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REPORTABLE CONDUCT SCHEME POLICY

QUALITY AREA 2: CHILDREN'S HEALTH AND SAFETY

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National Quality Standard (NQS)

Quality Area 2: Children's Health and Safety

2.2	Safety	Each child is respected
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

Children (Education and Care Services) National Law

84	Awareness of child protection law
273	Course in child protection

Introduction

Woden Early Childhood Centre (WECC) will comply with its obligations under the Reportable Conduct Scheme. Everyone involved in WECC has a role to play and may disclose an allegation of reportable conduct involving an employee to the President of the Management Committee or to the Director or Nominated Supervisor. WECC will perform proficiently and act in the best interest of the child.

Scope

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

Goals – What are we aiming to do?

Implement effective strategies to assist in ensuring the safety and wellbeing of all children

Strategies – How will it be done?

The Nominated Supervisor or Director will ensure the following strategies are in place:

- a system for preventing the commission of reportable conduct by an employee of the Centre within the course of his or her employment
- a system for enabling any person, including employees of the Centre, to notify the Nominated Supervisor or Director of a reportable allegation of which the person becomes aware, or to notify the President of the Management Committee of an allegation involving the Nominated Supervisor or Director
- a system for investigating and responding to a reportable allegation against an employee of the Centre.

Reportable Allegation

Any person who has any information that leads him/her to form a reasonable belief that an employee of WECC has committed:

(a) reportable conduct; or

(b) misconduct that may involve reportable conduct, is encouraged to report such information to the Nominated Supervisor or Director:

- i. in writing addressed to the Nominated Supervisor or Director in a sealed envelope marked Private and confidential and delivered to the Nominated Supervisor or Director's office
- ii. in writing sent by post in an envelope marked Private and Confidential and addressed to:

The Nominated Supervisor or Director
 Woden Early Childhood Centre
 P.O. Box 1050
 Woden, ACT, 2606

- iii. by email marked – Reportable Conduct – sent to – Nominated Supervisor or Director to:
wodenecc@tpg.com.au
- iv. by telephone advising that the person wishes to report an allegation of reportable conduct to the Nominated Supervisor or Director on:
 Telephone: (02) 6281 3121

If the person has information of a reportable allegation involving the Nominated Supervisor or Director of WECC, the person may directly notify the President of the Management Committee:

- i) in writing addressed to the President of the Management Committee in a sealed envelope marked Private and Confidential and delivered to the Centre's office
- ii) in writing sent by post in an envelope marked Private and Confidential and addressed to:
 The President of the Management Committee
 c/- Woden Early Childhood Centre
 P.O. Box 1050
 Woden, ACT, 2606
- iii) by email marked – Reportable Conduct – sent to – President to:
wecc.president@gmail.com

A report may also be made directly to the Commission for Children and Young People at:

ACT Ombudsman
 Telephone: (02) 6276 3770
 Email: act@ombudsman.gov.au

A report may be made whether or not the conduct or misconduct is alleged to have occurred within the course of the employee's employment with WECC

Preventing Reportable Conduct from Occurring

WECC has policies and practices that take a preventative approach to keeping children safe, and for the early identification and response to risks of child abuse in the Centre's physical environment. Such policies and practices include:

- Code of Conduct
- Child Protection Commitment Statement
- Child Protection and Obligations of Reporting Policy/Procedures

Procedures for Responding to and Reporting Suspected Child Abuse

WECC has procedures for responding to and reporting suspected abuse of a child currently in its care. Woden Early Childhood Centre also has practices and programs that support, encourage and enable Centre Educators, families and children to understand, identify, discuss and report child safety matters. Such policies and practices include:

- Child Protection and Obligations of Reporting Policy/Procedures
- Staff Issue Resolution Policy/Procedure
- *Complaints and Feedback Policy*

Reportable Allegation Investigation

As soon as practicable after becoming aware of a reportable allegation against an employee, the Nominated Supervisor or Director will commence an investigation, which may include appointing an independent investigator. Depending on the nature of the allegation, the Director/ Nominated Supervisor may follow the processes set out in the other Centre policies noted above.

Generally, the person appointed to conduct the investigation will decide on the appropriate process for the investigation, taking into account the principles of natural justice, and will advise the parties of such matters. The investigator will, as soon as practicable:

- conduct an investigation into the allegation;
- conduct interviews of relevant persons and seek any further information he/she deems necessary;
- provide to the Nominated Supervisor or Director a confidential report of his/her findings in relation to the allegation against the employee; and
- if requested, make recommendations about what disciplinary or other action should be taken (if any).

The Nominated Supervisor or Director will consider the findings, and recommendations if any, and determine what further action, if any, to take in relation to the allegations.

If an allegation involves a possible criminal offence, the Nominated Supervisor or Director will first obtain clearance from ACT Police before beginning an investigation.

Responsibilities of the Nominated Supervisor or Director

- The Director/ Nominated Supervisor is responsible for notifying the Ombudsman of a reportable allegation in line with the Reportable Conduct Scheme and for investigating such allegations and providing the findings to the Ombudsman.
- If the Director/ Nominated Supervisor becomes aware of a reportable allegation against an employee of Woden Early Childhood Centre they will notify the Ombudsman in writing of the following:

Within 3 business days after becoming aware of the allegation	<ul style="list-style-type: none"> • the name and date of birth (if known) of the employee involved • whether ACT Police has been contacted • contact details for the Centre and the Director/ Nominated Supervisor
As soon as practicable and within 30 calendar days	<ul style="list-style-type: none"> • details of the allegation • details of the Centre's response to the allegation • reasons for whether or not any disciplinary or other action is proposed • any written response from the employee concerning the allegation that the employee wished to have considered in determining what, if any, disciplinary or other action should be taken
Advice on investigation – as soon as practicable	<ul style="list-style-type: none"> • Name of investigator
Outcomes of investigation – as soon as practicable	<ul style="list-style-type: none"> • a copy of the findings and reasons for the findings • details of any disciplinary or other action that the Director/ Nominated Supervisor proposes to take • reasons for taking or not taking any disciplinary or other action
Additional documents and information	<ul style="list-style-type: none"> • any information or documents relating to the allegation or an investigation that the Commission may request
The employer is still required to notify the Ombudsman of the allegation even if CYPS and/or ACT Policing are already investigating a reportable allegation against an employee.	

Communication

The Centre community will be informed about this policy. It will be publicly available. It will be available on the Centre's website and communicated in the Centre's newsletters, personnel induction programs and during recruitment and enrolment processes for educators, contractors and volunteers. All members of the Management Committee, educators, volunteers and contractors of WECC will be made aware of this policy and the Centre's commitment to child safety.

Definitions

Child	For purposes of the ACT Reportable Conduct Scheme, a child is a person aged under 18 years old
Employee	For the purpose of this policy, an employee is a person of or over the age of 18 years who is: (a) an employee of Woden Early Childhood Centre, whether or not the person is employed in connection with any work or activities of Woden Early Childhood Centre that relate to children; (b) engaged by Woden Early Childhood Centre to provide services, including as a volunteer, contractor, office-holder or officer, whether or not the person provides services to children.
What is Reportable conduct	<p>The reportable conduct scheme is allegation based. Employers (designated entities) covered by the scheme must report allegations, offences or convictions relating to child-related misconduct by an employee to the Ombudsman. It does not matter whether or not the employee engaged in the conduct in the course of employment or whether a child consents to the conduct. Reportable conduct includes:</p> <ol style="list-style-type: none"> 1. sexual offences and convictions where a child is a victim or is present 2. offences against the person, including physical offences and convictions, where a child is a victim or is present 3. conviction, or finding of guilt, under a territory law or a state or Commonwealth law, involving reportable conduct 4. offences against the Education and Care Services National Law (ACT) Act 2011 (inappropriate discipline or offences relating to protecting children from harm) 5. ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, neglect and inappropriate, restrictive intervention) 6. psychological harm 7. misconduct of a sexual nature. <p>Reportable conduct includes allegations, offences and convictions relating to any of the above and involving a child. For more information, see The ACT Ombudsman Practice Guide No. 2: Identifying Reportable Conduct.</p> <p>The reportable conduct scheme does not interfere with reporting obligations to ACT Policing or Child and Youth Protection Services (CYPS) or any other relevant professional bodies. If employers suspect criminal conduct has occurred, they should report to police in the first instance.</p>
Sexual misconduct	Sexual misconduct includes behaviour, physical contact or speech or other communication of a sexual nature, inappropriate touching, grooming behaviour and voyeurism.
What is the difference between reportable conduct and mandatory reporting?	<p>Reportable conduct covers a broader range of conduct compared to the types of child abuse which must be reported to Child and Youth Protection Services (CYPS). This means employers may become aware of an allegation or conviction that is reportable to the Ombudsman but is not conduct which must be mandatorily reported to CYPS.</p> <p>For example, if an employee crosses professional boundaries by giving a child excessive gifts or texting them on their personal mobile, this may under certain circumstances, amount to reportable conduct. It would not, however, necessarily be reported to CYPS.</p> <p>Likewise, an employer who is a mandated reporter may need to report conduct to CYPS, about a disclosure, but if the alleged behaviour did not involve an employee (e.g. the allegation is against a parent or patient), there is no requirement to report to the ACT Ombudsman.</p>

	The fact that an employer has reported to CYPS does not mean that they should not report to the Ombudsman, as appropriate, and vice versa. The same can be said about ACT Policing
What is the role of the Ombudsman?	<p>The Ombudsman will work with employers under the scheme to build on existing misconduct procedures and reporting obligations. The Ombudsman will:</p> <ul style="list-style-type: none"> • monitor employers' investigations and analyse trends • share information with police and key organisations to better protect children from abuse • take complaints about the handling of reportable conduct • provide guidance and support to entities on best practice, including conducting investigations that are procedurally fair • consider investigating an allegation or conviction in limited circumstances • monitor the policies, practices and procedures of an employer for the prevention of child abuse and child related misconduct.

Processes under the Scheme

What happens when an employer notifies the ACT Ombudsman about an allegation?

After a [s 17G Notification](#) is filed, employers (designated entities) will continue in their response to, or investigation of, an allegation under the oversight of the Ombudsman.

The Ombudsman may ask for updates as to the progress of an investigation and may confer with the people conducting the investigation about the nature, conduct or progress of the investigation. This may include requests for relevant documents and information to be provided to the Ombudsman. In some cases, the Ombudsman may decide to attend any interviews conducted by, or on behalf of, the employer.

In some circumstances, the Ombudsman may share this information with ACT policing and other key organisations to better protect children from abuse.

For more information see: The ACT Ombudsman Practice Guide No. 1: How the ACT Ombudsman Responds to Notifications and Reports.

How do I make a complaint about an employer's response to a reportable conduct matter?

The ACT Ombudsman can receive and may investigate complaints, including from an employee, about how an employer (designated entity) is responding, or not responding, to an allegation or conviction of reportable conduct against an employee. Complaints to the Ombudsman may be made by telephone on 02 6276 3770 or via email: act@ombudsman.gov.au

How does an employer start an investigation into an allegation?

The best place to start may be to consider a risk assessment. For more information on these assessments, see The ACT Ombudsman Practice Guide No. 3: *Risk Management Following an Allegation of Reportable Conduct Against an Employee*.

The next step may be to contact the ACT Ombudsman and discuss the allegation to ensure the alleged behaviour does amount to reportable conduct and that the matter is within jurisdiction of the ACT reportable conduct scheme. The Ombudsman may be contacted by telephone on 02 6276 3770 or via email: act@ombudsman.gov.au.

For guidance on how to proceed with an investigation, see The ACT Ombudsman Practice Guide No. 4: *Planning and Conducting an Investigation*.

Additional information

Where can an employee find more information about the scheme?

The ACT Ombudsman has written An Introduction to The ACT Reportable Conduct Scheme for Employees. This is an outline, designed for employees, of how the scheme works and who is covered under the scheme. The information an employer is required to report to the Ombudsman is recorded in the s 17G Notification. Each employer (designated entity) is responsible for educating employees about the scheme. Speaking to a supervisor and asking if the reportable conduct scheme applies is a good place to start. If the scheme does apply, employees can ask how the scheme will be implemented in the workplace

In addition, each employer is responsible for:

- ensuring systems, policies and procedures are in place for recording and responding to or investigating allegations or convictions of reportable conduct involving employees
- establishing systems that require employees to notify the employer (or delegate), as soon as possible, of any concern, allegation or conviction involving reportable conduct against an employee. (see The ACT Ombudsman *Practice Guide No. 5: Employer responsibilities*).

What if I have further questions about the scheme?

You can contact or learn more about the ACT Ombudsman using the details below.

Telephone: (02)6276 3770

Email: act@ombudsman.gov.au

Website: <http://www.ombudsman.act.gov.au/reportable-conduct-scheme>

Evaluation

Related policies /documents

- *Child Protection*
- *Complaints and Feedback*

Statutory legislation and considerations

- Children (Education and Care Services National Law Application) Act 2010
- Education and Care Services National Regulations 2011

Sources and references

- ACT Ombudsman – <http://www.ombudsman.act.gov.au/reportable-conduct-scheme>
- Children's Education and Care Assurance – <https://www.education.act.gov.au/reportable-conduct-scheme>

Authorisation

Jennifer Hayes

President

2019 WECC Management Committee