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| Responsibility of: | Human Resource Services | File: | FILE2014/92 | |
| Effective Date: | October 2018 | EDOC2018/76355 | | |
| Next Review Date: | October 2020 |  | |  |
| Target Audience: | All departmental staff |  | | |

This document should be read in conjunction with Student Wellbeing – Allegations of Sexual Misconduct Procedures and Guidelines document and the [Safeguarding the Wellbeing of Children – Obligations for Mandatory Reporting of Harm and Exploitation Guidelines.](https://education.nt.gov.au/__data/assets/word_doc/0008/642527/guidelines_mandatory_reporting_of_harm_and_exploitation_of_children.docx)

# POLICY

The department has a responsibility to ensure the safety and wellbeing of all children and young people in its care, and takes this responsibility very seriously. Each individual departmental staff member, volunteer, school council employee or other adult in the vicinity of children or young people in the department’s care must contribute to the creation of a safe environment[[1]](#footnote-1).

Child sexual abuse is any sexual act or threat imposed on a child or young person by an adult, adolescent, or another child. People who sexually abuse children/young people, exploit the unequal power relationship between them and the child/young person. Coercion (physical or psychological) and exploitation of the child/young person’s dependency and immaturity is intrinsic to sexual abuse.

The intent of this policy is to ensure that the safety, wellbeing and best interests of children and young people are met if they become the subject of sexual misconduct by an adult who has a connection with the school site. This includes staff, volunteers, school council employees and other adults in the vicinity of children and young people in the department’s care, where the allegations affect the suitability of that adult to work or volunteer with children/young people.

The Safeguarding the Wellbeing of Children – Obligations for Mandatory Reporting of Harm and Exploitation Guidelines provides information pertaining to sexual misconduct by another child.

Sexual misconduct is a complicated and sensitive matter that requires an immediate response. It ranges from inappropriate conduct that could form the basis of disciplinary proceedings, through to sexual misconduct of a criminal nature that is referred to the police. Given that even low level sexual misconduct on the part of the offender can have a serious impact on the victim it is important that every allegation is taken very seriously and reported.

# BUSINESS NEED

Staff conduct is guided and regulated by the [*Public Sector Employment and Management Act* and its associated Code of Conduct (Employment Instruction 12)](http://www.ocpe.nt.gov.au/working_in_the_ntps/legislation/code_of_conduct).

The sensitive and complicated nature of misconduct of a sexual nature involving children warrants more detailed guidance being made available for schools.

This policy and the associated Guidelines and Procedures includes advice for dealing with other adults associated with schools who are not departmental employees.

# SCOPE

This policy applies to all allegations of sexual misconduct made against any adult who has a connection with the school. This includes staff, volunteers, school council employees and other adults in the vicinity of children and young people in the department’s care, where the allegations may affect the suitability of that adult to work or volunteer with children and young people.

The policy applies to all allegations of sexual misconduct including but not limited to where any of the following situations exist:

* the allegation is disclosed on or off the site
* the incident is alleged to have occurred on or off the site
* at the time of the alleged incident, the victim was or was not in the direct care of the site.

The policy applies to adult sexual misconduct inclusive of inappropriate conduct that could form the basis of disciplinary proceedings, through to sexual misconduct of a criminal nature.

# DEFINITIONS

**Sexual misconduct** – means sexual misconduct by an adult, inclusive of inappropriate conduct that could form the basis of disciplinary proceedings, through to sexual misconduct of a criminal nature (information pertaining to sexual misconduct by another child is provided in the [Safeguarding the Wellbeing of Children – Obligations for the Mandatory Reporting of Harm and Exploitation guidelines](https://education.nt.gov.au/__data/assets/word_doc/0008/642527/guidelines_mandatory_reporting_of_harm_and_exploitation_of_children.docx).)

**Site** – includes, but is not limited to, the primary care location such as a school or early years care location, as well as other locations such as camps and excursions.

**Staff** – all DoE employees engaged at the site or elsewhere who may have access to or interact with children or young people in the department’s care.

**Victim** - means the child or young person against whom an act of sexual misconduct by an adult who has a connection to a site has been alleged.

# RELATED POLICY, LEGISLATION AND DOCUMENTS

**Legislation**

* [*Public Sector Employment and Management Act* and its associated Code of Conduct (Employment Instruction 12)](http://www.ocpe.nt.gov.au/working_in_the_ntps/legislation/code_of_conduct)
* *[Care and Protection of Children Act](https://legislation.nt.gov.au/en/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007)*
* *[Education Care Services (National Uniform Legislation) Act 2011](https://legislation.nt.gov.au/Legislation/EDUCATION-AND-CARE-SERVICES-NATIONAL-UNIFORM-LEGISLATION-ACT-2011)*
* [*Teacher Registration (Northern Territory) Act*](https://legislation.nt.gov.au/Legislation/TEACHER-REGISTRATION-NORTHERN-TERRITORY-ACT-2004)
* [*NT Work Health and Safety (National Uniform Legislation) Act*](https://legislation.nt.gov.au/Legislation/WORK-HEALTH-AND-SAFETY-NATIONAL-UNIFORM-LEGISLATION-ACT-2011)
* [*NT Work Health and Safety (National Uniform Legislation) Regulations*](https://legislation.nt.gov.au/Legislation/WORK-HEALTH-AND-SAFETY-NATIONAL-UNIFORM-LEGISLATION-REGULATIONS-2011)
* [*Sexual Offences (Evidence and Procedure) Act*](https://legislation.nt.gov.au/Legislation/SEXUAL-OFFENCES-EVIDENCE-AND-PROCEDURE-ACT-1983)
* [*Criminal Code Act*](https://legislation.nt.gov.au/Legislation/CRIMINAL-CODE-ACT-1983)

**Departmental policy**

* [Safeguarding the Wellbeing of Children – Obligations for the Mandatory Reporting of Harm and Exploitation guidelines](https://education.nt.gov.au/__data/assets/word_doc/0008/642527/guidelines_mandatory_reporting_of_harm_and_exploitation_of_children.docx)
* [Working with Children Clearance Notices (Ochre Cards) policy and procedures](https://education.nt.gov.au/__data/assets/word_doc/0009/258192/Working-with-Children-Clearance-Notices-Policy.doc)

**External reference materials**

* [Protective Practices for Teachers in their Interactions with Children and Young People](https://www.education.sa.gov.au/sites/g/files/net691/f/protective_practices_for_staff_in_their_interactions_with_children_and_young_people.pdf)
* [Managing allegations of sexual misconduct in SA education and care settings](https://www.education.sa.gov.au/sites/g/files/net691/f/managing_allegations_of_sexual_misconduct_in_sa_education_and_care_settings.pdf)

# EVALUATION

Human Resource Services will, in collaboration with the regions and schools, evaluate the application and effectiveness of the policy on a two yearly basis using information and feedback from periodical incident reviews conducted by Executive Director School Improvement and Leadership.

Human Resource Services will take responsibility for the ongoing review of implementation and the continued development of resources to support the response and management of allegations of sexual misconduct.

General Manager Quality School Systems and Support, Executive Director Corporate Services and Principals are responsible for the ongoing evaluation of regional and school-level implementation of this policy.

# ACKNOWLEDGEMENTS

The department gratefully acknowledges the South Australian (SA) Department for Education and Child Development, Catholic Education SA and the Association of Independent Schools of SA for their approval to substantially base this document on [Managing allegations of sexual misconduct in SA education and care settings](https://www.education.sa.gov.au/sites/g/files/net691/f/managing_allegations_of_sexual_misconduct_in_sa_education_and_care_settings.pdf).

The department also gratefully acknowledges the support of Territory Families and the Northern Territory Police with the drafting of this documentation.

1. For the care and safety of children and young people all adults in the Northern Territory must abide by their legal obligation mandated by section 26 of the [*Care and Protection of Children Act*](https://legislation.nt.gov.au/en/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007) to report to Territory Families, or the police, any reasonable belief they have that a child has been, or is likely to be, abused or neglected, or has been or is likely to be a victim of a sexual offence. [↑](#footnote-ref-1)