

<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.
<b>Applies to</b>	<input checked="" type="checkbox"/> Organisation-wide <input type="checkbox"/> Specific (location, schools/ELCs&SACs, Service Area)
	<input checked="" type="checkbox"/> Staff only <input type="checkbox"/> Students only <input type="checkbox"/> Staff and students
<b>Status</b>	<input type="checkbox"/> New <input type="checkbox"/> Major revision of existing document <input checked="" type="checkbox"/> Minor revision of existing document

<b>Publication location</b>	<a href="#">Intranet</a>
<b>Related documents</b>	<a href="#">Reportable Conduct Fact Sheet ACT</a> <a href="#">Mandatory and Voluntary Reporting Policy ACT</a>
<b>Intranet Category</b>	Child Protection and Student Wellbeing
<b>Review Date</b>	December 2021
<b>Trim Reference Number</b>	R391649

<b>Approval authority for this version:</b>	School and Family Services Leader
<b>Approval Date:</b>	03/06/2020
<b>Accountable authority</b>	School and Family Services Leader
<b>Responsible officer</b>	Child Protection Manager/School and Family Services

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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.

## 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 Archbishop of the Canberra Goulburn Archdiocese is the head of CECG and is primarily in charge of its management<sup>2</sup>, with day-to-day management delegated to the CECG Director. This policy sets out the practices and procedures to prevent Reportable Conduct, to enable CECG workers to notify the Archbishop of reportable conduct, and to enable CECG to manage and disclose reports of reportable behaviour<sup>3</sup>.

## 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 Children's Guardian within 30 days of first being reported within the workplace (stages 2-6 must occur within 30 days).

	Stage of Process	Action
<b>One</b>	Incident	An employee, volunteer or contractor becomes aware of concerning conduct or a criminal conviction that might be reportable conduct.
<b>Two</b>	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 report the matter to their school Principal. The Principal or Service Area Leader must telephone the Child Protection team in CECG School and Family Services to notify them of the alleged reportable conduct.
<b>Three</b>	Workplace Risk Assessment	The Child Protection Team will assist the Principal or Service Area Leader to identify and response to any risks.
<b>Four</b>	Immediate Action	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.
<b>Five</b>	Written Notification to CECG	If the risk assessment determines the alleged conduct meets the definition of Reportable Conduct, the Child Protection Team must complete the CECG Reportable Conduct form.

<sup>1</sup> Ombudsman Act 1989 (ACT)

<sup>2</sup> Section 17EAA of the Ombudsman Act 1989 (ACT)

<sup>3</sup> Section 17EB Ombudsman Act 1989 (ACT)

<b>Six</b>	Preliminary report to the Ombudsman	<p>The Child Protection team send the Reportable Conduct form 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>
<b>Seven</b>	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 Office of the Children’s Guardian may monitor, oversee or participate in the CECG investigation.</p>
<b>Eight</b>	Report to the Ombudsman	<p>The Institute for Professional Standards and Safeguarding must formally report the outcome of the investigation and the conclusion to the Ombudsman.</p>
<b>Nine</b>	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, neglect and inappropriate, restrictive intervention)
- b) behaviour or circumstances that psychologically harm a child
- c) 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’)
- d) offences against the person, including physical offences and convictions, where a child is a victim or is present
- e) sexual offences and convictions where a child is a victim or is present
- f) female genital mutilation offences
- g) 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:

- sexual assault of a child by a teacher or a volunteer (including before they started work/volunteering)
- a teacher or a volunteer pushing or hitting a child
- 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).

## 5. What is not Reportable Conduct?

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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.
  - 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.
  - Reportable Conduct is different to Mandatory Reporting legislation, which requires separate reporting of harm to children to the ACT Child and Youth Protection Services (see CECG Mandatory and Voluntary Reporting Policy ACT). One of the key differences is that Reportable Conduct is conduct by a CECG employee, volunteer or contractor against any child, while Mandatory Reporting is conduct by anyone against a CECG student or ELC child.
  - CECG workers can refer to ACT Government online resources for more information about Reportable Conduct:

<https://www.ombudsman.act.gov.au/improving-the-act/reportable-conduct/reportable-conduct-resource-kit>.

## 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. conviction of an offence) or by a colleague – they must report that to their Principal, ELC Director, School-Aged Care Director or Service Area Leader.

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 by phone.

## 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 risk assessment must be documented and provided to the Ombudsman when the Ombudsman is notified of the allegations (stage 6) and the outcome of the investigation (stage 8), if any notable risks change during the investigation. This means that as a minimum two risk assessments will be completed during the duration of a reportable conduct investigation in the ACT.
- 7.3 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.
- 7.4 The Reportable Conduct form (Appendix 2) includes a 5-by-5 risk assessment matrix and risk rating table to help classify risks identified.
- 7.5 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? 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, what changes need to be actioned to ensure:**

- 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 continuing 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.
- 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.

## 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 report will conclude whether a reportable conduct allegation was sustained; not sustained (lack of evidence); not sustained (lack evidence of weight); false; or not reportable conduct.
- 8.3 The School and Family Services Leader will make the formal decision from the five categories and provide the report and decision to Institute for Professional Standards and Safeguarding.
- 8.4 All 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 – Preliminary report to the Ombudsman

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- 9.1 The objective of the Reportable Conduct scheme is to ensure the Ombudsman receives reports of *allegations* of Reportable Conduct, as soon as practicable. CECG must notify the 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 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 – Report to the 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 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.**

12.3 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.

12.4 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](#)
- 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 about this policy, contact the CECG School and Family Services team.