



Child Protection

POLICY STATEMENT:

Our service believes that it is every child's right to be safe and protected from all forms of abuse, violence or exploitation. It is the legal and moral obligation of all adults who work within our service to ensure the safety and wellbeing of all children in our care. All educators, including casuals, volunteers and students have a duty of care to ensure the safety and protection to all children who access the service's facilities and programs.

The safety and welfare of all children is of paramount importance. Educators and management have a legal responsibility, as Mandatory Reporters, to take action to protect and support children they suspect may be at significant risk of harm. Our service will carry out the responsibilities of Mandatory Reporters as indicated under legislation. This responsibility involves following the procedures as outlined by Community Services and the NSW Commission for Children and Young People.

Law and Other References:

Education and Care Services National Regulations 2010

- 168 Education and care service must have policies and procedures...
- (2) Policies and procedures are required in relation to the following –...
 - (h) providing a child safe environment...

Child Protection (Working with Children) Act 2012

Children and Young Persons (Care and Protection) Act 1998

Office of the Children's Guardian: *Principles for Child-Safe Organisations (2017)*

Office of the Children's Guardian: *Guide to the Child Safe Standard (2020)*

Royal Commission into Institutional Responses to Child Sexual Abuse: Final Report, Making institutions child safe (2017)

The Office of the Children's Guardian *Principles for Child Safe Organisations (2017)*

- Principle 1: The organisation focuses on what is best for children
- Principle 2: All children are respected and treated fairly
- Principle 3: Children's families and communities are welcome and encouraged to participate in the organisation
- Principle 4: Children receive services from skilled and caring adults

Office of The Children's Guardian *Child Safe Standards (2017)*

- Standard 1: Child safety is embedded in organisational leadership, governance and culture
- Standard 2: Children participate in decisions affecting them and are taken seriously
- Standard 3: Families and communities are informed and involved
- Standard 4: Equity is upheld and diverse needs are taken into account



- Standard 5: People working with children are suitable and supported
- Standard 6: Processes to respond to complaints of child abuse are child focused
- Standard 7: Staff are quipped with the knowledge, skills and awareness to keep children safe through continual education and training
- Standard 8: Physical and online environments minimise the opportunity for abuse to occur
- Standard 9: Implementation of the Child Safe Standards is continuously reviewed and improved
- Standard 10: Policies and procedures document how the organisation is child safe

PROCEDURES:

Duty of Care for Individuals

What is Duty of Care?

- Duty of Care is your legal responsibility to take reasonable care to keep children from harm. It is both the provider and educator's legal obligation to ensure the care and protection of children in their service as regulated by the Children and Young Persons (Care and Protection) Act 1998.
- If an educator has reasonable grounds to suspect that a child is at risk of significant harm it is their duty of care to report their concerns to both their Coordinator/Nominated Supervisor and to determine if the concern meets the threshold for risk of significant harm.

Mandatory Reporting

Mandatory Reporting

What is Mandatory Reporting?

- In NSW, mandatory reporting is regulated by the Children and Young Persons (Care and Protection) Act 1988.
- Mandatory reporting is the legislative requirement for people that deliver direct service to children to report suspected child abuse and neglect to government authorities.
- Reports can be made via the Child Protection Helpline (132 111) or ChildStory eReporting system (Child Story <https://reporter.childstory.nsw.gov.au/s/>).

Who are Mandatory Reporters?

- A Mandatory Reporter is anybody who delivers services to children as part of their paid or professional work.
- In OOSH services, mandatory reporters are:
 - Educators that deliver services to children
 - Management, either paid or voluntary, whose duties include direct responsibility or direct supervision for the provision of these services.
- Educators are mandated to report to the Department of Communities and Justice if they have current concerns about the safety or welfare of a child relating to Section 23 of the NSW Children and Young Persons (Care and Protection) Act 1998.



Section 23 (1) Child or young person at risk of significant harm

- a) Basic physical or psychological needs not being met or are at risk of not being met
- b) Parents/ carers unwilling or unable to provide necessary medical care
- b1) Parents/ carers unwilling or unable to arrange for the child or young person to receive an education
- c) Child is at significant risk of harm – Physical/Sexual abuse
- d) Child is at significant risk of harm – Domestic violence
- e) Child is at significant risk of harm - Serious Psychological harm
- f) Child is at significant risk of harm – Prenatal Report
- Persons who are not mandatory reporters (for example members of the community not employed by the Service) can also report suspected risk of significant harm to the Child Protection Helpline (132 111) or ChildStory eReporting system (Child Story <https://reporter.childstory.nsw.gov.au/s/>).

Understanding and managing disclosures

- When a child or young person discloses abuse or neglect they may:
 - Feel responsible for the abuse
 - Not understand that the behaviour by others is inappropriate
 - Feel ashamed and scared
- A child or young person may disclose information accidentally or purposeful, they could:
 - Confide privately to an educator
 - Tell another child
 - Provide hints through play or stories
- It is important to remain calm and listen carefully and without judgement when a child discloses. Let the child tell their story freely and acknowledge that it would have been difficult for them to tell you and reassure the child that it was the right thing to do.

Note – Refer to the Families and Community Services [link](#) for more information on a child or young person who discloses.

Signs of harm or neglect

- There can be common signs of harm or neglect, however, the presence of these signs does not always mean that harm or neglect is occurring.
- The following are some possible signs of harm or neglect:
 - Failure to thrive or develop
 - Multiple injuries or bruises
 - Risk-taking behaviours such as self-harm
 - Constant feelings of worthlessness about life

Note – Refer to the Families and Community Services [link](#) for more information on signs of harm or neglect.

Confidentiality

- In NSW, approved providers must ensure the confidentiality of records are kept in accordance with National Law and Regulations. Reports should be treated with strict



confidentiality.

- Child protection reports made through the Mandatory Reporting Guidance tool or the Community Services helpline are confidential and the reporter's identity is generally protected by law.
- Child Protection information can only be exchanged under Chapter 16A of the Children and Young Persons (Care and Protection) Act 1988.

Note – Refer to the Families and Community Services [link](#) for more information on confidentiality and what happens next after making a report.

Information exchange

- To provide effective support and referral, it may be necessary to exchange information with other prescribed bodies including government agencies or non-government organisations and services.
- The NSW Children and Young Persons (Care and Protection) Act 1998 outlines Information Exchange requirements and parameters in Chapter 16A.
- Chapter 16A requires prescribed bodies to take reasonable steps to coordinate decision making and the delivery of services regarding children and young people.
- Under Chapter 16A NSW Children and Young Persons (Care and Protection) Act 1998, educators will exchange information that relates to a child or young person's safety, welfare, or wellbeing, whether or not the child or young person is known to Community Services and whether or not the child or young person consents to the information exchange.
- The information requested or provided **must** relate to the safety, welfare, or wellbeing of the child. Information includes:
 - A child or young person's history or circumstances
 - A parent or other family member, significant or relevant relationship
 - The agency's work now and in the past
- Where information is provided in good faith and according to legal provisions, under section 29 & section 245G NSW Children and Young Persons (Care and Protection) Act 1998; reporters cannot be seen as breaching professional etiquette or ethics or as a breach of professional standards. There can be no liability for court action.

Responding to and reporting

- Any educator that forms a belief based on reasonable grounds that a child is at risk of harm should ensure they record the details of the report in a clear objective format.
- Reports should be treated with strict confidentiality in adherence to the service's Confidentiality Policy and Procedures.
- Any educator who forms a belief based on reasonable grounds that a child is at risk of harm should discuss their concerns with their Coordinator/Nominated Supervisor, as he or she may have information the educator is not aware of. The Coordinator/Nominated Supervisor will then assist educators in running the online Mandatory Reporters Guidelines tool (see point below for more information) to determine whether the report meets the threshold for **significant** risk of harm.
- If directed by MRG to report to Community services, educators should report their concerns to the Child Protection Helpline:
 - Mandatory Reporters phone 13 36 27
 - Non-Mandatory reporters phone 132 111
- When reporting to the Helpline it is important to have as much information as possible available to give to the Helpline. This might include the child's information, family information, reporter details, and outcomes of the MRG.



- If Coordinator/ Nominated Supervisor has been advised to report to Community Services you are legally responsible to do so.
- Once a report is made to the CS Helpline no further report needs to be made unless new information comes to hand.

Mandatory Reporting Guidance tool

- A Mandatory Reporting Guidance (MRG) tool has been developed to help frontline mandatory reporters, including OOSH workers, determine whether the risk to a child or young person meets the new statutory threshold of 'risk of significant harm'. The MRG will guide the reporter on what action should be taken. The MRG is an interactive tool and is available online at: <https://reporter.childstory.nsw.gov.au>
- If still in doubt the Community Services Helpline will provide feedback about whether or not the report meets the threshold for statutory intervention.
- If new information presents concerning the child or young person run the MRG tool again
- Where concerns do not meet the significant harm threshold, the MRG tool may guide you to 'Document and continue the relationship'. This requires the service to continue to support, provide services, and coordinate assistance and referral for the child and their family.
- The report page from the MRG should be printed and placed in the child/family file for future reference regardless of whether or not further action is recommended.
- For assistance with referral information refer to:
 - Human Services Network www.hsnet.nsw.gov.au
 - Family Services NSW <https://familyservices.org.au/>

Note – Refer to the Families and Community Services [link](#) for more information on exchanging information related to child protection and wellbeing.

Child Protection Allegation

- Should an incident occur that involves a child being put at risk of harm from a member of staff, volunteer, trainee or person visiting the service, this is regarded as 'reportable conduct'.
- The Children's Guardian Act defines 'reportable conduct' as including:
 - any sexual offence or sexual misconduct, committed against, with or in the presence of a child (including child pornography offences or an offence involving child abuse material) including grooming behaviour
 - any assault, ill-treatment or neglect of a child
 - any behaviour that causes significant emotional or psychological harm to a child.
- Where the allegation is made to a staff member or member of management the facts as stated will be recorded in writing, using an Incident Report template that includes dates, times, names of person/s involved, name of person making allegation and the person making the report. This report should be kept on record and treated as strictly confidential.
- Any allegation that describes reportable conduct, regardless of whether that allegation can be substantiated, will be reported to the Office of the Children's Guardian within 7 days of discovery of the incident or conduct (7 day notification)
- Any allegation of staff misconduct will trigger an internal investigation, to be completed within 30 calendar days wherever possible. Whether an investigation is complete a reports must be provided to the Children's Guardian within 30 calendar days after becoming aware of the allegation.



- If an investigation is complete, a report (entity report) on the investigation must be made. Information on what must be included in this report can be found on the [Office of the Children's Guardian website](#).
- If an investigation cannot be completed within 30 days an interim report must be provided. Information on the contents of an interim report can be found on the [Office of the Children's Guardian website](#).
- It is an offence for the head of an organisation to fail to comply with the 7 business days and 30 calendar day notification periods without a reasonable excuse.
- Following the report to the Children's Guardian, any internal investigations that find reportable conduct has occurred will be reported to the Department of Communities and Justice via the Child Protection Helpline: 132 111.
- The person making the report should follow the advice of the Children's Guardian at all times.
- If the Directors/Coordinator or person in charge is suspected, then another Director/member of the management team should be informed.
- The matter will be treated with strict confidentiality, with the exception of divulging relevant information to other prescribed bodies.
- For the protection of both the children and the staff member involved, the staff member should be encouraged to take special leave or removed from duties involving direct care and contact with children until the situation is resolved.
- Support should be provided to all involved. This support can be given in the form of counselling or referral to an appropriate agency.

Managing an allegation or breach

- As part of *the service* ongoing risk assessment and risk management plan, appropriate support will be provided to:
 - The child(ren) who are the alleged victims of the alleged conduct
 - The employee who is the subject of the allegation and
 - Other relevant parties such as parents, carers, or witnesses
- A final assessment of risk should be undertaken and the report should address all identified risks regardless of the outcome of the allegation or breach.

Note – Refer to the Office of the Children's Guardian [link](#) for information on the NSW Reportable Conduct Scheme - Risk management following a reportable allegation.

Child Safe Risk Management

Recruitment and selection of educators

- All educators employed by the service including management, full-time/ part-time carers, volunteers and students will be subject to a Working with Children Check carried out by the NSW Commission for Children and Young People. Written approval from the prospective employee will be sought before this check being carried out.
- When the service engages a self-employed individual to provide services, the provider is required to provide a **Certificate for Self-Employed People**. This certificate ensures verification that the person employed is not banned by law from working with children. These certificates are issued through the NSW Commission for Children and Young People. Application form and instructions are available on www.kids.nsw.gov.au

Note – Refer to the Office of the Children's Guardian [link](#) for resources to help you create a child safe recruitment process.



Risk management and training

- All current and new educators, volunteers, and students will be subject to a Working with Children Check.
- All educators will be provided the child safe environment procedure and the code of conduct for all staff members in accordance with the National Law and Regulations.
- Educators will undergo training in relation to child protection and reporting as part of the training budget and in accordance with the National Law and Regulations.
- Child safe risk management strategies and plans will be developed to identify all types of harm a child could be subjected to.
- Risk assessments will be carried out within the service and for excursions to ensure every reasonable precaution is taken to protect children from harm, in accordance with the National Law and Regulation.

Note – Refer to the following Office of the Children’s Guardian resources:

- *Child safe organisations training and resources* [link](#)
- *Child safe risk management tools* [link](#)

CONSIDERATIONS:

Education and Care Services National Law & Regulations	National Quality Standards & Elements	Links to other Service Policies	Other Documentation/ Evidence
S162(a),165, 166, 167, 170, 174, 178 R84, 155, 170, 174, 175, r176	Standard 2.2 Elements 2.2.1, 2.2.2, 2.2.3	<i>Excursion, Delivery and Collection of Children, Incident, Illness, Injury and Trauma, Interactions with Children, Providing a Child Safe Environment, Risk Assessment, Staffing and Water Policies.</i>	NSW Children and Young Person’s (Care and Protection) Act 1998 Commission for Children and Young People Act 1998 Child Protection (Prohibited Employment) Act 1998 NSW Department of Community Services Mandatory Reporting Guidelines NSW Child Protection Interagency Guidelines (2006) Legislation Amendment (Wood Inquiry Recommendations) Act 2009 No 13 Keep Them Safe – Information session/ overview participants manual 2009/ 2010 My Time, Our Place.



			<p>The Office of the Children's Guardian Principles for Child Safe Organisations (2017)</p> <p>The Office of the Children's Guardian Child Safe Standards (2017)</p>
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