



## Alleged Abuse of Former Students Policy

### PREFACE

The Presbyterian & Methodist Schools Association (the “PMSA”) is the governing body of Brisbane Boys’ College, Clayfield College and Somerville House Schools in Brisbane and Sunshine Coast Grammar School on the Sunshine Coast.

The PMSA acknowledges that allegations of Abuse are very serious matters and must be dealt with seriously, sensitively and confidentially, in accordance with the law.

The PMSA believes that Schools must be places where positive Christian values and commitment to the safety and well-being of members of the School community are evident. This should arise from the understanding that all people, being made in God's image, are entitled to a fundamental respect for their person. Each Former Student who approaches the PMSA in relation to their previous experiences while receiving education, accommodation or care within a PMSA School or early learning centre must and will be welcomed, supported and treated with respect and consideration, in alignment with the PMSA’s core values.

Children are particularly vulnerable to harm. God's people must be particularly mindful of the interests of children and strive to protect them from harm. A compassionate response to Former Students will be first priority in respect of all information received, whatever the legal rights of the Former Students may be.

### PURPOSE

The purpose of this Policy is to outline the PMSA’s processes for dealing with allegations of Abuse relating to individuals who, as children, received education and/or accommodation or care within a PMSA School or early learning centre but who are not students of the School or centre at the time the allegations are made. Such individuals will be described within this Policy as Former Students.

This Policy has been prepared to provide a basis on which the PMSA can take action to respond to any allegations by Former Students that Abuse has occurred.

### SCOPE

The PMSA will deal with all allegations of Abuse relating to Former Students (whether a child or adult at the time of making the complaint) as set out in this Policy. This Policy does not address allegations involving current students as these are covered by the PMSA Child Protection Policy.

Nor does this Policy address allegations of Abuse involving only adults (at the time of the alleged incident), as such matters will be handled under the relevant PMSA policies, including the PMSA Preventing and Responding to Workplace Bullying Policy.

### PRINCIPLES

This Policy is based on the following principles:

1. The PMSA acknowledges and accepts that a high level of trust is placed in it by its students, their families, and the wider community. Accordingly, the PMSA will not tolerate any acts of Abuse towards children and will actively seek to prevent their occurrence.



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2. The care and protection of the children in PMSA Schools is of paramount importance.
3. The PMSA strives to make its Schools places of safety from Abuse for children. Children should feel safe from any threat of Abuse, both while on School property and also while in the care of School personnel outside the School campus.
4. PMSA Schools should be places where Abuse can be disclosed and dealt with effectively.
5. Where an incident of Sexual Abuse by an adult of a Child is reported, the PMSA will notify the police immediately or as reasonably practical, no matter when the incident occurred.
6. The PMSA commits itself to ensuring that all its actions are upright and that those who work in its Schools agree with and adhere to its policies.
7. The PMSA treats allegations of Abuse seriously, sensitively and confidentially subject only to such disclosure as is necessary to deal with the matter under this Policy and as required by law.
8. The PMSA strives to ensure that proper standards of conduct are maintained in its Schools at all times and it will take corrective action where necessary. PMSA staff should behave in a manner which makes it clear to the children and others that the staff are responsible adults. There should be demonstrated a clear delineation of boundaries between the role of authority and personal needs.
9. The PMSA requires students, parents and others to report any abusive behaviour of which they become aware.
10. The PMSA is committed to setting an example by its own behaviour.
11. The PMSA publishes its policies and strives to ensure that all Staff are aware of the standard of conduct expected of them.
12. The PMSA will treat everybody involved in an allegation of Abuse, including the alleged perpetrator, with dignity and respect. The PMSA will observe the principles of natural justice.
13. The PMSA understands that people who are subjected to Abuse are harmed by it.
14. Sexual behaviour by staff with a Child in the care of the PMSA is always Sexual Abuse.

### PMSA PROCEDURES

The order in which these procedures are carried out will depend on the individual situation.

#### 1. Application

These PMSA procedures apply only to allegations relating to victims who are not students of the School at the time the allegations are made and involve a past employee/volunteer, unless this Policy expressly provides otherwise.

If the matter or allegation involves an existing student or employee/volunteer the matter must be dealt with under the PMSA Child Protection Policy and/or through the school disciplinary process.

#### 2. Procedures for receiving and dealing with allegations

Allegations may be received either orally or in writing.



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An employee of the PMSA who receives an oral notification about alleged Abuse must immediately advise the relevant School Council Chairman via the School Principal.

[In the instance where the allegation involves the School Principal the School Council Chairman will be advised directly of the allegation. If the matter involves the School Council Chairman the School Principal will; advise the PMSA Chairman]

The School Council Chairman will contact the Former Student as soon as practicable to:

- a) Acknowledge receipt of the complaint;
- b) Record the Former Student's contact details;
- c) Indicate to the Former Student that the details will be passed on to a designated Support Officer (as defined in this Policy);
- d) Indicate to the Former Student that the designated Support Officer will contact them directly; and
- e) Will email contact details and any other information provided by the Former Student to the Executive Manager – Corporate Services (PMSA) and the Support Officer, on the date of receipt of the information

The Executive Manager – Corporate Services (EM-CS) will record the details of the complaint in a complaints database. The EM-CS will also notify the PMSA Abuse Reference Panel (as defined in this Policy) that a complaint has been received.

On receipt of information about a complaint the Support Officer will contact the Former Student and;

- a) Explain their role in the Process;
- b) Confirm the Former Student's contact details;
- c) Ascertain the Former Student's preferred method of contact;
- d) Ascertain what redress is being sought from the PMSA;
- e) Outline the steps under this Procedure;
- f) Invite the Former Student to meet to discuss the complaint and assist with the drafting of a statement outlining the details of the complaint;
- g) Advise the Former Student that a statutory declaration sworn by them may be required to support their application;
- h) Talk to the Former Student about developing a Care Plan;
- i) Explain what immediate counselling/psychological care might be available to the Former Student, and what limits there are on such support;
- j) Ask the Former Student if they have contacted the Police or any other Government agency about the alleged Abuse they have experienced. If not, ask the Former Student if they would like assistance in making such contact;
- k) Agree on timing of next contact with the Former Student;
- l) Assess whether or not the Former Student is likely to require additional assistance to make an application for redress.
- m) Explain that once the formal complaint has been received it will be considered by the PMSA Abuse Reference Panel.



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In the event that a Former Student says that they do not wish to record their complaint, or any other form of writing, the Support Officer will:

- a) Advise the Former Student that he/she will obtain as much detail about the experiences of the Former Student as they are willing to share, make a note of this conversation and provide a copy of the note to the Former Student for comment before submitting it to the PMSA Abuse Reference Panel, and
- b) Make such a note for submission to the PMSA Abuse Reference Panel.

### 3. Verifying Information from Former Student

1. On receipt of an application for redress, the EM-CS will :
  - a) Review the application and the notes of the Support Officer.
  - b) In conjunction with the relevant Principal identify any further enquiries to be made and records to be obtained, in order to verify that the Abuse alleged in the application occurred (EM-CS does this in consultation with the Support Officer if needed);
  - c) Make those inquiries, the nature of which will vary with each application, but will typically include a request to the Principal to:
    - Verify that the Former Student was a student at the School at the relevant time;
    - Verify that the alleged perpetrator was connected with the School at the relevant time;
    - Identify the nature of the connection between the Former Student and the alleged perpetrator at the relevant time;
    - Identify whether the School itself has any record of a prior Application by the Former Student.
  - d) Make inquiries of the PMSA Legal Advisors to ascertain whether the Former Student has come to notice during the Royal Commission; and
  - e) Make inquiries to ascertain whether there have been previous criminal proceedings, or a previous or current report to police, or a police investigation, and if so, the outcome of that report or investigation.
2. The EM-CS will assess whether the application alleges conduct which may be a criminal offence or some other situation that triggers the PMSA's reporting obligations.
3. If appropriate, the EM-CS will request from the relevant School any further information and records required to verify the application, by a nominated date.
4. When the EM-CS completes his/her own inquiries and has received responses to all inquiries (which will include the response that no relevant records have been located, or that relevant inquiries were made but only limited material was located) they will:
  - a) Assess all information received; and
  - b) Consult with the Support Officer about whether it is necessary to seek further information from the Former Student.If it is, the Support Officer will contact the Former Student.
5. When the EM-CS has pursued inquiries, as far as practical, the EM-CS will review all the then available information and make an initial assessment as to whether :
  - a) There is sufficient information to enable the PMSA Abuse Reference Panel to make a decision about whether there is a reasonable likelihood that :
    - (i) the Former Student suffered Abuse;



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- (ii) the Former Student suffered harm as a result of the Abuse; and/or
    - (iii) whether there are any distinctive institutional factors to be taken into account; or
  - b) The PMSA needs to seek legal advice regarding the engagement of an independent investigator to conduct inquiries to verify the application, bearing in mind the information required by the PMSA Abuse Reference Panel to assess the redress to be offered to the Former Student.
6. If the PMSA legal advisors consider that engagement of an independent investigation firm is required, the EM-CS will prepare a briefing note to the PMSA Council recommending that course, setting out the basis of the recommendation and attaching all relevant material.
7. The PMSA Council will determine whether an investigation firm will be engaged or whether the PMSA legal advisors should make further inquiries.
8. If the PMSA Council determines that an investigation should take place, the PMSA Council will instruct the legal advisors to engage an independent investigator, via a formal letter of instructions setting timeframes.
9. The EM-CS will inform the Support Officer of the approach to be actioned, so that the Support Officer can inform the Former Student of the current status of their application.
10. The Independent investigation firm will carry out the investigation, and submit an investigation report to the PMSA legal advisors.

### 4. Report and Resolution

1. The PMSA Abuse Reference Panel as duly appointed by the PMSA Council will meet on an as needs basis to:
  - a) Receive a verbal briefing from the Support Officer of applications due for consideration by the Panel;
  - b) Consider applications and briefing papers prepared by the EM-CS ;
  - c) Consider the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and relevant state and federal legislation;
  - d) Determine the redress (if any) to be offered to the Former Student; and
  - e) Record its decision.
2. If the PMSA Abuse Reference Panel determines that the material given to it is insufficient to determine a redress offer, the Abuse Reference Panel will formally identify the further material required and send this to the EM-CS for action.
3. If the PMSA Abuse Reference Panel makes a determination as to redress to be offered, the Panel will provide its determination to the PMSA Council. Once approved by the PMSA Council the EM-CS will inform the Support Officer of the redress offered.
4. The EM-CS will prepare a letter to the Former Student which:
  - Confirms the outcome of the PMSA Abuse Reference Panel meeting;
  - Sets out the details of any offer of redress;
  - If the Former Student is to be offered a monetary payment, attaches a Deed of Release, which will not contain a confidentiality clause
  - Informs the Former Student that the PMSA Council will meet the Former Student's reasonable legal expenses of obtaining independent legal advice in relation to the Deed of Release; and
  - Advises that the offer of redress is open for a period of three months.



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5. The EM-CS, in collaboration with the Support Officer, will implement the other redress items approved by the PMSA Abuse Reference Panel. This could include (but may not be limited to):
  - a) Drafting a written apology ;
  - b) Arranging ongoing support and counselling and
  - c) Any other form of redress agreed.
6. If a Former Student rejects the offer of redress and requests Reconsideration/Review of the offer by the PMSA Abuse Reference Panel, the Support Officer and the EM-CS must:
  - a) Clarify with the Former Student the basis upon which reconsideration is sought (i.e. what is the new information that the Former Student seeks to adduce for the consideration of the Abuse Reference Panel); and
  - b) Upon receipt of clarification, draft a further briefing note for the PMSA Abuse Reference Panel.

### 5. Media

The School Principal will deal with media issues as spokesperson for the relevant PMSA School. Prior to making any public statement the Principal will first consult with the School Council Chairman.

The PMSA Chairman will deal with media issues as spokesperson for the PMSA.

### 6. Report to Queensland College of Teachers ("QCT")

Where the alleged perpetrator was a registered teacher at the time of the alleged Abuse, the Principal of the School where the Abuse allegedly occurred must comply with the reporting obligations under the *Education (Queensland College of Teachers) Act 2005 (Qld)*. These obligations may require the Principal to first notify QCT as soon as practicable after the investigation of the allegation starts.

## INSURER

The EM-CS, in consultation with both the Principal and the Chairman of the PMSA Council, will inform the insurer of any claim or likely claim against the PMSA as soon as he or she is informed of it. The relevant insurer will be the insurer who has issued a Policy for the period when the Abuse is alleged to have occurred. Details of any claims should be given to prospective insurers when current insurance is to be effected.

The EM-CS will keep the insurer informed of the progress of the response to the allegation.

## NATURAL JUSTICE AND PROCEDURAL FAIRNESS

As the consequences of a decision for any individual become more severe, so the importance of demonstrably acting fairly increases. The two fundamental principles of natural justice are:

- that those making a decision must be free from bias as well as the appearance of bias;
- nobody should be condemned unless they are given prior notice of the allegations against them and they have a fair opportunity to be heard. This includes providing reasonable notice and time to prepare sufficient information (about the matter to be decided) to enable the person to present their case.



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### CONFIDENTIALITY

Confidentiality is not secrecy but is an assurance that written and spoken information is protected from being shared with unauthorised persons, or used for a purpose other than that for which it was collected.

Confidentiality is of the utmost importance in dealing with an allegation of Sexual Abuse. It is not to keep the incident secret, but is to ensure that only those people "who need to know" know. Confidentiality protects the rights and interests of ALL parties. Due consideration needs to be given by all staff managers to matters of confidentiality in both service delivery and in responding to an allegation.

### LEGISLATION

In responding to an allegation of Abuse, the PMSA should strive to ensure that it does not interfere with due legal process. This includes ensuring that any investigation does not interfere with criminal investigations or civil claims. Similarly, the PMSA has a right to ensure that it is able to investigate fully matters which affect its staff or those individuals within its care.

It is therefore important to take into consideration the Criminal Codes, State care and protection legislation and anti-discrimination legislation in dealing with an allegation of Abuse. Advice on such requirements can be sought from statutory bodies, police or legal advisers.

### LEGAL REPRESENTATION

This Policy does not prescribe a formal legal process, because the PMSA prefers instead that a successful resolution of the matter be achieved directly between the PMSA and the Former Student. The Former Student may however elect to be legally represented.

### RECORDS

The PMSA will keep full documentation about each allegation in a confidential file.

On completion of the process, the EM-CS is responsible for ensuring that all information pertaining to the allegation is securely maintained.

### CARE STRATEGY

Upon a School receiving an allegation of Abuse, the School Principal will establish a Care Strategy. The purpose of the Care Strategy is to plan for the care, confidentiality and management of the process for investigating and resolving the allegation and minimising the impact upon the School/community.

A Care Strategy will not be established in cases where so much time has elapsed since the alleged Abuse that a Care Strategy would have no relevance.

A Care Strategy should be developed by the EM-CS, in consultation with the Principal, within two weeks of receipt of the allegation. The Care Strategy will address, but is not limited to:

- issues of confidentiality;





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- which members of the School community are told and when;
- issues of safety for the Former Student, respondent, other staff and members of the School community;
- education required relating to the matter within the School, e.g. boundaries, protective behaviours etc.;
- strategy for Care, healing, and counselling within the School;
- strategy for Care of the individuals affected, i.e. Former Student, respondent, their family members and friends;
- critical incident response if a number of people are involved;
- legal advice;
- consultation required with the PMSA;
- management of staff during the investigation;
- overall management strategy;
- appropriate records to be kept.

### DEFINITIONS

**"Abuse"** means activity or deliberate or careless inactivity which causes significant harm to a person's physical, psychological or emotional wellbeing. The harm can be caused by:

- physical, psychological or emotional Abuse;
- sexual Abuse or exploitation.

**"Abuse Reference Panel"** means the Panel appointed from time to time by the PMSA Council to receive details of alleged Abuse of Former Students and determine what redress is applicable (if any) in each matter. The terms of reference and the composition of the Abuse Reference Panel will be approved by the PMSA Council annually.

**"Child"** means a person under 18 years of age.

**"Employee"** includes current or former employees, contractors and volunteers.

**"Executive Manager – Corporate Services"** is the person appointed from time to time by the PMSA Council in accordance with the PMSA Constitution and/or By-Laws.

**"Former Student"** means a person who, as a Child, received education and/or accommodation or care within a PMSA School or early learning centre but who is not a Student of the School or centre at the time the allegation is made.

**"PMSA"** is The Presbyterian and Methodist Schools Association.

**"Sexual Abuse"**, in relation to a relevant person, includes sexual behaviour involving the relevant person and another person in the following circumstances

- a) The other person bribes, coerces, exploits, threatens or is violent toward the relevant person;
- b) The relevant person has less power than the other person;
- c) There is a significant disparity between the relevant person and the other person in intellectual capacity or maturity.

**"Support Officer"** is the independent person, persons or organisation appointed by the PMSA Council to act as the independent support advisor to the Former Student.





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“**Without Prejudice**” refers to the limiting circumstances in which the content of documents, discussions and negotiations may be used in a court of law are restricted. Enabling “Without Prejudice” discussions and negotiations allows the parties to speak with less reserve, and to work constructively towards resolution of any matter in dispute.

### DISTRIBUTION

This Policy is to be made available to students and parents of PMSA Schools via School newsletters, School notice boards, the student diary, parent manuals, the School website and the PMSA website. The attention of all staff should be drawn to this Policy on the first staff professional development day of each School year and to all new staff at the time of their appointment. It is to be set out in the staff handbook.

### AMENDMENT REGISTER

Issue No	Date of Issue	Page No	Details of and reason for amendment
1	24.10.2016	All	Approval by PMSA Council