

SECTION 6.4.3: CHILD SAFETY HARM AND ABUSE COMPLAINTS POLICY

The Australian Ballet School

RESPONSIBLE: Board with reference through the **Health and Wellbeing Committee**

VERSION 1 APPROVED BY THE BOARD: April 2024

REVIEW DATE: This policy will be reviewed after any significant child safety and bullying incident or at least every 2 years and improve where applicable

ACCESS LOCATIONS: Staff Portal, Student Portal and The Australian Ballet School website

1. INTRODUCTION:

The Australian Ballet School (School) and its boarding community at Marilyn Rowe House (MRH) is committed to child safety, providing a child-safe and child-friendly environment, which includes ensuring that children, all members of the School Community including families/carers who wish to report allegations of abuse or child safety and wellbeing concerns know how to report abuse allegations and are encouraged to do so.

The School complies with their legal obligations that relate to managing the risk of child abuse under the *Children, Youth & Families Act (2005) (Vic)*, *the Crimes Act (1958) (Vic)* and the recommendations of the *Betrayal of Trust Report*. The School follows the compliance requirements of the Victorian *Ministerial Order 1359* and considers protecting children as everyone's responsibility – parents/carers, communities, governments and the School and its boarding community at MRH as a business, have an integral role to play.

Abuse often occurs in environments where trust is involved, where a person in a position of trust and/or authority misuses their position to harm another. The recipient of the abuse may be vulnerable due to their personal circumstances or because the abuser exerts a position of power or authority. Abuse is a serious concern, and it is the responsibility of leaders within the School and all those who work with children to do everything possible to prevent and minimise the risk of abuse.

Related Policies: This policy should be read in conjunction with the Social Media Policy (3.1.2), ICT & Cyber Security Policy (4.3.3), Child Safe Standards Policy (6.4), the Reportable Conduct Scheme Policy (6.4.1), Child Safety and Wellbeing Policy (6.4.2), Child Safety Code of Conduct (6.4.5).

2. WHO DOES THIS POLICY APPLY TO:

This policy applies to all members of the **School Community**.

3. DEFINITIONS:

Alleged Perpetrator: refers to any person who is alleged to have committed any type of abuse or inappropriate behaviour against a Child/Children.

Appeal: means a request for a decision made by the School to be reviewed.

Child: is a person under the age of 18 years, who is enrolled in any capacity at the School (including those undertaking casual/out-of-hours classes).

Child Safety Office (CSO): this position is jointly held by the Director, The Executive Director, the Head of Boarding and the Health and Wellbeing Manager as the designated officers on the School staff who are required to have a thorough knowledge of Child Safety issues and are the primary point of contact for any member of the School Community who has concerns or wished to report an allegation of abuse.

Complaint: means a person's formal expression with respect to the cause of dissatisfaction, pain or grief.

Complainant: means the person who makes the Complaint.

Independent Investigator: an independent body or person (who may be employed by the School at the time the Complaint is made), with appropriate qualifications, training and experience to investigate a Complaint. They are responsible for gathering and assessing all relevant evidence connected to the Complaint. Any **Staff Member** appointed as an Independent Investigator must not have any identified conflict of interest in relation to the Complaint.

Reasonable Belief: a belief based on facts that would lead a reasonable person to think that there are grounds for concern with respect to the safety and wellbeing of a Child. There must be an objective basis for the belief, but proof is certainly not required. A reasonable belief may be based on observed conduct, direct information from a Child or information concerning conduct received from a credible source.

Victimization: is to treat a person badly or unfairly because they have made a complaint or have helped someone else make a complaint.

4. POLICY:

A child-focused complaints handling policy is important to assist students and all members of the School Community make complaints whether about child safety, wellbeing, inappropriate behaviour or abuse. This policy explains how the School manages a Child Safety – harm and abuse complaints handling system. The process for lodging a complaint with the School covers both the Kavanagh Street campus and MRH. Boarding house staff are also identified in this document as appropriate. All complaints of this nature will be promptly, thoroughly and fairly investigated, while ensuring that anyone making a complaint is not Victimized.

For all Complaints that relate to non-child safety matters, refer to the School's, Student Complaints and Appeals Policy (6.3.3).

4.1 Making a Child Safety and Wellbeing-Related Complaint:

Any member of the School Community can make a child safety and wellbeing Complaint about abuse or inappropriate behaviour undertaken by any person involved in the School to the following:

- Director / Head of the School
- Child Safety Officers
- Boarding Staff Members (or otherwise)
- A trusted Staff Member.

Students must have multiple pathways available to make a Complaint. Ideally they should be made in writing or through electronic means such as email. If a Complaint is made verbally or over the phone, the person to whom the Complaint is made must record it in writing as soon as possible.

If an allegation involves a criminal offence it must be reported to Victoria Police by calling 000 or going to their local police station.

Criminal offences include grooming (for sexual conduct) of a child under 16 years and failure to disclose a reasonable belief that a sexual offence has been committed by an adult against a child under 16 years of age (unless there is a reasonable excuse for not disclosing or legal exemptions apply). Complainants must be encouraged to report their allegation to the Police where the conduct is criminal. Individuals must also be informed of their right to also complain to an independent body (such as the Child Protection Ombudsman).

A mandated professional or any Staff Member who fails to report a Reasonable Belief or take appropriate action to address the risk may be charged with the criminal offence of *'failing to protect'* under the *Child Wellbeing and Safety Act (2005)* (Vic), which may result in a prosecution and the court imposing a fine.

Conduct, which if proven, would constitute a criminal offence:

- obscene exposure (for example, an adult masturbating in front of a child or exposing their genitals);
- having, attempting to have, or facilitating any kind of sexual contact with a child;
- possessing, creating or exposing children to pornography;
- giving goods, money, attention or affection in exchange for sexual activities or images;
- voyeurism;
- sexting;
- grooming offences (as defined by law in most jurisdictions).

Abuse can involve neglect, emotional abuse, physical abuse, sexual abuse, domestic violence, and bullying.

Inappropriate behaviour (that can be sexual in nature) includes but is not limited to:

- a. showing favours to one child over others (for example, providing special tutoring to a child or giving a child a lift home);
- b. taking photos of a child who is in the care of the School outside of official duties;
- c. creating situations to be alone unsupervised with a child (for example, tutoring, rehearsals, excursions);
- d. repeatedly visiting a child and/or their family at their home for no professional reason;
- e. providing gifts or favours to a child or their family;
- f. wearing inappropriate clothing around children;
- g. using sexual language or gestures;
- h. making written or verbal sexual advances;
- i. sharing sexual photos or videos or other photos of the child;
- j. sharing details with a child of one's own sexual experiences;
- k. taking a child to one's house to be alone with the child;
- l. arranging to meet a child alone away from the institution when there is no professional reason for doing so;
- m. sharing phone numbers with a child except as allowed by School's formal communication policy for professional purposes and documentation;
- n. engaging with a child via social media except as provided by School's formal ITC and Communication policies;
- o. asking children to keep a relationship secret;
- p. showering or dressing or undressing with the door open (for example, on excursions and in residential situations);
- q. not respecting the privacy of children when they are using the bathroom or changing (for example, on excursions and in residential situations).

Note: While it is understood that actions a), b), d), e), m), o) occur normally within the contexts of family and some pre-existing relationships, it remains the safety policy of the School not to engage in these ways, in the context of the School's activity.

Where the complaint relates to a sexual offence or sexual misconduct that occurred before 1 July 2018, Complainants must be informed about the National Redress Scheme for people who have experienced institutional child sexual abuse. The process for applications involving the School can be obtained by contacting the Health and Wellbeing Manager.

4.2 Responding to Complaints:

If a Complaint is made by a Child (and is not subject to Police processes), the most important requirement is to provide support, listen and tell the Child that they are not to blame. Do not press for information or push the Child to reveal the details of the abuse. Do not ask leading

questions, rather listen carefully and if possible, take notes. Reassure the Child that they are correct to tell and that what they say is taken very seriously, but do not promise them that no one else will be informed about the complaint.

Complaints may also be made by someone who witnesses abuse towards a Child or is informed about abuse that has allegedly occurred. These Complaints should be taken as seriously as if the complaint was coming from the Child directly.

Members of School Community must be mindful of diversity and the cultural norms and expectations that are within the group of people coming into contact with School and MRH. It is important to be aware of the specific diversity needs within School. Additional safeguards may be required to meet the needs of children with disability, children from culturally and linguistically diverse backgrounds, and/or Aboriginal and Torres Strait Islander children.

The response to the Complaint should not only be about the factual circumstances of the allegation but should take into account the psychological and other effects on the Complainant regardless of whether the Complaint has at that stage been formally upheld. The Health and Wellbeing Manager, possibly in consultation with the Child Safety Officer(s) has the responsibility to decide whether a referral to trauma-based counselling should be initiated to ensure that the potential damage to the victim is minimised.

An investigation of the Complaint will be initiated by an authorised person, this will be either the Director / Head of School or Child Safety Officer(s) or in the case of a complaint in relation to MRH, the Head of Boarding in consultation with the Director.

Unresolved complaints that require formal investigation are reported to the Board as soon as reasonably possible.

If the Director / Head of School, Executive Director or Director of Development has any alleged involvement with respect to the Complaint, the investigation must be initiated by the Board.

4.3 Risk Assessments:

Upon receiving a Complaint of child safety and harm or abuse , an initial risk assessment must be conducted promptly by the authorised person to identify and minimise any risks to the Child or children. This should include:

- assessing the safety of the Complainant and other children;
- considering what action should be taken about the accused including supervision, removal of contact with children, being stood down and termination. If a Complaint of child sexual abuse against a person within the School is plausible, and there is a risk that person may come into contact with children in the course of their work, the person should be stood down from their position while the Complaint is investigated;
- considering whether it is necessary to report to another agency and if so, report to that agency, including the police and child protection authorities;
- considering who, if anyone, should be informed of the Complaint;
- considering whether there are any restrictions to informing others, for example, whether the disclosure bypasses the Privacy Act by being required by law or not;
- determining to implement the decisions made as a result of the risk assessment;
- supporting those affected including the Child or children involved (or the person who made the Complaint).

4.4 Investigating Complaints:

The School must investigate all Complaints of conduct that does not reach the criminal threshold but may be inappropriate and/or a breach of **the School's Code of Conduct (1.2) and Child Safety Code of Conduct Policy (6.4.2)**. If there is any doubt about whether the criminal threshold has been reached, the allegation must be reported to the relevant authorities.

The complaint will be investigated by the authorised person or an independent investigator if there is a conflict of interest or other concern.

The investigator must ensure that they:

- are impartial and objective, applying a consistent treatment of allegations regardless of who the allegations come from and who they are against;
- have no conflict of interest with the investigation of the Complaint;
- have relevant training, skills and experience in investigating Child safety and harm or abuse;
- follow steps to meet the requirements of procedural **Natural Justice**.

4.5 Outcomes:

All outcomes and decisions made must be accurately recorded, including the reasons for the decisions.

The School will consider how to put into effect any decisions, including informing the Complainant and other interested people, institutions or other agencies.

The School may consider the need to conduct a review or root cause analysis, including analysis of Complaints, to identify and address systemic issues and consider the need to recommend changes from that process outlining the continuous improvement required.

4.6 External Bodies:

The School will report concerns, allegations and disclosures relating to children to external authorities, namely the Police and Child Protection or other relevant authorities, the VRQA and/or Commission for Children and Young People.

Members of the School Community are always able to make a report directly to the Police or Child Protection before going through this complaint process. However, afterwards the Head of School / Director must be notified of the report made, in order that the School can take appropriate safety measures and support the parties involved.

If the Police are investigating or deciding whether to investigate an allegation, any communication undertaken by the School might interfere with the Police investigation or undermine possible criminal proceedings. If the School considers urgent action is required to protect the children in its care, it should consult the Police or Child Protection agency about the action. If the School wishes to communicate with children, parents/carers or staff about the matter, it should do so only in consultation with the Police or Child Protection agency.

4.7 Record Keeping:

Because of the Confidentiality and privacy issues that arise with respect to child safety and wellbeing, and abuse- related complaints, records which relate to these Complaints and the findings and actions taken are securely stored according to the Schools Privacy Policy (4.1) in a *Child Safety and Wellbeing Complaints and Appeals Register* held by the Health and Wellbeing Manager. Only the Health and Wellbeing Manager shall be permitted access.

All steps taken in the Complaint handling process must be documented including:

- receipt of the Complaint;
- contact with the Complainant;
- contact with witnesses (if applicable);
- contact with the Alleged Perpetrator accused.

Evidence obtained during the investigation, including witness statements, must be retained. The identity of the author of the record, the reason for their involvement and the date the record was made must be documented.

4.8 Follow Up:

The School must ensure that Complainants are looked out for even after a Complaint is resolved as the effects of child abuse, especially sexual abuse, are lifelong. The practice of finalising a Complaint and excluding someone from the School community should be avoided. At the same time School should not hold up the healing of the victim by remaining connected with the victim in the longer term.