

Child Protection Policy

1 Document Information

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Author	Human Resources Coordinator
Owner <i>(Relevant director)</i>	Director of Finance & Corporate Services
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2 Summary

To ensure children are protected in all interactions with Council.

3 Approvals

Title	Date Approved	Signature
Director of Finance & Corporate Services		

4 History

Minute No.	Summary of Changes	New Version Date
00/11/11		20/11/00
01/01/12	Amendment	15/01/01
	Reviewed by Human Resources Officer September 2010 – submitted to September Council meeting for readoption.	
10/09/33	Adopted by Council at September meeting	20 September 2010
13/09/30	Readopted as per s165(4)	17 September 2013
18/05/20	Readopted as per s165(4)	22 May 2018

5 Reason

To ensure Council meets its statutory and moral obligations in relation to the protection of children.

6 Scope

Council employees, Councillors and volunteers who may come into contact with children and families using Council facilities.

7 Associated Legislation

Children and Young Persons (Care and Protection) Act 1998.

In response to the recommendations of the 1997 Wood Royal Commission into the New South Wales Police Service, a series of legislation has been introduced to protect children from abuse. These are:

Children and Young Persons (Care and Protection) Act 1998

This Act introduces major changes to the organisation and administration of the State agencies. It addresses a wide range of issues designed to ensure that those responsible for the delivery of services to children provide an environment which is not only free of violence and abuse, but fosters an approach that recognises health, developmental needs, self-respect and dignity. For Council, the important issues arising from this legislation are:

- the identification of children at risk of harm
- changes to mandatory reporting requirements

Commission for Children and Young People Act 1998

In response to the recommendation to provide a focal point for coordination of the effort to protect children, the government has established a Commission with this responsibility. The Commission is responsible for the implementation of the Child Protection (Prohibited Employment) Act, and also requires notification of certain types of disciplinary proceedings involving employees, as well as notification of a decision not to employ a person as a result of the findings of employment screening (the Working With Children Check).

The Act requires that applicants for child-related employment must be screened through the Working With Children Check. This check involves:

- relevant criminal record check
- a check of relevant apprehended violence orders
- a review of relevant completed disciplinary proceedings the applicant may have had in previous employment.

Child Protection (Prohibited Employment) Act 1998

This Act prohibits persons with convictions for serious sex offences from working in child-related employment. Under the Act, employers must identify whether existing employees are prohibited persons, and check all applicants for child-related employment to determine whether they are prohibited persons. Failure to comply with employment screening, or to make a false disclosure is an offence. It is also an offence to employ a prohibited person and for a prohibited person to remain in child-related employment.

Ombudsman Amendment (Child Protection and Community Services) Act 1998

Under this Act the Ombudsman has wide powers to review the systems Council has in place for the protection of children and to oversee and monitor internal investigations of child abuse against Council employees. It also requires the General Manager to notify the Ombudsman of allegations of child abuse by staff, or convictions of staff. Notification must occur within 30 days of the General Manager becoming aware of the allegation.

8 Definitions

Allegation: Includes an allegation of child abuse, and an allegation of misconduct that may involve child abuse. Allegations may be written, verbal or anonymous. An allegation should have the following elements:

- the person who is the subject of the allegation must be a current employee and must be identifiable (either by name or by a description).
- it must detail the conduct or pattern of behaviour that indicates abuse of a child
- the alleged victim must have been a child under the age of 18 years at the time of the alleged behaviour. The alleged victim may be an adult now and the alleged behaviour may have occurred years before.

Child: A person under the age of 18 years.

Child Abuse: Refers to the non-accidental physical injury, neglect or ill-treatment, psychological abuse and sexual exploitation and abuse of children.

Child at risk of harm: Under the Children and Young Persons (Care and Protection) Act, a child is at risk of harm if there are current concerns for the safety, welfare or wellbeing of the child because of the presence of any one or more of the following circumstances:

- the child's basic physical or psychological needs are not being met or are at risk of not being met
- the parents or other caregivers have not arranged or are unable or unwilling to arrange for the child to receive necessary medical care
- the child has been, or is at risk of being, physically or sexually abused or ill-treated
- the child is living in a household where there have been incidents of domestic violence and, as a consequence, the child is at risk of serious physical or psychological harm
- a parent or other caregiver has behaved in such a way towards the child that the child has suffered or is at risk of suffering serious psychological harm

Child related employment: Employment that involves direct contact with children under 18 years of age, where that contact is not directly supervised.

Direct supervision: A person present at all times during, and is observing and capable of directing, if required, the contact by the person under supervision with any child, where such contact is part of the duties to be performed by the person under supervision or can reasonably be expected to occur during the performance of those duties.

Employee: Any person who is engaged in child-related employment in any of the following capacities:

- paid employment
- sub-contractors

Version Date: [22 May 2018]

- volunteers
- ministers of religion
- members of religious organisations
- undertaking training as part of an educational or vocational course

Employment Screening: The process of gathering relevant information about an applicant for employment by an organisation in order to enable an informed decision to be made on whether to employ the applicant or not. The method of employment screening is the **Working with Children check**.

Head of Agency: Under the Ombudsman's Act, the Head of Agency is the Chief Executive Officer or other Principal Officer of the Agency. In the case of Council, the Head of Agency is the General Manager.

Physical Neglect: Neglect occurs when a parent or other caregiver, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child in his or her care.

Notification: The requirement under the Ombudsman Amendment (Child Protection and Community Services) Act to inform the Ombudsman of any allegation of child abuse against employees, or any conviction of employees.

Physical Abuse: The non-accidental injury to a child by the parent, caregiver or other person. It includes injuries such as bruising, lacerations or welts, fractures or dislocation, medically or pharmaceutically induced injuries or illness etc.

Prohibited person: A person convicted of a serious sex offence, other than where there is an order in force declaring that the Child Protection (Prohibited Employment) Act 1998 does not apply to the person in respect of the offence. A serious sex offence is one that attracts a period of imprisonment of 12 months or more.

Sexual Abuse: Any sexual act or sexual threat imposed on a child. It refers to the involvement of children in sexual acts where the child is exploited for the gratification of another person's sexual needs or desires. Examples include genital exposure, prostitution, pornography and sexual assault.

Working with Children Check: This check involves the following:

- (a) a national criminal record check, which is a check for child abuse, child pornography, sexual activity or acts of indecency
- (b) a check on relevant Apprehended Violence Orders
- (c) a check of previous relevant disciplinary proceedings with other employers
- (d) structured referee checks

9 Responsibilities

9.1 GM

It is the responsibility of the General Manager to report allegations or convictions of child abuse to the Ombudsman's Office.

It is the responsibility of the General Manager to notify the Commission for Children and Young People of any employee against whom relevant investigation proceedings have been completed, where the investigation has resulted in disciplinary action being taken against that employee. The General Manager will also decide what disciplinary action, if any, will be taken

9.1 Directors and Managers

1. It is the responsibility of Directors, Managers and Supervisors to report any allegations of child abuse to the General Manager, and to carry out any investigation.
2. It is the responsibility of all Council Managers to ensure all procedures outlined in this policy are applied, in particular relevant employment screening of prospective employees.

9.2 Employees

It is the responsibility of all employees to notify their supervisor immediately if they witness during working hours a child abuse incident, or someone discloses a situation of child abuse within the work place to them.

9.3 Human Resources

It is the responsibility of Human Resource Coordinator to provide advice and support to both line management and employees

9.4 Council

It is the responsibility of Council to retain all records of an investigation, regardless of whether or not the allegation was proven. This responsibility applies regardless of any requirement for disposal of the record, which may exist elsewhere

9.5 Others

Other parties that may be involved in the process include the Union, the Employee Assistance Program, Councillors and Contact Officers - their role is to advise and support employees.

10 Related Documents

Document Name	Document Location
Consent Form	Human Resources
Prohibited Employment Declaration	Human Resources

11 Policy Statement

THAT:

- i. Council adopt the Draft Child Protection Policy;
- ii. Council approve the screening of all existing Cabonne employees and volunteers who have the potential of direct and unsupervised contact with children;
- iii. Council ensure all appropriate staff and volunteers complete a 'Prohibited Employment Declaration' form.

Objectives

1. To ensure that children are protected from child abuse as defined under the Children and Young Persons (Care and Protection) Act 1998.
2. To ensure that a system exists for the reporting of all child abuse allegations under the Ombudsman Amendment (Child Protection and Community Services) Act 1998, and to encourage and facilitate the reporting of children and young persons at risk of harm.
3. To ensure the prompt notification to the Ombudsman's Department, and the efficient and equitable investigation of allegations of child abuse.
4. To prevent the employment of persons in child-related employment who are a prohibited person under the Child Protection (Prohibited Employment) Act 1998, or who Council considers are inappropriate persons to be working with children.
5. To build a workforce committed to child protection through a range of policies and work practices designed to ensure that services are provided to children in a safe and caring environment.

Rights of All Parties

1. The child that is the subject of the alleged abuse has the right to be in a secure and safe environment, therefore the accused employee will be removed from that environment until the investigation is complete.
2. All parties involved have the right to a confidential, fair and unbiased investigation.
3. Employees will be afforded procedural fairness in the event of an allegation being made against them.
4. The investigation team has the right to deny the accused employee access to records kept if they feel it would jeopardise the investigation.
5. The person who has made the allegation has the right not to be identified. If they wish to remain unidentified, any written documents they have provided to the investigation team cannot be accessed by the accused employee.
6. If the accused employee feels that they have been unreasonably denied access to records, they can apply through the Freedom of Information Act to have access to those records considered.
7. Employees and parents of the child have the right to complain to the Ombudsman if they are unhappy with the conduct of the investigation.

Transportation of Children

Cabonne Council recognises that children are a very vulnerable section of the community and that specific checks/actions must be carried out when considering the transportation of children.

Version Date: [22 May 2018]

To ensure that Council's obligations under the Child Protection Regulations are met, Council needs to ensure:

Wherever possible, children who are under the age of eighteen years are accompanied by a responsible or designated adult (ie parent or guardian);

Where a responsible or designated person is unavailable, Council must ensure that all mandatory checks under the Child Protection Act are carried out before the transportation is undertaken;

When transporting a child the child will be seated in the rear of the car and proper restraints used.

The person(s) selected to transport the child are not to be engaged if:

- they refuse to complete the Prohibited Employment Declaration and Working with Children Consent Form; or
- they indicate they are a prohibited person.

Confidentiality

1. All staff involved in the reporting or investigating of allegations of child abuse will be mindful of the sensitive nature of the issue and take all reasonable steps to maintain confidentiality and respect the privacy of those involved. Nothing in this statement is to be taken as mitigating against the obligation of staff to report incidents or allegations of child abuse.
2. All information relating to investigations will be secured indefinitely, and separately from other files, unless the investigation results in disciplinary action. If this is the case, the following details will be kept on the employee's personnel file:
 - that an allegation was made
 - that an investigation was conducted
 - what the finding was
 - what action was taken
3. Any person who makes an allegation of child abuse is protected under the Protected Disclosures Act.

Unsubstantiated Allegations

1. Where an allegation is clearly wrong or unsubstantiated, the person who is the subject of the allegation will be supported by Council. The nature of the support will be reasonable and appropriate subject to the circumstances of the case. It may include access to specialist counselling services, legal services or special leave.
2. Any employee who is found to have made a malicious or vexatious allegation will be subject to disciplinary action.

Prevention and Education

1. All recommended applicants for child-related employment will be screened in an effort to ensure their suitability to work with children.
2. All employees will be educated in the legislation and how it impacts on them in terms of the position they hold and their responsibilities.
3. Staff will be educated to a level appropriate to the position they hold. Specifically, the level of education relates to the following categories of employees:
 - child care staff, who have a 24 hour/day responsibility
 - other identified positions, which have a workplace only responsibility

- contractors, volunteers and work experience participants
 - “investigators” – Directors, Managers and Supervisors
 - unidentified positions
4. Council’s induction program will include information on the Child Protection legislation.
 5. All new and existing employees will be required to sign off on relevant policies and documentation as an indication that they have read and understood the contents of the policy.