

## Child Protection Policy

<b>Purpose:</b>	The purpose of this policy is to provide a policy as part of Peace Lutheran Primary School's written processes about how the school will respond to harm, or allegations or harm, to students under 18 years old, and the appropriate conduct of the school's staff and students, to comply with accreditation requirements and the relevant legislation listed below.	
<b>Scope:</b>	Students and employees, including full-time, part-time, permanent, fixed-term and casual employees, as well as contractors, volunteers and people undertaking work experience or vocational placements at Peace Lutheran Primary School and covers information about the reporting of harm and abuse	
<b>Status:</b>	Approved	<b>Date of Approval:</b> 28 February 2023
<b>Approved by:</b>	School Council	
<b>References:</b> <b>Legislation</b>  <b>Related School Policies / Procedures</b>	<ul style="list-style-type: none"> <li>• <u><a href="#">Child Protection Act 1999 (Qld)</a></u></li> <li>• <u><a href="#">Education (General Provisions) Act 2006 (Qld)</a></u></li> <li>• <u><a href="#">Education (General Provisions) Regulation 2017 (Qld)</a></u></li> <li>• <u><a href="#">Education (Accreditation of Non-State Schools) Act 2017 (Qld)</a></u></li> <li>• <u><a href="#">Education (Accreditation of Non-State Schools) Regulation 2017 (Qld)</a></u></li> <li>• <u><a href="#">Working with Children (Risk Management and Screening) Act 2000 (Qld)</a></u></li> <li>• <u><a href="#">Working with Children (Risk Management and Screening) Regulation 2020 (Qld)</a></u></li> <li>• <u><a href="#">Criminal Code Act 1899 (sections 229BB and 229BC)</a></u></li> <li>• Peace Lutheran Primary School Complaints and Grievance Policy</li> <li>• Peace Lutheran Primary School Child Risk Management Strategy (for the <i>Working with Children (Risk Management and Screening) Act 2000 (Qld)</i>)</li> <li>• Peace Lutheran Primary School Work Health and Safety Policy (<u><a href="#">Work Health and Safety Act 2011 (Qld)</a></u>)</li> <li>• Peace Lutheran Primary School Code of Conduct for Staff</li> <li>• Peace Lutheran Primary School Child Protection Reporting Form</li> </ul>	
<b>Review Date:</b>	Annually	<b>Next Review Date:</b> Guided by LEQ
<b>Policy Owner:</b>	School Council	

## Definitions

- **Section 9 of the *Child Protection Act 1999* - “Harm”**, to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.
  1. It is immaterial how the harm is caused.
  2. Harm can be caused by—
    - a) physical, psychological or emotional abuse or neglect; or
    - b) sexual abuse or exploitation.
  3. Harm can be caused by—
    - a) a single act, omission or circumstance; or
    - b) a series or combination of acts, omissions or circumstances.
- **Section 10 of the *Child Protection Act 1999* - A “child in need of protection”** is a student who—
  - a) has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm; and
  - b) does not have a parent able and willing to protect the child from the harm.
- **Section 364 of the *Education (General Provisions) Act 2006* - “Sexual abuse”**, in relation to a relevant person, includes sexual behaviour involving the relevant person and another person in the following circumstances –
  - (a) the other person bribes, coerces, exploits, threatens or is violent toward the relevant person;
  - (b) the relevant person has less power than the other person;
  - (c) there is a significant disparity between the relevant person and the other person in intellectual capacity or maturity

## Health and Safety

The school has written processes in place to enable it to comply with the requirements of the *Work Health and Safety Act 2011 (Qld)* and the *Working with Children (Risk management and Screening) Act 2000 (Qld)*

## Responding to Reports of Harm

When the school receives any information alleging 'harm'<sup>1</sup> to a student (other than harm arising from physical or sexual abuse) it will deal with the situation compassionately and fairly so as to minimise any likely harm to the extent it reasonably can. This is set out in the school’s Child Risk Management Strategy. Included in the consideration of how this should best be dealt with by the school, reference needs to be made to the school’s Code of Conduct for Staff, the Student Respectful Relationships Facilitation Policy and Procedures, Anti-bullying and/or anti-harassment policy, and external support agencies depending on who is alleged to have caused the harm and where it is alleged to have occurred. Information relating to physical or sexual abuse is handled under obligations to report set out in this policy<sup>2</sup>.

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<sup>1</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld)* s.16(7): the definition of 'harm' for this regulation is the same as in section 9 of the *Child Protection Act 1999 (Qld)*

<sup>2</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld)* s.16(1)

### Conduct of Staff and Students

All staff, contractors and volunteers must ensure that their behaviour towards, and relationships with students reflect proper standards of care for students. Staff, contractors and volunteers must not cause harm to students<sup>3</sup>.

### Reporting Inappropriate Behaviour

If a student considers the behaviour of a staff member to be inappropriate, the student should report the behaviour to:-

- The Principal or
- Deputy Principal/Pastoral Carer<sup>4</sup>

### Dealing with Report of Inappropriate Behaviour

A staff member who receives a report of inappropriate behaviour must report it to the Principal. Where the Principal is the subject of the report of inappropriate behaviour, the staff member must inform a member of the school's governing body<sup>5</sup>. Reports will be dealt with under the school's Complaints & Grievance Handling Policy and/or Procedures.

### Reporting Sexual Abuse<sup>6</sup>

Section 366 of the *Education (General Provisions) Act 2006* states that if a staff member becomes aware, or reasonably suspects in the course of their employment at the school, that any of the following has been sexually abused by another person:

- a) a student under 18 years attending the school;
- b) a kindergarten aged child registered in a kindergarten learning program at the school;
- c) a person with a disability who:-
  - i. under section 420(2) of the *Education (General Provisions) Act 2006* is being provided with special education at the school; and
  - ii. is not enrolled in the preparatory year at the school;

then the staff member must give a written report about the abuse or suspected abuse to the Principal or to the Executive Director<sup>7</sup> of Lutheran Education Queensland ([director@leg.lutheran.edu.au](mailto:director@leg.lutheran.edu.au)) immediately. The school's Principal or Executive Director of Lutheran Education Queensland must immediately give a copy of the report to a police officer.

If the first person who becomes aware or reasonably suspects sexual abuse is the school's Principal, the Principal must give a written report about the abuse, or suspected abuse to a police officer immediately and must also give a copy of the report to the Executive Director of Lutheran Education Queensland immediately.

A report under this section must include the following particulars:-

- a) the name of the person giving the report (the **first person**);
- b) the student's name and sex;
- c) details of the basis for the first person becoming aware, or reasonably suspecting, that the student has been sexually abused by another person;
- d) details of the abuse or suspected abuse;
- e) any of the following information of which the first person is aware:-

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<sup>3</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(1)*

<sup>4</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2) and 16(3)*

<sup>5</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2)*

<sup>6</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2)(c)*

<sup>7</sup> The Lutheran Church of Australia Queensland District has delegated its director's reporting function under s366 and 366A of the *Education (General Provisions) Act 2006* to the Executive Director, Lutheran Education Queensland in line with s 366B.

- i. the student's age;
- ii. the identity of the person who has abused, or is suspected to have abused, the student;
- iii. the identity of anyone else who may have information about the abuse or suspected abuse<sup>8</sup>.

### **Reporting Likely Sexual Abuse**<sup>9</sup>

Section 366A of the *Education (General Provisions) Act 2006* states that if a staff member reasonably suspects in the course of their employment at the school, that any of the following is likely to be sexually abused by another person:-

- a) a student under 18 years attending the school;
- b) a kindergarten aged child registered in a kindergarten learning program at the school;
- c) a person with a disability who:-
  - i. under section 420(2) of the *Education (General Provisions) Act 2006* is being provided with special education at the school; and
  - ii. is not enrolled in the preparatory year at the school

then the staff member must give a written report about the suspicion to the Principal or to the Executive Director<sup>10</sup> of Lutheran Education Queensland ([director@leq.lutheran.edu.au](mailto:director@leq.lutheran.edu.au)) immediately. The school's Principal or the Executive Director of Lutheran Education Queensland must immediately give a copy of the report to a police officer.

If the first person who reasonably suspects likely sexual abuse is the school's Principal, the Principal must give a written report about the suspicion to a police officer immediately and must also give a copy of the report to the Executive Director of Lutheran Education Queensland immediately.

A report under this section must include the following particulars:-

- a) the name of the person giving the report (the **first person**);
- b) the student's name and sex;
- c) details of the basis for the first person reasonably suspecting that the student is likely to be sexually abused by another person;
- d) any of the following information of which the first person is aware:-
  - i. the student's age;
  - ii. the identity of the person who has abused, or is suspected to be likely to abuse, the student;
  - iii. the identity of anyone else who may have information about suspected likelihood of abuse<sup>11</sup>.

### **Reporting Physical and Sexual Abuse.**<sup>12</sup>

Under Section 13E (3) of the *Child Protection Act 1999*, if a doctor, a registered nurse, an early education and care professional or a teacher forms a 'reportable suspicion' about a child in the course of their engagement in their profession, they must make a written report.

A **reportable suspicion** about a child is a reasonable suspicion that the child: -

- a) has suffered, is suffering, or is at unacceptable risk of suffering, significant harm caused by physical or sexual abuse; and
- b) may not have a parent able and willing to protect the child from the harm.

<sup>8</sup> *Education (General Provisions) Regulation 2017 (Qld) s.68*

<sup>9</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2)(c)*

<sup>10</sup> The Lutheran Church of Australia Queensland District has delegated its director's reporting function under s366 and 366A of the *Education (General Provisions) Act 2006* to the Executive Director, Lutheran Education Queensland in line with s 366B.

<sup>11</sup> *Education (General Provisions) Regulation 2017 (Qld) s.68A*

<sup>12</sup> *Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(2)(d)*

The doctor, nurse, early education and care professional or teacher must give a written report to the Chief Executive of the Department of Children, Youth Justice and Multicultural Affairs (or other department administering the *Child Protection Act 1999*). The doctor, nurse, early education and care professional or teacher should then give a copy of the report to the Principal.

A report under this section must include the following particulars:-

- a) the child's name and sex;
- b) the child's age;
- c) details of how to contact the child;
- d) details of the harm to which the reportable suspicion relates;
- e) particulars of the identity of the person suspected of causing the child to have suffered, suffer, or be at risk of suffering, the harm to which the reportable suspicion relates;
- f) particulars of the identity of any other person who may be able to give information about the harm to which the reportable suspicion relates<sup>13</sup>.

The South-West (West Moreton) Child Safety Regional Intake Service can be contacted on 1300 316 855 during business hours (from 9am to 5pm Monday to Friday). Outside of these hours, the Child Safety After Hours Service Centre can be contacted on phone freecall 1800 177 135 (Queensland only).

### **Responsibilities under Criminal Code Act 1899 (Qld) – all Adults**

In addition to the reporting requirements under the *Child Protection Act 1999* and *Education (General Provisions) Act 2006*, all adults (inclusive of parents/guardians, volunteers and students 18 years or older) also have obligations under the *Criminal Code Act 1899* to report to police information relating to child sexual offences should they have reasonable belief that an adult has committed a child sexual offence.

The *Criminal Code Act 1899* includes two offences that pertain to the failure to report a child sexual offence and the failure to protect a child against a child sexual offence. A child sexual offence is an offence of a sexual nature by an adult against a child under 16 years or a person with an impairment of the mind.

#### **Failure to Report<sup>14</sup>**

Under section 229BC of the *Criminal Code Act 1899*, all adults, inclusive of parents/guardians, volunteers and students 18 years or older must report sexual offences against a child by another adult to police as soon as reasonably practicable after the belief is, or ought reasonably to have been, formed. Failure to make a report, without a reasonable excuse, is a criminal offence. A reasonable excuse not to make a report under the *Criminal Code Act 1899* includes that a report has already been made under the *Education (General Provisions) Act 2006* (reporting sexual abuse or likely sexual abuse) and the *Child Protection Act 1999* (reporting significant harm or risk of significant harm) as per this policy.

#### **Failure to Protect<sup>15</sup>**

Under section 229BB of the *Criminal Code Act 1899*, all adults (inclusive of parents/guardians, volunteers and students 18 years or older) in positions of power or responsibility within institutions to reduce or remove the risk of child sexual offences being committed must take reasonable steps to protect children in their care from a child sexual offence. A failure to protect is an offence. All adults (inclusive of, but not limited to parents/guardians, volunteers and students 18 years or older) will commit an offence if:

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<sup>13</sup> See *Child Protection Regulation 2011 (Qld) s.10* "Information to be included in report to chief executive"

<sup>14</sup> *Criminal Code Act 1899 (Qld) s.229BC*

<sup>15</sup> *Criminal Code Act 1899 (Qld) s.229BB*

- a) the adult knows there is a significant risk that another adult (the alleged offender) will commit a child sexual offence in relation to a child; and
- b) the alleged offender is associated with the school (or another institution) or is a regulated volunteer; and
- c) the child is under the care, supervision or control of the school; and
- d) the child is under 16 years or is a person with an impairment of the mind; and
- e) the adult has the power or responsibility to reduce or remove the risk; and
- f) the adult wilfully or negligently fails to reduce or remove the risk.

If in doubt, always assume that a matter is reportable.

### **Awareness and Accessibility of the Policy and Procedures**

The school will inform staff, students and parents of its procedures relating to the health, safety and conduct of staff and students in written communications to them and it will publish these procedures for their access on its website and will be available on request from the school office<sup>16</sup>.

### **Training**

The school will train its staff in processes relating to the health, safety and conduct of staff and students on their induction and will refresh training annually<sup>17</sup>. A record of attendance by staff in induction training and annual refresher sessions will be maintained by the school.

### **Implementing the Policy and Procedures**

The school will ensure it is implementing procedures relating to the health, safety and conduct of staff and students by auditing compliance with the procedures annually<sup>18</sup>.

### **Complaints Procedure**

Suggestions of non-compliance with the school's processes may be submitted as complaints under the School's Complaints & Grievance Policy.<sup>19</sup>

### **Important Contact Details**

Queensland Police Service	000 (in an emergency) or (07) 46316999
Department of Children, Youth Justice and Multicultural Affairs	1800 177 135 or (07) 3235 9999
Family and Child Connect	13 32 64 or at <a href="https://familychildconnect.org.au/">https://familychildconnect.org.au/</a>
Queensland College of Teachers	(07) 3377 4777

Note: Reporting under this policy fulfills the obligations for reporting a child sexual offence that is being or has been committed against a child by an adult under the *Criminal Code Act 1899 s.229BC*<sup>20</sup>

<sup>16</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(4)(a) and 16(4)(b)

<sup>17</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(4)(c)

<sup>18</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(4)(d)

<sup>19</sup> Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(5) and s.16(6)

<sup>20</sup> Criminal Code Act 1899 (Qld) s.229BC (4)(b)