



Policy Owner: Director Community, Planning & Environment

Category: Statutory

Direction: 4. Our Social Vitality

1. STATEMENT OF INTENT

1.1 This Policy and the accompanying procedures have been designed to ensure that North Sydney Council complies with the requirements of the legislative framework covering the protection of children, specifically:

- *Ombudsman Act 1974 (Part 3)*
- *Ombudsman Amendment (Child Protection and Community Services) Act 1998*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Children's Guardian Act 2019*
- *Children's Guardian Amendment (Child Safe Scheme) Act 2021 No 30*
- *Child Protection (Working with Children) Act 2012*
- *Crimes Act 1900*
- *Privacy and Personal Information Protection Act 1998*

All suspected cases of child abuse and neglect which come to the notice of Council, either observed by employees in the course of their duties, or reported to staff, will be reported in accordance within legislative requirements.

1.2 Under the legislation, Council has the following key responsibilities:

- a) as a public authority, it has a requirement to report any case of suspected child abuse or neglect of children presenting at Council services, facilities or activities;
- b) as an agency responsible for the care and welfare of children, it has a charter to protect the young people in its care from sexual, physical and emotional abuse and neglect, and from improper conduct of a sexual nature;
- c) as an employer of staff responsible for the supervision of children, it has a responsibility to ensure that "prohibited persons", where the nature of their work brings them into unsupervised contact with children, are not employed or do not continue to be employed when discovered;
- d) as an employer of staff responsible for the supervision of children, it has a responsibility to provide training for staff in the identification of

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- suspected child abuse, notification procedures and implementation of relevant programs;
- e) as an employer of staff responsible for the supervision of children, it has a responsibility to notify any allegation of child abuse against an employee to the Office of the Children's Guardian; and the head of the relevant entity will be required to give a written notice to the children's guardian within seven business days of becoming aware of the reportable allegation or reportable conviction; and
 - f) as a part of the range of services provided by Council, it has a responsibility to work with other agencies, within agreed guidelines, to plan and provide services for child protection and family support.

2. ELIGIBILITY

- 2.1 This Policy and relevant procedures applies to all Councillors, permanent, temporary and casual employees of Council, and includes volunteers, work experience persons and contractors.

3. DEFINITIONS

- 3.1 Children and Young Persons - the *Children and Young Persons (Care and Protection) Act 1998* (s.3) defines a child, for the purposes of the Act, to mean a person who is under 16 years of age, and a Young Person as a person aged 16 or 17 years of age. The *Children's Guardian Act 2019* defines a child as a person under the age of 18 years.
- 3.2 Reportable Conduct - the *Children's Guardian Act 2019* defines 'reportable conduct' as:
- a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material); or
 - b) any assault, ill-treatment or neglect of a child; or
 - c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child; or
 - d) any offence under section 43(b) or 316(a) of the *Crimes Act 1900*.

Reportable conduct does not extend to:

- a) 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 standards, or
- b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of

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- the investigation recorded under workplace employment procedures, or
- c) conduct of a class or kind exempted from being reportable conduct by the *Children's Guardian Act 2019*.

3.3 Allegation of Reportable Conduct - an assertion or declaration that a child has been, or is in danger of being abused. An allegation should have the following elements:

- a) the persons subject to the allegation are clearly identifiable; and
- b) the allegation details specific conduct or a pattern of behaviour that indicates abuse.

An allegation can also include an allegation of misconduct that may involve child abuse and would cover allegations such as the possession of child pornography.

3.4 Child Abuse Conviction - the *Children's Guardian Act 2019* defines child abuse conviction as any conviction of a person, in this State or elsewhere, of an offence involving child abuse, and includes a finding by the courts that a charge of such an offence is proven even though the court does not proceed to a conviction.

3.5 Child or Young Person at Risk of Harm - In accordance with the *Children and Young Persons (Care and Protection) Act 1998*, a child or young person is at risk of harm if there are current concerns for the safety, welfare or well-being of the child or young person because of the presence of any one or more of the following circumstances:

- a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
- b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,
- c) 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 an education in accordance with that Act,
- d) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
- e) 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,

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- f) 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,
 - g) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.
- 3.6 Child-related Employment - employment that primarily involves direct, unsupervised contact with children and includes:
- a) contractors;
 - b) volunteers;
 - c) trainees undertaking training as part of an educational or vocational course;
 - d) work experience; and
 - e) Family Day Care Educators
- 3.7 Designated Disclosure Officer - Council's Manager Community Development *Youth Services & Partnership Coordinator*.
- In the event of the Manager Community Development's *Youth Services & Partnership Coordinator* absence, the Director Community and Library Services *Manager Community Development* shall be the Designated Disclosure Officer.
- 3.8 Disclosure - refers to informing/revealing known or suspected acts of child abuse or neglect.
- 3.9 Prohibited person - someone who has been found guilty of committing a serious sexual offence. It is an offence for Council to employ a prohibited person, or to allow a prohibited person to continue to work, in child-related employment.

4. PROVISIONS

- 4.1 Children's Services procedures are in place to ensure that:
- a) child-related employment in Council is identified and positions are designated and managed in accordance with child protection legislation (see Council's *Child Protection Employment Screening Policy*);
 - b) mandatory reporting requirements are met;
 - c) Council staff can identify and respond to risk of harm concerns in children and young people;
 - d) employment screening is undertaken for prospective appointments to all positions designated as child-related employment;

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- e) disclosures are sought from existing and prospective employees in designated positions regarding reportable allegations and reportable convictions against an employee in accordance with of the *Children's Guardian Act 2019*; and
 - f) allegations of child abuse are handled professionally and sensitively in order to meet legislative requirements and guarantee the safety and privacy of individuals.
- 4.2 An employee who has reasonable grounds to suspect an incidence of a child or children at risk of harm must make a report to Council's Designated Disclosure Officer. Employees and those who hold a management position which includes direct responsibility for, or direct supervision of, the provision of health, welfare, education, children's services, residential services or law enforcement have a duty of mandatory reporting of children at risk.

Provisions are incorporated into the *Ombudsman Amendment Act 1998*, the *Children and Young Persons (Care and Protection) Act 1998*, the *Commission for Children and Young People Amendment Act 2005*, and the *Children's Guardian Act 2019* for the protection of persons from defamation or other civil liability when reporting child abuse or undertaking employment screening in good faith and with reasonable care.

Employees who make a report in good faith will not be prejudiced in their employment in any way. Provisions are incorporated into Council's procedures for dealing with allegations of child abuse and neglect to protect the identity or the person who made the report, or information from which the identity of that person could be deduced.

Protection is not available for disclosures which are frivolous, malicious or vexatious or are made to avoid dismissal or disciplinary action. Employees who wilfully make a false or misleading statement when making a disclosure will be disciplined in accordance with Council's *Disciplinary and Misconduct Policy*.

4.3 Investigating Allegations

According to the *Interagency Guidelines for Child Protection Intervention*, the Department of Communities and Justice (DCJ) is the agency with lead responsibility in child protection and has the legal mandate to ensure a child's safety, care and welfare. Accordingly, DCJ has, among other duties, the role of:

- a) receiving allegations of child abuse and neglect;
- b) responding to allegations;
- c) referring to the NSW Police any suspected criminal offences; and
- d) including, as appropriate, the notifying agency in any response they are undertaking in relation to the allegation.

However, as part of the co-ordinating role of DCJ they may request that Council participate in the response in accordance with the *Interagency Guidelines for Child Protection Intervention*.

The following bodies will also be notified of any reportable conduct matters:

- a) Office of the Children's Guardian

4.4 Investigation of an Allegation Against an Employee

Under the *Ombudsman Amendment (Child Protection and Community Services) Act 1998*, Council is not precluded from carrying out an investigation into an allegation of child abuse against an employee. The Designated Disclosure Officer will recommend to the relevant Director, General Manager and Manager Workforce Planning the action to occur regarding any internal investigation of the allegation that may follow.

Any internal investigation will be carried out according to Council's *Disciplinary and Misconduct Policy*.

In particular circumstances, the Designated Disclosure Officer, in conjunction with the Manager *People and Culture* may judge it necessary to inform DCJ.

Council is obliged by law to notify the Office of the Children's Guardian of any allegation of child abuse or neglect against an employee. The Designated Disclosure Officer is responsible for making this notification within seven (7) business days of receiving the allegation.

4.5 Children in Stanton Library, *Planet X Youth Centre and youth programs*, and North Sydney Olympic Pool

4.5.1 General Principles

Stanton Library and North Sydney Olympic Pool *These facilities* welcome children into their premises to use the resources and facilities *and* attend organised programs. and to borrow library items.

While they are known to be safe places, where children can seek help if they feel other members of the public are harassing them, the Library, *Youth Centre* and the Pool *these facilities* are still public places and staff cannot guarantee that 'strangers' will not approach children.

4.5.2 Responsibility for Children

Council (Stanton Library and North Sydney Olympic Pool) cannot take responsibility for children in the Library, *Youth Centre* or the Pool *these*

facilities, as they. These facilities are not licensed child-care facilities, and therefore cannot provide supervision of children. Council Officers do not take over parental responsibilities for children when they come into the Library, Youth Centre and the Pool *these facilities.*

4.5.2.1. Minimum entry age for North Sydney Olympic Pool - children under 10 years of age are not permitted to enter the facility unless under the supervision of a person 16 years or older, in accordance with Guideline SU1.11 Parental Supervision of the *Pool Safety Guidelines 1996.*

4.5.2.2. Minimum *entry* age for supervisors (not Library staff) of children in Stanton Library - children 5 years old and under must be supervised by a reasonable person who is 16 years or older. Supervision requires that the person be within sight of the child at all times. Children between the ages of 6 and 11 years old must have a parent, carer or sibling (12 years and older) on the premises and providing active supervision.

4.5.2.3. Stanton Library does not control what children borrow, unless it is material classified by a level of government (MA rated videos/DVDs) and it is the parent/guardians' responsibility to monitor the child's use of resources accessed through Stanton Library, be this websites, online databases, printed or audio-visual materials or other library materials. ~~Having said this, the Stanton Library does provide a level of protection to children against the display of X or R Rated material on the public computer screens through Council's Exclusions - Disruptive or Abusive Customers Policy~~ where such behaviour is prohibited.

4.5.2.4. *The primary age range for young people attending Planet X Youth Centre is 12-18 years with a secondary range of up to 21 years in approved circumstances where specialised assistance is required. Attendance by young people is on a voluntary basis.*

4.5.3 Unattended children in the Library or North Sydney Olympic

Council (Stanton Library and North Sydney Olympic Pool) cannot take responsibility for children left unattended in these facilities. Children left unattended could become lost, distressed or sick; get bored and wander off; disrupt other users; cause damage to library or pool property; leave the premises themselves and/or be at risk of approach from strangers.

If a child is found unattended in the Library, Youth Centre or Pool facilities *these facilities* at any time the staff in charge will attempt to

contact the parents. In instances such as when the Library or North Sydney Olympic Pool *these facilities* are closing or the child is distressed the Police will be called.

4.5.4 Disruptive Behaviour

The behaviour of children on Council (Stanton Library and North Sydney Olympic Pool) premises is the responsibility of the children themselves, their parents/guardians, any responsible person accompanying them or, if in a school group, their teachers, supervisors and the school they attend.

If the child is behaving in an inappropriate manner Council's *Exclusions - Disruptive or Abusive Customers Policy* may be applied.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Employee Responsibilities - Council has produced comprehensive procedures addressing employees' responsibilities under the legislation. This includes procedures for employees recognising and notifying child abuse and neglect in the course of their duties, and the procedures to be followed in response to allegations against a member of staff (as outlined in Section 4). All staff should be aware of their contents and implications and recognise that they will be held accountable for actions delegated to them in these documents.

The *Children and Young People (Care and Protection) Act 1998* places a duty of mandatory reporting on any person who, during his or her professional work or other paid employment delivers services, wholly or partly, to children, and any person who holds a management position which includes direct responsibility for or direction of the delivery of services wholly or partly to children.

Employees are required to report any allegation or suspected case of child abuse or neglect to the Designated Disclosure Officer, or in the event of the Designated Disclosure Officer's absence, to the Manager Community Development, and to maintain privacy and confidentiality in all instances.

- 5.2 The Designated Disclosure Officer is responsible for collecting the necessary information and notifying the appropriate departments, and in the case of an allegation against an employee, for informing that person an allegation has been made against them and of the procedures to be undertaken.
- 5.3 Council's Manager Community Development/Manager Workforce Planning People and Culture is responsible for:

- a) Advising relevant staff of this Policy; and
- b) Distributing a copy to all employees whose positions are listed on the Council's *Child Related Positions List*.

6. RELATED DOCUMENTS/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

- Child Protection Employment Screening Procedure (staff policy)
- Complaints Handling Policy
- Disciplinary and Misconduct Policy (staff policy)
- Exclusions - Disruptive or Abusive Customers Policy
- North Sydney Olympic Pool Safety Guidelines
- Reportable Conduct Procedure (staff guidelines)

The Policy should be read in conjunction with the following documents/legislation:

- Children and Young Persons (Care and Protection) Act 1998
- Children's Guardian Act 2019
- *Children's Guardian Amendment (Child Safe Scheme) Act 2021 No 30*
- Child Protection (Working with Children) Act 2022
- Crimes Act 1900
- NSW Interagency Guidelines for Child Protection Intervention
- Ombudsman Act 1974
- Ombudsman Amendment (Child Protection and Community Services) Act 1998
- Pool Safety Guidelines 1996
- Privacy and Personal Information Protection Act 1998
- *Stronger Communities Legislation Amendment (Children) Act 2021*

Version	Date Approved	Approved by	Resolution No.	Review Date
1	2 August 2004	Council	794	2004/05
2	12 March 2007	Council	126	2008/09
3	16 March 2009	Council	150	2012/13
4	18 February 2013	Council	61	2016/17
5	25 June 2018	Council	214	2020/21
6	22 June 2020	Council	58	2021/22
7	[insert date]	Council	[insert min. no.]	2024/25

APPENDIX 1: CHILD SAFE STANDARDS (PRINCIPLES BASED APPROACH)

The Child Safe Standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse provide a road map for making organisations safer for children. The standards provide tangible guidance for Council to build its capability to ensure best practice child protection processes and strategies are at the front of Council's risk management plans.

Each Standard is principle-based and focused on the outcome that the organisation is seeking to achieve by implementing child safe strategies, allowing flexibility in how the standards are applied in different organisational contexts. The Standards work together to emphasise the importance of adopting multiple strategies to address child safety and avoiding an over-reliance on any one strategy.

The Standards encompass existing child safety requirements for individuals and organisations such as the Working With Children Check, the Reportable Conduct Scheme and requirements to report information to police and to the NSW Department of Family and Community Services.

Standard	Core Components
1. Child safety is embedded in organisational leadership, governance and culture	<ul style="list-style-type: none"> a. The organisation publicly commits to child safety and leaders champion a child safe culture. b. Child safety is a shared responsibility at all levels of the organisation. c. Risk management strategies focus on preventing, identifying and mitigating risks to children. d. Staff and volunteers comply with a code of conduct that sets clear behavioural standards towards children. e. Staff and volunteers understand their obligations on information sharing and record keeping.
2. Children participate in decisions affecting them and are taken seriously	<ul style="list-style-type: none"> a. Children are able to express their views and are provided opportunities to participate in decisions that affect their lives. b. The importance of friendships is recognised and support from peers is encouraged, helping children feel safe and be less isolated. c. Children can access abuse prevention programs and information. d. Staff and volunteers are attuned to signs of harm and facilitate child-friendly ways for children to communicate and raise their concerns.
3. Families and communities are informed and involved	<ul style="list-style-type: none"> a. Families have the primary responsibility for the upbringing and development of their child and participate in decisions affecting their child.

Standard	Core Components
	<ul style="list-style-type: none"> b. The organisation engages in open, two-way communication with families and communities about its child safety approach and relevant information is accessible. c. Families and communities have a say in the organisation's policies and practices. d. Families and communities are informed about the organisation's operations and governance.
4. Equity is upheld, and diverse needs are taken in to account	<ul style="list-style-type: none"> a. The organisation actively anticipates children's diverse circumstances and responds effectively to those with additional vulnerabilities. b. All children have access to information, support and complaints processes. c. The organisation pays particular attention to the needs of Aboriginal and Torres Strait Islander children, children with disability, and children from culturally and linguistically diverse backgrounds.
5. People working with children are suitable and supported	<ul style="list-style-type: none"> a. Recruitment, including advertising and screening, emphasises child safety. b. Relevant staff and volunteers have Working With Children Checks. c. All staff and volunteers receive an appropriate induction and are aware of their child safety responsibilities, including reporting obligations. d. Supervision and people management have a child safety focus.
6. Processes to respond to complaints of child abuse are child focused	<ul style="list-style-type: none"> a. The organisation has a child-focused complaint-handling system that is understood by children, staff, volunteers and families. b. The organisation has an effective complaint-handling policy and procedure which clearly outline roles and responsibilities, approaches to dealing with different types of complaints and obligations to act and report. c. Complaints are taken seriously, responded to promptly and thoroughly, and reporting, privacy and employment law obligations are met.
7. Staff are equipped with the knowledge, skills and awareness to keep children safe	<ul style="list-style-type: none"> a. Relevant staff and volunteers receive training on the nature and indicators of child maltreatment, particularly organisational child abuse.

Standard	Core Components
through continual education and training	<ul style="list-style-type: none"> b. Staff and volunteers receive training on the organisation's child safe practices and child protection. c. Relevant staff and volunteers are supported to develop practical skills in protecting children and responding to disclosures.
8. Physical and online environments minimise the opportunity for abuse to occur	<ul style="list-style-type: none"> a. Risks in the online and physical environments are identified and mitigated without compromising a child's right to privacy and healthy development. b. The online environment is used in accordance with the organisation's code of conduct and relevant policies.
9. Implementation of the Child Safe Standards is continuously reviewed and improved	<ul style="list-style-type: none"> a. The organisation regularly reviews and improves child safe practices. b. The organisation analyses complaints to identify causes and systemic failures to inform continuous improvement.
10. Policies and procedures document how the organisation is child safe	<ul style="list-style-type: none"> a. Policies and procedures address all Child Safe Standards. b. Policies and procedures are accessible and easy to understand. c. Best practice models and stakeholder consultation inform the development of policies and procedures. d. Leaders champion and model compliance with policies and procedures. e. Staff understand and implement the policies and procedures.