

# Child Protection (2N)

## Policy Statement

### Related Guidelines, Standards, Frameworks

#### National Quality Framework

**Quality Area 1** – Educational Program and Practice  
1.1.1, 1.3.1

**Quality Area 2** – Children’s Health and Safety  
2.2.1, 2.2.2, 2.2.3

**Quality Area 4** – Staffing Arrangements  
4.1.1, 4.2.1, 4.2.2

**Quality Area 5** – Relationships with Children  
5.1.1, 5.1.2, 5.2.2

**Quality Area 6** – Collaborative Partnerships with Families and Communities  
6.1.1, 6.1.2, 6.1.3

**Quality Area 7** – Governance and Leadership  
7.1.1, 7.1.2, 7.1.3

Our service is committed to providing an environment that fosters health, development, spirituality, self-respect and dignity, that is free from violence and exploitation. Under the Children and Young Persons (Care and Protection) Act 1998, children and young people must receive the care and protection necessary to ensure their safety, welfare and wellbeing. All educators and volunteers of our service are Mandatory Reporters and are required to report to the **Child Protection Helpline (Phone: 132 111)** if they have reasonable grounds to suspect a child or young person is at risk of significant harm and have current concerns about the safety, welfare or wellbeing of a child or young person where the concerns arise during or from their work. We are committed to ensuring all educators and staff have a full understanding of their responsibilities as a Mandatory Reporter and are supported in fulfilling these.

### Definitions

**‘Mandatory reporters’** means people who deliver the following services, wholly or partly, to children as part of their paid or professional work:

- Health care (e.g. registered medical practitioners, specialists, general practice nurses, midwives, occupational therapists, speech therapists, psychologists, dentists, and other allied health professionals working in sole practice or in public or private health practices).
- Welfare (e.g. psychologists, social workers, caseworkers and youth workers).
- Education (e.g. teachers, counsellors, principals).
- Children’s services (e.g. early childhood educators, family day carers and home-based carers).
- Law enforcement (e.g. police).
- Residential services (e.g. refugee workers and out-of-home care workers).
- Religious bodies (e.g. a person in religious ministry).

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## Definitions Cont.

### Related Guidelines, Standards, Frameworks Cont.

#### Early Years Learning Framework 2009

**Outcome 1** – Children Have a Strong Sense of Identity

**Outcome 2** – Children are Connected with and Contribute to Their World

**Outcome 3** – Children Have a Strong Sense of Wellbeing

**Outcome 4** – Children are Confident and Involved Learners

**Outcome 5** - Children are Effective Communicators

**‘At risk of significant harm’** - in relation to a child or young person means that there are current concerns for their safety, welfare or wellbeing because of the presence to a **significant extent** of any one or more of the following circumstances (Any such circumstance may relate to a single act or omission or to a series of acts or omissions).

- The child’s or young person’s basic physical or psychological needs are not being met or at risk of not being met;
- The parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive medical care;
- In the case of a child or young person who is required to attend school in accordance with the Education Act 1990 — the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive and education in accordance with that Act;
- The child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;
- The child or young person 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;
- A parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm; or
- The child was the subject of a pre-natal report under section 25 of the Children and Young Persons Care and Protection Act 1998 and the birth mother of the child did not engage successfully with the support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

(Children and Young Persons (Care and Protection) Act 1998 No 157, Chapter 3, Part 2, Section 23)

**‘Reasonable grounds’** - means that you suspect a child may be at risk of significant harm based on:

- Your observations of the child, young person or family; or
- What the child, young person, parent or another person has told you. You are NOT required to confirm your suspicions or have clear proof before making a report. To do so may interfere with evidence or compromise the work of statutory agencies, for example the Police or Department of Communities and Justice

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## References

### Keep Them Safe – Mandatory Reporter Guide

#### NSW Government Department of Family and Community Services.

Resources for Mandatory reporters accessed from:  
[www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters](http://www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters)

#### NSW Department Communities and Justice.

Protecting our kids, accessed from:  
[www.facs.nsw.gov.au/families/Protecting-kids](http://www.facs.nsw.gov.au/families/Protecting-kids)

NSW Department of Family  
and Community Services  
<https://reporter.childstory.nsw.gov.au/s/article/What-is-Mandatory-Reporting>

#### UN Convention on the rights of the Child 1989

#### Early Childhood Australia Code of Ethics 2019

Youth Action NSW:  
Youth Action and Policy  
Association  
Child Protection Guide to  
Policy and Practice 2011

## Goals

- To ensure the safety and wellbeing of children attending Mt Warning Community Preschool by ensuring the programme and practices protect its children from the risk of harm;
- Promote child safety in the workplace;
- Encourage protective behaviour and focusing on the prevention and intervention of child abuse and neglect.
- To ensure that all interactions between staff, children and their families are undertaken respectfully, ethically and responsibly, reflecting Mt Warning Community Preschool philosophy and the outcomes in the *National Quality Framework* and *Early Years Learning Framework*.
- To ensure compliance with child protection legislation as stated in the *Education and Care Services National Regulations 2011*, *Children's Services Regulations NSW 2010*, *Children and Young Person's (Care and Protection) Act 1998*, and *UN Charter – Convention of the Rights of the Child*.
- To define mandatory reporting; identify the responsibilities of the centre, its staff and external agencies; and specify mandatory reporting procedures.
- To provide a guide, support and professional development for staff in relation to Child Protection.
- To be guided by Early Childhood Australia's Code of Ethics in programme and practice.

## Goals Details

- Child protection refers to concerns that reach the threshold for a report of risk of significant harm, while *wellbeing concerns* are below the risk of significant harm threshold but still have a harmful impact on children and may escalate or accumulate to create for risk of significant harm.

Anyone who is paid to provide education or children's services to children aged 0-15 years or who is directly responsible for the management or supervision of these services, whether paid, or unpaid, is a mandatory reporter. Staff have a legal duty as mandatory reporter and a moral duty of care to ensure the safety of all children. This includes taking all reasonable steps to prevent emotional, physical, sexual and prenatal abuse and neglect.

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## Goal Details Cont.

### Related Legislation

#### Education and Care Services National Regulations 2011

**Regulation 82** – Tobacco,  
Drug and Alcohol-free  
Environment

**Regulation 83** – Staff  
Members not to be Affected  
by Alcohol or Drugs

**Regulation 84** – Awareness of  
Child Protection Law

**Regulation 99** – Children  
Leaving the Care Service  
Premises

**Regulation 146** – Nominated  
Supervisor

**Regulation 147** – Other Staff  
Members

**Regulation 155** – Interaction  
with Children

**Regulation 156** –

Relationships in groups

**Regulation 157** – Access for  
Parents

**Regulation 168** – Education  
and Care Services Must Have  
Policies and Procedures

**Regulations 170** – Policies  
and Procedures are to be  
Followed

**Regulation 171** – Policies and  
Procedures to be Kept  
Available

**Regulation 172** – Notification  
of Change to Policies and  
Procedures

**Regulation 175** – Prescribed  
Information to be Notified to  
Regulatory Authority

**Regulation 176** – Time to  
Notify Certain Information to  
Regulatory Authority

**Regulation 273** – Course in  
Child Protection

Mandatory reporters are legally obliged to report children aged 0-15 years when they have 'reasonable grounds' to suspect that they are at risk of significant harm and these grounds arise during the course of their work (Child Protection Guide to Policy and Practice 2011, YAPA, p.14).

- **Significant harm or significant risk** includes the areas of:
  - Physical abuse
  - Neglect
  - Supervision
  - Physical shelter/environment
  - Food
  - Medical care
  - Mental health care
  - Education
  - Sexual abuse
  - Problematic sexual behaviour
  - Psychological harm
  - Carer concerns
  - Parent/carer substance abuse
  - Parent/carer mental health
  - Parent/carer domestic violence
  - Unborn child
  
- There are many indicators of abuse and neglect. The following list is a guide only and one indicator on its own may not imply abuse or neglect. Each indicator needs to be considered in the context of the other indicators and the child's circumstances. These indicators include:
  - General indicators:
    - Marked delay between injury and seeking medical assistance
    - History of injury
    - The child gives some indication that the injury did not occur as stated
    - The child tells you someone has hurt him/her
    - The child tells you about someone he/she knows who has been hurt
    - Someone (relative, friend, acquaintance, sibling) tells you that the child may have been abused
  - Indicators of neglect in children:
    - Poor standard of hygiene leading to social isolation
    - Scavenging or stealing food
    - Extreme longing for adult affection
    - Lacking a sense of genuine interaction with others
    - Acute separation anxiety

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## Related Legislation Cont.

### Children and Young Person's (Care and Protection) Act 1998

**Regulation 23** – Child or young person at risk of significant harm

**Regulation 24** – Report concerning child or young person at risk of significant harm

**Regulation 26** - Anonymity

**Regulation 27** – Mandatory reporting

**Regulation 29** – Protection of persons who make reports or provide certain information

**Regulation 29A** – Person who makes report is not prevented from helping child or young person

**Regulation 30** – Director General's investigation and assessment

**Regulation 31** – Matters for consideration

**Regulation 32** – Initial identification

**Regulation 219Z** – Exclusion of person from premises of children's service

**Regulation 219ZC** – Parental contact with children

**Regulation 227** – Child and young person abuse

**Regulation 228** – Neglect of children and young persons

**Regulation 229** –

Unauthorised removal of children and young persons

## Goal Details Cont.

- Self-comforting behaviours, e.g. rocking, sucking
- Delay in development milestones
- Untreated physical problems
- Indicators of neglect in parents and caregivers:
  - Failure to provide adequate food, shelter, clothing, medical attention, hygiene or leaving the child inappropriately without supervision
  - Inability to respond emotionally to the child
  - Child abandonment
  - Depriving or withholding physical contact
  - Failure to provide psychological nurturing
  - Treating one child differently to the others
- Indicators of physical abuse in children:
  - Facial, head and neck bruising
  - Lacerations and welts
  - Explanations are not consistent with injury
  - Bruising or marks that may show the shape of an object
  - Bite marks or scratches
  - Multiple injuries or bruises
  - Ingestion of poisonous substances, alcohol or drugs
  - Sprains, twists, dislocations
  - Bone fractures
  - Burns and scalds
- Indicators of physical abuse in parents and caregivers:
  - Direct admissions from parents about fear of hurting their children
  - Family history of violence
  - History of their own maltreatment as a child
  - Repeated visits for medical assistance
- Indicators of emotional abuse in children:
  - Feeling of worthlessness about them
  - Inability to value others
  - Lack of trust in people and expectations
  - Extreme attention seeking behaviours
  - Other behavioural disorders (disruptiveness, aggressiveness, bullying)
- Indicators of emotional abuse in parents and caregivers:
  - Constant criticism, belittling, teasing of a child or ignoring or withholding praise and affection
  - Excessive or unreasonable demands
  - Persistent hostility, severe verbal abuse, rejection and scapegoating
  - Belief that a particular child is bad or "evil"

# Child Protection (2N)

## Goal Details Cont.

### Related Legislation Cont.

#### Children and Young Person's (Care and Protection) Act 1998 Cont.

**Regulation 231** – Leaving children and young persons unsupervised in motor vehicles

**Regulation 245** – Object and principles of Chapter  
**Regulation 248** – Provision and Exchange of information

#### Education and Care Services National Law Act (2010)

**Regulation 166** – Offense to use Inappropriate Discipline

**Regulation 167** – Offence Relating to Protection of Child from Harm and Hazards

**Regulation 174** – Offence to Fail to Notify Certain Information to Regulatory Authority

#### Children's Services Regulations NSW 2004 (amended 2012)

**Regulation 85** – Policies to be made available (2i)

#### Children's Guardian Act 2019

**Part 4** – Reportable Conduct

- Using inappropriate physical or social isolation as punishment
- Exposure to domestic violence
- Indicators of sexual abuse in children:
  - They describe sexual acts
  - Direct or indirect disclosures
  - Age inappropriate behaviour and/or persistent sexual behaviour
  - Self-destructive behaviour
  - Regression in developmental achievements
  - Child being in contact with a suspected or know perpetrator of sexual assault
  - Bleeding from the vagina or anus
  - Injuries such as tears to the genitalia
- Indicators of sexual abuse in parents, caregivers of anyone else associated with the child:
  - Exposing the child to sexual behaviours of others
  - Suspected of or charged with child sexual abuse
  - Inappropriate jealousy regarding age appropriate development of independence from the family
  - Coercing the child to engage in sexual behaviour with other children
  - Verbal threats of sexual abuse
  - Exposing the child to pornography
- Indicators of domestic violence in children:
  - Show aggressive behaviour
  - Develop phobias & insomnia
  - Experience anxiety
  - Show symptoms of depression
  - Have diminished self esteem
  - Demonstrate poor academic performance and problem-solving skills
  - Have reduced social competence skills including low levels of empathy
  - Show emotional distress
  - Have physical complaints

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## Related Legislation Cont.

UN Charter – Convention of the Rights of the Child

The Ombudsman Act 1974

The Child Protection (Offenders Registration) Act 2000

The Child Protection (Prohibited Employment) Act 1998

The Commission for Children and Young People Act 1998

NSW Office of the Children's Guardian  
[www.kidsguardian.nsw.gov.au/Working-with-children/New-Working-with-Children-Check](http://www.kidsguardian.nsw.gov.au/Working-with-children/New-Working-with-Children-Check)

## Relevant Forms

Orientation Booklet 2011  
Working with Children Check

## Goal Details Cont.

- *Reasonable grounds* may include receiving a disclosure or making an observation directly or being told about a disclosure received or an observation made by someone else. Once a mandatory reporter forms the view that there are reasonable grounds to suspect risk of significant harm mandatory reporters are not required and should not attempt to confirm information they have received or explore the situation further. To do so may compromise the work of statutory agencies and may result in contamination of evidence or pressure on others in relation to disclosures.<sup>2</sup>
- When a report is made in good faith by law it cannot be seen as a breach of professional etiquette or standards, and a mandatory reporter cannot be sued for defamation.<sup>3</sup>
- When making reports mandatory reporters are expected to provide their name, position and contact details to assist in follow up. By law a reporter's identity cannot be disclosed. However, given the circumstances it may not be possible to avoid family members guessing who has made the report. During some court proceedings or law enforcement activities the identity of a mandatory reporter may be disclosed to the court or law enforcement agency, generally with the consent of the reporter, except in exceptional circumstances.<sup>4</sup>
- The centre, its staff and external agencies have responsibilities in the prevention and intervention of harm to a child as follows:
  - Ensure that all employees, members of staff or carers are:
    - Clear about their roles and responsibilities under current Acts and Regulations;
    - Aware of their obligations to immediately report to the Child Protection Hotline a child that they suspect is at risk of significant harm, and procedures for reporting; and
    - Aware of the indicators when a child may be at risk of harm or significant harm.
  - Provide training and development for all employees, members of staff or carers in the recognition and reporting of suspected risk of harm;
  - Provide reporting procedures and professional standards for care and protection work generally;

<sup>2</sup> Child Protection Guide to Policy and Practice 2011, YAPA, page 15

<sup>3</sup> Child Protection Guide to Policy and Practice 2011, YAPA, page 16

<sup>4</sup> Child Protection Guide to Policy and Practice 2011, YAPA, page 16

# Child Protection (2N)

## Goal Details Cont.

### Links

#### A Guide to the Child Safe Standards NSW Government

<https://www.kidsguardian.nsw.gov.au/ArticleDocuments/838/ChildSafeStandardsGuide.pdf.aspx?Embed=Y>

- Ensure that any employees, volunteers and prospective employees undertake the Working with Children Check;
  - Report to the NSW Ombudsman and NSW Department of Education any reportable allegations and convictions made against an employee, member of staff or carer and ensure that they are investigated by the Head of Agency with the appropriate action to be taken in relation to finding;
  - Notify the Commission for Children and Young People details of employees, members of staff or carers against whom relevant disciplinary proceedings have been completed, or of persons whose employment has been rejected primarily because of a risk identified in employment screening processes; and
  - Enable employees, members of staff or carers access to Acts, Regulations and procedures where this is necessary for them to fulfil their obligations.
    - It is the responsibility of the staff to:
      - Undertake the Working with Children Check prior to commencement, and then every five (5) years;
      - Report any case where a child is suspected to be at risk of significant harm to the Child Protection Helpline;
      - Promote the safety, welfare and wellbeing of the children attending the preschool;
      - Be aware of referring agencies for families where concerns of harm do not meet the significant harm threshold;
      - Be aware of the Mandatory Reporter Guide (MRG);
      - Assist in supporting children and families in partnership with Department of Community Services and other government agencies; and
      - Ensure that a report is made by the person suspecting the risk of child protection.
- 
- It is the responsibility of the Child Protection Helpline to:
    - Receive and assess reports of children who are at risk of significant harm;
    - Investigate and assess reports where there is a likelihood of risk of significant harm to the child or a class of children;
    - In cases involving child sexual abuse or serious physical abuse, plan, conduct and manage, with Police (and NSW Health where a medical examination and/or counselling or support are needed), joint investigation, through Joint Investigation Response Teams (JIRT);
    - Provide, arrange and request care and/or support services for children and families; and
    - Inform reporting agencies of the progress and outcomes of assessments and investigations as permitted by law, and as appropriate.

# Child Protection (2N)

## Goal Details Cont.

- It is the responsibility of the Child Wellbeing Unit to help and identify whether a case meets the new threshold of risk of significant harm.
  - It is the responsibility of the NSW Ombudsman's Office to monitor the investigation and in some cases investigate reportable allegations made against employees in government and non-government agencies, such as children's services. The Ombudsman must be notified of all allegations of abuse or neglect of a child by one of the employees. For the purposes of the Ombudsman's legislation an employee includes someone who is helping as a volunteer.
- It is the responsibility of The Commission for Children and Young People to:
  - Monitor trends and makes recommendations to government and non-government agencies on legislation, policies, practices, and services affecting young children; and
  - Provide guidelines relating to employment screening for child related employment and to maintain a database of relevant disciplinary proceedings.
- Documenting concerns about children and families is necessary to support identification of cumulative harm, assessment of strengths and needs, review of progress, and in some circumstances, identification of risk of significant harm and mandatory reporting. Once information is recorded it can have long term impacts on intervention with families and can be subpoenaed by courts. Recorded information should be factual and reliable, and the origin of information should be clearly shown.<sup>5</sup>
- Maintaining open and transparent relationships is a key element of child protection practice. Transparency is promoted by informing parents through the *Orientation Booklet*, about Mt Warning Community Preschool mandatory responsibilities regarding child protection. Unless this would compromise the safety of a child, transparency should also be maintained throughout the working relationships, including where it is necessary to make a report of risk of significant harm.<sup>6</sup>
- In considering the exchange of information with other agencies priority should be given to promoting the safety, welfare and well-being of children through the provision of services. All exchanges of information should be lawful, and staff should seek opportunities to involve family members in the process of exchange information with other agencies. However, the need to provide services and the needs and interests of children and young people and of their families takes precedence over the protection of confidentiality or an individual's privacy.<sup>7</sup>
- To ensure the safety of children attending the preschool, Mt Warning Community Preschool complies with legislative requirements for the screening of its staff and volunteers who provide services to children by:
  - Undertaking pre-employment screening;
  - Conducting a Working with Children check;
  - Conducting a national police check; and
  - Obtaining a Volunteer/Student WWCC declaration (where applicable).

<sup>5</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 37

<sup>6</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 40

<sup>7</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 23

# Child Protection (2N)

## Strategies – How will it be done?

- Mt Warning Community Preschool addresses all allegations made by children against agency employees in accordance with legislative requirements. The centre believes it also has a responsibility to its employees to defend their right to confidentiality unless allegations against them are substantiated.
- Ensure the safety and wellbeing of the children through comprehensive pre-employment screening:<sup>8</sup>
  - Pre-employment screening must be undertaken for people in child-related employment whether a staff member, student on practical training or volunteer.
  - All applicants are to be advised that the position involves a Working with Children Check.
  - Working with Children clearance checks must be completed prior to offer of employment and commencement. The check is to be undertaken and paid for by the employee, and must be undertaken every five (5) years to meet eligibility requirements in the Early Childhood Education and Care sector
  - The Working with Children Check is a prerequisite for paid and unpaid child-related work. Under Part 2, section 6 of the *Child Protection (Working with Children) Act 2012*, child-related work is defined as work in a specific, child-related role or face-to-face contact with children in a child-related sector.
  - The Working with Children Check obtains applicants' National criminal histories from CrimTrac. The records include:
    - Convictions (spent or unspent)
    - Charges (whether heard, unheard or dismissed)
    - Juvenile records
  - If the outcome of a Working with Children Check is a clearance, the cleared individual will be subject to ongoing monitoring for relevant new records for the five-year life of the clearance. Some records will trigger a risk assessment by the Commission for Children and Young People, which may lead to the clearance being revoked.
  - There are specified exemptions from the Working with Children Check. People covered by these exemptions are not required to have a Working with Children Check. The exemptions are:
    - **Children** (under the age of 18)
    - **Administrative**, clerical, maintenance or ancillary work not ordinarily involving contact with children for extended periods
    - **Very short-term** work - Up to five days in a year, with minimal direct or unsupervised contact with children, or as a visiting speaker, adjudicator, performer, assessor or other similar visitor for a one-off occasion, in the presence of one or more other adults.
    - **Informal domestic** work (not on a professional / commercial basis)
    - **Work only [with close relatives](#)** (except as an authorised carer)

<sup>8</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 27,28

## Child Protection (2N)

### Strategies – How will it be done? Cont.

- **Volunteering by a [parent or close relative](#)** (except where the work is part of a formal mentoring program or involves intimate, personal care of children with a disability):
  - with the child's school, early education centre or other educational institution
  - with a team, program or other activity in which the child usually participates or is a team member
- **Co-workers and supervisors** where a child works
- **Interstate visitors:**
  - can work or volunteer at a one-off event such as a jamboree, sporting or religious event or tour, for up to 30 days a year without a NSW Working with Children Check
  - can work or volunteer in any child-related work for up to 30 days a year, if the person holds an interstate Working with Children Check, or is exempt from the requirement to have such a check in his or her home jurisdiction
  - health practitioners working in NSW from outside the State for up to five days in any three-month period.
- **Home carers** with a current police certificate for aged care where the clients are not primarily children
- **NSW Police or Australian Federal Police** officers in the role of police officer.
- **Private practice health practitioners** who do not ordinarily treat children without other adults present.
- Conduct a Working with Children Check<sup>9</sup>
  - Fill in an online application from:
    - Go to [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au) and fill in the online application form. If the individual does not have access to the internet, they are able to call (02) 9286 7219 for assistance.
    - The details provide are to be EXACTLY THE SAME as the details on the individual's identity documents. If the form is submitted with a mistake, the form is to be redone to avoid problems with the proof of identity requirement at step two.
    - Once the form is submitted, the individual will receive an application number that looks like this: APP1234567.
  - Present proof of identity
    - The individual is to go to a NSW motor registry (or NSW Council Agency that offers RMS services) with their application number AND proof of identity (same as for a NSW driver's license). The individual must have BOTH items for their application to proceed.
    - If they are in paid work or to be employed in paid work, they will also be required to pay an \$80 fee for a five-year clearance.
    - An individual will not be required to prove that they are a volunteer or paid worker. Their application number will tell the Customer Service Operator at the NSW motor registry or Council Agency which type of Check they have applied for.

<sup>9</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 28

## Child Protection (2N)

### Strategies – How will it be done? Cont.

- Receiving results of clearance check
  - An individual will receive their outcome and Working with Children Check number by email (or post if they do not have an email address).
- Store records related to pre-employment screening<sup>10</sup>
  - The NSW Commission for Children and Young People may review records during exercising its monitoring and auditing functions. Copies must be kept of all Application Declaration and Consents, and Volunteer/Student Declarations. These should be retained for at least two years after the person ceases employment with the agency. It may be an offence if these forms cannot be supplied if lawfully requested by a Screening Agency or the NSW Commission for Children and Young People within this time frame.
  - The Employer Request for Background Check should be retained until the Check result is obtained. The Check outcome should be retained for at least two years after the person leaves employment with the agency.
- Ensure the safety and wellbeing of the children through prevention and protection strategies:
  - Preventative skills for children are integrated into the daily program to develop each child's:
    - Awareness and ownership of feelings;
    - Self-esteem;
    - Communication skills;
    - Assertiveness;
    - Problem-solving skills; and
    - Persistence.
  - Staff are to:
    - Be given information about child protection, in relation to the wellbeing and protection of every child at Mt Warning Community Preschool, to obtain a clear understanding of their roles and responsibilities as a Mandatory Reporters. All staff are to adopt Mt Warning Community Preschool practices and procedures in the prevention of child abuse;
    - Undertake training in relation to child protection, such as the CHCPRT001 Identify and Respond to Children and Young People at Risk (mandatory for Responsible Person/ Nominated Supervisors
    - Undertake training in preventative programs that are sensitive to ethnicity, special needs and development levels;
    - Ensure that the interests and the safety of the child are paramount, and the child is never held in anyway responsible for the suspected abuse;
    - Be encouraged to listen to children in ways that foster openness by making it clear that they can receive information about 'rude' behaviour and problems they encounter through their day without over-reaction or blame;
    - Note any changes in the child's physical appearance or disposition. Keep up to date developmental records on all children. Note relevant conversations with parents that may relate to a child's behaviour change (e.g. parents separating, new baby in the family etc.);

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- Ensure all children are within sight or sound to other adults and children always;
- Assist with toileting within sight or sound of other caregivers. Keep families informed of the procedures for toileting of children;
- Never leave children unsupervised;
- Supervise students and volunteers always;
- Ensure that no less than two staff members are present on the premises whenever children are attending, and on excursions. Staff to child ratio's will be maintained as per the Department of Community Services regulations always;
- Ensure that children are not taken in the car of a staff member, volunteer, or student unless an authorised person who is responsible for the child is present;
- Call the contacts on the child's enrolment package if the family fails to collect a child from care. If they are unable to be reached, Department of Community Services and the police may be contacted (See Enrolment Guidelines in *Orientation Booklet*). Staff are not to take children into their own home. Inform all families of this procedure. Staff are not to bring children to the centre or deliver them home at the end of the day, unless the staff member is written on the enrolment package as a contact to collect the child. This is the responsibility of the families;
- Ensure that if child abuse is suspected, that their physical contact is not withdrawn from the children. The loss of spontaneous affection would be a detriment to both children and staff. Physical contact is part of the nurturing of children and helps create and sustain trusting relationships and enhances feelings of security;
- Be aware of the individual child's stage of development and needs and plan the curriculum accordingly. Unrealistic challenges in a curriculum can create unnecessary stress for a child;
- Be aware of their own personal level of tolerance and stress factors. Acknowledge that there may be some children that they find more difficult to relate to than others. Discuss this honestly with other staff for develop strategies and to aid. Staff will support each other to minimise possible stress and frustration;
- Develop open communication with parents regarding all aspects of their child's development. Discussions regarding children's behaviour should involve two-way communications;
- Be aware that children with special needs may need more physical contact and physical guidance than other children;
- Work with families to develop appropriate strategies for toileting and behaviour guidance with their children where needed;
- Encourage children to the use of correct terminology for all body parts;
- Encourage children to identify and discuss feelings in a variety of situations;

## Child Protection (2N)

### Strategies – How will it be done? Cont.

- Encourage children’s questioning and decision-making skills;
- Respect children's decisions and choices about touch and encourage them to respect other children's choices;
- Encourage children to distinguish between situations where they feel safe and don't feel safe; and
- Provide an environment where children know that their questions and concerns are listened to.
- Identify possible risk of significant harm
  - A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant state. This means the concern is sufficiently serious to warrant a response by a statutory authority (such as NSW Police Force or Community Services) irrespective of a family’s consent. Refer to significant indicators or go to the Mandatory Reporter Guide at <https://reporter.childstory.nsw.gov.au/s/mrg> to establish online, the risk of significant harm.  
What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or wellbeing, or in the case of an unborn, after the child’s birth.  
The significance can result from a single act or omission or an accumulation of these.
  - A staff member must have reasonable grounds to suspect risk of significant harm. Reasonable grounds refer to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm based on:
    - First hand observation of the child, young person or family;
    - What the child, young person, parent or other person has disclosed; and/or
    - What can be reasonably inferred based on professional training and/or experience.
  - Consult the Mandatory Reporters Guide to assess whether a child or young person is at risk of significant harm at <https://reporter.childstory.nsw.gov.au/s/mrg> and access the online tool.
    - If there are urgent concerns for the child’s health or safety call the police on 000.
    - Where concerns of harm do not meet the significant harm threshold, the centre should offer and coordinate assistance or make a referral to other services, using normal referral networks. Services may also be located through the Family Referral Services or through Human Services Net (HSNet) ServiceLink. The consent of the family should be sought before making referrals.
    - A situation may arise where someone involved in the provision of care for children in a children’s service has witnessed or has suspicion of another person involved in the provision of care for children in a children’s services, of being the one that is abusing children. The same definition of abuse applies to those involved in children’s services as they do for children’s suspected of abuse outside the service.

## Child Protection (2N)

### Strategies – How will it be done? Cont.

- Concerns should be raised with the service management/Licensee or Authorised Supervisor as part of the process of notification. Where the service management/Licensee or Authorised Supervisor is the person that is being notified to the Helpline, contact must be made with an alternate superior. All staff are mandated to report suspicion of abuse even if it involves the service management/Licensee or Authorised Supervisor.
- As well as making the notification to the Helpline the service should contact their Children's Services Adviser from the Department to inform them of the incident as it may also be a breach of the regulations and need to be investigated as a licensing matter.
- Comply with documentation practices<sup>11</sup>
  - Concerns should be documented through factual observation containing descriptions of behaviour or conversation, the date and location where information was obtained, and the source of any information obtained from third parties.
  - Records should be signed and dated so the author of the record can be clearly identified.
  - Personal responses to the child, young person or family are not to be recorded. Personal responses include the staff member's feelings about the child or family, speculation about the causes of difficulties, or fears about the child or family's future. Such responses can be discussed in supervision. Records of supervision discussions on the child's file should be restricted to actions to be taken.
  - Be mindful that any records may be subpoenaed at any time, so they should be clear, concise and unambiguous.
- Document emerging concerns<sup>12</sup>
  - Some child protection concerns will only be identified when several observations are made, and a pattern of cumulative harm is observed. Often ongoing observations about children and young people, not just incidents of parental behaviour will be significant in identifying cumulative harm.
  - Early in the process of identifying a pattern of concerns staff may be uncertain about the significance of observations. Staff should record behaviour and factual observations without recording speculation.
  - Where there is discussion in supervision about possible child protection concerns, staff should document the concerning behaviours or observations that prompted the discussion and document any actions arising from this conversation.

<sup>11</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 37

<sup>12</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 38

## Child Protection (2N)

### Strategies – How will it be done? Cont.

- Decide whether to inform the family<sup>13</sup>
  - Where risk of significant harm is identified, carefully consider whether to advise the parent that a report will be made, considering:
    - Is the parent expecting a report to be made? Would telling them about the report provide opportunities for them to be involved in the process of reducing risks for their child?
    - How likely is it that the parent would leave the area with their child to avoid involvement with statutory authorities?
    - How likely is it that the parent would put pressure on a child or another person to retract information that they have disclosed about the child's safety?
    - How likely is it that the child/children may suffer adverse consequences (e.g. an escalation in violence perpetrated upon them) once the parent/s become aware that a report has been made?
  - Where a child has disclosed sexual abuse, do not tell the parent about the disclosure or the need to make a report. There is an elevated risk in sexual abuse allegations of a child feeling pressure to retract their disclosure.
  - In the event of doubting whether to inform a parent or the possible consequences of telling a parent that a report has been made, always check with the Director.
  - Be aware that the report, though guided by the MRG, may not meet the threshold for statutory involvement. This may be an opportunity to engage family members in activities that may prevent the need for further reports.
  - Where there is concern that parents are over-reacting to the news that a report is needed, it may be helpful to tell them that in many instances where reports are made children will remain in their parents' care, although there is no guarantee that this will be the case.
  - Service can still be provided to a family once a report has been made. When unsure about what Mt Warning Community Preschool role should be in relation to the family, discuss this with the Child Protection Helpline when making the report, or contact your local Community Services Centre if they haven't contact you within 2-3 weeks of making the report.
- Communicate with children and families<sup>14</sup>
  - During early contact with family members, staff should advise adults that confidentiality is limited by their legal obligations to exchange information with other agencies. These obligations relate both to keeping children safe and to the safety of other members of the community, for example relating to reporting crimes or obtaining mental health care.
  - Staff should advise family members that wherever possible they will be advised if a report of risk of significant harm needs to be made and that wherever possible, they will be involved in the process of exchanging information. This may not be possible where to provide this information could place someone at risk of harm or interfere with a legal investigation.

<sup>13</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 41

<sup>14</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 40

## Child Protection (2N)

### Strategies – How will it be done? Cont.

- Where services are provided to older children or young people it may be appropriate to explain limits to confidentiality in relation to mandatory reporting and exchange of information.
- Compile the information needed when reporting for Child Protection Helpline or online Mandatory Reporters Guide (MRG)<sup>15</sup>
  - Have all documentation needed available at the time of the call to ensure that all information can be given at once.
  - It is essential that the Mt Warning Community Preschool maintains well-kept records to prepare and support its ability to make a report to Child Protection Helpline or MRG.
  - When notifying the Child Protection Helpline, it is important to have as much information as possible available to give to the Helpline.
    - The helpline will ask for the following information:
      - ❖ Child's Information
      - ❖ Name of the child or young person (or alias) or other means of identifying them
      - ❖ Age and date of birth (or approximation)
      - ❖ If the child is Indigenous
      - ❖ Cultural background of the child, language spoken, religion and other cultural factors
      - ❖ Name, age of other household children or young people
      - ❖ Address of child and family
      - ❖ If the child has a disability – nature/type, severity, impact on functioning
      - ❖ Is the child/young person subject of an Apprehended Violence order?
      - ❖ Is the child or young person under the care of the minister or residing in out-of-home care?
      - ❖ Family information
      - ❖ Name, age of parents/carer and household adults
      - ❖ Home and/or mobile phone number
      - ❖ Cultural background of parents, languages spoken, religion and other cultural factors
      - ❖ Information about parental risk factors and how they link to child's risk of harm
      - ❖ Domestic violence
      - ❖ Alcohol or another drug misuse
      - ❖ Unmanaged mental health
      - ❖ Intellectual or other disability
      - ❖ Protective factors and family strengths
      - ❖ Non-offending carers' capacity to protect child
      - ❖ Any previous suspicious death of a child or young person in the household?
      - ❖ Is the carer/parent pregnant?
      - ❖ Is the parent/carer subject of an Apprehended Violence order?
      - ❖ Description of the family structure.

<sup>15</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 41

## Child Protection (2N)

### Strategies – How will it be done? Cont.

- ❖ Description of the family structure.
- ❖ Name, age, gender of siblings. Do siblings live with the child or young person?
- ❖ Reporters Details
- ❖ Name, centre name, address, phone and email details
- ❖ Position
- ❖ Reasons for reporting today
- ❖ Nature of contact with child or family
- ❖ Nature of ongoing role with child or family (include frequency, duration and type)
- ❖ If report is being made by someone else in the agency, name of the agency worker who sourced the report
- ❖ Other information
- ❖ If parent knows of the report and their response
- ❖ If child or young person knows about the report and their views
- ❖ Information related to worker safety issues
- ❖ Outcome of mandatory reporter's guide
- Report using the Child Protection Helpline<sup>16</sup>
  - If the situation is urgent, and the belief is that the MRG will indicate that a report of significant harm is required, contact the Child Protection Helpline without delay on **132111**. This action may be warranted if an immediate response is required and there is no access to the MRG.
  - It is important that when making a notification that the notifier asks the following questions in relation to notification:
    - Name of person at Helpline who handled the call
    - What will the next step in the process be?
    - What confirmation will be sent to confirm the report has been made?
    - Is there any further action the notifier needs to take?
    - Notification of those involved in Children's ServicesOnce a report is made to the Child Protection Helpline no further report needs to be made unless additional information comes to hand.
  - It is important that any notification remains confidential, as it is vitally important to remember that no confirmation of any allegation can be made until the matter is investigated.
- Report using the Mandatory Reporter Guide<sup>17</sup>
  - As a rule, use the MRG to check whether a report to the Child Protection Helpline is required. The MRG should be used when there are current concerns and reasonable grounds to suspect that a child is at risk of significant harm. It can be used online at <https://reporter.childstory.nsw.gov.au/s/mrg>

<sup>16</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 17

<sup>17</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 18

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- Unless dealing with an urgent and serious incident, the Mandatory Reporter Guide is best used once all the information is available about the child, or young person and their family circumstances.
- First identify the most relevant decision tree from MRG. This is the decision tree that best describes the most significant concerns about the child or young person.
  - The decision trees are:
    - ❖ Physical abuse;
    - ❖ Neglect;
    - ❖ Supervision;
    - ❖ Physical shelter/environment;
    - ❖ Food;
    - ❖ Medical care;
    - ❖ Mental health care;
    - ❖ Education;
    - ❖ Sexual abuse (0-15 years);
    - ❖ Problematic sexual behaviour;
    - ❖ Psychological harm;
    - ❖ Relinquishing care;
    - ❖ Carer concerns;
    - ❖ Parent/carer substance abuse;
    - ❖ Parent/carer mental health;
    - ❖ Parent/carer domestic violence; and
    - ❖ Unborn child.
- Answer the MRG questions step by step. To obtain additional information about a question click on the text and look at the definition in the box on the right-hand side of the screen. Check the definitions carefully, as the outcome of the MRG is dependent on accurate application of the definitions.
- Answer every question on the screen to proceed to the next screen. If a question is missed, red text prompts will appear.
- Sometimes prompts will appear where an issue needs to be raised with parents before finalising the MRG decision.
- The MRG will assist in identifying cumulative harm by prompting consideration of additional information that indicates that harm to the child is chronic and has accumulated over time. Questions about cumulative harm include:
  - Observations of developmental delay that may be associated with chronic neglect;
  - Observations of behaviour change that may be associated with trauma;
  - Escalating stress related to parent concerns; and
  - Child coping strategies that may be indicative of neglect.
- If the notifier believes that a child is at risk of significant harm and does not receive a 'Report or Report Immediately' decision, check to see if there is a decision tree that may better fit the concerns. This is especially likely if concerns relate to neglect where several different decision trees may be applicable, including carer concern and psychological harm.

## Child Protection (2N)

### Strategies – How will it be done? Cont.

- Document a report of “Risk of Significant Harm” decision<sup>18</sup>
  - Where the MRG decision is ‘Report/Report Immediately,’ generate and retain in the file a pdf copy of the decision report.
  - Record on file the information used in completing the guide. This should include details of any incidents observed, or disclosed, observations of the child or young person’s appearance or behaviour, any injuries observed, and any concerns related to domestic violence, carer’s alcohol or other drug use, or mental health issues.
- Respond to an “Immediate Report/Report to Community Services” decision<sup>19</sup>
  - Where the MRG decision is ‘Immediate Report to Community Services’ this indicates an immediate response is required. Contact the Child Protection Helpline immediately, following the instructions on the screen. Do not fax the report.
  - Where the MRG decision is ‘Report to Community Services’ contact the Child Protection Helpline promptly, and definitely before leaving work that day. Follow the directions on the screen in relation to contacting the Helpline, including any directions regarding faxed communication. Direct communication is preferable to faxed contact.
  - In some instances, calling the police or an ambulance is also required. If unsure sure what other action is required ask the Child Protection Helpline, or if the need is urgent call 000 and explain the situation.
  - Professional judgement should guide the use of the MRG, so if the Final Decision indicates no need to report, but where the circumstances clearly indicate that the child or young person is at risk of significant harm, make a report regardless. Explain to the Child Protection Helpline why the concerns meet the threshold of risk of significant harm. Be aware that concerns do not always mean a child or young person is at risk of significant harm according to the legislation.
- Receive feedback from the Child Protection Helpline<sup>20</sup>
  - The Child Protection Helpline will assess and determine whether the report meets the threshold. In some instances, although the MRG decision is to report, the Helpline assessment will indicate that the threshold has not been met. Feedback will be received. Where this is the case, refer to ‘Consult with a Professional.’
  - Reports of risk of significant harm will be prioritised at the local Community Service Centre (CSC) based on local information and available resources. Contact the local CSC to obtain the progress of the report. Wait at least a week for the report to be allocated locally. It is important to be aware that not all reports of risk of significant harm will be allocated as the CSC has limited resources and makes allocation decisions based on competing priorities.
  - If the report did not meet the threshold for risk of significant harm, additional information may arise which may change the level of risk. Be aware that an MRG decision relates only to the information that was available at the time the tool was used. If there is additional information, check the MRG again.

<sup>18</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 19

<sup>19</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 19

<sup>20</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 19

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- Respond to a “Consult with a Professional” decision<sup>21</sup>
  - A ‘Consult with a Professional’ decision means that the concerns are close to the threshold for risk of significant harm, and reporters should consider what more they could do that would address child wellbeing concerns.
  - Consult with a Professional may mean:
    - Talking with the Director about options for referral or other strategies to be helpful. Address how to talk to the family about concerns, or how to promote their consideration of referral options;
    - Talking to other practitioners who know family members, children and young people, to ensure the information is accurate about the family and to explore whether there are other strategies that could support the child or young person; and/or
    - Talking to a practitioner with specialist knowledge about concerns relevant to the family.
  - At this level of concern some government departments and agencies will contact their Child Wellbeing Unit. The Child Wellbeing Unit will have some access to information about concerns accumulated across government departments. This information will be used to determine the level of risk and the recommended course of action, which can include making a report, exchanging information or making a referral. This information gathering process can assist the reporter in their decision about making a report or not. Knowing whether the family is benefiting from services can be important in determining the level of concern. Ensure that information is accurate by checking with services directly.
- Respond to a “Consult with your Referral Network” decision<sup>22</sup>
  - The ‘Consult with your Referral Network’ final decision indicates that there is no risk of significant harm, but the family may benefit from a referral to additional services and has shown a willingness to accept services. For example, there may be a need for specialist mental health services or respite care. Check with members of a relevant local interagency, or other local services or check [www.hsnet.nsw.gov.au](http://www.hsnet.nsw.gov.au).
- Respond to a “Document and Continue Relationship” decision<sup>23</sup>
  - A ‘Document and Continue Relationship’ final decision indicates that concerns don’t meet the threshold for reporting.
  - If it is not part of the usual role to continue service provision to the family, there is no need to continue contact.
  - If it is part of the usual role to continue the relationship, the opportunity arises to be aware of additional information about the family or deterioration in the family’s circumstances, and to use that information to review the MRG. The opportunity may also arise to assist the family to address concerns through referral or provision of direct services.

<sup>21</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 20

<sup>22</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 20

<sup>23</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 21

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- Respond to educational concerns<sup>24</sup>
  - Concerns relating to school enrolment and attendance are dealt with on the MRG as educational neglect.
  - If a child or young person who is not enrolled at school but who is within the legal school attendance age, the MRG will advise that contact is made with the local Department of Education. A link to contact details is provided on the Final Decision Screen.
- Report prenatal concerns<sup>25</sup>
  - The law provides for reports to be made for unborn children where there are concerns that the child may be at risk of significant harm after his or her birth. The MRG decision tree ‘unborn child’ can be used to determine whether there are reasonable grounds for reporting an unborn child to the Child Protection Helpline.
  - The purpose of prenatal reporting is to enable referral of the mother to support services which may reduce the risk of placement after birth and assist in resolving concerns.
  - Prenatal reporting is not mandatory. However, reporting is mandatory if once the child is born it is determined that the birth mother of the child did not engage successfully with support services to address the risk factors that gave rise to the report. Most prenatal reports are made by staff involved in the provision of ante-natal care, but anyone can make a prenatal report if they believe there are reasonable grounds to do so.
- Report homelessness<sup>26</sup>
  - The law provides for reporting of children (0-15 years) who are homeless. Generally, these situations will be dealt with by the MRG under neglect or psychological harm.
  - The law requires that anyone providing residential accommodation to a child (0-15 years) without their parent’s permission is mandated contact the Child Protection Helpline.
- Document concerns “Below the Threshold of Significant Harm’ decision<sup>27</sup>
  - If the MRG decision indicates concerns are below the reporting threshold, summarise the information utilised in completing the guide, and generate and retain in the file a pdf copy of the decision report.

<sup>24</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 21

<sup>25</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 21

<sup>26</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 21

<sup>27</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 22

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- Notify the NSW Ombudsman
  - Special procedures are in place to deal with allegations of reportable conduct or convictions against employees of all government and certain non-government agencies in NSW.
  - The Ombudsman Act requires that the Licensee or committee members notify the Ombudsman within 30 days of becoming aware of any reportable allegations or conviction made against an employee involved in the provision of children’s services. The Ombudsman needs to be informed of any reportable allegation regardless of the outcome and the confirmation or non-confirmation of the allegation, unless the investigation by the agency considers the allegation to be a trivial or negligible application of physical force.
  - Download forms required from [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au).
  - Some matters are notifiable to the Ombudsman as an allegation of reportable conduct but are only reportable to the Child Protection Helpline if there are also current concerns that a child or young person is at significant risk.
  - It is important that those responsible for the service ensure that adequate support is available for those against which allegations are made and have been investigated. It is important to ensure that they are given the necessary and appropriate support needed to get through the process.
- Exchange information using Chapter 16A<sup>28 29</sup>
  - Chapter 16A enables agencies prescribed by law to exchange information about children and young people without consent. The purpose of the legislation is to remove barriers to providing services to children, young people and their families. Information exchanged should be related to the safety, welfare and wellbeing of children or a child. The purpose of providing this information is to enable an organisation to do one or more of the following things:
    - Make a decision, assessment or plan for a child or young person;
    - Initiate or conduct an investigation (e.g. NSW Police);
    - Provide a service related to safety, welfare or wellbeing; and/or
    - Manage risks to children or young people as an employer.
  - If the request is lawful, agencies are expected to comply. In general, unless the matter is urgent, staff should check with their Director before providing information, to ensure that the exchange is lawful. This includes establishing the credentials of the person making the request.
  - Information that can be requested or provided may relate to:
    - A child or young person’s history or circumstances;
    - A parent or other family member;
    - Any person/s having a significant or relevant relationship with a child or young person;

<sup>28</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 23

<sup>29</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 42

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- The facts surrounding whether a person poses a risk to the safety, welfare or wellbeing of a child or young person; and/or
- The centre's dealings with the child or young person, including past support or service arrangements subject to the exemptions set out in section 245D(4) of the Act and the outcomes of these dealings.
- Agencies are only obliged to share information they currently hold.
- Information can be exchanged verbally, but agencies can make requests in writing and provide information in writing. In an emergency, agencies should be able to access information verbally. Where information is exchanged verbally, a file note should be made to that effect, including reference to Chapter 16A as the legal basis for the exchange. Form letters for exchanging information can be located in YAPA's Interagency Guidelines for Child Protection Intervention. Where information will be used to make significant decisions or plans, and there is time to provide it in writing, this may be preferable, since it enables the agency to keep a record of the information provided, and to ensure the accuracy of the information received by the other agency.
- Check the identity of a caller before providing verbal information, for example, by ringing them back via their agency central number. Ask the caller to read back what was recorded in their notes regarding the verbal information given, to ensure that it has been recorded accurately, although agencies are not obliged to do this.
- Information obtained under Chapter 16A can be provided to other prescribed bodies. Chapter 16A does not permit agencies to share information about the identity of a reporter of risk of significant harm without that person's consent.
  - Prescribed bodies are:
    - ❖ NSW Police Force;
    - ❖ A State government department or a public authority, including Community Services;
    - ❖ A government school or a registered non-government school or a TAFE;
    - ❖ A public health organisation or a private hospital;
    - ❖ A non-government fostering agency or adoption agency;
    - ❖ A designated agency that arranges out of home care;
    - ❖ Any agency that conducts a residential child care centre or a child care service under the *Children (Care and Protection) Act 1987*; and
    - ❖ Any other organisation that has 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.

Note that this legislation relates only to organisations in NSW. Sole practitioners such as doctors, speech therapists, lawyers or counsellors are not covered by Chapter 16A, nor are Federal agencies such as Centrelink, the Family Court, and the Child Support Agency. However federally funded non-government agencies that provide relevant services are covered.

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- When information is exchanged under Chapter 16A it is not necessary to have the family's consent either verbally or in writing.
- Consent in writing is necessary for all other exchanges of information, for example, where information is requested from a counsellor or medical practitioner in sole practice.
- Service users should not be asked to sign forms giving open consent to staff approaching agencies in general to exchange information. Open consents imply that service users can withdraw consent. For exchanges of information under Chapter 16A service providers may still be obligated to exchange information even if previously signed consent has been withdrawn.
- When an exchange of information is proposed, consider whether it is necessary for information to be exchanged without family involvement. This will depend on:
  - Whether the centre is still providing services to the family;
  - Whether there are concerns for staff safety if the family is advised of the exchange of information;
  - Whether the centre anticipates being able to continue to provide services to the family after information is exchanged; and
  - Whether the centre and the family have a shared view about the needs of children and young people and the progress that has been made to ensure these are addressed.
- While Chapter 16A enables agencies to exchange information without family members' consent, where possible family members should be involved in this process as this promotes transparency and trust and ensures that there is mutual understanding between different parties.<sup>30</sup>
- Where information is requested urgently it may not be possible to involve families at the time, but they can be advised later of the information exchanged and the reason it was needed.
- Unless there are reasonable grounds to be concerned that involving the family will increase safety concerns about the child, it is preferable to involve family members in the process.
- Ways of involving a family in information exchange may include:
  - Having an informal face to face meeting between the family, the centre, and the other agency with whom information is to be shared.
  - Writing a letter to the centre providing the requested information and sharing this with the family.
  - Talking with the family about the information to be exchanged, or the information that has been received from another agency.
- The law does not set an age at which children can give consent to sharing of information, or when they should be advised about information which is shared about them. There is no obligation to advise children that information about them has been provided to another party if it would compromise the child's safety, welfare or wellbeing, or that of another person.<sup>31</sup>

<sup>30</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 40

<sup>31</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 43

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- Use of Chapter 16A in relation to unborn children is restricted to circumstances where the unborn child has been subject to a prenatal report.
- Decline sharing information under Chapter 16A<sup>32</sup>
  - In certain circumstances the law states that requests for information can be declined.<sup>33</sup>
  - These include where the information would prejudice legal proceedings or contravene legal professional or client legal privilege or expose the existence or identity of a confidential source of information that relates to law enforcement or administration; or endanger a person's life or physical safety; or not be in the public interest.
  - A decision to decline a request for information must be communicated in writing, and the legal basis for the decision given. The relevant legislation should be quoted in the correspondence.<sup>34</sup>
  - Where two prescribed bodies disagree about the application of Chapter 16A in relation to exchanging information they should address this as an interagency dispute.
- Provide information under Section 248<sup>35</sup>
  - Under Section 248, Community Services can direct a range of agencies, including non-government services providing welfare, children's services and residential services, to provide information related to the safety, welfare and well-being of a child or young person. Community Services may use this provision where agencies are not covered by Chapter 16A, or to enable prompt access to information if there are difficulties in negotiating a request under Chapter 16A.
- Respond to allegations<sup>36</sup>
  - Under the Commission for Children and Young People Act 1998 employers are responsible for investigating certain allegations in relation to employee conduct involving children and to make certain reports to the Commission in relation to findings of those investigations. Designated non-government agencies include childcare centres. The Ombudsman Act applies to allegations made against any employee employed by the centre, not only those working in child care.
  - Allegations that paid staff member, management member, volunteer or student has committed any of the following behaviours in relation to a child, the agency is responsible for taking action that will:
    - Ensure the safety of the child involved, and other children who are clients of the agency, and provide support as required;
    - Ensure the confidentiality of the staff member in the course of taking action, until the outcome of the allegation is determined;

<sup>32</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 26

<sup>33</sup>S.245D, Children and Young Persons (Care and Protection) Act 1998

<sup>34</sup>S.245D, Children and Young Persons (Care and Protection) Act 1998

<sup>35</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 26

<sup>36</sup>Child Protection Guide to Policy and Practice 2011, YAPA, page 35, 36

# Child Protection (2N)

## Strategies – How will it be done? Cont.

- Ensure risk of significant harm is reported to the Child Protection Helpline;
- Ensure that allegations of a crime are reported to NSW Police;
- Ensure that information needed to address the allegation is collected considering the direction and activities of the Child Protection Helpline and the NSW Police;
- Ensure that the findings and action taken in relation to the allegation are supported by the evidence;
- Ensure that the allegation, response and outcome are documented and kept with the employee's staff record in a secure and confidential manner; and
- Ensure that relevant employment proceedings are reported to the Commission for Children and Young People. A relevant employment proceeding is a completed disciplinary proceeding where an employer, or a professional or other body that supervises the professional conduct of the employee has found:
  - ❖ Reportable conduct occurred, or some evidence that it occurred, or
  - ❖ An act of violence occurred, or some evidence that it occurred, during employment and in the presence of a child.
- Employers cannot report conduct where they have found:
  - ❖ The reportable conduct or act of violence did not occur; or
  - ❖ The allegations about the conduct were false, vexatious or misconceived.
- The behaviours of concern are:
  - Sexual offence, or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence);
  - Any assault, ill-treatment or neglect of a child; and
  - Any behaviour that causes psychological harm to a child, even if the child consented to the behaviour.
- It is an offence for prohibited persons to remain in child-related employment so the centre cannot permit an employee to remain in child-related employment if advice is received that an employee has become a prohibited person. See [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au) for more information about prohibited persons. Check with the Commission for Children and Young People if advised of reportable allegations against an employee relating to a child where the conduct occurred outside the workplace.
- Further information in relation to reportable conduct and relevant employment proceedings can be obtained to [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au) or by contacting the NSW Advocate for Children and Young People on (02) 9248 0970.

# Child Protection (2N)

## Strategies – How will it be done? Cont.

### The Approved Provider will/ Nominated Supervisor will:

- The Approved provider will ensure that persons placed in day to day charge of the service have a current qualification in Child Protection  
<https://education.nsw.gov.au/early-childhood-education/working-in-early-childhood-education/child-protection-training-requirements>
- Ensure that any adult working or volunteering with children completes a Working with Children Check and does not commence employment without their Working with Children Check verified. Any person whose working with children check has been disqualified as a result of failing to qualify for a working with children check renewal, will not be continued to be employed by the service. This check is verified when renewed;  
[https://www.kidsguardian.nsw.gov.au/ArticleDocuments/316/WWCC\\_brochure.pdf.aspx](https://www.kidsguardian.nsw.gov.au/ArticleDocuments/316/WWCC_brochure.pdf.aspx)
- Ensure every adult working with children is made aware of the Children and Young Persons (Care and Protection) Act 1998 and Keep Them Safe: A shared approach to child wellbeing and of their obligations under this law and action plan (Education and Care Services National Regulation, Regulation 84, National Quality Standards QA2);
- The Approved Provider must notify the regulatory authority through the NQA-ITS **within 7 days** of the following:
  - Any incident where the any employee reasonably believes that physical abuse or sexual abuse of a child or children has occurred or is occurring while the child is or the children are being educated and cared for by the education and care service;
  - Allegations that physical or sexual abuse of a child or children has occurred or is occurring while the child is or the children are being educated and cared for by the education and care service (other than an allegation that has been notified under section 174(2)(b) of the Law).
  - The Head of Relevant Entity (HRE) - Approved Provider, must give written notice to the Office of the Children’s Guardian within 7 days of becoming aware of a reportable allegation. A Final Report must be submitted within 30 days of becoming aware of reportable conduct, upon conducting further investigation. If a final report cannot be provided within 30 calendar days of becoming aware of reportable conduct, the HRE - Approved Provider, must contact the Office of the Children’s Guardian and submit an Interim Report.
- Orientate every working and volunteering adult to this child protection policy, Keep Them Safe/Child Story protocols and Mandatory Reporter responsibilities and ensuring their regular review of these;

# Child Protection (2N)

## Strategies – How will it be done? Cont.

### Educators and Staff will:

- Develop trusting and secure relationships with all children at the service;
- Make reports of current concerns for any child at risk of significant harm to the **Child Protection Helpline for Mandatory Reporters**; and
- Make appropriate responses to all disclosures of abuse and any allegation of abuse against staff members of the service.

## Documentation of Current Concerns

### The Approved Provider/Nominated Supervisor will:

- Support staff through the process of documenting and reporting current concerns of children at risk of significant harm; and
- Provide all staff and educators with clear guidelines around documentation and a template to support this.

### Educators and Staff will:

- Make a record of the indicators observed that have led to the belief that there is a current risk of harm to a child or young person. Information on indicators of risk of harm are outlined in the NSW Mandatory Reporter Guide which is accessible at <https://reporter.childstory.nsw.gov.au/s/mrg>
- Discuss any concerns with the Nominated Supervisor of the service.
- Advise the Nominated Supervisor of their intention to make a report to the **Child Protection Helpline (132 111)**;
- Advise the Nominated Supervisor when a report has been made to the **Child Protection Helpline**.

## Mandatory Reporting

### The Approved Provider/Nominated Supervisor will:

- Provide all staff and educators working directly with children with a copy of this Child Protection Policy and a copy of the Mandatory Reporter Guide to assist them in their reporting;
- Provide all staff and educators working directly with children with access to the Child Wellbeing and Child Protection NSW Interagency Guidelines; and
- Display the **Child Protection Helpline** number (**132 111**) on all phone and lists of emergency contact number in the interests of timely reporting.

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## Educators and Staff will:

- In an emergency, where there are urgent concerns for a child's health or life, it is important to contact the police, using the emergency line '000';
- Using the Mandatory Reporter Guide, answer the questions relating to concerns about a child or young person. At the end of the process, a decision report will guide as to what action to take. The Nominated Supervisor is available if staff require assistance to use this online tool;
- If the Mandatory Reporter Guide determines that there are grounds to suspect a risk of significant harm to a child or young person, the staff member or educator will either generate an eReport or phone the **Child Protection Helpline number (132 111)**;
- 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;
- If the Mandatory Reporter Guide determines that an educator or staff member's concerns do not meet the risk of significant harm threshold they do not need to make a report to the **Child Protection Helpline**, however, they should discuss the matter with the Nominated Supervisor to determine whether the child or family would benefit from the assistance of another agency;
- The staff member or educator should monitor the situation and if they believe there is additional information that could be taken into account, please repeat steps 1 to 5 as required.

## Disclosures of Abuse

### Educators and staff will:

- React calmly to the child making the disclosure;
- Listen attentively and later write down the child's **exact** words;
  - Provide comfort and care to the child.
  - Follow the steps for reporting as per the Mandatory Reporter Guide.
- Reassure the child or young person that:
  - It is not their fault;
  - It was right to tell;
  - It is not OK for adults to harm children - no matter what;
  - Explain what will happen now - that it is part of your job to tell people who can help the child or young person.

### Educators and Staff will not:

- Prompt the child for further details or ask leading questions which would make the child feel uncomfortable or has the potential to jeopardise any future legal proceedings that may arise because of any investigation.

*It is important to understand that our role is solely to support the wellbeing of the child at all times, not to investigate further any disclosure made by the child.*

## Child Protection (2N)

### Allegations of Abuse Against Staff, Educators, Volunteers or Students

#### The Approved Provider/Nominated Supervisor will:

- Develop and maintain a system of appropriate record keeping for all allegations to ensure detailed documentation is made and stored as required;
- Take all allegations of abuse seriously and clarify what is being alleged with the person who is making the allegation;
- Assess whether or not a child or young person is 'at risk of significant harm' and, if so, make a report to the **Child Protection Helpline**;
- Determine whether the allegation is a reportable allegation, or reportable conviction:
  - [www.kidsguardian.nsw.gov.au/ArticleDocuments/1021/Identifying\\_reportable\\_allegations.pdf.aspx?Embed=Y](http://www.kidsguardian.nsw.gov.au/ArticleDocuments/1021/Identifying_reportable_allegations.pdf.aspx?Embed=Y)
- 7-day notification form will be completed by the HRE - Approved Provider and submitted to the Office of the Children's Guardian within 7 days of becoming aware of reportable allegation, as required under the Children's Guardian Act 2019;
  - [www.kidsguardian.nsw.gov.au/child-safe-organisations/reportable-conduct-scheme/organisations-in-the-scheme/notify-the-childrens-guardian](http://www.kidsguardian.nsw.gov.au/child-safe-organisations/reportable-conduct-scheme/organisations-in-the-scheme/notify-the-childrens-guardian)
  - [www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/7-DayNotificationForm.pdf.aspx?Embed=Y](http://www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/7-DayNotificationForm.pdf.aspx?Embed=Y)
- Consider whether or not police need to be informed of the allegation and if so, make a report;
- Ensure confidentiality is maintained at all times and that systems are in place to deal with any breaches of confidentiality;
- Undertake a risk management approach following an allegation to ensure the protection and safety of children, staff and visitors to the service. Based on this risk assessment, decisions will be made to manage the risks that have been identified;
- Develop an investigation plan of the matter. Obtain relevant information from a range of sources. This may include a statement from the person who made the allegation; statements from witnesses and a statement from the person against whom the allegation has been made and any other relevant documentation;
  - If the allegation is being investigated by Department of Communities and Justice or the Police, the service will be guided by their advice as to whether they should independently investigate the allegation;
  - If the investigation is carried out by the service, the information that has been gathered will be assessed and a finding made as to whether the allegation is false, vexatious, misconceived, not reportable conduct, not sustained or sustained. The reasons for the finding will be clearly recorded to ensure the decision making has been transparent;
- The educator, volunteer or student will be advised of the outcome of the investigation in writing. Advice will be provided about the investigation finding and any follow up action that may be required. Advice will also be provided about any rights of appeal and the person will

be advised that the **Office of the Children’s Guardian** has been notified and the **Joint Child Protection Response (JCPR) Program** also notified of the relevant employment proceeding (if relevant);

## Child Protection (2N)

- 30-day interim report form or Entity report form (to be provided after the investigation or determination is completed) will be completed by the HRE - Approved Provider and submitted to the Office of the Children’s Guardian with 30 calendar days of becoming aware of a reportable allegation, as required under the Children’s Guardian Act 2019;
  - [www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/30-DayInterimReportForm.pdf.aspx?Embed=Y](http://www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/30-DayInterimReportForm.pdf.aspx?Embed=Y)
  - [www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/EntityReportForm.pdf.aspx?Embed=Y](http://www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/EntityReportForm.pdf.aspx?Embed=Y)
- Department of Communities and Justice will also be informed of the outcome of the investigation.

### Informing the Educator, Volunteer/Student

#### The Approved Provider/Nominated Supervisor will:

- Treat the staff member/educator/volunteer/student with fairness at all times and uphold their employee rights at all times;
- Depending on the nature of the allegation, arrange to inform the person immediately (though be guided by the advice of DCJ or the police);
- Arrange for the person against whom an allegation has been made, to have a support person attend the meeting. This support person must not participate in the discussions throughout the meeting;
- Make accurate documentation of all conversations, and ensure all records are kept confidentially;
- Offer counseling or support to the person subject to the allegation;
- Depending on the nature of the allegation made, the person subject to the allegation may be suspended pending further investigation;
- After all investigations are completed, provide the educator/carer/ volunteer with verbal and written notification of the outcome of the investigation.

#### Rights of All Parties

- The decision-making process throughout the investigation will be based on the safety and wellbeing of the child/ren and the staff/carers/carer's household members;
- Consideration will be taken in relation to actual or potential 'conflicts of interest' that may be held by the investigator
- All reportable allegations will be notified to the Office of the Children’s Guardian. The person, against whom the allegation has been made, will be notified of this and will also be notified of the investigation find and follow up action, including the notification to the Joint Child Protection Response Program;

- The person, against whom the allegation has been made, will be notified of any appeal mechanisms if they are not satisfied with the investigation process or the outcome of the investigation;

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- The Approved Provider, Nominated Supervisor, or other nominated person who conducts the investigation, will ensure that they act without bias, without delay and without conflict of interest; and
- All parties can complain to the Office of the Children’s Guardian if they are not satisfied with the conduct of the investigation.

**Further information on the Office of the Children’s Guardian can be obtained by:**

**Phone: 02 8219 3800**

**Email: [reportableconduct@kidsguardian.nsw.gov.au](mailto:reportableconduct@kidsguardian.nsw.gov.au)**

**Web: [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au)**

- ❖ Family and Community Services Helpline: 133 627
- ❖ Child Protection Helpline Number: 133 627
- ❖ Support Line for Mandatory Reporters 1800 772 47

## Monitoring, Evaluation and Review

This policy will be monitored to ensure compliance with legislative requirements and unless deemed necessary through the identification of practice gaps, the service will review this Policy every 24 months.

Families and staff are essential stakeholders in the policy review process and will be given opportunity and encouragement to be actively involved.

In accordance with R. 172 of the Education and Care Services National Regulations, the service will ensure that families of children enrolled at the service are notified at least 14 days before making any change to a policy or procedure that may have significant impact on the provision of education and care to any child enrolled at the service; a family’s ability to utilise the service; the fees charged or the way in which fees are collected.

<b>Approved by President</b>	
<b>Date Approved:</b>	<b>Date of Review: October, 2022</b>
<b>Date Adopted:</b>	<b>Review Cycle: Bi-annual</b>