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Policy

INTRODUCTION AND PURPOSE

This document is to inform and remind workers of the Institute of Sisters of Mercy of Australia and Papua New Guinea (ISMAPNG) of the standards of behaviour and other requirements that must be adhered to when working with children and vulnerable persons.

Consistent with its mission and values, and in compliance with its legislative obligations, ISMAPNG strives to ensure children and vulnerable persons in its care are safe and secure.

This document aims to:

- clarify the expectations of Workers who work in child or vulnerable persons related employment
- provide a safe and supportive environment for children and vulnerable persons and Workers
- build and maintain a contemporary Catholic workplace that is safe, respectful, professional and legally compliant.

This document is to be read in conjunction with ISMAPNG's Code of Conduct.

This document is not exhaustive and does not identify every potential scenario of concern in the workplace.

SCOPE

The document applies to all Workers engaged to work in, or provide services to ISMAPNG.

This document refers to ISMAPNG's operation in Australia and to its operation in Papua New Guinea taking account of the relevant legislative requirements in that country.

DEFINITIONS

A **“Worker”** includes:

- paid employees whether employed on a permanent, temporary or casual basis
- religious, volunteers, contractors, sub-contractors, consultants and students on tertiary practicum placements

“Child” or **“children”** refers to any person under the age of 18 years.

“Incorporated Ministries” means any ministry that is sponsored or co-sponsored by ISMAPNG but which in civil law is separately incorporated

“vulnerable person” refers to any person aged 18 years and above who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation by reason of age, illness, trauma or disability, or any other reason.

LEGAL FRAMEWORK

Workers are required to be familiar with and comply with child and vulnerable person’s protection legislation as varied from time to time. The specific legislation that applies to a worker will depend on the state or territory in which the worker works. Where a worker is in doubt as to the applicable child protection legislation, they should seek advice from the Human Resources Manager.

Failure to comply with the child and vulnerable persons protection responsibilities and obligations required by legislation or this document will result in disciplinary action being taken, up to and including immediate termination of employment, termination of contractor agreement, notification to external agencies and/or criminal charges.

A worker who becomes aware of a possible breach of this document or legislation by another worker must report this to their supervisor or to the Human Resources Manager. Failure to do so may result in disciplinary action.

RESPONSIBILITIES AND OBLIGATIONS

Duty of care

A worker has a legal obligation to take reasonable care for their own safety and the safety of children and vulnerable persons and others with whom they come into contact as part of their engagement with ISMAPNG.

These obligations will arise from the specific role and responsibilities of the worker and may include (but are not limited to) the following:

- providing adequate supervision

- following procedures relating to child and vulnerable person's safety, welfare and well-being (for example, reporting procedures)
- demonstrating personal behaviours that promote the safety, welfare and well-being of children and vulnerable persons
- providing medical assistance (if competent to do so), or seeking assistance from a medically trained person to aid a child or vulnerable person who is injured or becomes sick
- protecting a child or vulnerable person from known hazards that pose a risk of harm and which can be reasonably predicted
- taking appropriate action where a child or a vulnerable person's safety, welfare or well-being is at risk.

The standard of care that is required needs to take into consideration various factors, such as a child or a vulnerable person's maturity, ability and circumstances.

Duty of care to children and to vulnerable persons applies during all activities and functions conducted or arranged by ISMAPNG where children or vulnerable persons are in the care of Workers.

Workers must assess and manage the risk associated with any activity before undertaking the activity.

Actual harm to a child or a vulnerable person, or potential to cause significant harm to a child or a vulnerable person, caused by:

- (a) a single serious failure to exercise appropriate duty of care; or
- (b) repeated less serious failures to exercise appropriate duty of care,

may constitute misconduct, neglect or negligence and/or a breach of this policy.

Workers should not put themselves in a position that may create a risk of an allegation of a child or vulnerable person protection nature being made. For example, workers must not:

- (a) transport a child or a vulnerable person in a car alone, except with the prior consent of the Human Resources Manager; and
- (b) otherwise be alone with a child or a vulnerable person, unless they are in the view of others and/or there is a reasonable requirement to do so.

Professional conduct

Workers must act professionally and appropriately when dealing with children and vulnerable persons and others with whom they come into contact as part of their engagement with ISMAPNG. This includes using appropriate language and tone toward children, vulnerable persons and others. Rude or insulting behaviour, including verbal aggression; abusive, threatening or derogatory language or conduct; or intimidating words or actions towards children or vulnerable persons is unacceptable. It is also unacceptable to engage in such conduct towards others in the presence of children or vulnerable persons.

Physical Contact

Workers must not engage in inappropriate physical contact with children or vulnerable persons, or act in ways that may cause a child or a vulnerable person to reasonably fear that unjustified force will be used against them.

Examples of *inappropriate physical contact* include (but are not limited to):

- intentional and unjustified use of physical force
- throwing an object to gain a child or vulnerable person's attention in a hostile way
- restraining a child or vulnerable person (unless as part of an approved behaviour management plan)
- pushing, pulling, shoving, grabbing, pinching, poking, shaking or throwing a child or vulnerable person.

Examples of conduct that involves the *reasonable use of physical contact* for exercising appropriate control over a child or vulnerable person include (but are not limited to):

- disarming a child or vulnerable person who is at risk of harming themselves or another person
- separating children or or vulnerable persons who are fighting
- reasonable use of physical force for the protection of self or others.

Discipline

Workers must not correct or discipline a child or vulnerable person in excess of what is reasonable or appropriate for the situation and the child or vulnerable person's maturity, ability and circumstances. Discipline is excessive if it is a disproportionate response to a child or a vulnerable person's behaviour.

Examples of ill-treatment include (but are not limited to):

- locking a child or a vulnerable person in a confined space as punishment
- tying a child or vulnerable person to a chair
- in a school context - keeping a child on detention during lunch without allowing them to eat or go to the toilet.

Medication, drugs and other substances

Workers must not purchase for, offer, supply, give or administer to children or vulnerable persons, condone or encourage the use of illegal drugs, restricted substances, prescribed or non-prescribed medication (unless dealing with or administering medication in accordance with relevant policy), alcohol or tobacco.

Professional relationships and boundaries

Workers must act professionally and appropriately when dealing with children, vulnerable persons and others with whom they come into contact as part of their engagement with ISMAPNG. This includes maintaining appropriate professional boundaries with children and vulnerable persons.

A single serious 'crossing of the boundaries' by a worker, or repeated less serious breaches of professional conduct, or exercise of poor judgment in the following areas, may constitute misconduct, sexual misconduct and/or a breach of this policy.

Relationships

Workers must not behave in a way that could reasonably be construed as involving an inappropriate relationship with a child or a group of children or with a vulnerable person or persons.

Workers must not invite children or vulnerable persons to join their personal electronic social networking site/s or accept children's or vulnerable persons' invitations to join theirs. They must not attend parties or socialise with children or vulnerable persons or invite them to their home or attend their homes without an appropriate professional reason and without the consent of the Human Resources Manager and where applicable, the parents/carers' consent.

A worker who is unsure about the appropriateness of a relationship with a child or vulnerable person or a child's or vulnerable person's family must disclose it to the Human Resources Manager.

Grooming

Workers must not engage in grooming behaviour. Grooming behaviour involves a pattern of conduct that is consistent with grooming a child or vulnerable person for sexual activity, where there is no other reasonable explanation for it.

Examples of grooming behaviours include:

- persuading a child or vulnerable person or group of children or vulnerable persons that they have a 'special' relationship, for example, by spending inappropriate special time with them, inappropriately giving gifts or showing special favours to them but not other children or vulnerable persons, inappropriately allowing the child or vulnerable person to overstep rules, or asking the child or vulnerable person to keep this relationship to themselves
- Testing boundaries, for example, by undressing in front of a child or a vulnerable person, encouraging inappropriate physical contact (even where it is not overtly sexual), talking about sex, or 'accidental' intimate touching
- Inappropriately extending a relationship outside of work (except where it may be appropriate - for example, where there was a pre-existing friendship with the child's or vulnerable person's family or as part of normal social interactions in the community)
- Inappropriate personal communication (including emails, telephone calls, letters, text messages, social media and web forums of a sexual nature).

If there are reasons for a worker to communicate with children or vulnerable persons or their families using electronic information and communication technology (ICT) for reasons other than work purposes, it is important to discuss this with and gain the approval of the Human Resources Manager.

Sexually inappropriate behaviour

Workers must not make sexually explicit comments or engage in other sexually overt or implied behaviour towards or in the presence of children or vulnerable persons. Such behaviour may constitute sexual misconduct.

Examples of sexual behaviours include:

- inappropriate conversations of a sexual nature
- unwarranted and inappropriate touching
- exposure of children or vulnerable persons to sexual behaviour of others
- watching children or vulnerable persons undress in circumstances where supervision is not required.

Workers must not have an intimate, romantic or sexual relationship with any child or vulnerable person who is under their care or supervision regardless of their age. It is irrelevant whether the relationship is consensual, non-consensual, known to or condoned by parents, guardians or caregivers.

Workers must not commit a sexual offence. This encompasses all criminal offences involving a sexual element that is committed against, with or in the presence of a child or vulnerable person.

Extreme care must be taken in any relationship between a worker and a former client, even if the client is currently over 18 years of age.

A personal or sexual relationship with a former client entered into by any worker may be considered sexual misconduct if it is established that the worker used his or her position to develop and/or maintain an inappropriate personal or intimate relationship with the person when they were a client of ISMAPNG.

Working with children checks and police checks

Workers who are required to have a working with children check and do not have a current clearance, or are barred from working with children, cannot continue to be engaged in child related work. Consequently, their employment or engagement with ISMAPNG may be terminated.

Workers who work with vulnerable persons are required to have a police check. If such workers do not have a satisfactory police check they cannot continue to be engaged in working with vulnerable persons. Consequently, their employment or engagement with ISMAPNG may be terminated.

The working with children check/police check must be current for the state or territory in which the worker is required to work.

Notification and reporting

To satisfy reporting and notification requirements under the law, including:

- mandatory requirements under the *the relevant state or territory legislation*
- reportable conduct requirements under any relevant state or territory legislation

and in line with ISMAPNG's values, Workers are required to notify or report certain matters of concern, including:

- Informing ISMAPNG if they are charged with or convicted of an offence relevant to working in child or vulnerable person-related employment, or if they have had any reportable conduct allegation made against them
- reporting to ISMAPNG any allegations or convictions of reportable conduct involving any other worker that they are aware of, or reasonably suspect
- reporting to ISMAPNG any information or concerns about inappropriate behaviour by any worker that involves a child or children or vulnerable person or persons
- reporting to their ISMAPNG Manager suspected risk of significant harm to a child or a vulnerable person.

ISMAPNG will then determine if reporting or notification needs to be made to the relevant authority, and/or the Police.

Confidentiality

Workers must maintain confidentiality in relation to any matters of a child or vulnerable person protection nature and only discuss the matter with those required to be notified or reported to. Where a worker is in doubt as to the requirements of confidentiality, they should seek advice from their manager or the Human Resources Manager.

Victimisation

Workers must not take detrimental action against a complainant or person who reports information as required by legislation and this document. Such action is unlawful, may be regarded as serious misconduct and may result in disciplinary action, including termination of employment.

Record keeping

A worker must maintain appropriate records and data in relation to their professional practice in the care and protection of children and vulnerable persons. Records may include case notes, student/client files and behaviour management plans.

A worker must keep contemporaneous records of any disclosure, observations and discussions regarding a child or vulnerable person protection matter, including any alleged breach of this document.

These records must be kept in a secure location as provided for by ISMAPNG.

Investigations

Allegations of a child or vulnerable person protection nature against a worker will be investigated and dealt with in line with ISMAPNG Policy and Legislation.

ISMAPNG INCORPORATED MINISTRIES

ISMAPNG requires its separately Incorporated Ministries to have a policy that relates to the protection and safeguarding of children and vulnerable people.

FURTHER INFORMATION

Further information about any of the matters outlined in this document can be sought from the Human Resources Manager.

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