

<b>Title</b>	Reportable Conduct Policy ACT
<b>Description of policy</b>	This policy sets out the obligations and processes for Catholic Education Archdiocese of Canberra and Goulburn (CECG) workers to report Reportable Conduct to the ACT Ombudsman. It applies to all CECG employees, and volunteers and contractors providing services to children, in the ACT.
<b>Required because</b>	The head of CECG has a legal obligation to ensure the organisation has processes in place to investigate and respond to any allegations of Reportable Conduct, and to notify the ACT Ombudsman of any allegation.
<b>Description of changes</b>	Non-material format and language changes to clarify existing obligations. No change was made to the roles, responsibilities or processes for responding to allegations of reportable conduct.
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## 1. Summary

- 1.1 This policy sets out the obligations and processes for Catholic Education Archdiocese of Canberra and Goulburn (CECG) workers to report Reportable Conduct to the ACT Ombudsman. It applies to all CECG employees, and volunteers and contractors providing services to children, in the ACT.
- 1.2 Reportable Conduct relates to inappropriate behaviour by CECG workers against any child (whether a CECG student or someone else). It is different to Mandatory Reporting, which relates to risk of harm to a CECG student.

## 2. Reportable Conduct Policy (ACT)

- 2.1 Under ACT legislation<sup>1</sup>, CECG must report to the Ombudsman any allegations that employees, and other workers who provide services to children, have committed Reportable Conduct (defined below). It doesn't matter whether the reportable conduct happened to a student or another child – any reportable conduct at work or in a personal capacity must be reported within 30 days.
- 2.2 The Catholic Archdiocese of Canberra and Goulburn Education Ltd (CACGEL) Board is accountable to the Trustees of the Roman Catholic Church for the Archdiocese of Canberra and Goulburn for the conduct and performance of CACGEL. Day-to-day management is delegated to the Executive Director.
- 2.3 This policy sets out the practices and procedures to prevent Reportable Conduct, to enable CECG workers to notify the Executive Director and leadership of reportable conduct, and to enable CECG to manage and disclose reports of reportable behaviour.

## 3. Reportable Conduct Process

- 3.1 The process and the obligations for Reportable Conduct are outlined below (see the CECG Reportable Conduct Fact Sheet for a one-page printable version). Reportable Conduct must be notified to the ACT Ombudsman within 30 days of first being reported within the workplace (stages 2-6 must occur within 30 days).

Step	Stage of Process	Actor and Action
One	Incident	An employee, volunteer or contractor becomes aware of concerning conduct or a criminal conviction that might be reportable conduct.
Two	Report to manager and CECG	That person must report the alleged conduct to their Principal, ELC Director, School-Aged Care Director or Service Area Leader as soon as practicable – within 24 hours. An ELC Director or School-Aged Care Director will usually report the matter to their school Principal. The Principal or Service Area Leader must contact telephone the Child Protection team in CECG School and Family Services to notify them of the alleged reportable conduct.
Three	Workplace Risk Assessment	The Child Protection Team will assist the Principal or Service Area Leader to identify and respond to any risks.

<sup>1</sup> Children and Young People Act 2008 (ACT)

Four	Immediate Action	<p>The Principal, ELC Director, School-Aged Care Director or Service Area Leader must implement any mitigation strategies identified in the risk assessment that are immediately necessary to reduce risk.</p> <p>If Reportable Conduct involves a CECG student, immediate action by the school should include contacting the student’s parent/carers to ensure they can provide support to the student – unless the risk assessment identifies that notifying them would risk the child’s safety. Records must be kept of any decision not to contact them, and the reason for it.</p>
Five	Written Notification to CECG	<p>If the risk assessment determines the alleged conduct meets the definition of Reportable Conduct, the Child Protection Team must complete the following forms and send them to the Institute for Professional Standards and Safeguarding:</p> <ul style="list-style-type: none"> <li>• ACT Ombudsman Section 17G Notification Form.</li> <li>• An Investigation Plan.</li> <li>• Risk Assessment.</li> </ul> <p>If a Letter of Allegation is prepared, it should also be provided as part of the Notification.</p>
Six	Initial Notification to ACT Ombudsman	<p>The Child Protection team send the Reportable Conduct forms and attachments to the CECG Institute for Professional Standards and Safeguarding. The Institute for Professional Standards and Safeguarding must report to the Office of the Children’s Guardian that an allegation of reportable conduct has been received and CECG will investigate.</p> <p><b>This must occur within 30 days of Stage 2 occurring.</b></p>
Seven	CECG Investigation	<p>The Child Protection Team (or an appointed external investigator) will investigate the allegations. The investigator will report the outcome of the investigation and supporting evidence to the School and Family Services Leader.</p> <p>The report makes a recommendation to the Delegate (usually School and Family Services Leader), who determines whether there should be a finding whether Reportable Conduct occurred.</p> <p>The Head of School and Family Service provides the report and decision to the Institute for Professional Standards and Safeguarding.</p> <p>The ACT Ombudsman may monitor, oversee or participate in the CECG investigation.</p>
Eight	Final Report to the ACT Ombudsman	<p>The Institute for Professional Standards and Safeguarding must formally report the outcome of the investigation and the conclusion to the ACT Ombudsman.</p>
Nine	Corrective Action	<p>If Reportable Conduct has occurred, the People and Culture team will assist the Principal, ELC Director, School-Aged Care Director or Service Area Leader to coordinate support for the people affected, to appropriately manage the worker involved, and to eliminate or reduce the risk of further Reportable Conduct. Where there is an employment sanction this must be determined by the People &amp; Culture, Service Leader.</p>

## 4. What is Reportable Conduct?

### 4.1 In the ACT, Reportable Conduct is:

- a) ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, and restrictive intervention)
- b) neglect (including supervisory, carer, abandonment, failure to protect from abuse, reckless acts and emotional)
- c) behaviour or circumstances that psychologically harm a child
- d) misconduct of a sexual nature that isn't part of a sexual offence (e.g. contact with a child to obtain the child's compliance in sexual activities, even if it isn't the crime of 'grooming')
- e) offences against the person, including physical offences and convictions, where a child is a victim or is present
- f) sexual offences and convictions where a child is a victim or is present
- g) female genital mutilation offences
- h) offences against the Education and Care Services National Law Act 2011 (ACT) (inappropriate discipline or offences relating to protecting children from harm)

#### 4.2 Examples might include:

- A teacher or a volunteer pushing or hitting a child
- A teacher repeatedly yelling at a child in manner that is considered to be seriously inappropriate, degrading or hostile
- Sexual assault of a child by a teacher or a volunteer (including before they started work/volunteering)
- Domestic violence or assault offences committed in the presence of a child
- Allegations that a teacher or a volunteer was looking at pornography, making sexualised comments, or had sexually explicit communication with students (beyond reasonable sex education purposes).
- A restrictive practice that was not appropriate in the circumstances

## 5. What is not Reportable Conduct?

5.1 Reportable conduct does not include reasonable discipline and other conduct that is appropriate under professional teaching standards.

5.2 In the ACT, the exact definition of what is not reportable conduct is:

- a) Conduct that is reasonable discipline, management or care of a child taking into account the characteristics of the child, and any relevant code of conduct or professional standard that at the time applied to the discipline, management or care of the child; or
- b) if the conduct is investigated and recorded as part of workplace procedure—that is trivial or negligible.

5.3 For example, the school receives a complaint that a teacher caused psychological harm to a child. The complaint will be assessed in line with the Reportable Conduct process and CECG Complaints Policy. If the investigation finds that the conduct was reasonable under professional teaching standards, or was negligible, it is not Reportable Conduct.

5.4 Reportable Conduct is different to Mandatory Reporting legislation. Reportable Conduct is conduct by a CECG employee, volunteer or contractor against any child. Mandatory Reporting is conduct by anyone against children that attend CECG schools or ELCs.

- Reportable Conduct may also count as Mandatory Reporting and require separate ACT Child and Youth Protection Services **if** it places a student at risk of harm (see CECG [Mandatory and Voluntary Reporting Policy ACT](#)).

5.5 CECG workers can refer to ACT Government online resources for more information about Reportable Conduct.

## 6. Stage 2 – What to do if you suspect Reportable Conduct

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6.1 If a worker becomes aware of any concerning conduct – either because of their own behaviour (e.g. they are involved in an incident or convicted of an offence) or by a colleague – they must as soon as possible report that to their Principal, ELC Director, School-Aged Care Director or Service Area Leader. Any delay in reporting these concerns may create additional risks for affected parties, including the student, affect available evidence and not assist the meeting of legal obligations.

6.2 Principals, ELC Directors, School-Aged Care Directors or Service Area Leaders who receive any report of alleged Reportable Conduct must notify the Child Protection team as soon as possible.

## 7. Stages 3 and 4 – Risk assessment and Immediate action

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7.1 ACT law requires that an allegation of reportable conduct must be examined for the risks associated with the alleged conduct.

7.2 The Child Protection Team – or a worker they delegate – must complete the risk assessment and identify actions to mitigate risks to an acceptable or manageable level.

7.3 The risk assessment must be updated at the outcome of the investigation (stage 8), to record if any notable risks have changed during the investigation. This means that as a minimum two risk assessments will be completed during a reportable conduct investigation in the ACT.

7.4 Risks that might be assessed include:

### **Risks relating to children**

- Does the child and other family members require specific protection and support?
- Is the welfare of the child threatened?
- Is the child or employee the subject of the allegation able to interact with parties involved in the allegation in the normal course of school activities?
- Does the allegation constitute a criminal offence?
- Is there risk of self-harm?

### **Risks relating to employees**

- What personal support is required for the employee?
- Should the employee remain in their current position or be allocated to another role or suspended whilst the matter is investigated? This will depend on:
  - Nature and seriousness of the allegation
  - The requirements of the child/ren
  - Reactions of employer to allegation with specific consideration to their current welfare
  - School Community reaction to the allegation (if known) and the viability of the employer remaining in the current position whilst the matter is investigated

- Nature and type of work done by the employee
- Supervision controls that are in place or could be put in place
- Support mechanisms that could be put in place to support the employee in their current role
- The employees workplace misconduct history and any current employment sanctions

### **Risk relating to others**

- Safety
  - Wellbeing such as other students and staff who have witnessed or are aware of the allegation
  - The ability to continue their role and responsibilities.
  - If child welfare agencies or law enforcement agencies are involved, the actions of those organisations should be included in the report as these may affect the actions taken to manage and mitigate risk factors.
  - Risk should be managed on a dynamic and ongoing basis. If new risks are identified or risk ratings change, the Child Protection Team should identify, implement and record new strategies to manage the risks. If no new risks emerge, the fact of the assessment and no new risks should be noted in records.
- 7.5 The Principal, ELC Director, School-Aged Care Director or Service Area Leader must implement any identified actions that are immediately required to mitigate risk, before moving on to further stages.
- 7.6 Parents/carers generally are best placed to provide support to alleged victims of Reportable Conduct and immediate action should include contacting them, unless contacting parents/carers poses an identified risk for the child.

## **8. Stage 5 – Notifying CECG and Record Management**

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- 8.1 The Child Protection Team must send the completed risk assessment and Reportable Conduct Form to the School and Family Services Leader.
- 8.2 The Delegate (usually School and Family Services Leader) will make the formal decision whether the allegation is reportable conduct, and provide the report and decision to the Institute for Professional Standards and Safeguarding.
- 8.3 All relevant CECG workers are required to keep copies of the reporting form and any other records of reportable conduct investigations in accordance with the CECG Record Keeping Policy.

## **9. Stage 6 – Notification to the ACT Ombudsman**

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- 9.1 The objective of the Reportable Conduct scheme is to ensure the ACT Ombudsman receives reports of allegations of Reportable Conduct, as soon as practicable. CECG must notify the ACT Ombudsman of any allegation, before proceeding to formal investigation.
- 9.2 The Institute for Professional Standards and Safeguarding delivers the report, once the School and Family Services team forwards the Reportable Conduct form. The ACT Ombudsman may monitor or participate in the subsequent CECG investigation.
- 9.3 Under section 17G, the report must include:

- any reportable allegation or any reportable conviction involving an employee of the entity; and
- whether or not the entity proposes to take any action against the employee based on the allegation or conviction, and the entity's reasons for taking or not taking action; and
- any written submissions made by the employee to the head of the entity about the allegation or conviction that the employee asked the entity to take into account when deciding any action against the employee.

## **Procedural Fairness**

- 9.4 CECG must provide procedural fairness to people that may be adversely affected by a decision. This includes ensuring:
- the decision-maker and process is free from bias
  - decisions are based on evidence that supports the facts, and
  - any person that may be adversely affected by decisions has an opportunity to present their case and have their input considered before a decision is made.
- 9.5 There is no requirement that the opportunity to present a case occurs early in the process and, because this stage is a legally mandated reporting of allegations (not a decision), the opportunity may not occur before this stage. If not, it will occur during the formal investigation process, before a decision and final report is made.

## 10. Stage 7 – Reportable Conduct investigation and relationship to other potential investigations

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- 10.1 The School and Family Services Team (or external investigation) will conduct all investigations of Reportable Conduct or breaches of other CECG requirements in line with the CECG Reportable Conduct and Workplace Misconduct Investigation Procedure.
- 10.2 An allegation of reportable conduct may also involve a breach of the CECG Enterprise Agreements, the Guidelines for Professional Conduct in the Protection of Children and Young Persons, CECG Work Health and Safety Policy, or other Policies and Procedures.
- 10.3 The School and Family Services Team will investigate alleged breaches of other CECG requirements simultaneously with Reportable Conduct investigations, where possible by the same investigator. This assists to minimise any contamination of evidence, undue effect on the welfare of the parties, involved welfare, and improves the consistency of investigative processes.

## 11. Stage 8 – Final Report to the ACT Ombudsman

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- 11.1 The Institute for Professional Standards and Safeguarding must deliver a report on the outcome of an investigation to the Ombudsman. Under section 17J, the report must include:
- any action taken, or proposed to be taken, in relation to the reportable allegation or reportable conviction; and
  - copies of all statements taken in the course of the investigation; and documents mentioned in the report; and
  - any other information that the head of the entity considers relevant to the report.

## 12. Information sharing under the reportable conduct scheme

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- 12.1 The Ombudsman Act 1989 legislation permits, and in some cases requires, information about Reportable Conduct to be shared with other organisations.
- 12.2 Any decision to share information with other agencies will be based on the alleged reportable conduct and identified risks to children and young persons. For example:
- If the reported worker is a registered teacher, ACT Teacher and Quality Institute may be notified given their role in teacher registration.
  - Access Canberra may be notified of a complaint to consider implications for Working With Vulnerable People registration
  - If the reported worker works with other organisations in a similar role, such as a casual teacher at CECG and ACT Independent Schools, other organisations may be notified.
- 12.3 To ensure compliance with the reportable conduct scheme and privacy, child protection and other relevant legislation, only the School and Family Services team and the Institute for Professional Standards and Safeguarding are authorised to share information about reportable conduct and reportable convictions.
- 12.4 All requests relating to information sharing must be referred immediately to the Principal, ELC Director, School-Aged Care Director or Service Area Leader, who must refer it to the School and Family Services team.
- 12.5 A key part of the ACT Ombudsman's role is to share information. The Ombudsman may disclose the reportable conduct information to other organisations and people, including:
- The child(ren) affected by the Reportable Conduct
  - The parents or carers of the child(ren)
  - ACT Commissioner for Fair Trading (Access Canberra)
  - State Police and Australian Federal Police
  - ACT Teacher Quality Institute (TQI)
  - Children's Education and Care Assurance (CECA)
  - ACT Community Services Directorate
  - ACT Human Rights Commission
  - a law enforcement agency
  - Other information-sharing and privacy legislation may also apply. CECG will comply with all relevant laws when sharing reportable conduct information.

## 13. Definitions

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- 13.1 **Child:** a person under 18 years of age.
- 13.2 **Reportable allegation:** an express assertion that reportable conduct has happened.
- 13.3 **Reportable conviction:** a conviction or finding of guilt:
- for an offence, under ACT or a State or Commonwealth law, involving reportable conduct; and
  - entered against the person before or after the commencement of the Reportable Conduct and information Sharing Legislation Amendment Act 2016.

- 13.4 **Worker:** All people carrying out work for CECG including employees (permanent, casual, and temporary), contractors and sub-contractors, volunteers, apprentices, work experience students, or a minister, priest, or other religious leader or member of a religious organisation.

## 14. Related Documents and Legislation

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### 14.1 Related CECG Documents:

- Reportable Conduct Fact Sheet ACT
- [Mandatory and Voluntary Reporting Policy ACT](#)
- [Child Safety Policy](#)

### 14.2 Legislation:

- [Ombudsman Act 1989 \(ACT\)](#)
- [Children and Young People Act 2008 \(ACT\)](#)

### 14.3 Other Resources:

- [ACT Ombudsman Reportable Conduct Scheme.](#)

## 15. Contact

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- 15.1 For support or further questions relating to this policy, contact the CECG Child Protection team.