

The Kinder Garden



Child Protection Policy

Aim

Australia is a signatory to the United Nations Convention on the Rights of the Child (1989) and many of the principles within the Convention are embedded within child protection legislation. Whilst Parents and Educators/Staff are responsible for the safety and welfare of children in their care, protecting children and young people from abuse and neglect is the responsibility of the whole community.

Educators/staff at this Service believe they have a responsibility to all children attending the Service to defend their right to care and protection. To support this right, the Service will follow the procedures covered within this policy, when dealing with any reportable allegations, to ensure the protection of all children attending the Education and Care Service. Approved Providers, Nominated Supervisors, Educators, and Staff Members are aware of their responsibilities to respond to every child at risk of abuse or neglect.

The Service believes it also has a responsibility to its employees to defend their right to confidentiality unless allegations against them are substantiated. The Education and Care Service will ensure all groups affected by this policy, are aware of the roles and responsibilities that the Education and Care Service has in relation to Child Protection.

The Education and Care Service will implement preventative procedures which protect and educate Children, Educators, Staff, Parents, and Community Members.

The Education and Care Service will ensure that all requirements of Child Protection Legislation are being met.

Under the Children and Young Persons (Care and Protection) Act 1998, there are provisions where Education and Care Service staff, have child protection concerns about a child/ren. Education and Care Services play an important role in recognising and reporting child abuse and neglect, and in promoting the safety, welfare and wellbeing of children. This legislation states that all people who hold a management position, or who are employees delivering Education and Care Services, are legally obliged to report any reasonable grounds to suspect that a child is at significant risk of harm.

This means that if you work in an Education and Care Service you are a **mandatory reporter**. It also includes those involved in the management of an Education and Care Service.

Legislative Requirements

- Children and Young Persons (Care and Protection) Act 1998 (NSW)
- The Ombudsman's Act 1974
- Commission for Children and Young People Act 1998 (NSW)
- Child Protection (Prohibited Employment) Act 1998
- Child Protection (Offenders Registration) Act 2000 (NSW)
- Crimes Act 1900
- Family Law Act 1975 (Cth)
- Education and Care Services National Regulation 2011
- Education and Care Services National Law Act 2010
- National Quality Standards 2011
- United Nations Convention on the Rights of the Child (1989)
- Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 No 13

Who is affected by this policy?

- Parents
- Children
- Educators
- Management
- Volunteers
- Students
- Ancillary Staff
- Service Visitors
- General Community

Responsibilities

Education and Care Services Staff

- Report any case where a child is suspected to be at risk of significant harm to the Child Protection Mandatory Reporters Helpline on 133 627.
- Promote the safety, welfare and wellbeing of children and young people at your Service.
- Where concerns of harm do not meet the significant harm threshold, be aware of referring agencies for families.
- Be aware of the New South Wales Mandatory Reporter Guide.
- Assist in supporting children and families in partnership with NSW Government Human Services Community Services and other government agencies.

It is important to remember that all employees, members of staff and Educators (and the Approved Provider) are **mandatory reporters** for NSW Government Human Services Community Services. The Education and Care Service procedure states that reports regarding a child at risk of significant harm are to be made by the Nominated Supervisor or Approved Provider. However, if the Nominated Supervisor or Approved Provider has not made a report to the Child Protection Hotline, you (Staff Member) continue to be legally responsible to do so.

It is the responsibility of the person suspecting the risk of child protection to ensure that a report is made.

Education and Care Services Employer

- Ensure that all employees, members of staff or Educators are:
 - clear about their roles and responsibilities under current Acts and Regulations.
 - aware of their obligations to immediately report to the Child Protection Hotline a child that they suspect is at risk of significant harm, and procedures for reporting.
 - Aware of indicators when a child may be at risk of harm or significant harm.
- Provide training and development for all employees, members of staff or Educators in the recognition and reporting of suspected risk of harm.
- Provide reporting procedures and professional standards for care and protection work generally.
- Ensure Working with Children Check requirements have been met.
- Report to the NSW Ombudsman, any reportable allegations and convictions made against an employee, volunteer or student and ensure that they are investigated by the Head of Agency, with the appropriate action to be taken in relation to finding.
- Notify the Commission for Children and Young People details of employees, members of staff or Educators against whom relevant disciplinary proceedings have been completed, or of persons whose employment has been rejected primarily because of a risk identified in employment screening processes.

- Enable employees, members of staff or Educators access to Acts, Regulations and procedures where this is necessary for them to fulfill their obligations.

Other Agencies

In dealing with Child Protection in Education and Care Services it may be necessary to work with other agencies. These agencies also have child protection responsibilities as follows:

Child Protection Helpline

- Receive and assess reports of children who are at risk of significant harm.
- Investigate and assess reports where there is a likelihood of risk of significant harm to the child or a class of children.
- In cases involving child sexual abuse or serious physical abuse, plan, conduct and manage, with Police (and NSW Health where a medical examination and/or counseling or support are needed), joint investigation, through Joint Investigation Response Teams (JIRT).
- Provide, arrange and request care and / or support services for children and families.
- Informs reporting agencies of the progress and outcomes of assessments and investigations as permitted by law, and as appropriate.

Child Wellbeing Unit

- To help and identify whether a case meets the new threshold of risk of significant harm

NSW Ombudsman's Office

- Monitors the investigation of and in some cases investigates reportable allegations made against employees in government and non-government agencies, such as Education and Care services.
- The Ombudsman must be notified of all allegations of abuse or neglect of a child by one of the employees.
- For the purposes of the Ombudsman's legislation an employee includes someone who is helping out as a volunteer.

The Commission for Children and Young People

- Monitors trends and makes recommendations to government and non-government agencies on legislation, policies, practices and services affecting young children.
- Provides guidelines relating to employment screening for child related employment and maintains database of relevant disciplinary proceedings.

Implementation

- Strategies for creating a child protective environment will be adopted and followed at the Service.
- Employer and employee responsibilities in relation to reportable allegations are included in staff handbooks. These responsibilities are highlighted to new staff members at their induction. (Refer to information sheet on "Notification of those involved in Education and Care Services" –in this policy).
- Staff members will be encouraged to attend training on child protection.
- Any reportable allegations in respect of a child attending the Education and Care Service made against the head of agency or a staff member must be reported to the Ombudsman Office within 30 days after the day on which the allegation was made.

Indicators of Abuse

There are many indicators of child abuse and neglect. The following is a guide only. One indicator on its own may not imply abuse or neglect. Each indicator needs to be considered in the context of other indicators and the child's circumstances.

General indicators of abuse and neglect

- marked delay between injury and seeking medical assistance
- history of injury
- the child gives some indication that the injury did not occur as stated
- the child tells you someone has hurt him/her
- the child tells you about someone he/she knows who has been hurt
- someone (relative, friend, acquaintance, sibling) tells you that the child may have been abused

Indicators of **Neglect** in children

- poor standard of hygiene leading to social isolation
- scavenging or stealing food
- extreme longing for adult affection
- lacking a sense of genuine interaction with others
- acute separation anxiety
- self comforting behaviors, e.g. rocking, sucking
- delay in development milestones
- untreated physical problems

Indicators of **Neglect** in parents and caregivers

- failure to provide adequate food, shelter, clothing, medical attention, hygiene or leaving the child inappropriately without supervision
- inability to respond emotionally to the child
- child abandonment
- depriving or withholding physical contact
- failure to provide psychological nurturing
- treating one child differently to the others

Indicators of **Physical Abuse** in children

- facial, head and neck bruising
- lacerations and welts
- explanations are not consistent with injury
- bruising or marks that may show the shape of an object
- bite marks or scratches
- multiple injuries or bruises
- ingestion of poisonous substances, alcohol or drugs
- sprains, twists, dislocations
- bone fractures
- burns and scalds

Indicators of **Physical Abuse** in parents and caregivers

- direct admissions from parents about fear of hurting their children
- family history of violence
- history of their own maltreatment as a child
- repeated visits for medical assistance

Indicators of **Emotional Abuse** in children

- feeling of worthlessness about them
- inability to value others

- lack of trust in people and expectations
- extreme attention seeking behaviors
- other behavioral disorders (disruptiveness, aggressiveness, bullying)

Indicators of **Emotional Abuse** in parents and caregivers

- constant criticism, belittling, teasing of a child or ignoring or withholding praise and affection
- excessive or unreasonable demands
- persistent hostility, severe verbal abuse, rejection and scapegoating
- belief that a particular child is bad or "evil"
- using inappropriate physical or social isolation as punishment
- exposure to domestic violence

Indicators of **Sexual Abuse** in children

- they describe sexual acts
- direct or indirect disclosures
- age inappropriate behaviour and/or persistent sexual behaviour
- self destructive behaviour
- regression in development achievements
- child being in contact with a suspected or know perpetrator of sexual assault
- bleeding from the vagina or anus
- injuries such as tears to the genitalia

Indicators of **Sexual Abuse** in parents, caregivers of anyone else associated with the child

- exposing the child to sexual behaviours of others
- suspected of or charged with child sexual abuse
- inappropriate jealousy regarding age appropriate development of independence from the family
- coercing the child to engage in sexual behaviour with other children
- verbal threats of sexual abuse
- exposing the child to pornography

Indicators of **Domestic Violence** in children

- show aggressive behaviour
- develop phobias & insomnia
- experience anxiety
- show symptoms of depression
- have diminished self esteem
- demonstrate poor academic performance and problem solving skills
- have reduced social competence skills including low levels of empathy
- show emotional distress
- have physical complaints

What constitutes risk of significant harm?

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant state.

This means the concern is sufficiently serious to warrant a response by a statutory authority (such as NSW Police Force or Community Services) irrespective of a family's consent.

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing, or in the case of an unborn child, after the child's birth.

The significance can result from a single act or omission or an accumulation of these.

What if my concerns don't meet the Risk of Significant Harm Threshold?

Where concerns of harm do not meet the significant harm threshold, the Service should offer and coordinate assistance or make a referral to other services, using normal referral networks. Services may also be located through the Family Referral Services or through Human Services Net (HSNet) ServiceLink.

The consent of the family should be sought before making referrals.

Suspecting a Child is at Risk of Significant Harm

Staff are to access the New South Wales Mandatory Reporters Guide (reporter.childstory.nsw.gov.au) to decide if any of the following conditions are present to a significant risk of harm:

- Physical abuse
- Neglect
 - Supervision
 - Physical shelter/environment
 - Food
 - Medical care
 - Mental health care
 - Education
- Sexual abuse
- Problematic sexual behavior
- Psychological harm
- Relinquishing care
- Carer concerns
 - Parent / Carer substance abuse
 - Parent / Carer mental health
 - Parent / Carer domestic violence
- Unborn child

If a staff member has reasonable grounds to suspect risk of significant harm, they are to use the New South Wales Mandatory Reporter Guide to assess whether their concerns meet the threshold of risk of significant harm.

If there is an immediate danger to the child the Police should be contacted directly by calling 000 and/or the Child Protection Hotline by calling 133 627.

Reasonable grounds refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm based on:

- First hand observation of the child, young person or family
- What the child, young person, parent or other person has disclosed
- What can be reasonably inferred based on professional training and / or experience.

When the use of the New South Wales Mandatory Reporter Guide advises risk of significant harm, **mandatory reporters** must make a report to the Child Protection Helpline.

Documentation

It is essential that the Service maintains well-kept records to prepare and support its ability to make a report to the Child Protection Helpline. Ensure that you have procedures that outline the purpose and format of record keeping, the retention of records for appropriate periods and the procedure for making a report.

When notifying the Child Protection Helpline it is important to have as much information as possible available to give to the Helpline.

The helpline will ask for the following information;

Child's Information

- Name of the child or young person (or alias) or other means of identifying them

- Age and date of birth (or approximation)
- If the child is Indigenous
- Cultural background of the child, language spoken, religion and other cultural factors
- Name, age of other household children or young people
- Address of child and family
- If the child has a disability – nature/type, severity, impact on functioning
- Is the child/young person subject of an Apprehended Violence Order?
- Is the child or young person under the care of the minister or residing in out-of-home care?

Family information

- Name, age of parents/carer and household adults
- Home and/or mobile phone number
- Cultural background of parents, languages spoken, religion and other cultural factors
- Information about parental risk factors and how they link to child's risk of harm
- Domestic violence
- Alcohol or other drug misuse
- Unmanaged mental health
- Intellectual or other disability
- Protective factors and family strengths
- Non-offending carers' capacity to protect child
- Any previous suspicious death of a child or young person in the household?
- Is the carer/parent pregnant?
- Is the parent/carer subject of an Apprehended Violence order?
- Description of the family structure
- Name, age, gender of siblings. Do siblings live with the child or young person?

Reporters Details

- Name, Service name, address, phone and email details
- Position
- Reasons for reporting today
- Nature of contact with child or family
- Nature of ongoing role with child or family (include frequency, duration and type)
- If report is being made by someone else in the agency, name of the agency worker who sourced the report

Other information

- If parent knows of the report and their response
- If child or young person knows about the report and their views
- Information related to worker safety issues
- Outcome of the New South Wales Mandatory Reporter Guide

Once a report is made to the Child Protection Helpline no further report needs to be made unless new information comes to hand.

Notification of Abuse

When a **mandatory reporter** has reasonable suspicion of abuse they need to contact the Helpline and provide them with the necessary details. It is advisable to have all documentation needed available at the time of the call to ensure that all information can be given at once.

Before making a report, **mandatory reporters** should consult the New South Wales Mandatory Reporter Guide to assess whether a child or young person is at risk of significant harm.

The Child Protection Helpline phone number for **mandatory reporters** is:

133 627

It is important that when making a notification that the notifier asks the following questions in relation to notification:

- Name of person at the Helpline who you spoke to.
- What the next step in the process is to be.
- What confirmation will be sent to confirm the report has been made.
- Is there any further action you as the notifier need to take?

Notification of those involved in Education and Care Services

A situation may arise where someone involved in the provision of care for children in an Education and Care Service has witnessed, or has suspicion of another person involved in the provision of care for children in an Education and Care Service, of being the one that is abusing children. The same definition of abuse apply to those involved in Education and Care Services as they do for children suspected of abuse outside the Service.

Any person involved in the Service is a **mandatory reporter** if they suspect someone involved in the Service of abusing children. Any incident involving another person involved in the Service must report the incident or suspicion to the Child Protection Helpline.

The same details must be provided to the Helpline as previously listed.

Your concerns should be raised with the Approved Provider/Nominated Supervisor as part of the process of notification.

Each Service needs to develop a written procedure to ensure that staff are aware of the alternatives if the Approved Provider/Nominated Supervisor is the person that is being notified to the Helpline. ALL staff are mandated to report suspicion of abuse even if it involves the Approved Provider/Nominated Supervisor.

As well as making the notification to the Helpline the service should contact their Assessment and Compliance Officer from the Department of Education and Communities to inform them of the incident as it may also be a breach of the Regulations and needs to be investigated as a licensing matter.

Confidentiality

It is important that any notification remains confidential, as it is vitally important to remember that no confirmation of any allegation can be made until the matter is investigated.

Safeguards for Reporters

Reports to the Department of Community Services are confidential and the reporter's identity is protected by law if the report is made in good faith. The law offers the following protections:

- The report shall not be held to be breach of professional etiquette or ethics or a departure from acceptable standards of professional conduct.
- No liability for defamation can be incurred because of making of report.
- The report, or its contents, is not admissible in any proceedings as evidence against the person who made the report.
- A person cannot be compelled by a court to provide the report or give any evidences as to its contents.
- A report is exempt document under the *Freedom of Information Act 1989*.

If law enforcement agencies require the identity of the reporter in order to investigate serious offences alleged to have been committed against children or young people, the identity of the reporter may be released to the Police.

Disclosure

At no time should the notifier inform the individual they have made the notification. This is to ensure that the matter can be investigated without prior knowledge and contamination of evidence.

Further Information

It is important that all staff are aware that when dealing with children involved in any issue relating to abuse that they are not questioned around the abuse as this may hinder the formal investigation into the situation. Additional information from children should not be coerced from children, simply keep record of their disclosure that can be used as part of the formal investigation.

Information Exchange

Staff 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 the Department of Community Services and whether or not the child or young person consents to the information exchange under **Chapter 16A** of the *Children and Young Persons (Care and Protection) Act 1998* when required.

Chapter 16A also requires prescribed bodies to take reasonable steps to coordinate decision-making and the delivery of services regarding children and young people.

Notification to the Ombudsman

Special procedures are in place to deal with allegations of reportable conduct or convictions against employees of all government and certain non government agencies in NSW.

The Ombudsman Act requires the Head of Agency (Approved Provider/Committee Members/ General Manager) to notify the Ombudsman within 30 days of becoming aware of any reportable allegations or conviction made against an employee involved in the provision of Education and Care Service. The Ombudsman needs to be informed of any reportable allegation regardless of the outcome and the confirmation or non-confirmation of the allegation, unless the investigation by the agency considers the allegation to be a trivial or negligible application of physical force.

Visit www.ombo.nsw.gov.au for any forms required.

Some matters are notifiable to the Ombudsman as an allegation of reportable conduct, but are only reportable to the Child Protection Helpline if there are also current concerns that a child or young person is at significant risk.

Allegations Against those Involved in the Service

It is important that those responsible for the Service ensure that adequate support is available for those involved in the Service that allegations are made against and have been investigated. It is important to ensure that they are given the necessary and appropriate support needed to get through the process.

Definitions

Agency: The Education and Care Service

Reportable Allegations: any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), any assault, ill treatment or neglect of a child, any behaviour that causes psychological harm to a child.

Employee of Agency: There are two groups of people who are considered to be employees and who may have reportable allegations made against them or be the subject of a reportable conviction.

These two groups are:

- any employee of the agency, whether or not employed in connection with any work or activities of the agency that relates to children, and
- any individual engaged by the agency to provide services to children, including in the capacity as:
 - a Volunteer
 - Contractors

- Sub-Contractors
- Volunteers
- Work experience participants, students on placements, eg TAFE, secondary or tertiary students

Head of Agency: the Approved Provider of the Service or Nominated Person

Further Information

Further information can be obtained through:

Child Protection Help Line 132 627

Child Wellbeing Unit

Family and Community Services www.community.nsw.gov.au

Association of Children's Welfare Agencies www.acwa.asn.au

ChildStory Reporter reporter.childstory.nsw.gov.au

As well as obtaining relevant resources for the Service it is vitally important that those involved in Education and Care Services are given adequate training in identifying child abuse as well as the process for reporting it.

The Approved Provider/Nominated Supervisor will ensure that this policy is maintained and implemented at all times.

Sources

Education and Care Services National Law Act 2010

Education and Care Services National Regulation 2011

National Quality Standards 2011

United Nations Convention on the Rights of the Child (1989)

NSW Government Family and Community Services

Advocate for Children and Young People www.acyp.nsw.gov.au Retrieved 24th January 2017

NSW Ombudsman Child Protection in the Workplace - Responding to allegations against employees.

www.ombo.nsw.gov.au Retrieved 24th January 2017

ChildStory Reporter reporter.childstory.nsw.gov.au Retrieved 24th January 2017

Child Wellbeing & Child Protection NSW Interagency Guidelines

http://www.community.nsw.gov.au/kts/guidelines/info_exchange/introduction.htm Retrieved 24th January 2017

Review

The policy will be reviewed annually. Review will be conducted by management, employees, parents and any interested parties.

Reviewed: January 2018

Date for next review: January 2019