

POLICY NAME

Child Safe

DATE ADOPTED

12 September 2022

REVIEW DATE

12 September 2024

COUNCIL MINUTE NUMBER

PRC21

RELATED DOCUMENTS

Including, but not limited to, Children's Guardian Act 2019 (NSW); Office of Children Guardian Reportable Conduct Fact Sheets; Children and Young Persons (Care and Protection) Act 1998 (NSW); Child Protection (Working With Children) Act 2012; Child Protection (Working with Children) Regulation 2013 (NSW); Children (Education and Care Services National Law Application) Act 2010 (NSW); Crimes Act 1900 (NSW); Recruitment, Selection and Probation Policy; Recruitment, Selection and Probation Procedure; Recruitment, Selection and Probation Guidelines; Equity, Diversity and Respect Policy; Model Code of Conduct; Child Safe Procedure; Social Media Policy; Disciplinary Policy and Procedure

POLICY TYPE

Council

RESPONSIBLE DEPARTMENT

People and Culture

Definitions

Child / Children	All children and young people under the age of 18 years.
Contracted Service Provider	An organisation or entity contracted to provide goods, services or programs involving child-related work on behalf of, or in conjunction with, Penrith City Council, where that entity has been engaged as a result of informal and formal procurement processes such as Request for Quotations (RFQs), Tenders, Expressions of Interest (EOIs), and one-off or standing purchase orders.
Hiring Supervisor	The relevant People Leader responsible for a position that has fallen vacant and the associated recruitment processes in accordance with this policy and its associated procedure.
People Leader	An employee who is responsible for, oversees and/or regulates the work of others, including and not limited to, Team Leaders, Supervisors, Centre Directors, Coordinators and all levels of management.
Reportable allegation	An allegation that a relevant employee has engaged in conduct that may be reportable conduct.
Reportable conduct	Includes the following conduct (whether or not a criminal proceeding in relation to the conduct has been commenced or concluded): <ul style="list-style-type: none">• a sexual offence with or in the presence of a child,• sexual misconduct with, or in the presence of a child,• ill-treatment of a child,• neglect of a child,

- an assault against a child,
- behaviour that causes significant emotional or psychological harm to a child,
- any offence under section 43B (failure to protect) or 316A (failure to report) of the Crimes Act 1900, whether or not with the consent of the child.

Reportable conduct does not include:

- conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standard;
- the use of physical force that, in all the circumstances, is trivial or negligible, and the circumstances are investigated with the results of the investigation recorded in accordance with appropriate procedures;
- conduct of a class or kind exempt from being reportable conduct by the Children’s Guardian.

Reportable conviction Any conviction (including a finding of guilt without the court proceeding to a conviction), in New South Wales or elsewhere, of an offence involving reportable conduct.

Sexual misconduct Any conduct with, towards or in the presence of a child that is sexual in nature (but is not a sexual offence) and provides the following (non-exhaustive) examples:

- descriptions of sexual acts without a legitimate reason to provide the descriptions;
- sexual comments, conversations or communications;
- comments to a child that express a desire to act in a sexual manner towards the child, or another child.

Sexual offence An offence of a sexual nature under a law of NSW, another state/territory, or the Commonwealth committed against, with or in the presence of a child, such as:

- sexual touching of a child;
- a child grooming offence;
- production, dissemination or possession of child abuse material.

An alleged sexual offence does not have to be the subject of criminal investigation or charges for it to be categorised as a reportable allegation of a sexual offence.

Worker Includes, but is not limited to, any employee, volunteer (whether engaged by Council or a third party), contractor (labour hire, contracted service provider or otherwise), subcontractor, consultant, work experience student, Councillor or board member working with, for or on behalf of Council.

Purpose

This policy aims to provide a framework to ensure that the safety, welfare and wellbeing of children and young people, including protecting children and young people from child abuse, is the paramount consideration in decision-making within Penrith City Council.

The objectives of this policy are to:

- Provide a safe and supportive environment for children and young people for whom Council provides a service, and with whom the organisation has contact;
- Promote and safeguard the health, safety, welfare and wellbeing of children and young people;
- Ensure that Council is implementing best practice approaches to the protection of children and young people and responding to recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse (2017) that affect Local Government;
- Ensure any person engaged in child related employment is suitable for such employment;
- Children's voice
- Clarify the expectations of workers who work in child related employment; and
- Establish practices that enable the prompt notification of reportable conduct, and the efficient and equitable investigation of allegations of reportable conduct.

Policy Statement

Children and young people are an important part of our society and it is essential that they are safe while taking part in community life, accessing our facilities and in the care of our services. Council has a zero tolerance towards child abuse, and is committed to protecting the physical, emotional, cultural and social wellbeing of all children and young people.

Council has adopted the Child Safe Standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse (2017) to build and maintain a child safe culture which is characterised by:

- A strong understanding of, and respect for, the rights and agency of children and young people;
- A shared responsibility at all levels of the organisation to act in the best interests of children and young people and ensure their safety;
- The involvement of children and young people in decision making that impacts them; providing them with opportunities to participate meaningfully and express their view on how we plan for, design and develop our services and activities.
- Practices that reduce the risk of harm to children and young people; and
- Timely reporting and investigation of concerns of possible abuse, harm or neglect of a child or young person by appropriately independent and skilled investigators.

Council values the important role parents, caregivers and the community play in fostering a child safe culture and engages them in promoting and upholding the rights of children and young people.

Council is committed to the ongoing education of children and young people and those who work with or interact with children and young people about their rights and responsibilities and the reporting processes relating to child protection.

Council is committed to participating in the National Redress Scheme for people who have experienced institutional child sexual abuse.

Any breach of this Policy and/or its associated procedures, may result in disciplinary action which may result in the termination of employment or services.

Scope

This policy applies to all Council employees, volunteers, agency staff and contractors, and work experience students working with or for Council, and Councillors, board members and other relevant parties in a position of authority who share the responsibility of child safety in organisational decision-making.

This policy also applies to the management of contracted service providers and grant and sponsorship recipients delivering services involving child-related work either on behalf of or in conjunction with Council.

This policy is particularly relevant to individuals in positions with direct contact with children. This may include, but is not limited to, positions in the following areas: Preschools and Long Day Care Centres; Out of School Hours and Vacation Care services; Mobile Playvan Services, Libraries and Home Library Services; Swimming pools; Recreation and Leisure Facilities, Youth centres; Art galleries and Performing Arts Centres.

POLICY:

Reporting

Council has implemented practices and processes to investigate complaints and allegations thoroughly and quickly and Council will work with the relevant authorities and internal departments to investigate all complaints and allegations. *All reports will be handled in accordance with the relevant legislation, which mandates a specific approach to the handling and reporting of complaints about staff involving a child or young person.*

Council's workforce will be trained to respond appropriately to complaints, allegations and disclosures. All children, young people, families, and Council's workforce will know what to do and who to tell if they observe abuse or are a victim of abuse, and if they witness suspected reportable conduct.

Duty of Care / Standards of Behaviour

A worker has a legal obligation to take reasonable care for their own safety and the safety of children and others with whom they interact during their engagement with Council.

These obligations are based on the role and responsibilities of the worker and may include, but are not limited to, the following:

- Providing appropriate supervision;
- Complying with procedures relating to child safety, health and wellbeing including, but not limited to, reporting procedures and managing difficult behaviours;
- Demonstrating personal behaviours that promote the safety, health and wellbeing of children;
- Providing first-aid, if qualified and competent to do so, or seeking assistance from a medical professional to aid a child who is injured or becomes sick;
- Protecting a child from identified hazards that pose a possible risk to children's safety, health and wellbeing which can be reasonably predicted; and
- Taking appropriate action where a child's safety, health or wellbeing is at risk.

The standard of care that is required needs to take into consideration various factors, such as a child's maturity, ability and circumstances.

Duty of care to children applies during all activities and functions conducted or arranged by Council where children are in the care of workers.

Workers must assess and manage the risk associated with any activity before it is undertaken, this may include the requirement to conduct a risk assessment and implement controls to mitigate any risks. Departmental Risk Plans will address how the safety and welfare of children and young people participating in events, programs and services delivered by Council are managed.

Actual harm to a child, or potential to cause significant harm to a child, may constitute misconduct, neglect or negligence and/or a breach of this document. This may be caused by:

- a) a single serious failure to exercise appropriate duty of care; or
- b) repeated less serious failures to exercise appropriate duty of care,

Professional Conduct

Workers must act respectfully, professionally and appropriately when dealing with children and others with whom they interact as part of their engagement with Council. This includes using appropriate language and tone toward children and others. Rude or insulting behaviour, including verbal aggression; abusive, threatening or derogatory language or conduct; or intimidating words or actions towards children are unacceptable. It is also unacceptable to engage in such conduct towards others in the presence of children.

Physical Contact

Workers must not engage in inappropriate physical contact with children, or act in ways that may cause a child to reasonably fear that unjustified force will be used against them.

Examples of inappropriate physical contact include, but are not limited to:

- Intentional and unjustified use of physical force;
- Throwing an object to gain a child's attention in a hostile way;
- Restraining a child, unless as part of an approved behaviour management plan; and/or
- Pushing, pulling, shoving, grabbing, pinching, poking, shaking or throwing a child

Examples of conduct that involves the reasonable use of physical contact for exercising appropriate control over a child include, but are not limited to:

- Disarming a child who is at risk of harming themselves or another person
- Separating children who are fighting
- Reasonable use of physical force for the protection of self or others

Correcting a Child's Behaviour

Workers must not correct or discipline a child in excess of what is reasonable or appropriate for the situation and the child's maturity, vulnerability, ability and circumstances. An adult's response to a child's behaviour or circumstance must also consider the adult's responsibility for the care, safety and welfare of the child. Discipline is excessive if it is a disproportionate response to a child's behaviour.

Professional relationships and boundaries

Workers must act professionally and appropriately when dealing with children and others with whom they interact as part of their engagement with Council. This includes maintaining appropriate professional boundaries with children and ensuring the relationship is kept within the boundaries of the respective position description.

A single serious breach of professional conduct, intentional or unintentional, by a worker, or repeated less serious breaches of professional conduct or exercise of poor judgment, may constitute misconduct, sexual misconduct and/or a breach of this Policy, which may result in the termination of employment or services.

Relationships

Workers must not behave in a way that could reasonably be construed as being involved in an inappropriate relationship with a child or a group of children. For example, a worker, in their capacity as a Council employee, must not invite children over to their house or accept an invitation to a child's house, however, a children's services worker may have a party for their child, where other children from the service are invited to attend. In this situation, approval is required from the People Leader.

If a worker is unsure about the appropriateness of a relationship with a child or a child's family, they are to speak with their relevant People Leader. If there is any uncertainty regarding relationships with children, advice can be sought from the Child Protection Team.

Workers must not use the online environment to extend their connection to or influence on children and young people; this includes, but is not limited to, inviting children or young people to join their personal electronic social networking site/s or accepting children's invitations to join theirs.

Grooming

Grooming behaviour involves a pattern of conduct that is consistent with grooming a child for sexual activity, where there is no other reasonable explanation for it. Workers must not engage in grooming behaviour and examples include, but are not limited to:

- Persuading a child or group of children that they have a 'special' relationship, for example, by spending inappropriate special time with a child, inappropriately giving gifts or showing special favours to them but not to other children, inappropriately allowing the child to overstep rules, or asking the child to keep this relationship to themselves
- Testing boundaries, for example, by undressing in front of a child, encouraging inappropriate physical contact (even where it is not overtly sexual), talking about sex, or 'accidental' intimate touching
- Inappropriately extending a relationship outside of work
- Inappropriate personal communication (including emails, telephone calls, letters, text messages, social media and web forums of a sexual nature).

If there are reasons for a worker to communicate with children or their families using electronic information and communication technology (ICT) for reasons other than work purposes, it is important to discuss this with and gain the approval of the Child Protection Team.

Sexually inappropriate behaviour

Workers must not make sexually explicit comments or engage in other sexually overt or implied behaviour towards or in the presence of children. Such behaviour may constitute sexual misconduct.

Examples of sexual behaviours include:

- Inappropriate conversations of a sexual nature
- Unwarranted and inappropriate touching
- Exposure of children to sexual behaviour of others
- Watching children undress in circumstances where supervision is not required.

Workers must not have an intimate, romantic or sexual relationship with any child who is under their care or supervision regardless of their age. It is irrelevant whether the relationship is consensual, non-consensual, known to or condoned by parents, guardians or caregivers.

Workers must not commit a sexual offence. This encompasses all criminal offences involving a sexual element that is committed against, with or in the presence of a child.

Extreme care must be taken in any relationship between a worker and a former child client, even if the child is currently over 18 years of age.

A personal or sexual relationship with a former child client entered into by any worker may be considered sexual misconduct if it is established that the worker used his or her position to develop and/or maintain an inappropriate personal or intimate relationship with the child when they were a client of Council.

Protective Behaviours for Staff

By providing care for children, workers could place themselves unwittingly in vulnerable situations where they could be accused of behaviour which constitutes reportable conduct or other inappropriate interactions or behaviours with children.

Workers should not put themselves in a position that may create a risk of an allegation of a child protection nature.

Each staff team needs to identify its communication strategies and behaviour expectations with/towards children and ensure that this is not open to misinterpretation by other adults or children.

These strategies are aimed at reducing the risk of staff being accused of inappropriate conduct towards children, or of accusations as a result of being in vulnerable situations with children.

Council endeavours to ensure that each child care / related environment encourages and provides protection for children and workers in all aspects of care. This may include online where online programs are being run.

Workers need to maintain an awareness of and practice the following:

- Conflict resolution skills when drawing potential problems to the attention of other staff.
- Identification of potential cultural differences in accepted behaviour in the care and interaction with children
- Recognition of signs of stress in each other and suggest that someone take a break if they are becoming stressed in a situation.
- Workers ensure that they are not in a vulnerable position by being left alone with a child or group of children, for example, changing a child's nappy where there is not a good view of others around or entering a public space to clean the amenities.
- In a child care context; effective staff communication in respect to the movement of staff and children around the centre, from outdoors to indoors. This needs to be reinforced in the centres' supervision plans.
- Staff to verbalise when they are removing a child from the group for toileting, changing or other purposes, to ensure that other staff are aware of staff and child movement.
- Maintain effective and clear communication with parents/caregivers regarding the care of their child to ensure that any care of a child cannot be misinterpreted by a parent or relayed in an odd manner or easily misinterpreted manner by the child.

Head of Agency or Delegate:

- Ensure the governance framework and internal systems support the prevention, handling and response to allegations or convictions of reportable conduct against employees;
- Notify the Office of the Children's Guardian of any reportable allegation or conviction within seven (7) days of becoming aware of a reportable allegation or conviction;

- Investigate and ensure the proper documentation of an investigation into any reportable allegation, whether or not the allegation was proven. This responsibility applies regardless of any requirement for disposal of the record that may exist elsewhere;
- Determine what disciplinary action, if any, will be taken against the employee after the initial investigation has been completed; and
- Notify the Office of the Children’s Guardian whether or not Council proposes to take any disciplinary or other action in relation to an employee who is the subject of a reportable allegation or conviction and the reasons why it intends to take or not take any such action.

Directors and People Leaders:

- Understand this policy and its associated procedures;
- Make available education, information and support regarding this policy and its associated procedures;
- *Lead the embedding of a child safe culture by being proactive in identifying and addressing issues or concerns relating to the safety and wellbeing of children. This should include regular discussions between staff and their people leaders about behavioural standards and expectations.*
- Treat all complaints seriously, equitably and confidentially, and notify the *Head of Agency* of any reportable allegation;
- Determine positions associated with child-related work within Council and manage the ongoing process; and
- Notify the People and Culture Department prior to the engagement of any non-Council employee involved in child-related work so the appropriate verification check can be undertaken.

Child Protection Team:

A Child Protection Team will be made up of:

- Chief Governance Officer
- Director – Community and People
- Manager - People and Children
- People and Culture Manager
- Legal Services Manager

A quorum of three members is required when the Child Protection Team convene.

The role of the Child Protection Team is to:

- Notify the Head of Agency of reportable allegations;
- Provide guidance in the conduct of an investigation in to a reportable allegation made by an employee or against an employee; and
- Provide guidance with respect to general employee training and awareness raising needs.

Employees:

- Understand this policy and its associated procedures;
- Seek information, guidance and support where necessary to understand this policy and its associated procedures;
- Act to reduce, remove and mitigate risks when a child or young person is at risk of significant harm
- Apply for a Working with Children Check (WWCC) clearance number and complete the application process with the relevant agency (e.g. the Roads and Maritime Services RMS). Employees are to provide their WWCC number to the relevant Human Resources Business Partner, if their role is deemed child-related;
- *Employees who are required to have a WWCC and do not have a current clearance, or are barred from working with children, cannot continue to be engaged in child related*

work. Consequently, their employment or engagement with Council may be terminated;
and

- Employees are to notify the Child Protection Team of any reportable allegation or conviction of which they become aware.
- All staff should be aware that the appointment by Council of the Child Protection Team does not remove mandatory reporting obligations that other Officers of Council may have under s27 of the Children and Young Persons (Care and Protection) Act 1998.
- It is the responsibility of all employees to take appropriate action if they witness suspected reportable conduct by a Council employee or where someone discloses a situation where a Council employee was behaving or acting in a way that may constitute reportable conduct.

Volunteers, Contractors and Work Placement Students

- Understand this policy and its associated procedures;
- Seek information, guidance and support where necessary to understand this policy and its associated procedures;
- Individuals engaged in child related work (e.g. work placement student at a long day care centre, contracted nurse etc) must apply for a Working with Children Check clearance number and complete the application process with the relevant agency (e.g. the Roads and Maritime Services RMS). Individuals are to provide their WWCC number to be verified by Council;
- *Individuals who are required to have a working with children check and do not have a current clearance, or are barred from working with children, cannot continue to be engaged in child related work. Consequently, their engagement with Council may be terminated;* and
- Individuals are to notify the Child Protection Team of any reportable allegation or conviction of which they become aware.

People and Culture Department:

- Provide information, guidance and support to People Leaders and employees regarding this policy and its associated procedures;
- Support People Leaders to determine positions associated with child-related work within Council;
- Administer the process and maintain the records with respect to clearances including the Working with Children Check number, its expiry date and the date of the employer's verification;
- Prior to offering an applicant a position in a child related role, employment screening must be undertaken which includes verifying an applicant's Working with Children check result and other background checks as required.