

# POLICY REGISTER

## WORKING WITH CHILDREN POLICY

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Policy adopted: 27th September 2018 Minute No. 214.9.18 (Child Protection Policy)

Reviewed: 25th July 2024 Minute No. 181.7.24

File Ref: P13-1, C3-2, C3-3

## DOCUMENT CONTROL

Issue	Prepared/Revised By and Date	Action/Amendment Description	Approved By and Date
1.0	Glenn Wilcox General Manager	First Edition Formerly known as the Child Protection Policy	Council Minute No. 214.9.18 (27th September 2018)
1.1	Maryanne Stephens Manager Health and Development Services July 2024	Minor Amendments including name change to Working with Children Policy	Council Minute No. 181.7.24 (25th July 2024)

## 1. Purpose

This Policy has been designed to ensure that Warren Shire Council complies with the requirements of the legislative framework covering the protection of children, specifically:

- *Ombudsman Act 1974 (Part 3)*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Child Protection (Working with Children) Act 2012*
- *Child Protection (Working with Children) Amendment (Statutory Review) Act 2018*

1.1 Under statute, Council has the following key responsibilities:

- a) As a public authority, it has a requirement to report any case of suspected child abuse or neglect of children presenting at Council services, facilities or activities;
- b) As an agency responsible for the care and welfare of children, it has a charter to protect the young people in its care from sexual, physical and emotional abuse and neglect, and from improper conduct of a sexual nature;
- c) As an employer of staff responsible for the supervision of children, it has a responsibility to ensure that only staff with correct clearances can work in child related areas;
- d) As an employer of staff responsible for the supervision of children, it has a responsibility to provide training for staff in the identification of suspected child abuse, notification procedures and implementation of relevant programs;
- e) As an employer of staff responsible for the supervision of children, it has a responsibility to notify any allegation of child abuse against an employee to the NSW Ombudsman; and

## 2. Scope

2.1 This policy applies to all permanent, temporary and casual employees of Council, and includes volunteers, work experience persons and contractors.

## 3. Definitions

3.1 Children and Young Persons

- The *Children and Young Persons (Care and Protection) Act 1998* (s.3) defines a child, for the purposes of the Act, to mean a person who is under 16 years of age, and a Young Person as a person aged 16 or 17 years of age.
- The *Ombudsman Act 1974* (s.25A) defines a child as a person under the age of 18 years.

3.2 Reportable Conduct - the *Ombudsman Act 1974* (s.25A) defines 'reportable conduct' as:

- a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material); or
- b) any assault, ill-treatment or neglect of a child; or
- c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.

Reportable conduct does not extend to:

- a) conduct that is reasonable for the purposes of the discipline, management or

- care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards, or
- b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
  - c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under s.25CA.
- 3.3 Reportable Conviction – A conviction for an offence relating to a reportable conduct matter.
- 3.4 Child or Young Person at Risk of Harm - In accordance with section 23 of the *Children and Young Persons (Care and Protection) Act 1998*, a child or young person is at risk of “*significant harm*” if there are current concerns for the safety, welfare or well-being of the child or young person because of the presence of any one or more of the following circumstances:
- a) the child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met,
  - b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,
  - c) in the case of a child or young person who is required to attend school in accordance with the *Education Act 1990*, the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,
  - d) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated,
  - e) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
  - f) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm,
  - g) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.
- 3.5 Child-related Employment – all employment that primarily involves direct, unsupervised contact with children and includes:
- a) Contractors;
  - b) Volunteers;
  - c) Trainees undertaking training as part of an educational or vocational course; and
  - d) Work experience.
- 3.6 Designated Disclosure Officer - Council’s Public Officer.
- 3.7 Disclosure - refers to informing/revealing known or suspected acts of child abuse or neglect.

#### 4. Policy Statement

- 4.1 Council must have procedures in place to ensure that:
- a) Child-related employment in Council is identified and positions are designated and managed in accordance with child protection laws;
  - b) Mandatory reporting requirements are met;
  - c) Council staff (where relevant) are able to identify and respond to risk of harm concerns in children and young people;
  - d) Employment screening (with appropriate clearance from the Office of the Children’s Guardian) is undertaken for prospective appointments to all positions designated as child-related employment;
  - e) Disclosures are sought from existing and prospective employees in designated positions regarding reportable allegations and reportable convictions against an employee in accordance with the *Ombudsman Act 1974 (s.25C)*; and
  - f) Allegations of child abuse are handled professionally and sensitively in order to meet legislative requirements and guarantee the safety and privacy of individuals.

4.2 Statutory Reporting Requirements

Pursuant to section 27 of the *NSW Children and Young Persons (Care & Protection) Act 1998*, Council must report to the Department of Family and Community Services (FACS), any suspected risk of significant harm (to a child or young person) if Council delivers services directly to children and young people in the following:

- Healthcare
- Welfare
- Education
- Children’s Services
- Residential Services
- Law Enforcement

Any person who manages an employee or volunteer in such services has a statutory requirement to report suspected risk of significant harm to FACS. (NOTE: See responsibilities for reporting below)

4.3 Reporting/Investigation Requirements of an Allegation Against an Employee of Council

Council is obliged by law (sections 25(c) and 25(i) of the *Ombudsman Act 1974*) to notify the NSW Ombudsman’s Office of any allegation of reportable conduct or reportable conviction against an employee. The Designated Disclosure Officer is responsible for making this notification within 30 days of receiving the allegation and informing the General Manager of the matter and updates in the process (NOTE: See responsibilities for reporting below).

Council will be guided by the NSW Ombudsman as to how to proceed with any form of investigation. Council must consider the safety and welfare of the child as paramount in considering any contact or potential contact between the child and the person against whom the allegations have been made.

Thus, it may be deemed prudent to remove the employee from the workplace or suspend them from their duties (having regard to the Local Government (State) Award requirements) until any investigation process is finalised and a determination made.

## 5. Responsibility

- 5.1 Employee Responsibilities – As stated above, the *Children and Young People (Care and Protection) Act 1998* prescribes a duty of mandatory reporting on any person who, in the course of his or her professional work or other paid employment delivers services, wholly or partly, to children, and any person who holds a management position which includes direct responsibility for or direction of the delivery of services wholly or partly to children.

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

The Designated Disclosure Officer is responsible for collecting the necessary information and notifying the General Manager and the specific agencies, and recording and documenting the matter appropriately. Reporting any matters to FACS should be made directly via the Child Protection Helpline on 133 111.

- 5.2 Council's Human Resources (HR) Officer is responsible for:
- a) Advising and educating all relevant staff of this Policy and its requirements; and
  - b) Distributing a copy to all employees whose positions are listed on the Council's Child Related Positions List.

## 6. Clearance to Work in Child Related Work

- 6.1 Pursuant to section 8 of the *Child Protection Working with Children Act 2012*, a person must not engage in child related work unless they have a clearance of a class applicable to the work in question. The NSW Office of the Children's Guardian provides such clearances after extensive national police checks.
- 6.2 Council will ensure that employment will not be granted in child related positions unless a clearance (of a suitable class) has been issued by the NSW Children's Guardian. Council must ensure that clearances for relevant staff remain current whilst the employee is engaged in child related work.

## 7. Related Documents and Legislation

- Children and Young Persons (Care and Protection) Act 1998
- Child Protection (Working with Children) Act 2012
- NSW Interagency Guidelines for Child Protection Intervention
- Ombudsman Act 1974

## 8. Review

This policy should be reviewed every 4 years or following the ordinary election of a Council. The policy may be reviewed and amended at any time at Council's discretion (or if legislative changes occur).

## 9. Positions Requiring Working with Children Checks

The following positions have been identified as applying to Warren Shire Council. This is not an exhaustive list and future employees, volunteers or any position may be required to comply with the requirements for a Working with Children Check as determined by the General Manager.

- Swimming Pool Manager
- Swimming Pool Life Guards
- Swimming Pool Attendants
- Swimming Pool Cleaning Staff
- Sport and Cultural Centre Manager
- Sport and cultural Centre Coaching staff
- Sport and Cultural Centre Cleaning Staff
- Staff
- Warren Shire Library