



## Child Protection

### Children's Services Policy No 1.3

**Date issued:** 21 April 2006

**Replaces issue:** Reporting Suspected Child Physical, Sexual or Emotional Abuse or Neglect Policy

**Date effective:** 21 April 2006

**Date revised and updated:** August 2008, July 2010, April 2015, November 2015, August 2018, February 2020; and October 2020

#### Aim:

- To ensure that Council's education and care services are compliant with NSW Child Protection Legislation.
- To ensure that all of Council's education and care services; and environments are safe for children.
- To promote the health, safety and well-being of children in our services.
- To ensure quality education and care for the children entrusted to our care.
- To ensure that staff within our Children's Services have a well-developed understanding of the Child Safe Standards; and
- To ensure that staff have a well-developed understanding of the Principles for Child Safe Organisations.

#### Background Information:

The [Royal Commission](#) recommended [10 Child Safe Standards](#), drawing on its' findings, extensive research and consultation about what makes institutions child safe. Willoughby City Council strives to protect children and young people from harm and abuse, creating a strong culture of child safety.

Willoughby City Council supports the rights of children and young people and is committed to their care and protection.

Child abuse can occur within all communities, regardless of culture, religion or socio-economic backgrounds. Staff who work with children are responsible for providing a safe and predictable environment. Staff are in a position to monitor behavioural and emotional changes, physical injuries and the general well-being of a child.

The supportive environment of an education and care setting and the relationships that staff develop with children may lead to a child making a disclosure about child abuse.

The Children and Young Persons (Care and Protection) Act 1998 outlines the roles and responsibilities of staff in relation to the prevention, protection and reporting procedures when a child is identified as being at risk of harm.

#### Principles:

The Children's Services Child Protection Policy reflects Council's commitment to:

The Office of the Children's Guardian [Principles for Child Safe Organisations \(2017\)](#):

- **Principle 1:** the organisation focuses on what is best for children.
- **Principle 2:** all children are respected and treated fairly.
- **Principle 3:** children's families and communities are welcome and encouraged to

participate in the organisation.

- **Principle 4:** children receive services from skilled and caring adults.

#### **Relevant Legislation:**

- [Children's Guardian Act 2019](#)
- [Education and Care Services National Regulations](#)
- [Royal Commission into Institutional Responses to Child Sexual Abuse 2017](#)
- [Child Safe Organisations National Principles 2017](#) – Australian Human Rights Commission
- [Child Safe Organisations: Information for organisation on how to keep children safe](#) – Australian Institute of Family Studies, Australian Government
- [Advocate for Children and Young People Act 2014](#)
- [Child Protection \(working with Children\) Act 2012 No 51](#)
- [Child Protection Legislation Amendment Act 2014](#)
- [Child Protection \(Working with Children\) Regulation 2013](#)
- [Children \(Education and Care Services National Law Application\) Act 2010](#)
- [Children Legislation Amendment \(Wood Inquiry Recommendations\) Act 2009](#)
- [Child Protection \(Offenders Prohibition Orders\) Act 2004](#)
- [Child Protection \(Offenders Registration\) Act 2000 No 42](#)
- [Ombudsman Amendment \(Child Protection and Community Services\) Act 1998 No 148](#)
- [Children and Young Persons \(Care and Protection\) Act 1998 No 157](#)
- [Commission for Children and Young People Act 1998 No 146](#)
- [Child Protection \(Prohibited Employment\) Act 1998 No 147](#)
- [Young Offenders Act 1997 No 54](#)
- [Ombudsman Act 1974 No 68](#)
- [Crimes Act 1900 No 40](#)

#### **Resources:**

- [Mandatory Reporter Guide - Child Story Reporter](#)
- [NSW Department of Communities and Justice](#) (formerly NSW Department of Family and Community Services)
- [NSW Interagency Guidelines NSW Family and Community Services](#) – NSW Department of Communities and Justice
- NSW Office of the Children's Guardian – [SAFE series resources](#)
- [NSW Family Referral Service](#)
- NSW Government – [Principles for Child-Safe Organisations \(2017\)](#)
- NSW Office of the Children's Guardian – [Child Safe Standards](#)
- [Australian Children's Education and Care Quality Authority - National Quality Standard](#) – Quality Area 2 – Standard 2.2, Element 2.2.1, Element 2.2.2 and Element 2.2.3

This policy is to be read in conjunction with Willoughby City Council's Human Resources Policy No.2.09 - Child Protection; and Children's Services Policy 1.5 - Code of Conduct.

**Note:** In this policy "staff" and "educators" refers to staff employed within Children's Services by Willoughby City Council.

**Definitions:**

When staff are determining if a child is at significant risk of harm, they must take into account the definitions in Appendix 1:

**'Risk of Significant Harm'**

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

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

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

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

**'Mandatory Reporter'**

Under Sections 23 and 27 of the [Children and Young Persons \(Care and Protection\) Act 1998 \(NSW\)](#), a mandatory reporter is a person who delivers the following services to children as part of their paid or professional work:

- Health Care
- Welfare
- Education
- Children's Services
- Residential Services
- Law Enforcement
- Disability Services
- Out Of School Hours Care

A mandatory reporter is also a person who holds a management position, either paid or voluntary, in any of these services and their duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services or law enforcement, wholly or partly, to children.

A mandatory reporter is an individual required by law to report to NSW Department of Communities and Justice when they have reasonable grounds to suspect that a child, or class of children, is at risk of significant harm. The Mandatory Reporters Guide (MRG) will assist mandatory reporters meet their legal obligations and responsibilities.

Mandatory reporters are also required to follow the Willoughby City Council and Willoughby City Council Children's Services policies and procedures on making a child protection report.

**'Reportable Conduct'**

Reportable conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded:

- (a) a sexual offence,
- (b) sexual misconduct,
- (c) ill-treatment of a child,
- (d) neglect of a child,
- (e) an assault against a child,

- (f) an offence under section 43B or 316A of the Crimes Act 1900,
- (g) behaviour that causes significant emotional or psychological harm to a child.

### **'Reportable Allegation'**

Reportable allegation means an allegation that the employee has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment.

Reportable allegation, in relation to an employee means:

- (a) if the employee holds, or is required to hold, a working with children check clearance for the purpose of employment, an allegation that the employee has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment, or;
- (b) if the employee is not required to hold a working with children check clearance for the purpose of employment, an allegation that the employee has engaged in conduct that may be reportable conduct, unless the conduct is alleged to have occurred outside the course of the employee's employment.

### **Practices:**

- All staff will be trained in issues related to child protection.
- New staff members will be trained within the initial three months of employment, or at the first available training course. In addition, staff will be asked to attend refresher courses as required, or as legislative changes occur.
- All staff are mandatory reporters.
- It can be a difficult and emotional process to make a report, and it is recommended that staff discuss their concerns with the Nominated Supervisor to ensure that they are provided with support during the reporting process.  
**\*\*Staff are bound by this Law, and staff must not delegate this responsibility to the Nominated Supervisor.**
- The Nominated Supervisor of the service is to help support the staff through this process and should not discourage or forbid a staff member from making a report.
- Staff should refer to the [Mandatory Reporter Guide](#) (MRG) set down by the NSW Department of Communities and Justice and these should be used in conjunction with Willoughby City Council's Child Protection Policy.
- The Nominated Supervisor is required to notify the Children & Youth Services Team Leader, Community Life Manager and the Community, Culture & Leisure Director of any current concerns or notifications made.
- Staff may request a counselling session through Willoughby City Council's Employee Assistance Program (EAP) if any incident has caused them any concern.
- Under the Reportable Conduct Scheme reportable allegations against Council employees must be notified to the CEO and reported by Council to the NSW Children's Guardian within 7 days.

### **How to Report Risk of Significant Harm**

***In an emergency, where there are urgent concerns for the child's health or life, it is important to contact the police, using the emergency line '000'.***

In other circumstances, **all mandatory reporters** will conduct follow the instructions of the Decision Tree under the [MRG](#) and subsequently report matters via the eReport system through the ChildStory Reporter website or via the Child Protection Helpline ph: **132 111** when they believe a child is at risk of significant harm.

Before making a report, mandatory reporters should [consult the Mandatory Reporter Guide](#) to assess whether a child or young person is at risk of significant harm and to assist in determining if a report to the Child Protection Helpline is necessary.

All mandatory reporters should also consult with their Nominated Supervisor and refer to the Willoughby City Council's Human Resources Child Protection Policy No.2.09 to assist in making a child protection report.

**Note:** while it is mandatory to report children aged 0-15 years at risk of significant harm, it is not mandatory to report young people aged 16-17 years or unborn children. Professional judgement should be used in deciding whether concerns about the safety, welfare or well-being of an unborn child or a young person warrant a report to NSW Department of Communities and Justice.

Mandatory reporters should note that the legislation requires that they continue to respond to the needs of the child or young person (within the terms of their work role) even after a report to the Child Protection Helpline has been made.

- Non mandatory reporters, including the general public, should phone **132 111**.
- Non-English speaking reporters can make a report to the Helpline using a professional phone interpreter. Reporters requiring the assistance of a translator are advised to contact the Translation and Interpreting Service on 131 450. The reporter will need to indicate the language they speak and that they wish to contact the Child Protection Helpline. There is no cost to the reporter for this service.

### **Who to Report**

The [NSW Children and Young Persons \(Care and Protection\) Act 1998](#) provides for reports being made about:

- Children and young people at risk of significant harm.
- Unborn children at risk of significant harm.
- Homeless children and young people.
- This includes children who were the subject of a prenatal report under section 25 of the [NSW Children and Young Persons \(Care and Protection\) Act 1998](#) and whose birth mother has not engaged with support services to eliminate or minimise the risk that gave rise to the report.

### **When to Report**

The MRG has been developed to assist reporters to decide if any of the following conditions are present to a significant extent:

- physical abuse
- neglect (supervision, physical shelter/environment, food, medical care, mental health care, education)
- sexual abuse
- problematic sexual behaviour
- psychological harm
- relinquishing care
- carer concerns (parent/carer substance abuse, parent/carer mental health, parent/carer, domestic violence)
- unborn child.

Where a person has reasonable grounds to suspect risk of significant harm, they should first use the MRG to assess whether their concerns meet the threshold of risk of significant harm. However, if there is an immediate danger to the child or young person the Police and/or the Helpline should be contacted directly.

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

- first hand observations of the child, young person or family
- what the child, young person, parent/carer or another person has disclosed
- what can reasonably be inferred based on professional training and/or experience.

**Note:**

- It **does not** mean that reporters are required to confirm their suspicions or have clear proof before making a report.
- Concerns **must be current** - that is, significant harm arising from abuse or neglect is recent or likely in the foreseeable future should circumstances continue unchanged. Current concerns may also arise from a child or young person having contact with someone who is known to be responsible for causing harm to a child in the past.
- **Current concerns** also refer to situations where the abuse or neglect of the child or young person occurred some time in the past but continue to have an impact on the child or young person's safety, welfare or well-being.

Where use of the MRG advises risk of significant harm, mandatory reporters must make a report to the Child Protection Helpline. Other reporters should also report a child or young person to the Helpline where the MRG confirms risk of significant harm. A report to the Helpline starts the process of assessing whether statutory child protection is needed.

**Non-imminent Suspected Risk of Significant Harm Reports**

- Helpline eReporting is available for mandatory reporters to make child protection reports to NSW Department of Communities and Justice.
- eReports are delivered securely and automatically to the Child Protection Helpline for assessment. eReporting is easily accessible and simple to use.
- Helpline eReporting must only be used for non-imminent suspected risk of significant harm reports. All urgent matters must still be made by phone to the Helpline.

eReporting is available once the [Decision Tree](#) provides information on the next steps.

**The Mandatory Reporter Guide**

The MRG is designed to help both mandatory and non mandatory reporters decide whether a concern meets the statutory threshold for reporting risk of significant harm.

The MRG works by posing specific questions that help mandatory and other reporters work systematically through the issues relating to concerns they have about a child or young person.

Mandatory Reporters can work through the questions at [MRG](#). At the end of the process, a decision report will guide the reporter as to what action to take.

The starting page of the [MRG](#) provides guidance about when to use each decision tree.

There are eight major categories of abuse and neglect of children and young people in the MRG. They are:

- physical abuse
- neglect
- sexual abuse
- psychological harm
- danger to self or others

- relinquishing care
- carer concern
- unborn child

The MRG will help reporters to decide whether the following behaviours of parents/carers significantly affect their children:

- parent/carer substance abuse
- parent/carer mental health
- parent/carer domestic violence

### **Children and Young People Who Do Not Meet the Statutory Threshold for Child Protection Intervention**

Contact the [Family Referral Service](#) in your area.

Family Referral Services assist families with children and young people who do not meet the statutory threshold for child protection intervention but would benefit from accessing support to address current problems and prevent escalation of risk of harm.

Please also speak with your Nominated Supervisor, the Children & Youth Services Team Leader and/or the Community Life Manager for advice and further instructions.

### **Responding to a Child or Young Person Who Discloses Information**

Children do not often disclose abuse or neglect the first time something happens. They may experience a sense of helplessness and hopelessness and may take weeks or years before making their abuse known.

- You should respond to a disclosure by being calm and listening carefully and non judgmentally.
- Let the child tell their story freely and in their own way.
- Acknowledge how difficult it may have been to disclose and reassure the child or young person that it was the right thing to do.
- The role of the person hearing the disclosure is not to interview or gather evidence. This is the responsibility of specially trained Community Services caseworkers and/or police officers.
- Immediately after the disclosure write down and date the comments and statements made by the child using their exact words. Record any observations about the child's mood or demeanour.

### **Allegations against a Willoughby City Council Employee**

- A Council employee, contractor or person serving with Council in either a paid or unpaid capacity who believes, on reasonable grounds, that a child or young person is at risk of harm from a council employee, must report this concern immediately. The report should be made to the Nominated Supervisor, Children & Youth Services Team Leader and Community Life Manager. In their absence, a report should be made to the Human Resources Manager.
- Nominated Supervisors, Team Leaders or Managers who receive an allegation are to inform the Human Resources Manager without delay.
- Employees are also required to notify the Children & Youth Services Team Leader and Community Life Manager or the Human Resources Manager if they become aware of a conviction or an allegation relating to putting a child or young person at risk that is made against an employee of Council.
- An allegation that an employee has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment must be reported to the CEO.

Parents/carers who have concerns regarding the manner in which another staff member is treating a child or group of children **must** refer this matter to the either to the Nominated Supervisor, the Children & Youth Services Team Leader or the Community Life Manager, where an investigation will occur in line with Willoughby City Council’s Human Resources Child Protection Policy No.2.09. Staff should refer to this policy for guidance.

## APPENDIX 1

### **'Risk of Significant Harm'**

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

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

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well-being, or in the case of an unborn child, after the child's birth. The significance can result from a single act or omission or an accumulation of these.

### **'Mandatory Reporter'**

Under Sections 23 and 27 of the [NSW Children and Young Persons \(Care and Protection\) Act 1998](#) a mandatory reporter is a person who delivers the following services to children as part of their paid or professional work:

- Health Care
- Welfare
- Education
- Children's Services
- Residential Services
- Law Enforcement
- Disability Services
- Out Of School Hours Care.

A mandatory reporter is also a person who holds a management position, either paid or voluntary, in any of these services and their duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services or law enforcement, wholly or partly, to children.

A mandatory reporter is an individual required by law to report to NSW Department of Communities and Justice when they have reasonable grounds to suspect that a child, or class of children, is at risk of significant harm. The Mandatory Reporters Guide (MRG) will assist Mandatory Reporters meet their legal obligations and responsibilities.

**Definition of Terms Used in the Mandatory Reporter Guide** Please refer to the [Child Well-being & Child Protection – NSW Interagency Guidelines](#)

The Mandatory Reporter Guide focuses on whether a concern is significant or not, and not whether abuse or neglect is present according to a specific definition.

- **Physical abuse** is where a child/young person has a suspicious current injury, suspected to be caused by the parent/carer AND where it has not occurred accidentally OR the child or young person is being treated in a way that may have or is likely to cause injury.
- **Neglect – lack of supervision** is where a child/young person is alone and based on their age/development /circumstances this is unsafe. It may also be where a child/young person is currently not under the care and supervision of an appropriate carer and due to age/development /disability this is unsafe.

- **Neglect – lack of physical shelter/environment** is where a child/young person or family has no safe place to stay or there is imminent danger of serious harm in the current residence dependant on their age/development/disability and where the parent/carer is not ensuring the child’s safety (Note: Reporting the homelessness of young people aged 16 to 17 years is not mandatory and can only be done with the consent of the young person.)
- **Neglect – food – medical professionals** is where a child/young person has a condition caused or exacerbated by inadequate or poor diet or where the child is aged under 5 and is failing to keep pace with expected growth and there is no known organic cause.
- **Neglect – food – non-medical professionals** is where a child or young person is:
  - reporting persistent hunger
  - reporting persistent withholding of food as punishment
  - thin, frail, listless
  - frequently begging/stealing/hoarding food
  - mentioning going without eating
  - frequently arriving at school without breakfast/ lunch
  - having difficulty concentrating and you suspect poor nutrition.
- **Neglect – medical care – medical professionals** is where:
  - a child/young person requires medical care for an acute condition for which parents/carers are not providing the recommended medical treatment
  - there is a chronic condition which is not being treated or a treatment plan is not being followed and this is likely to result in significant harm.
- **Neglect – medical care – non-medical professionals** is where:
  - a child/young person has a physical health condition that appears to need immediate care which is not being provided
  - parent/carer is refusing or unable to seek recommended medical care
  - there is a medical condition that requires an ongoing treatment plan that is not being followed.
- **Neglect –mental health care** is where:
  - a child/young person is suicidal/has committed or is threatening serious violence or is causing significant self-harm
  - parent/carer is refusing to provide or access mental health care that the child/young person requires.
- **Neglect – education – not enrolled** is where a child/young person is of compulsory school age and is not enrolled.
- **Neglect – education – habitually absent** is where a child/young person is of compulsory school age and is enrolled and is habitually absent.
- **Sexual abuse – child** is where a child has made a clear, unambiguous statement of sexual assault or is:
  - pregnant
  - diagnosed with a sexually transmitted disease
  - displaying trauma to genital area
  - or where you are aware by other means that a child has been sexually abused.

It will also be a cause for reporting if:

- there is a concern a child will have significant contact with an alleged or known sex offender or
- the child is exposed to sexually explicit material or acts including pornography and communication of sexual matters and the child expresses fear, discomfort or shows symptoms of significant harm.

- **Sexual abuse – young person** is where a young person has made a clear, unambiguous statement of sexual abuse, or you are aware by other means the young person has been sexually abused.

It may also be a cause for reporting if:

- the young person is engaged in prostitution or pornography and
- the young person appears subject to coercion or intimidation.

- **Child/Young Person Problematic Sexual Behaviour** is where a child/young person is engaged or may be engaged in sexually abusive behaviour, indicated by:
  - a victim who is substantially younger, smaller, weaker, less mature or cognitively/physically less capable
  - pressure, coercion, aggression, bribery, secrecy or other grooming behaviours have been used.

It may also be a cause for reporting:

- when the victim is a relative of the initiating child/young person
- when the victim lives in the same household or
- where the action was significantly outside normal sexual behaviour.

It may also be a cause for reporting where the child/young person has continuing or imminent contact with the victim.

- **Psychological harm** is where a child/young person is exposed to:
  - chronic or severe domestic violence
  - severe parental/carer mental health or substance abuse concerns
  - parental/carer behaviours that are persistent, repetitive and have a negative impact on a child/young person's development, social needs, self worth or self-esteem
  - parental/carer criminal and/or corrupting behaviour
  - parental/carer behaviours that deliberately expose a child/young person to traumatic events.
- **Relinquishing care** is where the parent/carer is no longer willing to provide shelter/food/supervision for the child/young person or child/young person has been in voluntary care for longer than the legislation allows.  
It is also a cause for reporting if there are no alternative care arrangements in place for the next 72 hours.
- **Parent/carer substance abuse** is where the substance abuse impacts on the parent/carer's ability to meet the child/young person's needs; causes significant harm and/or where the child/young person's behaviour indicates the impact of substance abuse.
- **Parent/carer mental health** is where the mental health concern impacts on the parent/carer's ability to meet the child/young person's needs; causes significant harm and/or where the child or young person's behaviour indicates the impact of the parent/carer's mental health concern.

- **Parent/carer domestic violence** is where there has been an incident of domestic violence, there is a child or young person in the home and where one or more of the following occurred, whether the child was present or not:
  - use of weapon
  - strangulation/suffocation attempt
  - serious injury to adult
  - physical injury to child/young person
  - serious threat to harm child/young person/adult/self
  - a significant increase in the pattern of violence.
- **Unborn child** is where there is a history of abuse or neglect of siblings of the unborn child; siblings have been removed, or died in circumstances that have been reviewed by the Ombudsman.

It may also be where you are aware of circumstances that suggest either parent/carer will be unable to care for baby upon birth due to:

- suicidal tendencies
- substance abuse
- mental illness
- domestic violence
- cognitive disability
- medical condition
- homelessness
- inadequate preparations for birth.

#### **Other reasons to notify the Child Protection Helpline**

The Child Protection Helpline should be notified if a child/young person is under the parental responsibility of the Minister, there is no concern that reaches the threshold of risk of significant harm **but** the child/young person is:

- pregnant
- runaway
- missing
- homeless (in the case of homelessness review the *Neglect: Physical Shelter/Environment* tree first. If that leads to a report to NSW Department of Communities and Justice, report as neglect. If it does not lead to a report to NSW Department of Communities and Justice advise the Child Protection Helpline that the report is being made.

**Key:** Boxes with a red border indicate a hyperlink to more information

## RESPONDING TO A CHILD WELLBEING CONCERN OR CHILD PROTECTION REPORT FLOWCHART

