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Policy Approval

Diocesan Policy Cover Page

Policy Name 104 Safeguarding Code of Conduct

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Bishop Signature *+Dorian Mascard*



POLICY 104

Safeguarding Code of Conduct

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1. Introduction

Our primary commitment is to always maintain the highest standards of professional and personal conduct. We have three primary commitments with respect to professional and personal conduct:

- a. A commitment to promote and maintain an environment and culture that is safe for all persons, particularly children, young people and vulnerable people.
- b. A commitment to behave respectfully, honestly, accountability and with integrity.
- c. A commitment to preserve the standards of equity and justice when engaging with any member of the diocesan community.

2. Purpose

This Safeguarding Code of Conduct (Code) sets out the standards of behaviour towards children, young people and vulnerable people expected of all individuals working, ministering, and volunteering in the Diocese.

This Code establishes a common understanding throughout the Diocese of acceptable and unacceptable conduct and professional boundaries when engaging with children; provides a basis for taking action if a person demonstrates unacceptable or unsafe behaviour; and assists Diocese personnel in identifying their obligations and responsibilities around safeguarding.

Abuse can take many forms including physical, sexual, psychological, ill treatment and neglect. Therefore, it is important that when children, young people and vulnerable people are in the care of the Diocese we protect their safety at all times.

3. Scope

This Code applies to all diocesan personnel (see Appendix A for definition of what this encompasses) working or ministering in all areas of the Diocese, and particularly where this work or ministry directly or indirectly involves or relates to children, young people, and vulnerable people.

The Code is intended to complement and should be read alongside child protection legislation, and other policies, procedures and guidelines which apply in the Diocese, including *Integrity in the Service of the Church* and *Integrity in Ministry*. If you work in or provide services to/through diocesan agencies or schools, you must refer to agency-specific policies as well as this Code.

If you are uncertain how this Code applies to a particular situation and what your obligations are, or may be, in that situation, you must seek advice from an appropriate person in the Diocese.

Please note that it is not your responsibility to investigate or resolve any suspicions you may have, but simply to report any suspicion to the appropriate authority.

4. Compliance Obligations Under Laws and Policies

4.1 Obligations under legislation

You must be familiar with and comply with the obligations that apply to you under legislation, including:

- a. If required; hold, maintain, and renew your Working with Children Check clearance (under the *Child Protection (Working with Children) Act 2012* (NSW)).
- b. Report risks of significant harm to children and young people (under the *Children and Young Persons (Care and Protection) Act 1998* (NSW)).
- c. Reporting allegations and findings of reportable conduct by diocesan personnel to the NSW Office of the Children's Guardian (under Part 4 *Children's Guardian Act 2019*)
- d. Reporting findings of sexual misconduct with, or in the presence of, a child and serious physical assault of a child by diocesan personnel to the Office of the Children's Guardian (under the *Child Protection (Working with Children) Act 2012* (NSW)).
- e. Report any knowledge of a serious indictable offence (Crimes Act 1900 (NSW))

Code of Canon Law

The revised Book VI of Code of Canon Law, particularly C. 1398, has made clear the acts of a sexual nature against a minor, a person who habitually has an imperfect use of reason, or whom the law recognises as requiring equal protection (a vulnerable person), constitutes an offence and therefore liable to a punishment. These acts include:

- Acts against the sixth commandment involving a person who is a minor, habitually has an imperfect use of reason, or whom the law recognises as requiring equal protection (a vulnerable person),
- grooming a person who is a minor, habitually has an imperfect use of reason, or whom the law recognises as requiring equal protection (a vulnerable person), to expose themselves pornographically, or to take part in pornographic exhibitions;
- immorally acquiring, retaining, exhibiting or distributing pornographic images of a person who is a minor, habitually has an imperfect use of reason, or whom the law recognises as requiring equal protection (a vulnerable person).

Canon 1398 applies to clergy, members of institutes of consecrated life and societies of apostolic life, and other of the faithful who perform an office or function within the Church.

4.2 Duty of Care

You have a duty, under law as well as under diocesan policies, to take reasonable care for the safety and wellbeing of children, young people, and vulnerable people who you come into contact with as part of your work. This means you

must take all reasonable steps to protect these identified individuals from risks of harm that can be reasonably predicted.

4.3 Obligations and the Nature of Your Role

Taking into consideration the nature of your role and responsibilities you must consider and comply with your obligations to:

- a. Assess risks associated with any activities and put measures in place to manage those risks (following relevant risk management policies and procedures).
- b. Ensure the physical environment is suitable for children, young people, and vulnerable people, is adequately supervised, and medical assistance is available if needed.
- c. Follow procedures relating to child safety, behaviour management, welfare and wellbeing, as well as guidance in this Code on acceptable conduct.
- d. Comply with any investigations into Safeguarding Complaints.

5. Professional Boundaries

5.1 Promoting a positive environment for children, young people, and vulnerable people.

You must

- a. Treat children, young people, and vulnerable people with respect, value their views, and encourage them and their families to be involved in decisions affecting them.
- b. Listen and respond to their concerns, particularly concerns about safety, and be aware of the signs of abuse and other harm.
- c. Model positive and respectful relationships with children and others.
- d. Provide a welcoming, inclusive, and safe environment for all children, young people and vulnerable people by treating them in an equal and fair way. Not harassing or discriminating against any child, including because of age, sex, sexuality, race, ethnic or national origin, or disability.
- e. Be sensitive to the needs of individuals and promote the safety (including cultural safety), participation and empowerment of Aboriginal and Torres Strait Islander people, individuals with culturally and linguistically diverse backgrounds, and those living with a disability.
- f. Promote appropriate behaviour by taking steps to manage bullying or other unacceptable conduct, and by helping children, young people and vulnerable people understand the standard of behaviour they are entitled to expect from adults and other children and the rights of all people to be safe.

5.2 Standards for engagement with children, young people, and vulnerable people.

You must

- a. Adequately supervise children, young people and vulnerable people for whom you are responsible or arrange for appropriate additional supervision where needed.
- b. As a general safe practice, ensure there are at least two adults present at all times during any activity involving children.

Note: this does not apply where diocesan personnel work alone as part of approved services, programs or models of care

- c. Not place children, young people, or vulnerable people at risk as a result of unsupervised or prolonged contact with strangers or others not authorised to supervise them.
- d. Avoid being in situations where you are alone with a child, young person, or vulnerable person (unless your role specifically requires this).
- e. Where a one-to-one interaction with a child, young person, or vulnerable person is necessary, as far as reasonably possible, make sure the interaction is completely open and visible, and ensure the child's privacy, dignity and bodily autonomy is maintained. This applies to all one-to-one interactions.

ENGAGEMENT PRACTICE NOTE: See [Appendix B](#) for examples of *Safe practices for activities involving one-to-one interactions between an adult and child/young person/vulnerable person.*

5.3 Transport involving children, young people, and vulnerable people.

You must

- a. Transport children, young people, and vulnerable people only as permitted by relevant policies.
- b. As a general practice do not transport children, young people, and/or vulnerable people in a vehicle on your own, unless this is part of your role; it is necessary; and/or, you have prior approval from your supervisor as well as the permission of parents/guardians (where required due to age).

5.4 Medication, alcohol, and other substances.

You must

- a. Not supervise or work with children, young people and/or vulnerable people while using alcohol, tobacco or illegal drugs.
- b. Not provide children, young people and/or vulnerable people with, or encourage or allow them to use alcohol, tobacco or illegal drugs (excluding sacramental wine during Holy Communion, consistent with parish guidelines).
- c. Inform your supervisor/manager if you are using prescription medication that may affect your ability to effectively supervise children.

- d. Safely store medications and only administer medication to a child or adult consistent with relevant policies, and generally with their parent/guardian's consent (where it is a child).

5.5 Acceptable language and communication with children, young people and vulnerable people.

When communicating with children, young people and vulnerable people (or with other people in the presence of children/young people/vulnerable people) in physical and online environments, you must:

- a. Use respectful and wherever possible, positive, and affirming language.
- b. Not swear, use offensive, derogatory, humiliating, abusive, culturally inappropriate or discriminatory language, or make sexually suggestive or explicit comments (see [Sexual abuse and misconduct](#) below).
- c. Not communicate in ways that are likely to bully, harass, shame, humiliate, frighten or distress children. (see [Appendix C](#) for what this includes).

5.6 Acceptable boundaries for physical contact with children, young people, and vulnerable people.

General principles

Physical contact should be

- **Generally initiated by the individual and not unwanted** (obtain the individuals permission wherever possible, and respect their need for personal space and any signs that contact may be unwanted)
- **Open and not secretive** (avoid physical contact in a private space or alone with a child, young person or vulnerable person)
- **Not unnecessary or prolonged** (keep contact as brief and non-intrusive as possible)
- **Related to the child's needs** (including for assistance, protection, comfort, encouragement or affection) and not the needs or gratification of the adult
- **Consistent with care or behavior plans for particular children, young people and vulnerable people**
- **Sensitive to cultural backgrounds or other factors** (for example, backgrounds of trauma, behavioral or attachment issues or varying cultural norms and expectations) that could influence a child's interpretation of appropriate contact.

There must not be any unwarranted inappropriate touching involving a child.

You must

- a. Make sure any physical contact with children, young people and vulnerable people is reasonable for the purpose of their management or care (taking into account their age, maturity, health or other characteristics), and apply the general principles above for appropriate physical contact.
- b. Not use inappropriate physical force/contact or act in ways that could cause a person to reasonably fear that unjustified force will be used against them (even if this is not intended).

PHYSICAL CONTACT PRACTICE NOTE: See [Appendix D](#) for:

- *Examples of appropriate physical contact*
- *Examples of inappropriate physical contact*

5.7 Managing behaviour and disciplining children, young people and vulnerable people.

Conduct that involves the unjustified use of physical force against a person, or that causes a person to reasonably fear that unjustified force will be used against them, can be a criminal offence. Even where use of force is necessary to prevent imminent/immediate harm to a child or others, it is against the law to use more than reasonable force or restraint.

Inappropriate discipline or use of physical force may be considered physical abuse/assault, emotional abuse or ill-treatment, and must be reported (See: *Section 6.1 pt 33(b) & (d)*).

Physical contact with a child, young person or vulnerable person that is sexual, overly intimate, unwarranted or intrusive, may also be a sexual offence or sexual misconduct, and must be reported (See: *Section 6.1 pt 33(b) & (d)*).

You must

- a. Take appropriate steps to manage the individual's behaviour that is disruptive or unsafe, consistent with behaviour management policies and any management plans or approved strategies for particular children.
- b. Use positive reinforcement, verbal directions and non-physical measures to manage children's behaviour whenever possible (see see practice notes).
- c. If you need to discipline a child, explain to them why and ensure discipline is reasonable, proportionate to their behaviour, and appropriate for the situation and the child's maturity, ability and circumstances (see practice notes).
- d. Only use physical contact or force if it is necessary to prevent imminent risk of harm to a child or others.
- e. Use physical restraints only as a last resort or in an emergency for the immediate safety and protection of the person or others, on a temporary basis only to the extent necessary to prevent serious injury or harm, and in strict compliance with behaviour management plans and policies.
- f. Document your use of physical force or a physical restraint and report it to your supervisor/manager.

MANAGING BEHAVIOURS PRACTICE NOTE: See [Appendix E](#) for:

- *Examples of positive reinforcement, verbal directions and non-physical measures*
- *Examples of where using physical contact or force is necessary to prevent imminent risk of harm to a child or others.*
- *Examples of inappropriate discipline – that also may be considered ill treatment of a child*

5.8 Acceptable boundaries in relationships with children, young people, and vulnerable people.

You must take extreme care before forming any personal relationships with anyone formerly under your care, supervision or authority as a child, even if the person is now an adult. Intimate or sexual relationships in these circumstances may be considered sexual misconduct if it is found that you used your position at the time they were a child, to develop an inappropriate relationship. Engaging in a sexual relationship or in sexual activity with a child over 16 who is under your special care is a criminal offence (see below)

A single serious breach of professional boundaries or repeated less serious breaches of professional boundaries in relationships with children may be considered misconduct, sexual misconduct and/or a breach of this Code. In some cases (for example, involving grooming) this may be a criminal offence (see below).

You must

- a. Maintain professional boundaries in your relationships and others that you come into contact with through your work (including in interactions outside of work or online).
- b. Not engage in behaviour that other people could consider as showing an inappropriate, overly personal or intimate relationship with, or conduct towards a child or young person.
- c. Clearly discourage any behaviour towards you by a child or young person suggesting a romantic or sexual interest or seeking a relationship that would be inappropriate. Notify your supervisor/manager immediately.
- d. Discuss with your supervisor/manager if you are unsure about the appropriateness of your relationship with a child, young person or vulnerable person, or their family (See practice note).

RELATIONSHIPS PRACTICE NOTE See [Appendix F](#) or *Examples of inappropriate relationships with children, young people, and vulnerable people*.

5.9 Managing existing personal relationships outside of your work.

Where you have an existing personal relationship outside of your work with a child or their family (for example, a family relationship or close friendship),

you must

- a. Be mindful of potential conflicts of interest or concerns about the appropriateness of the relationship and manage these carefully. Conflict arises for an individual between two or more competing interests. These are often, but not exclusively, interests of public duty versus private interests. A Conflict of Interest can be actual, potential or perceived.
- b. Be transparent and report such relationships to your supervisor/manager.

RELATIONSHIPS PRACTICE NOTE See [Appendix F](#) or *Examples of inappropriate relationships with children, young people, and vulnerable people*.

5.10 Sexual abuse and misconduct

- a. You must not have any sexual contact with children, conduct a sexual relationship with a child, or engage in any other sexual conduct that is a sexual offence involving a child.
- b. You must not engage in any sexual misconduct involving children.
- c. Sexual misconduct includes:
 - grooming behaviour
 - crossing professional boundaries (for example, behaviour involving an inappropriate, overly personal or intimate relationship with, conduct towards, or focus on a child, where this is serious or persistent behaviour)
 - sexually explicit comments or other overtly sexual behaviour towards or in the presence of children.
- d. Sexual misconduct covers a broad range of behaviours, some of which are also criminal offences, and must be reported to police, child protection delegate and the delegate for Safeguarding within the Diocese.

SEXUAL ABUSE/MISCONDUCT PRACTICE NOTE See [Appendix C](#) for *Examples of sexual offences involving children and young people*.

5.11 Grooming behaviours

- a. Grooming refers to conduct towards a child, young person, or vulnerable person designed to gain their trust and establish an emotional connection, making it easier to access the person for the purposes of sexual activity.
- b. Grooming can also be targeted towards an adult to gain access to a child.
- c. Grooming may take place in person or online. Online grooming can include emails, online chats, social media or sexting (using digital technology to chat, transmit live or recorded video transmissions, and send sexually explicit photos or messages).
- d. You must be aware of grooming behaviours and remain vigilant about possible grooming behaviour by others, including diocesan personnel, who you may observe engaging inappropriately with children, either physically or online.
- e. If you suspect grooming behaviours are occurring, you must report (see Section 6.1 pt 33 (b)).
- f. If you have any doubt or uncertainty you should always seek advice from your child protection delegation or the Director Professional Standards and Safeguarding

GROOMING PRACTICE NOTE: See [Appendix H](#) for *Examples of grooming behaviours*.

5.12 Acceptable use of digital technology to communicate with children, young people, and vulnerable people

You must make sure children, young people, and vulnerable people are using safe and responsible practices when using digital technology under your supervision and make it clear that behaviour that is inappropriate or unsafe offline is also inappropriate or unsafe online.

Electronic communication should only occur through the email and/or learning management systems established and maintained by the relevant role of diocesan personnel.

You must **not**:

- a. Communicate with children for personal or social purposes or ask for/exchange photos.
- b. 'Friend' or 'follow' any child, young or vulnerable person you supervise on social media platforms, even if the request comes from the individual personally.
- c. Provide your personal contact details to children, young people, or vulnerable people (only when required to do so for your specific role). You must notify your supervisor/manager if a child, young person or vulnerable person tries to contact you on personal accounts or devices.
- d. Use digital technology to harass, groom and/or expose a person to indecent, offensive or sexual content. This type of conduct is a criminal offence.

Use only approved group sites and make sure these are not used for discussion of private topics or purposes that are not legitimately work-related.

5.13 Acceptable use of images of children and young people

- a. You must comply with relevant policies regarding photos, videos and other images of children and young people. This includes only taking or using images of a child/young people for approved work-related purposes, with consent of the parent/guardian (and where appropriate, with the minor's consent as well). You must never secretly photograph/film a minor.
- b. Images of children and young people must never capture private acts (such as undressing or toileting) or show parts of their body that are not normally visible in public settings.

IMAGES PRACTICE NOTE: See [Appendix I](#) for *Examples of criminal offences involving unauthorised images of a person who is or appears to be a child.*

6. Reporting and Recording Obligations

6.1 Reporting

You must make a report if you have;

- a. **Concerns that a child is in immediate and serious danger, or in emergencies involving children or other diocesan personnel** - you must notify police and/or emergency services and the child protection delegate for the relevant sector as a matter of urgency. Ensuring safety in these situations takes priority over other reporting obligations.
- b. **Concerns about criminal conduct by an adult involving children** – you must report your concerns to police. You may wish to first discuss suspected criminal conduct with the child protection delegate for your relevant sector and/or the Director Professional Standards and

Safeguarding. This includes allegations that are historical or involve criminal conduct by a deceased person against children.

Failing to report sexual or serious physical abuse of children to police can be a criminal offence. If you report the concerns to the Child Protection Helpline you have discharged your duty to report.

- c. **Concerns that a child is currently at risk of significant harm** - many diocesan personnel are mandatory reporters. Mandatory reporters must report a suspicion that a child is at risk of significant harm to the Child Protection Help Line. You must also follow the Diocese's policies on reporting risks of significant harm.
- d. **Concerns about inappropriate conduct by diocesan personnel** – you must notify your supervisor/manager of any concerns about inappropriate conduct by other diocesan personnel towards children, including possible breaches of this Code or the law. You must follow the Diocese's policies on responding to concerns about the safety and wellbeing of children
- e. **Have knowledge, suspect or reasonably ought to have known that a child has been abused¹** - you must notify NSW police immediately if you suspect or know that a child has or is being abused. Failure to report is a criminal offence for all adults in NSW not just Diocesan personnel. Knows, believes or reasonably ought to know is not defined in the Crimes Act. To *know, believe or reasonably ought to know* relates not only to actual knowledge but also genuine beliefs and what a reasonable person would know under similar circumstances.

6.2 Informing the child protection delegate

You must inform the child protection delegate for your relevant pastoral work and/or the Director of Professional Standards and Safeguarding if:

- a. **You are charged or convicted of any offence relevant to working with children.**
- b. **You are the subject of allegations or convictions of reportable conduct (including allegations/convictions arising at work or outside of work)** – reportable conduct includes sexual offences or sexual misconduct involving a child (including child pornography offences), assault, ill treatment, or neglect of a child, or behaviour that causes psychological harm to a child.
- c. **You do not hold** a Working with Children Check clearance and are doing child-related work or in a child-related role (see definitions Appendix A).
- d. **You know that** a member of diocesan personnel is doing child-related work or in a child related role without a Working with Children Check clearance.
- e. **You know that** a member of diocesan personnel has been charged or convicted of an offence relevant to working with children, or is the subject of allegations or convictions of reportable conduct, and the Diocese is unaware of this.

¹ Section 316A of the Crimes Act (1900) NSW

6.3 Diocesan personnel are to follow DoW established process for internal reporting obligations

See Appendix J

6.4 Manager/supervisors, child protection delegates and the director of professional standards and safeguarding:

- a. In cases of emergencies, have responsibilities to ensure the immediate safety of children in diocesan settings.
- b. Must ensure that concerns reported to them are responded to appropriately and in accordance with law and diocesan policy (see the child safeguarding manual, module 4).
- c. Must consider whether reporting or notification needs to be made to the relevant external authority and, if so, make the notification or report (if this has not already been done), including to:
 - Office of the Children's Guardian (OCG)
 - Department of Communities and Justice. (DCJ)
 - and/or Police.

6.5 Record-keeping, confidentiality, and privacy

You must

- a. Maintain full and accurate records about your work activities and decisions involving children (including records of all concerns, allegations, suspicions or disclosures) and keep them confidentially and securely, consistent with record-keeping obligations under law diocesan policy
- b. Respect the privacy of children and only disclose personal information on a 'need to know' basis (for example, for the purposes of appropriately seeking advice, or to notify or report information to a person so that they can undertake their functions related to children's safety and wellbeing), consistent with law and diocesan policies
- c. Comply with laws for sharing information within the Diocese and externally, and ask your supervisor/manager (or seek the advice of the Child protection delegates and/or the Director Professional Standards and Safeguarding) if you are uncertain about requirements for confidentiality in a particular situation.
- d. In order to comply with legislation, you must maintain records for a minimum of 7 years from the date of last entry into an individual's file. Where it is related to someone under the age of 18, the minimum time frame is until that person is 25 years of age.

7. Breaches of the Code

- a. All diocesan personnel are expected to know and follow this Code. Failure to do so may be considered misconduct, serious misconduct or, in some cases, a criminal offence.
- b. The Code requires the accountability of all diocesan personnel and requires them to report certain acts, omissions and/or failures to the relevant persons in responding to concerns and allegations of inappropriate behaviour and misconduct.

- c. Consequences of a breach of this Code may include a disciplinary process resulting in performance management, formal warning, suspension, demotion or termination in accordance with industrial processes or in the case of clergy or religious, disciplinary action according to civil and canonical processes.
- d. All disciplinary processes in relation to a breach of the Code will be managed with procedural fairness and in keeping with the principles of natural justice.

8. Victimisation

Diocesan personnel must not take detrimental action (actual or reasonably perceived) against a complainant or person who reports information as required by legislation and this Code. To do so may be regarded as serious misconduct and may result in disciplinary action.

9. Review of the Code

This Code is issued under the authority of the Bishop of Wollongong. The Code will be reviewed every two years to ensure it reflects current best practice, experience and relevant obligations under law and diocesan policy. Any comments or suggestions for improving the Code are welcome. For advice, please contact the Director Professional Standards and Safeguarding.

10. Acknowledgement

I acknowledge I have read and will comply with this Diocesan of Wollongong Safeguarding Code of Conduct.

Name: _____

Role and diocesan sector: _____

Signature: _____

Date: _____

11. Appendices

Appendix A: DEFINITIONS

Diocesan personnel refer to any person holding a permanent or temporary appointment or role within the Diocese, including:

- Diocesan clergy and members of religious congregations who are engaged in any form of work or ministry
- Employees in Catholic parishes, schools, agencies, organisations, groups, boards, councils and committees
- Volunteers working for Catholic parishes, schools, agencies, organisations, groups, boards, councils and committees
- Foster/relative/kinship carers (authorised carers)
- Students doing work experience or professional placements for the Diocese
- Contractors and subcontractors working for the Diocese.

Abuse includes any instance of physical or sexual abuse (including grooming), emotional or psychological harm, ill-treatment, serious neglect and domestic or family violence involving a child. It also includes sexual abuse, or an experience of problematic sexual behaviour by another child or children.

Child(ren) means any person under 18 years of age who is engaged in a diocesan ministry or any person enrolled as a student at a diocesan school.

Criminal Offences referred to in this document refer to the provisions within the Crimes Act 1900 (NSW) related to offenses including sexual offenses, physical abuse and child neglect including but not limited to Part 3A and 3B of the Act.

Diocese includes the Diocese of Wollongong and its parishes, agencies, Catholic systemic schools (Catholic Education Diocese of Wollongong), organisations, boards, councils, committees, commissions and groups, and other institutions, programs and services that are under the authority of the Bishop of Wollongong.

Contractor is a person who is not an employee but is engaged under an independent service contract to complete a specific job or project within a specified time frame for an agreed price. The Code of Conduct applies to

Contractors who are permitted to be unsupervised while on ministry grounds e.g. engaged using a tender process and formal induction.

Diocese includes the Diocese of Wollongong and its parishes, agencies, Catholic systemic schools (schools administered by Catholic Education Office, Diocese of Wollongong), organisations, boards, councils, committees, commissions and groups, and other institutions, programs and services that are under the authority of the Bishop of Wollongong.

Harm caused to a Child includes:

- conduct that amounts to Sexual Misconduct or a Sexual Offence involving the Child;
- any detrimental effect of a significant nature on the Child's physical, psychological or emotional wellbeing by any cause, other than confirmed accidental harm not involving negligence or misconduct;
- minor harm that is cumulative in nature that would result in a detrimental effect of a significant nature to the Child if allowed to continue; and
- physical or emotional abuse or neglect or sexual abuse or exploitation or domestic violence or bullying or self-harm.

Mandatory reporter means a person who is required by either law or diocesan policy to report a concern or allegation of harm or abuse of a child/ren to a civil authority whether that be the Police, the Department of Communities and Justice, and/or the NSW Office of the Children's Guardian.

Reportable Conduct by a person who works with or hold a role working with children means:

- any sexual offence or sexual misconduct committed against, with or in the presence of a Child – including a child pornography offence or an offence involving child abuse material;
- any assault, ill-treatment or neglect of a Child; or
- any behaviour that causes psychological harm to a Child – even if the Child consented to the behaviour.

Sexual Misconduct means any form of behaviour that may be considered sexual that occurs between, with, or in the presence of Children, regardless of whether that was in the course of participating in diocesan ministry or work. Engaging in Sexual Misconduct with any child is prohibited, even if the Child involved may be above the legal age of consent. In some cases, Sexual Misconduct will also be a Sexual Offence. Sexual Misconduct needs to be interpreted widely, to encompass the entire range of actions that would reasonably be considered to be sexual in nature. Hence, Sexual Misconduct includes, but is not limited to:

- 'contact behaviour', such as sexual intercourse, kissing, fondling, sexual penetration or exploiting a Child through prostitution, inappropriate touching, or any form of Sexual Offence; and
- 'non-contact behaviour', whether in person or via any Technology, such as flirting, sexual innuendo, sexually explicit comments or conversations with

or in the presence of a Child, inappropriate text messaging, inappropriate photography, exposure to pornography or nudity, encouraging or failing to discourage romantic or inappropriate advances, obscene gestures, language, or jokes containing sexual references, or deliberately exposing Children to sexual behaviour of others, other than in the case of prescribed curriculum material in which sexual themes are set in an appropriate educational context.

For sexual misconduct to constitute reportable conduct, the alleged conduct must have been committed against, with or in the presence of a child. There are various types of sexual misconduct including (but not limited to): crossing professional boundaries; sexually explicit comments and other overtly sexual behaviour; and grooming behaviour.

- Crossing professional boundaries - Sexual misconduct includes behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate relationship with; conduct towards; or focus on; a child or young person, or a group of children or young persons
- Sexually explicit comments and other overtly sexual behaviour - Sexual misconduct includes a broad range of sexualised behaviour with or towards children
- Grooming behaviour - a pattern of conduct that is consistent with grooming the child for sexual activity.

Sexual Offence means any criminal offence involving a sexual element that is committed against, with or in the presence of a Child, including but not limited to:

- child abuse;
- physical abuse;
- indecent assault;
- sexual assault and sexual abuse;
- aggravated sexual assault;
- sexual intercourse and attempted sexual intercourse;
- possession/dissemination/production of child pornography or child abuse material;
- using Children to produce pornography;
- activities relating to child exploitation material; and
- grooming or procuring Children under the age of 16 years for unlawful sexual activity.

All cases of Sexual Offence, or breaches of Child Protection Policies or Child Protection Legislation, also constitute Sexual Misconduct.

Supervisor/manager includes diocesan personnel who are in a position of direct authority (including authority to assign/direct work activities or administrative responsibility) over other Diocesan personnel (for example, parish priests, agency

heads, directors and principals.) Authorised carers should read any references to supervisors and/or managers in this Code as references to their CatholicCare caseworker.

Vexatious complaints are written or verbal reports of alleged improper conduct made to an authority intending the report to be acted upon, where there is demonstrated absence of reasonable grounds for suspecting the improper conduct, and the report is made to cause distress, embarrassment or stress.

Volunteer means a person engaged in diocesan ministry, generally without payment or financial reward. This Code applies equally to volunteers as it does to employees, clergy and religious.

Vulnerable persons are defined individuals who may be unable to take care of themselves or are unable to protect themselves against harm or exploitation and can include

- people with a disability
- Aboriginal or Torres Strait Islanders
- people from a low socio-economic background
- people who are not native speakers of the local language
- people with low levels of literacy or education
- people subject to modern slavery, which involves human exploitation and control, such as forced labour, debt bondage, human trafficking, and child labour.

Work or ministry means paid employment or engagement (whether permanent, temporary, casual or self-employed), voluntary work, and religious and pastoral ministry or role in the Diocese

Child-related [role] work (including voluntary work) is:

- Providing services for under 18s
- Where the work normally involves being face to face with children
- Where contact with children is more than incidental to the work.

Young person means any person generally between the ages 18 and 24 years of age who is engaged in a diocesan ministry or receiving services from the diocese. This definition is sourced from the Australian Institute of Health and Welfare².

Appendix B: SAFE PRACTICES

Safe practices for activities involving one-to-one interactions between an adult and child/young person/vulnerable person

Make sure the interaction takes place in an open space in clear sight of other adults
Have another adult observe the interaction
Use a room with the door open, or with glass windows/doors, so it is visible to those outside
Avoid undertaking the activity if no other adults are available.

² www.aihw.gov.au

Appendix C: COMMUNICATION PRACTICE NOTE

Examples of types of communicate that may be classified as bullying, harassment, shame, humiliation or cause distress to a person.

Teasing, using sarcasm or making derogatory comments about a person, their family or personal circumstances

Yelling/shouting (unless this is reasonable for discipline, management or care, such as a sport coach raising their voice to call training instructions)

Using fear, threats, moral pressure, intimidating or aggressive words or actions towards them, or towards others in their presence.

Appendix D: PHYSICAL CONTACT PRACTICE NOTE

Examples of appropriate physical contact

- Administering first aid or helping a child/young person/vulnerable person who is injured or ill (where practical with the individual's permission and another adult present).
- Guiding or demonstrating an action/skill where it is not possible to use only verbal/visual directions or is necessary for safety (such as instructing sport, music, drama or other activities – seek the child's permission and maintain a safe and appropriate distance).
- Congratulating a child/young person using age-appropriate and non-intrusive gestures (a handshake or congratulatory pat on the upper back or shoulder).
- Providing comfort, encouragement or affection to a child/young person/vulnerable person using age-appropriate and non-intrusive gestures (a hand on the upper arm or shoulder, holding a younger child's hand to reassure them).
 - You may need to discourage a younger child from inappropriate hugs or cuddles without embarrassing them and offer a non-intrusive gesture instead (for example, a hand shake).
 - Be mindful of the context and your role when considering whether such contact is appropriate (for example, while it would not be acceptable for a teacher/sports coach to hug a child it may be acceptable for an authorised carer to do so).
- Helping a child/young person/vulnerable person who needs support because of their developmental level or incapacity (assisting with personal care needs of a person with disability or assisting very young children with toileting or changing nappies, consistent with care/management plans and where possible with another adult present).
- Physical contact that is reasonable and necessary for the immediate protection of a child from harming themselves or others (see below).

Examples of inappropriate physical contact

- Touching a person in an overly intimate or sexual way (including touching their breasts, bottom or genital areas or any other part of the body that embarrasses them, stroking or massaging them).
- Kissing, cuddling, hugging or 'rough-and-tumble' such as tickling or wrestling (other than where this may be reasonably warranted and prudent in the normal realm of care provided by an authorised carer (refer to various Carer Code of Conduct).
- Allowing child/young person/vulnerable person to sit on your lap or knees
- Having a child/young person/vulnerable person stand/sit between your legs.
- Doing things of a personal nature that a children/young person/vulnerable person can do for themselves (such as using the toilet, showering or changing clothes).
- Close physical contact that could threaten, frighten or distress a child/young person/vulnerable person.
- Physical punishments

Appendix E: MANAGING BEHAVIOURS PRACTICE NOTE

Examples of positive reinforcement, verbal directions and non-physical measures

- Draw attention to when they do the right thing
- Talk to them about their behaviour
- Direct them or other children/young people/vulnerable people to a safe place

Examples of where using physical contact or force is necessary to prevent imminent risk of harm to a child or others.

- Disarm a child who is at risk of imminent harm to them self or others
- move a child out of immediate harm's way
- separate children who are fighting
- protect yourself, the child or others if faced with an immediate risk.

Examples of inappropriate discipline – that also may be considered ill treatment of a child

- Physical punishments for example, smacking or hitting children or corporal punishment, pushing, pulling or grabbing children (including by their clothing or item such as bag), blocking, poking, throwing objects, punching, kicking, pinching or shaking children.
- Any discipline that is excessive and a disproportionate response to a child's behaviour, that is unsuitable because of their age, physical ability, mental health, cultural background or developmental level, that places unreasonable demands on a child, or that is humiliating, degrading or isolating. For example:
 - Locking a child in a cupboard as punishment or tying them to a chair.
 - Refusing biological necessities (such as keeping a child in detention without allowing them access to food, water or to go to the toilet).
 - Hostile, malicious or aggressive acts or threats to use force against a child

Appendix F: RELATIONSHIPS PRACTICE NOTE

Examples of inappropriate relationships

- Showing favouritism - for example, by forming 'special relationships' with a child, singling them out, showing them more attention, or providing gifts to one child (or group of children) over another (or others).
- Being overly familiar with a child, sharing personal information or secrets, or asking them to keep the relationship (or what occurred) secret.
- Having contact with or arranging to meet a child outside of your usual work or approved activities, services or programs (except where you have a pre-existing personal relationship, or the contact is accidental).
- Attending parties or socialising with children or inviting a child to your home or other private location.
- Visiting a child's home must comply with relevant policies, and only take place with approval of your supervisor/manager and consent of parents/guardians.
- Making arrangements with children or their families to engage with a child outside of the usual context such as a school or parish (for example, mentoring, babysitting, private tutoring or coaching), must comply with relevant policies and is approved by your supervisor/manager.

Appendix G: SEXUAL ABUSE/ MISCONDUCT PRACTICE NOTE

Examples of sexual offences involving children and young people.

- Sexual acts, sexual touching or sexual intercourse with children under 16
- Engaging in sexual acts online with a child including the exposure of genitals or masturbation
- Sexual offences against children aged between 16 and 18 under special care (a special care relationship can include an authorised carer, health professional, member of the teaching staff, or other adult with a personal relationship with a child connected with religious, sporting, musical or other instruction)
- Grooming or procuring children for unlawful sexual activity
- Voyeurism, stalking and offences relating to child pornography and child abuse material.

Appendix H: GROOMING PRACTICE NOTE

Examples of grooming behaviours

- Forming a 'special' relationship with a child – giving gifts or special attention to a child or their family, creating opportunities to be alone with them, allowing them to overstep rules, giving them cigarettes, alcohol or drugs, asking them to keep the relationship secret, or isolating them from support networks.
- Extending a relationship with a child or their family outside of a work context (where there is no pre-existing personal or family relationship) – for example, offering to babysit or provide financial or other assistance.
- Testing boundaries – for example, gradually increasing intimacy through inappropriate non-sexual physical contact such as tickling, wrestling or 'accidental' intimate touching, talking about sex inappropriately, undressing in front of children or exposing them to nudity or pornography.

It is a criminal offence to:

- Procure or groom a child under 16 for sexual activity either in person or through postal and other communications services, including electronic and online communications
- Groom a child under 16 for sexual activity by exposing them to indecent material, or providing them with an intoxicating substance or financial or material benefit (such as money or gifts)
- Groom another adult by providing them with gifts or money with the intention of making it easier to access a child under their care, supervision, or authority for unlawful sexual activity.

Appendix I: IMAGES PRACTICE NOTE

Examples of criminal offences involving unauthorised images of a person who is or appears to be a child

- Filming a child engaged in a private act (for example, filming a child undressed or using the bathroom) for sexual arousal or gratification
- Filming a child's private parts for sexual arousal or gratification
- Recording or distributing intimate images (for example, an image of a child engaged in a private act or of their private parts, or sexting)
- Offences relating to child pornography or child abuse material (for example, possessing/ disseminating/producing material that depicts or describes children in an offensive way, including: a child as the subject of torture, cruelty or abuse (whether or not in a sexual context); using a child to produce such material; or using a carriage service (such as the internet or phone) for child pornography or child abuse material).

Appendix J: REPORTABLE CONDUCT AND MANDATORY REPORTING

The following is a brief overview of the reportable conduct and mandatory reporting frameworks:

Reportable Conduct

Reportable Conduct relates to allegations against employees / volunteers / contractors / clergy / religious who are employed or engaged by the Diocese to deliver services.

THE LEGISLATION	Children’s Guardian Act 2019 (NSW)
GOVERNMENT BODY RESPONSIBLE FOR IMPLEMENTING THE LEGISLATION	<p>NSW Office of the Children’s Guardian (OCG)</p> <p>The OCG will be responsible for oversight of reportable conduct investigations.</p> <p>The OCG will audit organisations to ensure compliance with the reportable conduct requirements.</p>
PERSONS TO WHOM THE ACT APPLIES	<p>Anyone who is required to hold a WWCC for the purposes of carrying out their work/ministry is subject to the Reportable Conduct requirements.</p>
DEFINITION OF REPORTABLE CONDUCT AS DEFINED IN THE ACT	<p>The definition of reportable conducts includes the categories of:</p> <ul style="list-style-type: none"> o Sexual offence o Sexual misconduct o Ill-treatment of a child o Neglect of a child o An assault against a child o An offence under s43B (failure to protect) or s316A (failure to report) of the Crimes Act 1900 o Behaviour that causes significant emotional or psychological harm to a child <p>Further detail about these definitions can be found in Fact Sheet 1: Identifying Reportable Allegations on the OCG website: https://www.kidsguardian.nsw.gov.au/child-safe-organisations/reportable-conduct-scheme/fact-sheets</p>
OBLIGATIONS ON DIOCESAN WORKERS (including paid employees, volunteers, contractors, clergy and religious)	<p>Diocesan workers are under an obligation to report on reportable conduct as soon as practicable in relation to:</p> <ul style="list-style-type: none"> o a minister, priest, rabbi, mufti or other like religious leader or spiritual officer of the organisation, or o a person in any other role in the organisation involving activities primarily related to children including youth groups, youth camps, teaching

	children and childcare if they hold or are required to hold a WWCC.
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Mandatory Reporting

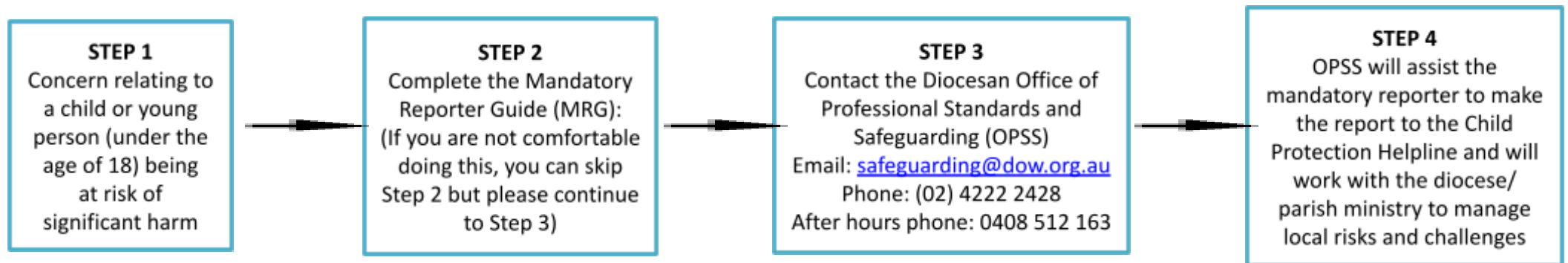
Mandatory reporting relates to current concern about a child or young person being at risk of significant harm (RoSH).

THE LEGISLATION	Children and Young Person's (Care and Protection) Act 1998 (NSW)
GOVERNMENT BODY RESPONSIBLE FOR IMPLEMENTING THE LEGISLATION	NSW Department of Communities and Justice (DCJ) <i>Previously known as FACS</i>
PERSONS TO WHOM THE ACT APPLIES	Mandatory Reporter obligations apply to persons who deliver a range of services wholly or partly to children as part of their professional work or other paid employment. From 1 March 2020, mandatory reporter groups have been expanded to include persons in religious ministry or persons providing religion-based activities to children (e.g., minister of religious, priest, deacon, pastor, rabbi, Salvation Army officer, church elder, religious brother, or sister).
DEFINITION OF MANDATORY REPORTING AS DEFINED IN THE ACT	The definition of mandatory reporting requires that a person captured by the Act is required to report to the relevant authorities (NSW Department of Communities and Justice) if they have reasonable grounds to suspect that a child (or group of children) is at risk of significant harm and those grounds arise during the course of or from the person's work.
OBLIGATIONS ON DIOCESAN WORKERS (including paid employees, volunteers, contractors, clergy and religious)	Duty to report as soon as practicable the name, or a description, of the child and the grounds for suspecting that the child is at risk of significant harm. It is recommended that Mandatory Reporters complete the Mandatory Reporter Guide (MRG) on the <i>ChildStory</i> website for guidance as to whether a report is required: https://reporter.childstory.nsw.gov.au/s/ Mandatory reporters can make reports by: <ul style="list-style-type: none"> o Calling the NSW Child Protection Helpline – 132 111 o Submitting an eReport through the <i>ChildStory</i> website.

REPORTABLE CONDUCT



MANDATORY REPORTING



End of Policy