

12. CHILD PROTECTION	12. CHILD PROTECTION		
Document	12.4: CHILD SAFE PROCEDURE – REPORTING TO POLICE		
Endorsement:		Review Date:	
Review Panel	The Chief Executive Officer, Principal and Compliance Manager must be a part of the review of this procedure. The procedure will be reviewed and updated as required and at least every two years.		
Purpose:	<p>Shoalhaven River College (SRC), is committed to ensuring that all children and young people are protected, and kept safe from harm.</p> <p>The purpose of this procedure is to explain when a report to police is required to meet the organisation’s child safe responsibilities, and to provide related guidance to employees. It includes information about criminal offences for failing to report child abuse to police.</p>		
Scope:	<p>This procedure applies to all adults associated with SRC including those working for, or engaged by, the College, regardless of whether their involvement or work is paid or unpaid or child-related, and members of the Board of Directors.</p> <p>The procedure applies to all SRC activities which result in or relate to contact with children and young people, both face-to-face and online, whether on-site or off-site (including, for example, sporting events, camps, or excursions).</p>		
RANGS Manual:	3.6 Safe and Supportive Environment; 3.6.1		
Policy	<p>When SRC knows or suspects that a child abuse offence has occurred, a report will be made to police. The obligation to report to police is separate and additional to other reporting obligations, including (where required) mandatory reporting and notifying reportable conduct to the Office of the Children’s Guardian (OCG). Child abuse offences should always be reported to police before they are reported to other relevant organisations. Failing to report a child abuse offence to police may be a criminal offence.</p> <p>Types of child abuse offences Child abuse offences include (but may not be limited to):</p> <ul style="list-style-type: none"> • sexual offences, including sexual assault, sexual touching, and sexual acts • special care offences (engaging in sexual intercourse or sexual touching with a student aged 16 or 17 year old in a special care relationship) – staff must not engage in sexual activity with a student aged 16 or 17 • procuring or grooming a child under 16 for unlawful sexual activity • grooming a person for unlawful sexual activity with a child under the person’s authority • assault • possessing, making, or distributing child abuse material (pornography) • spiking drink or food • murder, intent to murder and manslaughter • choking, suffocation and strangulation 		

- female genital mutilation
- forced marriage under the age of 18
- failing to provide the necessities of life
- failing to reduce or remove the risk of a child becoming the victim of child abuse
- concealing a child abuse offence
- attempting to commit any of the above

Procedure for reporting child abuse offences

1. If there is an immediate risk to the safety of a child or young person, an employee must immediately make a report to police by contacting 000 and follow their directions. They must then notify the Principal or CEO of Kiama Community College as soon as practical but no later than the end of the day.
2. Otherwise, any employee who has a child protection concern, including information about a child abuse offence, must report it to the Principal. If the concern or offence involves the Principal, or the Principal is absent, report it to the CEO.
3. The Principal/CEO will immediately report any allegation of a criminal offence to police (131 444 for non-emergencies) and follow their directions/advice in relation to risk management, securing evidence and communicating with others about the report. They will then ensure any reporting obligations to other authorities are met.
4. Any employee who makes a report to police must record the date the report was made and who the report was made to and obtain an Event Number from police.
5. Employees will cooperate with police and follow their directions.

Historical allegations

Under no circumstances should any individual be interviewed or asked leading questions in the initial stages of identifying and responding to a child protection concern that may be a criminal offence. These actions may compromise a criminal investigation or legal proceedings.

If necessary, open questions (e.g. 'What happened next?', 'Can you tell me more about that?', 'Who hurt you?') may be asked to gain a clear understanding of the allegation – stop as soon as there is enough basic information to clarify the allegation or if the person providing the information becomes distressed.

Historical allegation is a term used to describe an allegation of abuse that happened to someone (now an adult) when they were under the age of 18. Sometimes, historical allegations arise many years or decades after the abuse allegedly occurred.

The Principal/CEO will report information about historical allegations of child abuse offences to police. The alleged victim will be informed of this. If the alleged victim does not want to speak to police, SRC will provide this advice to police and

endeavour to protect the confidentiality of their personal information while complying with the s.43B of the *Crimes Act 1900*. In some circumstances, where there are current risks to a person's safety or to meet the organisation's legal obligations, SRC will be required to provide personal information to police.

Police investigation of child abuse offences

The most serious child abuse offences (sexual assault, serious physical abuse and extreme neglect) are investigated by the NSW Police Force Child Abuse and Sex Crimes Squad, as part of the multi-agency Joint Child Protection Response Program (JCPRP), which also includes the Department of Communities and Justice (DCJ) and NSW Health. Child abuse offences which do not meet the criteria for referral to JCPRP, including historical allegations, are investigated by local police districts. SRC will cooperate fully with the JCPRP and police in relation to reported child abuse offences.

Offences for failing to protect a child/failing to report child abuse

There are specific offences in the *Crimes Act 1900* for failing to protect a child from abuse and failing to report child abuse.

Failure to reduce or remove the risk of a child becoming victim of child abuse

Under s.43B of the *Crimes Act 1900* it is an offence to fail to reduce or remove the risk of a child (under 18 years) becoming a victim of child abuse.¹ The provision applies to adults ('position holders') working for an organisation which carries out child-related work, including schools or other educational institutions (other than universities). All staff, volunteers, contractors and members of the Board of Directors engaged by SRC are considered by the organisation to be 'position holders'.

If there is a serious risk that an adult worker employed by the organisation will commit a child abuse offence against a child who is, or may come, under the care, supervision or authority of the organisation, and the position holder knows that the risk exists, and has the power or responsibility to reduce or remove that risk, the position holder commits an offence if they negligently fail to reduce or remove that risk. It is not a requirement that a child abuse offence has been committed.

Concealing a child abuse offence

Under s.316A of the *Crimes Act 1900*, any adult person living in NSW, commits an offence if they know, believe or reasonably ought to know that a child abuse offence² has been committed against a child under 18 years, and they fail to report that information to the police immediately, without a reasonable excuse.³ Reasonable excuses include (but are not limited to):

- believing on reasonable grounds that the information is already known to police (e.g. where the person has reported the matter to the Principal and is aware that the Principal has reported the matter to the police).
- having reported the information to the Child Protection Helpline, or the Office of the Children's Guardian, or believing on reasonable grounds that another person has done so.

¹ 'Child abuse' for the purpose of this offence is specifically defined at s43.B(3).

² 'Child abuse offence' for the purpose of this offence is specifically defined at s.316A(9).

³ Reasonable excuses are listed at s.316A(2).

	<p>Failing to disclose an offence based on concerns for the interests of the perpetrator or organisation (concerns about reputation, legal liability or financial status) will not be regarded as a reasonable excuse.</p> <p>Confidentiality Employees must treat any child protection concerns, including information about a child abuse offence, confidentially and only disclose information to comply with their obligations. Employees must not inform a parent, carer, another child or anyone else (apart from DCJ or the OCG) that a report has been made to the police or provide any details. Only the CEO/Principal may disclose information about a report to police, and they will do so having regard to any directions or advice provided by police and DCJ (where required).</p> <p>Record-keeping Records about child protection concerns, including child abuse offences, must be kept in accordance with the Recordkeeping and Information Sharing Policy. Records will be maintained in secure electronic files and access will be strictly controlled.</p> <p>Employees will promptly and comprehensively document all information about child protection concerns and child abuse offences and provide relevant records to the Principal.</p> <p>All records about child abuse offences must be retained for a minimum of 30 years. Records that relate to the alleged sexual abuse of a child or young person must be retained indefinitely.</p>
Related Policies	<p>Shoalhaven River College Code of Conduct Child Safe Policy Child Safe Procedure – Mandatory Reporting Child Safe Procedure – Reportable Conduct Scheme Duty of Care Policy Request for Police Assistance Policy Critical Incidents and Emergency Policy Recordkeeping & Information Sharing Policy Privacy Policy</p>