

Child Protection Policy

POLICY STATEMENT

SHARE 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 casual Educators, volunteers and students have a duty of care to ensure the safety and protection to all children who access the service's facilities and/ or 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 the legislation. This responsibility involves following the procedures as outlined by the Department of Communities and Justice Services and NSW Office of the Children's Guardian.

Updated Information:

From 1 July 2019, the Department of Family and Community Services (FACS) and Department of Justice will be a single department, named the Department of Communities and Justice.

The new department will enable services to better work together to support everyone's right to access justice and other help for families, and promote early intervention and inclusion, with benefits for the whole community.

The Department of Communities and Justice (DCJ) will be the lead agency in the new Stronger Communities Cluster.

The new Stronger Communities Cluster brings together, and replaces, the Family and Communities and Justice Clusters. It brings all government services targeted at achieving safe, just, inclusive and resilient communities under one roof.

You can still access up-to-date, reliable information on the existing Department of Justice and Department of Family and Community Services websites.

PROCEDURES:

Mandatory Reporting

- 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 NSW Department of Communities and Justice (DCJ) 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)

a-b) Child is at significant risk of harm – Neglect

- 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

- Educators will undergo training in relation to child protection and reporting as part of the training budget.
- Any Educators that form 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 Educators who form 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 Educators member is not aware of. The Coordinator 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 NSW Department of Communities and Justice, Educators should report their concerns to the Child Protection Helpline: 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 child's information, family information, reporter details and outcomes of the MRG.
 - If Coordinator/ Nominated Supervisor has been advised to but has not reported to Community Services you are legally responsible to do so.
 - Once a report is made to the Helpline no further report needs to be made unless new information comes to hand.

Mandatory Reporting Guidance tool

- A Mandatory Reporting Guidance 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 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 Helpline will provide feedback about whether or not the report meets the new 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.
 - Human Services Network www.hsnet.nsw.gov.au
 - Family Services NSW www.familyservices.nsw.asn.au

Information exchange

In order 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 has been amended (2009) to include chapter 16A Information Exchange
- 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 16 A 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.

NOTE: It is recommended that services develop a separate policy relating specifically to Information exchange

Where a complaint is made about an Educators member, or someone in the service

- Should an incident occur that involves a child being put at risk of harm from a member of Educators, volunteer, trainee or person visiting the service, this is regarded as '**reportable conduct**' and necessitates such conduct being reported to the NSW Office of the Children's Guardian (OCG) within 7 days.
- Where the allegation is made to an Educator 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.
- If the Coordinator or person in charge is suspected then the chairperson on management committee should be informed.
- The relevant forms together with information and assistance are available on line at <https://www.kidsguardian.nsw.gov.au/child-safe-organisations/reportable-conduct-scheme>
- The person making the report should follow the advice of the OCGs Departmental Officers.
- Management will also follow this advice.
- The matter will be treated with strict confidentiality.
- For the protection of both the children and the Educators member involved, the Educators 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.

Recruitment 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 Office of the Children's Guardian.
- 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. Application form and instructions are available on <https://www.service.nsw.gov.au/transaction/apply-working-children-check>

For further information

- Child Story <https://reporter.childstory.nsw.gov.au>
- Human Services Network www.hsnet.nsw.gov.au
- Community Services www.community.nsw.gov.au
- NSW Commission for Children and Young People www.kids.nsw.gov.au
- Child Protection Helpline 132 111
- NSW Office of the Children's Guardian <https://www.kidsguardian.nsw.gov.au/>

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	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.	<ul style="list-style-type: none"> - 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 - children's Guardian Act 2019 - NSW Department of Community Services Mandatory Reporting Guidelines - NSW Child Protection Interagency Guidelines (2006) - Legislation Amendment (Wood Inquiry Recommendations) Act 2009 No 13 - My Time, Our Place.

Approval date:

Date for Review:

A Glossary of Child Protection and Reportable Work Place Conduct

AOD	Alcohol and Other Drugs	Replaces the term Drug and Alcohol. Is used when referring to service provision relating to legal and illicit drug use.
<u>CAMHS</u>	NSW Child and Adolescent Mental Health Services	Provide a range of mental health services to children, adolescents and their families. This can include assessment and direct treatment
CALD	Culturally and Linguistically Diverse	CALD is an abbreviation for Culturally and Linguistically Diverse. This phrase is used to describe people who have a diverse cultural background or whose first language is not English (from: Transcultural Mental Health)
<u>Chapter 16A</u>	Part of the Children and Young Persons (Care and Protection) Act 1998	This section permits the exchange of information between prescribed agencies. Copies of Chapter 16A letter templates for services are available on the Network site here.
Child	The definition of a child varies according to the relevant Act.	In practice, making a risk of significant harm (ROSH) report means using the definition given in the NSW Children and Young Persons (Care and Protection) Act 1998. Section 3 states 'child': " ...except in Chapter 13, means a person who is under the age of 16 years. Chapter 13, S221(1) states: "In this Chapter: "child" means: (a) a person under the age of 15 years (except as provided by paragraph (b)), or (b) a person under the age of 16 years (in the case of employment as a model)." When considering reportable conduct matters the definition used is given in the NSW Child Protection (Working With Children) Act 2012 Under section 5 of the NSW Child Protection (Working With Children) Act 2012 : "children" means persons under the age of 18 years.
Child Protection Interagency Guidelines	Child Wellbeing and Child Protection – NSW Interagency Guidelines	The Child Wellbeing & Child Protection – NSW Interagency Guidelines (the Guidelines) provide practical guidance on interagency cooperation in child protection. They also help agency staff to better understand their professional responsibilities and the responsibilities of other agencies and their staff.

Child Related Employment

The definition is found under [S6](#) and [S7](#) of the [Child Protection \(Working With Children\) Act 2012](#).

The parts of **Section 6** which are the most relevant for OOSH/OSCH services are:

S6 (1) A worker is engaged in "child-related work" for the purposes of this Act if:

(a) the worker is engaged in work referred to in subsection (2) that involves direct contact by the worker with children, or

(b) the worker is engaged in work in a child-related role referred to in subsection (3).

(2) The work referred to is work for, or in connection with, any of the following that is declared by the regulations to be child-related work:

(f) education and care services, child care centres, nanny services and other child care,

(g) schools or other educational institutions (other than universities) and private coaching or tuition of children,

(m) any other service for children prescribed by the regulations.

(3) The following roles are referred to:

(a) an approved provider or manager of an education and care service,

(b) a certified supervisor of an education and care service,

(c) an authorised carer,

(e) the principal officer of a designated agency,

(g) any other role with respect to children prescribed by the regulations.

(4) In this section "direct contact" with children means:

(a) physical contact, or

(b) face to face contact.

Section 7 defines 'Additional Child-Related Work':

(1) A worker is taken to be engaged in "child-related work" if the worker is engaged, or proposes to engage, in work (other than as a volunteer) that is the subject of a requirement under this section.

(2) The employer or proposed employer of a worker engaged in work for which a working with children check clearance is not required that involves access to confidential records or information about children may, by notice in writing to the worker, require the worker to obtain a clearance for the purposes of engaging in the work concerned.

(3) The employer, or proposed employer, may at any time, by notice in writing given to the worker, revoke a requirement made under this section.

(4) An employer may make or revoke a requirement under this section only with the approval of the Children's Guardian.

Class of Children	When making a risk of significant harm report, one option is to report a 'class' of children.	The FACS Mandatory Reporter Guide 2014 identifies a class of children as "... a group of children/young people having in common one attribute or a number of similar attributes. A class of children report should be considered when there is sufficient reason to believe a class of children/young people is currently at risk of significant harm. For example, a staff member may have abused a child or be suspected of abusing a child and there are concerns for all the children in the group or service the child attends or attended
Community Services		A division of the NSW State government Department of Family and Community Services Community Services has primary responsibility for investigation of risk of significant harm reports (ROSH) in NSW.
DCJ	Department of Communities & Justice	Now known as the DCJ comprises the following: Child Protection Helpline. Disaster Welfare Assistance. Link2Home Homelessness. Domestic Violence NSW Victims Access Line. Law access.
Drug and Alcohol		Has since been replaced with the term Alcohol and Other Drugs.
ECECD	Early Childhood Education & Care Directorate.	A directorate within the NSW State government Department of Education and Communities. The Early Childhood Education & Care Directorate, regulates the operation of early childhood education and care services for children from birth to school age. The department also provides some funding to education and care services.
FACS	Family and Community Services.	The term 'FACS' is often used when referring to Community Services (see above) Now DCJ
Grooming		See Sexual Grooming
Interagency Guidelines	See " Child Protection Interagency Guidelines "	
JIRT	Joint Investigation Response Team	Comprising FACS, Police and Health professionals, JIRTs are responsible for investigating reports of child abuse when there is a possibility the abuse constitutes a criminal offence.
Mandatory Reporter		Under the definition provided in Section 27 of the NSW Children and Young Persons (Care and Protection) Act 1998 all OOSH/OSHC (paid) staff and managers (paid or otherwise) are mandatory reporters. A mandatory reporter is a person who under Section 27(a) has reasonable grounds to suspect that a child is at risk of significant harm and (per Section 27(b)) those grounds arise during the course of or from the person's work. These concerns may relate to physical, emotional or sexual abuse or be in relation to physical neglect or psychological harm.
Mandatory Reporter Guide	MRG	Online assistance to determine reporting requirements or necessary action in child abuse/protection matters.
MRG	Mandatory Reporter Guide.	Online assistance to determine reporting requirements or necessary action in child abuse/protection matters.
Network	Network of Community Activities	Provides assistance to OOSH/OSHC services in relation to child protection and reportable conduct matters through training, information, support and policy development. Child Protection Project Officer is also available to discuss related concerns.

NSW Child Protection (Working with Children) Act 2012

NSW Working With Children Check legislation administered by the [Office of the Children's Guardian](#)

Under the legislation, all persons commencing employment in OOSH/OSHC must have a Working with Children Check (WWCC) clearance or current application and not be subject to an interim bar. An interim bar prevents a person working with children until a final decision has been made on their application for a clearance. As of 1 April 2017, all persons (paid and otherwise) currently working or commencing work in OOSH/OSHC services in NSW will require a current Working with Children Check application or clearance and not be subject to an interim bar.

Under Section 9 of the Act, services and agencies are responsible for confirming an employee's WWCC status.

It is not sufficient under the Act to merely rely on any written documentation provided to the agency by a staff member.

Confirmation of a person's Working with Children Check status **must** be sought from the Office of the Children's Guardian.

NB. Prior to 1 April 2017 services may wish to implement policies which require all current and commencing staff and volunteers possess a current clearance or application.

Children and Young Persons (Care and Protection) Act 1998

Legislation covering child protection within NSW

Department of communities and Justice is the agency responsible for implementing and applying the greater part of the Act.

OCG

Office of the Children's Guardian

The OCG:

- Administers the [Working With Children Check](#).
- Manages reportable conduct.
- Accredits and monitors the designated agencies that arrange statutory out of home care (OOHC)
- Registers and monitors agencies that provide, arrange or supervise voluntary out of home care (VOOHC)
- Accredits non-government adoption services providers
- Authorises the employment of children under the age of 15, and child models under the age of 16, in the entertainment sector

Prohibited Employment Declaration

These declarations are no longer used and the related Act has been repealed. Persons in child-related work now must apply for a [Working With Children check](#)

[ROSH report](#)

Risk of Significant Harm report

Where a person believes a child or young person is at risk of harm to a sufficiently serious level, they may make a report to Community Services.

These reports are called a Risk of Significant Harm reports. It is recommended OOSH/OSHC staff utilise the [Mandatory Reporters Guide](#) available online

Royal Commission

The Royal Commission into Institutional Responses to Child Sexual Abuse is investigating how institutions like schools, churches, sports clubs and government organisations have responded to allegations and instances of child sexual abuse.

[Safe Home for Life](#)

FACS reform project building on the [Keep Them Safe project](#).

Sexual Grooming

Grooming is defined as communication with a child where this is an intention to meet and commit a sex offence*. More generally it can be seen as the process by which an individual manipulates those around them – particularly, but not exclusively, the child – to provide opportunities to abuse and reduce the likelihood of being reported or discovered.

*Understanding the Grooming or Entrapment Process, CPSU briefings

A Network factsheet on sexual grooming of children is available for download [here](#)

It involves a national criminal history check and review of findings of workplace misconduct.

The agency responsible is the [Office of the Children's Guardian](#)

**[Reportable
e
Conduct](#)**

It is important to note that Reportable Conduct may also include behaviour or an action or inaction by a staff member outside of the work setting.

Reportable conduct is defined under [section 25A of the NSW Ombudsman Act 1974](#) as:

- a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material), or
- b) any assault, ill-treatment or neglect of a child, or
- c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.

Reportable conduct does not extend to:

- a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards, or
- b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
- c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA.

A fact sheet is available ([here](#)) from the NSW Ombudsman's Office which helps to define reportable conduct.

Should you have any suggestions for additional material, or would like to suggest changes or additions to the available material or if you wish to seek assistance with issues in relation to child protection or reportable workplace contact matters, please contact the child protection project officer:
email: childprotection@networkofcommunityactivities.org.au or phone: 02 9212 32 44

