



# Legislation that affects those that work with children in the Diocese of Broken Bay Practice Guide

There is important legislation that provides protection of children and assists to provide regulation for all organisations that work with Children. In NSW the legislation includes the *NSW Children's Guardian Act 2019*, *Children and Young Person (Care and Protection) Act 1998* and the *Crimes Act 1900*. The legislation affects the role of workers of the Chancery and Parish of the Diocese of Broken Bay. This Practice Guide will highlight a worker's legal obligations and responsibilities to better protect children and young people.

## Definitions:

**Chapter 16A Information Sharing** means allowing information to be exchanged between prescribed bodies despite other laws that prohibit or restrict the disclosure of personal information, such as the *Privacy and Personal Information Protection Act 1998*, the *Health Records and Information Privacy Act 2002* and the *Commonwealth Privacy Act 1988*.

**Children and Young Persons (Care and Protection) Act 1998** means an Act to provide for the care and protection of, and the provision of service to, children and young persons; and for other purposes.

**Children's Guardian Act 2019** means an Act to make provision with respect to the Office for the Children's Guardian; to provide for the function of that office; to provide for the safety, welfare and wellbeing of children; and for other purposes.

**Fail to Protect** means under the *Crimes Act 1900* (NSW) an adult working in an institution doing child related work will commit an offence if they know another adult working there poses a serious risk of abusing a child and they have the power to reduce or remove the risk, and they fail to do so.

**Fail to Report** means under the *Crimes Act 1900* (NSW) all adults in NSW are required to report information to police if they know, believe or reasonably ought to know that a child (under 18 years) has been abused.

**Mandatory Reporting** means a person who is under a legal obligation to make a report to the Department of Communities and Justice if they have reasonable grounds to suspect that a child is or may be at risk of significant harm.

**Non-Religious Based Activity to Children** means an activity that does not involve the work of evangelising the word of God to Children.



**NSW Department of Communities and Justice (DCJ)** means an agency that enables services to better work together to support everyone's right to justice and other help for families, and strengthen / bolster the promotion of early intervention and inclusion, with benefits for the whole community.

**NSW Office of the Children's Guardian (OCG) (Children's Guardian)** means the independent statutory body managing the Working with Children Check and the Reportable Conduct Scheme.

**Reporting Body** means an organisation under the *Child Protection (Working with Children) Act 2012* must notify the Children's Guardian of a finding that a worker has engaged in conduct specified in the *WWC Act*.

**Religious Based Activity to Children** means an activity that involves the work of evangelising the word of God to Children

**Religious Minister** means an ordained or consecrated person who evangelizes the word of God.

**Reportable Conduct Scheme** is overseen by the Office of the Children's Guardian and requires Relevant Entities or Religious Bodies to investigate reportable allegations or make a determination about a reportable conviction of a worker who holds a WWCC for their engagement with the Diocese. The Head of Entity (The Bishop) is required to report any allegations or convictions regarding Reportable Conduct involving a WWCC holder to the Office of the Children's Guardian.

**Working with Children Check (WWCC) Exemption** means a worker in a child related role who is not required to provide a working with children check number for verification because they meet the criteria specified in the *Child Protection (Working with Children) Regulation 2013*.

**Working with Children Check (WWCC) Holder** means a worker in a child related role who has a valid working with children number.

### Table 1: Legal and policy responsibilities of workers engaged in a child related role in the Diocese of Broken Bay (table)

The table of responsibilities presented on page 3 outlines the legal and policy responsibilities of four groups of workers engaged in a child related activity in the Diocese of Broken Bay. A description of each group is provided.

The table further stipulates the workers' legislative and policy obligations. These include:

- Completion of an online or face to face Safeguarding Induction course
- Attendance at regular Safeguarding Training offered by the Safeguarding Office (Chancery & Parishes), facilitated by the Parish Priest
- Identify which workers are legislated as Mandatory Reporters
- Identify which workers must be informed about the Reportable Conduct Scheme by their employer
- Inform the worker if the Reportable Conduct Scheme applies to them
- Provides advice about which worker is to report a concern of Reportable Conduct to the Safeguarding Office (Chancery & Parishes); and
- Advise which worker is subject to the 'Fail to Report' and 'Fail to Protect' legislation.



**Table 1: Legal and policy responsibilities of workers engaged in a child related role in the Diocese of Broken Bay**

	Safeguarding Induction	Regular Safeguarding Training	Mandatory Reporter <i>(only concern for the child in the work context)</i>	Employer to inform worker about the Reportable Conduct Scheme	'Reportable Conduct Scheme' applies <i>(behaviour of self towards children scrutinized 24/7)</i>	Worker to report concern to the Safeguarding Office (Chancery & Parishes)	'Fail to Report' legislation applies	'Fail to Protect' legislation applies
<b>GROUP 1: WWCC Holder (Religious based activity to children)</b>	Online	Compulsory	Yes	Yes	Yes	Yes	Yes	This applies to anyone who has the power to minimise risk. For example, Clergy and some personnel of the Safeguarding Team of the Chancery.
<b>GROUP 2: WWCC Exemption (Religious based activity to children)</b>	Not compulsory, however available to the worker	Not compulsory, however available to the worker	*Yes	N/A	N/A	Not compulsory, however available to the worker	Yes	
<b>GROUP 3: WWCC Holder (Non - Religious based activity to children)</b>	Online	Compulsory	No	Yes	Yes	Yes	Yes	
<b>GROUP 4: WWCC Holder (Religious Minister)</b>	Face to Face <i>(appointed clergy or visiting for longer than 2 weeks )</i>	Compulsory <i>(appointed/some retired incardinated clergy)</i>	Yes	Yes	Yes	Yes	Yes	

\* Parish to provide information on Mandatory Reporting.



## Examples

### GROUP 1: WWCC Holder Religious based activity to children

Example of Role	Safeguarding Induction	Regular Safeguarding Training	Mandatory Reporter	The Reportable Conduct Scheme
<ul style="list-style-type: none"> <li>• Acolyte</li> <li>• Atrium Coordinator</li> <li>• Atrium Teacher</li> <li>• CCD Coordinator</li> <li>• Children's Choir Leader</li> <li>• Children's Liturgy of the Word Team Member</li> <li>• Children's Liturgy of Word Leader</li> <li>• Playgroup Coordinator</li> <li>• Sacramental Coordinator</li> <li>• Sacramental Team Facilitator</li> <li>• Senior Altar Server</li> <li>• Youth Team Assistant</li> <li>• Youth Team Leader</li> <li>• Music Director</li> </ul>	Compulsory to complete the Safeguarding Online Induction Course	Compulsory to attend regular Safeguarding Training	The role is defined as a Mandatory Reporter	This role falls within the Reportable Conduct Scheme



**GROUP 1: WWCC Holder Religious based activity to children (in relation to the NSW Public School context)**

Example of Role	Safeguarding Induction	Regular Safeguarding Training	Mandatory Reporter	The Reportable Conduct Scheme	The Reportable Conduct Scheme
<ul style="list-style-type: none"> <li>SRE Teacher (CCD)</li> </ul>	Compulsory to complete the Safeguarding Induction Course administered by CCD	Compulsory to attend regular Safeguarding Training administered by CCD	The role is defined as a Mandatory Reporter	This role falls within the Reportable Conduct Scheme of both the Parish and NSW Public School.	It is the employer's responsibility to comply with the Reportable Conduct Scheme reporting obligations. This involves a dual responsibility (Parish and NSW Public School).

**GROUP 2: WWCC Exemption Religious based activity to children**

Example of Role	Safeguarding Induction	Regular Safeguarding Training	Mandatory Reporter	The Reportable Conduct Scheme
<ul style="list-style-type: none"> <li>Children's Liturgy of the Word Leader</li> <li>Children's Liturgy of the Word Team Member</li> <li>Sacramental Coordinator</li> <li>Sacramental Team Facilitator</li> </ul>	<u>Not</u> compulsory to complete the Safeguarding Induction Course, however available to the worker	<u>Not</u> compulsory to attend regular Safeguarding Training, however available to the worker	The role is defined as a Mandatory Reporter*.	This role <u>does not</u> fall within the Reportable Conduct Scheme



### GROUP 3: WWCC Holder Non-Religious based activity to children

Example of Role	Safeguarding Induction	Regular Safeguarding Training	Mandatory Reporter	The Reportable Conduct Scheme
<ul style="list-style-type: none"> <li>• CCD Coordinator (if not SRE Teacher)</li> <li>• Parish Manager</li> <li>• Parish Secretary</li> <li>• Parish Administration Support</li> <li>•</li> </ul>	Compulsory to complete the online Safeguarding Induction Course	Compulsory to attend regular Safeguarding Training	The role is <u>not</u> defined as a Mandatory Reporter	This role falls within the Reportable Conduct Scheme

### GROUP 4: WWCC Holder (Religious Minister)

Example of Role	Safeguarding Induction	Regular Safeguarding Training	Mandatory Reporter	The Reportable Conduct Scheme
<ul style="list-style-type: none"> <li>• Deacon</li> <li>• Priest</li> </ul>	Compulsory to complete the Safeguarding Face to Face Induction (staged program)	Compulsory to attend annual Safeguarding Training	The role is defined as a Mandatory Reporter	This role falls within the Reportable Conduct Scheme



## Reference

*These reference documents are available from the Diocesan intranet.*

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

*Children's Guardian Act 2019*

*Crimes Act 1900 (NSW)*

*Child Protection (Working with Children) Act 2012*

*Child Protection (Working with Children) Regulation 2013*

Policy - Responding to Reportable Conduct

Policy - Risk of Significant Harm Mandatory Reporting

Policy - Working with Children Check

Policy - Complaints Handling Framework

Fact Sheet - Responding to Reportable Conduct

Fact Sheet - Risk of Significant Harm Mandatory Reporting

Video - Risk of Significant Harm Mandatory Reporting Guide

## More information

For further information about legislation applicable to working with children and reporting concerns of harm to children and inappropriate behaviour of workers you can email the Office for Safeguarding (Chancery) at [safeguarding@bbcatholic.org.au](mailto:safeguarding@bbcatholic.org.au) or phone **02 8379 1605**, visit the NSW Office of the Children Guardian website at <https://ocg.nsw.gov.au/> or visit the NSW Department of Communities and Justice website at [www.dcj.nsw.gov.au](http://www.dcj.nsw.gov.au)

## REVISION/ MODIFICATION HISTORY

Date	Version	Current Title	Summary of Changes	Approval Date	Commencement Date
01/07/2020	1.	Legislation that affects those that work with children in the Diocese of Broken Bay Practice Guide	New	Jul 2020	Jul 2020
04/01/2022	2.	Legislation that affects those that work with children in the Diocese of Broken Bay Practice Guide	Updated naming conventions and list of roles requiring WWCC		
13/03/2024	3.	Legislation that affects those that	Naming conventions; clarified		



		work with children in Broken Bay	Reportable Conduct Scheme definition; included induction of clergy visiting >2weeks.	
--	--	----------------------------------	--	--

### APPROVAL DATE/REVISION SCHEDULE

**Approved by:** Ana Kosi, Safeguarding Manager (Chancery and Parishes)

**Date approved:** 14 March 2024

**To be revised:** 14 March 2026