

Policy Definitions



Set out below are the defined terms used throughout the Archdiocese of Sydney's Child and Adult at Risk Safeguarding Policy including the Overview of the Archdiocese's Child and Adult at Risk Safeguarding Policy, Code of Conduct and accompanying guidance documents, fact sheets and protocols.

Abuse when used throughout the Policy is an inclusive term covering both child and adult abuse.

Adults at Risk (Vulnerable Adults/Persons) adults at risk is the new term for "vulnerable adults" which is recommended by the National Catholic Safeguarding Standards Version 2 as the focus is on risk factors rather than on the individual. These are adults with diverse circumstances and experiences that increase the risk of abuse which include being elderly, having a disability, having mental illness, having cognitive impairment, having diminished capacity, being culturally and linguistically diverse, experiencing transient risk such as bereavement or relationship breakdown or having an impairment that makes it difficult for that person to protect themselves from abuse or exploitation.

In 2019 the Pope made laws for the special protection of **vulnerable persons** in the Vatican from exploitative relationships, using the following definition:

"A person is vulnerable when in a state of infirmity, of physical or mental deficiency, or deprived of personal liberty, which, in fact, even if occasionally, limits their ability to understand or to want to otherwise resist the offence".

Adult Abuse means the improper treatment of a person that results in the actual and/or likelihood of causing physical or emotional harm. Abuse can come in many forms, such as physical or verbal maltreatment, neglect, injury, assault, violation, rape, unjust practices, crimes, exploitation, or other types of aggression including spiritual abuse.

Agency Head is the person responsible for the conduct and management of an individual Agency of the Archdiocese.

Archdiocese is the Catholic Archdiocese of Sydney and includes the Parishes, Chaplaincies and Agencies of the Archdiocese.

Assault is 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. (*Children's Guardian Act 2019 (NSW) s 25*).

Australian Catholic Ministry Card (ACMR) is the mechanism for ascertaining the 'good standing' of an individual priest or religious in the event they wish to exercise ministry beyond their home jurisdiction. A national database supports the communication between dioceses and religious institutes about a priest's or religious' credentials. ACMR is administered by Australian Catholic Safeguarding Limited.

Australian Catholic Safeguarding Limited (ACSL) is a company limited by guarantee and brings together safeguarding functions at a national level for the Church in Australia – the former bodies now part of ACSL is the Australian Catholic Centre for Professional Standards and Catholic Professional Standards Ltd. ACSL is responsible for maintaining the National Catholic Safeguarding Standards.

Canon Law "...is the principal legislative document of the Church, founded on the juridical – legislative heritage of Revelation and Tradition." (Introduction to the Code of Canon Law)

Child/Children means a person who is under the age of 18 years.

Child Abuse is the neglect and maltreatment, and physical, psychological and sexual abuse of Children including grooming and exposure to family violence. This includes abuse that is facilitated through online platforms, including online grooming and the production, distribution and/or access of Child exploitation materials, as defined by the National Response Protocol (NRP). The abuse of children is also inclusive of adults subjected to childhood abuse.

Child Abuse Material includes any form of material that depicts or describes a Child that a reasonable person would find offensive, including pornographic or sexual material and material depicting a Child as a victim of torture or cruelty. The possession, dissemination and production of Child Abuse Material are all considered Reportable Crimes.

Child Abuse Offence includes a range of serious indictable and other offences set out in the *Crimes Act 1900* (NSW), *Children and Young Persons (Care and Protection Act) 1998* (NSW), *Children's Guardian Act 2019* (NSW) committed against a Child.

Child-Related Work includes work that involves physical or face-to-face contact with Children.

Child Safe Standards are a total of ten standards which were recommended by the Royal Commission and adopted at a national level by the Commonwealth government and ACSL and at a state level by the NSW Office of the Children's Guardian. The standards provide a framework for making organisations safer for children.

- National Office for Child Safety: **National Principles for Child Safe Organisations**
- ACSL: **National Catholic Safeguarding Standards**
- NSW Office of the Children's Guardian: **NSW Child Safe Standards**

Children's Guardian Act is the *Children's Guardian Act 2019* (NSW).

Clergy includes bishops, priests, assistant priests, deacons, incardinated in the Archdiocese or not incardinated in the Archdiocese but granted faculties and appointed to a position within the Archdiocese, and seminarians at the Seminary of the Good Shepherd.

Note: The definition of "Clergy" does not include priests from religious orders or other dioceses who have been granted faculties to minister within the geographic confines of the Archdiocese but not appointed to a position at the Archdiocese. These priests report to their Provincials or Bishops who are responsible for them. These priests must, however, comply with this Policy including attending training. If a Safeguarding Complaint is raised in relation to these priests, the Archdiocese will liaise with their Provincials or Bishops to determine who will investigate and where appropriate respond.

Code of Conduct is the Archdiocese's Code of Conduct for Working with Children and Adults at Risk, Integrity In Ministry, Integrity in the Service of the Church.

Complainant refers to any person who notifies a Safeguarding Complaint.

Conflict of Interest refers to a situation where a perceived or actual conflict arises between a person's official duties and their private interests, which could influence the performance of those official duties. Such conflict generally involves opposing principles or incompatible wishes or needs.

Contact Persons are persons assigned to the Respondent and the Complainant and will generally be an Employee working in the Safeguarding Office. The contact person will keep the Respondent and Complainant informed of the progress of any investigation, assist them to access counselling and support as necessary and convey any concerns or relevant information to the Director of the Safeguarding Office or the Vicar General of the Archdiocese.

Cyber Bullying Material includes any material that a reasonable person would consider to be intended to have a seriously threatening, intimidating, harassing or humiliating effect on a particular Child.

Employee is any person who is engaged in paid work with the Archdiocese, its Parishes or Agencies.

Employee of a relevant entity is an individual who holds, or is required by the Archdiocese to hold, a Working with Children Check clearance for the purpose of engagement with the Archdiocese.

eSafety Commissioner is the Office of the eSafety Commissioner.

External Investigator is an objective and impartial third party appointed by the Archdiocese to investigate a Safeguarding Complaint. The external investigator is not a Worker of the Archdiocese and can only investigate if they have no conflict of interest.

Failure to Protect Offence refers to an offence under the *Crimes Act 1900* (NSW) for a person who holds a position in an organisation that engages in Child-Related Work to fail to take steps to reduce or remove the risk of a Child Abuse Offence being committed against a Child who is under the care of the organisation.

Grooming (Child) involves a pattern of behaviour or conduct that is consistent with establishing a close relationship with a Child for the purpose of unlawful sexual activity. It includes inviting a Child to engage in a sexual activity, offering money or some other material benefit to induce sexual activity with a Child, pursuing or threatening a Child to engage in sexual activity, having 'special relationships' with Children, crossing professional boundaries, inappropriately communicating with a Child or extending a relationship with a Child outside of work.

Grooming (Adult) is the predatory act of manoeuvring another individual into a position that makes them more isolated, dependent, likely to trust and more vulnerable to abusive behaviour.

Ill-Treatment of a Child, means conduct towards a Child that is unreasonable and seriously inappropriate, improper, inhumane or cruel. (*Children's Guardian Act 2019* NSW s 23).

Independent Safeguarding Advisory Panel (ISAP) is an advisory panel independent of the Archdiocese, established to advise the Archbishop of Sydney, the Vicar General and the Safeguarding Office on matters relating to professional standards.

Integrity in the Service of the Church is the Code of Conduct for lay workers in the Catholic Church in Australia.

Integrity in Ministry is the Code of Conduct for clergy and religious engaged in Ministry on behalf of the Catholic Church in Australia.

Intimate Images are any images of a person's private parts or of a person engaged in a private act, or an image that has been altered to appear to show a person's private parts

or a person engaged in a private act, in circumstances where a reasonable person would expect to be afforded privacy. Intimate Images also include images of a Child in a state of undress, or without particular attire of cultural or religious significance that the Child consistently wears in public.

Mandatory Reporting is the legislative requirement for selected classes of people to report suspected child abuse and neglect to government authorities *Children and Young Persons (Care and Protection) Act 1998*.

National Redress Scheme (NRS) helps people who have experienced institutional child sexual abuse gain access to counselling, a direct personal response, and a Redress payment. The NRS acknowledges that many children were sexually abused in Australian institutions. (*National Redress Scheme for Institutional Child Sexual Abuse Act 2018*).

National Response Protocol (NRP) is the framework for Church entities to offer consistent responses to Children and adults who have been subjected to Child Abuse by Church personnel. Offering high level principles and direction on how best to respond to concerns and allegations of Child Abuse, it is the national benchmark against which the Archdiocese has aligned its policy and procedures.

Neglect (Child) means a person, whether the parent of the Child or Young Person, who, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a Child or Young Person in his or her care, is guilty of an offence. (*Children and Young Persons (Care and Protection) Act 1998* (NSW) s 228).

Neglect of a Child includes a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for the Child that causes or is likely to cause harm to the Child (*Children's Guardian Act 2019* (NSW) s 24) by:

- a person with parental responsibility for the Child, or
- an authorised carer of the Child, or
- an employee if the Child is in the employee's care.

Neglect (Adult) is the failure of a carer to provide the necessities of life to a person for whom they are caring.

Office of the Children's Guardian the NSW Office of the Children's Guardian is an independent government agency that works to protect Children by promoting and regulating Child safe organisations and services. In addition, the NSW Office of the Children's Guardian receives notifications from employers regarding allegations against employees and either monitors or oversees the employer's investigation into those allegations.

Parish Priest is the priest from time-to-time responsible for the conduct and management of an individual Parish of the Archdiocese. For the purposes of this Policy and Code, reference to a Parish Priest includes reference to a Parish Administrator in circumstances where there is no Parish Priest appointed to a particular Parish.

Policy is the Archdiocese's Child and Adults at Risk Safeguarding Policy. The Archdiocese's Child and Adults at Risk Safeguarding Policy is comprised of all the Archdiocese's safeguarding materials, namely the Overview of the Policy, the Code of Conduct and accompanying guidance documents, fact sheets and protocols as amended or added to from time-to-time.

Religious Appointee includes sisters and brothers from religious orders appointed to an official role in the Archdiocese.

Religious Leader is the provincial or head of the religious congregation of which a particular Religious Appointee is a member.

Reportable Allegation is an allegation that a person has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the person's employment with the Archdiocese.

Reportable Conduct is conduct that must be notified to the Office of the Children's Guardian and includes any of the following conduct, whether or not a criminal proceeding has been commenced or concluded:

- a sexual offence
- sexual misconduct
- ill-treatment of a Child
- neglect of a Child
- an assault against a Child
- an offence under s 43B or 316A of the *Crimes Act 1900* (NSW)
- behaviour that causes significant emotional or psychological harm to a Child

See "**Guidance Document: What Conduct must be Reported to the Children's Guardian**" for details of what constitutes a "sexual offence", "sexual misconduct" and other behaviour that constitutes Reportable Conduct.

Reportable Conduct Scheme is the scheme established under Part 4 of the *Children's Guardian Act 2019* (NSW), to investigate reportable allegations and make determinations in relation to Reportable Convictions.

Reportable Conviction means a conviction, or a finding of guilt without proceeding to a conviction, in NSW or elsewhere of an offence involving Reportable Conduct, whether the conduct occurred in the course of the person's employment with the Archdiocese.

Reportable Crime refers to both a Serious Indictable Offence and a Child Abuse Offence. Reportable Crimes must be reported to the NSW Police.

Respondent refers to a Suspected Person who is responding to the Safeguarding Complaint(s) made against them.

Risk Assessment is a systemic process that is utilised to identify and mitigate possible risks that may be present for the Respondent and Complainant as well as other people involved in the matter.

Risk of Significant Harm (*Children and Young Persons (Care and Protection) Act 1998* (NSW) Pt 2 s 23). A Child is at Risk of Significant Harm if current concerns exist for the safety, welfare or well-being of the Child or Young Person because of the presence, to a significant extent, of any one or more of the following circumstances—

- the Child's or Young Person's basic physical or psychological needs are not being met or are at risk of not being met,
- the parents or other caregivers have not arranged and are unable or unwilling to arrange for the Child or Young Person to receive necessary medical care,
- in the case of a Child or Young Person who is required to attend school in accordance with the *Education Act 1990* (NSW)—the parents or other caregivers have not arranged and are unable or unwilling to arrange for the Child or Young Person to receive an education in accordance with that Act,

- the Child or Young Person has been, or is at risk of being, physically or sexually abused or ill-treated,
- the Child or Young Person is living in a household where there have been incidents of domestic violence and, as a consequence, the Child or Young Person is at risk of serious physical or psychological harm,
- a parent or other caregiver has behaved in such a way towards the Child or Young Person that the Child or Young Person has suffered or is at risk of suffering serious psychological harm,
- the Child was the subject of a pre-natal report under section 25 and the birth mother of the Child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

Safeguarding Complaint(s) refers to any concerns, allegations, reports, or notifications of Reportable Crimes, Reportable Conduct, Risks of Significant Harm and inappropriate conduct with a Child or Adult at Risk that may be in breach of the Policy that relate to Employees, Volunteers, contractors, members of Clergy or Religious Appointee of a Parish or Agency of the Archdiocese. It also includes alleged inappropriate or unreasonable acts of omission of Workers who had knowledge of the conduct of another Worker involving Child Abuse.

"A *concern of abuse* is a belief that it is reasonably founded that a person has been abused and may be a report by a person who is generally worried about the welfare of a particular Child without knowing the cause." National Response Protocol, p. 9

"An *allegation of abuse* is a belief reasonably founded that abuse has occurred. An allegation implies that there is a person or Church Authority identified potentially as responsible for the abuse." National Response Protocol, p. 9

Safeguarding Office is the Safeguarding and Ministerial Integrity Office of the Archdiocese. The Vicar General of the Archdiocese oversees the work of the Safeguarding Office and the implementation of the Policy.

Safety and Support Plan is a document provided to a Respondent at the outset of the Archdiocese's response to a Safeguarding Complaint.

Senior Manager is one of an Auxiliary Bishop, Vicar General, Chancellor, Executive Director, Administration & Finance who supervises a Respondent who is an Employee and to whom the Respondent reports.

Serious Indictable Offence is an offence under the *Crimes Act 1900* (NSW) punishable by 5 years' imprisonment.

Sexual Act/Sexual Activity is an act carried out in circumstances where a reasonable person would consider the act to be sexual. It may include sexually explicit comments or other overtly sexual behaviour.

Sexual Assault occurs when a person engages in sexual intercourse with a Child or any other Sexual Activity with a Child.

Sexual Misconduct means conduct with, towards or in the presence of a Child that is sexual in nature but is not a Sexual Offence. (*Children's Guardian Act 2019* (NSW) s 22).

Sexual Offence means an offence of a sexual nature under a law of the State, another State, a territory, or the Commonwealth, committed against, with or in the presence of a child. (*Children's Guardian Act 2019* (NSW) s 21).

Sexual Touching involves touching a Child with any part of the body or anything else, or through anything worn by the person doing the touching or being touched.

SRE Teachers are Special Religious Education Teachers in NSW public schools.

Stealing includes all forms of stealing property or money including robbery, fraud and embezzlement. Stealing is a Reportable Crime.

Support Person is a person who helps and supports a Respondent or Complainant in relation to Safeguarding Complaints and the processes of the Protocol for Managing Safeguarding Complaints.

Suspected Person is a person who is suspected to have acted in a manner that may constitute a Reportable Crime or Reportable Conduct or otherwise is alleged to be unsafe in relation to a Child or in breach of the Policy.

Volunteer is a worker that is engaged by or involved in the Archdiocese or its Parishes or Agencies on an unpaid basis and, for purposes of the Policy, includes students on placement.

Vos estis lux mundi ('You are the light of the world') by Pope Francis establishes new procedural norms to combat sexual abuse and to ensure that bishops and religious superiors are held accountable for their actions. It establishes universal norms, which apply to the whole Church.

Working with Children Check refers to the statutory screening requirement for people who work or volunteer in child related work.

Workers are Parish and Agency Employees, Volunteers, self-employed contractors, Clergy and Religious Appointees who are currently or have previously been associated with the Archdiocese and were required by the *Child Protection (Working with Children) Act 2012* (NSW) to have Working with Children Checks (WWCC) before engaging in Child-Related Work.