



## Protocol: Reducing or Removing Risks of Child Abuse

*This protocol sets out the requirements of the Crimes Act 1900 (NSW) specifically in relation to reducing or removing the risk of a Child becoming the victim of Child Abuse and outlines the Diocese's expectations of Clergy, Religious Appointees, Employees, Volunteers and contractors to protect Children from risks of abuse.*

*The Diocese expects and requires that Clergy, Religious Appointees, Employees, Volunteers and contractors also protect Adults at Risk from harm and abuse and report safeguarding concerns and offences which are Serious Indictable Offences to the appropriate statutory bodies and the Safeguarding Office as required by the Policy.*

### Key Obligation

Under the *Crimes Act 1900* (NSW), it is an offence 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.

This protocol refers to that offence as the 'Failure to Protect' offence.

### 1 What constitutes a Child Abuse Offence?

- 1.1 A Child Abuse Offence includes a range of Serious Indictable Offences and other offences, committed against a Child. A full list of Child Abuse offences can be found in the **Table of Reportable Crimes**.
- 1.2 Child Abuse Offences that may present in Parishes and Agencies could include:
  - (a) Physical assault of a Child;
  - (b) Grooming a Child for unlawful sexual activity;
  - (c) sexual intercourse, a Sexual Act or Sexual Touching involving a Child;
  - (d) possessing, disseminating or producing Child Abuse material; or
  - (e) recording or distributing Intimate Images of a Child.

### 2 What constitutes 'Failure to Protect'?

- 1.1 Section 43B of the *Crimes Act 1900* (NSW) specifies that a person commits an offence if:
  - (a) that person is a position holder in an organisation that engages in Child-Related Work;

- (b) there is a serious risk that another adult worker will commit a Child Abuse Offence against a Child who is or may come under the care, supervision or authority of the organisation;
- (c) the position holder knows the risk exists and has the power or responsibility to reduce or remove the risk; and
- (d) the position holder negligently fails to reduce or remove the risk.

## 1.2 The maximum penalty for Failure to Protect is 2 years imprisonment.

**Note:** Moving an adult who is at risk of committing a Child Abuse Offence to another position or another location where they will still have contact with Children is likely to be considered Failure to Protect.

## 3 Who is a position holder?

3.1 A 'position holder' is any adult who:

- (a) carries out work for an organisation that is involved in Child-Related Work, whether as an Employee, Volunteer, member of the Clergy, Religious Appointee, contractor or otherwise; and
- (b) has the power or responsibility to reduce or remove the risk.

3.2 Parish Priests and Agency Heads will likely be considered position holders for the purposes of Failure to Protect.

## 4 Diocese's Policy and procedure

4.1 The Diocese requires that all Clergy, Religious Appointees, Employees, Volunteers and contractors take steps to protect Children from becoming the victims of Child Abuse Offences.

4.2 If a member of Clergy, Religious Appointee, Employee, Volunteer or contractor has concerns that another adult involved in the Parish or Agency is at risk of committing a Child Abuse Offence against a Child who is under the care, authority or supervision of the Parish or Agency, that person must:

- (a) contact "000" if the Child is in immediate danger; and/or
- (b) notify the Parish Priest or Agency Head, immediately or as soon as possible after becoming aware of the risk.

4.3 The Parish Priest or Agency Head must:

- (a) work with the Safeguarding Office to determine the best way to ensure that the Child is removed from immediate risk and otherwise manage or remove the risk. This may include suspending or standing down a member of Clergy, Religious Appointees, Employees and Volunteers considered to pose a risk from their role in the Parish or Agency; and
- (b) report the matter to the Safeguarding Office. The Safeguarding Office will assist the Parish Priest or Agency Head to report to NSW Police. The Safeguarding Office will also consider reporting the matter to the NSW Office of the Children's Guardian and/or the Department of Communities and Justice as appropriate.