



**AUSTRALIAN
ISLAMIC COLLEGE**

DUTY OF CARE POLICY & PROCEDURE

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1. Policy Purpose

Australian Islamic College (Perth) Inc owes a duty to take reasonable care for the safety and welfare of all students, staff and visitors. The duty of care exists when the teacher / student relationship is established.

This duty requires schools and teachers to take all reasonable steps to ensure the safety, well-being and educational development of all students, staff and visitors. This policy outlines the legal obligations and expectations of school staff in fulfilling their duty of care and provides clear guidelines to protect students under their supervision.

When preparing activities for students, teachers must use their professional judgment to balance the potential risk of harm with the educational value of the activity. Often, a teacher's professional judgment is guided by school policies and the school's risk assessment procedures.

2. Definitions

Child Abuse: Four forms of child abuse are covered by WA law and are defined by the Department of Communities.

Physical Abuse: Occurs when a child is severely and/or persistently hurt or injured by an adult or caregiver.

Sexual Abuse: Occurs when a child is exposed to, or involved in, sexual activity that is inappropriate to the child's age and developmental level, and includes sexual behaviour in circumstances where:

- (a) The child is the subject of bribery, coercion, a threat, exploitation or violence;
- (b) The child has less power than another person involved in the behaviour; or
- (c) There is a significant disparity in the developmental function or maturity of the child and another person involved in the behaviour.

Emotional Abuse includes psychological abuse and being exposed to an act of family and domestic violence.

Neglect is when children do not receive adequate food or shelter, medical treatment, supervision, care or nurturance to such an extent that their development is damaged or they are injured. Neglect may be acute, episodic or chronic.

Corporal Punishment – Any punishment in which physical force is used and intended to cause some degree of pain or discomfort, however light; typically involving hitting the child with the hand or with an implement; can also include, for example, forcing the child to stay in an uncomfortable position. It does not include the use of reasonable physical restraint to protect the child or others from harm.

Degrading Punishment – Any punishment which is incompatible with respect for human dignity, including corporal punishment and non-physical punishment which belittles, humiliates, denigrates, scapegoats or threatens, scares or ridicules the child.

Emotional Abuse – Emotional abuse occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings.

Psychological Abuse – Repeatedly treating and speaking to a child in ways that damage the child's perceptions, memory, self-esteem, moral development and intelligence. It is a form of emotional abuse.

3. Policy Details

3.1 Duty of Care

The term 'duty of care' is a legal obligation that defines the duty a person has, to use reasonable care towards others to protect them from known or reasonably foreseeable risk of harm and/or injury and damage to property. The notion of duty of care is one that is contained in most school policies and procedures.

The school has a duty to take reasonable care to ensure that it employs competent teachers and provides safe premises. The school will be vicariously liable for the actions of the teachers while they are acting within the course and scope of their duties as an employee of the school (this may not be the case if the teacher acts with deliberate negligence).

A teacher owes a duty to students to take reasonable care to protect them, from a known or a reasonably foreseeable risk of harm and/or injury. Discharge of this duty requires a teacher to take such proactive measures as far as reasonably practicable to prevent harm (including emotional and psychological) or injury.

3.2 Child Abuse including Corporal and Degrading Punishment, Emotional and/or Psychological Abuse

The College strictly prohibits all forms of child abuse, corporal or degrading punishment, and emotional or psychological abuse when interacting with students.

3.3 Reasonable Care

The concept of **duty of care** is grounded in the principle of taking **reasonable care** to protect students from foreseeable harm including all forms of abuse (see definitions). It does not require teachers to guarantee that no harm will occur, but rather to take appropriate and proactive steps to minimise the risk of harm. What constitutes **reasonable care** will depend on the specific circumstances at the time.

Staff must consider the following factors when assessing the “reasonableness” of the level of care required for a particular student or groups of students:

- Students age, skill levels, experience and capabilities. The level of care for younger students will be greater which can help students in their development of social, emotional and cognitive skills.
- The primary focus of the activity should be educational rather than recreational. The educational and developmental benefits must be weighed against the risks involved.
- The students with disabilities may be at a greater risk of injury as compared to students without a disability for a particular activity. This could be physical or intellectual inability to understand the risk involved and take part safely.
- All activities conducted either onsite or offsite must be risk assessed using the school risk assessment procedure. This will guide teachers about the suitability of the activities and the level of care required.
- Students with medical conditions including asthma, epilepsy and anaphylaxis require special care to ensure students are not at risk and appropriate first aid can be provided.
- School activities with high levels of risk and held in hazardous environments require a higher level of care.
- The school policies and procedures must be adhered to when deciding the suitability of certain activities for students.
- Staff supervising the students must be a reasonable person who is able to supervise students and keep them safe during the activities.
- Staff must also support students in their spiritual growth and ensure religious teachings are integrated within the school academic programs including any extracurricular activities.

3.4 Duty of Care Owed by Teaching Staff

Teachers’ duty of care responsibility is automatic, arising from the establishment of the teacher/student relationship. Teachers therefore must take reasonable care to ensure their acts or omissions do not cause reasonably foreseeable harm and/or injury to their students.

This means that the duty of care owed is the duty one would expect from a reasonable teacher with normal skills and attributes exercising professional judgement. A teacher’s duty of care is not derived from parental authority but is conferred by the state. As such, teachers are legally required to exercise a higher standard of care than that which may be expected of a reasonable parent. A teacher must provide a standard of care that is reasonable for a teacher to provide.

A teacher’s duty of care is not limited to specific school activities such as excursions and incursions, it remains at all times while the student is in the teacher’s care. A teacher owes a duty to students to take reasonable care to protect them from a known or a reasonably foreseeable risk of harm and/or injury. Discharge of this duty requires a teacher to take such proactive measures as are reasonable to prevent harm and/or injury to a student.

A school’s/teacher’s duty of care also includes being aware of and implementing all College policies affecting students’ safety and welfare, providing adequate supervision, ensuring grounds and equipment are safe for students to use, choosing appropriate persons to care for students and providing appropriate medical assistance if required. There may be times when non-teaching staff, volunteers and external providers will also owe a duty of care to students but in no way does this replace or dilute the duty of care owed by the school/teacher.

The College’s duty of care is even higher than a teacher. The College may become vicariously liable for any teacher’s actions however in some cases the individual teacher may be liable, especially in the case of criminal conduct.

Although there may be circumstances that allow a teacher to delegate their duty of care to others, it is considered prudent that the College and its teachers will always assume they have a duty of care for their students. This non-delegable duty of care applies to all on and off campus situations.

3.5 Duty of Care owed by Non-Teaching Staff, Volunteers and External Providers

When non-teaching staff, volunteers and external providers agree to take personal care / charge of students in the absence of a teacher they then will owe a duty of care to the students. They must take reasonable measures to prevent harm coming to the student or students.

The Department of Education describes non-teaching staff, volunteers and external providers as:

- *Non-teaching staff* – Employees of the school who work on the school premises and are not part of the teaching staff, eg. Librarians, laboratory assistants, exam supervisors, admin staff.
- *Volunteers* – An adult or organisation offering a service for school activities but receiving no remuneration from the school for the services provided, eg. parents/guardians and other relatives, community members, employers who accept students on work experience, student teachers.
- *External Providers* – A business/individual paid by the school to provide a venue, service and/or expertise appropriate to a particular school activity, eg. Perth Zoo, AQWA, Scitech, etc.

Non-teaching staff, volunteers (eg. parents) and/or external providers are not generally personally responsible for students and do not have the same duty of care to students as teachers. However, in certain situations and under certain conditions teachers may delegate a proportion of their supervisory role to non-teaching staff, volunteers (eg. parents) and/or external providers. In this case the non-teacher and/or volunteer will then owe the same level of care to students as would the teacher. However, the teacher retains the overall duty of care and therefore must remain close by to ensure the students are not exposed to unnecessary risk.

In the case of external providers working with the students, while the external provider may have “charge” of the activity, the teacher retains the duty of care of the students. The teacher should not hesitate to question or query the external provider about an activity or part of an activity where the teacher perceives that there is a risk of harm to one or more of the students involved and that the risk has not been adequately mitigated.

Before the school and/or the teacher delegate some responsibility for student supervision / care to non-teaching staff, volunteers (eg. parents) and/or external providers, it is necessary for the College and/or the teacher to ensure the following are satisfied. Failure to do so could result in a breach of the College’s and/or the teacher’s duty of care to the student:

- That the non-teaching staff, volunteers (eg. parents) and/or external providers are suitable for the task being delegated. In the case of external providers, the school should verify, as far as is possible, the external provider’s qualification, accreditation, knowledge, skill and experience in relation to the activity to be conducted.
- That the non-teaching staff, volunteers (eg. parents) and/or external providers are familiar with and have a good understanding of the school’s Code of Conduct.
- That the non-teaching staff, volunteers (eg. parents) and/or external providers involved are covered by either the College’s insurance or have in place their own adequate insurance cover.
- That the non-teaching staff and volunteers (eg. parents) **agree** to assume this level of care for the students and that they are aware they have the right to refuse, unless it is part of their normal duties.
- That the external provider has a clear understanding of the requirements and expectations of the school and that the external provider has communicated to the school all aspects of the activity to be undertaken.
- That the teacher has provided the non-teaching staff, volunteers (eg. parents) and/or external providers with clear instructions as to the level of care required by them.
- That the teacher has provided ‘training’ and the opportunity for the non-teaching staff to ask questions about the role they are undertaking.

It is recommended that these instructions for caring for students, the level of care required and the acceptance of this responsibility be recorded in writing and signed by the non-teaching staff, volunteers (eg. parents) and/or external providers.

The *Volunteers and Food and Other Donors (Protection from Liability) Act 2002* states that schools that are an Incorporated Association under the Associations Incorporations Act 2015, are responsible for the acts of volunteers (ie. the school is vicariously liable for the volunteer) where the work performed by the volunteer is done on behalf of the College and is done in good faith by the volunteer.

3.6 Regular contractors on the school site

There will be people working on the school site, within and outside school student contact hours, who because they are not directly employed as staff by the school and whose works are not considered “child related” do not require and in fact would be considered ineligible for a Working With Children Check (WWCC). This may include cleaners who are onsite when some students are still present, catering staff or security guards.

The College requires all contractors to satisfy the College that their staff are suitably vetted, hold valid WWCC where eligible to apply, and that where they are ineligible to apply, they are supervised and access to areas within the school is restricted.

3.7 Working with Children Checks

The Working with Children Check is a compulsory screening strategy for people engaging in child-related work in Western Australia. The Working with Children (Criminal Record Checking) Act 2004 aims to protect children from harm by providing a high standard of compulsory national criminal record checking for people wishing to do paid, unpaid or volunteer child-related work in Western Australia.

Work is “child-related” work if the usual duties of the work involve or are likely to involve contact with a child in connection with one of the categories covered in the Working with Children (Criminal Record Checking) Act 2004 (The WWCC Act). People who are not in child-related work as defined under the Act are not eligible for a check and should therefore not apply.

The Working with Children (Criminal Record Checking) Act 2004 aims to protect children from harm by providing a high standard of compulsory national criminal record checking for people wishing to do paid, unpaid or volunteer in child-related work in Western Australia.

The Working with Children Check (WWCC) process examines criminal records to see if people have charges or convictions that indicate they may harm a child (ie, persons under the age of 18). Where a person’s WWCC reveals a criminal history indicating they might harm children, they will be prohibited from ‘child-related work.’

As the WWCC is only one way of promoting a safer environment for children the College also ensures that:

- Rigorous recruitment and selection practices, including referee checks are undertaken
- Policies and Procedures promote safe and supportive environments for children, and are rigorously implemented across the College
- A work culture exists that ensures children’s concerns are heard
- Good risk management policies are followed that include practices to safeguard children
- Codes of Conduct are followed
- Suitable supervision and training is provided

The below link to the WWCC website provides information including:

- WWCC role as a regulator
- Who needs a WWCC
- Application and renewal process
- Screening process and outcomes
- Obligations and compliance
- Resources and news including fact sheets to assist with understanding obligations

Western Australia WWCC

<https://www.wa.gov.au/organisation/departments-of-communities/working-children-check>

South Australia WWCC

<https://www.sa.gov.au/topics/rights-and-law/rights-and-responsibilities/screening-checks/screening-wwcc>

As per the College’s Recruitment and Selection & Onboarding Policy, it is the responsibility of the Principal and the College’s HR Department to ensure no staff member commences work without providing the College’s HR Department with a valid WWCC (or a receipt proving they have applied for a WWCC – applicable in Western Australia only).

It is the responsibility of the HR Department to ensure College WWCC records for each staff member are up to date including the expiry dates. Where an employee provided a receipt during HR Onboarding, it is the responsibility of the HR Department to ensure a copy of the result is received and uploaded to the HR system for that employee.

The HR management system will automatically send a reminder to staff at least 60 days prior to expiry. The HR Department will provide compliance reports to the Senior Management Team for follow up with employees to ensure no employee is at work without an up to date WWCC. Any staff member who has not provided proof of renewal prior to expiry will be stood down without pay until proof of renewal is provided to the HR Department.

3.7.1 Record Keeping Example

The College will keep up to date records of everyone in child-related work.

For paid employees this will be maintained within the HR Management System.

For Volunteers each Principal will maintain a register similar to the below example which must be available for Head Office to view at any time on request.

Position	Volunteer/ Paid	Current Holder of Position	Exemptions Apply Why?	Status & Action (if req'd) 1 Holds Current Card 2 Application lodged 3 Interim Negative Notice 4 Negative Notice 5 Application withdrawn	WWC Receipt Number (if applicant does not yet have valid card)	WWC Card Number	Expiry Date	Date position reviewed	Date Last Validated
Under 11 Coach	Volunteer	John Smith	Yes – parent of child member					01/01/2010	01/01/2010
Canteen Person	Paid	Mary Blogg	No	1	C234678	123456	4/04/2011	01/01/2010	01/01/2010
Marshall	Paid	Jason Young	No	3 – currently suspended from child-related work until final outcome	C178764				
NSW Interstate Coach	Volunteer	Bill Jones	Yes – 2 week exemption for interstate visitor						

Be sure to periodically review positions and duties as these may change and exemptions may no longer apply (eg. parent may no longer have an exemption if their child leaves the club or school, but they continue to volunteer in child-related work).

First determine which positions within your school involve 'child-related' work and then consider whether the people currently holding these positions require a WWC Check

Under the WWC Act a parent of a student enrolled at a school is (with certain exceptions) exempt from obtaining a WWC check when carrying out voluntary work on school premises or with students such as helping in the canteen. However, even though this exemption applies under the WWC Act in some circumstances the College may still require a volunteer parent to provide a police clearance. This may be requested by the College if there is a genuine or realistic concern about the background of a particular parent.

Requiring one parent and not others to provide a police clearance before they are permitted to access the school premises is a sensitive issue. Therefore to overcome this the College may request all volunteers provide a police check. The College will approach this issue with caution and may take legal advice before implementing any course of action.

3.7.2 Adult Aged Students

The WWC Act **does not** require adult students to apply for a WWC Check just because they are involved in activities with younger students as part of the school day. Examples of activities commonly experienced as part of the normal course of schooling where adult students are **unlikely to require a WWC Check** include:

- When they have been asked by their teacher(s) to help other students (who are younger than 18 years of age) in their class, eg. with the school work during school time whether or not they remain under teacher supervision
- When they have been asked to show younger students where school classes and facilities are located on school premises
- Where they have been asked to be a 'buddy' or participate in similar mentoring activities at school
- Where they serve on the school council
- Where they are involved in activities alongside younger students or their younger peers (eg in rowing or when playing a game of basketball or football), regardless of whether these activities occur during school time or in after school hours, such as weekend).

However, adult students **will require** a WWC Check if they agree to carry out work on behalf of the school in a context that is beyond or exceeds that normally experienced or undertaken by the student in the normal course of their schooling. That work must include **usual duties** that are likely to involve **contact with a child** in connection with certain categories (including the education institution at which they are enrolled).

As an example, if an adult student enters into a formal arrangement to provide coaching or private tutoring outside of school hours specifically for a younger student or group of younger students (aged below 18 years), this is likely to **require a WWC Check**, regardless of whether a teacher organised it or whether there is parental or other adult supervision.

A student who has a paid job at the school (before or after school hours) or with a contractor who provides child-related services to the school, **will also require a WWC Check**.

3.7.3 Are Police Clearances Required?

PERTH COLLEGES

Part of the requirement for registration with the Teacher Registration Board of Western Australia is that a person must meet the 'fit and proper requirements.' These requirements include a criminal record check.

Information completed on the application form will be forwarded, by TRBWA, to the CrimTrac Agency, other Australian police services or other law enforcement agencies for checking.

The teacher will be asked to disclose whether they are the subject of any criminal charges still pending before the Court, or whether they have been the subject of any convictions or findings of guilt before a Court.

Under Western Australian legislation (Spent Convictions Act 1988 (WA)), Spent Convictions are not disclosed as part of the criminal history checks. However, TRBWA has received an exemption that allows them to receive information on ALL criminal

convictions or findings of guilt, including spent convictions in WA. Details of Spent Convictions in other States will only be released if the State based legislation in that State allows the release of such information.

Teachers are also required to have a WWC Check as part of the WWC Checking legislation. It is the school's responsibility to ensure that all teachers have a current WWC Check and that the school is registered as the employer so that any updates on the teachers' status can be passed on.

ADELAIDE COLLEGE

An applicant for registration must consent to the conduct of a Nationally Coordinated Criminal History Check (NCCHC) undertaken by the Teachers Registration Board when applying for registration as a teacher in any category, renewal of their registration or Special Authority to Teach.

The NCCHC is one criterion used by the Board to assess fitness and propriety. The Registration Board has been granted accredited third-party status with the Australian Criminal Intelligence Commission (ACIC). ACIC provides a NCCHC service to accredited third-party agencies primarily for the purpose of ensuring persons in positions of trust are adequately screened for criminal records.

Information relating to an applicant's NCCHC, including criminal charges (regardless of the outcome, ie, even if the matter is withdrawn or does not proceed to court) and/or convictions, is obtained from ACIC and forms part of the fitness and probity checks required by the Registration Board. NCCHCs are valid at the time the information is released by police and lists offences from a person's criminal history that can be disclosed. The NCCHC helps the Board ensure that only fit and proper persons are, or continue to be, registered as teachers. ACIC and other Australian police agencies will disclose to the Board, police history information that pertains to the applicant from their own records, including some spent convictions. Some offences cannot be disclosed, depending on when they were committed.

All matters arising from a NCCHC are considered on an individual basis and are assessed taking into account all relevant circumstances. If further information or clarification is required, an applicant will be contacted and either requested to provide a written statement or explanation or invited to attend an interview to discuss the matter. Procedure fairness and the principles of natural justice are adhered to at all times.

The NCCHC is undertaken electronically and no documentation is produced. Therefore, the Board cannot provide a copy of the outcome to the applicant. The NCCHC is valid until the expiry date of your registration.

The NCCHC incurs a fee at the points of registration and renewal. The timeframe for the Board to receive the NCCHC results from ACIC is up to 20 working days.

Ensuring Fitness to teach – overseas criminal history

On application for teacher registration, renewal of registration or special authority to teach with TRBSA, all applicants who have lived outside of Australia, are required to provide an Overseas Criminal History Check (OCHRC) as part of the assessment. Anyone who has lived in any country outside Australia for a cumulative period of 12 months or more, while 18 years of age or over, within the past 10 years must provide an OCHRC.

Teachers must also hold valid Working With Children Checks. These checks must be valid and up to date prior to applying for registration or renewal of registration.

3.7.4 Other School Staff

Generally staff who are not engaged in on site work during school student contact hours do not require a WWCC. However some staff, such as cleaners, who may be on the school site during 'cross over' times (eg at the commencement of their work at a time during the day when some students may still be on site) will require the school to have appropriate protocols and supervision policies and procedures in place.

The College may also require staff to provide a National Police Certificate. More information on applying for a National Police Certificate is available through the below link:

<https://www.wa.gov.au/service/justice/criminal-law/apply-national-police-certificate>

A National Police Certificate provides a list of a person's disclosable Court outcomes and pending charges sourced from the databases of all Australian Police jurisdictions. Certain convictions may not be disclosed on a NPC in accordance with the legislation and policies of various police jurisdictions (eg Spent Convictions and most traffic and juvenile convictions). National Police Certificates are commonly used for employment or licensing purposes.

The College is aware that spent convictions, ie, convictions that are more than 10 years old and were classed as either “serious” or “lesser” may not appear on a National Police Certificate.

People who are not eligible to apply for a WWCC (ie, people wishing to access the school who are not employees of the school including contractors, volunteers who are under 18 years, parent volunteers and work placement students, may be required by the College to complete a Confidential Declaration (Appendix A) or sign a Statutory Declaration (available online) that they do not have any convictions and there are no circumstances or reasons that may preclude them from working with or near children. In addition to this, the College may also require a National Police Certificate to be produced at the person’s own cost..

See Appendix A - Confidential Declaration

4. Conclusion

While each situation will be judged on its own merits, schools and teachers have a special duty of care to all their students and this duty can only be delegated in very specific and controlled situations and with the approval of the Principal or their nominated delegate.

5. Relevant Legislation and Regulations

- Working with Children (Criminal Record Checking) Act 2004
- Volunteers (Protection from Liability) Act 2002 (WA)
- Work Health & Safety Act 2020
- Civil Liability Act 2002
- Occupiers Liability Act 1985
- School Education Act 1999 (WA)
- School Education Regulations 2019 (WA)
- Associations Incorporations Act 1987
- The Teacher’s Registration Act 2012
- Education and Children’s Services Act 2019
- Standards for Registration & Review of Registration of Schools in South Australia
- Education and Children’s Service Regulations 2020
- Education and Early Childhood Services (Registration and Standards) Act 2011
- Educational and Care Services National Law Act 2010
- Child Safety (Prohibited Persons) Act 2016
- Statutes Amendment (Child Sexual Abuse) Act 2021
- Civil Liability (Institutional Child Abuse Liability) Amendment Act 2021
- Children & Young People (Safety) Act 2017
- Children & Young People (Safety) Regulations 2017
- Freedom of Information Act
- Privacy Act
- Working with Children Check guidelines

6. Relevant Internal References

- Risk Management Policy and Procedures (Perth)
- Risk Management & Safety in School Policy (Adelaide)
- Child Protection Policy
- Work Health & Safety Policy
- Recruitment, Selection and Onboarding Policy

Reviewed date: [October 2025]

Approved by: [Executive Principal]

Next review: [December 2026]

Appendix 1 – Confidential Declaration

Confidential Declaration for access to the school by people who are not employees of the school including contractors, volunteers under 18 years of age (including parent volunteers) and work placement students who are not covered by the Working with Children legislation:

Please complete the relevant details, sign, date and submit this form to the College before the commencement of any work in the College.

I, _____
(Full name)

representing _____
(Name of company, if applicable)

declare that I do not have any circumstances, reasons or convictions that might preclude my working with or near children and undertake to inform the College immediately should my circumstances change or there arises any reason or charge / conviction that may preclude my working with or near children.

I am/am not (delete one) a parent of a student enrolled in *Australian Islamic College* _____ *Campus*
(If not please complete the contact details below): (Campus name)

Home/Business address: _____

Contact phone numbers: _____
(Business) (Mobile) (Other)

Email address: _____

I certify the accuracy of the above information.

I am aware that I may be required to provide a National Police Certificate if considered necessary by the College

Signature: _____ Date: _____

All personal Information provided on this form will be handled and stored in accordance with the School's Privacy Policy.