

Tocumwal Pre-School

SECTION: 2 - Children's Health and Safety

POLICY NO: 2.1.0

POLICY: Child Protection

REVIEW DATE: 8.2.18

DATE OF APPROVAL:

Introduction

The Children and Young Persons (Care and Protection) Act 1998 applies the principal that the safety, welfare and wellbeing of child/young person are paramount. 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. The goal of *Keep Them Safe* is that all children in NSW are healthy, happy and safe, and grow up belonging in families and communities where they have opportunities to reach their full potential.

Goals – What are we going to do?

Keep Them Safe recognises the importance of the wellbeing of all children and young people, with the aim of providing appropriate support to families earlier, to prevent children and young people requiring statutory child protection intervention. Our goal is to ensure that every reasonable precaution is taken to protect children being educated and cared for by the centre from harm. Our centre (educators, staff, management and volunteers) has a responsibility to defend children's right to care and protection to ensure their safety, welfare and wellbeing, and a responsibility to report any children at significant risk of harm. All educators and volunteers of our service are Mandatory Reporters and are required to report to the Child Protection Helpline (Phone: 133 627) 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. To achieve this *Keep Them Safe* encourages families and communities, government and non-government organisations to work together to support children, young people and families to pursue the following outcomes:

- children have a safe and healthy start to life
- children develop well and are ready for school
- children and young people meet developmental and educational milestones at school
- children and young people live in families where their physical, emotional, and social needs are met
- children, young people, and their families have access to appropriate and responsive services.
- children and young people are safe from harm and injury

National Quality Framework, Quality Area 2: Children's Health and Safety

Standard 2.2 Safety - Each child is protected

- **2.2.3 – Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse and neglect**

ALL STAFF AND MEMBERS OF THE COMMITTEE OF MANAGEMENT OF THE PRE-SCHOOL ARE MANDATORY REPORTERS AND ARE REQUIRED TO FOLLOW THE PROCEDURE BELOW.

Key definitions

In this document the term:

At risk of significant harm (ROSH) – in relation to a child or young person means that there are current concerns for the safety, welfare or well-being of the child or young person because of the presence to a significant extent of any one or more of the following circumstances.

- 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.

'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. It does not mean that you are required to confirm your suspicions or have clear proof before making a report.

(See Section 2, Appendix 28 Risk of Significant Harm Threshold Fact Sheet)

Mandatory Reporter Guide (MRG) - indicates the structured decision-making tool developed to assist mandatory reporters determine whether concerns meet the threshold of risk of significant harm.

(See Section 2, Appendix 29 Mandatory Reporter Guide Fact Sheet, Appendix 30 Mandatory Reporter Guide)

Strategies - How will it be done?

The Approved Provider/Nominated Supervisor will:

- Ensure that any adult working directly with children provides current Working with Children Check evidence prior to employment;
- Ensure every adult working with children is made aware of the Children and Young Persons (Care and Protection) Act 2012 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 Amended Regulation, Regulation 84);
- Orientate every working adult to this child protection policy, Keep Them Safe protocols and Mandatory Reporter responsibilities and ensuring their regular review of these;
- Ensure that the nominated supervisor of the service and any certified supervisor in day to day charge of the service have successfully completed a course in child protection approved by the

New South Wales Regulatory Authority and that they complete refresher courses at least every year.

- Review this policy at least every year to maintain current “best practice” in safeguarding procedures and observe any changes in legislation

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 133 627** for Mandatory Reporters; and
- Be aware that it is an offence under the National Law to subject a child being educated and cared for to any form of corporal punishment, or any discipline that is unreasonable in the circumstances.
- 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.
- If the MRG requires a report then the Nominated Supervisor will make the report through the Community Services’ **Child Protection Helpline 133627**

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. The person concerned must document (with signature and date) all concerns and keep a record of these in the child’s file and fill out the Mandatory Reporters Guide. (MRG) A copy of the report generated from the Mandatory Reporters Guide must be printed, child’s details filled out and kept in the child’s file.
- Staff are encouraged to use the Mandatory Reporter Guide (MRG) to assist in deciding whether concerns for the safety, welfare and wellbeing of children and young people meet the risk of

significant harm threshold. Information on indicators of risk of harm are outlined in the NSW Mandatory Reporter Guide which is accessible at

www.keepthemsafe.nsw.gov.au/reporting_concerns/mandatory_reporter_guide;

- Staff member should give a copy of this report and documented concerns to the Nominated Supervisor who will act on the result of the guide.
- 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 133 627**
- Advise the Nominated Supervisor when a report has been made to the Child Protection Helpline.
- If the MRG does not indicate a report then the staff member may still make a report or refer the family to other agencies for support.
- Information may be requested from other agencies in regard to the family. Chapter 16A allows for the exchange of information between prescribed bodies without any Community Services involvement. Direct information sharing will enable greater collaborative decision making between agencies.
- Staff should continue to monitor and document the situation and if at any time the situation changes the MRG tool will be consulted again.

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 133 627** on all phone and lists of emergency contact number in the interests of timely reporting.

Educators and Staff will:

1. 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**';

2. 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;
3. 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 phone the **Family and Community Services Helpline on 133 627**. Reports can also be made using the Reporting Fax form, available from Family and Community Services website;
4. 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;
5. 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 Family and Community Services 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;
6. 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.

**A Support Line for Mandatory Reporters is available
8am to 5pm Monday to Friday on 1800 772 479.**

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 as a result 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.

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; Such documentation, including personnel employment, incident and investigation reports, liability insurance policies and other relevant incident-related correspondence should be retained for no less than 50 years.
- 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 or not the allegation is a reportable allegation, a reportable conviction, or reportable conduct. For determination, reference will be made to: www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/child-protection (See Section 2, Appendix 34 Defining Reportable Conduct)
- Report reportable allegations and reportable convictions to the Ombudsman within **30 days of receipt**
- Consider whether or not the police need to be informed of the allegation and if so, make a report;
- Automatically suspend an employee from work or other duties within the centre if they are under investigation (internally or by the police) for committing abuse
- Automatically terminating employment of any employee found guilty of committing abuse (either by an internal investigation or by a court)

- If a report is made to the police, complete a *SI01 Notification Of Serious Incident Form* and submit to Department of Education and Communities within **24 hours of the incident**;
- If a report has not been made to the police, complete a *NL01 Notification of Complaints, non-serious incidents and additional children in an emergency Form* and submit to the Department of Education and Communities within **7 days of the incident**;
- 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 in order 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 Family and Community Services 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 that 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 NSW Ombudsman has been notified and the *Commission of Children and Young Persons* also notified of the relevant employment proceeding (if relevant);
- **Part B** of the Ombudsman Notification form will be completed and sent to the Child Protection Division, NSW Ombudsman with all supporting documentation gathered during the investigation;
- Family and Community Services 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 FaCS 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 counselling 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 well being 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 Ombudsman. 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 Commission of Children and Young Persons, if relevant;
- 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;
- 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 Ombudsman if they are not satisfied with the conduct of the investigation.

Further information on the Ombudsman can be obtained by:

Phoning: 02 9286 1000

or toll-free (outside Sydney metro) 1800 451 524

Emailing: nswonbo@ombo.nsw.gov.au

Web: www.ombo.nsw.gov.au

Statutory Legislation & Considerations

- *Children and Young Persons (Care and Protection) Act 1998*
- *Child Protection (Working with Children) Regulation 2013*
- *Commission for Children and Young People Act 1998*
- *Ombudsman Act 1976*
- *Education and Care Services National Law Act 2010, Sections 166–167*
- *Education and Care Services National Amended Regulations 2014: Regulations 84,168*

Sources

- Community Childcare Co-operative (NSW) Limited
- Council of Social Service of New South Wales 2010, Keep Them Safe: www.ncoss.org.au/
- NSW Government, Department of Human Services, Community Services, Resources for Mandatory Reporters, accessed from:
<http://www.community.nsw.gov.au/preventing-child-abuse-and-neglect/resources-for-mandatory-reporters>
- NSW Government, Department of Premier and Cabinet, Child Wellbeing & Child Protection: NSW Interagency Guidelines, accessed from:
www.keepthemsafe.nsw.gov.au/reporting_concerns/interagency_guidelines
- Guide to the Education and Care Services National Law and National Regulations 2011
- Guide to the National Quality Framework, February 2018