

DWW Code of Conduct in the Protection of Children, Students and Young People



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DWW Code of Conduct in the Protection of Children, Students and Young People

1. Statement of Catholic Values and Ethics

The mission of the Catholic Church unequivocally commits Catholic workplaces and communities to foster the dignity, self-esteem and integrity of every person to whom it provides a service and of every person who works for the Diocese of Wagga Wagga (DWW). All employees of DWW and people engaged by DWW, herein referred collectively as 'employee', uphold the mission by modelling positive relationships and acting in a manner that creates a safe and productive educational and pastoral environment.

All employees seek to create a compassionate, life-giving and faith-filled environment where Gospel values inspire and affirm the highest standard of ethical conduct. All employees have a privileged role of service that requires prudent judgement and exercise of appropriate relationships. Catholic workplaces actively support the development of a culture that does not condone improper conduct, violation of relationships such as through intimidation, bullying, harassment and breach of professional boundaries, or abuse of power.

The Code is founded in the person of Jesus Christ, particularly focusing on the Gospel values of:

- respect – upholding the dignity of each person, created in the image of God;
- love – the gift of sincere care, concern, empathy and compassion for each person;
- service – generous care for the needs of others; and
- justice – the proper exercise of power and authority.

These values are demonstrated by:

- acting in accordance with the principles of child protection as a fundamental responsibility;
- acting with integrity in all relationships and situations;
- maintaining relationships that develop within the context of Gospel values;
- honouring the equality of women, men and children and young people;
- resolving disputes respectfully;
- behaving and speaking in ways that indicate a respect for the dignity of the person;
- providing quality services to all Diocesan agencies and the wider community;
- being consistently honest, trustworthy and accountable;
- being committed to social justice by opposing prejudice, injustice and dishonesty;
- maintaining and developing our professional and work practices;
- working collaboratively with colleagues and being honest, trustworthy and accountable; and
- promoting Catholic education, whether in the classroom, the office or the community, through the delivery of professional services.

2. Introduction and Purpose

This Code of Conduct is an important document to inform all employees of the standards of behaviour and expectations that must be adhered to when working in an organisation which delivers services to students, children and young people.

This Code of Conduct is consistent with the mission and values of the Catholic Church and complies with legislative obligations as applicable to Diocesan organisations.

This Code of Conduct aims to:

- clarify expectations and ensure consistency in expected standards of behaviour for all employees, including religious and all those working and/or volunteering in child-related work;
- provide a safe and supportive environment for children, young people, students, employees and persons engaged by the organisation; and
- build and maintain a contemporary Catholic workplace that is safe, respectful, professional and legally compliant.

3. Scope

This Code of Conduct applies to all Diocesan organisations which come within the jurisdiction of the Bishop of Wagga Wagga as Head of Relevant Entity for child protection matters. These organisations include, but may not be limited to:

- Catholic Education Diocese of Wagga Wagga (CEDWW) and all schools administered by CEDWW;
- Centacare South West NSW;
- Diocesan Parishes; and
- Diocesan organisations involved in child-related work.

This Code of Conduct applies to all employees engaged to work in or provide services to CEDWW and other relevant Diocesan organisations, whether working in Catholic parishes, schools, agencies, organisations, groups, boards, councils and committees as individuals or groups authorised to act in the Diocese.

This Code is part of the Diocesan Strategy to build child safe communities and should be read in conjunction with other relevant policies and procedures.

The Code is not intended to be exhaustive and does not identify every potential scenario of concern in the workplace.

4. Definitions

Child means a person under the age of 18 years.

Employee includes paid employees (whether employed on a permanent, temporary or casual basis), religious (including Diocesan clergy, members of religious congregations and those in ministry), volunteers, contractors, sub-contractors, consultants, tertiary practicum placements and students on work placements or work experience.

Manager means the school principal, a workplace manager or supervisor, the director of the DWW organisation or their, as appropriate.

Students refers to all students in schools administered by the CEDWW, including those who are aged 18 years and above.

Young Person for the purposes of reporting risk of significant harm, means a person who is aged 16 or 17 years.

5. Legislative Framework

All employees are required to be familiar with and comply with child protection legislation, as varied from time to time, including but not limited to:

- *Child Protection (Working with Children) Act 2012* (NSW)
- *Child Protection (Working with Children) Regulation 2013* (NSW)
- *Children and Young Persons (Care and Protection) Act 1998* (NSW)
- *Children and Young Persons (Care and Protection) Regulation 2012* (NSW)
- *Children's Guardian Act 2019* (NSW)
- *Crimes Act 1900* (NSW)
- *Education Act 1990* (NSW)

6. Breaches of the Code of Conduct or Legislation

An employee holds a position of trust and is accountable for their actions or inactions.

An alleged breach of the Code of Conduct may require investigation in accordance with rules of procedural fairness consistent with the *Fair Work Act 2009* (Cth) and the *Children's Guardian Act 2019* (NSW) and will be dealt with in accordance with the Child Protection Policy and Procedures document/s applicable to the Diocesan organisation.

Failure to comply with the responsibilities and obligations required by legislation or this Code of Conduct may result in disciplinary action, including immediate termination of employment, termination of contractor agreement, notification of alleged breach to external agencies and/or result in criminal prosecution.

While contractors, consultants, students on tertiary practicum placements and volunteers are not usually subject to disciplinary action, conduct that would be assessed as being a breach of the Code may result in their engagement being terminated and/or criminal prosecution, where applicable.

An employee who becomes aware of a possible breach of the Code of Conduct or legislation by another employee must report this to their Manager or an appropriate member of the applicable Diocesan organisation's leadership team as soon as possible. Failure to do so may result in disciplinary action. All matters pertaining to child protection concerns must be reported by the Manager to a Child Protection Team or the Office of Professional Standards and Safeguarding and in accordance with the Child Protection Policy and Procedures document/s applicable to the Diocesan organisation.

7. Responsibilities and Obligations

7.1. Expectation of All Employees

Employees are expected to:

- be familiar with policies and procedures that apply to their work and in the workplace;
- undertake duties in a professional, competent and conscientious manner;
- be aware that if their conduct has the potential to damage the reputation of the Diocese, parish or school, even if it is in a private capacity, this could lead to disciplinary action;
- act in good faith by not making unfounded complaints with malicious, frivolous or vexatious intent against another person;
- model effective leadership and respect in interactions with students, children and young people, colleagues and others;
- carry out duties in a professional and competent manner;
- follow reasonable instructions provided by their Manager and comply with a lawful direction from relevant personnel; and
- be respectful towards others. Rude or insulting behaviour, including verbal and nonverbal aggression, abusive, threatening or derogatory language and physical abuse or intimidation towards others is unacceptable.

7.2. Expectation of Managers

A Manager, in addition to the above responsibilities, is expected to:

- promote collaborative and collegial workplaces;
- exercise leadership by working with workers to implement performance and development processes that are consistent with the employee's conditions of engagement;
- provide ongoing support and feedback to employees;
- establish systems within their area of responsibility which support effective communication;
- consult with and involve employees in appropriate decision-making;

- Inform all employees of the Code of Conduct and all relevant policies and make the documents available to them;
- take appropriate action if a breach of the Code of Conduct is found to have occurred; and
- comply with the reporting requirements in accordance with the Child Protection Policy and Procedures document/s applicable to the Diocesan organisation and ensure all risk of significant harm concerns are reported to the Department of Communities and Justice.

Whilst different arrangements for engagement may apply for religious, volunteers, contractors, consultants and students on tertiary practicum placements, they are still expected to conduct themselves in accordance with the principles underpinning this Code of Conduct.

7.3. Duty of Care

An employee has a legal and moral obligation to take reasonable care for their own safety and the safety of children, students and others with whom they come into contact as part of their employment.

The duty of care is a non-delegable duty (meaning it cannot be assigned to another party) to take reasonable measures to protect children and students against risks of injury which reasonably could have been foreseen.

These obligations will arise from the specific role and responsibilities of the employee and may include the following:

- providing adequate supervision;
- providing suitable and safe premises;
- implementing strategies to prevent reasonably foreseeable injuries whether physical or psychological, to students (including injuries suffered as a result of bullying);
- undertaking risk assessments for school activities and events;
- ensuring that appropriate medical assistance is provided to a sick or injured child or student;
- ensuring the Diocesan organisation complies with the National Child Safe Standards and all relevant child protection legislation and regulation;
- taking other reasonable precautions to minimise the risk of child abuse by an individual associated with the organisation; and
- managing employee recruitment, conduct and performance.

The standard of care that is required needs to take into consideration various factors, such as a child or student's maturity and ability. Failure to exercise appropriate duty of care to a child or student that results in actual harm or has the potential to cause significant harm may constitute misconduct, neglect or negligence and/or a breach of this Code of Conduct.

7.4. Appropriate Professional Relationships and Professional Boundaries Between Employees and Students

All children and students have a right to a safe physical, emotional and responsive environment.

Employees must not behave in a way that could reasonably be construed as involving an inappropriate or overly personal relationship with or focus on a child, a student or a group of children or students.

7.4.1. Personal Relationships

Under no circumstances will a sexual relationship between an employee and a child or student be tolerated. Such relationships may be subject to criminal prosecution under the *Crimes Act 1900* (NSW).

Extreme care must be taken in any relationship between an employee and a former student, including one who is over 18 years of age. Relationships developed with students during the course

of their schooling and pursued after the students have left the school could also be subject to criminal prosecution and may be in breach of this Code of Conduct.

In circumstances where an employee or the employee's personal relationships, such as a family relationship or close friendships that involve the employee and a child or student(s), may appear to be questionable or inappropriate or may appear to be in breach of any law, this Code of Conduct or other relevant policy, the employee must report such family relationships or close friendships to their Manager and any potential or perceived conflict must be managed carefully.

7.4.2. Professional Boundaries

Employees must not engage in high risk behaviours that breach professional boundaries with children or students.

Examples of employee behaviours that are in breach of this Code of Conduct include (but are not limited to):

- persuading children or students that they have a special relationship by spending inappropriate time with them, giving gifts, inappropriately showing special favours to them and not to other children or students, inappropriately allowing the child or student to overstep the rules, or asking the child or student to keep the relationship a secret;
- testing boundaries for example by undressing in front of children or students, encouraging inappropriate physical contact (even where it is not overtly sexual), talking about sex (other than in an appropriate approved educational context) or 'accidental' intimate touching;
- exploring sexual, intimate or other personal feelings with a child or student;
- inappropriate conversations of a sexual nature;
- making sexually explicit comments or engaging in other sexually overt or implied behaviour towards or in presence of children or students;
- using sexual innuendo or inappropriate language or material with children or students;
- unwarranted and inappropriate touching;
- exposure of children or students to sexual behaviour of others;
- watching children or students undress in circumstances where supervision is not required;
- inappropriately extending a relationship outside of work;
- attending parties or socialising with children or students or inviting a child or a student to their home, or attending a child or student's home without an appropriate professional reason and without the consent of their parent or carer and the consent of their Manager;
- engaging in inappropriate personal communication (including emails, telephone calls, letters, text messages, social media or web forums);
- implementing behaviour management strategies which are demeaning and/or age inappropriate for children or students;
- being in or on a child or student's vehicle without an appropriate professional reason;
- physically entering a child or student's personal space/boundaries without an appropriate professional reason;
- inviting children or students they come into contact with as part of their engagement with CEDWW or related organisation, to join their personal social networking or messaging sites/apps or accept children or student's invitation to join theirs; and
- transporting a child or a student in a vehicle except in the case of a prior existing personal relationship where permission has been granted by the parents or carers and the Manager, or in a case of an emergency. In an emergency situation, and if parent or carer permission cannot be obtained, a second adult should accompany the staff member. In such circumstances, the Manager should be informed as soon as possible before or after the child or student has been in the employee's vehicle.

Employees must not commit a sexual offence. This encompasses all criminal offences involving a sexual element that is committed against, with or in the presence of a child, regardless of consent.

7.4.3. Physical Contact

Employees must not intentionally or recklessly engage in inappropriate physical contact with children or students, or act in ways that may cause a child or student to reasonably fear that unjustified force will be used against them. Examples of inappropriate physical contact or force include:

- hitting, striking, kicking, punching or dragging a child;
- threatening to physically harm a child;
- throwing an object to gain a child or student's attention in a hostile or an inappropriate physical manner; or
- restraining a child or student (unless as part of an approved behaviour management plan).

Conduct that is reasonably necessary to restrain a child or student from injuring others or themselves may be considered appropriate physical contact taking into consideration all factors.

7.4.4. Discipline

An employee must not correct or discipline a child, student or young person in excess of what is reasonable or appropriate for the situation. Discipline is considered excessive if it is a disproportionate response to a child or young person's behaviour.

Use of inappropriate forms of behaviour management towards a child may constitute ill-treatment of a child, which may be considered as being in breach of child protection legislation and this Code of Conduct. Examples of inappropriate conduct may include:

- locking or restraining a child as punishment;
- preventing a child from eating or using the toilet;
- malevolent acts towards a child; or
- making excessive or degrading demands of a child.

7.4.5. Photography and Filming

Employees must not photograph or film children or students, other than for educational purposes that have been approved by the Manager. Retention of children and students' photographs or films on a personal device after the images have been uploaded onto the appropriate organisation's server may constitute a breach of this Code of Conduct. Use of children and students' photographs or films are strictly prohibited other than for approved purposes.

7.5. Appropriate use of Electronic Information and Communication Technology (ICT)

Employees must comply with all relevant policies and procedures relating to the use of ICT and act consistently with Catholic values and ethics. Employer issued email accounts should be used for all professional and work-related communications. Such accounts and servers remain the property of the employer. The employer reserves the right to deploy filtering, monitoring and/or logging on to the employer's ICT infrastructure and any devices connected to the employer's network.

When using ICT and employer networks, it is expected that employees will:

- exercise good judgment;
- use appropriate language and images;
- communicate with children and young people in a manner consistent with their role and responsibilities and in relation to educational/school matters;
- not upload, download, send, circulate, display or respond to:

- o any child abuse material, including but not limited to, sexually related or pornographic messages or material containing thoughts and feelings with overly familiar or sexual connotations;
- o violent or hate-related messages or material;
- o threatening, defamatory, obscene or harassing messages or material;
- o racist or other offensive messages or material; or
- o subversive or other messages or material related to illegal activities;
- report any situation where they become aware of the inappropriate use of ICT by another employee; and
- not attempt to circumvent filtering, monitoring and/or logging rights of the employer.

Employees are reminded that the employer, in accordance with policies and procedures, reserves the right to conduct an internal audit of its computer network, internet access facilities, computers and other ICT equipment, or commission an independent audit, if deemed necessary, which includes accessing any stored content and all aspects of use, including emails.

7.6. Appropriate use of Social Media

Employees must not use social media in a manner which would bring the employer, school, parish or Catholic workplace into disrepute. Employees are permitted to use employer approved online learning communities with the children and students in order to achieve educational outcomes. In doing so, the following is expected:

- the sites used are age and developmentally appropriate for the children and students;
- children and students are provided training and information around appropriate use of the technology;
- permission from parent and/or carer must be obtained for children and students to register with online learning communities; and
- personal social networking sites, as opposed to approved online communities, must not be used by employees as a learning tool for children and students.

Employees are expected to exercise professionalism at all times in using and publishing material on official social media accounts for all Diocesan organisations or agencies. If an employee feels they have become an online target of inappropriate communication from any person employed or engaged by the Diocese, they should report their concerns to their Manager.

7.7. Use of Medications, Alcohol, Tobacco and Illicit Substances

Employees are responsible for ensuring their capacity to perform their duties is not impaired by the use of medications, alcohol, tobacco or drugs and that the use of these substances does not put them or any other person's health and safety at risk.

Employees must not attend work under the influence of alcohol, illegal drugs or non-prescribed and/or restricted substances.

7.7.1. Prescribed Medications

If an employee is required to take medication (including prescription medication) which may impair their work performance, conduct or ability to exercise duty of care, they must notify their Manager.

7.7.2. Alcohol, Tobacco and Illicit Substances

Employees must not purchase for, or offer, supply, give or administer to children or students, or condone or encourage the use of, illegal drugs, restricted substances, prescribed or non-prescribed medication (unless dealing with or administering medication in accordance with relevant policy or plan), alcohol or tobacco.

Employees must not take to work, or consume at work, work-related activities (including at retreats, excursions) or workplace, any illegal drugs or restricted substances.

Employees must not consume tobacco at work, work-related activities (including at excursions) where students or children are present or workplace.

For School based employees, they must not consume alcohol during school hours on school premises, or at any school-related or workplace related activity, where students or children are present, with the exception of events where permission has been expressly granted by the Director of Schools following a risk assessment. For school-related events where permission has been expressly granted by the Director of Schools, consumption of alcohol must be managed with the spirit of the NSW Responsible Service of Alcohol legislation and within the limitations of acceptable conduct in a professional environment.

If an employee is concerned that any person at work may be affected by alcohol or drugs, they should speak with their Manager.

The consumption of alcohol at parish/non-school functions where children are present while under parent/carer supervision must be managed within the spirit of the NSW Responsible Service of Alcohol legislation.

7.8. Reporting Obligations

7.8.1. Mandatory Reporting of Child and Young Persons at Risk of Significant Harm

All employees who deliver education or children's services, wholly or partly, to children as part of their professional work or other paid employment, and those in management positions, are mandatory reporters of children who are at risk of significant harm.

All employees, whether engaged in paid or unpaid employment, are required to report any concerns in relation to the safety, welfare or wellbeing of a child or young person to their Manager.

The Manager or their delegate must ensure they and their staff comply with all mandatory reporting obligations pursuant to *Children and Young Persons (Care and Protection) Act 1998* (NSW).

For schools, the school principal or delegate is responsible for reporting concerns to the Department of Communities and Justice and keeping an accurate record of all reported concerns.

7.8.2. Reporting Concerns about Child Protection Matters

Employees must report to their Manager:

- any charges, convictions or allegations of reportable conduct involving any employee;
- if they are charged or convicted of an offence relevant to working in child-related employment, or if they have had any reportable allegation made against them; or
- any information or concerns about inappropriate behaviour by any employee that involves a child or a student, regardless of whether that behaviour occurred inside or outside of work.

7.8.3. Reporting Criminal Matters

Under NSW legislation¹, all adults are required to report information to Police if they:

- know, believe or reasonably ought to know that a child has been abused; or

¹ Section 316A (concealing a child abuse offence) and section 43B (failing to remove the risk that a worker will commit a child abuse offence) of the *Crimes Act 1900* (NSW)

- know, believe or reasonably ought to know that they have information that might materially assist in securing the apprehension, prosecution or conviction of the offender.

This includes sexual abuse, serious physical abuse or extreme neglect of a child.

Any situation where an employee suspects that a child abuse offence has occurred which is not covered by the mandatory reporting obligations set out in this Code of Conduct, must be reported to their Manager where it arises in the employment context.

Any suspected child abuse offence that has not arisen in the employment context must be reported by the employee to the Police.

7.9. Identifying and Managing Competing Interests

7.9.1. Conflicts of Interest

Where there are existing personal relationships, such as familial relationships or close friendships that involve an employee and a student or child, the employee must take care to act with integrity and transparency, keeping in mind any actual or perceived conflict of interest.

It is expected that employee will:

- not succumb to improper pressure that may affect, or be perceived to adversely affect, their ability to fulfil their obligations and to act in accordance with Catholic values and ethics; and
- not accept gifts, benefits or favours that could be considered inappropriate or excess and such that may call into question the ethics and integrity of the employee, the mission and ethos of the Diocese and the CEDWW.

As an organisation which provides education services to children and young people, it is expected that employees will:

- inform their Manager of any conflict of interest, or perceived conflict of interest, that arises from the workplace; and
- work in an objective and impartial manner, and be seen to do so.

Examples of conflicts of interests include:

- a teacher referring their students to attend private tutoring sessions in which they, or a relative or friend, has a financial/business interest;
- an employee tutoring or coaching students from their school or workplace in return for payment;
- an employee conducting business and procuring students from the school.

7.9.2. Employment and Engagement of Family Members

This clause only applies to CEDWW employees.

CEDWW and related organisations in the Diocese, do not ordinarily permit the engagement of family members of existing employees to be engaged as a contractor at the same site in which their relative is employed, unless otherwise approved by the Director of Schools or their delegate.

CEDWW and related organisations in the Diocese permit the employment of more than one member of a family, whether or not the person concerned is employed in the same office or school insofar as an equitable and fair recruitment process is undertaken in all circumstances. Employment decisions must not be made on the basis of personal relationships and employees involved in a selection process as part of recruitment, must disclose any prior knowledge or interest in any of the applicants. Prior knowledge of an applicant does not necessarily amount to a conflict of interest.

7.9.3. Political Commentary

This clause only applies to CEDWW employees.

CEDWW and related organisations in the Diocese operate from an apolitical perspective. Employees involved in public communications on behalf of the organisation must ensure that the communications released are consistent with an apolitical perspective.

Employees must ensure that any political comment which they make via media or social media is not attributed to CEDWW or the Diocese or attributed to their role within the organisation.

7.10. Confidentiality

Employees must maintain confidentiality in relation to any matters of a child protection nature and treat confidential and personal information about children and students, their families or other employees respectfully and only communicate such information to those who need to know in order to perform their professional role. Employees must comply with relevant laws and regulations regarding the collection, dissemination, use and security of all such information.

Sharing of confidential and personal information with external persons or agencies may only occur within the established guidelines for such communication and in accordance with any relevant legislation relating to the provision of such information.

7.11. Victimisation

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

The *Children's Guardian Act 2019* (NSW) provides immunity from liability (including civil, criminal or disciplinary action) for any person who, acting in good faith, makes a report or takes action to comply with Part 4 of the *Children's Guardian Act 2019* (NSW).

The *Children and Young Persons (Care and Protection) Act 1998* (NSW) provides protection from liability (including civil, criminal or disciplinary action) if a person, acting in good faith, reports or provides any information in accordance with Chapter 3 and Chapter 16A of the legislation.

7.12. Record Keeping

Employees must maintain appropriate records and data in relation to their professional practice in the care and protection of children and students. Records can include class rolls, student assessment records, electronic documents (including digital communication records), correspondence, statements, records of interviews, case notes, student files, behaviour management plans and notifications to statutory bodies.

Employees must maintain contemporaneous records of disclosure, observations or reports regarding a child protection matter or any alleged breach of professional standards as stipulated in this Code of Conduct.

The records must be retained securely and confidentially as required by the organisation and guidance from the Manager.