

# ECS CHILD PROTECTION POLICY

## Application

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Approved by	Date	Review date
Bernadette Reyes, Children's Services Manager	July 2020	July 2021

## Document Control

Issue	Date	Author	Change Description
1	July 2016	Jon Flood	Initial version
2	Feb 2017	Clare Steele	Update of Phone and Website details for Mandatory Reporting
3	May 2018	Jon Flood	Addition of further details for Mandatory Reporter Guide (Child Story Reporter) + update of CSM's details
4	August 2019	Jon Flood	Addition of Child Safe standards and related considerations + minor adjustments.
5	June 2020	Jon Flood	Updates for legislation and related changes.

## Other relevant policies

Code of Conduct (particular to each service)

Breaking the Silence: Procedures for dealing with and preventing abuse with the church, 2015 ed.

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## **1 APPLICATION**

The following Child Protection policy applies to the staff, volunteers, student placements, and Presbyterian Social Services (PSS) as the Approved Provider and host organisation of the Conduct Protocol Unit, as well as the Social Services Committee which oversees all PSS activities.

## **2 PURPOSE AND SCOPE**

It is the intention of this policy to ensure that Jericho Road Early Childhood Services (ECS) meet their duty of care in the protection of children from abuse. The procedures followed must also be in accordance with all relevant legislation, and will take into account other appropriate practices and guidelines aimed at the protection of children.

The scope of this policy includes services where Presbyterian Social Services (Jericho Road) is the Approved Provider, with the exception of services that run under the supervision of The Scots College, Bellevue Hill, which will operate under the College's policy.

## **3 POLICY STATEMENT**

Child protection and child abuse are complex and sensitive issues, which our society is working to address. There is an urgent need for those who have a carer

role with children to be fully informed of the facts and associated concerns pertaining to child abuse. ECS personnel need to make the most appropriate responses that will ensure the protection of children. This response will vary, depending on the many factors pertinent to the individual situation and whether the abuse is suspected or disclosed.

The experience of abuse and neglect acts as a barrier to the sound foundations, skills and abilities that develop during childhood and adolescence. These features of child growth are crucial for general health and well being throughout life. Abuse and neglect may result in a legacy of physical and/or psychological disabilities, which are carried into adult life. The impact is severe because of the vulnerability and dependency of children. Where the family is for most children a place of nurture and security, the abused or neglected child is trapped in an impossible position. Many of the problems reported by adult survivors of childhood abuse or neglect can be understood as the outcome of a child's attempts to cope in a situation of helplessness or fear. There is also evidence that is linked with many social problems currently confronting the community.

Awareness of the potential long term impact of all forms of child abuse and neglect adds urgency to our efforts to prevent it or, where this is not possible, to recognise abuse where it is occurring and intervene effectively to prevent the development of long term problems and suffering.

### **3.1 Definitions**

The Presbyterian Church of NSW/ACT has adopted the child safe standards as recommended by the Royal Commission into Institutional Responses into Child Sexual Abuse, and has incorporated the standards into the Breaking the Silence policy and procedures for dealing with and preventing abuse within the church and its ministries. These standards will also apply to ECS:

1. Child safety is embedded in institutional leadership, governance and culture.
2. Children participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved.
4. Equity is upheld and diverse needs are taken into account.
5. People working with children are suitable and supported.
6. Processes to respond to complaints of child sexual abuse are child focused.
7. Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.
8. Physical and online environments minimise the opportunity for abuse to occur.
9. Implementation of the Child Safe Standards is continuously reviewed and improved.
10. Policies and procedures document how the institution is child safe.

### 3.2 Definitions

**Abuse:** Abuse is a broad term. For the purposes of this policy abuse includes:

- child abuse
- risk of significant harm,
- reportable conduct,
- sexual misconduct, and/or
- conduct that breaches the Breaking the Silence and the service's Code of Conduct.

**Adult:** Any person over the age of 18.

**Aggrieved person:** The person making the complaint, whether they present as a victim or complainant.

**Allegation:** A complaint, incident, allegation, or allegation – reportable conduct includes any matter brought by an aggrieved person.

**Allegation - reportable conduct:** An allegation made within a procedure conducted in terms of the Children's Guardian Act (NSW) of reportable conduct must identify a current Educator; describe behaviour that may constitute reportable conduct or details of conviction; and involve a person who was under 18 years at the time of the alleged behaviour or conviction. All such allegations – reportable conduct are notifiable.

**Child:** Any person under 16 years of age and in some instances any person less than 18 years of age.

**Child abuse:** Includes neglect, emotional abuse, physical abuse, sexual abuse, domestic violence. Child abuse is a notifiable circumstance.

**Child-related employment:** Employment where at least one of the essential duties of the position involves direct contact with children where the contact is not directly supervised, such as child protection services, pre-schools, kindergartens, child care centres, schools, refuges used by children, hospitals, clubs, Sunday schools, camps etc

**CPU:** Conduct Protocol Unit of the Presbyterian Church of Australia in the State of New South Wales, acting on behalf of the church.

**Employee:** An Employee is any person who is employed by the agency, whether or not they are employed to work directly with children, as well as anyone from outside the agency who is engaged to provide services to children such as contractors, volunteers, students on placement, instructors of religion.

**Grooming behaviour:** Physical or psychological actions intrinsic to initiating or hiding abusive behaviour, which involve the manipulative cultivation of relationships with vulnerable adults, children and/or young people, their carers and others in authority. This is also referred to as “coercion”. Grooming behaviour is a form of sexual misconduct and is a notifiable circumstance.

**Head of Agency:** The Head of Agency is the Chair of the Social Services Committee. In the Children’s Guardian ACT 2019 (NSW) the Head of Agency is also known as the Head of Relevant Entity.

**Head of Relevant Entity:** see Head of Agency.

**Internal investigation of an allegation:** This involves a process where the ECS service:

- a) gathers all relevant facts,
- b) makes a decision as to whether an allegation is sustained or not, and
- c) provides information to assist any relevant employment proceedings.

**Notifiable circumstance:** The CPU must be advised of all notifiable circumstances, including:

- any fact, circumstance, allegation, notification, knowledge of, verbal advice of, direct or indirect connection to, or attempt of abuse, and
- all allegations, complaints, reportable allegations and allegations – reportable conduct.

A notifiable circumstance may identify someone who is currently or has been employed by an Early Childhood Service, a current or ex-student, a current or ex-volunteer and/or a current or ex-third party.

**Offender:** The person who perpetrated proven abuse.

**Pastoral care or pastoral support:** The provision of care, counsel and education to persons who seek the support of the church, including:

- guiding to make decisions concerning spiritual matters by means of Biblical teaching,

- prayer,
- provision of practical support, such as medical care or counselling,
- reconciling someone to God and/or other people,
- spiritual guidance, and
- sustaining through a period of hardship and/or crisis.

**Prohibited person:** Under New South Wales law, a prohibited person is someone who is a registrable person as defined in the Child Protection (Offenders Registration) Act 2000 (with some exceptions).

Where a declaration in relation to prohibited persons is required under New South Wales law, a similar declaration is required in other States and Territories under Breaking the Silence.

**Reportable allegation:** A claim, statement or assertion that has yet to be substantiated or proven within a procedure conducted in terms of the Children's Guardian Act 2019 (NSW). All **reportable allegations** are **notifiable circumstances**.

**Reportable conduct:** is a defined term that appears in the Children's Guardian Act 2019 (NSW). Section 20 of the Children's Guardian Act defines **reportable conduct** as:

- a sexual offence,
- sexual misconduct,
- ill-treatment of a child,
- neglect of a child,
- an assault against a child,
- an offence under section 43B or 316A of the Crimes Act 1900,
- behaviour that causes significant emotional or psychological harm to a child.

**Reportable conduct** is a standard that is applied to all ECS employees and volunteers under the Children's Guardian Act 2019 (NSW). **Reportable conduct** applies to conduct towards children under the age of 18 years. **Reportable conduct** includes conduct that is defined in relevant legislation that occurs within an employee's or volunteer's work at APCH, as well as their personal life. All **reportable conduct** is a **notifiable circumstance**.

**Risk of significant harm:** At risk of significant harm is a term used by Community Services for situations where a reasonable person has current concerns about the safety, welfare or wellbeing of a child or young person. Conduct putting a

child or young person at risk of significant harm may also be reportable conduct and is a notifiable circumstance.

**Sexual misconduct:** Any behaviour that could be reasonably considered to be sexual assault, sexual exploitation, sexual harassment, coercion or grooming of an adult or a child or a young person. Sexual misconduct is contact or invitation, via any means, of a sexual nature which is inconsistent with the integrity of a person in a position of authority within the agency or who is working with children or young people. It includes behaviour that may reasonably be perceived to be of a sexual nature according to the standards of the time by the person to whom it is directed. Sexual misconduct is a notifiable circumstance.

**Sexual assault:** Any intentional or reckless act, use of force or threat to use force against an adult, child or young person without their consent including:

- sexual touching and fondling;
- being forced to touch or fondle another person;
- kissing or holding in a sexual manner;
- being forced to perform oral sex;
- sexual intercourse; and
- sexual penetration.

**Sexual exploitation:** Any form of sexualised behaviour with an adult, child or young person, whether or not there is consent and regardless of who initiated the behaviour. This includes among other things:

- a range of behaviours or a pattern of behaviour aimed at the involvement of others in sexual acts, including but not limited to coercion or grooming behaviour,
- sexualised behaviour with a person below the age of consent,
- sexualised behaviour with a person with whom there is a supervisory, pastoral care, or counselling relationship,
- the production, distribution, possession of or accessing of pornographic material of any kind,
- taking advantage of the conscious or unconscious use of sexually provocative behaviour that some victims of abuse display,
- viewing or reading, in print or otherwise, material of a sexually explicit nature, except for a legitimate purpose,
- participating in sexually explicit conversation via social media, chat rooms, gaming or any other means, and
- asking, without legitimate reason, any questions about the intimate details of a person's sexual life or providing details of your own sexual life.



**Sexual harassment:** Any unwelcome sexualised behaviour, whether intended or not, in relation to an adult, child or young person where the person reasonably feels in all circumstances offended, belittled or threatened. Such behaviour may consist of a single incident or several incidents over a period of time. It includes among other things:

- implicit or explicit demands or suggestions for sexual activities,
- making any gesture, action or comment of a sexual nature to a person or about a person in their presence,
- making jokes containing sexual references or innuendo using any form of communication,
- exposure to any form of sexually explicit or suggestive material, including but not limited to pornography of any kind,
- physical contact that is inappropriate to the situation or uncomfortable or confusing for the receiver, including kissing, hugging, touching, pinching, patting or aggressive physical conduct,
- touching any sexual part of the body, including the “only kidding” or accidental occasions of sexual touch,
- generating or participating in inappropriate personal correspondence (including electronic communication) in respect of sexual or romantic feelings or in breach of the Code of Conduct,
- inappropriate giving of gifts, including those of a sexual, suggestive or romantic nature that is in breach of the Code of Conduct,
- inappropriate or unnecessary discussion of, or inquiry about, personal matters of a sexual nature,
- inappropriate intrusion of personal space or physical privacy, including being alone in a bedroom or bathroom or allowing inappropriate exposure during activities that require dressing or changing clothes,
- voyeurism, and
- persistent following or stalking

**Sexualised behaviour** is any behaviour that may reasonably be perceived to be of a sexual nature according to the standards of the time by the person to whom it is directed.

**Victim:** The person against whom proven abuse was directed, many of whom refer to themselves as survivors.

**Young person or young people:** Any person/s above 16 years of age but less than 18 years of age.

## **4 RESPONSIBILITIES**

### **4.1 Jericho Road (Presbyterian Social Services) CEO responsibilities**

The CEO is responsible to ensure that all Educators are aware of their obligations to report to the Department of Family and Community Services a child or young person who is considered to be at risk of harm.

The CEO is required to ensure that ECS policies, procedures and practices are in line with current legislation in relation to child protection.

The CEO is responsible for ensuring systems are in place for recording and responding to all allegations or convictions against an Educator, including matters that are required to be notified to the Ombudsman.

The CEO has several responsibilities in regards to allegations of child abuse and neglect by an Educator. These include recording the allegation, notifying, investigating, responding, reporting conclusions, and determining action. These responsibilities must be fulfilled in accordance with this policy.

The CEO may meet these responsibilities through delegation to the Children's Services Manager or Director, Conduct Protocol Unit.

### **4.2 Nominated Supervisor responsibilities**

The Nominated Supervisor of an EC (Early Childhood) service is responsible to ensure that all Educators complete the Working with Children Check, and conduct an employment screening in conjunction with CPU processes before commencing work at an EC service.

The Nominated Supervisor is responsible to ensure that the EC service complies with Federal and State Child Protection legislation at all times.

The Nominated Supervisor is required to ensure that all relevant bodies are informed as required in regards to child protection matters, and in accordance with this policy.

The Nominated Supervisor is responsible to ensure that all Educators at a service are aware of and trained in child protection procedures and obligations. This includes industry recognised training every 3 years (CHCPRT001 - *Identify and respond to children and young people at risk*), and training in this policy and the Code of Conduct every year.

The Nominated Supervisor is responsible to ensure all records regarding child protection are kept confidential, including securing documents against loss, unauthorised access, modification and/or other misuse.

#### **4.3 ECS Educator responsibilities**

Educators are responsible to read and comply with all of this policy.

Educators are required to give their EC service an assurance that they have not been found guilty of a sexual offence or an offence against the person of a child or a child.

Educators are required to disclose if they have been charged and/or convicted of a reportable offence, and/or any information about misconduct that they become aware of concerning an ECS employee involving reportable conduct.

Educators are responsible to report to the Head of Agency, via the CPU, any situation where he/she becomes aware that there has been a reportable allegation made in relation to an employee, or has formed a belief on reasonable grounds that a child or young person has been harmed or is at risk of harm.

Educators are responsible to act with integrity, honesty and confidentiality in all matters regarding child protection.

## **5 RESPONSE TO ALLEGATIONS OF CHILD ABUSE**

The focus of an EC service's duty of care is the protection of children from abuse. The procedures followed must also be in accordance with all relevant legislation, and will take into account other appropriate practices and guidelines aimed at the protection of children. This policy will be reviewed as required, in line with amendments to legislation and regulations.

When an EC Service is notified of suspected or disclosed child abuse, a clear and consistent set of procedures (included in this policy) must be followed in a professional manner. As well as properly focusing on the welfare of any child suspected as being a victim of child abuse, it must be remembered that an allegation is a statement or assertion which is unproven.

Jericho Road ECS recognise that there is a danger that carers and the child care profession could be seriously harmed by mischievous or irresponsible allegations or by hasty action or by over-reaction. The reputation of all involved must therefore be safeguarded. Jericho Road ECS will adopt appropriate and clearly documented initial investigative procedures.

Jericho Road ECS also recognises the importance of adopting preventative measures in protecting children from abuse and neglect. Jericho Road ECS is committed to providing a safe and caring environment for every child.

This document sets out Jericho Road ECS' policy in broad and general terms. Further information and advice can be gained from the Conduct Protocol Unit (CPU) of the Presbyterian Church of Australia in the State of New South Wales and from the various Acts and Regulations.

Jericho Road ECS are firmly committed to a coordinated and comprehensive approach to promote the protection of children. In accordance with the NSW Government principles for Child Protection and Intervention, Jericho Road ECS aims to promote a safe environment for all children and to assist all staff in recognising and reporting suspected reportable conduct.

## **6 LEGISLATIVE REQUIREMENTS**

### **6.1 The Children's Guardian Act 2019**

The Reportable Conduct Scheme is operated by the Office of the Children's Guardian under the Children's Guardian Act 2019.

The scheme monitors how certain organisations ('relevant entities') investigate and report on types of conduct ('reportable allegations' or 'reportable convictions') made against their employees, volunteers or certain contractors who provide services to children. The scheme will also cover religious bodies, in response to recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

When the head of a 'relevant entity' becomes aware of a reportable allegation or a reportable conviction, the head of that entity must notify the Office of the Children's Guardian within seven business days and conduct an investigation into the allegations. If the final entity report is not ready to submit within 30 calendar days, the head must provide an interim report with information about the progress of the investigation and an expected timeframe for completion.

### **6.2 The Children & Young People (Care and Protection) Act, 1998**

The Head of Agency is required to:

- a) ensure that all Educators are aware of their obligations to report to the Department of Family and Community Services a child or young person who is considered to be at risk of harm, and
- b) ensure that policies, procedures and practices are in line with the Act in relation

to child protection.

All ECS Educators are required to:

- a) ensure that practice is consistent with the principles, objectives and provisions of the Act, and
- b) report concerns that a child or young person is “at risk of harm” to the Nominated Supervisor or the Nominated Supervisor’s nominee, or where this is not appropriate, for example where the allegation relates to the Nominated Supervisor, all Educators are required to inform the Nominated Supervisor of the CPU.

Indicators that establish reasonable grounds to suspect a child is at risk of harm are when:

- a) a child speaks about being at risk of harm,
- b) someone else informs an Educator that a child is or has been at risk of harm,
- c) a child tells an Educator that they know someone who has been or is at risk of harm, or
- d) an Educator observes a particular child’s physical appearance, condition or behaviour; or their knowledge generally leads to suspicion of abuse.

Where necessary the CPU will manage the provisions under Chapter 16A relating to exchanging information with other agencies.

More information on mandatory reporting under this Act, refer to <https://reporter.childstory.nsw.gov.au/s/> .

### **6.3 Child Protection (Working with Children) Act 2012**

The object of this Act is to protect children by not permitting certain persons to engage in child-related work, and by requiring persons engaged in child-related work to have working with children check clearances.

### **6.4 National Quality Framework (NQF)**

The National Quality Framework (NQF) provides a national approach to regulation, assessment and quality improvement for early childhood education and care and outside school hours care services across Australia.

Under Regulation 175 of the NQF our Early Childhood Services will need to notify the Department of Education (NSW) of any circumstances arising at a service which poses a risk to the safety, health and wellbeing of a child or children attending the service. This notification is done through the National Quality

Agenda IT System (NQA ITS).

## **7 CHURCH REQUIREMENTS**

### **Breaking the Silence**

The Breaking the Silence (BTS) Policy Statement and Code of Conduct are approved by the General Assembly of the Presbyterian Church of Australia in the State of New South Wales including the Australian Capital Territory (GANSW) and cannot be permanently changed except by GANSW. The most recently approved Policy Statement replace all previous versions and any policy implemented before the adoption of the 2015 Edition by the State General Assembly.

BTS applies to ECS through this policy. ECS employees are not required to undertake Breaking the Silence training but are required to be trained in this policy every year. Where an EC service has a governing committee or board, members of that committee or board are required to undertake BTS training.

## **8 ROLES AND RESPONSIBILITIES**

### **8.1 The Head of Agency**

The Head of Agency is responsible for ensuring systems are in place for recording and responding to all allegations or convictions against an Educator, including matters that are required to be notified to the Ombudsman. The Head of Agency is responsible for:

- a) recording the allegation,
- b) notifying the Office of the Children's Guardian (OCG),
- c) reporting to the 'Helpline' (Department of Communities and Justice (DCJ)) or the Police, if necessary
- d) conducting a risk assessment,
- e) investigating an allegation,
- f) responding to an allegation concerning the head of agency, manager or supervisor,
- g) responding to a reportable allegation against an Educator where the conduct occurred outside work hours if required,
- h) taking relevant employment proceedings (if any) in relation to the Educator who has had an allegation of reportable conduct made against them, and notifying the OCG of that action,
- i) sending the report and findings of the outcome of the agency investigation of reportable allegation or conviction to the OCG, and
- j)

- k) determining the action that may be taken if it is found, at the end of the investigation, that an Educator has made an allegation that has been found to be false or vexatious.

The Head of Agency may delegate their responsibilities to the Jericho Road CEO or Director, Conduct Protocol Unit.

## **8.2 The Nominated Supervisor or Nominated Supervisor's Nominee**

The Nominated Supervisor or Nominated Supervisor's nominee is to report to the appropriate authorities and to the CPU any situation where he/she:

- a) becomes aware that there has been a reportable allegation made in relation to an Educator, or
- b) has formed a belief on reasonable grounds that a child or young person has been harmed or is at risk of harm.

The Nominated Supervisor or Nominated Supervisor's nominee is also required to:

- c) establish and maintain systems for preventing, handling and responding to reportable allegations or reportable convictions involving an Educator of an EC service,
- d) make arrangements within the EC service to require all Educators to notify the Head of Agency, via the CPU, of any reportable allegation or conviction of which they become aware, including where reportable allegations may be made to the CPU, and
- e) and undertake ongoing risk management (refer Section 11).

## **8.3 The Conduct Protocol Unit (CPU)**

The CPU is responsible for the oversight of any process arising from a reportable allegation. The CPU may assist and advise an EC service during an investigation in relation to process, legal requirements, provision of pastoral care and support, findings and subsequent actions. The Nominated Supervisor may be appointed as Head of Agency in some circumstances.

When the Police or the Department of Communities and Justice are investigating an allegation or incident, an EC service is responsible for:

- a) assessing the risk posed by the Educator if the allegation were to be sustained, and
- b) liaising and coordinating with the Department of Communities and Justice or the Police regarding specific roles.

These responsibilities will be overseen by the CPU. CPU will also keep relevant documents and records as required by Breaking the Silence.

Once the Department of Community and Justice and/or the Police have made a

finding, the EC service in conjunction with the CPU will determine what further steps need to be taken to comply with this policy and relevant legislation with regards to the Educator.

#### **8.4 ECS Educators**

All ECS Educators must report to the Head of Agency (via the CPU) any situation where he/she:

- a) becomes aware that there has been a reportable allegation made in relation to an Educator, or
- b) has formed a belief on reasonable grounds that a child or young person has been harmed or is at risk of harm.

In most instances reports will be made to the Nominated Supervisor or the Nominated Supervisor's nominee. However, where this is not appropriate, for example where the allegation relates to the Nominated Supervisor or where there is a clear conflict of interest, all Educators are required to inform the Nominated Supervisor of the CPU.

All Educators should also note that:

- c) Failure to report allegations of child sexual abuse of a child who is under 16 years of age, based on reasonable grounds, is an offence under Section 316 of the NSW Crimes Act.
- d) Educators are required to report any allegations or evidence of abuse only to the nominated person and discussion with others should be avoided or limited to persons in their normal reporting line. Failure to limit communication in this way will not only be a breach of this policy, but will result in the Educator not being protected under the law from potential civil proceedings for defamation.
- e) The Nominated Supervisor or the Nominated Supervisor's nominee will report any matter that must be notified to the Department of Family and Community Services as required by the relevant legislation. The Educator will be advised of the action taken. If it is decided that there are not reasonable grounds to suspect abuse and consequently the matter is not going to be reported by the Nominated Supervisor or the Nominated Supervisor's nominee, the Educator, as the original notifier, will have an obligation to report under legislation if they believe that reasonable grounds exist.
- f) All allegations against an Educator must be reported to the Ombudsman. This will be done by the Head of Agency (via the CPU).
- g) If a child discloses abuse to an Educator, that Educator is obligated to report the disclosure as stated above but the Educator must not investigate the matter.
- h) Educators are required to confer with the Nominated Supervisor or the Nominated Supervisor's nominee before responding to a request by the Department of Family and Community Services or any other requests to attend an interview with a child.



i) Educators may be required to provide a detailed written report on any matter regarding reportable conduct about which they have notified or been notified. The confidentiality of such a report will be maintained unless otherwise required under law. Educators are advised to keep accurate notes.

Educators are required to give their EC service an assurance that they have not been found guilty of a sexual offence or an offence against the person of a child or a child.

The Children's Guardian Act, 2019 requires that Educators disclose to the Nominated Supervisor or Nominated Supervisor's nominee:

- if they have been charged and/or convicted of a reportable offence, and/or
- any information about misconduct that they become aware of concerning an Educator of the EC service involving reportable conduct.

### **8.5 The Office of the Children's Guardian**

The OCG promotes the interests and rights of children and young people living in out-of-home care, works to protect children by promoting and regulating quality, child safe organisations and services.

The OCG has several functions with relation to child protection at Early Childhood Services:

1. The OCG manages the Working with Children Check (WWCC) system. Every ECS employee and volunteer must provide an approved WWCC to the CPU who will then verify the WWCC with the OCG prior to the employee or volunteer starting work; and
2. The OCG administers the Reportable Conduct Scheme under the Children's Guardian Act 2019. The Scheme deals with allegations of reportable conduct towards children under 18 years of age.

### **8.6 The Department of Communities and Justice (DCJ)**

The role of the DCJ includes, but is not limited to, providing or arranging services to children, young people and parents when a request for assistance is received; receiving or assessing reports of abuse or neglect; and acting to maintain the safety of children.

The main purpose of an investigation by the DCJ is to identify whether a child is at risk of harm and whether any care and support issues exist.

### **8.7 The Police**

The main purpose of an investigation by Police is to obtain information upon which a sound and proper decision can be made about the validity of the allegation. This

means:

- a) gathering all the relevant facts and making decisions as to whether on balance of probabilities, the allegation has been sustained/not sustained, and
- b) providing information to assist in any disciplinary proceedings.

Joint Investigative Response Teams (JIRTs) consists of a member of the Community Services FACS working with a member of the NSW Police Force and NSW Health professionals to conduct an investigation.

### **8.8 Department of Education (NSW)**

Under Regulation 175 of the National Quality Framework our Early Childhood Services will need to notify the Department of Education (NSW) of any circumstances arising at a service which poses a risk to the safety, health and wellbeing of a child or children attending the service. This notification is done through the National Quality Agenda IT System (NQA ITS).

## 9 PROCEDURE

### 9.1 Reporting Process

Incident	Action	Contacts
Child or staff member injured, or child has been subjected to abuse	Staff member/Director reports to Children’s Services Manager (CSM) who will provide necessary Incident and Investigation forms. Note: under insurance requirements any incidents are to be reported within 72 hours.  For a child who is seriously injured or has been subjected to abuse, Staff member/Director to notify via NQA-IT system.	Children’s Services Manager, Bernadette Reyes – 0481 737 141  <a href="http://www.acecqa.gov.au/national-quality-agenda-it-system">http://www.acecqa.gov.au/national-quality-agenda-it-system</a>
Child at risk of significant harm	Staff member, as mandatory reporter, uses online Mandatory Reporting Guide available at <a href="http://reporter.childstory.nsw.gov.au">http://reporter.childstory.nsw.gov.au</a> and reports accordingly.  Staff member reports to Director/Supervisor* who reports to Conduct Protocol Unit (CPU).  Director or CSM notifies via NQA-IT system.	Dept. of Communities and Justice, Child Protection Helpline – 132 111  CPU – 02 9690 9325, <a href="mailto:cpu@pcnsw.org.au">cpu@pcnsw.org.au</a>  <a href="http://www.acecqa.gov.au/national-quality-agenda-it-system">http://www.acecqa.gov.au/national-quality-agenda-it-system</a>
Allegation of reportable conduct against an employee	Staff member+ reports to Director/Supervisor* who reports to Conduct Protocol Unit (CPU). CPU will then contact the chair of the Social Services Committee (Head of Agency) and Office of the Children’s Guardian.  Director or CSM notifies via NQA-IT system.	CPU – 02 9690 9325, <a href="mailto:cpu@pcnsw.org.au">cpu@pcnsw.org.au</a>  <a href="http://www.acecqa.gov.au/national-quality-agenda-it-system">http://www.acecqa.gov.au/national-quality-agenda-it-system</a>
Criminal offence / death of a child	Director/Supervisor* to be advised who will call Police, Community Services and CPU.	Police Assistance Line – 131 144  Dept. of Communities and Justice, Child Protection Helpline - 132 111  Department of Education and Care Directorate - 1800 619 113 for death of a child  CPU – 02 9690 9325, <a href="mailto:cpu@pcnsw.org.au">cpu@pcnsw.org.au</a>

**Notes:**

\* Notifiable Circumstances involving the Director/Supervisor must be directed to the Chair of Committee of Management / Preschool Committee (or for Hawkesbury Preschool the Children’s Services Manager on 0481 737 141) who will contact CPU, and Police and Community Services if required.

+ An allegation of reportable conduct against an employee may also be made to a committee member who would then advise the Director/Supervisor, or contact the CPU directly.

### 9.2 Investigation of Reportable Conduct

ECS adopts the following principles in its investigation of reportable conduct:

- a) establishing whether the agency has the reporting responsibilities as indicated under the Children’s Guardian Act 2019. The service needs to consult with the CPU in making this assessment.
- b) informing the person who is the subject of allegations of the substance of any allegations made against them and providing them with a reasonable opportunity to respond,

- c) taking necessary steps to protect the person who made the allegation at all times,
- d) making reasonable inquiries or investigations before making a decision,
- e) ensuring that no person decides a case in relation to which they have a conflict of interest,
- f) ensuring that all action is taken fairly and without bias, regardless of the background of any party involved,
- g) conducting the investigation without undue delay, and
- h) emphasizing the need for confidentiality throughout the process.

An EC service has an obligation to investigate all allegations, regardless of the source (eg self disclosure).

Once an allegation of reportable conduct against an Educator is received the Head of Agency must:

- a) Report the matter to the Nominated Supervisor, CPU and confirm the appropriate Head of Agency;
- b) Clarify the allegation and determine that it is an allegation of reportable conduct;
- c) Assess whether the Department of Communities and Justice (DCJ) or the Police need to be notified;
- d) Complete the initial notification to the Ombudsman, noting that this is required within 7 days of receiving the allegation.

If DCJ or Police will not be involved in investigation, a sole investigation must be carried out by the EC service in conjunction with the CPU, involving the following steps:

- e) Put in place appropriate support measures for all involved as detailed in this policy.
- f) Carry out a risk assessment and take action to reduce/remove risk, where appropriate. N.B: Risk to child, Educator or other children with whom the Educator has been in contact must be monitored throughout the investigation as per the risk management section of this policy;
- g) Collect all available relevant information, ensuring full documentation throughout the process;
- h) Interview, or arrange interviews to be conducted by an appropriate person, all relevant witnesses, ensuring all interviews are adequately recorded. Interviews must be recorded verbatim;
- i) Make Educator fully aware of the allegation(s) noting that the degree of disclosure will vary, depending on the circumstances;
- j) Interview the Educator subject to the allegation(s);
- k) Consider all evidence and make a preliminary finding as to whether the allegation is sustained, false, vexatious, misconceived, not reportable conduct or not sustained;
- l) Inform the Educator of preliminary findings and provide opportunity to respond;

- m) Inform the Nominated Supervisor of the preliminary findings and Educator response;
- n) Make the final finding;
- o) Send the final report to the Office of the Children's Guardian (OCG);
- p) Inform the Educator of the findings and actions to be taken; and
- q) Implement the final actions.
- r) and

### **9.3 Disclosures of Abuse**

Educators and staff will:

- a) React calmly to the child making the disclosure;
- b) Listen attentively and later write down the child's exact words;
- c) Provide comfort and care to the child; and
- d) Follow the steps for reporting as per the Mandatory Reporter Guide.

Reassure the child that:

- a) It is not their fault;
- b) It was right to tell;
- c) It is not OK for adults to harm children - no matter what; and
- d) 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:

- a) 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; or
- b) Promise the child that you will not tell other people, as the Educator may need to have the disclosure correctly dealt with.

## 10 SUPPORT

The EC service will provide support for the child or young person, through:

- a) appointing an appropriate person to provide support,
- b) providing appropriate pastoral care,
- c) providing access to counselling where appropriate,
- d) acknowledging the impact of the process on academic performance and co-curricular commitments.

The EC service will provide support for the Educator through:

- a) appointing an appropriate person to provide support,
- b) providing access to counselling where appropriate,
- c) acknowledging the impact of the process on work performance, and
- d) applying principles of procedural fairness as outlined in this policy.

The EC service will provide support for the reporting Educator through:

- a) appointing an appropriate person to provide support,
- b) providing appropriate pastoral care,
- c) providing access to counselling where appropriate, and
- d) acknowledging the impact of the process on work performance.

The EC service will provide support for the parents/carers of the child or young person through:

- a) appointing an appropriate person to provide support,
- b) providing appropriate pastoral care, and
- c) providing access to counselling where appropriate.

The EC service will assess the impact of an investigative process or action following the process on any group within the community and will provide support to such a group in accordance with the pattern indicated above.

NOTE: Support will not be provided to the Educator against whom the allegation has been made by the same person providing support to the Educator who made an allegation or the child/young person and his/her family.

## **11 RISK MANAGEMENT**

Risk management means identifying the potential for an incident or accident to occur and taking steps to reduce the likelihood or severity of its occurrence. All employment situations do not carry the same risks; nor do all Educators. Neither will all children have the same vulnerability. Recognising and acknowledging that the risk of reportable conduct is present in any child-related employment situation is the first critical step towards effective risk management.

In dealing with any specific allegations the EC service will put a risk management plan in place in relation to that specific allegation that will include procedures to prevent reportable conduct occurring in the workplace as well as procedures for responding to incidents or allegations of reportable conduct against an Educator.

### **11.1 Initial risk assessment**

One of the first steps following a reportable allegation is to conduct a risk assessment. The purpose of undertaking a risk assessment when an allegation is made is to identify and minimise the risks to:

- a) the child or young person who are alleged to have been harmed by an Educator,
- b) the other children with whom the Educator may have contact,
- c) the Educator against whom an allegation of reportable conduct has been made,
- d) the EC service, and
- e) the proper investigation of the allegation.

When taking action to address the identified risks, the EC service will take into consideration both the needs of the child who is alleged to have been harmed and the needs of the Educator against whom the allegation is made. This includes the nature of the allegation, the vulnerability of children, the nature of the position occupied by the Educator and the level of supervision of the Educator. The disciplinary history, safety of the Educator and the risk to the investigation may also be factors in considering whether to leave the Educator in position while the investigation is conducted. The EC service will take appropriate action to minimise risks should they be identified as significant.

NOTE: A decision to take action on the basis of the risk assessment has no relevance to the findings of the matter. Until the investigation is completed and a finding is made, such action will not be considered as an indication that the Educator did harm the child. The action taken by the EC service merely recognises the serious potential consequences of the reportable allegation (whether or not it is proven) and is an attempt to manage risk.

### **11.2 Ongoing risk management**

During the investigation period it is important to manage any risks that arise and to review the risk management plan in the light of new information that emerges during the process. It is important that the EC service also ensure that adequate/necessary support is being provided for all those involved as detailed in the support section of this policy.

### **11.3 Risk Management at the conclusion of the investigation**

At the completion of the investigation, a finding is made in relation to the allegation. A review of the investigation should then be conducted to ensure that all relevant “risk” issues have been considered. This information will provide the EC service with an opportunity to put in place measures to minimise any further risk of harm to children in its care. Such measures may include, but will not be limited to:

- a) training for one or more Educators,
- b) changing work practices in certain situations,
- c) changing the physical environment, and
- d) reviewing the Child Protection Policy and Code of Conduct.

## **12 DOCUMENTATION AND RECORD KEEPING**

The CPU will keep relevant documents and records as per Breaking the Silence requirements.

## **13 PREVENTATIVE STRATEGIES**

Child protection is a broad responsibility. It involves more than responding once an allegation has been made. It involves minimising the possibility of reportable conduct occurring in the first place. ECS are committed to prevention and will show this through:

- a) developing and reviewing strategies to minimise reportable conduct occurring, including a comprehensive Code of Conduct,
- b) requiring Educators to sign off their acknowledgment and understanding of the child protection policy and the Code of Conduct,
- c) ensuring the policy is dated as well as a date when it will be reviewed,
- d) clearly defining each person’s role within the organisation,
- e) implementing thorough employment procedures that identify people who are not suitable to work with children through reference checking pre-employment screening and detailed questioning at interviews,
- f) providing information to families and the community on the child protection



- strategies that have been adopted by ECS,
- g) training for Educators to promote best practices and to ensure a safe environment for children and Educators, and
  - h) raising awareness in the general community about child protection by displaying brochures, posters or other means of communication.

### **13.1 Code of Conduct**

Each EC service has a Code of Conduct which must be adhered to by all Educators. A copy will be provided upon employment and a receipt signed. Ongoing training will include reference to this Code of Conduct. The Code of Conduct will be readily available within the community, including to parents of children.

### **13.2 Professional Development for Educators**

Each EC service has duty of care and statutory responsibilities which require that all relevant Educators (including volunteers where appropriate) be appropriately trained.

Existing Educators will be required to attend regular training that will:

- a) walkthrough and reinforce this Child Protection Policy and the service's Code of Conduct on an annual basis,
- b) attend professional Child Protection training every three years (CHCPRT001 - *Identify and respond to children and young people at risk*) provided by a suitably registered training organisation,
- c) raise their awareness of child protection issues including recognising signs of reportable conduct and abuse,
- d) advise them of their statutory obligations under this policy, and
- e) provide clear guidance in relation to appropriate and inappropriate behaviour.

As part of their induction to an EC service, newly recruited Educators will be assessed as to their knowledge and training requirements in this area and appropriate training will be undertaken in need.

All Educators will receive a copy of this Child Protection Policy and the service's Code of Conduct and are required to formally acknowledge that they have read, understood and are willing to comply with these.

### **13.3 Partnership with parents and the wider community**

ECS recognises the importance of supporting our parents (and the community) in maintaining positive relationships with their children. From time to time, ECS may provide parent information evenings or small group courses that may assist

children and their families to develop open lines of communication. These may include such areas as parenting, communication skills, child development etc.

ECS may also raise community and family awareness about general child protection issues through information placed in newsletters and through the distribution of relevant brochures. ECS will include information about the child protection strategies such as training Educators in best practices to ensure a safe environment through a letter to parents or through newsletters.

From time to time there may be children at an EC service who may need to be given special consideration in the event that an allegation that affects a child or Educator from a target group is made. These groups may consist of cultural or community groups. ECS staff should be aware of, and sensitive to, children with culturally diverse and indigenous backgrounds, and cultural practices without deviating from the this policy.

### **13.3 Voice of the Child**

In line with Child Safe Standard 2, ECS will listen to children and their concerns, take what they communicate seriously, and facilitate children participating in decisions affecting them.

### **13.4 Employment procedures**

In addition to complying with legislation with regard to the prohibited employment screening, ECS will seek to recruit Educators that would be strongly supportive of the Christian ethos and have a focus on the pastoral needs of children. ECS will also use the referee checking guidelines prepared by the Office of the Children's Guardian (OCG).

### **13.5 Physical Environments**

In line with Child Safe Standard 8 ECS and their staff will regularly review the safety of the physical environments to ensure children are safe from risk of harm.

### **13.6 Online Environments**

In line with Child Safe Standard 8 ECS and their staff ECS will ensure:

- online environments are appropriately filtered to ensure only age appropriate material can be accessed;
- access to online environments is supervised; and
- any communication via social media between ECS and children and family respects confidentiality, is transparent and accountable.

## 14 REFERENCES

Breaking the Silence, Procedures for dealing with and preventing abuse within the church, 2015 Edition Presbyterian Church of New South Wales, Conduct Protocol Unit – see [www.breakingthesilence.org.au](http://www.breakingthesilence.org.au)

Child Protection (Working with Children) Act 2012

Child Story Reporter guide - <https://reporter.childstory.nsw.gov.au/s/>

Children and Young People (Care and Protection) Act 1998

Children’s Guardian Act 2019

Crimes Act 1900

National Quality Framework and National Quality Agenda IT System – <http://www.acecqa.gov.au/national-quality-agenda-it-system>

## APPENDIX A – ACCEPTANCE

I, \_\_\_\_\_,

of ECS service \_\_\_\_\_

have read and understood this policy and the service's Code of Conduct and agreed to follow both.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

\*\* Copy to be retained on employee's/volunteer's file.

# CHILD PROTECTION PROCESS – EARLY CHILDHOOD SERVICES



## Reporting Requirements

Staff should be familiar with the Child Protection Policy and Code of Conduct for their service. The following is a summary of reporting requirements.

The Conduct Protocol Unit must be advised of all **notifiable circumstances**, including:

- o any fact, circumstance, **allegation**, notification, knowledge of, verbal advice of, direct or indirect connection to, or attempt of **abuse**, and
- o all **allegations, complaints, reportable allegations and allegations of reportable conduct**.

An **allegation** can be a complaint, incident, allegation, or an allegation of **reportable conduct**.

**Abuse** includes:

- o child abuse;
- o **risk of significant harm**;
- o **reportable conduct**;
- o sexual misconduct; and/or
- o conduct that breaches the service's Code of Conduct.

**Reportable conduct** is a defined term that appears in the Children's Guardian Act 2019 (NSW). Section 20 of the Children's Guardian Act defines reportable conduct as:

- o a sexual offence or sexual misconduct,
- o ill-treatment or neglect of a child,
- o an assault against a child,
- o an offence under section 43B or 316A of the Crimes Act 1900,
- o behaviour that causes significant emotional or psychological harm to a child.

At **risk of significant harm** is a term used by Department of Communities and Justice for situations where a reasonable person has current concerns about the safety, welfare or wellbeing of a child or young person. All staff are mandatory reporters. Conduct putting a child or young person at risk of significant harm may also be **reportable conduct** and is a **notifiable circumstance**.

\*\*\* If in doubt about any aspect please call the Conduct Protocol Unit on 9690 9325 \*\*\*

# CHILD PROTECTION REPORTING PROTOCOLS - EARLY CHILDHOOD SERVICES



Incident	Action	Contacts
Child or staff member injured, or child has been subjected to abuse	<p>Staff member/Director reports to Children’s Services Manager (CSM) who will provide necessary Incident and Investigation forms. Note: under insurance requirements any incidents are to be reported within 72 hours.</p> <p>For a child who is seriously injured or has been subjected to abuse, Staff member/Director to notify via NQA-IT system.</p>	<p>Children’s Services Manager, Bernadette Reyes – 0481 737 141</p> <p><a href="http://www.acecqa.gov.au/national-quality-agenda-it-system">http://www.acecqa.gov.au/national-quality-agenda-it-system</a></p>
Child at risk of significant harm	<p>Staff member, as mandatory reporter, uses online Mandatory Reporting Guide available at <a href="http://reporter.childstory.nsw.gov.au">http://reporter.childstory.nsw.gov.au</a> and reports accordingly.</p> <p>Staff member reports to Director/Supervisor* who reports to Conduct Protocol Unit (CPU).</p> <p>Director or CSM notifies via NQA-IT system.</p>	<p>Dept. of Communities and Justice, Child Protection Helpline – 132 111</p> <p>CPU – 02 9690 9325, <a href="mailto:cpu@pcnsw.org.au">cpu@pcnsw.org.au</a></p> <p><a href="http://www.acecqa.gov.au/national-quality-agenda-it-system">http://www.acecqa.gov.au/national-quality-agenda-it-system</a></p>
Allegation of reportable conduct against an employee	<p>Staff member+ reports to Director/Supervisor* who reports to Conduct Protocol Unit (CPU). CPU will then contact the chair of the Social Services Committee (Head of Agency) and Office of the Children’s Guardian.</p> <p>Director or CSM notifies via NQA-IT system.</p>	<p>CPU – 02 9690 9325, <a href="mailto:cpu@pcnsw.org.au">cpu@pcnsw.org.au</a></p> <p><a href="http://www.acecqa.gov.au/national-quality-agenda-it-system">http://www.acecqa.gov.au/national-quality-agenda-it-system</a></p>
Criminal offence / death of a child	<p>Director/Supervisor* to be advised who will call Police, Community Services and CPU.</p>	<p>Police Assistance Line – 131 144</p> <p>Dept. of Communities and Justice, Child Protection Helpline - 132 111</p> <p>Department of Education and Care Directorate - 1800 619 113 for death of a child</p> <p>CPU – 02 9690 9325, <a href="mailto:cpu@pcnsw.org.au">cpu@pcnsw.org.au</a></p>

\* Notifiable Circumstances involving the Director/Supervisor must be directed to the Chair of Committee of Management / Preschool Committee (or for Hawkesbury Preschool the Children’s Services Manager on 0481 737 141) who will contact CPU, and Police and Community Services if required.

+ An allegation of reportable conduct against an employee may also be made to a committee member who would then advise the Director/Supervisor, or contact the CPU directly.

Your committee member contact is – Name: \_\_\_\_\_ Number: \_\_\_\_\_

# CHILD PROTECTION PROCESS – EARLY CHILDHOOD SERVICES



## Staff, Training and Policy Requirements

### New staff member requirements:

- Working With Children Check in place, verified by the CPU, before starting work
- Reference checks performed, recorded and placed on file as part of the recruiting and selection process
- Read and sign the Child Protection Policy and service's Code of Conduct as part of the induction process

### Ongoing staff requirements:

- CHCPRT001 *Identify and respond to children and young people at risk* training every three years provided by a suitably registered training organisation
- Staff team walk through the service's Child Protection Policy and Code of Conduct on an annual basis

### Preschool committee requirements:

- Undergo Breaking the Silence (BTS) training every three years
- Review the service's Child Protection Policy and Code of Conduct on an annual basis
- When requested, provide a copy of the Child Protection Policy and Code of Conduct to Presbyterian Social Services (PSS) for review against latest BTS and legislative requirements