



## Catholic Schools Office Diocese of Lismore

# RESPONSIBLE PERSONS STANDARD OPERATING PROCEDURE

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<b>SOP Contact Officer:</b>	Assistant Director – School Resources Services
<b>Related Documentation:</b>	Catholic Education in the Diocese of Lismore Foundational Values for Catholic Identity and Mission  Conflict of Interest Policy and Procedure  Employee Performance and Discipline Policy and Procedure  Parent and Caregiver Complaints Policy and Procedure  Privacy Policy and Procedure  <i>Child Protection (Working with Children) Act 2012</i>  <i>Education Act 1990</i>  NSW Education Standards Authority (NESA) Registration Systems and Member Non-Government Schools (NSW) Manual

## RATIONALE

The purpose of this Standard Operating Procedure is to provide clear guidance about the nature, role and conduct of Responsible Persons in Catholic education in the diocese of Lismore. It is important that everyone concerned with the management and operation of parish schools in the diocese understands their responsibilities and the principles underpinning proper governance.

A parish school must have in place processes of notification and disclosure by which the school can provide assurance to the NSW Education Standards Authority (NESA) that each person defined under the *Education Act 1990* (the Act) as a Responsible Person, and any other person or body having similar functions in relation to the management or operation of the parish school as those of a Responsible Person is a fit and proper person. This requirement also applies to diocesan Responsible Persons.

The Catholic Schools Office (CSO), a registered non-government body for the system of parish schools must have in place processes of notification and disclosure by which the CSO and parish school can provide assurance to NESA that each person defined under the Act as a Responsible Person, and any other person or body having similar functions in relation to the management or operation of the parish school as those of a Responsible Person is a fit and proper person.

The Responsible Persons for a parish school must have in place and implement policies and procedures in relation to dealing with conflict of interest, related party transactions and for the ongoing professional learning of the school's Responsible Persons. This requirement also applies to diocesan Responsible Persons.

## SCOPE

This Standard Operating Procedure applies to those employees of the CSO and parish schools who meet the criteria of a Responsible Person as defined in the definitions.

### 1. DEFINITIONS

The **Responsible Persons** for a parish school, as defined by the Education Act, are accountable for proper governance of the school and for meeting this requirement. A school's proprietor or person concerned in the management of the school, members of the school's governing body, the school's Principal and any other person or body exercising a function in relation to the management of the school are considered under the Act to be Responsible Persons for the school.

In the Diocese of Lismore, the Responsible Persons are:

- I. The Trustees of the Roman Catholic Church Diocese of Lismore, the proprietor;  
and
- II. Delegated individuals.

### 2. RESPONSIBILITIES

- 2.1 In accordance with the *Education Act 1990* (NSW) (the 'Act'), the *Child Protection (Working with Children) Act 2012* (the 'CP Act'), and the *NESA Registration Systems and Member Non-Government Schools (NSW) Manual* (the 'Manual') Responsible Persons are to declare that:

- I. Any refusal to register, or cancellation of registration of the parish school or any other school, during the previous five years, has not been largely attributable to their actions (Manual 5.9.2; s63A the Act);
  - II. They have not been convicted of an offence against a law of an Australian state or territory or the Commonwealth of Australia or charged with an offence in relation to children, dishonesty or violence (Manual 5.9.1; s63A the Act);
  - III. They are not bankrupt, insolvent or placed under external administration (Manual 5.9.1; s63A the Act);
  - IV. They have not become mentally incapacitated and a patient at an institution because of that incapacity or a protected person under the *NSW Trustee and Guardian Act 2009* (Manual 5.9.1; s63A the Act);
  - V. They are not a 'disqualified person', as defined by the CP Act and have not been refused a Working with Children Check Clearance (the 'Clearance'), or had a Clearance cancelled, or subjected to an interim bar or a bar from working with children or subject, to the best of the person's knowledge, to a risk assessment in accordance with the CP Act (s18 CP Act);
  - VI. They are not a 'disqualified person' (s18 CP Act) who is no longer permitted to act as a school Principal; and
  - VII. They will declare any personal interest or conflict of interest in relation to their position as a Responsible Person for the school (Manual 5.9).
- 2.2 All Responsible Persons in the diocese of Lismore will make this annual declaration as part of diocesan compliance processes (Attachment 1). Completed declarations will be provided to, and kept on a Register kept by CSO School Services Resources personnel.

### **3. MAINTENANCE OF REGISTERS AND EXTERNAL AUDITS RELATED TO GOVERNANCE MATTERS**

- 3.1 NESAs requires that registers are maintained to list details, commencing 1 July 2016, of Responsible Persons (a template is provided in Attachment 2), induction and professional learning, commencing 1 September 2014, for Responsible Persons (a template is provided in Attachment 3) and for the declaration of related party transactions (see Related Party Transactions Standard Operating Procedure).
- 3.2 Details maintained on these registers must be updated within twenty-eight (28) days of the change being made.
- 3.3 For the Catholic Schools Office staff and diocesan Responsible Persons this information is lodged with School Resources Services and for Responsible Persons in parish schools the information is lodged in the school and is audited as part of the compliance process. The CSO and parish schools undergo financial audits annually.
- 3.4 All records are to be retained for a minimum period of seven (7) years.

#### **4. CODE OF CONDUCT FOR RESPONSIBLE PERSONS**

4.1 This Code of Conduct is consistent across the diocese and supports the proper governance of the parish school and the system. All Responsible Persons abide by this Code of Conduct.

4.2 Responsible Persons in the diocese of Lismore will:

- I. Act honestly, in good faith and in the best interests of the system of schools, the school and the parish;
- II. Respect the position and responsibilities of other Responsible Persons;
- III. Be aware of the role, authority and services of the Catholic Schools Office, the Trustees and the Catholic Schools Council in supporting effective school governance;
- IV. Understand and abide by the policies of Conflict of Interest and Related Party Transactions;
- V. Use care, skill and diligence in fulfilling their duties;
- VI. Use the power of their position for proper purposes;
- VII. Follow established rules, procedures and protocols;
- VIII. Not make improper use of information acquired by their position;
- IX. Not allow personal interests or those of associates, to conflict with the interests of the parish school;
- X. Exercise independent judgement in decision making;
- XI. Maintain a courteous and professional demeanour when dealing with sensitive issues; and
- XII. Maintain confidentiality.

#### **5. BREACHES OF THE CODE OF CONDUCT FOR RESPONSIBLE PERSONS**

5.1 Breaches of the Code of Conduct by a priest of the Trustees of the Roman Catholic Church Diocese of Lismore

In this situation the report can be made by any person associated with the CSO or parish school to the Bishop either directly or through the Catholic Schools Office. The report will be investigated by the Diocesan Chancellor or by any suitably qualified person designated by the Bishop. The principles of natural justice apply in an investigation. The priest under investigation will usually be told of the nature and scope of the complaint and be able to view copies of correspondence as decided by the investigating officer. The priest can appeal the findings of any investigation to the Bishop in line with processes established by the Bishop.

5.2 Breaches of the Code of Conduct by the Chair of the Catholic Schools Council

In this situation the report can be made by any person associated with the CSC to the Bishop. The principles of natural justice apply in an investigation.

The person under investigation will usually be told of the nature and scope of the complaint and be able to view copies of correspondence as decided by the investigating officer. The report will be investigated by the Bishop or by a suitably qualified person designated by the Bishop. This may include an outside investigator. The Chair of the CSC can appeal the findings of any investigation to the Bishop.

#### 5.3 Breaches of the Code of Conduct by the Director of Catholic Schools

In this situation the report can be made by any person associated with the CSO or parish school to the Chair of the Catholic Schools Council either directly to him/her or through any officer of the Catholic Schools Office. The principles of natural justice apply in an investigation. The Director under investigation will usually be told of the nature and scope of the complaint and be able to view copies of correspondence as decided by the investigating officer. The report will be investigated by the Chair of the CSC or by a suitably qualified person designated by the Chair. This may include an outside investigator. The Director can appeal the findings of any investigation to the Bishop.

#### 5.4 Breaches of the Code of Conduct by the Principal

In this situation the report can be made by any person associated with the CSO or parish school to the Director of Catholic Schools either directly to him/her or through any officer of the Catholic Schools Office. The principles of natural justice apply in an investigation. The person under investigation will usually be told of the nature and scope of the complaint and be able to view copies of correspondence as decided by the investigating officer. The report will be investigated by the Director or by a suitably qualified person designated by the Director. This may include the Education Consultant, a member of SRS personnel or an outside investigator. The Principal can appeal the findings of any investigation to the Director.

### **6. DELEGATIONS TO RESPONSIBLE PERSONS**

Proper governance requires the Responsible Persons for a system of schools and an individual parish school to have in place structures, policies and procedures for governance, leadership, authority, decision-making, accountability and transparency.

### **7. INDUCTION OF RESPONSIBLE PERSONS**

The Responsible Persons for the CSO or parish school must have in place and implement policies and procedures for the induction of new Responsible Persons with specific reference to:

- I. An induction process for new Responsible Persons including, at a minimum, the mandatory successful completion of a NESA approved training program by a NESA approved training provider in relation to proper governance prior to taking up the role of Responsible Person or within three months of becoming a Responsible Person for the school;
- II. A parish school based induction program to provide each new Responsible Person with a copy of the following documents:

- a copy of all the parish school's documents, policies and procedures specified at 3.9.3.1 of the Manual and any other key policy document for the parish school;
  - the parish school's most recent audited financial statements; and
  - recent minutes of meetings of the parish school's Responsible Persons maintaining evidence that each new Responsible Person has received a copy of all of the documents specified above;
- III. Maintaining a register of the induction process identifying the following details for each new Responsible Person:
- name;
  - date of becoming a Responsible Person for the parish school;
  - position of responsibility;
  - details of any qualifications and/or experience relevant to the particular position of responsibility; and
  - details of the successful completion of a NESAs approved training program in relation to proper governance (date(s), provider, nature of training); and
- IV. Retaining the register of induction on and from 1 September 2014 and retaining each entry into the register from the date of entry for a minimum period of seven (7) years before archiving or disposing.

## **8. TRAINING FOR RESPONSIBLE PERSONS**

The Act requires that Responsible Persons must engage in 12 hours of professional learning (over 3 years) related to governance. The CSO supports Responsible Persons with this requirement by accessing NESAs approved governance training providers, for example, the Catholic Education Commission. A register of professional learning is to be kept at each individual parish school for a school's Responsible Person, and at the CSO for the CSO's Responsible Persons. Certificates of Completion are to be retained at the parish school, with copies provided to the CSO.

## **9. MEETING SCHEDULE FOR RESPONSIBLE PERSONS**

In order to discharge the duties of the Responsible Person, all meetings pertaining to the management and operation of a parish school must be officially minuted and kept on record for seven (7) years.

## **10. RELATED PARTY TRANSACTIONS**

10.1 Related party transactions are those transactions between a Responsible Person and a related entity (organisation or individual). Refer to the Related Party Transactions Policy and Standard Operating Procedure.

10.2 All related party transactions are to be recorded in a Register of Related Party Transactions. The Register is to be kept at individual parish schools for school transactions, and at the CSO for CSO transactions. See the Related Party Transactions Standard Operating Procedure.

## **11. CONFLICT OF INTEREST**

A conflict of interest may exist when an employee's private interests have the potential to interfere with the proper performance of their work duties. A potential or actual conflict of interest must be identified, declared and avoided or resolved in favour of the public interest in accordance with the CSO Conflict of Interest Policy and Standard Operating Procedure. Responsible Persons must complete an Annual Disclosure of Conflicts of Interest, to be retained at each parish school or the CSO as appropriate (Attachment 4).

## **12. EXTERNAL AUDIT**

The CSO will arrange for each parish school to have an external audit of the requirements for Responsible Persons, as outlined in the Standard Operating Procedure, on an annual basis.

## **13. NOTIFICATION TO NESAS OF CERTAIN MATTERS**

13.1 NESAS are to be notified if a Responsible Person is subject to the following:

- I. They have not been convicted of an offence against a law of an Australian state or territory or the Commonwealth of Australia or charged with an offence in relation to children, dishonesty or violence;
- II. Becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvency debtors, compounds with creditors or makes an assignment of remuneration for a creditor's benefit; or
- III. If the person is a corporation, is the subject of a winding up order that has a controller or administrator appointed.

13.2 NESAS are to be notified if there is a breach by a parish school of the following legislation:

- I. *Ombudsman Act 1974*;
- II. *Child Protection (Working With Children) Act 2012*;
- III. *Institute of Teachers Act 2004*;
- IV. *Disability Discrimination Act 1992*;
- V. *Work Health and Safety Act 2011*;
- VI. *Environmental Planning and Assessment Act 1979*;
- VII. *Food Act 2003*;
- VIII. *Explosives Act 2003*; or
- IX. *Building Code of Australia*.

13.3 A return is to be made to NESAS when the following changes occur:

- I. Changes to the management or operation of a parish school;
- II. Changes to staffing of the parish school;
- III. Changes to curriculum; or

IV. Changes to premises and buildings.

- 13.4 Parish schools will notify the CSO as soon as practicable of any breach or change as described above. The CSO will communicate with NESAs within fourteen (14) business days of the breach or change occurring.

**Responsible Persons Declaration**

Electronic copy on the compliance site sri.lism.catholic.edu.au

**DECLARATION TO BE SIGNED BY ALL RESPONSIBLE PERSONS**

- (A) Individual Principals
- (B) Trustees of the Roman Catholic Church Diocese of Lismore – the proprietor
- (C) Delegated individuals

This declaration is to be kept in the CSO or parish school NESA governance file. All new Responsible Persons are to sign this declaration each year.

In accordance with the *Education Act 1990* (NSW) as amended by the *Education Amendment (Not-for-profit Non-Government School Funding) Act 2014* (NSW), I declare that:

I am not a 'disqualified person' who is no longer permitted to act in my significant capacity;

I am not bankrupt, insolvent or placed under external administration;

Any refusal to register, or cancellation of registration of the parish school or any other school, during the previous five years, has not been largely attributable to my actions;

I have not been convicted of an offence against a law of an Australian state or territory or the Commonwealth of Australia or charged with an offence in relation to children, dishonesty or violence;

I have not become mentally incapacitated and a patient at an institution because of that incapacity or a protected person under the NSW *Trustee and Guardian Act 2009*;

I am not a 'disqualified person', as defined by the *Child Protection (Working with Children) Act 2012*;

I have not been refused a Working with Children Check Clearance (Clearance), or had a Clearance cancelled, or subjected to an interim bar or a bar from working with children or subject, to the best of my knowledge, a risk assessment in accordance with the *Child Protection (Working with Children) Act 2012*;

I will declare any personal interest or conflict of interest in relation to my position as a responsible person within the system of Catholic education on the Diocese of Lismore.

Signed:.....

Date:.....

Each year:

All Principals to sign, signed copy kept in the parish school NESA Governance file for compliance checking each year

Responsible Persons to sign, copies kept at the CSO Lismore under NESA for compliance checking.

## Register of Responsible Persons template

<b>Name of Responsible Person</b>	<b>Role</b>	<b>Commencement Date</b>	<b>Date Ceasing</b>
Eg: Ms Former Principal	Principal	1 July 2016	31 October 2016
Mr Assistant Principal	Assistant Principal	1 July 2016	
Ms Current Principal	Principal	1 November 2016	

## Register of Responsible Person Induction and Training template

Name of Responsible Person	Role	Commencement Date	Qualifications/Experience	Confirm Receipt of Induction Documents	Training Provider	Nature of Training	Hours Completed	Date Completed
Eg: Ms Former Principal	Principal	1 July 2016	Degree in Education; Masters in Theology;	Yes	CEC	Online modules	4	1 October 2016
Mr Assistant Principal	Assistant Principal	1 July 2016	Degree in Education; 15 years' experience as AP	Yes	CEC	Online Modules	4	31 January 2017
Ms Current Principal	Principal	1 November 2016	Degree in Education; Masters in Theology; 25 years' experience as Principal	Yes	CEC	Online Modules	4	30 January 2017

**Responsible Persons Annual Disclosure of Conflicts of Interest**

This form is to be completed by any Responsible Person who has a real or perceived conflict of interest or a potential conflict of interest in

undertaking their duties. A copy of the completed and signed form is to be retained by each school or the CSO as appropriate.

I, (Insert full name) \_\_\_\_\_ of (Insert address)

\_\_\_\_\_

hereby declare I have no conflicts of interest to declare or a conflict of interest considered to be:

**Nil**

**Conflict:** Real  Potential  Perceived

Please provide a brief outline of the nature of the conflict if applicable (details may be included privately in a separate confidential envelope if appropriate).

\_\_\_\_\_  
\_\_\_\_\_

Please detail the arrangements proposed to resolve/manage the conflict if noted above (attach separately if appropriate).

\_\_\_\_\_  
\_\_\_\_\_

I, (insert full name)..... hereby agree to:

- update this disclosure throughout the period of my tenure as a Responsible Person on an annual basis or until such time as the conflict ceases to exist, or at such a time a conflict arises;
- comply with any conditions or restrictions imposed by the School to manage, mitigate or eliminate any actual, potential or perceived conflict of interest and/or commitment.

Signed: ..... Date: .....

**Review by Chair Of Board**

I, (insert full name) ..... have reviewed the conflict of interest disclosure (and plan) and have taken the following action in relation to this matter:

\_\_\_\_\_  
\_\_\_\_\_

Signature.....

Date.....

## VERSION HISTORY

<b>Version</b>	<b>Approval Date</b>	<b>Authorised By</b>	<b>Notes</b>
1	February 2017	Assistant Director – School Resources Services	Originally released