

7.2 MANAGEMENT & OPERATION OF THE SCHOOL PROCEDURE

RATIONALE

The Executive Committee and staff have an obligation to ensure that children placed in their care are protected from harm. All people looking after children have a responsibility to provide a safe environment for them. No prohibited person will be retained in or appointed to work in child related employment within the school, whether in a continuing, fixed-term or casual mode of employment. In addition, the School or delegate will not engage persons on a voluntary basis to perform any activity which involves unsupervised direct contact with children.

PURPOSE

The aim of this procedure is to inform staff and school management of their responsibilities under the Education Act 1990, relevant Regulations under the Act and the NSW Education Standards Authority requirements, including any duties of disclosure or notification.

DEFINITIONS

The Executive Committee are defined as the 'responsible persons':

- President
- Vice President
- Treasurer
- Secretary
- Ordinary Member

Thus, in the context of this procedure "**Executive Committee**" means a nominated member of the Executive Committee. Other 'responsible persons' are The Principal/Directress

Under the Education Act 1990, the Executive Committee can delegate day to day responsibility to an employee identified as the 'Principal'.

- A "**prohibited person**" means a person convicted of a serious sex offence or a registrable person within the meaning of the NSW Child Protection (Offenders Registration) Act 2000.
- "**Child-related employment**" means any employment that involves direct contact with children where that contact is not directly supervised.

- **“Approved Screening Agency”** - The Committee's Approved Screening Agency for employment screening is the Commission for Children and Young people (CCYP).

LEGISLATION

A number of Acts relate to Child Protection in New South Wales. Lindfield Montessori School has responsibilities under each of these Acts. The Executive Committee shall ensure that its members and staff who have direct contact with children are informed of the legal responsibilities related to child protection, mandatory reporting and other relevant school expectations. These are outlined below.

The Executive Committee shall ensure that all its members and staff are aware of the requirements to notify and investigate allegations of reportable conduct in compliance with the Ombudsman Act 1974. Under the Ombudsman Amendment Act (Child Protection and Community Services) Act 1998 which added Part 3A to the Ombudsman Act 1974 the Committee must notify the Ombudsman of any allegation of reportable conduct or conviction related to reportable conduct against Committee or staff member. In addition to notifying the Ombudsman, the Committee must also investigate the allegation or conviction and report the findings of such an investigation to the Ombudsman.

The Committee shall ensure that the school meets the employment screening and notification requirements of the Commission for Children and Young People Act 1998. Part 7 of the Act sets out the procedures to ensure that people convicted of specified criminal offences are not able to gain or remain in child-related employment. This screening process incorporates:

- a Working with Children Check
- a review of relevant completed employment proceedings the applicant may have been the subject of in previous employment.

The Procedures section below outlines in detail how the Committee conducts employment screening.

Part 7 of the Act also imposes specific duties on employers in relation to relevant disciplinary proceedings. The Committee's disciplinary proceedings in relation to child abuse will include investigation of allegations which cover:

- child abuse
- sexual misconduct, or
- acts of violence committed by staff in the course of their employment

The Committee shall notify the Commission for Children and Young People of the outcome of completed disciplinary proceedings.

The Child Protection (Prohibited Employment) Act 1998 prohibits people convicted of a serious sex offence from applying for, undertaking, or remaining in child-related employment. The Act also provides means by which prohibited people may apply for an exemption that would enable them to remain in or apply for child-related employment. The Committee shall ensure that all its member and staff are informed of their obligations under the Child Protection (Prohibited Employment) Act 1998.

The Children and Young Persons (Care and Protection) Act 1998 sets out the means by which Community Services and the Children's Court can intervene to protect children and young people from risk of harm. The Committee and staff have a duty to report any case where they form the belief that a child is at risk of significant harm. The school has a policy in place in relation to mandatory reporting (see Child Protection Policy 2.15).

CURRENT STAFF PROCEDURE

The School will maintain records of the verification of the Working With Children Check approval number for each staff member.

If any staff member in child-related employment becomes a prohibited person during the course of their employment after they have filled out the declaration, they must notify the Committee immediately. The Committee will take immediate appropriate action to ensure that the staff member does not remain in child-related employment.

RECRUITMENT OF NEW STAFF AND COMMITTEE MEMBERS

- The Committee will ensure that all persons commencing child-related employment will be checked against any relevant criminal record, any relevant apprehended violence order or any relevant disciplinary proceeding.
- The Committee will indicate on the Job Advertisement that a Working with Children Check Clearance is required.
- The Committee will undertake a minimum of 2 Referee Checks for all applicants considered for appointment to the position. It is recommended that references be obtained orally.
- The Committee will arrange for the successful applicant to have their Working With Children Check approval number verified by the school.
- The Committee at its discretion may also choose to undertake a probity check relating to previous employment.

RECRUITMENT OF NEW COMMITTEE MEMBERS

The Department of Education and Communities need to be satisfied that the person on the committee is a fit and proper person to be involved in the running of the preschool. The nominated/elected person must provide to the Committee:

- Relevant identity documents confirming his/her true identity
- Working with Children Check Approval Number
- A Declaration of Fitness and property (PA02 form)

All Committee Members are notified of the process and procedures and their obligations as mandatory reporters under the Child & Young Persons (Care and Protection) Act 1998.

EMPLOYMENT OF CASUAL STAFF

If the school needs to engage a casual staff member for work that has direct contact with children, where the contact is unsupervised, the Committee or Principal must verify the educator's Working With Children Check before employment.

WORKING WITH CHILDREN CHECK

The "Working with Children Check" includes a check for any:

- relevant national criminal records;
- relevant apprehended violence orders;
- relevant disciplinary proceedings.

Relevant criminal records means any criminal record relating to offences involving sexual activity, acts of indecency, child abuse or child pornography, that was punishable by penal servitude or imprisonment for 12 months or more. Registrable offences under the Child Protection (Offenders Registration) Act 2000 are also classed as relevant criminal records.

Relevant apprehended violence orders means any Apprehended Violence Order (other than an interim order); made by a court under Part 15A of the Crimes Act 1900; and taken out in NSW; and made on the application of a police officer or other public official for the protection of a child (or a child and others); and includes those taken out from a date 5 years prior to the commencement of the legislation.

For the purposes of child protection employment legislation, relevant disciplinary proceedings include actions where a person, who has the authority to do so, enquires into an allegation of: child abuse; sexual misconduct; or an act of violence committed by an staff member in the

course of employment and a finding is reached, regardless of whether the matter is sustained or not sustained. It is only a requirement to notify the Commission of sexual misconduct or acts of violence in the workplace where these acts involve children, are directed at children, or take place in the presence of children. It is not a requirement to notify the Commission where completed disciplinary proceedings have proven the allegations to be false, vexatious, or misconceived.

NOTIFICATION OF ADVERSE REPORTS

The Committee will notify the Commission for Children and Young People and NESA of any:

- Decision not to engage a person as a result of the findings of the employment screening process;
- Completed disciplinary proceedings against a member of Committee or staff involving child abuse, sexual misconduct or acts of violence in employment where these acts involve children, are directed at children, or take place in the presence of children.

NOTE: Relevant disciplinary proceedings do not include those where there has been a finding that allegations were false, vexatious or misconceived.

NOTIFICATIONS TO THE NSW EDUCATION STANDARDS AUTHORITY

The NSW Education Standards Authority is to be formally notified when changes occur to the following:

- Management and operation of the school
- Staffing of the school
- Curriculum
- Premises and buildings

The NSW Education Standards Authority may be notified as the need arises.

Legislation	Ombudsman Act 1974 The Children and Young Persons (Care and Protection) Act 1998
Related to NQS QA	2.2
Related Policies	Child Protection Interactions with Children
Sources & Further Reading	

POLICY REVIEWED	MODIFICATIONS	NEXT REVIEW DATE
April 2022	Checked regulations, updated copy	2024