

# PROCEDURE FOR RESPONDING TO CHILD PROTECTION CONCERNS (NSW)

Adopted by Church Leadership Team on 25 August 2020

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## PURPOSE

The *Procedure for Responding to Child Protection Concerns (the Procedure)* sets out a procedure to follow when a complaint or information about any form of child protection concern is received. In NSW this includes a Child Abuse Offence, Child Sexual Abuse, Sexual Misconduct involving a Child, or that a child is at Risk of Significant Harm.

The Church and its staff and volunteers have legal obligations to report certain information to government authorities, this includes duties under the *Crimes Act 1900 (NSW)*, *Ombudsman Act 1974 (NSW)*, *Children and Young Persons (Care and Protection) Act 1998 (NSW)* and the *Children's Guardian Act 2019*.

Some of these duties apply to the church as an organisation or to church leaders, some of the duties apply to individuals. In some circumstances, failing to report knowledge of child abuse incidents to NSW Police may be a criminal offence. Baptist Churches of NSW & ACT have developed this *Procedure* to address all relevant duties in a way that is both thorough and practical.

## SCOPE

This Procedure applies to all staff and volunteers of the Church.

**If you have any doubt as to whether a complaint or information would fall within the scope of the Procedure, or about any of the steps set out in the Procedure, contact the Baptist Churches of NSW & ACT Ministry Standards Manager (1300 647 780).**

The Procedure should be read in conjunction with the *Safe Church Policy* and:

- *Procedure for Handling Complaints Against Staff and Volunteers*
- *Safe Church Concerns Form*

## 1. RECEIVING A COMPLAINT OR IDENTIFYING A CHILD PROTECTION CONCERN

A child protection concern may include concerns regarding:

- a child at Risk of Significant Harm
- a Child Abuse Offence,
- Child Sexual Abuse,
- Sexual Misconduct involving a child,
- physical abuse of a child,
- serious neglect of a child,
- exposure of a child to Domestic and Family Violence
- or any other reason for concern.

A child protection concern may be received:

- from a child who has been directly involved;
- from an adult who has been directly involved (including personal disclosures of wrongdoing);
- from another person with information about a child or adult;
- from another organisation with information about a child or adult;
- from staff or volunteers who have concerns based on their observations and interactions with one or more children or adults.

If someone raises a concern or reports an allegation:

- DON'T promise not to report the information
- DON'T ask leading questions
- DON'T attempt to assess the validity of the concern, or seek to investigate any allegation yourself
- DO clarify information reported to you if appropriate (for example, 'Can you tell me more about that?')
- DO assure the person that appropriate action will be taken
- if a child, DO reassure them that they are not at fault and that they will not be in trouble for sharing this information

If a staff member or volunteer has a concern about a child's wellbeing but have not received any specific information they may report the concern using the *Safe Church Concerns Form*.

## 2. CONSIDER WHETHER THERE IS AN IMMEDIATE DANGER TO A CHILD

Where there is an **immediate** danger to a child:

- contact the Police immediately on (131 444 or 000) and report the information;
- follow any instructions given by the Police;
- address any immediate safety needs of others present; and
- organise support for the person who has disclosed the complaint or information.

### 3. INTERNAL REPORTING

#### a) Complete Safe Church Concern Form

- If a staff member or volunteer has or is notified of a child protection concern they should complete a *Safe Church Concerns Form* as soon as possible. This form should include relevant details of the concern, contact information, and the signature of the person completing the form.

#### b) Notify the Safe Church Team

- If a staff member or volunteer has or is notified of a child protection concern they must inform the Safe Church Team as soon as possible. The Safe Church Team is responsible for ensuring the church fulfils its legal obligations and ensuring that all concerns are managed appropriately.
- If there is any delay before the Safe Church Team can be contacted, the individual should consider whether it is necessary to report their concerns to external government agencies as outlined in step 4 below. They may contact the Ministry Standards Hotline on 1300 647 780 for advice.
- Staff and volunteers should ensure they do not discuss any concerns raised with the accused person at this point in time. Doing so may impede future investigation processes.
- If the concern raised would create a conflict of interest for a member of the Safe Church Team consider contacting the Baptist Churches of NSW & ACT Ministry Standards Hotline on 1300 647 780 for advice.

### 4. EXTERNAL REPORTING TO GOVERNMENT AGENCIES

#### a) Safe Church Team Responsibilities

The Safe Church Team should:

- ensure all necessary reports are made. Reports to different government agencies is required for different purposes and therefore multiple reports may be required.
- keep detailed contemporaneous notes of all information and steps taken.
- should also follow all relevant steps outlined in the *Procedures for Handling Complaints Against Staff and Volunteers*.

#### b) Report Risk of Significant Harm to Department of Communities and Justice (formerly known as FACS or DOCS)

- If the Safe Church Team determine that there is a child at Risk of Significant Harm then they are to make a report as soon as possible to the Child Protection Helpline via 132 111 or an e-report.
- If there is any doubt whether a concern would be considered a Risk of Significant Harm then the Safe Church Team should complete the Mandatory Reporter Guide (MRG) at <https://reporter.childstory.nsw.gov.au/s/mrg>
- If the MRG results in 'Immediate Report to the Child Protection Helpline', make a report as soon as possible to the Child Protection Helpline via 132 111 or an e-report.

- The MRG result may suggest other actions be taken. Please contact Baptist Churches of NSW & ACT Ministry Standards Hotline on 1300 647 780 if any assistance is required.
- The Safe Church Team should keep a copy of the MRG report for their records.

**Risk of Significant Harm** means that there are current concerns for the safety, welfare or wellbeing of a child or young person, including due to:

- Basic needs not being met (or at risk of not being met)
- Lack of necessary medical care
- Physical or sexual abuse (or risk of physical or sexual abuse)
- Domestic violence in the household
- Parent or caregiver behaving in a way that has caused, or is likely to cause, serious psychological harm

**A Mandatory Reporter** is anyone who, in the course of their work delivers certain services to children or holds a management position in an organisation that delivers certain services to children.

**Due to legislative changes made under the Children’s Guardian Act** any person providing religious activities to children is now a Mandatory Reporter. **This applies to staff and volunteers.**

c) **Report Child Abuse Offences to Police**

- If the Safe Church Team considers that a Child Abuse Offence may have been committed they must report this to the NSW Police regardless of whether the victim of the alleged abuse wants this report to be made.
- The requirement to report to NSW Police includes both recent incidents and allegations of historic abuse. The Safe Church Team should notify the Baptist Churches of NSW & ACT Ministry Standards Hotline (1300 647 780) of any allegations of a Child Abuse Offence.
- Failing to Report a Child Abuse Offence to NSW Police without a reasonable excuse may be considered a Concealing Child Abuse Offence which is punishable by up to two years imprisonment.

**Concealing Child Abuse (Failure to Report) Offence**

If an adult fails to report a Child Abuse Offence to the NSW Police this may constitute a Concealing Child Abuse Offence under s316A of the Crimes Act if they:

- believe, know or reasonably ought to know that a Child Abuse Offence has been committed against another person; and
- believe, know or reasonably ought to know that they have information that might be of material assistance to the NSW Police in securing the apprehension, prosecution or conviction of the person who has committed that offence; and
- do not have a ‘reasonable excuse’ not to report the information.

#### Reasonable excuses for not reporting to Police may include

- If you believe (on reasonable grounds) that the information is already known to Police;
- If you have made a Report/ to another government body such as Department of Communities and Justice, Ombudsman or the Office of the Children’s Guardian
- If the alleged victim is no longer a child and you have reasonable grounds to believe that the person does not want the information reported to Police;
- If you have reasonable grounds to fear for the safety of the alleged victim or any other person (other than the offender) if the information is reported to Police.

#### d) Report Allegations of Reportable Conduct to the Office of Children’s Guardian

**Please note that legislation presented to the NSW Parliament in October 2019 has included all religious bodies in the Reportable Conduct Scheme. This legislation has not yet been enacted, however, we have drafted this procedure document in accordance with the *Children’s Guardian Bill 2019*. This procedure document will need to be reviewed once the legislation is finalised to ensure it reflects ongoing obligations.**

Under the Reportable Conduct Legislation churches may be asked to nominate a Head of Entity for the purposes of the Reportable Conduct Scheme. The Head of Entity would typically be either the paid senior pastor or the chair of the church governance body. The Head of Entity may choose to delegate responsibilities under the Reportable Conduct Legislation to the Safe Church Team in accordance with section 65 of the *Children’s Guardian Act (2019)*.

In the event of receiving any allegations that any staff or volunteer who is required to hold a Working With Children Check has engaged in Reportable Conduct, the Head of Entity must:

- notify the Reportable Conduct Scheme (administered by the Office of the Children’s Guardian) as soon as practicable, but within a maximum of 7 days from receiving the complaint or information (see Section 2.2 of the *Procedures for Handling Complaints Against Staff and Volunteers*)
- As soon as practicable, conduct an investigation or appoint a suitable person to conduct an investigation regarding the reportable allegation (see Section 6 of the *Procedures for Handling Complaints Against Staff and Volunteers*)
- Provide a written “entity report” to the Reportable Conduct Scheme within 30 days of receiving information about the Reportable Allegation (see Section 11 of the *Procedures for Handling Complaints Against Staff and Volunteers*)

**Children's Guardian Bill 2019****20 Meaning of "reportable conduct"**

Reportable conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded—

- a) a sexual offence,
- b) sexual misconduct,
- c) ill-treatment of a child,
- d) neglect of a child,
- e) an assault against a child,
- f) an offence under section 43B or 316A of the Crimes Act 1900,
- g) behaviour that causes significant emotional or psychological harm to a child.

**5. ACCOUNTABILITY MEASURES****a) Report back to person making initial notification**

- As soon as is practicable (no longer than 48 hours after notification), the Safe Church Team must inform the person completing the initial *Safe Church Concerns Form* of what action they have taken including any reports made and the 'report number' for reports to NSW Police or the Child Protection Hotline.
- If the Safe Church Team determines that it is not necessary to make a report to NSW Police, or the Child Protection Hotline, the person who completed the initial *Safe Church Concerns Form* may choose to make a report to NSW Police, or the Child Protection Hotline themselves in order to ensure that they have not breached s316A of the *Crimes Act 1900* (NSW), or obligations under the Mandatory Reporting legislation.

**b) Report to Baptist Churches of NSW & ACT**

If a Child Protection Concern has been reported to any government agency the Safe Church Team should advise the Baptist Churches of NSW & ACT Ministry Standards Manager via email on [standards@nswactbaptists.org.au](mailto:standards@nswactbaptists.org.au) of the matter for the Association's confidential records, and to seek confirmation that the matter has been managed appropriately.

**6. RECORDKEEPING**

The Safe Church Concerns Form, Mandatory Reporters Guide report (if completed) and detailed notes of action taken in relation to any Child Protection Concern must be kept secure for a minimum of 45 years.

**7. ADVICE AND SUPPORT**

If you have questions about whether a report should be made please contact the Baptist Churches of NSW & ACT Ministry Standards Manager on 1300 647 780 for advice, guidance and support.