



P.O. Box 1050, Woden, ACT, 2606
 Ph: 6281 3121 Fax: 6281 7077
 Email: wodenecc@tpg.com.au

CHILD PROTECTION POLICY

QUALITY AREA 2: CHILDREN'S HEALTH AND SAFETY

Document # QA2-C1

National Quality Standard (NQS)

Quality Area 2: Children's Health and Safety

2.2	Safety	Each child is protected
2.2.1	Supervision	At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard
2.2.2	Incident and emergency management	Plans to effectively manage incidents and emergencies are developed in consultation with relevant authorities, practiced and implemented.
2.2.3	Child Protection	Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect.

Education and Care Services National Regulations 2011

Children (Education and Care Services) National Law Act 2010

84	Awareness of child protection law
155	Interactions with children
175	Prescribed information to be notified to Regulatory Authority
176	Time to notify certain information to Regulatory Authority
S162 (A)	Persons in day to day charge and nominated supervisor to have child protection training
273	Course in child protection

Introduction

Woden Early Childhood Centre (WECC) is committed to providing an environment that fosters health, development, spirituality, self-respect and dignity, and that is free from violence and exploitation. Under the *Children and Young People Act 2008*, children and young people must receive the care and protection necessary to ensure their safety, welfare and wellbeing. All WECC educators are Mandatory Reporters and are required to report to the Mandated Persons Line (Phone: 1300 556 728) or via emails childprotection@act.gov.au if they have reasonable grounds to suspect a child or young person is at risk of significant harm or if they have current concerns about the safety, welfare or wellbeing of a child or young person where the concerns arise during or from their work. WECC embeds the National Principles of Child Safe Organisation and promotes children's sense of security and belonging. We are committed to ensuring all educators have a full understanding of their responsibilities as Mandatory Reporters and are supported in fulfilling these.

Our Service believes that:

- children are capable of the same range of emotions as adults
- children's emotions are real and need to be accepted by adults
- a reaction given to a child from an adult in a child's early learning stages of emotional development can be positive or detrimental depending on the adult's behaviour
- children who have a better understanding of their body's response to their emotions are more able to predict the outcome from a situation, better manage them and/or ask for help

What is abuse?

There are four types of child abuse:

1. Physical Abuse
2. Sexual Abuse
3. Emotional Abuse
4. Neglect

Child abuse is any action towards a child or young person that harms or puts at risk their physical, psychological or emotional health or development. Child abuse can be a single incident or can be a number of different incidents that take place over time.

Definitions

'Maltreatment' – refers to non-accidental behaviour towards another person, which is outside the norms of conduct and entails a substantial risk of causing physical or emotional harm. Behaviours may be intentional or unintentional and include acts of omission and commission. Specifically abuse refers to acts of commission and neglect acts of omission. In practice the terms 'child abuse' and 'child neglect' are used more frequently than 'child maltreatment'.

'At risk of significant harm' – in relation to a child or young person means that there are current concerns for their safety, welfare or wellbeing because of the presence to a significant extent of any one or more of the following circumstances:

- the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met
- the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive medical care
- in the case of a child or young person who is required to attend school in accordance with the *Education Act 2004*, 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
- the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated
- the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm
- a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm
- the child was the subject of a pre-natal report under *section 362* of the *Children and Young People Act 2008* and the birth mother of the child did not engage successfully with the support service to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report

'Reasonable grounds' – means that you suspect a child may be at risk of significant harm based on:

- your observations of the child, young person or family
- what the child, young person, parent or another person has told you
- what can reasonably be presumed based on observation, professional training and/or experience

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

Scope

This policy applies to children, families, staff, management and visitors of the Service.

Goals

WECC's goal is to ensure that every reasonable precaution is taken to protect children being educated and cared for by WECC from harm. WECC (educators, management and volunteers) has a responsibility to defend children's right to care and protection to ensure their safety, welfare and wellbeing, and a responsibility to report any children at significant risk of harm. We aim to implement effective strategies to assist in ensuring the safety and wellbeing of all children.

Our Service will perform proficiently and act in the best interest of the child, assisting them to develop to their full potential in a secure and caring environment.

Strategies

The Nominated Supervisor or Director will:

- ensure the Nominated Supervisor or Director of the Service and any Responsible Persons in day to day charge of the service has successfully completed a course in child protection approved by the *Australian Capital Territory Regulatory Authority*
- ensure that any adult working directly with children sign a Prohibited Employment Declaration Form and a Consent to a Working with Vulnerable People (Background Screening) Check, and ensure their registration is completed and any conditions met, prior to commencing employment at WECC
- ensure every adult working with children is made aware of *The Children and Young People Act 2008* and *Keeping Children and Young People Safe: A guide to reporting child abuse and neglect in the ACT* and of their obligations under this law and action plan (Education and Care Services National Regulation, Regulation 84, National Quality Standards QA 2)
- orientate every working adult to this *Child Protection Policy*, *Keep Them Safe* protocols and Mandatory Reporter responsibilities and ensure their regular view of these
- ensure all employees and volunteers are:
 - clear about their roles and responsibilities regarding child protection
 - aware of their requirements to immediately report cases where they believe a child is at risk of significant harm to the Child Protection Helpline 1300 556 729
 - aware of the indicators showing a child may be at risk of harm of significant risk of harm
- provide training and development in child protection for all educators, staff and volunteers
- provide educators with a reporting procedure and professional standards to safeguard children and protect the integrity of educators, staff and volunteers
- ensure records of abuse or suspected abuse are kept pursuant to our Confidentiality Policy
- to notify the **ACT Ombudsman (Reportable Conduct Scheme) as soon as possible but within 30 days** of becoming aware of any allegations and convictions for abuse or neglect of a child made against an employee or volunteer and ensure they are investigated and appropriate action is taken. ACT Ombudsman can be contacted on (02) 6276 3770 and via email act@ombudsman.go.au
- notify the Commission for Children and Young People of details of employees against whom relevant

disciplinary proceedings have been completed or people whose employment has been rejected because of a risk identified in employment screening processes. Contact details are (02) 6205 2222 or via email ACTkids@act.gov.au

- notify the regulatory authority (Children's Education and Care Assurance) within 7 days of any incident or allegation where they reasonably believe that physical and/or sexual abuse of a child has occurred or is occurring while the child is being educated and cared for by the Service. Contact details are (02)6207 1114 or via email CECA@act.gov.au

Educators will:

- develop trusting and secure relationships with all children at WECC
- be able to recognise indicators of abuse
- allow children to be part of the decision-making process where appropriate
- comprehend that they are Mandatory Reporters under the legislation and report to the Child Protection Helpline on 1300 556 729 (available 24hours/7 days a week) any situations where they believe on reasonable grounds that a child is at risk of significant harm
- be able to use the Mandatory Reporter Guide available at http://www.communityservices.act.gov.au/data/assets/pdf_file/0017/5660/Keeping-Children-and-Young-People-Safe.pdf to help make decisions about whether there is a risk of significant harm
- contact the police on 000 if there is an immediate danger to a child, intervene promptly if it is safe to do so
- understand that allegations of abuse or suspected abuse against them are treated in the same way as allegations of abuse against other people
- take appropriate action in relation to all disclosures of abuse and/or any allegation of abuse against employees of WECC

Documentation of current concerns

The Approved Provider/Nominated Supervisor will:

- support educators through the process of documenting and reporting current concerns of children at risk of significant harm
- provide all educators with clear guidelines on documentation and a template to support this (Appendix 1 & Appendix 2)

Educators will:

- record their concerns in a non-judgemental and accurate manner as soon as possible
- record their own observations as well as precise details of any discussion with a parent (who may for example explain a noticeable mark on a child)
- not endeavour to conduct their own investigation
- document the relevant information as soon as possible so the details are accurately recorded including:
 - time, date and place of the suspected abuse
 - full details of the suspected abuse
 - date of report and signature
- discuss any concerns with WECC's Nominated Supervisor or Director
- advise the Nominated Supervisor of their intention to make a report to the Mandated Persons Line
- advise the Nominated Supervisor or Director when a report has been made to the Mandated Persons Line

Documenting a disclosure

A disclosure of harm occurs when someone, including a child, tells you about harm that has happened or is likely to happen. When a child discloses that he or she has been abused, it is an opportunity for an adult to provide immediate support, comfort and to assist in protecting the child from the abuse. It is also a chance to help the child connect to professional services that can keep them safe, provide support and facilitate their

recovery from trauma. Disclosure is about seeking support and your response can have a great impact on the child or young person's ability to seek further help and recover from the trauma.

Educators will:

- remain calm and find a private place to talk
- not promise to keep a secret
- tell the child/person they have done the right thing in revealing the information, but they will need to tell someone who can help keep the child safe
- only ask questions to the extent needed to report the matter, because probing questions could cause distress or confusion and interfere with any later enquiries
- not attempt to conduct their own investigation or mediate an outcome between the parties involved
- document as soon as possible so the details are accurately captured by including:
 - time, date and place of disclosure
 - 'word for word' what happened and what was said, including anything they said and any actions that have been taken
 - date of report and signature

Notifications of abuse

The person making a notification of abuse or suspected abuse will make a record of the answers to the following:

- give the child or young person your full attention
- maintain a calm appearance
- do not be afraid of saying the "wrong" thing
- reassure the child or young person it is right to tell
- accept the child or young person will disclose only what is comfortable and recognise the bravery/strength of the child for talking about something that is difficult
- let the child or young person take his or her time
- let the child or young person use his or her own words
- do not make promises you cannot keep
- tell the child or young person what you plan to do next
- do not confront the perpetrator

Mandatory reporting

Mandatory reporters are people who deliver the following services, wholly or partly, to children as part of their paid or professional work.

- a minister of religion
- a doctor
- a dentist
- a nurse
- an enrolled nurse
- a midwife
- a teacher at a school (this includes a teacher's assistant or aide if the assistant or aide is in paid employment at the school)
- a person authorised to inspect education programs, materials or other records used for home education of a child or young person under the Education Act 2004
- a police officer
- a person employed to counsel children or young people at a school
- a person caring for a child at a childcare centre (this includes a childcare assistant or aide caring for a child at the childcare centre if the assistant or aide is in paid employment at the childcare centre, but does not include anyone caring for a child as an unpaid volunteer)
- a person coordinating or monitoring home-based care for a family day care scheme proprietor

- a public servant who, in the course of employment as a public servant, works with, or provides services personally to, children and young people or families
- the public advocate
- the official visitor
- a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.

According to the *Children and Young Persons (Care and Protection) Act 1998* mandated reporters (including people employed in children's services and unpaid managers of these services) must make reports if they suspect on reasonable grounds a child is at risk of significant harm (Appendix 3) because:

- 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 and are unable or unwilling to arrange the child to receive necessary medical care
- the parents or other caregivers have not arranged and are unable or unwilling to arrange for a school age child to receive an education
- the child has been taken, 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 they are at risk of serious physical and psychological harm
- the parents' or other caregivers' behaviour means the child has suffered or is at risk of suffering serious psychological harm

The Nominated Supervisor or Director will:

- provide all educators working directly with children access to this *Child Protection Policy* and a copy of the *Keeping Children and Young People Safe: A guide to reporting child abuse and neglect in the ACT* to assist them in their reporting (Appendix 4)
- provide all educators working directly with children the document *Keeping Children and Young People Safe: A guide to reporting child abuse and neglect in the ACT*
- display the phone number of the Mandated Persons Line near all phone and lists of the emergency contact numbers in the interests of timely reporting

Indicators of abuse

Behavioural or physical signs which assist in recognising harm to children are known as indicators. There are common indicators that may indicate abuse or neglect (Appendix 5). The presence of one of these signs does not necessarily mean abuse or neglect. One indicator on its own may not imply abuse or neglect. However, a single indicator can be as important as the presence of several indicators. Each indicator needs to be deliberated in the perspective of other indicators and the child's circumstances. For example, a child's behaviour is likely to be affected if he/she is under stress. There can be many causes of stress and it is important to pinpoint what is causing the stress. Abuse and neglect can be single incidents or ongoing and may be intentional or unintentional.

Disclosure of abuse

Educators will:

- react calmly to the child making the disclosure
- listen attentively and later write down the child's exact words
- provide comfort and care to the child
- follow the steps for reporting as per the *Keeping Children and Young People Safe: A guide to reporting child abuse and neglect in the ACT* resource
- reassure the child or young person that:
 - it's not their fault
 - it was right to tell

- it is not OK for adults to harm children – no matter what
- explain what will happen now – that it is part of your job to tell people who can help the child or young person

Educators will not:

- prompt the child for further details or ask leading questions which would make the child feel uncomfortable or potentially jeopardise any further legal proceedings that may arise as a result of any investigation.

It is important to understand that the educators' role is solely to support the wellbeing of the child at all times, not to investigate further any disclosure made by the child.

Allegations of abuse against educators, volunteers or students

Accusation of abuse or suspected abuse against educators, staff members, volunteers, and the Nominated Supervisor or Approved Provider are treated in the same way as allegations against other people. Reports will be made to the Child Protection Helpline where a child is at risk of significant abuse by a person at the Service.

If the Supervisor is involved in the abuse, then the Approved Provider or most senior educator will assist in notifying the Child Protection Helpline

The Nominated Supervisor or Director will:

- develop and maintain a system of appropriate record keeping for all allegations to ensure detailed documentation is made and stored as required
- take all allegations of abuse seriously and clarify with the person who is making the allegation, what is being alleged
- assess whether a child or young person is 'at risk of significant harm' and, if so, assist with making a report to the Mandated Persons Line
- determine whether the allegation is a reportable allegation, a reportable conviction, or reportable conduct. For determination, reference will be made to '*Keeping Children and Young People Safe: A guide to reporting child abuse and neglect in the ACT*'
- report reportable allegations and reportable convictions to the ACT Ombudsman within 30 days of notification
- consider whether the police need to be informed of the allegation and if so, make a report
- if a report is made to the police, complete a S101 Notification of Serious Incident Form and submit to the Children's Policy and Regulation Unit within 24 hours of the alleged incident
- if a report has not been made to the police, complete a NL01 Notification of Complaints and Incidents (other than serious incidents) form and submit to the Children's Policy and Regulation Unit within seven (7) days of the alleged incident
- ensure confidentiality is maintained at all times and that systems are in place to deal with any breaches of confidentiality
- undertake a risk management approach following an allegation to ensure the protection and safety of children, educators and visitors to WECC. Based on this risk assessment, decisions will be made in order to manage the risks that have been identified
- develop an investigation plan of the matter. Obtain relevant information from a range of sources. This may include a statement from the person who made the allegation, statements from witnesses, a statement from the person against whom the allegation has been made and any other relevant documentation
- if the allegation is being investigated by the Office for Children, Youth and Family Support or the police, WECC will be guided by its advice as to whether it should independently investigate the allegation
- if the investigation is carried out by WECC¹, the information that has been gathered will be assessed and a finding made as to whether the allegation is false, vexatious, misconceived, not reportable conduct, not sustained or sustained. The reasons for the finding will be clearly recorded to ensure that the decision-making has been transparent
- the educator, volunteer or student will be advised of the outcome of the investigation in writing. Advice will

be provided about the investigation's finding and any follow up action that may be required. Advice will also be provided about any right of appeal and the person will be advised that the ACT Ombudsman and the ACT Children & Young People Commissioner have been notified of the relevant employment proceeding (if relevant)

- the Office for Children, Youth and Family Support (which houses the Children's Policy and Regulation Unit) will also be informed of the outcome of the investigation

Informing the educator, volunteer and student

The Nominated Supervisor or Director will:

- treat the educator/volunteer/student with fairness and uphold their rights at all times
- depending on the nature of the allegation, arrange to inform the person immediately (through being

¹ Any investigation would take place after the Nominated Supervisor or Director has involved the Office.

guided by the advice of the Office for Children, Youth and Family Support or the police)

- arrange for the person against whom an allegation has been made to have a support person attend the meeting. This support person must not participate in the discussions throughout the meeting
- make accurate documentation of all conversations, and ensure all discussions and records are kept confidential
- offer counselling or support to the person subject to the allegation
- depending on the nature of the allegation made, the person subject to the allegation may be suspended pending further investigation
- after all investigation are completed, provide the educator/volunteer/student with both verbal and written notification of the outcome of the investigation

Rights of all parties

- the decision-making process throughout the investigation will be based on the safety and wellbeing of the child/ren and the employees
- consideration will be taken in relation to actual or potential 'conflicts of interest' that may be held by the investigator. The investigator must advise of these conflicts at the commencement of the investigation to allow another investigator to be utilised if required
- the ACT Ombudsman will be notified of all reportable allegations. The person against whom the allegation has been made will be notified of this and will also be notified of the investigation's findings and follow up action (if any), including the notification to the ACT Children & Young People Commissioner, if relevant
- the person against whom the allegation has been made will be notified of any appeal mechanisms available to them if they are not satisfied with the investigation process or the outcome of the investigation
- the Management Committee, Nominated Supervisor or Director, or other nominated person who conducts the investigation, will ensure that they act without bias, without delay and without conflict of interest (see relevant points above)
- all parties can complain to the ACT Ombudsman if they are not satisfied with the conduct of the investigation for Children, Youth and Family and/or the police

Further information on the ACT Ombudsman can be obtained by:

Phone: 1300 362 072

Email: ombudsman@ombudsman.gov.au

Web: www.ombudsman.act.gov.au

Confidentiality

WECC will handle any allegation of child abuse in a confidential manner. It is important that any notification

remains confidential, as it is vitally important to remember that no confirmation of any allegation can be made until the matter is investigated. The individual who makes the complaint should not inform the person they have made the complaint about. This ensures the matter can be investigated without prior knowledge and contamination of evidence.

Protection for reporters

Reports made to Community Services are kept confidential. However, a law enforcement agency may access the identity of the report if this is needed relating to the investigation of an alleged serious offence against a child. *Under the Children and Young Persons (Care and Protection) Act 1998* if the report is made in good faith:

- the report will not breach standards of professional conduct
- the report cannot lead to defamation proceedings
- the report is not admissible in any proceedings as evidence against the person who made the report
- a person cannot be compelled by a court to provide the report or disclose its contents
- the identity of the person making the report is protected

A report is also an exempt document under the *Freedom of Information Act 1989*

Breach of Child Protection Policy

All educators and staff working with children have a duty of care to support and protect children. A duty of care is breached if a person:

- does something that a reasonable person in that person's position would not do in a particular situation
- fails to do something that a reasonable person in that person's position would do in the circumstances
- acts or fails to act in a way that causes harm to someone to whom the person owes a duty of care

Managing a breach in the Child Protection Policy

The Nominated Supervisor or Director will:

- investigate the breach in a fair, unbiased and supportive manner
- discuss the breach with all people concerned and will be advised of the process
- give the educator the opportunity to provide their version of events
- document the details of the breach, including the versions of all parties and the outcome will be recorded
- ensure that matters in relation to the breach are kept confidential
- arrive at an outcome on the basis of evidence and discussion

Outcome of a breach in Child Protection Policy

Depending on the nature of the breach the outcomes may include:

- emphasising the relevant element of the Child Protection Policy and procedure
- providing closer supervision
- further education and training
- facilitating between those involved in the incident (where appropriate)
- disciplinary procedures if required
- reviewing current policies and procedures and developing new policies and procedures if necessary

Educating Children about Protective Behaviour

Our program will educate children:

- about acceptable and unacceptable behaviour, and what is appropriate and inappropriate contact at an age-appropriate level and understanding
- about their right to feel safe at all times
- to say 'no' to anything that makes them feel unsafe or uncomfortable
- about how to use their knowledge and understanding to feel safe
- to identify signs that they do not feel safe and need to be attentive and think clearly
- that there is no issue that is too awful, to share with someone they trust
- that educators are available for them if they have concerns
- to tell educators of any suspicious activities or people
- to recognise and express their feelings verbally and non-verbally
- that they can choose to change the way they are feeling

Senior Practitioner Act 2018

The Senior Practitioner Act 2018 (the Act), which came into effect on 1 September 2018, provides a formal framework for the reduction and elimination of restrictive practices by service providers in the ACT.

Woden Early Childhood Centre will abide by the Act and ensure educators do not engage in restrictive practices.

What is a restrictive practice? 'Restrictive practice' means a practice that is used to restrict the rights or freedom of movement of a person for the primary purpose of protecting the person or others from harm. Restrictive practice does not include reasonable action taken to monitor and protect a child from harm Examples:

1. holding a child's hand while crossing a road
2. fencing around the Centre

Educators will:

- Be aware of the individual child's stage of development and particular needs and plan the Educational Program accordingly. Unrealistic challenges in a program can create unnecessary stresses for a child possibly resulting in challenging behaviour.
- Keep up to date records on all children. Note relevant conversations with parents that may relate to a child's behaviour change (eg. parents separating, new baby in the family, etc.)
- Children with special needs may need more physical contact and physical guidance than other children.

Work with parents to record appropriate procedures for toilet learning and/or behaviour management principles

In some cases, a Positive Behaviour Support Plan may be created in partnership with families, Educators, and the Director. A plan including restrictive practice as a strategy needs to be approved by a registered Positive Behaviour Support Panel and registered by the Senior Practitioner. For example, it may be necessary to physically restrain a child for their own protection or the protection of others. This may result in their child needing to be isolated from others for short periods of time.

- Educators are to engage only in practices that are respectful of and provide security for children and in no way degrade, endanger, exploit, intimidate, or harm them psychologically or physically.
- Educators should be aware of their own levels of tolerance and stress factors. Acknowledge that there may be some children that some educators find more difficult to relate to than other children. Discuss this honestly with educators to develop strategies to assist them.

Related policies /documents

- Confidentiality
- Code of conduct
- Family participation and communication
- Health and wellbeing
- Interactions with children, family and staff
- Staff recruitment
- Respect for children
- Determining a responsible person
- Staffing arrangements
- Volunteer and student
- Supervision
- Work health and safety

Statutory legislation and considerations

- Children and Young People Act 2008 – <http://www.legislation.act.gov.au/a/2008-19/current/pdf/2008-19.pdf>
- ACT Children and Young People Commissioner – <http://hrc.act.gov.au/childrenyoungpeople/>
- Ombudsman Act 1989 – http://www.legislations.act.gov.au/a/alt_a1989-45co/
- Education and Care Services National Law (ACT) Act 2011 – <http://www.legislation.act.gov.au/a/2011-42/default.asp>
- Child Protection (Working with Children) Act 2012
- Children and Young Persons (Care and Protection) Act 1998
- The Commission for Children and Young People Act 1998
- Senior Practitioner Act 2018

Sources and references

- Australian Children's Education & Care Quality Authority (2014)
- Guide to the Education and Care Services National Law
- Education and Care Services National Regulations 2015
- Guide to the National Quality Standard
- Community and Disability Services Ministers' Conference (2005). Creating safe environments for children: Organisations, employees and volunteers: National Framework
- Community and Disability Services Ministers' Conference (2005). Schedule: Guidelines for building the capacity of child-safe organisations. Creating safe environments for children: Organisations, employees and volunteers: National Framework
- ACT Community Services: ACT Mandatory Reporting Guide
- Early Years Learning Framework
- National Quality Standard
- Ombudsman ACT – www.ombudsman.act.gov.au
- ACT Government – <http://www.legislation.act.gov.au/a/2008-19/default.asp>

- Keeping Children and Young People Safe: A guide to reporting child abuse and neglect in the ACT, 2014 – http://www.communityservices.act.gov.au/data/assets/pdf_file/0017/5660/Keeping-Children-and-Young-People-Safe.pdf
- The Office of Children, Youth and Family Support website – <http://www.communityservices.act.gov.au/ocyls>
- Hanson, C Patterson, S & Farrell, J (2006) Children's Services and the Law. Community Child Care Co-op Ltd.

Policy Reviewed	September 2022	Ratified Date	Next Review Date
Modifications	<ul style="list-style-type: none"> • Inclusion of Senior Practitioner Act 2018 	Sep 2022	Sep 2022
Policy Reviewed	October 2021	Ratified Date	Next Review Date
Modifications	<ul style="list-style-type: none"> • Updated education and care services national regulations • Minor modifications to Introduction • Included contact details for all services • Inclusion of who are deemed mandatory reporters • Updated related policies and documents • Sources and references checked • Added review table with modifications and updates • New format 	Aug 2021	Aug 2023
Policy Reviewed	September 2018	Ratified Date	Next Review Date
Modifications	<ul style="list-style-type: none"> • Existing Policy 	April 2018	April 2020
Policy Reviewed	September 2013	Ratified Date	Next Review Date
Modifications	<ul style="list-style-type: none"> • Existing Policy 	Sept 2013	Sept 2016

Authorisation

Paul Halloran
 President
 2021-22 WECC Management Committee

Appendix 1



Child Protection Injury Report

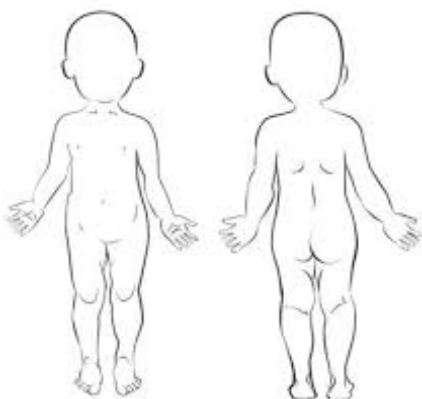
Child Details

First Name: _____ Surname: _____

Date of Birth: _____ Age: _____

Observation

Nature of Injury Sustained



<input type="checkbox"/> Abrasion	<input type="checkbox"/> Concussion
<input type="checkbox"/> Bite	<input type="checkbox"/> Cut
<input type="checkbox"/> Broken bone	<input type="checkbox"/> Sprain
<input type="checkbox"/> Bruise	<input type="checkbox"/> Swelling
<input type="checkbox"/> Burn	<input type="checkbox"/> Other (please specify)

Medical Action Taken

Detail of action taken including medical treatment administered

Reporter Details

Full Name of Educator completing report: _____

Signature of Education completing report: _____

Time Record was made: _____ Date Record was made: _____

Risk Assessment Management Plan

Appendix 2

Risk Event	Existing Management strategies or internal controls	Likelihood	Consequence	Current risk assessment	New risk management controls or internal controls	Who is responsible?	Residual risk
No organisational culture of child safety- child abuse tolerated, hidden from public.	Child safety code of conduct, embedding culture of child safety	Possible	Severe	Extreme	Staff induction and annual awareness training, inclusion of obligation in staff duty statements, policy and procedure for managing child safety, performance management procedures, reporting procedures	Nominated Supervisor/ Centre Director	Low
Recruitment of an inappropriate person – inappropriate behaviour	Working with Vulnerable People Card	Unlikely	Major	Medium	Pre-employment reference check includes asking about child safety Current WWVPC	Nominated Supervisor/ Centre Director	Low

Identifying Risk		Risk Assessment			
Category	Description	Likelihood	Consequence	Risk Level	Management (for LOW RISK)
Leadership	Lack of or minimal awareness and commitment for a Child Safe organisation	Possible	Catastrophic	Extreme	<ul style="list-style-type: none"> - Code of Conduct - Child Protection Policies - Strategies to address organisational culture of child safety - Commitment Statement to child safety - Ongoing agenda item within leadership
Reportable conduct	Misconduct unreported and failure to address behaviour surrounding misconduct	Unlike	Catastrophic	High	<ul style="list-style-type: none"> - Training for all staff, volunteers, leaders etc. - Grievance procedures in place - Code of Conduct and Child Protection policies - Procedures and protocols responding to misconduct
Recruitment	Selection of inappropriate personnel Lack of proper screening processes and reference checking	Possible	Major	High	<ul style="list-style-type: none"> - Reference Checking - Pre-screening interviews - Working with children checks - Probation period
Grooming	Engagement with children online Breaching appropriate conduct in person with a child/children	Possible	Moderate	High	<ul style="list-style-type: none"> - Code of Conduct - Training for all staff, volunteers, leaders etc. - Security and privacy settings on social media and devices used by organisation - Regular monitoring of any Social Media sites used for ministry to children by an appointed person
Privacy	Use of images or video of children and young people without parental consent	Possible	Minor	Medium	<ul style="list-style-type: none"> - Code of Conduct - Training for all staff, volunteers, leaders etc. - Photo release forms (permission) - Photo and video policies

Mandatory Reporting Requirements

ACT Specifications

Mandatory Reporting requirements are outlined in the *Children and Young People Act 2008 (ACT)*. Mandatory Reporters include:

- doctors
- dentist
- nurses
- enrolled nurse
- midwife
- teachers at school (inclusive of teachers' aides and assistants in paid employment)
- a person authorised to inspect education programs, materials or other records used for home education of a child or young person under the Education Act 2004
- police officers
- a person employed to counsel children or young people at school
- **a person caring for a child at a child care centre (including assistances and aides in paid employment at the service)**
- a person coordinating or monitoring home-based care for a family day care scheme proprietor
- a public servant who, in the course of employment as a public servant, works with or provides services to children, young people and their families and is prescribed by regulation

Section 356 (1) of the Act states that a mandated person commits an offence if:

- the person believes on reasonable ground that a child or young person has experienced, or is experiencing –
- sexual abuse; or
- non-accidental physical injury; and
- the person's reasons for the belief arise from information obtained by the person during the course of, or because of, the person's work (whether paid or unpaid); and
- the person does not, as soon as practicable after forming the belief, report (a mandatory report) to the chief executive –
- the child's or young person's name or description; and
- the reasons for the person's belief

Section 356 of the Act does not apply to a person if they believe on reasonable grounds that

1. Someone else has made a report about the same child or young person in relation to the same abuse or neglect;
 - the other person has reported the same reasons for their belief as the person has for their belief
2. Section 356 does not apply to a person if the person believes on reasonable grounds that
 - a) the child or young person (the injured person) has experienced, or is experiencing, non-accidental physical injury caused by another child or young person; and
 - b) a person with parental responsibility for the injured person is willing and able to protect the injured person from further injury

Early Childhood Educators may form beliefs on reasonable grounds that someone has made a report if

- if someone tells you
- you read a file note
- you sight the reporting documentation
- a report was made about the same child or young person in relation to the same abuse or neglect with the same reasons given for their belief as you have for your belief

Mandatory Reporters are not required to prove the abuse has occurred

Reporting Authority	Contact Details
Office for Children, Youth and Family Support Phone: 13 22 81 (Access Canberra)	Mandated Reporters Phone: 1300 556 728

Steps to Mandatory Reporting

Appendix 4

All educators will follow the steps below with regards to making a report:

Step 1

In an emergency, where there are urgent concerns for a child's health or life, it is important to contact the police using the emergency number 000.

Step 2

Refer to the Mandatory Reporter Guide in *Keeping Children and Young People Safe: A guide to reporting child abuse and neglect in the ACT*² and answer the questions relating to concerns about a child or young person. At the end of the process, a decision report will provide guidance as to what action to take. The Nominated Supervisor or Director is available if educators require assistance to use this tool.

Step 3

If the Mandatory Reporter Guide determines that there are grounds to suspect a risk of significant harm to a child or young person, the educator will phone the Mandated Persons Line on 1300 556 728. Reports can also be made using the Reporting Fax form, available from the Office for Children, Youth and Family Support website³ or emailed to childprotection@act.gov.au

Step 4

Mandatory reporters should note that the legislation requires that they continue to respond to the needs of the child or young person (within the terms of their work role) even after a report to the Mandated Persons Line has been made.

Step 5

If the Mandated Reporter Guide determines that an educator's concerns do not meet the risk of significant harm threshold they do not need to make a report to the Mandated Persons Line. However they should discuss that matter with the Nominated Supervisor or Director to determine whether the child or family may benefit from the assistance of another agency.

Step 6

The educator should monitor the situation and if they believe there is additional information that could be taken into account, please repeat steps 1 to 5 as required.

A support line for the Mandatory Reporter is available 8am to 5pm, Monday to Friday on 1800 772 479

² This resource is available at: <http://www.communityservices.act.gov.au/ocyfs/publications/keeping-children-and-young-people-safe> or contact Care and Protection Services Centralised Intake Service on 1300 566 728 for clarification.

³ <http://www.communityservices.act.gov.au/ocyfs/publications/keeping-children-and-young-people-safe>

Guide to Indicators

General indicators of abuse and neglect may include:

- marked delay between injury and seeking medical assistance
- history of injury
- the child gives some indication that their injury did not occur as stated
- the child tells you someone has hurt him/her
- the child tells you about someone he/she knows who has been hurt
- someone (relative, friend, acquaintance and siblings) tells you that the child may have been abused.

Neglect

Child neglect is the continuous failure by a parent or caregiver to provide a child with the basic things needed for their growth and development, such as good, clothing, shelter, medical and dental care and adequate supervision. Some examples are:

- inability to respond emotionally to the child
- child abandonment
- depriving or withholding physical contact
- failure to provide psychological nurturing
- treating a child differently to others

Indicators of neglect in children can include:

- a poor standard of hygiene, leading to social isolation
- scavenging or stealing food
- extreme longing for adult affection
- lacking a sense of genuine interaction with others
- acute separation anxiety
- self-comforting behaviours, e.g. rocking, sucking
- delay in developmental milestones
- untreated physical problems

Physical abuse

Physical abuse is when a child has suffered, or is at risk of suffering, non-accidental trauma or injury, caused by a parent, caregiver or other person. Educators will be particularly alert to possible physical abuse if parents or caregivers:

- make direct admissions about fear of hurting their own child
- have a family history of violence
- have a history of their own maltreatment as a child
- make repeated visits for medical assistance

Indicators of physical abuse can include:

- facial, head and neck bruising
- lacerations and welts
- explanations that are not consistent with injury
- bruising or marks that may show the shape of an object

- bite marks or scratches
- multiple injuries or bruises
- ingestion of poisonous substances, alcohol or drugs
- sprains, twists, dislocations
- bone fractures
- burns and scalds

Emotional abuse

Emotional abuse occurs when an adult harms a child's development by repeatedly treating and speaking to a child in ways that damage the child's ability to feel and express their feelings. This may include:

- constant criticism, condescending, teasing of a child or ignoring or withholding admiration and affection
- excessive or unreasonable demands
- persistent hostility, severe verbal abuse and rejection
- belief that a child is bad or 'evil'
- using in appropriate physical or social isolation as punishment
- exposure to domestic violence

Indicators of emotional abuse can include:

- feeling of worthlessness about them
- inability to value others
- lack of trust in people and low expectations
- extreme attention seeking behaviours
- other behavioural disorders (disruptiveness, aggressiveness, bullying)

Sexual abuse

Sexual abuse is when someone involves a child in a sexual activity by using their authority over them or taking advantage of their trust. Children are often bribed or threatened physically or psychologically to make them partake in the activity. Educators will be predominantly conscious of looking for potential sexual abuse if parents or caregivers are suspected of or charged with a child sexual abuse or display inappropriate jealousy regarding age appropriate development of independence from the family. Sexual abuse may include:

- exposing the child to sexual behaviours of others
- coercing the child to engage in sexual behaviour with adults or other children
- verbal threats of sexual abuse
- exposing the child to pornography

Indicators of sexual abuse can include:

- the child describing sexual acts
- direct and indirect disclosures
- age inappropriate behaviour and/or persistent sexual behaviour
- self-destructive behaviour
- regression in developmental achievements
- the child being in contact with a suspected or known perpetrator of sexual assault
- bleeding from the vagina or anus
- injuries such as tears to the genitalia

Psychological abuse

Psychological harm occurs where the behaviour of the parent or caregiver damages the confidence and self-esteem of the child, resulting in serious emotional deficiency or trauma. In general, it is the frequency and duration of the behaviour that causes harm. Some examples are:

- excessive criticism
- withholding affection
- exposure to domestic violence
- intimidation or threatening behaviour

Indicators of psychological abuse can include:

- constant feelings of worthlessness
- inability to value others
- lack of trust in people
- lack of people skills necessary for daily functioning
- extreme attention-seeking behaviour
- extreme eagerness to please or obey adults
- taking extreme risks, being markedly disruptive, bullying or aggressive
- suicide threats
- running away from home

Domestic violence

Domestic violence, intimate partner violence or family violence, is a violation of human rights. It involves violent, abusive or intimidating behaviour carried out by one person against another to control or dominate that person.

Domestic violence causes, fear, physical and/or psychological harm. It is most often violent, abuse or intimidating behaviour by a man against a woman. Living with domestic violence has a profound effect upon children and young people and may constitute a form of child abuse. (The NSW Domestic and Family Violence Action Plan, June 2010)

Indicators of domestic violence can include:

- aggressive behaviour
- developing phobias and insomnia
- anxiety
- exhibiting symptoms of depression
- diminished self esteem
- poor academic performance and problem-solving skills
- reduced social competence skills including low levels of empathy
- emotional distress

physical complaints

ACT Senior Practitioner for the elimination and reduction of restrictive practices

The Senior Practitioner Act 2018 (the Act), which came into effect on 1 September 2018, provides a formal framework for the reduction and elimination of restrictive practices by service providers in the ACT.

The Act enshrines the principle that providers should only use restrictive practices in very limited circumstances – as a last resort, in the least restrictive way and for the shortest period possible in the circumstances.

The Act also provides an operational structure for the Senior Practitioner which reaffirms and strengthens the rights and responsibilities of vulnerable people, recognising that this requires support from across the government sector and within the community.

Functions and powers of the Senior Practitioner

Under the Act, the Senior Practitioner has the following functions:

- To promote the reduction and elimination of the use of restrictive practices by providers to the greatest extent possible.
- To ensure, to the greatest extent possible, that the rights of people who may be subject to restrictive practices are protected.
- To develop guidelines and standards on the use of restrictive practices.
- To disseminate information, provide education, and give advice about restrictive practices and the rights of people who may be subject to them.
- To give directions to providers about the use of restrictive practices under positive behaviour support plans.
- To develop links and access to professionals, professional bodies, and academic institutions for the purpose of promoting knowledge and training in restrictive practices.
- To carry out research and provide information on best practice options to providers.
- To undertake any other function as directed, in writing, by the Director-General, Community Services Directorate (CSD), or any other function given to the Senior Practitioner under the Act or another territory law.

The Senior Practitioner also has powers to:

- Receive complaints about anything done by a provider in relation to a positive behaviour support plan that permits the use of a restrictive practice, or about the use of a restrictive practice by a provider.
- Conduct investigations, either in response to a complaint or on their own initiative, where restrictive practices are a concern; and
- Issue a direction to a provider if, after investigating a complaint, the Senior Practitioner is satisfied on reasonable grounds that action needs to be taken in relation to a positive behaviour support plan and/or use of a restrictive practice.

Service provider responsibilities

Where a person's behaviour poses a risk to themselves or others, service providers (and others involved in the person's life) need to understand the function of the behaviour and implement positive behaviour support strategies to substitute the harmful behaviour with a positive one.

However, in some instances, the planned positive behaviour support strategies will not work, or the situation will escalate to a point at which the best and safest approach is to use practices that restrict the person in some way.

To ensure restrictive practices are used in accordance with a registered Positive Behaviour Support Plan

It is important to note that, under the Act, use of a restrictive practice by a service provider is only permissible in the case of an emergency, or if used in a way that is consistent with a registered Positive Behaviour Support Plan for the person.

A Positive Behaviour Support Plan describes the proactive and reactive strategies to be used in supporting the person's behaviour, including strategies to:

- meet that person's unmet needs (often one reason for a behaviour of concern)

- build on the person's strengths and increase their life skills, thus improving their quality of life; and
- reduce the intensity, frequency and duration of behaviour that causes harm to the person or others.

The plan must also specify the conditions under which restrictive practices (if required) may be used.

To have a plan approved by a registered Positive Behaviour Support Panel

All Positive Behaviour Support Plans that include a restrictive practice must be approved by a registered Positive Behaviour Support Panel and registered by the Senior Practitioner.

As an interim arrangement during early implementation of the Act, the Senior Practitioner has established an interim Central Positive Behaviour Support Panel (the Central Panel). The role of the Central Panel is to consider all PBS Plans and develop guidelines for future panels to assess and approve Plans.

To report all uses of a restrictive practice to the Senior Practitioner

The functions and powers of the Senior Practitioner will be supported by the collection and reporting of key data on the use of restrictive practices over time.

Under the Act, service providers must report all uses of a restrictive practice to the Senior Practitioner, whether there is a positive behaviour support plan in place for the person or not.

If you are a service provider and would like to report the use of a restrictive practice, please contact the Senior Practitioner on telephone, (02) 6205 2811, or email actseniorpractitioner@act.gov.au

Who does the Senior Practitioner Act 2018 apply to?

The Act is specifically aimed at regulating the use of restrictive practices by service providers.

'Providers' are defined under the Act as persons or other entities who provide any of the following services to another person:

- education (including education and care);
- disability
- care and protection of children;
- a service prescribed by regulation.

The legislation protects the rights of all individuals in the above settings, not just those with a disability.

The influence and leadership of the Senior Practitioner will also drive cultural change across all sectors where restrictive practices may be an issue.

Who is not impacted by the Senior Practitioner legislation?

It is important to note that the Act regulates the use of restrictive practices by service providers. It does not apply to close family members or informal carers for the person, or an exempt entity.

The Act makes specific exemptions for persons receiving care under the Mental Health Act 2015 (to the extent that Act applies), Mental Health (Secure Facilities) Act 2016 and those in custodial or prison detention (including the Bimberi Youth Justice Centre). This is due to existing oversight arrangements specific to those settings.

Health services are not included in the definition of provider and are not included in the oversight.

What is a restrictive practice?

'Restrictive practice' means a practice that is used to restrict the rights or freedom of movement of a person for the primary purpose of protecting the person or others from harm.

Restrictive practice does not include reasonable action taken to monitor and protect a child from harm

Examples:

- 1 holding a child's hand while crossing a road
- 2 fencing around a primary school

Chemical restraint - The use of medication or chemical substance for the primary purpose of influencing a person's behaviour.	Chemical restraint is NOT: <ol style="list-style-type: none"> 1) the use of a chemical substance that is prescribed by a medical or nurse practitioner for the treatment, or to enable the treatment of a mental or physical illness or condition, and 2) the use of a chemical substance in accordance with the prescription.
Environmental restraint - Any action or system that limits a person's ability to freely access the person's surroundings or a particular thing or engage in an activity.	Environmental restraint is NOT: the use of reasonable safety precautions such as a fence around a primary school playground.
Mechanical restraint - The use of a device to prevent, restrict or subdue the movement of all or part of a person's body.	Mechanical restraint is NOT: <ol style="list-style-type: none"> 1) the use of the device to ensure the person's safety when travelling; or 2) the use of a device for therapeutic purposes.
Physical restraint - The use or action of physical force to stop, limit or subdue the movement of a person's body or part of the person's body.	Physical restraint is NOT: a reflex action of reasonable physical force and duration intended to guide or direct a person in the interests of the person's safety where there is an imminent risk of harm.
Seclusion - The sole confinement of a person, at any time of the day or night, in a room or other space from which free exit is prevented, either implicitly or explicitly, or not facilitated.	Seclusion is NOT: social isolation where a child or vulnerable person is in a space away from others.
Verbal directions, or gestural conduct, of a coercive nature - The use of verbal or non-verbal communication that degrades, humiliates or forces a person into a position of powerlessness or a verbal threat that results in a restrictive practice.	Coercion is NOT: <ol style="list-style-type: none"> 1) Stating expectations or rules 2) Giving a person directions or instructions to assist them to self-regulate.

Safeguarding Human Rights

The Act supports the ACT Government's commitment to improving the lives of all people who are vulnerable and potentially subject to restrictive practices, as well as upholding their human rights.

The Human Rights Act 2004 says that rights can only be limited where the limitations are reasonable and demonstrably justifiable in a free and democratic society. The Senior Practitioner Act safeguards a number of human rights, including:

- Right to freedom of movement
- Protection from torture inhuman or degrading treatment
- Protection of the family and children

Generally, restrictive practices will only be justifiable as a limit on human rights where there is an immediate risk to safety and the action taken is the least restrictive approach.

The Senior Practitioner will maintain links with the ACT Human Rights Commission to ensure there is always a high threshold for

the use of any restrictive practice in the ACT.

Any restrictive practices identified that fall outside of the Senior Practitioner's role will be reported to the relevant authority.

For more information, contact the Office of the Senior Practitioner on (02) 6205 2811 or actseniorpractitioner@act.gov.au

Accessibility

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