

## (9) Safeguarding Policy

### 1. Context

AMPJP believes that all members of the Church have a responsibility to foster a culture of safety for everyone.

The Association of Ministerial Public Juridic Persons Ltd (AMPJP) understands that it is seen as a representative of Ministerial Public Juridic Persons (MPJP) and therefore has a leadership position of promoting a culture of safety within the Catholic Church in Australia.

The AMPJP does not provide services to children and adults at risk. However, it is possible that AMPJP personnel may have contact with children and adults at risk in the course of their work.

As the AMPJP's registered office is in NSW, the laws of NSW are seen as most relevant in the development of this policy.

The AMPJP complies with and uses the definitions found in the National Catholic Safeguarding Standards 2<sup>nd</sup> Edition (NCSS); National Response Framework (the Framework) and the "Our Common Mission" framework. These are also reflected in the AMPJP's:

- Code of Conduct;
- Complaints Handling Policy
- Human Relations Policy
- Organisational Decision-making Policy via the Annual Operational Plan and Risk Register

### 2. Scope

This policy applies to all AMPJP personnel (staff, contractors and volunteers, including members of the AMPJP Council) engaged in work for the AMPJP.

### 3. Policy

#### ***AMPJP commitment to safety and wellbeing of children and adults at risk***

*The AMPJP is committed to a Church and society that recognises and advances the dignity of all people.*

- *We will especially promote and protect the rights of children and adults at risk.*

- *We strive to make sure everyone feels included and welcome at our events.*
- *Before we speak about or take action regarding children and adults at risk, we will seek out their views and will listen and act upon what we hear.*
- *Our staff, contractors and volunteers will be aware of their responsibilities to ensure the dignity of all people, especially children and adults at risk.*
- *We will act swiftly to protect a child or adult at risk if there is suspicion of abuse.*
- *We will investigate and respond to any complaint or notification of abuse in ways that are swift, thorough, empathic and just.*
- *We will treat persons involved in an allegation of abuse in an appropriate, sensitive and in a timely manner.*
- *We will review and improve our safeguarding commitment and policy.*

#### **4. Procedure**

##### **a) Fostering a Safeguarding culture**

The AMPJP Council is ultimately responsible for ensuring that the AMPJP provides a safe environment for all people, especially children and adults at risk.

The AMPJP Council is the organisation's Safeguarding Committee. A separate Safeguarding Committee will be established if the AMPJP becomes a provider of services to children/adults at risk.

The day-to-day safeguarding work of the AMPJP is led and managed by AMPJP Executive Officer. This role also acts as the 'Safeguarding Co-ordinator' as required by the NCSS.<sup>1</sup>

The AMPJP Council and the AMPJP Executive Officer will foster a safeguarding culture by:

- personally upholding and modelling a standard of behaviour consistent with AMPJP policy and civil law;
- prominently publishing and displaying the AMPJP Safeguarding Commitment Statement (see #3 above) and ensuring that the Safeguarding Policy, Code of Conduct and Complaint Handling Policy is readily available to personnel and the broader community;
- identifying and taking opportunities to promote whole of community awareness of the dignity and rights of children and adults at risk, and

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<sup>1</sup> NCSS, second edition, the Safeguarding Coordinator is the individual who champions safeguarding and co-ordinates the implementation of the National Catholic Safeguarding Standards within an entity.

to champion and model safeguarding within the MPJPs community and more broadly (where appropriate);

- promoting an inclusive, respectful and responsive approach to the diverse needs of all people, especially children and adults at risk who may be at increased risk of abuse, discrimination or exploitation;
- taking all possible steps to ensure that only people who are safe and suitable to have contact with children and adults at risk are engaged by the AMPJP;
- empowering all personnel to take responsibility for safeguarding and providing opportunities for them to have input into improving safeguarding practices;
- encouraging people to bring forward concerns or complaints about the safety of people, especially children or adults at risk (including disclosures of current or historical abuse) and providing appropriate processes by which to do so, including processes that are suitable for children and people with diminished capacity and/or cognitive impairment;
- responding to disclosures and complaints in a manner that is transparent, respectful, fair and accountable;
- working with survivor advocacy and support groups, where appropriate, to recognise past wrongs where these have occurred and build a safe, inclusive and supportive faith environment;
- welcoming and facilitating dialogue with and feedback from the MPJP community about our safeguarding approach, including when reviewing safeguarding policies and procedures;
- ensuring AMPJP complies with all relevant Church policies and civil laws; and
- actively monitoring compliance with the Safeguarding Policy and ensuring continuous improvement of safeguarding practices.

The AMPJP's Safeguarding Commitment Statement, Safeguarding Policy, Code of Conduct and Complaint Handling Policy will be published on the AMPJP's website. At least once a year, these documents will be proactively communicated to all personnel involved in the AMPJP community.

**b) Safeguarding Implementation Plan**

AMPJP will ensure implementation of its Safeguarding Policy and continual improvement of its safeguarding practices through a Safeguarding Implementation Plan section of the AMPJP Annual Operation Plan. This section will include: how safeguarding practices are monitored and reviewed, and how this information is reported.

The following safeguarding responsibilities are delegated to the Safeguarding Coordinator:

- ☑ maintaining knowledge of current legislation, statutory and other guidance in relation to safeguarding and ensuring these are reflected in the Safeguarding Policy and related documents;
- ☑ acting as a contact person for anyone in the AMPJP who has questions about safeguarding or concerns about the safety of children or adults at risk;
- ☑ ensuring the AMPJP Safeguarding Policy, Code of Conduct, Risk Management Strategy and Complaint Handling Procedures are regularly reviewed by the AMPJP according to the specified timeframes in each document;
- ☑ monitoring the currency of Working with Children Checks and other relevant background checks held by personnel;
- ☑ monitoring participation by personnel in safeguarding training according to the designated schedule;
- ☑ regularly reviewing complaints to identify systemic issues related to safeguarding, and improving policies and practices as needed, and
- ☑ engaging with other relevant organisations and seeking specialist advice about safeguarding good practice, as necessary.

The Safeguarding Coordinator's contact details will be publicly available.

The AMPJP Council retains overall responsibility for the Safeguarding Implementation Plan.

**c) Identifying and Managing Risks**

The annual AMPJP Risk Register will to identify and manage risks to the safety and wellbeing of children and adults at risk.

As part of their initial induction and refresher training, personnel will be familiarised with the Risk Register and their safeguarding responsibilities.

The AMPJP Council has overall responsibility for ensuring implementation and compliance with the Risk Management Strategy.

**d) Ensuring personnel meet safeguarding standards**

The Chair of the AMPJP Council will ensure that the Executive Officer has a current Working With Children Check and National Police Check clearance.

The MPJP is responsible for ensuring their MPJP Canonical Stewards meet appropriate safeguarding checks. Where a MPJP's Member Representative to AMPJP is not a Canonical Steward, the AMPJP will check that the person has a Working With Children Check and National Police Check clearance.

All personnel must comply with the AMPJP's Code of Conduct. The Code provides clear information about the kinds of conduct towards children

and adults at risk that are acceptable, unacceptable and of the possible consequences of breach of the Code.

AMPJP Councillors and Executive Officer will participate in the NCSS Introductory Session for Leaders or another suitable course either before their commencement or within four months of their commencement.

Staff will be provided with ongoing supervision and support to meet their safeguarding responsibilities. Annual performance reviews for staff will include responsibilities for safeguarding children and adults at risk relevant to their role.

**e) Identifying and responding to suspected inappropriate behaviour**

During initial and refresher safeguarding training, personnel will be provided with information and equipped with skills to identify safety concerns and potential indicators of abuse or harm; support children and adults at risk to express safety concerns; handle disclosures and meet their internal and external reporting obligations.

Concerns about the safety of children may involve the following:<sup>2</sup>

- Sexual abuse;
- Physical abuse;
- Emotional abuse or psychological harm;
- Neglect; and/or
- Ill-treatment.

Concerns about the safety of adults at risk may relate to the following:<sup>3</sup>

- Financial abuse
- Psychological abuse
- Neglect
- Physical abuse
- Sexual abuse
- 'transient risks'

**f) Receiving and acknowledging concern or allegation (*NRF stage 1*)**

AMPJP's response to concerns about the safety of children or adults at risk will be decisive, timely and consistent with policy and legislative obligations.

The five principles that underpin response are:

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<sup>2</sup> See: <https://www.facs.nsw.gov.au/families/Protecting-kids/reporting-child-at-risk/harm-and-neglect> and [https://www.kidsguardian.nsw.gov.au/ArticleDocuments/1021/Identifying\\_reportable\\_allegations.pdf.aspx?Embed=Y](https://www.kidsguardian.nsw.gov.au/ArticleDocuments/1021/Identifying_reportable_allegations.pdf.aspx?Embed=Y)

<sup>3</sup> NSW Ageing and Disability Commission <https://www.ageingdisabilitycommission.nsw.gov.au/tools-and-resources>



Disclosures of abuse or harm may be received directly or indirectly. A direct disclosure is one by a child or adult who discloses current or previous abuse or harm (including historical abuse experienced as a child). An indirect disclosure is when a third person (child or adult) discloses that a child or adult has experienced current or previous abuse or harm (including historical abuse experienced a child).

AMPJP personnel who receive a disclosure should:

- listen calmly, patiently and supportively, letting the person use their own words;
- let the person know they are doing the right thing by speaking up;
- address any concerns the person has about their safety, especially if they are worried about the consequences of disclosing;
- explain what the next steps will be, including that they may need to tell certain other people about the disclosure to keep the person and others safe, but that the information will otherwise be treated confidentially; and
- ask the person what they need to feel safe and involved in the process for responding to their disclosure.<sup>4</sup>

**g) Reporting to internal and external authorities (NRF stage 2)**

AMPJP personnel who become aware of a concern about the safety of a child or adult at risk, whether by a direct or indirect disclosure or any other means, must report it as soon as practical to the AMPJP Executive Officer (or AMPJP Council Chair if the concern involves the AMPJP Executive Officer).

The report should include all known information such as the nature of the allegation; when and where it occurred; the subject of the allegation and the alleged victim.

<sup>4</sup> Adapted from *Complaint Handling Guide: Upholding the rights of children and young people*, p40, National Office for Child Safety.

It is not the reporter's role to interview any person or investigate the concern. Under no circumstances should the reporter ask a person for further details or ask leading questions – this has the potential to interfere with the disclosure and may jeopardise any future criminal proceedings that may arise as a result of an investigation. However, the reporter should obtain basic details to assess the person's immediate safety.

Except for the purpose of meeting their reporting obligations, the reporter will treat the matter in strict confidence.

The AMPJP Executive Officer will provide advice and guidance on how the matter should be handled, including whether the conduct is 'reportable' and external authorities need to be notified (see below).

***Reporting to Police concerns of criminal conduct against children:***

Conduct towards a child/children which may be a criminal offence if proven will be reported to Police as soon as possible (and before making a mandatory child protection report). The AMPJP Executive Officer or AMPJP Council Chair is responsible for ensuring that the Police report is made.

Criminal offences may include:

1. **An offence of a sexual nature** (under any state, territory or Commonwealth law) committed against, with or in the presence of a child, e.g.:
  - sexual touching;
  - sexual assault;
  - aggravated sexual assault sexual intercourse and attempted sexual intercourse;
  - production/dissemination/possession of child pornography using children to produce pornography;
  - filming the private parts of a person without their knowledge;
  - grooming or procuring children under the age of 16yrs for unlawful sexual activity; and
  - sexual activity deemed non-consensual on the basis of special care relationships.
2. **Assault:**
  - the intentional or reckless application of physical force without lawful justification or excuse, or
  - any act which intentionally or recklessly causes another to apprehend immediate and unlawful violence.
3. **Neglect:** Failure by a person with a legal duty of care to provide the necessities of life that causes death, serious injury or the likelihood of serious injury.

4. **Failing to protect a child from abuse:** An adult working in an organisation doing child-related work will commit an offence if they know another adult working there poses a serious risk of abusing a child (under 18 years), and they have the power to reduce or remove the risk, and they negligently fail to do so.
5. **Concealing a child abuse offence:** All adults are required to report information to the Police if they know, believe or reasonably ought to know that a child (under 18 years) has been abused, unless they have a 'reasonable excuse'. A 'reasonable excuse' is defined by the relevant criminal legislation.

### ***Reporting Children at Risk of Harm***

Where there are reasonable grounds to suspect that a child or young person or a 'class of children' is at 'risk of significant harm'<sup>5</sup>, a report will be made to the NSW Child Protection Hotline (Phone: 132 111).

The AMPJP Executive Officer (or AMPJP Council Chair) is responsible for determining if a child protection report is required and if so, ensuring that the report is made. However, this responsibility does not prevent personnel from immediately making a child protection report.

A mandatory reporter has a duty to report, as soon as practicable, the name, or a description, of the child and the grounds for suspecting that the child is at risk of harm. Mandatory reporters are legally protected against retribution for making or proposing to make a report.

### ***Notifying Reportable Conduct:***

The AMPJP Executive Officer (or AMPJP Council Chair) must notify the NSW Office of the Children's Guardian within seven business days if s/he receives a report or becomes aware of a reportable allegation or reportable conviction against any personnel [or relevant contractors] delivering services to children.

### ***Definition of Reportable Allegation/Reportable Conviction***

A reportable allegation is an allegation that a worker has engaged in conduct that may be reportable conduct. Reportable conduct covers the conduct of personnel towards children both in their personal and professional life including:

- a sexual offence
- sexual misconduct
- ill-treatment of a child
- neglect of a child
- an assault against a child
- an offence under section 43B or 316A or the Crimes Act 1900,
- behaviour that causes significant emotional or psychological harm to a child.<sup>6</sup>

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<sup>5</sup> See: [definition of 'risk of significant harm'](#)

<sup>6</sup> Part 4, *Children's Guardian Act 2019*.



### **Historical Child Abuse**

Where AMPJP becomes aware of an allegation of historical child abuse (abuse experienced by a child who is now an adult), it will take the following steps:

- A child protection/risk of harm report will be made to the relevant statutory child protection body if there are grounds for suspecting that a child or class of children are at current risk of harm (e.g., because an alleged offender has current access to children)
- A report will be made to Police in the following circumstances:
  - If AMPJP knows or believes that a child under 18 years has been abused (sexual abuse, serious physical abuse or extreme neglect of a child) or knows or believes that they have information that might materially assist in securing the apprehension, prosecution or conviction of the offender, unless there is a 'reasonable excuse' for not reporting to Police.
  - If the AMPJP knows that an adult working at the AMPJP poses a serious risk of abusing a child (sexual or serious physical abuse).

The AMPJP Executive Officer (or AMPJP Council Chair) is responsible for ensuring that a child protection/risk of harm and/or Police report is made, if required, in response to a historical child abuse matter in accordance with legislative requirements.

### **Concerns About Adults at Risk**

The AMPJP Executive Officer (or AMPJP Council Chair) is responsible for assessing if a concern about the safety of an adult at risk<sup>7</sup> should be reported to an external agency such as Police, a health service or adult safeguarding agency. The assessment will have regard to:

- legislative requirements;
- whether an alleged offender is employed or engaged by the AMPJP;
- the views and wishes of the involved adult;
- any diminished capacity on the part of the involved adult to make an informed decision;
- the seriousness of the concerns; and
- any potential or actual risks to other children or adults.

### **Criminal Offences**

Where the concerns involve a potential criminal offence (e.g., physical or sexual assault) by a person engaged by AMPJP, a report will be made to Police as soon as possible.

Where the concerns involve a potential criminal offence by any other person, the AMPJP Executive Officer (or AMPJP Council Chair) will offer to source the support for the alleged victim to report the matter to Police. In circumstances where we identify that the alleged victim has diminished capacity to make an informed decision about whether to report the matter

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<sup>7</sup> For information about how concerns are handled relating to the protection of adults at risk which are covered by independent oversight and regulatory arrangements, see the relevant agency's safeguarding procedures.

to Police, AMPJP will do so on their behalf. The AMPJP Executive Officer (or AMPJP Council Chair) is responsible for ensuring that the Police report is made.

***Safety Concerns about Older People or People with Disability***

Several cohorts of adults at risk are covered by legislative schemes and regulatory/oversight bodies, these include:

- Safety concerns for an adult in an aged care facility, respite and day care service or support services delivered in the home should be reported to the Aged Care Quality and Safety Commission
- Safety concerns that relate to the provision of a National Disability Insurance Scheme (NDIS) service should be reported to the NDIS Quality & Safeguards Commission
- Safety concerns that relate to the abuse, neglect or exploitation of an adult with disability or older person living in their home (conduct by a member of the person's family, other informal supports, or members known to them from the community) should be reported to the NSW Ageing and Disability Commission.

The AMPJP Executive Officer (or AMPJP Council Chair) is responsible for ensuring that a report about the safety of an older person or person with a disability is made, if required.

***Concern that an Adult at Risk May Harm Themselves or Any Other Person***

In an emergency, AMPJP will contact Police if there is concern that an adult at risk may harm themselves or another person.

***Other Concerns About Adults at Risk***

Where appropriate, AMPJP may seek specialist advice and/or provide referrals to other agencies that can provide support to adults at risk.

**h) Determine course of action (*NRF stage 3*)**

Where there is shared responsibility for an investigation across AMPJP and another Church Authority/entity, one of these is to take the lead role and in consultation with the other determine the roles and responsibilities for managing any investigations and acting on their outcomes. Records of the investigations and implemented outcomes are retained by AMPJP and the other Church Authority/entity involved.

The AMPJP Executive Officer (or AMPJP Council Chair) will make an assessment about the appropriate course of action based on the potential nature and seriousness of the concern or allegation. This includes:

- identifying any immediate reporting and legal obligations if not already reported (as outlined above);
- the adequacy of any initial risk assessment to identify risks to children and the steps required to address these;
- appropriately supporting and informing the child's parent or carer; and

- appropriately supporting and informing the respondent.

Decisions about the course of action to be taken are communicated to the person who has brought forward the concern or allegation.

**i) Investigate (*NRF stage 4*)**

To protect legal and statutory processes, the AMPJP will not investigate an allegation if it is being assessed or investigated by Police or the Department of Communities and Justice or if an allegation is before the Courts.

The AMPJP Executive Officer (or AMPJP Council Chair) must conduct an investigation or arrange for an investigation to be conducted. The aim of the investigation is to decide whether allegations can be proven on the balance of probabilities and to identify which actions the AMPJP needs to take following the investigation.

Investigations must be conducted with integrity, impartiality and respecting the confidentiality of all concerned. Care will be taken to ensure that processes and outcomes can withstand external scrutiny.

The AMPJP's report must be provided to the relevant oversight body within the required timeframe.

The investigation report must include information about the facts and circumstances of the reportable allegation, the findings made by the AMPJP, and an analysis of the evidence and the rationale for the findings.

The AMPJP Executive Officer (or AMPJP Council Chair) may engage an independent investigator.

**j) Assess the report and make determination (*NRF stage 5*)**

The AMPJP Council (or delegated subgroup) will consider thoroughly the investigator's findings and recommendations.

The AMPJP Council (or delegated subgroup) will decide if it agrees with the investigator's findings and recommendations.

If the AMPJP, the complainant or the respondent disagrees with the investigator's findings and/or recommendations, they may seek a review of the matter from Australian Catholic Safeguarding Ltd. The review is an independent evaluation, not only as to whether there is substance in any of the grounds for complaint, but also as to whether the process adhered to the principles in the National Response Framework.

**k) Address and communicate outcomes (*NRF stage 6*)**

A letter to the complainant will include information on the findings, outcomes and their support options.

A letter to the respondent will include information on the findings, outcomes and their support options.

All communications take into account privacy and confidentiality considerations of all parties. Names can be de-identified if required. In a particular case, the public interest may require that the name of a perpetrator be made public.

A report is made to relevant external statutory authorities where they have jurisdictional oversight, such as reportable conduct schemes and Working with Children Check bodies.

**l) Continuous improvement (*NRF stage 7*)**

After an allegation is finalised the AMPJP will review the process to identify possibilities for improvement.

The AMPJP's annual review of complaints received will include show trends and determine whether additional or modified processes are required.

**m) Record keeping and Information Sharing**

AMPJP will maintain current knowledge of, and comply with, our legislative obligations to maintain confidentiality and protect personal information and privacy.

**6. Compliance**

Compliance with this policy is being measured by:

- a) Executive Officer providing the Council with: an updated Risk Register, Budget and Annual Operational Plan by June of each year, a pre-Council meeting report and a Strategic Plan progress report every August and February. and
- b) Current Working with Children Checks and Police Record Checks on applicable personnel.

**7. Evaluation**

This policy objective can be evaluated as achieved by:

- a) The AMPJP Council will review this Safeguarding Policy every year.
- b) The AMPJP Council will review the AMPJP Executive Officer's annual report on AMPJP compliance with the NCSS.

## 8. References

<b>Civil law</b>	<ul style="list-style-type: none"> <li>a) Crimes Act 1900 (NSW)</li> <li>b) Children and Young Persons (Care and Protection) Act 1998 (NSW)</li> <li>c) Ombudsman Act 1974 (NSW) re. reportable conduct</li> <li>d) Child Protection (Working with Children) Act 2012 (NSW)</li> <li style="padding-left: 20px;">Australian Charities and Not-for-profits Commission Act, 2012 (Cth)</li> <li>e) Corporations Act, 2001 (Cth)</li> </ul>
<b>Church teaching</b>	<ul style="list-style-type: none"> <li>a) Holy See (1983) Code of Canon Law</li> <li>b) ACSL (2022) National Response Framework</li> <li>c) ACSL (2022) National Response Protocol</li> <li>d) ACSL (2022) National Catholic Safeguarding Standards 2<sup>nd</sup> Ed</li> <li>e) ACSL (2022) Our Common Mission</li> </ul>
<b>Other references</b>	<ul style="list-style-type: none"> <li>a) CRA (2021) Model Safeguarding Policy</li> <li>b) AMPJP (2018) Governance Principles, Foundations and Applications</li> </ul>

### c) Record of changes to document

<b>Date of change</b>	<b>Section changed</b>	<b>Nature of change</b>
08 Feb 2023	All sections	Document created
08 Feb 2024		Policy Review Due