



DATE ADOPTED: 24 November 2020

VERSION: 5.0

POLICY OBJECTIVES

The overall objective of this Policy is to ensure compliance with child protection legislation, including; mandatory reporting, attraction and engagement and responding to allegations against staff involving children and young people.

The objectives of this Policy include:

- To promote the health, safety, welfare and wellbeing of children and young people in council activities as well as the Maitland community
- To ensure that Council provides a safe environment for children and young people whilst on Council premises and utilising Council services.
- To ensure all workers engaged with Council in a child-related role have a valid Working with Children Check clearance number.
- To ensure workers are aware of their obligations in relation to the various child protection legislation and Council's policy.
- To ensure Council promptly implements procedures which are confidential and transparent when investigating and responding to allegations of "reportable conduct" as defined under the Children's Guardian Act 2019.

All workers at Council should be aware of and sensitive to children with culturally diverse or indigenous backgrounds and their cultural practices without deviating from this policy; in line with the Anti-Discrimination Act 1977 and the principles of Equal Employment Opportunity.

POLICY SCOPE

This policy applies to all workers engaged by Council (in any paid or unpaid capacity).

Any reference to 'worker' for the purpose of this policy includes employees, councillors, contractors or sub-contractors, work experience participants, labour hire, volunteers and student placements who are in a child-related role. Child related roles are to be in accordance with legislation and regulatory requirements.

POLICY STATEMENT

This policy demonstrates Council's commitment to the safety and wellbeing of children and young people. Council is committed to fulfilling its duty of care by endeavouring to ensure that all workers act in the best interests of a child and take all reasonable steps to ensure a child's safety.

Council will ensure all workers engaged in a child-related role have a valid Working with Children Check clearance number as per the Child Protection (Working with Children) Act 2012 and Child Protection (Working with Children) Regulation 2013.



1. Responsibilities

Head of Entity

Council is considered a relevant entity and reporting body as per the Reportable Conduct Scheme and under the Children's Guardian Act 2019 must have a "head of a relevant entity". For the purpose of this policy Council's Head of Entity is the General Manager. The Head of Entity is required to notify the Children's Guardian of reportable allegations and convictions against employees. Responsibilities include:

- Ensuring the entity's compliance with legislative obligations under the Reportable Conduct Scheme.
- Ensuring the entity has systems, policies and processes in place to adhere to the Children's Guardian Act 2019.
- Should Council become aware of a reportable allegation or a reportable conviction, the Head of Entity must follow the below steps:
 - Notify the Office of the Children's Guardian within seven business days
 - Conduct an investigation into the allegations.
 - Provide information about the allegation, the progress of the investigation and the finding and action taken to the alleged victim and their parent/carer unless the General Manager considers that it is not in the public interest to do so
 - By 30 calendar days after the Head of Entity becomes aware of the reportable allegation, provide either a finalised entity report or an update (an interim report, reasons the investigation has not been completed and an estimated timeframe for completion)
 - Make a finding of reportable conduct if satisfied, on the balance of probabilities
 - Provide information to the Children's Guardian, which may include information about a reportable allegation, the relevant entity's response to a reportable allegation, and systems for preventing and responding to reportable allegations
 - Ensure an appropriate level of confidentiality of information relating to reportable allegations and only disclose information about the allegations in circumstances permitted by the Act or other legislation

Group Managers/Leaders

Group Managers and Leaders are responsible for:

- Treating all complaints seriously, equitably and confidentially, taking immediate action to investigate and resolve allegations
- Notifying the Head of Entity and Executive Manager Workplace, Culture & Safety of any reportable allegation
- Determining child-related roles within the organisation and for the ongoing management of the process, supported by the Workplace, Culture & Safety team
- Notifying the Workplace, Culture & Safety team prior to the engagement of any non-Council employee involved in child-related work so the appropriate verification check and training can be undertaken.

Workplace Culture and Safety

The Workplace Culture and Safety department are responsible for:

- Verifying workers working with children checks
- Recording of all Working with children check documentation including expiry date
- Supporting Managers to determine child-related roles within the organisation and for the ongoing management of the process

Workers

Workers are responsible for:

- Acting in accordance with the Children's Guardian Act 2019
- If working within a child related role the worker must apply and submit clearance to Workplace Culture and Safety or person who engaged them in work for verification or renewal purposes.
- Adhering to Council's Child Protection Policy
- Adhering to the Council's Code of Conduct when engaged in child related work



- Immediately Notifying Workplace Culture and Safety if any reportable allegation or conviction of which they become aware.
- Report any concerns about the safety or welfare of a child or young person immediately.

2. Commitment to child safety and wellbeing

Council is committed to implementing the NSW Child Safe Standards which are aligned to the National Principles for Child Safe Organisations. Council have put into practice several measures to ensure we are providing a safe environment for children and young people. This includes the processes related to policy adherence, risk, recruitment, communications and council response to issues and complaints.

This policy reflects Council's commitment to the child safe standards identified by the Royal Commission (2017) as outlined below:

- Child safety is embedded in institutional leadership, governance & culture
- Children participate in decisions affecting them and are taken seriously
- Families and communities are informed and involved
- Equity is upheld and diverse needs are considered
- People working with children are suitable and supported
- Processes to respond to complaints of child sexual abuse are child focused.
- Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training
- Physical and online environments minimise the opportunity for abuse to occur.
- Implementation of the Child Safe Standards is continuously reviewed and improved.
- Policies and procedures document how the institution is child safe.

Implementation of this policy will be overseen by the Workplace Culture and Safety department and coordinated by representatives across Community and Recreation, Library, Art Gallery, Environment & Sustainability, Vibrant City and any other departments within Council where child-related work may be arise.

3. Recruitment & Training

Council will undertake a robust recruitment process, including role advertisement, pre-interview screening, reference checks and effective interviewing to assist in the recruitment of suitable workers. All workers who are engaged in child-related work are required to undertake a Working with Children Check as issued by the NSW Office of the Children's guardian. This is to be renewed every 5 years.

Council is committed to ensuring that all workers engaged in child-related work are equipped with the knowledge, skills and awareness to keep children safe and will provide targeted training and support for individuals in those roles.

All workers engaged in child-related work will be required to sign off that they have read, understood and will abide by the child protection policy and code of conduct.

4. Complaints Management

Complaints and allegations concerning the welfare, wellbeing and safety of children against Council workers will be managed according to Council's Complaint Policy.

All complaints should be reported immediately, this includes:

- Disclosure of abuse
- Inappropriate behaviour around children
- Suspicion of abuse or harm to a child



All complaints must be reported either verbally or written as per Council's Complaint Policy. Any worker can also make a complaint to the Manager Human Resources.

5. Reporting Obligations

Where there are concerns that a child or young person is at risk of being neglected or physically, sexually or emotionally abused, staff who are 'mandatory reporters' are required to report this to Department of Communities and Justice (DCJ) by phoning the helpline on 132 111. Mandatory reporters should use the Mandatory Reporters Guide (MRG) (<https://reporter.childstory.nsw.gov.au/s/>) to help decide whether a child is suspected to be at risk of significant harm. The MRG covers eight key areas to help you understand if a report should be made and they include:

- Physical Abuse
- Neglect – Supervision; Environment; Food; Hygiene; Medical Care; Mental Health Care; Education -Not Enrolled
- Sexual Abuse – Child; Young Person; Problematic Sexual Behaviour Toward Others
- Psychological Harm
- Danger to Self or Others
- Relinquishing Care
- Carer Concern – Substance abuse; Mental Health; Domestic Violence
- Unborn Child

Workers who are not mandatory reporters, as well as members of the community, can also report the suspected risk of significant harm to the DCJ helpline.

As a reporting body Council has obligations to report findings of sexual misconduct and serious physical assault involving children by a child-related worker to the Office of Children's guardian.

Under the Child Protection (Working With Children) Act 2012, Council must investigate allegations of such conduct to make an informed finding as to whether or not the conduct occurred.

To determine whether or not the conduct meets the criteria, Council must consider the nature of the conduct itself and the context in which it occurred.

If the investigation results in a finding that sexual misconduct or serious physical assault occurred, Council must report this finding to the Office of the Children's Guardian.

6. Risk Management

Council will ensure that child safety is a part of the overall risk management approach. A risk assessment will be undertaken in facilities that have child related services and Council events.

Steps that must be taken to complete council's Risk Assessment for child related services are:

1. An activity will be identified
2. Hazards associated with that activity will then be recorded.
3. A risk score for the hazards identified from the risk score matrix should be determined and recorded.
4. Determine appropriate risk controls as reasonably practical for hazards identified and recorded
5. Finally determine the risk score after controls have been implemented for the hazards in which have been identified.

7. Documentation and record keeping

The Workplace Culture and Safety department will maintain records of Working With Children Checks, acknowledgement of the workers understanding of their child protection and training undertaken. Records will be electronic and be made available if requested for audit and monitoring purposes.



All documentation and/or records of a confidential nature relating to allegations against workers will always be kept private and confidential within the Workplace Culture and Safety team.

8. Barred Status

Should the check or continuous monitoring result in a barred status the worker, if currently working in a child-related role, will be removed from that role. Should the worker be an employee of Council then the matter will be referred to the General Manager for determination; which depending on the circumstances may also result in termination of employment. This will be managed in accordance with Council's Performance Improvement and Management Protocol.

9. Support Available

Council provides an Employee Assistance Program (EAP) which is available to workers who have had allegations made against them and workers who have been involved in the investigative process, including those who have been involved in reporting the matter to the Head of Entity. The EAP service is also available to workers and their families who may be experiencing personal difficulties including child abuse and/or allegations. The EAP is a free confidential and independent counselling service.

POLICY DEFINITIONS

Abuse	A term used to refer to different types of harm or maltreatment. In this document it refers to types of harm or maltreatment that children and young people experience, including; physical harm, sexual assault, exposure to domestic violence, psychological harm and prenatal risks.
Allegation	A reportable allegation is an allegation that an employee has engaged in conduct that may be reportable.
Child:	Any persons under the age of 18 years.
Child-related Work:	Work that involves direct contact (physical contact or Face to Face) by a worker with a child or children and that contact is a usual part of and more than incidental to the work, or work in a stipulated, child-related role.
Conviction	A reportable conviction means a conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct.
Child-Safe Organisation:	An organisation in which child safety is embedded in planning, policy and practices and where the voices of children and young people are valued and actioned.
DCJ:	Department of Communities and Justice.
Investigation	Conduct investigations to determine whether there is a risk of (significant) harm to a child or young person.



Mandatory Reporters:	People who deliver services, wholly or partly, to children as part of their paid or professional work. This is regulated by the Children and Young Persons (Care and Protection) Act 1998. This includes, but not limited to, professionals working in health care; welfare; education; children’s services; residential services and law enforcement.
MRG:	Mandatory Reporter Guide. The MRG is a decision-making tool to assist Mandatory Reporters to help determine how the suspected risk of significant harm of a child or young person is reported.
Neglect:	A term used to refer to a pattern characterised when a parent or caregiver cannot regularly provide a child or young person the basic requirements for his or her growth and development such as food, clothing, shelter, medical and dental care, adequate supervision and adequate parenting and care.
Risk of Significant Harm:	Concern/s about a child or young person that are sufficiently serious to warrant a response by a statutory authority irrespective of a family’s consent. It is something that is not minor or trivial and that may be reasonably expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or wellbeing. In Addition, it can result from a single act or omission or an accumulation of these. Risk of significant harm is the NSW threshold to report child protection concerns to DCJ via the Child Protection helpline.
Reportable Conduct Scheme:	The reportable conduct scheme monitors how organisations (relevant entities) investigate and report on types of conduct made against their employees, volunteers or certain contractors who provide service to children. When the head of a relevant entity becomes aware of a reportable allegation or a reportable conviction, the head of that entity must notify the Children’s Guardian within seven (7) business days and conduct an investigation into the allegations.
WWCC	Working with Children Check. The WWCC is a requirement for any non-exempt person who works or volunteers in child-related work in NSW. The check provides either clearance to work with children for five years, or a bar against working with children.
Young Person:	A young person can be defined in a variety of ways depending on the context. For the purpose of this policy a young person is a person who is over the age of 16 years but under the age of 18 years.



POLICY ADMINISTRATION

BUSINESS GROUP:	Workplace Culture & Safety
RESPONSIBLE OFFICER:	Executive Manager Workplace Culture & Safety
COUNCIL REFERENCE:	Ordinary Council Meeting 24 November 2021 – Item 11.8
POLICY REVIEW DATE:	Three (3) years from date of adoption
FILE NUMBER:	130/1
RELEVANT LEGISLATION:	<p>Child Protection (Working with Children) Act 2012 (NSW)</p> <p>Child Protection (Working with Children) Regulation 2013 (NSW)</p> <p>Local Government (State) Award 2020</p> <p>Children’s Guardian Act 2019</p> <p>Children and Young Persons (Care and Protection) Act 1998</p> <p>Civil Liability Act 2002 – No 22</p> <p>Crimes Act 1900 – No 40</p>
RELATED POLICIES / PROTOCOLS/ PROCEDURES	<p>Attraction and Engagement Protocol</p> <p>Code of Conduct</p> <p>Risk Assessment Template</p> <p>EEO Harassment & Bullying Grievance Protocol</p> <p>Equity, Diversity & Respect Policy</p> <p>Complaint Policy</p> <p>Performance Improvement and Management Protocol</p>



POLICY HISTORY

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1	12/4/2005	Child Protection Policy
2	14/8/2012	Update of legislation
3	13/8/2013	Update policy statement, objective, scope, legislation and relevant policies Addition responsibilities Addition barred status of existing employees
4	23/08/2016	Update objectives, scope, addition of designated government agency information, addition to responsibilities, addition of policy definitions, change of group title from People and Performance to Human Resources
5	24/11/2020	Review and update of policy in line with the updated legislation under Children's Guardian Act 2019.

