



Child Protection Policy

NOTIFICATIONS OF ABUSE



WHEN CHILDREN ARE IN IMMEDIATE DANGER

CALL POLICE ON 000

IF THE CHILD HAS BEEN OR MAY BE THE VICTIM OF A CRIMINAL OFFENCE,
INCLUDING A SEXUAL OFFENCE **REPORT TO POLICE ON 131444**



IF ANY MEMBER OF THE COMMUNITY, INCLUDING MANDATORY REPORTERS HAS FORMED A
REASONABLE BELIEF THAT A CHILD HAS SUFFERED OR IS LIKELY TO SUFFER SIGNIFICANT HARM AS A
RESULT OF ABUSE OR NEGLECT CONTACT THE

CHILD PROTECTION HELPLINE ON 132 111 (24 HOURS, 7 DAYS)

OR MAKE AN E-REPORT IF **NOTIFICATION IS NOT URGENT**

<https://reporter.childstory.nsw.gov.au/s/>



NOTIFY REGULATORY AUTHORITY OF SUSPECTED/ALLEGED ABUSE AT SERVICE,
INCLUDING PHYSICAL OR SEXUAL ABUSE



IF EMPLOYEES/VOLUNTEERS INVOLVED, NOTIFY CHILDREN'S GUARDIAN OF ANY
NOTIFIABLE OFFENCE UNDER REPORTABLE CONDUCT SCHEME

1. PURPOSE AND BACKGROUND

- (1) To set out:
 - a. How we respond to incidents, disclosures, suspicions, beliefs, complaints and concerns about a child's safety and wellbeing, including harm or risk of harm, alleged criminal offences against a child, reportable conduct, and allegations of children exhibiting harmful sexual behaviours
 - b. Our child protection reporting obligations and procedures (as required under criminal law, the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*, *Children and Young Persons (Care and Protection) Regulation 2012*, *Children's Guardian Act 2019*, and the *Education and Care National Laws and Regulations*, including the National Quality Standard (NQS))
 - c. How we meet our training, privacy and record keeping requirements, and ensure procedural fairness for staff who are the subject of an allegation
- (2) This policy is a requirement under the *Education and Care Services National Regulations*. The approved provider must ensure that policies and procedures are in place for dealing with complaints and take reasonable steps to ensure those policies and procedures are followed. Our complaint handling system must be child focused and address the management of a complaint that alleges a child is exhibiting harmful sexual behaviours (s 168(o))
- (3) This policy meets the NSW Child Safe Standards, which requires us to have child-focussed processes in place for dealing with child safety complaints and concerns, and reporting to the relevant authorities. It also helps fulfil our obligation under the Reportable Conduct Scheme to have systems in place for preventing, detecting and responding to reportable conduct

2. SCOPE

- (4) This policy applies to:
 - a. The approved provider, paid employees, volunteers and work placement students, **referred to as 'staff' throughout this policy**
 - b. Third parties who carry out child-related work at our service, including contractors, subcontractors, self-employed persons, employees of a labour hire company, **referred to as 'staff' throughout this policy**
 - c. Children who are in our care, their families and care providers
 - d. Visitors to our service who carry out child-related work, including allied health support workers

3. DEFINITIONS

- (5) The following definitions apply to this policy and related procedures:
 - a. 'Child-related work' is used in this policy to refer to the work of our service (an education and care service for children). It does not apply where contact with children is incidental or would not reasonably be expected to occur, or where the service or activity is provided by a relative of the child's (e.g. a grandparent, aunt or uncle)
 - b. 'Harm' and 'risk of harm' are used in this policy as overarching terms that cover neglect and various forms of abuse. It includes physical, sexual and psychological abuse; neglect; ill-treatment; grooming; exposure to family violence; commercial

- child sexual exploitation; online child sexual abuse; and sexual abuse that is perpetrated by other children and young people
- c. 'Harmful sexual behaviours' - a general term to describe behaviour in children under 18 years that fall across a spectrum of sexual behaviour problems, including those that are problematic to the child's own development, as well as those that are coercive, sexually aggressive and predatory towards others
 - d. 'Mandatory reporting' term - 'at risk of significant harm' means current concerns exist for the safety, welfare or well-being of the child because of the presence, to a significant extent, of any of the following:
 - i. a child's basic physical or psychological needs are not or are at risk of not being met;
 - ii. the parents have not arranged or unable or unwilling to arrange for the child to receive necessary medical care;
 - iii. the parents have not arranged and are unwilling to arrange for a school-age child to receive an education according to NSW law;
 - iv. the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;
 - v. the child is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm;
 - vi. a parent has behaved in such a way towards the child that the child or young person has suffered or is at risk of suffering serious psychological harm
 - e. 'Parents' includes guardians and persons who have parental responsibilities for the child under a decision or order of court
 - f. 'Staff' refers to paid employees, volunteers, students, and third parties who are covered in the scope of this policy. Note: 'staff', 'employees' and 'workers' etc may have their own, different definitions in legislation covered in this policy

4. POLICY STATEMENT

Critical information

- (6) Staff must call 000 if a child is in immediate danger
- (7) Staff must report any criminal conduct and/or if they form a reasonable suspicion that a child is at risk of significant harm
- (8) Staff can contact Police on 131 444 (non-urgent matters) and Child Protection Helpline (13 21 11)
- (9) Staff must report even if they are unsure and have not directly observed that a child is at risk of significant harm (e.g. in the case of a disclosure)
- (10) Staff should make enough enquiries to form a reasonable suspicion and to meet the needs of a child. However, once a staff member has formed a reasonable suspicion, they must report it and not investigate the matter themselves
- (11) Staff must also act if they have a significant concern for a child's wellbeing, though the procedure for this will be different from the ones for responding to harm or risk of harm
- (12) Staff must respond to any immediate risks posed by the subject of an allegation. The approved provider and nominated supervisor must assess and manage future risks to all children and staff. They must also protect the rights of all parties involved

We discharge our duty of care

- (13) The approved provider and nominated supervisor ensure that every reasonable precaution is taken to protect children in our care from the harm and any hazard likely to cause injury (*National Law s 167*)

We have policies and procedures in place

- (14) The approved provider ensures we have policies and procedures in place for dealing with complaints, including a complaint handling system that is child focused and managing a complaint that alleges a child is exhibiting harmful sexual behaviours (*National Regulations s 168(2)(o)*)
- (15) Likewise, we meet the NSW Child Safe Standards by having processes for complaints and concerns that are child-focused, and policies and procedures in place that set out our obligations to act and report on child safety concerns and complaints
- (16) We have systems in place for preventing, detecting and responding to reportable conduct, as required under the Reportable Conduct Scheme
- (17) Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect (as required under National Quality Standard 2.2.3 'Child Protection')
- (18) Staff must follow our Child Protection Procedures (attached)

We protect and support children

- (19) Staff are trained to act to protect children, following our Child Protection Procedures:
- a. Appendix A – Managing an emergency: if there is an immediate risk to health and safety
 - b. Appendix B – Managing disclosures and suspicions of harm: if a staff member receives a disclosure or has a suspicion about harm or risk of harm to a child, regardless of whether the suspected/disclosed harm or risk of harm takes place at or outside the service
 - c. Appendix C – Reporting: to make a report to the police, mandatory reports to the Child Protection Helpline and/or notifications to the regulatory authority
 - d. Appendix D – Contacting parents
 - e. Appendix E – Providing support
 - f. Appendix F – Managing allegations of harmful sexual behaviour in children
 - g. Appendix G - Managing allegations of reportable conduct

We have a culture of reporting

Criminal conduct

- (20) We meet our obligations to report, and protect against, criminal offences
- (21) Staff know to report to police anything that could be considered a criminal offence. This includes sexual assault, physical assault, grooming offences, and producing, disseminating or possessing child abuse material
- (22) Staff know that, in NSW, it is a criminal offence for adults not to report to information to Police if they know, believe or reasonably ought to know that a child has been abused; or know, believe or reasonably ought to know that they have information that might materially assist in securing the apprehension, prosecution or conviction of the offender (known as 'failure to report')

- (23) It is also a criminal offence for an adult working in an organisation that engages workers in child-related work if they know that an adult worker engaged by the organisation in child related work poses a serious risk of abusing a child (under 18 years), and they have, the power or responsibility to reduce or remove the risk, and they negligently fail to reduce or remove that risk (known as 'failure to protect')

Mandatory reporting

- (24) Staff are trained and aware of their obligations under mandatory reporting laws
- (25) In NSW, 'mandated reporters' include: persons who, in the course of their professional work, or other paid employment, deliver education and/or children's services, wholly or partly, to children; and persons who hold a management position, whose duties include direct responsibility for, or direct supervision of, education and children services.
- (26) By law, mandated reporters must make a report to the Child Protection Helpline (NSW Department of Communities and Justice) when there are reasonable grounds to suspect that a child or young person is at 'risk of significant harm' (see definitions) and those grounds arise in the course of, or from their work or specified role
- (27) It is our service's policy to include in the definition of mandated reporters all staff, volunteers, students and third party contractors carrying out child-related work who are engaged by our service.

We report and investigate allegations of reportable conduct

- (28) The approved provider knows we must notify the NSW Office of the Children's Guardian of allegations and convictions of 'reportable conduct' of any individuals engaged directly or indirectly by our service (including employees, volunteers, and in some circumstances, contractors) irrespective of whether this relates to their employment or activities at the service
- (29) The Reportable Conduct Scheme is governed by the Children's Guardian Act 2019 and is administered by the Office of the Children's Guardian. We refer to the detailed guidance available [here](#) to make sure we comply with the Scheme
- (30) The Scheme requires our service to have systems in place that prevent, detect and deal with reportable conduct and reportable convictions. Our Child Protection Policy and Procedures, along with our other child safe policies, procedures, and risk management plans fulfil these obligations. As the head of the organisation, the approved provider is ultimately responsible for making sure that our service complies with the Scheme.
- (31) Under the Scheme, our service must respond if an 'employee' has a reportable allegation or convictions (the definition of employee includes paid staff, volunteers and in some circumstances, contractors)
- (32) In responding to an allegation, our service will follow our Child Protection Policy and Procedures (Appendix G – Managing allegations of reportable conduct)
- (33) The approved provider and staff members are aware that a reportable allegation is an allegation that an employee has engaged in conduct that may be reportable conduct. Allegations do not require proof that the conduct has occurred or that it is likely to have occurred. Reportable convictions are convictions of an offence involving reportable conduct. Reportable conduct is: a sexual offence; sexual misconduct; ill-treatment of a child; neglect of a child; an assault of a child; failure to protect and failure to report - offences under the Crimes Act 1900; a behaviour that causes significant emotional or psychological harm to a child.

Notifiable incidents or circumstances

- (34) The approved provider knows we must notify the regulatory authority of the following incidents or circumstances:
- a. any serious incident at the service; and any complaints alleging that a serious incident has occurred or is occurring while a child was/is being cared for by our service
 - b. circumstances at the service which pose a risk to the health, safety or wellbeing of children
 - c. any incident or allegation that physical or sexual abuse of a child or children has occurred or is occurring while the child or children are being educated and cared for by the service
 - d. if there has been a change relevant to whether the approved provider is a fit and proper person to be involved in our service
 - e. the suspension or cancellation of a working with children card or teacher registration of a nominated supervisor, or disciplinary proceedings of a nominated supervisor under an education law

Unacceptable behaviour and/or breaches of our Child Safe Code of Conduct

- (35) Staff know they must make a report to police and/or Child Protection Helpline (13 21 11), following our Child Protection Procedure – Reporting, if another staff member’s behaviour reaches the threshold for mandatory reporting or is potentially criminal conduct
- (36) Staff must notify the approved provider/nominated supervisor as soon as practicable and complete a Child Safety and Wellbeing Breach – Incident Report Form (template attached)
- (37) We take all unacceptable behaviour and breaches to our Code of Conduct seriously. The nominated supervisor and approved provider act in line with our child safe and HR policies in responding to any allegations or incidents

Child protection training and awareness for staff

- (38) The approved provider ensures that the nominated supervisor and every person in day-to-day charge has successfully completed approved child protection training (*National Law s 162A*). The approved provider and nominated supervisor check with the regulatory authority which courses are approved
- (39) The nominated supervisor, staff members, volunteers and students must be aware of current child protection laws, understand how to apply child protection laws and their obligations under them (*National Regulations s 84*)
- (40) We meet the NSW Child Safe Standards by equipping, through ongoing education and training, staff (including volunteers and students) with the knowledge, skills and awareness to keep children safe. We train, and give information to, staff so they can recognise and respond to indicators of child harm, including harm caused by other children and young people
- (41) Staff who are required to complete mandatory child protection training do so within three months of starting at our service and complete refresher training every whenever changes are made to child protection law or reporting requirements
- (42) Staff are trained to recognise the physical and behavioural signs of harm in a child and what actions to take if they suspect or have knowledge that a child has been harmed or is at risk of harm
- (43) Staff are aware they can access information on the indicators of harm, including exposure to family violence and signs that an adult may be engaging in child sexual abuse or grooming

from [The National Office of Child Safety https://www.childsafety.gov.au/](https://www.childsafety.gov.au/) . A list of indicators is also attached to this policy

- (44) The approved provider makes sure that evidence and dates of inductions and training is kept on each staff member's record (*National Regulations s 145*)
- (45) The approved provider checks staff members' awareness of current child protection when they start at our service and during their ongoing staff appraisals
- (46) Information and resources, including links to [NSW Government's Mandatory Reporter Guide](#), are available in our policy folder located in the foyer and also on the [NSW Health website https://www.health.nsw.gov.au/parvan/childprotect/Pages/default.aspx](https://www.health.nsw.gov.au/parvan/childprotect/Pages/default.aspx) to help staff meet their child protection training and awareness obligations
- (47) Child protection awareness is a standing agenda item at staff meetings

Information exchanging

- (48) Chapter 16A of the Children's and Young Person's (Care and Protection) Act 1998 enables children's services to exchange information they reasonably believe may help other specified persons or entities to: ensure the safety, welfare or wellbeing of children; and help the persons or entities make decisions, conduct investigations, provide services or manage risks to a child.
- (49) Relevant information is allowed to be shared with persons and entities including other children's services, NSW Police, state government departments or public authorities, schools, public health organisations, private health facilities, nurses, doctors, midwives, psychologists, occupational therapists, speech pathologists and bodies like family referral services.
- (50) Information sharing applies whether or not concerns of harm meet the mandatory reporting threshold of risk of significant harm, and would only be declined if this may endanger a person's life or physical safety, prejudice an investigation, not be in the public interest etc.
- (51) We do not need to have the consent of the people involved but should make sure that families and employees understand there is a possibility we will need to share confidential and private information about them in these circumstances.
- (52) Where possible, it is best practice to obtain the consent of children and families before sharing information that relates to them. However, staff must not try to obtain consent if doing so could jeopardise safety and wellbeing of someone, put someone at the risk of harm, is otherwise impracticable or not in the best interests of a child.
- (53) We must only use the information we receive for the purpose for which it was given and we must always store confidential records in accordance with our policies and procedures.
- (54) Because this is such a sensitive and complex matter, in the event we need to share information, we will consult the NSW Department of Communities and Justice for further guidance (see their website for more information)

Privacy and record keeping

- (55) Any information we gather on a child protection matter - records, identities and reports – must be kept and stored as confidential and only be disclosed if required by law, or when it is required to ensure the safety and well-being of a child
- (56) Staff must follow directions from the relevant authorities regarding confidentiality and ensure they comply with all relevant legislation
- (57) Staff must not promise absolute confidentiality to anyone involved in a child protection matter (including children) as we may have disclosed personal information in certain circumstances

- (58) We are committed to keeping full and accurate records about any incidents, responses and decisions that relate to child safety and well-being, including sexual abuse
- (59) Individuals have a right to access, amend and annotate their own records, except if in doing so they are breaking the law or breaching one of our other policies
- (60) All records that relate to child safety and well-being – e.g., suspicions, disclosures, allegations, convictions, reports, complaints, grievances, investigations, complaints handling, breaches, disciplinary actions, referrals, exchanges of information, risk assessments, policies and procedures - will be kept, indexed, maintained and stored for the best practice period of a minimum of 45 years (and longer if possible)
- (61) Records of mandatory reports will be stored:
 - a. securely in a locked cabinet in a file called ‘mandatory reports’
 - b. in the approved provider/nominated supervisor’s office at our premises
 - c. for the child’s lifetime (105 years from birth)
 - d. separately from the child’s enrolment file
- (62) Online records will be stored password protected file and physical records in a secure cabinet. Access will only be granted on a ‘need to know’ basis and in line with our other relevant policies
- (63) Reports made to the Child Protection Hotline are confidential. The reporter's identity is generally kept confidential under NSW law. As long as the report has been made in good faith, there are protections for the reporter, including that the report will not breach professional etiquette or ethics or amount to professional misconduct, they are protected from civil and criminal liability, and against retribution. Note, if the NSW Police are investigating a serious offence against a child, they can access the identity of the reporter if they need to

Procedural fairness

- (64) Child protection matters will be dealt with in a fair, transparent and timely manner
- (65) We do not conduct any internal investigations unless we are instructed to so by a relevant authority
- (66) Reportable conduct investigations are carried out according to the Reportable Conduct Scheme’s guidelines and Appendix F – Managing allegations of Reportable Conduct
- (67) Our records are accurate, confidential and stored securely
- (68) We protect the privacy of those involved in line with the law and our relevant policies (Note, confidential information may be exchanged with relevant agencies to ensure the safety, welfare and wellbeing of children)
- (69) If an allegation is found to be substantiated, the approved provider and nominated supervisor follow advice from the relevant authorities and act in line with our HR policies when considering actions against the staff member

5. PRINCIPLES

- (70) We are committed to the safety and wellbeing of children, and to implementing the NSW Child Safe Standards and the National Quality Framework across all levels of our service
- (71) We are committed to implementing the EYLF
- (72) We comply with all relevant legislation, regulations and standards at all times
- (73) Our interactions with children are respectful, equitable and supportive
- (74) Every reasonable precaution is taken to protect children from harm and hazards in our physical and online environments

- (75) We always act on harm and risk of harm to a child and report where necessary and appropriate
- (76) We listen to children and take their concerns seriously. Our child-focused complaint systems prioritises the safety of children
- (77) Staff are given the training, resources and support to act on child safety and wellbeing concerns
- (78) Our governance, operations policies, risk management plans, procedures, systems and practices are best-practice and up-to-date

6. POLICY COMMUNICATION, TRAINING AND MONITORING

- (79) This policy and related documents can be found in our policy folder located in the foyer.
- (80) The approved provider and nominated supervisor provide information, training and other resources and support regarding the Child Protection Policy and Procedures and related documents
- (81) All staff (including volunteers and students) are formally inducted. They are given a copy to review, understand and formally acknowledge this Child Protection Policy and Procedures and related documents
- (82) The nominated supervisor provides professional development program for any staff member who has not previously studied child protection.
- (83) Roles and responsibilities are clearly defined in this policy and in individual position descriptions. They are communicated during staff inductions and in ongoing training
- (84) The approved provider and nominated supervisor monitor and audit staff practices through staff meetings, day to day communication and performance appraisals and address non-compliance. Breaches to this policy are taken seriously and may result in disciplinary action against a staff member
- (85) At enrolment, families are given copies of our Child Protection Policy and Procedures and related documents
- (86) Families are notified in line with our obligations under the *National Regulations* when changes are made to our policies and procedures

7. ROLES AND RESPONSIBILITIES

Approved provider responsibilities (not limited to)

Ensure our service meets its obligations under the *Education and Care Services National Law and Regulations*, including to take every reasonable precaution to protect children from harm and hazards likely to cause injury. Ensure that no child is subjected to any form of corporal punishment or any discipline that is unreasonable

Ensure that our service's governance, management, operations, policies, plans, (including risk management/action plans), systems, practices and procedures for child protection matters are appropriate in practice, best practice, align with the NSW Child Safe **Standards and** comply with all relevant legislation

Ensure we have a child-focused complaint management system that responds properly to any complaints or concerns about child safety and wellbeing and any allegations of harmful sexual behaviour in children

Ensure our Child Protection Policy and Procedures is in place and available for inspection

Take reasonable steps to ensure this policy and procedures are followed (e.g. through clear and accessible communication, and systemised inductions, training and monitoring of all staff – including volunteers, students)

Ensure that systems are in place to identify and minimise or eliminate risks of harm to a child in line with our policies/procedures (including our Child Safe Risk Management Plan) and our legal requirements. Ensure staff can and do use the risk assessments/plans, including children's individual action plans

Promote a culture of reporting. Act on any incidents, disclosures and suspicions, including allegations of harmful sexual behaviour in children. Report where necessary to the relevant authorities and in line with our procedures and legal obligations

Ensure our service complies with the Reportable Conduct Scheme

Ensure that staff complete all the required training. Ensure that the nominated supervisor and persons in day-to-day charge have completed approved child protection training. Ensure that all staff, including volunteers and students, are aware of current child protection laws, how they apply and any obligations they have under them. Keep evidence of child protection training

Ensure child protection related records are made and confidentially stored according to our policies and legal obligations. Keep all child protection matters confidential unless we are legally required to disclose

Regularly review this Child Protection Policy and Procedures in consultation with children, families, communities and staff. Keep it available for inspection

Notify families at least 14 days before changing this Child Protection Policy and Procedures if the changes will: affect the fees the charged or the way they are collected; or significantly impact the service's education and care of children; or significantly impact the family's ability to utilise the service

Work collaboratively with support services and or/professionals to support children (and their families) and staff members who have been impacted by harm or the risk of harm

Nominated supervisor / persons in day-to-day charge responsibilities (not limited to)

Ensure our service meets its obligations under the *Education and Care Services National Law and Regulations*, including to take every reasonable precaution to protect children from harm and hazards likely to cause injury. Ensure that no child is subjected to any form of corporal punishment or any discipline that is unreasonable

Support the approved provider to ensure that our service's management, operations, policies, plans, (including risk management/action plans), systems, practices and procedures for child protection matters are appropriate in practice, best practice, align with the NSW Child Safe

Standards and comply with all relevant legislation

Implement this [Child Protection Policy and Procedures](#) and all other parts of our child-focused complaint management system that responds properly to any complaints or concerns about child safety and wellbeing, and any allegations of harmful sexual behaviour in children

Take reasonable steps to ensure this policy and procedures are followed (e.g. through clear and accessible communication, and systemised inductions, training and monitoring of all staff – including volunteers, students)

Identify and minimise or eliminate risks of harm to a child in line with our policies/procedures (including our [Child Safe Risk Management Plan](#)) and our legal requirements. Ensure staff can and do use the risk assessments/plans, including children’s individual action plans

Promote a culture of reporting. Act on any incidents, disclosures and suspicions, including allegations of harmful sexual behaviour in children. Report where necessary to the relevant authorities and in line with our procedures and legal obligations

Successfully complete approved child protection training and other relevant professional development activities

Support the approved provider to ensure that all staff, including volunteers and students, complete all required training, and are aware of current child protection laws, how they apply and any obligations they have under them. Keep evidence of child protection training

Ensure child protection related records are made and confidentially stored according to our policies and legal obligations. Keep all child protection matters confidential unless we are legally required to disclose

Contribute to policies and procedure reviews and risk assessments and plans in consultation with children, families, communities and staff. Support the approved provider to notify families of changes according to legislation and our policies and procedures

Work collaboratively with support services and or/professionals to support children (and their families) and staff members who have been impacted by harm or the risk of harm

Educators / ECTs / other staff responsibilities (not limited to)

Discharge your duty of care (e.g. by taking every reasonable precaution to protect children from harm or hazards likely to cause injury). Do not subject a child to any form of corporal punishment or any discipline that is unreasonable

Follow our child-focused complaint management system - including this [Child Protection Policy and Procedures](#) - to respond properly to any complaints or concerns about child safety and wellbeing and any allegations of harmful sexual behaviour in children

Act on any incidents, disclosures, and suspicions, including allegations of harmful sexual behaviour

in children. Report where necessary to the relevant authorities and in line with our procedures and legal obligations

Report any issues with our child protection policies and procedures to the appropriate person (e.g. approved provider, nominated supervisor, lead educator)

Identify and minimise or eliminate risks of harm to a child in line with our policies/procedures (including our Child Safe Risk Management Plan and other risk assessments/plans such as children's individual action plans)

Undertake all necessary training and professional development activities. Be aware of current child protection laws, how they apply and any obligations you have under them

Complete child protection records when required. Provide them to the approved provider/nominated supervisor as soon as practicable

Keep all child protection matters confidential unless we are legally required to disclose

8. LEGISLATION OVERVIEW

Education and Care Services National Law and Regulations

Law	Description
s 162A	Child protection training
s 165	Offence to inadequately supervise children
s 166	Offence to use inappropriate discipline
s 167	Offence relating to protection of children from harm and hazards
s 170	Offence relating to unauthorised persons on premises
s 174	Offence to fail to notify certain information to Regulatory Authority
s 175	Offence relating to requirement to keep enrolment and other documents
Regulations	
s 84	Awareness of child protection law
ss 85 - 89	Incidents, injury, trauma and illness
s 120	Educators who are under 18 to be supervised
ss 145 – 152B	Staff and educator records – centre-based services
s 168	Education and care services must have policies and procedures
s 170	Policies and procedures to be followed

Law	Description
s 171	Policies and procedures to be kept available
s 172	Notification of change to policies or procedures
s 175	Prescribed information to be notified to Regulatory Authority
s 176	Time to notify certain information to the Regulatory Authority
ss 181,183 - 184	Confidentiality and storage of records

Other applicable laws and regulations

Act/Regulation	Description
<i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i>	Principal relevant Act to child protection
<i>Children and Young Persons (Care and Protection) Regulation 2012</i>	
<i>Law Enforcement (Powers and Responsibilities) Act 2002 (NSW)</i>	Includes provisions for child-related criminal offences
<i>Crimes Act 1990 No.40 (NSW)</i>	
<i>Child Protection (Offenders Registration) Act 2000 (NSW)</i>	Registration and reporting of child sexual abuse offenders
<i>Child Protection (Offenders Registration) Regulation 2015</i>	
<i>Child Protection (Offenders Prohibition Orders) Act 2004 (NSW)</i>	
<i>Child Protection (Offenders Prohibition Orders) Regulation 2018</i>	
<i>Child Protection (Working with Children) Act 2012 (NSW)</i>	Working with children checks
<i>Child Protection (Working with Children) Regulation 2013</i>	
<i>Children's Guardian Act 2019</i>	Reportable conduct scheme
<i>Work Health and Safety Act 2011</i>	Work place health and safety
<i>Anti-Discrimination Act 1977 (NSW)</i>	Human rights laws
<i>Children (Criminal Proceedings) Act 1987 (NSW)</i>	
<i>Privacy Act 1988</i>	Principle act protecting the handling of personal information> [delete if your service is exempt from the <i>Privacy Act 1998 (Cth)</i>].
<i>Advocate for Children and Young People Act 2014 (NSW)</i>	Child Safe Organisations
<i>Children's Guardian Act 2019 (NSW)</i>	

National Quality Standard

Standard	Concept	Description
2.2	Safety	Each child is protected
2.2.1	Supervision	At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazards
2.2.2	Incident and emergency management	Plans to effectively manage incidents and emergencies are developed in consultation with relevant authorities, practiced and implemented
2.2.3	Child Protection	Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect
4.2	Professionalism	Management, educators and staff are collaborative, respectful and ethical
4.2.2	Professional standards	Professional standards guide practice, interactions and relationships
5.1	Relationships between educators and children	Respectful and equitable relationships are maintained with each child
5.1.2	Dignity and rights of the child	The dignity and rights of every child is maintained
5.2	Relationships between children	Each child is supported to build and maintain sensitive and responsive relationships
5.2.2	Self-regulation	Each child is supported to regulate their own behaviour, respond appropriately to the behaviour of others and communicate effectively to resolve conflicts
6.1	Supportive relationships with families	Respectful relationships with families are developed and maintained and families are supported in their parenting role
6.1.2	Families are supported	Current information is available to families about the service and relevant community services and resources to support parenting and family wellbeing
7.1	Governance	Governance supports the operation of a quality service
7.1.2	Management systems	Systems are in place to manage risk and enable the effective management and operation of a quality service
7.1.3	Roles and responsibilities	Roles and responsibilities are clearly defined, and understood, and support effective decision-making and operation of the service
7.2	Leadership	Effective leadership builds and promotes a positive organisational culture and professional learning community
7.2.1	Continuous improvement	There is an effective self-assessment and quality improvement process in place
7.7.3	Development of professionals	Educators, co-ordinators and staff members' performance is regularly evaluated and individual plans are in place to support learning and development

Early Years Learning Framework (EYLF) V.20

EYLF outcome	Key Component
3: CHILDREN HAVE A STRONG SENSE OF WELLBEING	<ul style="list-style-type: none"> Children become strong in their social, emotional and mental wellbeing Children become strong in their physical learning and wellbeing Children are aware of and develop strategies to support their own mental and physical health and personal safety
5: CHILDREN ARE EFFECTIVE COMMUNICATORS	<ul style="list-style-type: none"> Children interact verbally and non-verbally with others for a range of purposes

National Principles for Child Safe Organisations

Most relevant principles

2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously

5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice

6. Processes to respond to complaints and concerns are child focused

7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training

9. RELATED DOCUMENTS

Key policies	Child Safe Environment Policy Child Safe Code of Conduct Child Safe Risk Management Plan Recruitment, Induction and Training Policy Complaint Handling Policy Excursions Policy Tobacco, drug and Alcohol-Free Environment Policy Safe Arrival of Children Policy Transport Policy Sleep, Rest and Relaxation Policy Managing Emergencies and Evacuations Policy Incident, Injury, Trauma and Illness Policy ECEC Code of Ethics
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Procedures / Plans	Child Protection Procedures (attached)
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Templates / Resources	<p>Incident, Injury, Trauma and Illness Record template (in Incident, Injury, Trauma and Illness Record Policy)</p> <p>Recording disclosures of harm/risk of harm template (attached)</p> <p>Recording suspicions of harm/risk of harm template (attached)</p> <p>Child Safety and Wellbeing Breach – Incident Report Form (attached)</p> <p>List of indicators of harm (attached)</p> <p>Child protection reporting summary (attached)</p>
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Child Protection Procedures

1. POLICY LINKS

These procedures apply to our:

- [Child Protection Policy](#)
- [Complaint Handling Policy](#)
- [Child Safe Environment Policy](#)
- [Child Safe Code of Conduct](#)

2. PROCEDURES

Procedures:

1. Appendix A – Managing an emergency
2. Appendix B – Managing disclosures and suspicions of harm
3. Appendix C – Reporting
4. Appendix D – Contacting parents
5. Appendix E – Providing support
6. Appendix F – Managing allegations of harmful sexual behaviour in children
7. Appendix G – Managing allegations of reportable conduct

Tools and resources:

1. Incident, Injury, Trauma and Illness Record template (in Incident, Injury, Trauma and Illness Record Policy)
2. Recording disclosures of harm/risk of harm template (attached)
3. Recording suspicions of harm/risk of harm template (attached)
4. Child Safety and Wellbeing Breach – Incident Report template (attached)
5. List of indicators of harm resource (attached)
6. Child protection reporting summary resource (attached)

PROCEDURE - Managing an emergency

When to use this procedure

- If there is an immediate risk to health and safety of a child
- If an incident of harm or risk of harm occurs at our service
- If there is no immediate risk, staff go straight to [Appendix C - Reporting](#)

1. Respond to threats to health and safety
 - Intervene to protect other children
 - Separate the child and anyone else involved in the incident
 - Make sure that all parties are supervised
 - Administer first aid
 - Call 000 for an ambulance
 - Call 000 for police assistance if the person who is alleged to have harmed the child poses an immediate risk to anyone else at the service
 - Follow instructions
2. Preserve evidence
 - If an incident of suspected harm to a child has occurred at our service, take action to preserve any items that may be used as evidence
 - Do not clean up the area where the incident has occurred. Cordon off the area/room/building and try not to allow anyone to enter
 - If sexual abuse or physical abuse has occurred or is suspected, ensure that the person who has allegedly committed the abuse and the child remain in their clothing. If this is not possible, handle the clothes as little as possible, do not to wash, and store them in a sealable plastic bag
 - Leave any other possible items of evidence untouched, where possible
 - Secure evidence such as CCTV footage, emails, computers, devices etc
3. Manage possible witnesses
 - Take reasonable steps to prevent potential witnesses (including children) from talking about the alleged incident
 - If the alleged incident involves two or more children, they should be separated and supervised in separate rooms
 - If the alleged incident involves a staff member, they should be asked to stay with the nominated supervisor or person in day-to-day charge. Instruct the staff member not to discuss the alleged incident with any other staff, children or family members
4. Document the incident using our [Incident, Injury, Trauma and Illness Record](#) on the Xplor App or our paper incident form found in the small filing cabinet in the office as soon as possible so the details are accurately captured

5. Report according to Appendix C – Reporting as soon as practicable
6. Notify the approved provider/nominated supervisor as soon as practicable
7. Inform parents according to Appendix D – Contacting parents
8. Support any children involved and their families according to Appendix E – Providing support
9. If relevant, follow Appendix F – Managing allegations of harmful sexual behaviour in children or Appendix G – Managing allegations of reportable conduct
10. Assess and manage risks - the approved provider and nominated supervisor must assess and manage any risks to children or other staff member

PROCEDURE – Managing disclosures and suspicions of harm

When to use this procedure

- If you receive a disclosure. That is, if someone, including a child, tells you about harm or risk of harm that has happened and/or is happening to a child. Disclosures may start with:
 - I think I saw...||
 - Somebody told me that...||
 - Just think you should know...||
 - I'm not sure what I want you to do, but...||

- If you have a suspicion of harm or risk of harm, or a significant concern for a child's wellbeing. Harm or risk of harm may be suspected if, for example:
 - A child says they have been harmed or is at risk of being harmed
 - Someone else – e.g., another child, a parent, or a staff member - says harm has occurred or there is a risk of it occurring
 - A child says they know someone who has been harmed or might be harmed (it is possible that they may be referring to themselves)
 - There are significant changes in the behaviour of a child, or the presence of new unexplained and suspicious injuries
 - A suspicious incident is witnessed
 - A person who is in a position to give reliable information tells you of harm/risk of harm to a child (e.g. a relative, friend, sibling, neighbour of the child)

 - Other signs such as family violence, or familial substance misuse, psychiatric illness or intellectual disability that is impacting the child's safety and wellbeing

****Note:** A disclosure or suspicion can also be about a child harming another child or a child who is at risk of being harmed by another child.

1. Respond to disclosures

- Find a private place to talk
- Remain calm and listen in an attentive, active and non-judgemental way
- Encourage the person (including a child) to talk in their own words
- Take anything a child says seriously

- Ask just enough open-ended questions to act protectively without asking any leading questions which suggest an answer and could compromise later investigations
 - Tell the person they have done the right thing in revealing the information and they'll need to tell someone who can help keep the child safe
 - Do not investigate or mediate the matter yourself
2. Respond to suspicions
 - Remain alert to any warning signs or indicators (staff can access resources on the indicators of harm or risk of harm, including exposure to family violence, and signs that an adult may be engaging in child sexual abuse or grooming) [template attached to this policy]
 - Pay close attention to changes in the child's behaviour, ideas, feelings and words
 - Assure a child that they can come to talk when they need to, and listen to them and believe them when they do
 - Do not investigate or mediate the matter yourself
 3. Document disclosures or suspicions using the templates available [templates attached to this policy] as soon as possible so the details are accurately captured, including:
 - Time, date, location and who was present
 - Full details of the (suspected) harm or risk of harm
 - Exactly what the person said using "I said", "they said," statements
 - The questions staff asked
 - Any comments staff made
 - Any actions by staff following the disclosure
 - Record your own observations as well as accurate details of any conversation with a parent (who may for example explain a noticeable mark on a child)
 - Make notes of observations in a non-judgemental and accurate manner
 4. Report according to Appendix C – Reporting as soon as practicable
 5. Notify the nominated supervisor/approved provider as soon as practicable
 6. Inform parents according to Appendix D – Contacting parents
 7. Support any children involved and their families according to Appendix E – Providing support
 8. If relevant, follow Appendix F – Managing allegations of harmful sexual behaviour in children or Appendix G – Managing allegations of reportable conduct
 9. Assess and manage risks – the approved provider and nominated supervisor must assess and manage any risks to children or other staff member

PROCEDURE - Reporting

When to use this procedure

- If a child has been or may be the victim of a criminal offence
- If you witness an incident where you believe a child has been harmed or is at risk of harm
- If you form a reasonable suspicion that a child is at risk of significant harm
- If there are any serious incidents or allegations of serious incidents while a child was/is being cared for at the service
- If there are any circumstances at the service that pose a risk to the health, safety or wellbeing of children
- If there is any incident or allegation that physical or sexual abuse of a child or children has occurred or is occurring while the child or children are being cared for by our service
- If the approved provider is no longer a proper person to be involved in our service
- If there has been a suspension or cancellation of a working with children card or teacher registration of a nominated supervisor, or disciplinary proceedings of a nominated supervisor under an education law
- You do not need to have proved that the alleged incident/conduct has occurred to make a report
- If there is concern for a child's welfare, but it does not reach the threshold for reporting to the authorities, staff can connect children and families to external support services, following [Appendix E – Providing support procedure](#)
- See [Appendix G – Managing allegations of reportable conduct](#) if you need to report reportable conduct

1. Reporting to the police and mandatory reporting

- Report to the Police on 131 444 if a child has been or may be the victim of a criminal offence, including a sexual offence
- Report to the Child Protection Helpline on 13 21 11 (24 hours/7 days) if you form a reasonable suspicion that a child is at risk of significant harm (includes abuse and neglect)
- Non-urgent 'eReports' can be made through the [ChildStory Reporter](#) website (staff will need to register first)
- Read the resources on the ChildStory Reporter webpage to help make decisions about reporting or call the Helpline for advice

- Prepare as much information as you can before making the report
- Make the report yourself as soon as practicable. The report is not to be referred to another worker to determine if it is a reportable matter, but the person making the report may be supported by the approved provider and/or nominated supervisor, if this is appropriate
- Record name of person taking report on the telephone and ask them for written confirmation that the report has been made
- Get clear guidance from the Child Protection Helpline or Police about what the next steps in the process are, including with whom information about the report should/can be shared
- If you are reporting to the Child Protection Helpline, you do not need to make an additional report to the police
- Notify the nominated supervisor as soon as possible. The nominated supervisor must notify the approved provider as soon as possible
- Create a record with the nominated supervisor's assistance and store it according to our Child Protection Policy record keeping requirements
- Do not carry out any internal investigations unless you have been instructed to do so by Child Protection Helpline/Police/Children's Guardian

2. Reporting to the regulatory authority - the approved provider must notify the regulatory authority in writing within the prescribed time period via the [NQA IT System of:](#)

- any serious incident at the service; and any complaints alleging that a serious incident has occurred or is occurring while a child was/is being cared for by our service (notify in writing, within 24 hours)
- circumstances at the service which pose a risk to the health, safety or wellbeing of children (notify in writing, within 7 days)
- any incident or allegation that physical or sexual abuse of a child or children has occurred or is occurring while the child or children are being educated and cared for by the service (notify in writing, within 7 days)
- if there has been a change relevant to whether the approved provider is a fit and proper person to be involved in our service (notify in writing, within 7 days)
- the suspension or cancellation of a working with children card or teacher registration of a nominated supervisor, or disciplinary proceedings of a nominated supervisor under an education law (notify in writing, within 14 days)
- The approved provider must also notify SafeWork where required

3. Reporting an adult within the service (additional steps) (includes paid staff, volunteers, students, third party contractors, allied health practitioners, visitors, regardless of whether the conduct is alleged to have happened within the course of the person's employment or involvement with our service)

- Report the adult within the service as you would anyone else who was the subject of an allegation – that is, follow steps 1 and 2 (if applicable)
- The approved provider/nominated supervisor must assess and manage the immediate risks to other children and staff members, and take action to protect children from harm. Depending on the situation, actions might include:
 - Suspending any volunteers and contractors who are the subject of allegations
 - Standing down staff with/without pay
 - Reviewing the duties of staff who are subjects of allegations, including whether it is appropriate to restrict their access to children
 - Ensuring staff subject to allegations are supervised at all times

- Seeking advice from the relevant agencies about what is appropriate
 - Seeking legal advice
- Do not breach the rights of staff and keep our obligations under workplace laws
- Give appropriate support to any staff member who has an allegation made against them, including help to access appropriate support/counselling
- Provide support to other staff members who are impacted
- Keep information confidential, including the identity of the subject of the allegation
- Follow Appendix G – Managing allegations of reportable conduct if you need to report reportable conduct

PROCEDURE - Contacting parents

When to use this procedure

- If a child has been harmed or is at risk of harm
- If you have made a child protection report
- If a child allegedly exhibits harmful sexual behaviour
- If a child has been affected by another child allegedly exhibiting harmful sexual behaviour

1. Get permission to contact parents first
 - Before contacting parents, get permission from the Police or Child Protection Helpline (13 21 11)
 - We may be advised not to disclose any information to the parents if, for example, the parent is alleged to have been involved in the harm or risk of harm, the child would be put at greater risk and/or telling the parents is likely to adversely affect investigations
2. Contact parents
 - If we are allowed, the approved provider/nominated supervisor/other appropriate staff member must contact the parents as soon as possible on the day of the incident, disclosure, suspicion or belief
 - The staff member contacting the parents should:
 - Be empathetic
 - Communicate sensitively, professionally and calmly
 - Give the parents details of the situation and what action we have taken and will be taking (e.g. reporting, protecting the child from further harm)
 - Give the contact details of the Police/Child Protection officer who is handling the case, if applicable
 - Outline what the next steps are likely to be, if this is known (e.g. they will be contacted by the Police/ Child Protection Helpline the investigation might take time, their child may need to be interviewed)
 - Give the parents an opportunity to ask questions
 - Ask the parents how they would like us to support them and their child
 - Assure them that we will be providing ongoing support to them and their child (as set out in [Appendix D – Providing support](#))
 - We should have clear advice from Police/ Child Protection Helpline about what information we can share with the parents. However, if not, staff must not share any information with the parents that they think may put the child or any other person at risk (e.g., risk of further harm, destruction of evidence, retaliation)
3. Make a record of the discussion and follow up on any actions that arise from the conversation

PROCEDURE - Providing support

When to use this procedure

- If a child has been harmed or is at risk of harm
- If you have made a child protection report
- If you have a significant concern for a child's wellbeing
- If a child allegedly exhibits harmful sexual behaviour
- If a child has been affected by another child allegedly exhibiting harmful sexual behaviour

1. Support children and their families

- Staff can give direct support to the affected child and their family
- The nominated supervisor can provide referrals to professionals and community services
- Where a child has harmed or is at risk of harming another child, staff will provide support to both children and any other children who are affected. If the situation involves allegations of a child exhibiting harmful sexual behaviours, follow [Appendix F - Managing harmful sexual behaviour in children](#)
- The nominated supervisor must ensure that any other children or family members who have been impacted by any incidents, disclosures or suspicions are also offered support
- Help children to know how to respond to questions that other children ask about the incident and tell them staff member/s will be supporting them

2. Give collaborative and planned support

- Allow children and families to be part of decision-making processes, where possible
- If a child has been harmed or is at risk of harm, where appropriate, the nominated supervisor will:
 - Set up regular contact with the child's parents (if it is safe and appropriate) to discuss the child's health and wellbeing
 - Develop a safety/support plan with the child's parents (e.g. how the child will be monitored by staff at the service, how staff will communicate with the child's parents, any allied health and wellbeing support services needed)
 - Consult with allied health and wellbeing support service about how the child should be supported, where possible and appropriate

3. Refer children and their families to external support services

- The nominated supervisor can refer children and their families who have been impacted by harm/risk of harm to external support services including:
 - Family violence services
 - Support for sexual assault victims
 - Children’s mental health support services
 - Counselling/support services
 - Referrals can also be made when there is significant concern for a child’s wellbeing that have a low/moderate impact on the child, but their immediate safety is not at risk (i.e. not enough to warrant a report to Police/Child Protection Helpline). Examples of this include: parenting problems; pressure on the family from physical or mental illness, substance abuse, disability; social or economic disadvantage; family lacks social support/is isolated
 - Get the family’s consent and maintain the confidentiality of the child and the family when working with external support services
 - Use the resources section of the ChildStory Reporter website to determine suitable family referral services
4. Support children with diverse needs and backgrounds
- Consider the needs, circumstances and backgrounds of individual children and tailor their support accordingly:
 - Children with disabilities - consider the age, developmental stage and cognitive and functioning. Be aware that children with disabilities are particularly vulnerable to ongoing harm when considering any future risk management
 - Aboriginal and Torres Strait Islander children and children from Culturally and Linguistically Diverse (CALD) backgrounds - provide culturally appropriate support
 - Children from refugee backgrounds - recognise that these children and their families might also be experiencing trauma, dislocation and loss, which may significantly affect their wellbeing. Staff should be sensitive to these circumstances, but also make sure that the safety and wellbeing of a child is paramount
 - Where possible, seek expert advice from the relevant disability, Aboriginal and Torres Strait Islander, cultural or refugee support services and arrange for an interpreter to help communicate with the child and family, if needed
 - If staff are unsure who to ask, they can contact the regulatory authority for referrals and advice

PROCEDURE – Managing allegations of harmful sexual behaviour in children

When to use this procedure

- If there is an allegation that a child has exhibited harmful sexual behaviour
- Use this procedure whether the above behaviour is self-directed or directed towards another child or adult

1. Be aware of the spectrum of sexual behaviours:

- Children and young people display a range of sexual behaviours. Most of the time these are age-appropriate, and generally consistent with the child’s developmental stage and the context in which they are growing up (e.g., living in a society where they are regularly exposed to sexualised imagery used in popular culture or in marketing, online material, and the influences of a child’s religious/cultural backgrounds etc)
- A small number of children display developmentally inappropriate sexual behaviour and an even smaller number display ‘harmful sexual behaviour’, which can be directed at themselves and/or other children
- Harmful sexual behaviour ranges in seriousness and impact
- The NSW Government (SafeWayz)’s [resources](#) can help staff understand the spectrum of sexual behaviours in children. Staff should use these resources, the contextual information, professional judgement and (where applicable) advice from the relevant authorities to decide on the most appropriate response to a child exhibiting sexual behaviours

2. Use the traffic light system to recognise appropriate and inappropriate sexual behaviour

GREEN - Developmentally appropriate	ORANGE – Concerning	RED – Very Concerning, serious, severe
Action - Explain to child about social expectations regarding GREEN	Action - Monitor and support child, possibly report ORANGE behaviour	Action - Must report RED behaviour
<ul style="list-style-type: none"> • Behaviour that is expected for the age and developmental stage • Socially acceptable • Appropriate sexual curiosity/expression/exploration • May be exhibited at 	<ul style="list-style-type: none"> • Behaviour is outside what would be expected for the child’s developmental stage • Concerning because of its persistence, intensity, frequency and/or duration • Socially unacceptable • May be a one-off incident, but 	<ul style="list-style-type: none"> • Extension of ORANGE behaviour • Excessive, often with physical violence, sadism, degradation • Secretive, manipulative, can involve bribery or trickery • May be highly intrusive and

<p>inappropriate contexts, especially by young children</p> <ul style="list-style-type: none"> • Often one-off incidents • Child responds to redirection and reinforcement of expected behaviour • Equal in age or developmental stages between the individuals concerned • Generally positive emotional experience (laughter, giggling, joy) • Others are unharmed 	<p>usually is repeated</p> <ul style="list-style-type: none"> • May involve a disparity in age, developmental stage • May display a lack of respect • May be not reciprocal or mutual • Child has a negative emotional experience (e.g. guilt, remorse, shame, confusion) • Risk of health and safety to child and others 	<p>harmful to others</p> <ul style="list-style-type: none"> • Uses power and force, coercion, threats, deception • Limited respect for the rights of others • Often persistent behaviour along difficult to shift patterns of thought that have developed over a long time • Child may experience shame, anger and pleasure
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3. Respond to allegations or incidents of harmful sexual behaviours
 - If someone is in immediate danger, follow [Appendix A – Managing an emergency](#)
 - If someone has made a disclosure or there is a suspicion about a child exhibiting harmful sexual behaviour, follow [Appendix B – Managing disclosures and suspicions of harm](#)
 - Remain calm
 - Intervene to protect all children
 - Do not shame or use judgemental language
 - Keep discussion minimal if the behaviour involves possible criminal or child protection matter
 - Develop an initial response plan

4. Document the behaviour and store the record confidentially and securely

5. Report following [Appendix C – Reporting](#) (if applicable)
 - RED sexual behaviour must be reported
 - Assess whether ORANGE sexual behaviour must be reported

6. Notify the nominated supervisor/approved provider as soon as practicable

7. Contact parents following [Appendix D – Contacting parents](#)
 - If we have reported the allegation to Police/Child Protection Helpline get clearance to contact parents
 - Contact the parents of the child who has allegedly exhibited harmful sexual behaviour
 - Contact any other parents of children who:
 - Have been impacted by the harmful sexual behaviour
 - Witnessed the behaviour
 - Notify other parents if accounts of the behaviour might be circulating, but do not disclose confidential information
 - Do not disclose the names of the children involved

8. Provide support, following Appendix E – Providing support, to the child allegedly exhibiting harmful sexual behaviour and any other children, families and staff members who are impacted
9. Assess and manage risks
 - The approved provider and nominated supervisor assess and manage the immediate risks to other children and staff members, and take action to protect children from harm (in consultation with support and child protection services)
 - Depending on the situation, actions might include:
 - Implementing a risk management strategy
 - Implementing a support and safety plan for impacted child/ren
 - Suspending/excluding the child from the service
 - Increased monitoring and constant supervision
 - Restricting the child's contact with other children or only allow them to have supervised contact
 - Restricting access to sensitive computer systems, files or facilities (if applicable)
10. Implement a behaviour support plan
 - If the child remains at the service, the approved provider and nominated supervisor will need to establish a behaviour support plan that ensures the safety of other children and staff members. The behaviour support plan will need to address how the child will be monitored and provided with the support they need
 - Establish the plan in consultation with family services, child's parents, carers, professionals and support services
 - Monitor and review plans regularly and when there is any new behaviour by the child that may impact on their or other children and staff's safety and wellbeing
11. If a child exhibits GREEN – developmentally appropriate sexual behaviour:
 - Do not punish or shame the child/ren for the behaviour
 - Safely and sensitively intervene
 - Use non-judgemental language to describe the behaviour that should stop
 - Remind them of the expectations of behaviour at the service
 - Discuss the impact the behaviour might have on others
 - Explain that the behaviour might be inappropriate to the situation (e.g., it is private behaviour)
 - Redirect them to another activity
 - Document the behaviour and response
 - Report to the nominated supervisor
 - Contact the parents of the child/ren to notify them of the behaviour and our response
 - Reinforce to the parents that the behaviour is age/stage appropriate
 - Be aware that sexual behaviour in children may be viewed differently among different cultures, religions and familial backgrounds
 - Provide parents with information about sexual behaviour in children if this will help them

PROCEDURE – Managing allegations of reportable conduct

1. Respond to reportable conduct
 - Report criminal offences to the Police, make any necessary reports to Child Protection Helpline and the regulatory authority
 - Manage the risks to children, staff and others

2. Report reportable conduct
 - The approved provider must report to the NSW Office of the Children’s Guardian ‘reportable conduct’; that is, allegations or convictions of child abuse or child-related misconduct by individuals engaged directly or indirectly by our service (including paid staff, volunteers, and in some circumstances, contractors) including:
 - sexual offences
 - sexual misconduct
 - ill-treatment of a child
 - neglect of a child
 - an assault of a child
 - failure to protect and failure to report - offences under the Crimes Act 1900
 - behaviour that causes significant emotional or psychological harm to a child
 - The approved provider must make the report regardless of whether the allegations or convictions relate to the individual’s employment or activities at the service
 - Staff and volunteers must report allegations and convictions of reportable conduct (including any made against them) to the approved provider as soon as practicable so they can make the report to the Children’s Guardian
 - If a staff member becomes aware that the approved provider is the subject of reportable conduct or the approved provider is not satisfactorily meeting our obligations, they must notify the Children’s Guardian
 - The approved provider must make the report within 7 business days of receiving a report or otherwise becoming aware of reportable allegations/convictions
 - Make the report using the ‘7-day notification form’ that is available on the Children’s Guardian [website](#)
 - Consult with Police and Child Protection after making report so as not prejudice any concurrent police investigation or court proceedings

3. Investigate reportable conduct
 - The Reportable Conduct Scheme may require our service to investigate reportable allegations or make a determination about reportable convictions
 - Consult with the Police and the Department of Communities before doing anything that could compromise any criminal or statutory child protection investigations, or a criminal prosecution
 - If we are told to suspend an investigation, we will inform the Children’s Guardian and take steps to manage the risks posed by that suspension
 - Plan and conduct investigations strictly in line with the guidelines set out by the Ombudsman [here](#). The approved provider will:
 - Conduct investigations in a timely way

- Manage all conflicts of interest (actual, potential or perceived)
 - Protect against any interference from interested third parties
 - Plan, conduct and document the investigation
 - Appoint a suitable investigator
 - Give the staff member written notice when the investigation is over and a written report of the findings and the reasons for the findings
 - Form view/not form the view, on reasonable grounds, that the alleged reportable conduct has occurred on the balance of probabilities
4. Carry out investigations in line with the principles of procedural fairness
- Give the staff member an opportunity to make submissions when they are informed: that they are the subject of an investigation; of any proposed adverse finding; and of any proposed action to be taken as a result of the finding
 - Always act fairly and without bias, manage conflicts of interests, and make reasonable inquiries before making a decision
5. Manage risks
- As part of our risk management for an allegation, we will consider the safety and wellbeing of any children or other adults involved
 - Conduct three risk assessments according to the processes set out in our Child Safe Risk Management Plan and in the Children’s Guardian’s guidance:
 - Initial risk assessment – based on all the information we have at hand when a reportable allegation is first made
 - Ongoing risk assessment – during or on suspension of an investigation, based on any new information arising from the investigation
 - Final risk assessment – at the completion of an investigation, regardless of the finding, to inform the actions or proposed actions to be taken by the approved provider
6. Report findings of investigation
- The approved provider must submit an interim or final report on reportable allegations and reportable convictions to the Children's Guardian within 30 calendar days, following the Children’s Guardian’s guidelines for reports
 - Reports on reportable allegations will assess the evidence and make a finding on the balance of probabilities. They will describe what action our service will be taking in response to the allegation (e.g. disciplinary action, referring to authorities, any reviews and changes we make to our system as a result of the allegation)
 - Reports on reportable convictions will make a determination for each reportable conviction
7. Take appropriate action in response to the findings
8. Inform the child involved and their family of the outcomes of investigations if we have permission to do so (follow Appendix D - Contacting parents)
9. Comply with our obligations to provide certain information if the Children’s Guardian or another authorised agency requests it. Our service will keep information about a reportable allegation confidential and store it securely, in line with our record keeping policies and procedures.

TEMPLATE - Disclosure of harm or risk of harm record

A disclosure of harm occurs when someone, including a child, tells you about harm that has happened, is happening, or is likely to happen to a child. Disclosures of harm may start with:

- I think I saw...||
- Somebody told me that...||
- Just think you should know...||
- I'm not sure what I want you to do, but...||

Child's name	
Name of the person who made the disclosure	
Are they related to the child?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, what is the relationship?	
What did the person disclose? Try to use the exact words they used. Use "I said" "they said" statements, include any questions you asked and comments you made	
Date of the disclosure	
Time of disclosure	AM/PM

Where did the disclosure occur?	
Was anyone else present during the disclosure?	Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, what is/are their name/s, role/s and employer/s	
Have you followed our Procedures for making a report?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Describe the actions you have taken following the disclosure	
Name of person completing form	
Signature of person completing form	
Date	
Time	AM/PM

TEMPLATE - Suspicion of harm or risk of harm record

Staff may suspect harm if:

- a child says they have been harmed
- someone else, for example another child, a parent, or an employee, says harm has occurred or is likely to occur
- a child says they know someone who has been harmed (it is possible that they may be referring to themselves)
- they are concerned at significant changes in the behaviour of a child, or the presence of new unexplained and suspicious injuries
- they see the harm happening

Child's name	
Name of the person who made the disclosure	
<p>Why do you suspect harm? Try to use the exact words a child or someone else uses if relevant. Provide as much detail as possible</p>	
If relevant, what date did the person say something?	

Time?	AM/PM
Have you followed our Procedures for making a report?	Yes <input type="checkbox"/> No <input type="checkbox"/>
Describe the actions you have taken because of your suspicion	
Name of person completing form	
Signature of person completing form	
Date	
Time	AM/PM

TEMPLATE - Child safety and wellbeing breach record

Date of breach	
Time of breach	
Location of breach	
Name of person(s) involved in the breach	
Description of breach	
Immediate action taken	

If no action taken - reason	
Name of the authority the breach has been reported to (if relevant)	
Name of the person reported to	
Name of person completing form	
Signature of person completing form	
Date	
Time	AM/PM

RESOURCE - Indicators of harm

There are many indicators of harm to children. Behavioural or physical signs which assist in recognising harm to children are known as indicators. The following is a guide only. One indicator on its own may not imply abuse or neglect. However, a single indicator can be as important as the presence of several indicators. Each indicator needs to be considered in the context of other indicators and the child's circumstances. A child's behaviour is likely to be affected if he/she is under stress. There can be many causes of stress and it is important to find out specifically what is causing the stress. Harm can be single incidents or ongoing, and may be intentional or unintentional.

<p>General indicators of harm</p>	<ul style="list-style-type: none"> • 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
<p>Neglect</p>	<p>Child neglect is the continued failure by a parent or caregiver to provide a child with the basic things needed for his or her proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.</p> <p>Parental/caregiver indicators</p> <ul style="list-style-type: none"> • Depriving or withholding physical contact • Failure to provide psychological nurturing • Treating one child differently to the others • Dirty, chaotic, unhygienic environment, e.g., house over-run with pets, faeces not cleaned up etc • Nowhere for child or young person to sleep • Unable or unwilling to provide adequate food and/or clothing • Inability to respond emotionally to the child • Leaving the child or young person inappropriately without supervision • Abandoning the child • Depriving of or withholding physical contact or stimulation for prolonged periods • Overwhelmed with other problems, e.g., substance abuse • Showing no concern for the child or young person's wellbeing when it would be reasonably expected • Family is isolated from relatives, other adults or social supports • Greeting the child or young person with indifference • An extremely chaotic life

	<p>Indicators in children</p> <ul style="list-style-type: none"> • Poor hygiene: matted hair, dirty skin or strong body odour • Loss of 'skin bloom' and poor hair texture • Untreated physical or medical problems • Frequent illness and low-grade infections • Persistently untreated head lice • Hungry – scavenging, stealing or hoarding food • Constantly tired and listless • Delay in developmental milestones • Low weight for age and/or failure to thrive for no medical reason • A flat and superficial way of relating • Anxiety about being dropped or abandoned • Self-comforting behaviour, e.g., rocking and/or sucking • Inadequate clothing in winter • Frequent lateness to or absence from the service • Child or young person states that no one is home to provide care • Longing for adult affection • Child or young person avoids going home
<p>Physical abuse</p>	<p>Physical abuse is a non-accidental injury or patter of injuries to a child caused by a parent, caregiver or other person.</p> <p>Perpetrator indicators</p> <ul style="list-style-type: none"> • Direct admissions of injuring the child • Direct expressions of desire to injure the child • Family history of violence, including previous harm to children • Telling a story of injury which is inconsistent with the physical findings • Showing little concern about the welfare of a child or the treatment and care of an injury • Isolating a child or young person from contact with school, services etc in order to hide injuries or prevent disclosure. <p>Indicators in children</p> <ul style="list-style-type: none"> • Disclosure by the child • Facial, head and neck bruising • Other bruising and marks which show the shape of the object used (e.g, a handprint, belt buckle) • Multiple bruises or injuries • Lacerations and welts • Bite marks • Dislocations • Fractures of bones, especially in children under three years old • Burns and scalds – a burn with a clear outline may be suspicious • A large number of scars of different sizes or ages, or on different parts of the body • Explanation offered by the child is not consistent with the injury • History of injury which is vague or variable • Marked delay between injury and presentation for medical assistance

	<ul style="list-style-type: none"> • Flinching when approached by adults • Frozen watchfulness • Repeated presentations of the child to health or other services with injuries, swallowing of non-food substances or minor complaints
<p>Emotional abuse</p>	<p>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.</p> <p>Perpetrator indicators</p> <ul style="list-style-type: none"> • Excessive or unreasonable demands • Unrealistic expectations of the child or young person • Persistent hostility and severe verbal abuse • Rejection, ridiculing and scape-goating • Exposing child to domestic violence • Constant criticism, belittling, teasing and withholding of affection and praise • Belief that a particular child or young person is intrinsically ‘bad’, ‘naughty’ or ‘evil’ • Using inappropriate social or physical isolation as punishment <p>Indicators in children</p> <ul style="list-style-type: none"> • Over compliant, withdrawn, passive and/or tearful • Displaying age-inappropriate behaviours, e.g. overly adult (parenting other children) or overly infantile (thumb sucking, rocking, wetting or soiling) • Lack expectations and trust in people • Fearful of parent(s) and/or caregiver(s) • Indiscriminate attachment • Disruptive or aggressive behaviour towards others • Hyper-vigilance, particularly in pre-school children • Exhibiting extreme attention seeking or risk-taking behaviour • Withdrawn or seen as a ‘loner’ – difficulty relating to others • Highly anxious • Developmental delay
<p>Sexual abuse</p>	<p>Sexual abuse can be physical, verbal or emotional in nature. It can include non-contact and contact activities and can involve a range of behaviour including but not limited to: sexual acts, penetrative or non-penetrative, with a child or young person under the age of consent, forcing a child to strip or masturbate, inappropriate touching of a child, whether clothed or unclothed, engaging in any kind of sexual activity in front of a child, including watching pornography, taking, downloading, viewing or distributing sexual images of children, possessing images of child sexual abuse, encouraging a child to perform sexual acts in front of a webcam or any recording device, grooming a child (or their parent or carer).</p> <p>Perpetrator indications</p>

	<ul style="list-style-type: none"> • Exposing a child or young person to pornography or using a child or young person for pornographic purposes • Intentional exposure of child or young person to sexual behaviour in others • Previously committed or suspected of child sexual assaults • Inappropriate curtailment or jealousy regarding age-appropriate development of independence from the family • Coercing the child or young person to engage in sexual behaviour with other children • Verbal threats of sexual abuse • Exploitation or corruption of children or young people <p>Indicators in children</p> <ul style="list-style-type: none"> • 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 • Sexually transmitted diseases
<p>Grooming</p>	<p>Grooming is when a person engages in predatory conduct to prepare a child or young person for sexual activity at a later time. Grooming can include communicating or attempting to befriend or establish a relationship or other emotional connection with the child or their parent or carer. Young people are often 'groomed' before they are sexually abused.</p> <p>At first, they may be tricked into thinking they are in a safe and normal relationship so they may not know it's happening or may feel they have no choice but to be abused.</p> <p>It may be hard to identify when someone is being groomed until after they have been sexually abused, because grooming behaviour can sometimes look like 'normal' caring behaviour; however, this is not always the case.</p> <p>Perpetrator indicators</p> <ul style="list-style-type: none"> • Paying undue attention paid to a child including giving gifts or going on special outings together • Inappropriate touching such as tickling and back rubbing • Inappropriate joke telling, sexual in nature • Emotional or behavioural changes- including the abrupt onset of mood swings, secretive behaviour or withdrawal • Openly or pretending to accidentally expose the child to nudity, sexual material

	<ul style="list-style-type: none"> • Oversteps social boundaries with parents (e.g., comes to child’s birthday party uninvited) • Offers to take the child to sports or other activities, or offers to babysit child or take them camping • Offers to do things for the family – such as repairs or gardening • Overly complimentary to family and parents • Tries to be flirtatious or romantic with parent/family members • Offers to mentor/coach child • Shows an undue interest in the child’s interests, wellbeing, life <p>Indicators in children</p> <ul style="list-style-type: none"> • Talks a lot about a particular adult or older child, or wants to spend a lot of time with them or meet them alone • Is in a relationship with a much older person • Is skipping school or sporting activities • Is spending less time with friends or changes friendship groups suddenly • Spends more time alone in their room • Has unexplained gifts like new toys, clothes, jewellery or electronics and doesn’t want to talk about where the gifts came from • Doesn’t want to talk about what they’ve been doing or lies about it • Stops telling you about their day or asking for your advice.
<p>Psychological abuse</p>	<p>Psychological harm occurs where the behaviour of the parent or caregiver damages the confidence and self-esteem of the child, resulting in serious emotional deprivation or trauma. In general, it is the frequency and duration of this behaviour that causes harm.</p> <p>Perpetrator indicators</p> <ul style="list-style-type: none"> • Excessive criticism • Withholding affection • Exposing child to domestic violence • Intimidation or threatening behaviour <p>Indicators in children</p> <ul style="list-style-type: none"> • Constant feelings of worthlessness • Unable to value others • Lack of trust in people • Lack of people skills necessary for daily functioning

	<ul style="list-style-type: none"> • Extreme attention seeking behaviour • Extremely eager to please or obey adults • Takes extreme risks, is markedly disruptive, bullying or aggressive • Suicide threats • Running away from home
<p>Domestic violence</p>	<p>Any behaviour that's violent, threatening, controlling or intended to make the family feel scared and unsafe can be considered family and domestic violence</p> <p>Perpetrator indicators</p> <ul style="list-style-type: none"> • Controlling behaviour (also known as coercive control) – e.g. stopping family members from seeing people, leaving the house or other activities • Physical violence • Sexual assault • Emotional abuse • Stalking family members e.g., repeated phone calls/messages, unwanted or obsessive attention, following or monitoring • Technology facilitated abuse of family members e.g., checking computers/phone use, spyware trackers, publishing intimate photos without consent, threatening to share photos or messages to harm you • Financial abuse of family members e.g., stealing money, not allowing family members to work, making others account for how they spend money, withholding financial information <p>Indicators in children</p> <ul style="list-style-type: none"> • 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