaged in conduct that may be 'reportable conduct'.

Reportable conduct: refers to conduct described under the Children's Guardian Act 2019 (NSW) against a child (person under the age of 18 year) at the time of the alleged incident, in relation one or more of the following:

- A sexual offence
- Sexual misconduct
- An assault against a child

- Ill-treatment of a child
- Neglect of a child
- An offence under Section 43B (failure to protect) or Section 316A (failure to report) of the Crimes Act 1900 (NSW) and/or
- Behaviour that causes significant emotional or psychological harm to a child.

Reportable conduct does not extend to:

- 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, or
- The use of physical force that, in all the circumstances, is trivial or negligible and the circumstances in which it was used have been investigated and the result of the investigation has been recorded in accordance with appropriate procedures, or
- Conduct of a class or kind exempted from being 'reportable conduct' under Section 30 of the Children's Guardian Act 2019 (NSW).

Reportable conviction: refers to a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving 'reportable conduct'.

Sexual misconduct: refers to conduct with, towards or in the presence of a child that is sexual in nature (but not a sexual offence). The Act provides the following (non-exhaustive) examples:

- Descriptions of sexual acts without a legitimate reason to provide the descriptions
- Sexual comments, conversations or communications
- Comments to a child that express a desire to act in a sexual manner towards the child, or another child.

Note: crossing professional boundaries comes within the scope of the scheme to the extent that the alleged conduct meets the definition of sexual misconduct. That is, the conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence).

Sexual offence: refers to an offence of a sexual nature committed under any State, Territory, or Commonwealth jurisdiction, against, with or in the presence of a child, such as:

- Sexual touching of a child
- A child grooming offence
- Production, dissemination or possession of child abuse material.

Reporting of 'Reportable Conduct' Allegations or Convictions

Staff Members

Any concerns about any other employee engaging in conduct that is considered inappropriate, or 'reportable conduct', or any allegation of inappropriate or 'reportable conduct' made to the employee or about the employee themselves, must be reported to the TLK Youth College Principal. Where it is uncertain if the conduct is 'reportable conduct' but is considered inappropriate behaviour this must also be reported.

Staff members must also report to the Principal when they become aware that an employee has been charged with or convicted of an offence (including a finding of guilt without the court proceeding to a conviction) involving 'reportable conduct'. This includes information relating to the employee themselves.

If the allegation involves the Principal, the staff member must report to the Chief Executive Officer of Tuggerah Lakes Community College Limited.

Parents/Guardians/Carers and Community Members

Parents/guardians/carers and community members are encouraged to report any conduct that is in their view inappropriate, reportable or criminal conduct to the Principal or appointed delegate. All such reports will be dealt with in accordance with the Tuggerah Lakes Community College Limited 'Student and Client Complaints and Appeals (Consumer Protection) Policy' and TLK Youth College 'Student Complaints Statement'.

TLK Youth College

The Principal, as the Head of Entity under the Children's Guardian Act 2019, must:

- Ensure specified systems are in place for preventing, detecting and responding to reportable allegations or convictions.
- Submit a seven (7) day notification form to the OCG within seven (7) business days of becoming aware of a reportable allegation or conviction against an employee of the entity (unless the Head of the Entity has a reasonable excuse). The notification should include or confirm the below information:
 - That a report has been received in relation to an employee of the School and
 - The type of 'reportable conduct' and
 - The name of the employee and
 - The name and contact details of the School and the Head of Entity and
 - For a reportable allegation, whether it has been reported to police and
 - If a report has been made to the Child Protection Helpline, that a report has been made and
 - The nature of the relevant entity's initial risk assessment and risk management action.
- The notice must also include the below, if known to the Head of Entity:
 - Details of the reportable allegation or conviction considered to be a reportable conviction
 - The date of birth and working with children number, if any, of the employee the subject of the report
 - The police report reference number (if police were notified)
 - The report reference number if reported to the Child Protection Helpline
 - The names of other relevant entities that employ or engage the employee, whether or not directly, to provide a service to children, including as a volunteer or contractor.

Note: a maximum penalty prescribed by law may apply to the offence of failure to report within seven (7) business days.

Process for Investigating an Allegation of 'Reportable Conduct'

The Principal is responsible for ensuring that the below steps are taken to investigate an allegation of 'reportable conduct'.

Initial steps

Once an allegation of 'reportable conduct' against an employee is received, the Principal or appointed delegate is required to:

- Determine whether it is an allegation of 'reportable conduct'
- Assess whether the DCJ or the police need to be notified (i.e., if reasonable grounds to suspect that a child is at risk of significant harm or a potential criminal offence). If they

have been notified, seek clearance from these statutory agencies prior to the School proceeding with the 'reportable conduct' investigation

- Notify the child's parent/guardian/carer (unless to do so would be likely to compromise the investigation or any investigation by the DCJ or police);
- Notify the OCG within seven (7) business days of receiving the allegation
- Carry out a risk assessment and take action to reduce/remove risk, where appropriate and
- Provide an initial letter to the PSOA advising that an allegation of 'reportable conduct' has been made against them and the School's responsibility to investigate this matter under Section 34 of the Children's Guardian Act 2019 (NSW) and
- Investigate the allegation or appoint someone to investigate the allegation.

Investigation Principles

During the investigation of a 'reportable conduct' allegation TLK Youth College will:

- Follow the principles of procedural fairness
- Inform PSOA of the substance of any allegations made against them, at the appropriate time in the investigation, and provide them with a reasonable opportunity to respond to the allegations
- Make reasonable enquiries or investigations before making a decision
- Avoid conflicts of interest
- Conduct the investigation without unjustifiable delay
- Handle the matter as confidentially as possible and
- Provide appropriate support for all parties including the child/children, witnesses and the PSOA.

Investigation Steps

In an investigation the Principal or appointed delegate/investigator will generally:

- Interview relevant witnesses and gather relevant documentation
- Provide a letter of allegation to the PSOA
- Provide the PSOA with the opportunity to provide a response to the allegations either in writing or at interview
- Consider relevant evidence and make a preliminary finding in accordance with the OCG guidelines
- Inform the PSOA of the preliminary findings in writing by the Head of Entity and provide them with a further opportunity to respond or make a further submission prior to the matter moving to final findings
- Consider any response provided by the PSOA
- Make a final finding in accordance with the OCG guidelines
- Decide on the disciplinary action, if any, to be taken against the PSOA
- If it is completed, send the final report to the OCG within thirty (30) days after having received the allegation, as per Section 36 of the Children's Guardian Act 2019 (NSW)
- Should the final report be unfinished within thirty (30) days, the Head of Entity must provide, at minimum, an interim report to the OCG within thirty (30) days of having received the allegation, as per Section 38 of the Children's Guardian Act 2019 (NSW). Submission of an interim report must include:

- A reason for not providing the final report within thirty (30) days and an estimated time frame for completion of the report
- Specific information, including (if known); the facts and circumstances of the reportable allegation; any known information about a reportable conviction; action taken since the OCG received a notification about the reportable allegation or reportable conviction; further action the Head of Entity proposes to take in relation to the reportable allegation or reportable conviction; including if the Head of Entity proposes to take no further action; the reasons for the action taken and the action proposed to be taken or the reasons for the decision to take no further action; other information prescribed by the regulations and
- Be accompanied by copies of documents in the TLK Youth College's possession, including transcripts of interviews and copies of evidence.

The steps outlined above may need to be varied on occasion to meet particular circumstances. For example, it may be necessary to take different steps where the matter is also being investigated by the DCJ or police.

A PSOA may have an appropriate support person with them during the interview process. Such a person is there for support only and as a witness to the proceedings and not as an advocate or to take an active role.

Risk Management throughout an Investigation of a 'Reportable Conduct' Allegation

Risk management means identifying the potential for an incident or accident to occur and taking steps to reduce the likelihood or severity of its occurrence. The Principal or appointed delegate is responsible for risk management throughout the investigation and will assess risk at the beginning of the investigation, during and at the end of the investigation.

Initial Risk Assessment

Following an allegation of 'reportable conduct' against an employee, the Principal or appointed delegate conducts an initial risk assessment to identify and minimise the risks to:

- The child(ren) who are the subject of the allegation
- Other children with whom the employee may have contact
- The PSOA
- TLK Youth College and
- The proper investigation of the allegation.

The factors which will be considered during the risk assessment include:

- The nature and seriousness of the allegations
- The vulnerability of the child(ren) the PSOA has contact with at work
- The nature of the position occupied by the PSOA
- The level of supervision of the PSOA and
- The disciplinary history or safety of the PSOA and possible risks to the investigation.

The Principal or appointed delegate will take appropriate action to minimise risks. This may include the PSOA being temporarily relieved of some duties, being required not to have contact with certain students, being asked to take paid leave, or being suspended from duty. When taking action to address any risks identified, the School will take into consideration both the needs of the child(ren) and the PSOA.

A decision to take action on the basis of a risk assessment is not indicative of the findings of the matter. Until the investigation is completed and a finding is made, any action, such as an employee being suspended, is not to be considered to be an indication that the alleged conduct by the employee did occur.

Ongoing Risk Assessment

The Principal or appointed delegate will continually monitor risk during the investigation including in the light of any new relevant information that emerges.

Findings

At the completion of the investigation, a finding will be made in relation to the allegation and a decision made by the Principal regarding what action, if any, is required in relation to the PSOA, the child(ren) involved and any other parties.

Information for the PSOA

The PSOA will be advised:

- That an allegation has been made against them (at the appropriate time in the investigation) and
- Of the substance of the allegation, or of any preliminary finding and the final finding.

The PSOA does not automatically have the right to:

- Know or have confirmed the identity of the person who made the allegation or
- Be shown the content of the OCG notification form or other investigation material that reveals information provided by other employees or witnesses.

The WWC Act enables a person who has a sustained finding referred to the OCG to request access to the records held by TLK Youth College in relation to the finding of misconduct involving children, once final findings are made. The entitlements of a person to request access to information in terms of Section 46 of the WWC Act is triggered when a finding of misconduct involving children has been made. A request for records should be made directly to the OCG.

Disciplinary Action

As a result of the allegations, investigation or final findings, TLK Youth College may take disciplinary action against the PSOA, including termination of employment. In relation to any disciplinary action TLK Youth College will give the PSOA:

- Details of the proposed disciplinary action and
- A reasonable opportunity to respond before a final decision is made.

Confidentiality

It is important when dealing with allegations of 'reportable conduct' that the matter be dealt with as confidentially as possible. TLK Youth College requires that all parties maintain confidentiality during the investigation, including in relation to the handling and storing of documents and records.

Records about allegations of 'reportable conduct' against employees will be securely held by the Principal.

Records about allegations of 'reportable conduct' against the Principal will be securely held by the Chief Executive Officer, Tuggerah Lakes Community College Limited.

Staff members who become aware of a breach of confidentiality in relation to a 'reportable conduct' allegation must report the matter to the Principal as soon as possible, or the Chief Executive Officer, Tuggerah Lakes Community College Limited, should the breach involve or relate to the Principal.

Criminal Offences

In 2018 the Crimes Act was amended to adopt recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. The new offences are designed to prevent child abuse and to bring abuse that has already occurred to the attention of the police.

Failure to Protect Offence

All staff members, as adults working in a school, will commit an offence if they know another adult working there poses as serious risk of committing a child abuse offence and they have the power to reduce or remove the risk, and they fail to do so either by acts and/or omissions.

This offence is targeted at those in positions of authority and responsibility working with children who turn a blind eye to a known and serious risk rather than using their power to protect children.

Failure to Report Offence

All staff members, as adults working in a school, will commit an offence if they know, believe or reasonably ought to know that a child abuse offence has been committed and fail to report that information to police, without a reasonable excuse. A reasonable excuse would include where the adult has reported the matter to the Principal and is aware that the Principal has reported the matter to the police.

References and Related Policies

Child Protection (Working With Children) Act 2012 ('WWC Act')

Children and Young Persons (Care and Protection) Act 1998 ('Care and Protection Act')

Children's Guardian Act 2019 ('Children's Guardian Act')

Crimes Act 1990 ('Crimes Act').

NSW Department of Communities and Justice: <https://www.dcj.nsw.gov.au>

The office of the Children's Guardian: <https://ocg.nsw.gov.au/>

TLK Youth College:

- Anti-Bullying and Harassment Statement
- School Student Complaints Statement.

Tuggerah Lakes Community College Limited:

- Staff Code of Conduct
- Work Health and Safety (WHS) Policy
- Harassment, Bullying and Discrimination Policy
- Student and Client Complaints and Appeals (Consumer Protection) Policy.

Review

This Policy will be subject to periodic review and may be amended or updated as required.