



Valuing Safe Communities:

A framework for safe and professional relationships in Lutheran schools

Contents

Section A:	3
The framework	
Overview	
Statement of values	
Scope	
Guiding principles	
Policy statements	
Framework overview	
Section B:	7
Legislation and definitions	
Anti-discrimination and harassment	
Workplace behaviour: sexual abuse and harassment	
Workplace behaviour: bullying and harassment	
Child protection	
Section C:	16
Lutheran Education Australia	
Code of conduct for safe and professional relationships	
Section D:	20
Complaints procedures	
Policy statement	
Guiding principles for effective complaints management	
Valuing Safe Communities: complaint options	
Options for the resolution of complaints relating to workplace behaviour	
Roles and responsibilities	
Information sheet: Safe Place complaints procedure	
Section E:	29
Framework implementation	
Training requirements and procedures	
Responsibilities of Lutheran Education Australia	
Responsibilities of regional offices	
Responsibilities of schools	
Section F:	33
Model policies	
Model policy: Anti-discrimination and harassment	
Model policy: Corporate occupational health and safety policy and procedures	
Model policy: Gender equity in leadership positions	
Model policy: Child protection	
Section G:	44
References and resources	
Section H:	46
Appendices	
Appendix A: State and territory child protection acts	
Appendix B: Age of consent in Australia	
Appendix C: Information sheet – Safe Place complaints procedure	
Appendix D: Overview roles and responsibilities for complaint resolution	
Appendix E: Workplace behaviour – Legislation overview	

Section A: The framework

1. Overview

Over the last decade, directors and school authorities have implemented the Lutheran Church of Australia's Safe Place Policy (SPP). At the district levels, directors or their delegates have played a critical and supportive role on state committees. Directors have ensured that the policy is known in schools, that training is provided to all staff and that investigation of complaints under SPP are carried out in accordance with SPP procedures.

However schools operate in policy and legislation driven environments that are very different to those of congregations, with most of the SPP matters covered by existing state and national legislation, policies and training; for example, teacher registration, child protection, employee screening, mandatory reporting, workplace relations and workplace safety. Therefore General Church Council has supported the decision of LCA and the National Safe Place Committee that schools be able to implement the SPP policy in a school specific way that better suits their needs. From 2009 SPP will be incorporated into a larger framework, *Valuing Safe Communities*.

This document is a working one and will be reviewed and amended at the end of 2009 with the final version then endorsed by the Board of Lutheran Education Australia.

2. Statement of values

Lutheran schools are Christian schools under the Lutheran Church of Australia (LCA). The LCA and Lutheran Education Australia (LEA) define the vision for those schools and for all who work and learn within them. Policies sit within the educational framework for Lutheran schools and not only state how legislative requirements are fulfilled but also specify how the ethos and values of Lutheran schools are lived out.

'In the Lutheran school the gospel is to inform all programs, relationships and activities (*LCA and Its Schools* statement). The love of God in Jesus Christ is to govern all that is done and, in response to this love, people in the school community are directed to their fellow human beings. When they love others, they love him. Christ's promise is that whatever is done for others is done for him. Informed and transformed by God's creative, redemptive and sanctifying love, God's people are concerned with the total needs of their fellow human beings.'
(*Industrial Relations and the Lutheran school*).

The framework, *Lifelong Qualities for Learners*, defines the ethos of Lutheran schools:
'As central to their mission and ministry, Lutheran schools seek to nurture individuals who are aware of their humanity, open to the influence of the Holy Spirit and growing in and living according to a cohesive worldview **while** living in community and reflecting characteristics of God through core values, especially love, justice, compassion, forgiveness, service, humility, courage, hope, quality and appreciation'.

God intends that people in Lutheran schools live out these values and work together to settle differences, resolve issues and restore relationships on the basis of biblical principles (Matthew 18:15-17; 1 Corinthians 6:1-11), whilst also meeting the requirements of the law of the land.

The LCA Safe Place Policy defines power as the capacity to set and care for boundaries. Boundaries are the structures which support human development within community; boundaries may be personal, communal, spiritual, psychological or physical. In Christ, there is an empowerment by the gospel to recognise boundaries and prevent their destructive crossing and to care for those who have been violated. One responsibility of leadership is to care for professional boundaries through the establishment of structures that protect them. Structures provide for support, examination, and action to ensure that school leaders, staff and students act according to boundaries that help, protect and uphold the dignity and worth of each individual.

3. Scope

Valuing Safe Communities integrates the range of national policies, procedures and guidelines that impact on relationships in the Lutheran schools and embeds the Safe Place Policy within it. It

provides school leaders with information and resources for the management of people that is such an important aspect of their work. Lutheran Education Australia has the responsibility for developing training resources and procedures, a complaints procedure and a code of conduct that relates to safe and professional workplace behaviour.

However regions, as system authorities, are responsible for policy development and implementation in those areas where legislation is state based and therefore requirements vary. Occupational health and safety and child protection policies and guidelines are regional and school responsibilities.

All staff in all Lutheran schools should be aware of, and trained in, *Valuing Safe Communities* with updates provided at regular intervals (see Section E, Framework Implementation, for details)

For the purposes of this framework, the following definitions apply:

Staff	all employees, paid workplace participants and volunteers
School	preschools, kindergartens, early learning centres, out of school hours care and vacation care services, junior primary, primary, secondary, senior secondary schools and any associated boarding facilities
Students	all children and young people enrolled at or attending the sites defined under school

4. Guiding principles

From the LCA Safe Place Policy:

- 4.1 Each person has intrinsic value, given that all are created in the image of God
- 4.2 God wants us to love each other as he loves and not to abuse the relationships in which he has placed us
- 4.3 Personal, communal, spiritual, psychological and physical boundaries are symbols of God's order and care within a community

From the National Safe Schools Framework:

- 4.4 A safe community is one where the right of each member to be safe at school and at any event supported by the school is upheld and where physical, social and psychological well being of each individual is valued and protected
- 4.5 Care, respect, cooperation and the value of diversity are to be promoted and supported
- 4.6 Quality leadership is an essential element that underpins the creation of a safe and supportive environment
- 4.7 Each school has a responsibility to develop and implement policies, programs and processes for nurturing a safe environment that are proactive, oriented towards prevention and intervention, and to engage the wider school community in doing so.
- 4.7 Roles and responsibilities of all members of the school community in promoting a safe and supportive environment should be explicit, clearly understood and disseminated.
- 4.8 In-service professional development is critically important in creating a safe and supportive school environment
- 4.9 Schools have a responsibility to provide opportunities for students to learn the knowledge, skills and attitudes needed for positive relationships
- 4.10 Policies and programs should be proactive, oriented towards prevention and intervention
- 4.11 Policies and programs should be regularly monitored and evaluated so that decisions and improvements are based on evidence
- 4.12 All staff have a responsibility to take action to protect children from abuse and neglect
- 4.13 Healthy relationships develop over time and are based on trust and mutual respect. Fear of abuse or harassment allegations should not interfere with the development of healthy relationships

5. Policy statements

- 5.1 Lutheran schools operate under both law and gospel. It is God's intention that people work together to settle their differences and resolve issue on the basis of biblical principles (Matthew 18:15-17; 1 Corinthians 6:1-11). Nevertheless the requirements of the law of the land must also be met. (*LCA Safe Place Policy*)

- 5.2 Lutheran schools appreciate the contribution which work, as a gracious gift of God, makes to both the life of the worker and fellow workers, and value the gifts of those who act as employers and employees. (*BLEA, Industrial relations and the Lutheran school*)
- 5.3 Lutheran schools seek to be places of physical, social and psychological safety for all where caring, cooperative and respectful relationships contribute to secure and supportive communities that reflect the values of the gospel of Jesus Christ and where there is a focus on love, justice, compassion, forgiveness, service, humility, courage, hope, quality and appreciation and restoration.
- 5.4 Bullying and harassment are contrary to the ethos of Lutheran schools and is therefore absolutely unacceptable. Claims of bullying and harassment will be taken seriously and dealt with. (*LCA Draft policy on Bullying*).
- 5.5 Sexual abuse by people in positions of trust has a destructive impact on the lives of people. Sexual abuse is totally unacceptable. It is the responsibility of all people involved in work or service within schools to guard with great care the trust placed on them. They have an absolute responsibility to avoid all forms of sexual abuse and harassment. Claims of sexual abuse and harassment will be taken seriously and dealt with. (*LCA Safe Place Policy*).
- 5.6 Lutheran schools are committed to the development and maintenance of an orderly, disciplined and safe learning environment for students and staff and to taking all reasonable steps to provide a duty of care to all employees, students and others aimed at keeping them free from injury and ill health. This duty of care will be discharged through the continued provision of safe equipment, safe places of work and safe systems of work. (*Model Corporate OHSW Policy*)
- 5.7 Lutheran schools are committed to the safety and wellbeing of all children and young people accessing our service. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants. (*Child Wise*)

6. Framework overview

Lutheran Education Ethos: Valuing Safe Communities					
Lutheran Education Australia Code of Conduct					
	Staff in Lutheran schools			Students in Lutheran schools	
	Anti-Discrimination	Workplace Behaviour – Sexual harassment	Workplace Behaviour – Bullying and harassment	Child Protection	Student Code of Conduct
International human rights treaties and declarations	<ul style="list-style-type: none"> the International Covenant on Civil and Political Rights (ICCPR) the International Covenant on Economic, Social and Cultural Rights (ICESCR) the Convention on the Rights of the Child (CRC) the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) the Convention on the Elimination of All Forms of Racial Discrimination (CERD) the Universal Declaration of Human Rights (UDHR) 				
Compliance requirements	Disability Discrimination Act 1992 Racial Discrimination Act 1975 Age Discrimination Act 2004 Sex Discrimination Act 1984 Human Rights & Equal Opportunity Commission Act 1986 Equal Opportunity for Women in the Workplace Act 1999	Workplace Relations Act 1996 Forward With Fairness under development, (by 1 Jan 2010)	Each state has workplace health and safety legislation that addresses bullying and harassment issues - schools are required to comply Privacy Act 1988	National Safe Schools Framework National Framework for Creating Child Safe Environments (2005) National Child Protection Framework (pending) Accreditation/Registration of Non-government schools	
		LCA Safe Place Policy 1997 Sex Discrimination Act 1984 Human Rights & Equal Opportunity Act 1986		School must comply with the child protection legislation in their respective state. Most commonly, child protection is applicable to all children and young people under the age of 18 Teacher Registration Boards set requirements for screening, including police checks	
Focus	Addresses unlawful discrimination and harassment in the workplace	Addresses sexual abuse and harassment issues in the workplace	Addresses harassment & bullying issues in the workplace	Addresses the abuse and neglect of children and young people	Addresses the goals and standards of behaviour required for students
Scope	All employers must comply unless contractual exceptions have been allowed. In general the grounds for discrimination are age, sex, marital status, pregnancy, medical or other disability, race, national or ethnic origin, political or religious belief, sexual orientation.	Safe Place Policy applies to all staff, paid and voluntary, working in any organisation of the LCA including schools in Australia and NZ	Applies to all persons, teaching & non teaching, paid and voluntary, working in the school, and also visitors to the school	It is the responsibility of all staff in schools to comply with state requirements for mandatory reporting of incidents of abuse or neglect of children Schools need to employ thorough and effective process to screen employees and volunteers	Schools are required to establish a whole school approach to promoting positive behaviours and preventing anti-social behaviours through safe school and anti-bullying policies and guidelines

Section B: Legislation and definitions

1. Anti-discrimination and harassment

Relevant legislation

Commonwealth

For details, see the Australian Human Rights Commission (formerly the Human Rights and Equal Opportunity Commission's – HREOC) *Information for Employers* on http://www.humanrights.gov.au/info_for_employers/law/index.html

Discrimination is unlawful across Australia if it occurs under any of the following Acts:

- *Age Discrimination Act 2004*
 - protecting both young and old Australians
- *Disability Discrimination Act 1992*
 - Physical, intellectual, sensory, neurological or learning disabilities;
 - Disorders, illness or diseases that affect thought processes, perceptions of reality, emotions or judgement or results in disturbed behaviours;
 - Presence in the body of organisms causing disease or illness (eg HIV virus)
- *Human Rights and Equal Opportunity Commission Act 1986*
 - Breaches of human rights by any Commonwealth body or agency and discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, age, medical record, criminal record, marital status, impairment, disability, nationality, sexual preference, trade union activity
- *Racial Discrimination Act 1975*
 - Race, colour, descent or national or ethnic origin
- *Sex Discrimination Act 1984*
 - Sex, marital status, pregnancy, family responsibility (dismissal only)

Supported by:

- *Workplace Relations Act 1996*
- *Equal Opportunity for Women in the Workplace Act 1999*
- *Privacy Act 1988 and Amendments 2000*
- *Racial Vilification Act 1996*

State/Territory

ACT	ACT Human Rights Office resources and guidelines Equal Employment opportunity	Information about discrimination in the workplace for employers and employees ACT WorkCover
NSW	Information for employers and managers NSW Anti - Discrimination Board	Guidelines to assist employers and advisers understand how anti-discrimination laws work in NSW
NT	Northern Territory Anti-Discrimination Commission	The Commission administers the <i>Northern Territory Anti-Discrimination Act</i> and can provide resources and training for employers and employees.
QLD	Anti-Discrimination Commission Queensland publications	Information for employers on anti-discrimination principles and practices.
SA	EO for business Equal Opportunity Commission of South Australia	Information for employers and service providers on managing equal opportunity in the workplace.
TAS	Office of the Anti-Discrimination	Advises and educates on the importance of equal

	Commissioner	opportunity in the workplace.
VIC	Information for employers Equal Opportunity Commission	Provides details on the laws governing anti-discrimination in Victoria.
WA	Equal Opportunity Commission of Western Australia	Provides brochures and other publications relating to equal opportunity in the workplace.

Definitions

Discrimination

Under federal and state legislation unlawful discrimination occurs when someone, or a group of people, is treated less favourably than another person or group because of their race, colour, national or ethnic origin; sex, pregnancy or marital status; age; disability; religion; sexual preference; membership of a trade union activity; or some other characteristic specified under anti-discrimination or human rights legislation.

Discrimination can be direct and indirect

- Direct discrimination occurs when people are treated differently because of one of the above attributes with the result that they are disadvantaged.
- Indirect discrimination can occur when practices or procedures are adopted which appear to be neutral but which can have an adverse effect on a person or a group because of their attributes or the inherent values of their particular race/religion/group.

Discrimination does not have to be malicious or intended, targeted at a particular person or even foreseen.

Workplace discrimination can occur in:

- the job application process
- throughout the process of recruiting and selecting staff
- terms, conditions and benefits offered as part of employment, including access to professional development and promotion positions
- termination of employment

Examples of unlawful discrimination:

- failing to employ or promote someone because of a disability, if the disability would not prevent them carrying out the requirements of the job
- treating a person unfairly because of a past disability
- not promoting a person because of their age
- teasing a co-worker about their sexuality or presumed sexuality
- preventing an employee who is about to go on maternity leave from undertaking professional development with the rest of the staff
- mimicking a colleague with an accent

Unlawful harassment

Under federal and state legislation unlawful harassment occurs when someone is made to feel intimidated, threatened, insulted or humiliated because of their race, colour, national or ethnic origin; sex; disability; sexual preference; or some other characteristic specified under anti-discrimination or human rights legislation. It can also happen if someone is working in a 'hostile' - or intimidating - environment.

Unlawful harassment can include behaviour such as:

- telling insulting jokes about particular racial groups
- sending explicit or sexually suggestive emails
- making derogatory comments or taunts about someone's race or religion
- asking intrusive questions about someone's personal life, including their sex life.

For more specific information about what may constitute unlawful discrimination or harassment see the HREOC fact sheets on discrimination and harassment based on age, disability, race and sex.

Harassing behaviour can range from serious to a less serious nature; however one-off incidents can still constitute harassment. Also, where continued, such behaviour can undermine the standard of conduct within a work area, which may erode the wellbeing of the individual or group being targeted and lead to lower overall staff performance.

The absence of complaints is not necessarily an indication that no harassment or discrimination is occurring. The person subjected to harassing or discriminating behaviour does not always complain. This is not necessarily because the act is deemed as trivial, but because the person may lack the confidence to speak up on their own behalf or feel too intimidated or embarrassed to complain.

The fact that someone is treated differently does not necessarily mean unlawful discrimination has occurred. Legally,

- the behaviour needs to be covered by an Act
- there has to be a 'loss of opportunity' or a 'loss of reasonable comfort'.

Other relevant definitions

The following definitions are relevant to all workplace behaviour.

Vicarious liability

Under federal anti-discrimination law, an employer, regardless of their size, may be legally responsible for discrimination and harassment which occurs in the workplace or in connection with a person's employment unless it can be shown that **'all reasonable steps'** have been taken to reduce this liability. Employees with management and supervisory responsibilities must therefore take reasonable steps to identify, prevent and respond to incidents of discrimination, harassment and bullying to avoid both personal and organisational liabilities.

Details of **vicarious liability** can be found at www.humanrights.gov.au/employers/, *A Guide to Vicarious Liability*.

Accessory liability

Where a workplace is seen to directly or indirectly encourage or permit inappropriate behaviour that could be deemed to be unlawful discrimination (for example, through failing to deal with behaviour).

Direct/personal liability

When an employee is held personally liable for acts of discrimination.

Natural justice

The principle of natural justice underpins employment law in Australia. It refers to just or fair processes in legal proceedings. When an employer deals with issues in the workplace it must be seen to be 'just and fair' to everyone involved. The principle of procedural fairness is especially important.

Balance of probabilities

In situations where it is difficult to determine the guilt or otherwise of a person who has been accused of bullying or harassment, particularly if there are no witnesses, more information will be sought about the usual practices within the workplace. If it seems likely that the particular behaviour could have occurred because of the prevailing climate or culture within the organisation, guilt can be assumed on 'the balance of probabilities'.

2. Workplace behaviour: sexual abuse and harassment

Relevant legislation and policies

Sexual abuse and sexual harassment are a type of sex discrimination. They are serious and against the law.

Commonwealth

- Sex Discrimination Act 1984
- Human Rights and Equal Opportunity Commission Act 1986

State-based occupational health and workplace safety legislation

Safe Place Policy

The Lutheran Church of Australia Safe Place Policy applies to all staff, paid and voluntary, working in any Church, Auxiliary or Agency of the Lutheran Church of Australia, within Australia and New Zealand. The policy deals with complaints of sexual abuse and sexual harassment involving adults within organisations of the Lutheran church. This policy does not deal with complaints involving persons under the age of 18 years.

Definitions

Sexual harassment is any unwanted, unwelcome or inappropriate sexual behaviour, either verbal or physical, which makes a person feel offended or humiliated, and that reaction could reasonably have been expected in the circumstances

Sexual abuse may involve a range of behaviours, which occur along a continuum from grooming to sexual innuendo and insult to any form of forced sexual activity.

It includes sexual exploitation, sexual harassment, child sex abuse and the wrongful use of power in a relationship to satisfy sexual needs/desire.

The effects of verbal sexual harassment can be just as devastating as physical sexual assault and the impact of sexual abuse in particular may be felt years after the event or series of events.

Sexual abuse and harassment are largely defined by the perception of the person affected by another's behaviour irrespective of the actual intent. It is behaviour that a reasonable person would have anticipated might cause offence.

Examples of sexual abuse/harassment include:

- Suggestive remarks or actions (for example, wolf whistles, catcalls, obscene gestures, telling jokes with sexual connotations, staring or leering)
- Unwarranted, unsolicited and inappropriate touching (for example, deliberately and unnecessarily brushing against another person's body, unwelcome touching, hugging or kissing)
- Sexually explicit pictures, screen savers, posters, internet sites
- Suggestive text messages, phone calls or emails
- Unnecessary intrusion into personal matters (for example, questions of a sexual nature or relating to a person's private life)
- Repeated requests to date someone when they have said no
- Being influenced to look at or pose for pornographic photos
- Sexual exhibitionism
- Making sexual advances at a time of vulnerability
- Engaging in any unwelcome conduct of a sexual nature with a view to humiliating, offending or intimidating the other person
- Insults or taunts based on a person's sex

Sexual interaction, flirtation, attraction or friendship between adults which is invited, mutual, consensual or reciprocated is **not** sexual harassment

3. Workplace behaviour: bullying and harassment

Many people refer to bullying as harassment or discrimination. However, while the effects are essentially the same, bullying may not be unlawful under federal and state anti-discrimination legislation unless the bullying is linked to or based on, one of the attributes covered by various federal anti-discrimination legislation (age, sex, race, disability, etc).

Everyone has the right to work in an environment free from bullying, harassment, discrimination and violence. Under Occupational Health and Safety legislation, employers and employees in schools have a legal responsibility to comply with any measures that promote health and safety in the workplace. Because of this duty, employers need to eliminate or reduce the risks to employees' health and safety caused by workplace bullying and harassment.

Relevant legislation

Each state has workplace health and safety legislation that addresses bullying and harassment issues.

ACT	www.workcover.act.gov.au
NSW	www.workcover.nsw.gov.au
NT	www.worksafe.nt.gov.au
QLD	www.deir.qld.gov.au/workplace/ or www.workcover.qld.gov.au or www.whs.qld.gov.au/
SA	www.workcover.com or www.safework.sa.gov.au
TAS	www.workcover.tas.gov.au
VIC	www.workcover.vic.gov.au
WA	www.worksafe.wa.gov.au or www.workcover.wa.gov.au

Definitions

Bullying

Bullying is not defined in law but through guidelines in workplace health and safety legislation. The following definition is generally accepted:

Bullying is a set of repeated, inappropriate, coercive behaviours directed toward an employee or a group of employees that creates a risk to health and safety and causes chronic and cumulative detriment to work performance.

Bullying can take a variety of forms. For example:

- non-verbal – offensive gestures, inappropriate written material or pictures, tampering with personal equipment, practical jokes
- threats to professional status – humiliation in front of colleagues or students, intimidatory use of performance management procedures
- threats to personal standing – teasing, criticism, constant negative feedback, inappropriate comments about appearance or life-style, sarcasm, innuendo,
- displaying behaviour or language that intimidates, belittles, humiliates or degrades including physical abuse, verbal criticism that is delivered by yelling or screaming, using abusive, insulting or offensive language
- exclusion – deliberate isolation from activities, withholding information, preventing access to professional development
- work performance – willfully assigning inappropriate amounts of work, setting tasks that are beyond a person's ability, unreasonable job demands, impossible deadlines, unnecessary interruptions with the intention of causing distress, withholding information needed to be able to do a job
- destabilisation – inconsistent management, unpredictable moods, derogatory comments behind back, under-valuing efforts, less favourable treatment, changing expectations and deadlines
- spreading gossip or rumours of a malicious nature
- behaving unreasonably over difference of opinion or conflicts in the workplace

Bullying can result in a range of psychological and physical illnesses including anxiety disorders, stress, depression and insomnia.

Harassment

Harassment is any type of unwelcome and unsolicited behaviour that can be reasonably expected to cause a person to feel threatened, intimidated, humiliated, offended or unable to cope with their work environment.

Workplace harassment is often subtle or covert, making it difficult to detect. People may be reluctant to report harassment or bullying because they fear retaliation or being labeled as 'weak' or that no action will be taken.

The occurrence of harassment is largely determined by the perception of the complainant regardless of the respondent's intent. The test is whether a reasonable person, given all the circumstances, would have anticipated that the behaviour would be found offensive, threatening, humiliating, intimidating or offensive.

Harassment can include, for example:

- displaying offensive pictures or sending by email images and messages that are sexually explicit or based on disability or race
- derogatory and unwelcome comments about a person's private life or physical appearance
- practical jokes
- personal effects or work equipment being removed or damaged
- gossip, rumours and innuendo
- isolation and segregation

The following are not bullying or harassment:

- Difference of opinion
- Poor or bad management practices on their own
- A single incident of harassing type behaviour, although well managed intervention in response to single incidents can prevent the situation from escalating.
- Reasonable action, taken in a reasonable manner, by an employer to appraise, transfer, discipline, counsel, retrench or dismiss and employee are not bullying or harassment. This includes, for example:
 - performance feedback given in a fair and respectful manner
 - requests to undertake tasks that are a legitimate part of work expectations (even if a task is unwelcome or unappealing)
 - asking questions about work progress
 - letting employees know the consequences of failing to meet job expectations
 - constructive and courteous feedback, counselling or advice about work-related behaviour
 - a decision by an employer, based on reasonable grounds, not to award or provide a promotion, transfer or benefit in connection with an employee's employment

Factors that can contribute to the risk of bullying

- Lack of appropriate policies and procedures
- Organisational change
- Authoritarian management styles
- Workplace relationships
- Lack of role clarity
- Tolerance of inappropriate behaviour
- Staff shortages
- Unclear communication processes

4. Child protection

A child safe school takes a preventative, proactive and participatory stance on child protection issues through the development of a culture of awareness and accountability. In particular:

- there are clear boundaries for roles and relationships between staff and children
- the school is open and accountable about its child protection management practices
- there is adequate staffing, staff supervision and training
- the rights of children are articulated and acted upon
- everyone affected by the work of the school (children, young people, their families, staff, management, volunteers) actively participate in child safe practices
- duty of care is considered to be a Christian, moral as well as legal imperative.
- everyone feels safe and is encouraged to make suggestions and voice concerns
- fear, denial, entrenched culture, lack of resources, complacency are deemed to be barriers to a safe community

(Child Wise, 2004)

Relevant legislation

International

The principles and philosophy that underpin child protection work within Australia are based on the United Nations *Convention on the Rights of the Child*, 1989. The Convention provides the foundations for state legislation related to child protection. The Convention emphasises that:

- all children have equal rights to protection from abuse and neglect
- all children should be encouraged to fulfil their potential and inequalities should be challenged
- everybody has a responsibility to support the care and protection of children
- organisations should take all appropriate legislative, administrative, social and educational measures to protect children from all forms of abuse, neglect or negligent treatment, while in their care
- organisations have a duty of care to children with whom they work and with whom their agents, contractors and sub-contractors work

Australian

National Framework for Creating Child Safe Environments which states that organisations have both a moral and legal responsibility to ensure that children in their care are safe.

National Framework Schedule: An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking which emphasises that:

- the paramount consideration is the rights, interests and wellbeing of children and their protection from harm
- the organisation has a duty of care to take all reasonable, necessary and appropriate steps to protect children and young people from risk of harm while they are under the care or supervision of employees or volunteers

State and territory governments are responsible for the administration and operation of child protection services although a National Child Protection Framework is under development by the Australian government (2008). Consequently there are eight discrete systems for protecting children and variations in requirements. However there are common elements in the practical implementation of the legislation, reflecting principles of good practice in child protection. The elements are:

- identification and management of risk of harm or abuse
- requirements for a clear and accessible Child Protection Policy
- establishment of codes of conduct for adults and children that will:
 - establish clear professional boundaries for employees and volunteers
 - include standards for addressing bullying by children
- thorough and systematic processes to recruit, select and screen suitable employees and volunteers
- support, training and supervision of staff and volunteers that fulfil a school's duty of care to children
- involving and empowering children by including them in policy development and the planning of programs, seeking and considering their opinions and obtaining feedback

- clear processes whereby employees and volunteers recognise and respond to suspicions and complaints of child abuse and neglect

The principal child protection acts in each Australian state and territory, with links to websites where Acts of Parliament can be downloaded, are in Appendix A.

Definitions

Age of consent

The age of consent in Australia varies between state/territory jurisdictions. It ranges between 16 and 18 years, and in some states there are different ages of consent for boys and girls. See Appendix B for details.

Child

'A child means every human being below the age of eighteen years unless, under the law applicable, the majority is obtained earlier.'

Convention on the Rights of the Child (United Nations, Article 1)

Duty of care

In the school context, *duty of care* is a common law concept that refers to the responsibility of school staff to provide students with an adequate level of protection against harm. It is usually expressed as a duty to take reasonable care to protect students from all reasonably foreseeable risk of injury. The question of what constitutes *reasonable care* in any given case will be determined objectively by a court and will depend on the individual circumstances of each case. The courts have found that the duty of care owed by teachers to students is extremely high, particularly in non-government schools. In their relationships with students, all staff members are required to ensure that the physical and emotional welfare of students is safeguarded, and that their own behaviour with students is always regulated by this duty of care both within and beyond the school setting.

Mandatory reporting

Legislation which specifies who is required by law to report suspected cases of child abuse and neglect is known as mandatory reporting.

The people mandated to report varies across the different states and territories. Reporting responsibilities for schools are as follows:

Jurisdiction	Who is mandated to notify	What is to be notified
ACT	Teachers, school counsellors, child-care providers, child-care providers, the community advocate, or the official visitor	A reasonable suspicion that a child or young person has suffered or is suffering <i>sexual abuse</i> or non-accidental <i>physical injury</i>
NSW	Persons who deliver education and residential (e.g. boarding) services to children	Current concerns that a child <i>aged under 16</i> is at <i>risk of harm</i>
NT	All people with reasonable grounds	Reasonable grounds to believe that a child has suffered or is suffering <i>maltreatment</i>
QLD	Officers employed to implement the Act 1999; all staff of residential care services (eg, boarding).	Reasonable suspicion of <i>abuse or neglect</i> to a child in residential care.
	Teaching and non-teaching staff in non-government schools.	Aware of or reasonably suspects <i>sexual abuse</i> of a child under 18 by an employee of the school.
SA	Teachers, employees/volunteers in a non-government agency that provides health, welfare, education, child care or residential services wholly or partly for children. Current reforms include religious personnel (with the exception of disclosures made in the confessional).	Reasonable grounds that a child has been or is being <i>abused or neglected</i>

Jurisdiction	Who is mandated to notify	What is to be notified
TAS	Professionals working with children	Suspicion of knowledge of abuse or neglect
	Any adult	Reasonable grounds to believe or suspect that a child is suffering, has suffered or is likely to suffer <i>abuse</i> or <i>neglect</i> . Current reforms include exposure to domestic violence
VIC	Teachers	Reasonable grounds that <i>physical</i> or <i>sexual abuse</i> is occurring
WA	Licensed providers of child care or outside school hours care services.	Allegations or suspicions of <i>child abuse</i> in a child care service.
WA upcoming reform	Legislation will be introduced requiring the key professions including teachers to report	When they have evidence that child sexual abuse has occurred or is occurring

Physical environment

The environment in which children interact with employees and volunteers needs to be child-safe in order to reduce opportunities for situational maltreatment (eg, good visibility, effective supervision)

Professional boundaries

Education and care professions are predicated on positive relationships and schools are places where all staff can have significant influence in students' lives. The relationship of an adult staff member and student is characterised by differing roles and an imbalance of power based on a number of factors including age, authority and gender.

The staff member is responsible for maintaining a professional role with the student. This means establishing clear professional boundaries with students that serve to protect everyone from misunderstandings or a violation of the professional relationship. The LEA *Code of conduct for safe and professional relationships* (also referred to as code of conduct in this document) makes clear the way that staff in Lutheran schools are required to act.

Professional boundary violations by a staff member represent a breach of trust and a failure to meet a duty of care to students. When staff violate boundaries they risk:

- harmful consequences for the student
- seriously undermining the learning process
- seriously undermining the professional reputation of the staff member
- disciplinary action for the staff member.

Employee screening

Employee screening has been shown to be an important means of preventing known perpetrators from working with children. Screening typically involves a police records check of previous charges for crimes against children, sexual or physical assaults of adults and other relevant charges.

Section C: Lutheran Education Australia: Code of conduct for safe and professional relationships

Lutheran schools seek to ensure that each member of the school community (students, employees, parents, volunteers, independent contractors, agents and work experience personnel) enjoys a safe, healthy and respectful workplace. The LEA *Code of conduct for safe and professional relationships* provides a clear statement of principles and expectations for behaviour based on the values that Lutheran schools adhere to and promote. It makes explicit the practices that are needed to build school communities that are safe for all and are characterised by the highest level of ethical and professional behaviour.

The *Code of Conduct* is to be used in conjunction with other LEA and LCA documents that relate to the school. It is also intended to be a framework document that allows regions and schools to incorporate their existing policies and guidelines that identify specific behaviours that are appropriate to their own situation.

LEA and LCA policies and guidelines

- LCA The teacher in the Lutheran school
- LCA The role of the pastor in the Lutheran school
- LCA Safe Place Policy
- LEA Core propositions describing highly effective teachers in Lutheran schools
- LEA A vision for learning and learners in Lutheran schools: Lifelong qualities for learners
- BLEA Industrial relations and the Lutheran school

LEQ/LESER/LSA policies and guidelines

- Enterprise Agreements

(Name) school policies and guidelines

(for example):

- Workplace Health and Safety Policy
- Protective Behaviours for staff
- Child Protection Policy

Love

In response to God's love for us, we demonstrate the same kind of love for others

Therefore we:

- uphold and promote the Lutheran Christian ethos, both in and beyond the school
- demonstrate grace, forgiveness, and compassion in our relationships with others, particularly in critical areas school life, such as pastoral care, behaviour management, resolution of conflict and management of complaints
- are courteous, caring, kind and respectful in our words and actions, both at school and at school functions
- develop positive relationships with families, based on mutual trust and open communication
- do not engage in sexual behaviour or sexual relationships with students
- take reasonable care to establish and maintain a working environment that minimises the risk of physical, mental and emotional harm to ourselves and others
- are vigilant in fulfilling duty of care responsibilities

Justice

Through genuine concern and through developing a conscience for the rights and well being of others, we act with fairness and consistency and respond to injustice with courage and integrity

Therefore we:

- respect and value the uniqueness of each person
- are fair, consistent and just in our dealings with all students, parents and caregivers, colleagues and members of the wider school community
- maintain sensitive information with appropriate confidentiality and therefore refrain from discussing school issues or others' personal or professional problems in situations where the information may not be treated confidentially
- are aware of and fulfil the ethical, moral and legal responsibilities relevant to our position,
- are truthful when making statements about our qualifications and competencies

Compassion

We are open and responsive to the needs and concerns of others, and exercise the ability to reach out to and actively care for them

Therefore we:

- take notice of others' reactions to our actions, tone of voice and manner
- raise any concerns, issues, problems with the appropriate level of school management as soon as possible
- ensure all allegations and suspicions of abuse to young people are recorded and acted upon
- ensure that our personal behaviour does not contribute to inappropriate conduct by others
- ensure that any physical contact with a child is in response to the situation, the needs and wishes of that child, non-secretive and appropriate for the child's age, health and developmental stage
- are cautious, sensitive and respectful about making personal comments and asking personal questions when caring for students
- recognise that social relations between staff and students can be problematic

Forgiveness

We pardon the wrongs others have done to us, seek pardon for the wrongs we have done to others and in doing so, focus on making a new start

Therefore we:

- deal proactively, openly and decisively with dysfunctional relationships and see them as opportunities for God to transform and heal

- accept our obligations to put damaged relationships right
- understand that genuine forgiveness can be a difficult process, but that it is a biblical imperative, made possible in the lives of people through the grace of God
- accept that at times our actions lead to consequences (including disciplinary action) and that these are not incompatible with forgiveness

Service

We give our love, time, energy, gifts in response to the needs of others and to make a difference in their lives, without expecting recognition or reward

Therefore we:

- put the needs of others ahead of our personal agendas
- do not seek recognition at the expense of professional objectivity
- consult with parents and caregivers when making decisions which have an impact on the education or wellbeing of a student
- respond to others' concerns in a timely and appropriate manner
- do not exploit our position for personal or financial gain
- ensure that personal or financial interests do not interfere with the performance of our duties

Humility

We recognise and value the gifts and abilities of others equally to our own and therefore respect and learn from their experience

Therefore we:

- acknowledge and support the personal strengths, professional experience and diversity which colleagues bring to the school community
- consider other viewpoints fairly
- demonstrate the ability and willingness to work effectively in teams
- build collaborative relationships based on trust, respect, honesty and diplomacy
- make every effort to use constructive methods to manage conflict and differences of opinion in a spirit of collegiality, without blame and with respect for different opinions, strategies, practices and viewpoints
- give respectful feedback and accept feedback
- are aware of the role of other professionals, services and agencies that can assist us support students and their families, and know when to refer on

Courage

We have the strength of heart and firmness of spirit to stand up for what is right and 'have a go' despite difficulties, uncertainty and setbacks

Therefore we:

- use constructive action and appropriate forums to debate issues and to bring about change
- challenge negative interpersonal behaviours when we observe them and use appropriate processes to deal with them
- protect students from intimidation, humiliation and harm
- seek advice, support and assistance when we are facing personal challenges

Hope

We place our trust and faith in God's provision of the things we need to handle all kinds of situations and events, and look forward with trust and confidence

Therefore we:

- appreciate that all interactions are opportunities for the Holy Spirit to work
- actively seek to develop our personal resilience
- are realistically aware of our personal gifts and talents

Quality

In every task, every relationship, every interaction we strive always to use our gifts, abilities, skills and talents to bring about the best outcome

Therefore we:

- create and maintain safe, healthy environments which enable learning, development, engagement, initiative, self-worth and resilience
- are committed to, and model, highly professional conduct and best practice
- conduct ourselves in a manner that is consistent with the responsibility to be a positive role model to children and as a representative of our school
- present the school in a positive light to the community

Appreciation

We recognise and value highly the gifts and blessings given to us and surrounding us

Therefore we:

- recognise and value the gifts and talents of others
- celebrate the positive aspects of our work environment
- provide support for one another
- value and care for school property and other physical assets

Section D: Complaints procedures

1. Policy statement

Lutheran schools seek to be places of physical, social and psychological safety for all where legal requirements are fulfilled, and where caring, cooperative and respectful relationships contribute to supportive communities that reflect the values of the gospel of Jesus Christ and where there is a focus on love, justice, compassion, forgiveness, service, humility, courage, hope, quality and appreciation and restoration.

2. Guiding principles for effective complaints management

2.1 Commitment

- a) School leaders model best practice in handling complaints
- b) Staff are informed about complaint resolution procedures and the people with the responsibility for receiving and dealing with complaints
- c) Complaint resolution processes rely on people acting in good faith, exercising good judgment, being honest and open, focusing on the issues not the person and communicating in a courteous, and respectful manner

2.2 Fairness

- a) People are entitled to lodge a complaint
- b) Complaints are lodged in good faith
- c) All complaints are taken seriously
- d) Every reasonable effort is made to ensure that a person who lodges a complaint will not be treated unfairly or victimised, the person dealing with a complaint is not intimidated or coerced and the respondent receives a fair hearing
- e) Subject to duty of care or other legal obligations, people are informed of any allegations against them or grounds for adverse comment about them
- f) All parties are given a reasonable opportunity to reflect on information and to put their case
- g) Only matters relevant to the complaint under consideration are taken into account
- h) As far as possible and appropriate, confidentiality is respected and maintained by all parties through the resolution process, save where persons are required to be informed on a 'needs to know basis' or where statutory or legal requirements demand that matters be reported
- i) Reasonable inquiries or investigations are made before making a decision about the validity or otherwise of a complaint
- j) All parties to a complaint are informed of the decision and the reason for it
- k) Investigation and decision making arrangements do not conflict
- l) No person decides a case in which they have a direct interest
- m) All parties are entitled to personal and/or professional advice, support or representation
- n) Application of the rules of procedural fairness may vary from one context and situation to another

2.3 Resources

- a) Roles and responsibilities for receiving and dealing with complaints are clearly defined and designated, and relevant staff provided with training in communication skills and handling complaints
- b) Designated staff have sufficient authority to handle complaints OR ready access to those who do have the necessary authority

2.4 Access

- a) Complaints resolution procedures are accessible, consistent and apply to all employees
- b) Staff have the right to exercise choice in the method of resolution of a complaint
- c) Complaints can be lodged in any form

- d) Anonymous complaints are taken seriously, recorded and considered as far as practically possible as they can still lead to a productive outcome. Although there can be limitations on investigation and resolution and complainants may be encouraged to identify themselves, this must not be a requirement
- e) The complaints handling procedure is available to all staff, in either print or electronic form
- f) The complaints handling procedure is regularly promoted within the school and community

2.5 Assistance

- a) Complainants are not required to repeat their complaint to a number of different people
- b) The school designates people to receive and manage complaints

2.6 Responsiveness

- a) Complaints are dealt with speedily and sensitively
- b) Early intervention, effective management and prompt resolution are seen to be critical
- c) In general, complaint resolution closest to the source of the problem is the most effective

2.7 Remedies

- a) An effective complaints procedure includes a variety of options for resolution
- b) Acknowledgement and an apology are expected when a complaint has substance
- c) A complainant should be provided with evidence that the complaint has been addressed in a transparent and consistent manner

2.8 Data collection and use

- a) Complaints are recorded in a systematic and standard way and records filed
- b) Records of complaints include sufficient information to allow subsequent analysis if needed
- c) Recorded complaints are analysed to determine if there are any recurring patterns
- d) Any patterns of behaviour are dealt with by school leaders

2.9 Reviews

- a) Complaints handling procedures are regularly reviewed for responsiveness and effectiveness

3. Definitions and terms

Complaint

Workplace grievance or conflict situations involve two or more people with different expectations and views, each one taking a position and acting on what they believe is right. In addition, the school has expectations that must also be taken into account.

Within the context of this process, a complaint is defined as an expression of dissatisfaction by a staff member with any action or behaviour of another staff member or an aspect of employment which the employee perceives as adversely affecting him or her.

Thus, for example, a complaint may relate to:

- behaviour or perceived inaction by a staff member which has or is likely to have an unreasonable negative impact on another staff member's ability to fulfil their duties
- perceived sexual harassment; harassment or discrimination on the grounds of disability, race, religious belief, political viewpoint, gender, marital status, pregnancy, sexual preference, national or ethnic origin
- real or perceived unfair, unreasonable or improper treatment
- administrative decisions concerning people that are arbitrary, capricious or made without appropriate consultation
- conflict of interest
- behaviour that is contrary to the standards defined in the LEA code of conduct
- allegations of bias
- ongoing interpersonal conflict
- industrial issues – anything that has a bearing on conditions of employment (salary, terms of employment, working conditions, work load, etc)

Complainant

The person who is dissatisfied

Defamation

At times a complainant and the employer and employees who attempt to deal with a complaint internally may be threatened with an action for defamation. Although there is little risk of such action succeeding against a genuine complainant who seeks information and support from the appropriate people only, it is important that:

- a complainant is advised not to discuss the complaint issue with all and sundry
- each person who is legitimately provided with information relating to the complaint takes great care to protect that information. Leaving a computer screen open or a note lying on a desk can put the person at risk in any legal action
- each person who legitimately passes on information does so 'without malice' and to ensure the health and safety of the complainant

Facts at issue

Details of the complainant's and respondent's names and contact information, place and date and description of the alleged behaviour, why it is in question, whether there was any authority to engage in the alleged conduct, whether there was any breach of of any policy, behaviour, standard or law.

Good faith complaint

A complaint submitted by a complainant who has honest belief based on reasonable grounds.

Impact of an investigation

Managing the impact of an investigation means:

- anticipating where the impact will be greatest
- considering how the investigation is likely to affect staff morale
- devising strategies to minimise the adverse effects
- devising strategies to restore relationships wherever possible

Procedural fairness

Procedural fairness is also often referred to as 'natural justice'. It applies to any decision that can affect the rights, interests or expectations of individuals in a direct or immediate way and works to ensure that decision making is fair and reasonable. Justice should not only be done, it should be seen to be done. In effect it means that bias (both real and perceived) is avoided and all parties are given a fair hearing.

Respondent

The subject of a complaint – the person alleged to have caused the dissatisfaction, through their words, action, or inaction.

Vexatious complaint

A complaint that is submitted for an improper purpose – for example, as an act of revenge, to obtain personal benefit or because the person likes to complain all the time.

4. Valuing Safe Communities: complaint resolution options

Resolution based on Commitment

Face to face resolution							
Expression of concern							
Seek procedural guidance	Contact Officer	OR	Occupational Health and Safety representative	OR	Union Representative	OR	Delegated Manager

Following discussion and advice, you may decide to submit a formal written complaint to the person delegated with the responsibility for receiving such complaints and to seek resolution of the complaint from the following options:

Resolve directly with the person

Resolution based on Cooperation

Mediation and conciliation	Internally appointed, trained mediator or conciliator	OR	Externally appointed, trained mediator or conciliator	OR	Regional Office Complaints process (mediation and investigation)
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Resolution based on Compliance

Investigation and arbitration	External Investigation organised by the school	OR	Regional Office Complaints process (mediation and investigation)	OR	LCA Safe Place Complaints process (sexual abuse & harassment)
Pursue legal action	Report matter to Australian Human Rights Commission	OR	Report matter to state anti-discrimination or EO agency	OR	Report matter to police

Valuing Safe Communities: Complaint resolution options

The choice of the resolution process must lie with the complainant

According to the nature and seriousness of the situation, a staff member may elect to deal with dissatisfaction in one or more of the following ways:

1. Face to face resolution

If at all possible, a concern, issue, problem or conflict is best dealt with directly between the people involved before it escalates to the stage of making a complaint. Early action at this level generally provides the best opportunity for positive resolution.

Face to face resolution involves the person with the concern raising the matter directly, either verbally or in writing, with the person(s) responsible for the behaviour to let them know the impact their behaviour has had and to see if a misunderstanding has occurred. It requires both parties to work together to reach a mutually agreed resolution through a problem solving approach conducted in a spirit of goodwill and commitment. Both the complainant and the respondent will need to approach the situation in an open, inclusive and cooperative manner.

The following process is recommended:

- discuss confidentially
- state what the problem is
- give an example of the behaviour that has caused dissatisfaction
- state how it is affecting you and your work
- describe what is at stake and why the problem needs to be resolved
- express personal willingness to contribute to a resolution
- seek the other person's perception of the situation
- state what is needed
- be open to new solutions
- be willing to make the first move towards reconciliation

2. Expression of concern

At times an aggrieved person simply wishes to talk over a concern about a one off incident to a trusted friend or colleague but does not want to take any further action. While this is a legitimate way of managing a minor concern, passing annoyance or irritation, both parties should be clear about the situation.

*However, the following **must** be noted:*

- This should not be a substitute for tackling the issue directly with the person concerned
- While some situations will heal with time, others will not. This is not an appropriate course of action if the issue is causing a problem that is likely to become worse if not dealt with OR if increasing numbers of people are becoming involved.

3. Seek procedural guidance

Depending on the arrangements that a particular school has in place, guidance about possible options and assistance in determining an appropriate course of action could be sought from:

- a designated and trained Contact Officer
- a Workplace Health and Safety representative
- a Union representative
- a senior management member with allocated responsibility for staff

All people fulfilling these roles must be clear about their responsibilities to provide correct information, record the details and monitor the situation.

4. Resolve the problem directly with the person concerned

Wherever possible, an informal, amicable and equitable resolution of a complaint is the least stressful option for all parties. After obtaining advice, a complainant may decide to make a formal complaint but still be of the opinion that direct resolution with the person concerned is their preferred

option. Contact officers can provide informal support in this situation, but they should not be involved in the resolution process.

5. Request mediation and conciliation

Seek mediation and/or conciliation through either a *trained* internally appointed mediator or a *trained/qualified* externally appointed mediator.

Conciliation

A process in which parties to a dispute with the assistance of a neutral third party ('the Conciliator') identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The conciliator **may have an advisory role in regard to the content of the dispute or the outcome of its resolution**, but not a determinative role. The Conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions or give advice on terms of settlement (IAMA).

Mediation

A process in which parties to a dispute with the assistance of a neutral third party ('the Mediator') identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator **has no advisory or other determinative role in regard to the content of the dispute or the outcome** of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted (IAMA).

It should be noted that any agreement reached by the parties is not directly enforceable by the school.

6. Request a formal external investigation

A third party (investigator) collects the information about the situation, appraises it and determines whether the complaint is substantiated or otherwise. It is strongly recommended that this person is from outside of the school to ensure that procedural fairness is followed. Investigations should not be carried out with the preconceived notion that misconduct has occurred. Rather, they are designed to get to the truth of the matter. Even when an investigation does uncover wrongdoing, it *can* have a favourable impact.

It should be noted that there may be circumstances where initial inquiries or the early stages of an investigation will reveal that there is no case to answer. In such circumstances it may not be necessary to inform the respondent at all, if they are unaware of the investigation. This may save the person from suffering unnecessary stress.

7. Regional office complaints procedure

As part of an Enterprise Bargaining Agreement or Collective Agreement, regions may have a complaints procedure that includes both mediation and investigation. Complaints should therefore be lodged through the regional office.

8. LCA Safe Place complaints procedure

While this option is to be used only for complaints relating to sexual abuse and harassment, it would be quite appropriate for a complainant to go directly to this option. See the Information Sheet: Safe Place Procedure for more details (Appendix C)

Contact is made with Safe Place in any of these ways:

- Phone call to the LCA Safe Place number 1800 644 628, which is a 24/7 referral service
- Email to report.abuse@safeplace.lca.org.au
- Letter to The Supervisor, PO Box 519, Marden SA 5070

9. Seek appropriate legal redress through court action

The matter can be reported to the Australian Human Rights and Equal Commission (formerly HREOC) or the relevant state/territory agency. For more information, see http://www.humanrights.gov.au/info_for_employers/complaints_proc/external_agencies.html

10. Report the incident to the police

Some things should not be addressed at a personal level. When complaints are made in circumstances where an alleged crime may have been committed, there is no discretion - the complaint must be reported to the police or relevant outside authorities. These include physical or sexual assault, fraud, indecent exposure, stalking or obscene communications, threatening behaviour.

5. Roles and responsibilities

The people designated to manage complaints relating to workplace behaviour will vary depending on the size and organisational structure of each school. However there are key roles and responsibilities that should be allocated and publicised so that everyone is very clear about who to contact and the extent and limitations of that person's role.

Authorised persons

Authorised persons are people who have been designated the responsibility, and trained, to deal with complaints relating to workplace behaviour. In schools they are likely to be the principal, senior management members or other managers with the stated responsibility for managing staff within their area. An authorised person may also be a complaint receiver and, particularly in a smaller school, the complaints coordinator.

Authorised persons DO:

- receive complaints
- act as internal mediators, provided that they have received appropriate training. However if there is any likelihood that the authorised person may be required to implement subsequent disciplinary action, that person should not act as a mediator.
- coordinate any investigations by liaising with the external investigator
- take accurate and detailed records of complaints and subsequent action
- keep the complainant fully informed of progress to the resolution of the complaint
- ensure that any agreed action arising from the complaint is carried out
- ensure that all privacy and confidentiality requirements are met
- ensure that the complaint is resolved as quickly as possible

Authorised persons DO NOT:

- act as contact officers
- conduct investigations

Complaints coordinator

A complaints coordinator is a senior staff member who has been delegated both the authority and the responsibility for policy creation, implementation and evaluation, and ensuring compliance.

The coordinator DOES:

- act as a contact officer and receive complaints
- acts as a point of contact for the parties involved and communicate with them
- coordinate the tasks that need to be undertaken in the resolution process
- ensure everyone is treated fairly and with confidentiality
- monitor the management of complaints, ensuring that they proceed to resolution in a timely manner
- ensure that details of all complaints and subsequent action are recorded and filed confidentially - a confidential complaints register for the collection and keeping of all records relating to complaints is recommended
- monitor the complaints records for repetition and patterns of behaviour that may be of concern
- ensure that relevant staff receive training in complaints processes
- provide information regarding Employee Assistance Programs and external investigation and mediation services

The coordinator DOES NOT

- act as an authorised person, mediator, investigator or decision maker

Contact officer

Contact officers are designated and trained people within the school charged with the responsibility for receiving complaints and for providing support and information. They act impartially and with all due confidentiality to provide information, advice and support and allow employees to make informed choices about further action in relation to the alleged behaviour.

Contact officers DO

- Take the complaint seriously
- Clarify why someone has the perception about a situation that they have, and get specific examples of how this perception has been formed
- Provide information about the relevant school behaviour policies and procedures, including *Valuing Safe Communities*
- Provide information about the options available to resolve the matter and possible outcomes
- Ask the person concerned what action they wish to take
- Provide information about support services available (for example, an Employee Assistance Program)
- Take brief, accurate notes of meetings *which do not identify the person(s) concerned* and are for the COs own use and to enable the school to monitor the number and type of complaints and target particular problem areas. Information given to a CO may be highly sensitive, contain allegations that are not yet proven, and be potentially damaging. Because the CO does not conduct any investigation, the subject of the allegations is not aware of, and has no opportunity to refute, the claims.
- Clarify the boundaries of the CO role
- Assist with setting a standard of acceptable workplace behaviour
- Provide feedback to the appropriate people (authorised persons, complaints coordinator)
- Monitor the situation
- Advise an authorised person immediately if there are concerns about the safety of the complainant. If there is a risk that a person may harm themselves or is at risk of harm, this needs to be addressed as a separate matter

Contact officers are people with the ability to

- Demonstrate awareness about the range of emotions the employee making the complaint may be feeling (anger, distress, vulnerability, intimidation, frustration, helplessness)
- Remain objective and non-judgemental
- Understand and accept diversity
- Listen effectively
- Communicate concisely
- Empathise
- Remain approachable
- Confidently utilize the resources, policies and services available
- Exercise appropriate confidentiality
- Know when health and safety may be at risk and act appropriately

Contact officers DO NOT

- Take sides, no matter how unfair the behaviour appears to be
- Minimise or trivialise concerns
- Act as a mediator, investigator or decision maker in the complaints resolution process
- Generally act as support persons in investigations, although they may assist the person concerned by taking them to others as appropriate
- Counsel or offer advice as to the best course of action

Selecting contact officers

- While there is no legal requirement to have COs, it is looked on favourably by courts when disputes occur
- COs may be senior or middle managers, or staff members
- They should be people who demonstrate the above qualities and abilities *before* they become COs

- The role should be advertised, nominations received and then the COs chosen by senior management
- The school can determine the length of 'tenure'
- Particular attention should be paid to ensuring that there is a balance of gender and representation from the different work groups within the school.

Training for contact officers

- Valuing Safe Communities Level 3, OR
- Valuing Safe Communities Level 2 plus site based training that includes complaint handling procedures and options, procedural fairness, roles and responsibilities of a contact officer, information about relevant legislation and amendments, record keeping, confidentiality requirements.

Receiver of a complaint

The employee of the school with whom a complaint is lodged. Most commonly, authorised persons will also receive complaints. However, in some instances, for example when the immediate authorised person is the subject of the complaint ('the respondent'), a complainant may choose to lodge the complaint with someone else – most likely another authorised person.

A receiver DOES

- Listen to and record details of the complaint
- Clarify why someone has the perception about a situation that they have, and get specific examples of how this perception has been formed
- Decide if they, as receiver, are authorised to deal with the complaint and advise the complainant
- If necessary, hand the written details of the complaint on to the person authorised to deal with it
- Advise the complainant that the matter is to be handed on to an authorised person

A receiver DOES NOT

- Offer any defence to the complainant
- Act as an investigator

Section E: Framework implementation

Valuing Safe Communities should be known throughout all Lutheran schools. All staff members should know and understand the policy and procedures within the framework, and sign a statement to this effect.

1. Training requirements and procedures

1.1 Training requirements

Who	Type of training	Trained by	Length of course	How often	Recording and certification
Regional Trainers (accreditation)	Level 3 Accreditation: Train the trainer	National Trainer	4 hours	Once – by the end of 2008	Recorded in Lassi by LEA administrator Certificate issued by LEA and signed by National Trainer
Regional Trainers (update)	Level 3 Update	National Trainer	2 hours	Every 2-3 years	Recorded in Lassi by LEA administrator Certificates issued by LEA and signed by National Trainer
School Trainers (accreditation)	Level 3 Accreditation: Train the trainer	National Trainer initially, then Regional Trainer	4 hours	Once	Names sent to Regional office Recorded in Lassi by Regional office administrator Certificates issued and signed by Regional Trainer
School Trainers update	Level 3 Update	Regional Trainer	2 hours	Every 2-3 years	Recorded in Lassi by Regional office administrator Certificates issued by Regional Trainer
All staff (permanent, part time, full time)	Level 2 Initial training	School or Regional Trainer	2-2.5 hours	Once	Names sent to Regional office Recorded in Lassi by Regional office administrator Certificates issued and signed by Regional Trainer
All staff (permanent, part time, full time)	Level 2 Update	School or Regional Trainer	0.5-1 hour	Every 3 years	Names sent to Regional office Recorded in Lassi by Regional office administrator Certificates issued and signed by Regional Trainer
Staff new to the school	Level 2 Initial training	School or Regional Trainer	2-2.5 hours	Briefing by a trained staff member as part of orientation and training within the first two terms,	Names sent to Regional office Recorded in Lassi by Regional office administrator Certificates issued and signed by Regional Trainer
Contract (two terms or more)	Level 2 Initial training	School or Regional Trainer	2-2.5 hours	As above	Names recorded in school data base Names sent to Regional Office Certificate issued and signed by Regional Trainer
Contract (less than two terms) Volunteers (equivalent of less than 80 hours pa)	Level 1 Awareness	Staff member who has done the accredited Level 2 training	0.5 – 1 hour	Once, as part of orientation, then repeated every 3 years	Names recorded in school data base. No certification
Volunteers who have done Initial training	Level 2 Update	School or Regional Trainer	0.5 – 1 hour	Every 3 years	Names recorded in school data base Names sent to Regional office Certificates issued and signed by Regional trainer

It is highly recommended that schools provide an annual briefing on this framework for all staff

1.2 Training procedures

- 1.2.1 All training is to be conducted by a trainer accredited by LEA.
- 1.2.2 Each region appoints a key person as a regional trainer, who is then trained and accredited by LEA to be responsible for training school trainers.
- 1.2.3 Schools appoint their own school trainers to then train the staff in the school. It is advisable that school trainers have a key role in the implementation of the framework, as coordinators and/or contact officers.
- 1.2.4 Due to different state and territory legislation in workplace health and safety and child protection, school trainers should also be trained in child protection, workplace health and safety and mandatory reporting (as applicable).
- 1.2.5 *Training for regional and school trainers is to be completed by the end of 2008*
- 1.2.6 *All school staff are to be trained by the end of 2009*
- 1.2.7 Names of those who have completed training are to be kept by schools through LASSi.
- 1.2.8 All who complete training will be issued with an LEA *Valuing Safe Communities Certificate* signed by a LEA accredited trainer. This should indicate level and date of training and the name of the trainer.

2. Responsibilities

2.1 Responsibilities of Lutheran Education Australia

In terms of schools there is no longer a formal relationship between district Safe Place Committees and schools. Schools will be responsible nationally to Lutheran Education Australia through the regions.

In particular LEA is to:

- 2.1.1 Appoint a project manager to coordinate all aspects of Valuing Safe Communities, including taking the role of national trainer. The project manager is responsible to the executive director of LEA
- 2.1.2 Establish, develop and clarify all matter of policy and procedure through the *Valuing Safe Communities* framework
- 2.1.3 Review and update the *Valuing Safe Communities* framework annually
- 2.1.4 Develop training standards and resources related to unlawful discrimination and harassment, workplace behaviour, including an LEA Code of Conduct and standard options for resolving complaints
- 2.1.5 Train and accredit regional trainers
- 2.1.6 Develop school focused brochures and posters
- 2.1.7 Report annually to General Church Council on the implementation in the regions and on the effectiveness of *Valuing Safe Communities*
- 2.1.8 Provide relevant model policies

2.2 Responsibilities of regional offices (LSA, LEQ and LESER)

Regional directors are responsible for fulfilling the requirements of this framework.

In particular they are to:

- 2.2.1 Designate a regional trainer
- 2.2.2 Train and accredit school trainers
- 2.2.3 Ensure that schools comply with *Valuing Safe Communities* training and implementation
- 2.2.4 Assist with the development of model policies
- 2.2.5 Provide advice about suitable professional services
- 2.2.6 Ensure that schools comply with workplace health and safety and child protection through the development of relevant policies, procedures, training and advice

2.3 Responsibilities of schools

School principals are responsible for fulfilling the requirements of this framework.

In particular they are responsible for:

2.3.1 Resources

- Designating staff member(s) to fulfil the various roles and responsibilities described in the complaints process section of this framework
- Seeking assistance from the regional office for external professional mediation and investigation services and employee assistance services

2.3.2 Training

- Focusing on prevention as well as management by ensuring that all staff and volunteers receive training in safe and professional workplace relationships through *Valuing Safe Communities*
- Ensuring that staff members with designated roles and responsibilities for handling complaints are appropriately trained either by completing Level 3 training in *Valuing Safe Communities* or by undertaking training from another registered provider so that they are competent and confident to handle complaints
- Requiring all staff members and volunteers to sign a statement to the effect that they have completed and understood the *Valuing Safe Communities* training
- Keeping records of the training through LASSi

2.3.3 Publication and promotion

- Endorsing, promoting and reinforcing this framework
- Ensuring all staff have access to the VSC framework, complaints process and the LEA Code of Conduct either by providing them with a copy, including it in the staff handbook or placing it on the staff information section of the school website
- Promoting appropriate workplace behaviour through the LEA Code of Conduct and other school specific documents
- Displaying the names and contact details of staff who have roles and responsibilities for handling complaints in the staff room and other relevant areas of the school

2.3.4 Record keeping

Schools should develop clear guidelines for documenting and recording complaints and reports relating to workplace behaviour.

This is to ensure that:

- The incidence of problems with workplace behaviour is monitored so that further awareness-raising strategies can be put in place
- Informed and fair decisions can be made on the basis of accurate reports
- Evidence of how the school dealt with the case can be submitted in any subsequent legal proceedings

The following guidelines are suggested:

- Contact officers take brief notes for their own use that do not identify any of the people concerned
- All personnel with a delegated responsibility for resolving complaints (authorised persons) should record the details of each complaint along with subsequent action and file the information in an agreed confidential location
- Reports of mediations and investigations undertaken by people external to the school are also to be filed
- Details of any warnings given to a staff member in relation to inappropriate behaviour towards a student or students should be filed and a copy sent to the relevant regional director.

2.3.5 Policies and procedures

In addition to *Valuing Safe Communities*, principals are responsible for the oversight of the development and implementation of other policies and procedures that fit within this framework.

Minimum policy requirements are considered to be:

- LEA Code of Conduct for safe and professional workplace relationships which can also include any existing workplace behaviour (or similar) policy that deals with bullying, harassment and discrimination
- Workplace health and safety
- Child protection
- Mandatory reporting, as applicable
- National Safe School Framework
- Employee and volunteer screening
- Privacy (employees, volunteers, applicants for employment)
- Critical incident management plan
- Procedures for managing the outcome of an external investigation
- Student code of conduct or similar

The following are highly recommended as a means of creating a positive workplace culture, building staff morale, communicating expectations clearly and minimising complaints and disruptions:

- Protective practices for staff – guidelines for staff in their dealing with students. This could be a part of a staff code of conduct but is probably important enough to have as a document in its own right.
- New staff induction program – information about the system and the school that will enable new staff to do their job fully and effectively.
- Staffing protocols – clarification of processes used to recruit and select new staff and also to fill promotion positions.
- Staff professional development policy – guidelines and priorities for access to professional development.
- Staff appraisal policy and procedures (that meet both school needs and the professional learning needs of staff).

Section F: Model policies

LSA Child Protection Policy

(Used with the permission of LSA, October 2008) Note: LEQ schools should not use this Child Protection Policy

1. Overview

The Lutheran school is an agency of the Lutheran Church of Australia (LCA) through which the church seeks to carry out its ministry and mission to the people of Australia.

The Lutheran Schools Association (LSA) is the system authority for schools under the auspices of the LCA in South Australia, Western Australia and the Northern Territory.

A central belief of the LCA is that each person has intrinsic value given that all are created in the image of God. Thus, Lutheran schools seek to be safe and healthy places for all where compliance with legal requirements can be demonstrated and where caring, cooperative and respectful relationships contribute to supportive communities that reflect the values of the gospel of Jesus Christ.

The framework, **Lifelong Qualities for Learners**, defines the ethos of Lutheran schools:

“As central to their ministry and mission, Lutheran schools seek to nurture individuals who are aware of their humanity, open to the influence of the Holy Spirit and growing in and living according to a cohesive worldview **while** living in community and reflecting characteristics of God through core values, especially love, justice, compassion, forgiveness, service, humility, courage, hope, quality and appreciation”.

Child protection is a key priority in upholding this ethos. Schools play a vital role in creating safe environments for children and young people where the physical, social and psychological well being of each individual is valued and protected and where each child's well being and interests is upheld through explicit strategies for prevention, protection and support.

A child safe school:

- *‘Takes a preventative, proactive and participatory stance on child protection issues’ (Child Wise Choose with Care p.18). The safety and well being of children is a paramount consideration when developing activities, policies and management practices*
- *Is one that values and embraces the opinions and views of children*
- *Encourages and assists children to build skills that will assist them to participate in society*
- *Takes action to protect children from physical, sexual, emotional and psychological abuse and neglect.*

Creating child safe environments is a dynamic process that involves active participation and responsibility by individuals, families, government and non-government organisations and community groups. Sharing responsibility for the care and protection of children helps to develop a stronger, more child-focused community.

A child safe community can:

- *care for all children*
- *identify vulnerable children*
- *support children that have been abused and neglected, and*
- *prevent further harm to children*

The focus of a child safe organisation is not simply to create an environment free from risk or danger. Rather it is about building an environment which is both child-safe and child-friendly, where children feel respected, valued and encouraged to reach their full potential.

(Families SA, Child Safe Environments: Principles of good Practice, p.5)

2. Purpose and Scope

Every child has a right to be safe from harm at all times. The well being and best interests of children are the responsibility of the entire community. Child Protection legislation in each state aims to ensure that children are safe from harm and cared for in a way that allows them to reach their full potential. (Name) Lutheran school is committed to the care, safety and protection of all children attending the school and acknowledges that the school has a key role to play in the intellectual, physical, social, emotional and spiritual development of its students within the context of a caring and supportive learning environment.

The purpose of this Child Protection policy is to promote and enhance the safety and welfare of children in Lutheran schools. It is supplementary to Lutheran Education Australia's *Valuing Safe Communities* (2009) – a framework for safe and professional relationships by adults working in schools and other educational settings.

It is the core policy that underpins a set of child protection policies, procedures and guidelines that have been endorsed by the Lutheran Schools Association, under the auspices of the LCA, for use in its schools and therefore should be read in conjunction with the following documents:

- LSA Protective Practices for Staff
- LSA Staff Selection and Screening policy and procedures
- LSA Mandatory Notification policy and procedures
- LSA Critical Incident policy and procedures
- LSA Child Protection Complaints Process
- LSA International Student – Child Protection policy and procedures
- LSA International Student Exchange – Child Protection procedures

By implementing these and a range of individual school policies and programs, Lutheran schools seek to:

- Provide guidance on appropriate standards of conduct for adults in dealing with children
- Define appropriate standards of care for ensuring the safety of children
- Provide guidance on the recruitment and supervision of employees of Lutheran schools
- Provide guidance on the standards to be observed in dealing with information obtained about the criminal history of employees and volunteers who work with children in Lutheran schools

Lutheran schools recognise that the primary responsibility for a child's care and protection lies with the family, and therefore acknowledges the need to work together with parents and care-givers. Nevertheless, everyone working in a school is responsible for the care and protection of children and for reporting information about child abuse concerns such as neglect or physical, sexual and emotional abuse. Staff, given their close interactions with students, play an important role in the detection of child abuse and the provision of support and assistance to children who are abused or at risk of abuse.

3. Policy Principles

- 3.1 Each person has intrinsic value given that all are created in the image of God
- 3.2 God wants us to love each other as He loves and not to abuse the relationships in which he has placed us
- 3.3 A safe school is one where the physical, social and psychological well being of each individual is valued and protected at school and at any event supported by the school
- 3.4 All people who care for children must act in the best interests of the child and take all reasonable steps to ensure the child's safety
- 3.5 Everyone affected by the work of the school (children, young people, their families, staff, management, volunteers) has a responsibility to participate in child safe practices and should therefore be encouraged to make suggestions and voice concerns
- 3.6 Schools have a duty of care to children with whom they work and with whom their agents, contractors and subcontractors work
- 3.7 Fear, denial, entrenched culture, lack of resources, complacency are deemed to be barriers to a safe community

- 3.8 Any form of child abuse in a community is to be taken seriously – this includes fulfilling legal and moral obligations to report abuse or suspicions of abuse to children or young people
- 3.9 Verbal information and documents relating to allegations of child abuse should be treated with appropriate confidentiality
- 3.10 Quality leadership is an essential element that underpins the creation of a safe and supportive environment
- 3.11 Schools have a responsibility to develop and implement policies, programs and processes for nurturing a safe environment that are proactive, oriented towards prevention and intervention, and to engage the wider school community in doing so.
- 3.12 Policies and programs should be regularly monitored and evaluated so that decisions and improvements are based on evidence
- 3.13 Roles and responsibilities of all members of the school community in promoting a safe and supportive environment should be explicit, clearly understood and disseminated.
- 3.14 In-service professional development is critical in creating a safe and supportive school environment
- 3.15 Schools have a responsibility to provide opportunities for students to learn the knowledge, skills and attitudes needed for positive relationships
- 3.16 Fear of abuse or harassment allegations should not interfere with the development of healthy relationships

4. Policy Statements

(Name) school is committed to the safety and well being of all children and young people accessing our service. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and well being of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for children and young people.

In recognition of (Name) school's duty of care to its students while they attend school or take part in activities authorised by the school, we undertake:

- a) to take all reasonable steps to provide suitable and safe premises
- b) to take all reasonable care to provide procedures to ensure that no child is exposed to inappropriate risk of harm
- c) to encourage the disclosure of any possible inappropriate behaviour
- d) to address any concerns about a child's welfare
- e) to fulfil legal and moral obligations to promptly report any child protection concerns

5. Definitions and terms

Child protection concerns

A child protection concern may arise from any action or inaction which is inconsistent with the care or protection of a child. This may include physical, emotional or sexual abuse or neglect of a child. It may involve repeated or persistent maltreatment, or it may arise out of a single incident. It may be observed evidence of risk or indicators, reports of maltreatment by a person without parental responsibility for the child and/or disclosure of information provided directly by the child or parent/care-giver that describes or alleges maltreatment

School

Preschools, kindergartens, early learning centres, out of school hours care and vacation care services, junior primary, primary, secondary, senior secondary schools and any associated boarding facilities

Staff

All employees, paid workplace participants, volunteers, contractors and subcontractors

Students

All children and young people enrolled at or attending the sites defined under school, including international and exchange students

6. Policy Implementation

(Name) school is committed to taking a preventative, proactive and participatory stance on child protection issues through the development of a culture of awareness and accountability. In particular, the school acknowledges the following responsibilities:

1. To identify and analyse and evaluate risks of harm and to implement strategies to minimise and prevent risk
2. To develop appropriate policies and procedures to establish child safe environments. These policies and procedures must reflect the standards and principles of good practice.
3. To publish and promote the school's child protection policies and procedures
4. To fulfil state requirements for reporting child abuse, neglect and maltreatment
5. To demonstrate that we understand child abuse and acknowledge the damage an incident of abuse would do to the child, their family, people within and outside of the school community and to the school itself
6. To develop and maintain an open and aware culture towards child safety and protection through communication and consultation
7. To establish clear boundaries defining the roles of staff in relation to children
8. To adopt best practice in staff recruitment and selection
9. To fulfil legal and moral obligations to screen all staff and volunteers
10. To ensure that staff and volunteers are supported and supervised and to provide adequate staff to supervise children
11. To implement a clear complaints procedure for reporting concerns
12. To empower and encourage children to participate in safe school programs
13. To provide training in the elements of a child safe school and ensure that staff and volunteers know and fulfil their moral and legal responsibilities to protect children and young people
14. To establish and maintain safe environments for children

(Name) school seeks to fulfil these responsibilities by implementing the policies and procedures in:

- LSA Protective Practices for Staff
- LSA Staff Selection and Screening policy and procedures
- LSA Mandatory Notification policy and procedures
- LSA Critical Incident policy and procedures
- LSA Child Protection Complaints Process
- LSA International Student – Child Protection policy and procedures
- LSA International Student Exchange – Child Protection procedures
- LEA Valuing Safe Communities (2009)

The school should list its current relevant policies.

- *Behaviour Management policy*
- *Anti-harassment and Bullying policy or Student Code of Conduct*
- *Occupational Health and Safety policy*
- *Privacy policy*
- *Illicit drugs policy*

(Name) school also seeks to fulfil these responsibilities through the following programs:

The school should list its programs, which may include:

- *Valuing Safe Communities training for all staff (2009)*
- *Peer Support*

- *Bounce Back*
- *Mind Matters*
- *Buddy program*
- *Cyber Safety program*
- *Protective Behaviours Program for students*
- *Training for those responsible for the recruitment and selection of staff and volunteer*

Each staff member will be asked to sign a declaration that they have read and understand this Child Protection policy.

Appendix A: Legislation and compliance

Under the various state child protection legislation and non-government school registration requirements, schools have detailed legal responsibilities with respect to child protection. These include ensuring that child safe environments are established and maintained within the school and that instances of child abuse are reported to the relevant authorities.

The LSA, as a system authority, has a responsibility to ensure that schools comply with child protection legislation in their respective states.

The Non Government Schools Registration Board (NGSRB) requires schools to have Child Protection policies in place that will be reviewed as part of the Registration review. Non-compliance may result in removal of the school's registration and prosecution.

International Legislation

The principles and philosophy that underpin child protection work within Australia are based on the United Nations Convention on the Rights of the Child, 1990.

The Convention emphasizes that:

- All children have equal rights to protection from abuse and neglect
- All children should be encouraged to fulfil their potential and inequalities should be challenged
- Organisations shall take all appropriate legislative administrative, social and educational measures to protect children from all forms of abuse, neglect or negligent treatment while in their care.
- Organisations have a duty of care to children with whom they work and with whom their agents, contractors and subcontractors work

The [Universal Declaration of Human Rights](#), 1998 is also relevant.

Australian Child Protection Legislation

Family Law Act 1975 (Cth)

National Framework for Creating Child Safe Environments (2005)

National Child Protection Framework (currently under development, 2008)

The principal child protection Acts in the states within the management of the LSA are listed below, along with other Acts of Parliament pertinent to the operation and delivery of various services to children and families in those states. In addition, there are links to websites where Acts of Parliament can be downloaded.

Northern Territory

(Family and Children's Services, Department of Health and Community Services)

http://www.nt.gov.au/health/comm_svs/facs/facs.shtml

Principal Acts:

Community Welfare Act 1983 (NT)

Care and Protection of Children Draft Act (NT) (currently before Cabinet)

Other relevant Acts:

Education Act 1979

Criminal Code Act 1983 Anti-Discrimination Act NT 1992

Work Health (OH&S) Regulations 1992

Freedom of Information Act 2002

Disability Services Act 2004 (NT)

Administrative Decisions (Judicial Review) Act 2004

Child Protection (Offender Reporting and Registration) Act 2004

Information Act 2006 (NT)

Criminal Code Act 2006 (NT)

Western Australia

Department for Child Protection

<http://www.community.wa.gov.au/DCP/Resources/Child+Protection/>

Principal Acts:

Children and Community Development Act 2004 (WA)

Other relevant Acts:

Criminal Code Act 1913

Child Welfare Act 1947

Community Services Act 1972

Equal Opportunity Act 1984

Disability Discrimination Act 1992

Adoption Act 1994 (WA)

Family Court Act 1997 (WA)

Corruption and Crime Commission Act 2003

Working with Children (Criminal Record Checking) Act 2004 (WA)

South Australia

(Families SA; Department for Families and Communities)

<http://www.legislation.sa.gov.au/index.aspx>

Principal Acts

Children's Protection Act 1993 (SA) - see over for further information

Other relevant Acts/Legislation:

Young Offenders Act 1994 (SA)

Adoption Act 1988 (SA)

Children's Protection Regulations 2006 (SA)

Family Law Act 1975 (Cth)

Family and Community Services Act 1972 (SA)

Example: Corporate Occupational Health and Safety Policy

Statement of School Values

(Name) School's foundation vision is that of an education centred upon the Christian faith. A fundamental goal of our mutually supportive Christian community is the development and maintenance of an orderly, disciplined and safe learning environment for students and staff.

Implicitly the culture of the School should be one of concern and caring for all employees, students and others who are involved in School activities. Accidental injury and illness are considered to run counter to the ethos of the School and there is recognition that good occupational health and safety performance contributes directly to the overall exemplary performance of the School.

General Statement of Intent

The Principal of (Name) School, as the employer's representative, is committed to taking all reasonable steps to provide a duty of care to all employees, students and others aimed at keeping them free from injury and ill health. This duty of care will be discharged through the continued provision of safe equipment, safe places of work and safe systems of work.

The health, safety and welfare of employees, co-workers, contractors, visitors and members of the school are recognised as being of primary importance. (Name) School aims to ensure, so far as is reasonably practical, that all employees and others are safe from injury and risks to health while at work. Occupational health and safety is to be ranked equally with all other considerations.

Policy Objectives

By adopting this policy (Name) School seeks to achieve and maintain:

- A safe and healthy workplace
- Safe systems of work
- Safe tools, machinery and equipment
- Substances stored, dispensed, handled and disposed of in a safe manner
- Information, instruction, training and supervision necessary to ensure that employees and others are safe from injury and risks to health
- Consultation with employees on all issues which may affect health and safety at work
- Effective injury and illness reporting, recording, investigation and analysis
- Effective claims management of all work related injuries
- Effective rehabilitation of employees who suffer work related injuries and illnesses.

Strategies

(Name) School acknowledges the need to manage occupational health, safety welfare, claims management and rehabilitation through effective policy development, programs and action plans aimed at developing and operating appropriate control systems. The aims of the policy will be achieved by the implementation of the following strategies:

- Compliance with legislation, standards and relevant codes of practice
- Development and dissemination of clear occupational health, safety and welfare roles and responsibilities for all parties
- Establishment of mechanisms to facilitate continuing consultation between employer and employee representatives on occupational health, safety, welfare, claims management and rehabilitation matters
- Development and implementation of safety management systems
- Appropriate training, instruction and information for managers, supervisors and employees
- Adoption of a practice of risk assessment together with reviews and audits of safety management systems
- Establishment of processes that support the active involvement of employees in health and safety.

Roles and Responsibilities

Principal

The Principal, under the Occupational Health Safety and Welfare Act 1986, assumes the responsibilities of the employer to provide a healthy and safe system of work for (Name) School employees and others.

The Principal will ensure that

- Adequate resources are made available to meet occupational health safety and welfare aims and objectives.
- (Name) School is appropriately structured to put this policy into effect and that all levels of management are given the responsibilities and delegated authority necessary to ensure its success.
- All levels of management are responsible for the successful implementation of occupational health, safety and welfare policy and programs in the worksites and activities over which they exercise control.
- Employees are consulted on all issues, which may reasonably affect their health and safety at work. (Name) School supports the appointment of health and safety representatives as outlined in the Occupational Health Safety and Welfare Act 1986. The Principal shall facilitate the election of health and safety representatives. Managers, supervisors and people in designated positions of responsibility will support health and safety representatives in carrying out their prescribed functions.

Responsible Officer

This may or may not be the Principal

Occupational Health and Safety Coordinator/Occupational Health and Safety Representatives

Detail the school's arrangements for policy development, auditing and consultation.

Managers, Supervisors & People in Designated Positions of Responsibility

Managers and supervisors are responsible for the health safety and welfare of employees they supervise and for members of the public, contractors or others who are in their area of operation. In particular, managers and supervisors are responsible for:

- Implementing (Name) School's occupational health and safety policy and programs for which specific roles and responsibilities will be assigned and communicated
- Day to day management of health safety and welfare issues within their area of responsibility
- Ensuring that agreed mechanisms for consultation are followed regarding issues which may affect the health, safety and welfare of any employee

Employees, Co-workers, (hence forth described as "employees et al".) Contractors, Visitors and members of the School Community

Employees et al. shall take reasonable care to:

- Follow safe and healthy work practices consistent with the extent of their control over or influence on working conditions and methods
- Take action that is within their competence to report or make recommendations to higher level to avoid, eliminate or minimise hazard exposures
- Avoid adversely affecting their own health and safety or the health and safety of any other person through any deliberate act of omission or commission at work
- Ensure that they are not by the consumption of alcohol or a drug; in such a state as to endanger their own safety at work, or the safety of any other person at work
- Make proper use of available safeguards, safety devices and personal protective equipment
- Comply with any reasonable instruction from an employer or an employer's designated delegate in relation to health or safety at work
- Not interfere with or incite or cause another person to interfere with, remove, displace or render less effective any safeguard, safety device, personal protective equipment or other appliance or work system provided, except when necessary as part of an employer approved maintenance, repair or emergency procedure
- Assist management, accident investigators or workplace inspectors in addressing health and safety issues
- Report accidents, injuries and near miss incidents to relevant supervisor / manager and health and safety representative as soon as practicable

- Consult with managers and supervisors on any issues related to occupational health and safety

Accountability

Personnel at all levels of the organisation assigned responsibilities under this policy will be held accountable for their diligent execution. Periodic reviews and audits of workplaces will monitor performance.

Policy Implementation and monitoring

This policy is to be implemented and monitored through policy endorsements, procedures and arrangements established under (Name) School's health and safety program. The occupational health and safety program has been designed to provide a structured approach to the implementation of workplace health safety and welfare initiatives that flow from this policy.

Statement of the school's process – this might be by way of an OHSW committee, OHSW representatives

Policy Review

This health and safety policy will be reviewed annually in consultation with employees using established consultative mechanisms, and revised as necessary to keep it up to date with changes in legislation, circumstances and / or organisational change.

OCCUPATIONAL HEALTH AND SAFETY PROCEDURES

IN THIS SECTION, DETAIL SCHOOL SPECIFIC ARRANGEMENTS FOR THE REPORTING OF DANGEROUS WORK PRACTICES RELEVANT TO SPECIFIC AREAS

IT IS ADVISABLE THAT ALL REPORTS SHOULD BE WRITTEN, DATED AND SIGNED AND INCLUDE SUGGESTED REMEDIES WHERE APPROPRIATE.

Conclude with a general comment of responsibility, for example “ It is the responsibility of the person to whom such a report has been made to investigate the report and take appropriate remedial action”.

Add a statement encouraging staff to consult management on general matters of occupational health, safety and welfare and listing who they should speak with.

LEA POLICY FOR GENDER EQUITY IN LEADERSHIP POSITIONS IN [.....Lutheran School]

1. Purpose

The policy of gender equity affirms that women and men are to be considered as equally eligible for positions of leadership at [..... Lutheran school] and so should be given equal opportunities to develop the gift of leadership and to serve in positions of responsibility.

The purpose of this policy therefore is to actively promote the equal participation of women and men in the principalship; positions of added responsibility or management; governance including the chair.

2. The context of the Lutheran school

The Christian approach to the issue of equity and justice in relationships between women and men is grounded in the Scriptures. Both women and men are made in the image and the likeness of God (Genesis 1:27), and both are equally joined to Christ (Galatians 3:27-28).

We value the dignity of each individual person in [..... Lutheran school] because all are created in the image of God. For the same reason we affirm the talents of all staff members. We acknowledge and encourage the potential for service of all.

Lutheran social teaching promotes the principle of basic equality between all people and rejects all forms of social and cultural discrimination in basic rights on the basis of gender, ethnicity, social conditions or religion.

[..... Lutheran school] follows the requirement of the church to employ staff who are skilled and registered educators, are able to uphold the teachings of the church and model the Christian lifestyle.

3. The policy

This policy is based on a vision of equity in employment across the whole spectrum of Lutheran education from pre-service orientation and preparation through employment in schools and systems.

[..... Lutheran school] holds that those aspiring to leadership positions should have equal access to and encouragement towards those work experiences and training opportunities, both formal and informal, which promote responsibility and leadership at all levels of management and governance.

[..... Lutheran school] affirms the right to work as inalienable and recognise the right of women and men to be equally valued and to be given equal opportunity in employment. Benefits and conditions are to be equitable for both men and women, and reflect a willingness to adopt family-friendly practices.

Our Lutheran belief encourages opportunities to develop participative, inclusive and caring structures and processes in [..... Lutheran school]. Membership of any decision making body needs to be comprised of women and men with appropriate skills and experience. Preparation is to be offered to people for such membership. Those practices and structures which support values of inclusiveness and reinforce principles of justice and equity will be practised.

Employment processes and procedures will reflect the entitlement of women, in their own right, to personal respect, to economic security and to participation in and influence over decisions which affect their personal lives.

All people employed by and associated with [..... Lutheran school] are encouraged to reflect on the differing social realities of the lives of men and women, and to devise strategies to respond to them in accordance with this policy.

[..... Lutheran school] will positively promote this policy through practices such as:

- affirmation of staff families
- enterprise agreements that reflect the work needs of all employees
- consideration of job share as an option
- availability of family care leave
- consideration for staff seeking access to adequate childcare
- consideration of staff family responsibilities

4. Elimination of discrimination

[..... Lutheran school] commits itself to the elimination of those practices and attitudes which inhibit the advancement of this policy. In particular it will:

- use inclusive language and have a policy to this effect
- eliminate all attitudes and practices that reflect a gender orientation and discrimination
- meet relevant national and state legislative requirements (regarding discrimination, equal opportunity etc).

5. General encouragement

[..... Lutheran school] will establish practices which address any gender imbalance in leadership, and which encourage and support the appointment of women to leadership positions where appropriate.

6. Procedures for appointment of staff

[..... Lutheran school] will ensure that:

- all legislative requirements are understood and implemented
- there is gender balance on interview panels
- interviews use non-discriminatory protocols and questions
- position documentation and advertising are gender inclusive

Section G: References and resources

ACT Department of Education and Training: *Code of Conduct*

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AISSA: *Code of behaviour for staff and others*

Board for Lutheran Education Australia (BLEA), *Core propositions describing highly effective teachers in Lutheran schools* (2000)

BLEA, *Christians other than Lutheran serving in Lutheran schools* (2005)

BLEA, *Procedures relating to Staffing Policy for Lutheran Schools* (2005)

BLEA, *Industrial relations and the Lutheran school* (2006)

Catholic Education Office of Melbourne: *Guidelines and procedures for Mandatory Reporting of child physical and sexual abuse*

Catholic Education Office of Canberra and Goulburn: *Child protection code of professional standards for Catholic school and system staffs*

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Early Childhood Association: *Code of Ethics* (2006)

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LEA, *A vision for learners and learning in Lutheran schools: Lifelong qualities for learners* (rev 2005)

LEQ, *Anti-Harassment and Abuse Training* (draft 2007)

LCA, *Safe Place Policy*

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Section H: Appendices

Appendix A: State and territory child protection acts

The following table lists the principal child protection acts in each Australian state and territory. The table also outlines other acts of parliament pertinent to the operation and delivery of various services to children and families across Australia. In addition, the table provides links to websites where acts of parliament for each state and territory can be downloaded.

Jurisdiction	Legislation
Australian Capital Territory (Department of Disability, Housing and Community Services) http://www.legislation.act.gov.au/	Principal Acts: <i>Children and Young People Act 1999 (ACT)</i> Other relevant Acts: <i>Adoption Act 1993 (ACT)</i> <i>Human Rights Act 2004 (ACT)</i> <i>Human Rights Commission Act 2005 (ACT)</i> <i>Public Advocate Act 2005 (ACT)</i> <i>Family Law Act 1975 (Cth)</i>
New South Wales (Department of Community Services) http://www.legislation.nsw.gov.au/	Principal Acts: <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> Other relevant Acts: <i>Children and Young Persons (Care and Protection) Amendment (Parental Responsibility Contracts) Act 2006 (NSW)</i> <i>Child Protection (Offenders Registration) Act 2000 (NSW)</i> <i>Crimes Act 1900 (NSW)</i> <i>Commission for Children and Young People Act 1998 (NSW)</i> <i>The Ombudsman Act 1974 (NSW)</i> <i>Family Law Act 1975 (Cth)</i>
Northern Territory (Family and Children's Services, Department of Health and Community Services) http://www.nt.gov.au/lant/hansard/hansard.shtml	Principal Acts: <i>Community Welfare Act 1983 (NT)</i> <i>Care and Protection of Children Draft Act (NT)(currently before Cabinet)</i> Other relevant Acts: <i>Information Act 2006 (NT)</i> <i>Disability Services Act 2004 (NT)</i> <i>Criminal Code Act 2006 (NT)</i> <i>Family Law Act 1975 (Cth)</i>
Queensland (Department of Child Safety) http://www.legislation.qld.gov.au/OQPChome.htm	Principal Acts: <i>Child Protection Act 1999 (Qld)</i> Other relevant Acts: <i>Commission for Children and Young People and Child Guardian Act 2000 (Qld)</i> <i>Education (General Provisions) Act 2006 (Qld)</i> <i>Public Health Act 2005 (Qld)</i> <i>Adoption of Children Act 1964 (Qld)</i> <i>Family Law Act 1975 (Cth)</i>
South Australia (Families SA; Department for Families and Communities) http://www.legislation.sa.gov.au/index.aspx	Principal Acts: <i>Children's Protection Act 1993 (SA)</i> Other relevant Acts/Legislation: <i>Young Offenders Act 1994 (SA)</i> <i>Adoption Act 1988 (SA)</i> <i>Children's Protection Regulations 2006 (SA)</i> <i>Family Law Act 1975 (Cth)</i> <i>Family and Community Services Act 1972 (SA)</i>

<p>Tasmania (Department of Health and Human Services) http://www.thelaw.tas.gov.au/index.w3p</p>	<p>Principal Acts: <i>Children, Young Persons and their Families Act 1997 (Tas)</i> Other relevant Acts: <i>The Family Violence Act 2004 (Tas)</i> <i>Family Law Act 1975 (Cth)</i></p>
<p>Victoria (Children Protection and Juvenile Justice Branch; Department of Human Services) http://www.dms.dpc.vic.gov.au/</p>	<p>Principal Acts: <i>Children, Youth and Families Act 2005 (Vic)</i> Other relevant Acts: <i>Working with Children Act (Vic)</i> <i>Child Wellbeing and Safety Act 2005 (Vic)</i> <i>The Charter of Human Rights and Responsibilities Act 2006 (Vic)</i> <i>Family Law Act 1975 (Cth)</i></p>
<p>Western Australia (Department for Community Development, now the Department for Child Protection) http://www.slp.wa.gov.au/statutes/swans.nsf</p>	<p>Principal Acts: <i>Children and Community Services Act 2004 (WA)</i> Other relevant Acts: <i>Working with Children (Criminal Record Checking) Act 2004 (WA)</i> <i>Family Court Act 1997 (WA)</i> <i>Adoption Act 1994 (WA)</i> <i>Family Law Act 1975 (Cth)</i></p>

Source: [Australian child protection legislation- National Child Protection Clearinghouse](http://www.aifs.gov.au/nch/resources/legislation/legislation.html) Available online at: <http://www.aifs.gov.au/nch/resources/legislation/legislation.html>

Appendix B: Age of consent in Australia

State/Territory	Heterosexual		Homosexual		Other considerations
	Females	Males	Females	Males	
Australian Capital Territory	16	16	16	16	The law in the ACT is the same for heterosexual sex and homosexual sex. People aged between 10 and 16 years can legally have sex with another person as long as both consent and there is not more than 2 years age difference between them.
New South Wales	16	16	16	16	The Crimes Act 1900 has been amended by the Crimes Amendment (Sexual Offences) Act 2003. The amendments ensure males and females are treated equally. The law in NSW is now the same for heterosexual and homosexual sex and the age of consent is also the same for both sexes. The definition of sexual intercourse under section 61H of the Crimes Act 1900 includes sexual intercourse between female and males, males and males and females and females.
Northern Territory	16	16	-	18	<p>Heterosexual Section 131A(2) of the Criminal Code Act states that any adult who maintains an unlawful relationship of a sexual nature with a child under the age of 16 years is guilty of a crime and is liable to imprisonment for 7 years. The Act defines an adult as over the age of 18 years therefore if the offender was 17 years of age they may not be liable. The Act however is not clear on this. Section 129 of the Act states any person who has sexual intercourse or commits an act of gross indecency with a female under 16 years of age is guilty of a crime.</p> <p>Homosexual Section 127 of the Act states that sexual intercourse or gross indecency between males in public is a crime. If one of the male persons was under the age of 14 years any offender who is an adult is liable for imprisonment for 14 years. Section 128 of the Act states that sexual intercourse or gross indecency between males in private is legal if both males are over the age of 18 years. If one of the male persons was not an adult then the offender is guilty of a crime. (Under 14 years then more severe penalty) There is no law which applies specifically to sexual relationships between two females.</p>
Queensland	16	16	-	18	No specific reference to females.
South Australia	17	17	17	17	In South Australia the law is the same for heterosexual sex and homosexual sex. The law says that two 16 year olds who have sex together are not committing an offence.

(Source: Child Wise, 2004, p.173)

Appendix C: Information sheet – Safe Place complaints procedure

The Safe Place Policy is a Lutheran Church of Australia policy relating *only* to sexual abuse and harassment. The LCA and the Safe Place Committee within each state has the responsibility for managing complaints, although in cases relating to schools, the regional director will certainly be informed of any complaints received and the subsequent outcome.

A complaint can be reported to Safe Place by

Phoning a 24/7 national toll free number 1800 644 628, OR
Writing to The Supervisor, PO Box 519, Marden 5070, OR
Emailing report.abuse@safeplace.lca.org.au

This is a referral service only.

The complainant's first name and a contact phone number are noted, and then the contact information is referred on to the relevant District Safe Place Coordinator

The District Safe Place Coordinator contacts the complainant, takes a brief précis of the complaint and then assesses it. If there are grounds for the complaint to proceed, they:

- Appoint a Safe Place Advisor (Case Manager) for the complaint
- Informs the Regional Director (or the District President if the complaint is about a pastor)
- Notify the LCA insurers of the complaint

If the complaint concerns a minor the matter is referred to the appropriate government authority

If at any stage it is determined that a criminal offence may have been committed, the complaint is referred to police or to the relevant government welfare agency. The respondent is suspended pending the outcome of the investigation. Investigation by SPA ceases, although ongoing pastoral support continues to be provided to all parties.

It should be noted that there are slight variations in handling of complaints between regions, particularly if the matter relates to a school and also depending on the complainant's wishes. However, in general, the procedure is as follows:

The Safe Place Advisor

- provides advice about church policy, complaints procedures and legal rights
- obtains either written consent to proceed with the complaint or written consent to terminate the LCA procedure
- provides education and counselling if the complainant decides not to proceed with the complaint

If the complaint proceeds, it is investigated as follows:

- the Safe Place advisor ensures that the both complainant and the respondent are provided with the appropriate level of pastoral care and advocacy
- (The Safe Place Advisor may provide initial pastoral care but does not continue to do so once the investigation goes beyond the initial stages)
- the Safe Place Advisor keeps the Regional Director (or Church President) and the Chair of the National Safe Place committee informed of the complaint and the steps undertaken
- there is a meeting of the complainant, two Safe Place Advisors and the Safe Place Coordinator in which all facts relating to the complaint are documented, then verified and signed by the complainant
- there is a meeting of the respondent, two Safe Place Advisors and the Safe Place Coordinator in which all facts relating to the complaint are documented, then verified and signed by the respondent
- all information is considered at a meeting of the Regional Safe Place Director and two other Regional Committee members.

The Safe Place Committee provides a recommendation regarding the substantiation or otherwise of the complaint to the Regional Director (or Church President) who then decides on subsequent action

Appendix D: Overview of roles and responsibilities for complaints resolution

	Contact Officer	Authorised person	Complaints coordinator	Receiver	External (professional service, Regional office)	Principal
Who can provide information about options?		May need to in a smaller school but not a preferred choice				May need to in a small school – but not a preferred choice
Who can deal with the complaint?						Small school
Who can receive the complaint?			If also a contact officer			
Who has oversight of complaints?						Small school
Who can mediate/conciliate (formal)?		Only if trained				Only if trained
Who can investigate/arbitrate?						
Who makes decisions about consequences?					If complaint involves a principal	

Appendix E: Workplace behaviour: Legislation overview

Various International Conventions		
Law	Date	Areas covered (schools)
Age Discrimination Act (Cwlth)	2004	Protects rights of younger and older Australians <ul style="list-style-type: none"> • Employment • Education • Access to premises
Disability Discrimination Act (Cwlth)	1992	<ul style="list-style-type: none"> • Disabilities (physical, intellectual, psychiatric, sensory, neurological, learning) • Physical disfigurement • Disorders, illness, disease that affect thought processes, perceptions of reality, emotions or judgement, or results in disturbed behaviour • Presence in body of organisms causing disease or illness (eg HIV virus)
Racial Discrimination Act (Cwlth)	1975	<ul style="list-style-type: none"> • Race, colour, descent • National or ethnic origin • Racial hatred
Sex Discrimination Act (Cwlth)	1984	<ul style="list-style-type: none"> • Sex • Marital status • Pregnancy • Family responsibility (dismissal only) • Sexual harassment
Human Rights and Equal Opportunity Commission Act (Cwlth)	1986	Breaches of human rights and discrimination in employment on the basis of: <ul style="list-style-type: none"> • Race, colour, national extraction, social origin, nationality • Sex, marital status • Religion, political opinion, sexual preference, trade union activity • Age • Impairment, disability • Medical record, criminal record,
State Workplace Health & Safety Legislation		Workplace bullying and harassment