

11.3 Children and Vulnerable People Policy

REPORT BY THE MANAGER, COMMUNITY & CULTURAL SERVICES
TO 16 FEBRUARY 2022 ORDINARY MEETING
GOV400098, COS300011, COS300043, COS300797

RECOMMENDATION

That Council:

1. **receive the report by the Manager, Community & Cultural Services on the Children and Vulnerable People Policy;**
2. **place the Children and Vulnerable People Policy on public exhibition for 28 days; and**
3. **adopt the policy if no submissions are received.**

Executive summary

Council has a number of obligations and responsibilities in respect of child safety, including mandatory reporting, reportable allegations and setting an example as a Child Safe Organisation. Whilst exploring the drafting of this policy, it was identified that appropriate policy and procedure should also be maintained for those living within our community with disability and those that are frail aged. This policy, and its accompanying procedure, aims to address all of these obligations and responsibilities of Council as a community leader.

Disclosure of Interest

Nil

Detailed report

The *Children's Guardian Act 2019* details roles and responsibilities of various agencies when responding to reportable allegations. This includes Councils having responsibility to report on conduct of employees, volunteers and contractors.

The policy is complemented by an procedure which recognises that child safety is everyone's responsibility, particularly mandatory reporters, and is Council's instrument for promoting and upholding National Principles for Child Safe organisations, as well as acknowledging its commitment to a child safe policy. Through these means, Council can create cultures, adopt strategies and prevent harm to children. Application of National Principles for Child Safe organisations are proactively monitored by the Office of Children's Guardian.

The policy also extends to the safety of people living with disability and the frail aged. Processes for these are covered off by the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* and the National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023, respectively.

Community Plan implications

Theme	Looking After Our Community
Goal	A safe and healthy community
Strategy	Work with key partners and the community to reduce crime, anti-social behaviour and improve community safety

Strategic implications

Council Strategies

Not Applicable

Council Policies

Operationally, this policy and its accompanying procedure, would have effect on the following Council Policies:

- Anti-Discrimination and EEO Policy
- Code of Conduct
- Community Transport Policy
- Complaints Policy
- Disability Inclusion Action Plan
- Electronic Telecommunications - Acceptable Use Policy
- Family Day Care Policy
- Meals on Wheels Policy
- Records Management Policy
- Service Provider Management Policy

Legislation

Legislation (and subordinate legislation) having an effect on the operation of this policy include:

- United Nations *Convention on the Rights of the Child* (1990)
- Australian Government's Aged Care Quality Standards (commencing 1 July 2019)
- *Children and Young Persons (Care and Protection) Act* 1998 (NSW)
- *Children's Guardian Act* 2019 (NSW)
- *Child Protection (Working with Children) Act* 2012 (NSW)
- National Principles for Child Safe Organisations
- Royal Commission into Institutional Responses to Child Sexual Abuse (2017)
- *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules* 2018
- *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules* 2018
- National Disability Insurance Scheme Practice Standards (2020)
- National Disability Insurance Scheme (Quality Indicators) Guidelines 2018

Financial implications

Not applicable

Associated Risks

If it is deemed that children are or may be at risk because of a system shortfall, Council may be liable for penalties of up to \$55,000 (as well as personal penalties of up to \$11,000). There is also a risk of reputational damage as Council will be required to report any breaches of child safety legislation within its annual report.

FIONA SHEARMAN
MANAGER, COMMUNITY & CULTURAL
SERVICES

SIMON JONES
DIRECTOR COMMUNITY

1 February 2022

Attachments: 1. Children and Vulnerable People Policy.

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER



POLICY

Children and Vulnerable People

*A prosperous
and progressive
community.*

ADOPTED		VERSION NO	[VERSION 1.1, 1.2 ETC]
COUNCIL MEETING MIN	[xx/xx]	REVIEW DATE	[DATE TO REVIEW]
DATE:	[INSERT DATE]	FILE NUMBER	GOV400047

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Objective

The objective of this policy is to:

1. Ensure Council is compliant with NSW child protection legislation, including mandatory reporting, recruitment and selection and responding to allegations against staff involving children and other vulnerable people;
2. Articulate the professional and legal obligations of Council staff in relation to child and vulnerable persons' protection to be actioned with an appropriate complementary procedure;
3. Ensure Council implements procedures for the prompt and confidential response to all allegations against Council staff, volunteers, students and persons undertaking work experience and contractors/suppliers where a child or other vulnerable person is involved;
4. Promote the health, safety, welfare and wellbeing of children and other vulnerable people whilst on Council premises and utilising Council services and generally living within the community;
5. Ensure that Council is implementing best practice approaches to protection of vulnerable people within its community.

Legislative requirements

United Nations *Convention on the Rights of the Child* (1990)

Australian Government's Aged Care Quality Standards (commencing 1 July 2019)

Children and Young Persons (Care and Protection) Act 1998 (NSW)

Children's Guardian Act 2019 (NSW)

Child Protection (Working with Children) Act 2012 (NSW)

National Principles for Child Safe Organisations

Royal Commission into Institutional Responses to Child Sexual Abuse (2017)

National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018

National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018

National Disability Insurance Scheme Practice Standards (2020)

National Disability Insurance Scheme (Quality Indicators) Guidelines 2018

Related policies and plans

- Anti Discrimination and EEO Policy
- Code of Conduct
- Community Transport Policy

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- Disability Inclusion Action Plan
- Electronic Telecommunications - Acceptable Use Policy
- Family Day Care Policy
- Meals on Wheels Policy
- Service Provider Management Policy

Introduction

Every person in our community has a right to safety and wellbeing at all times. Some demographics, however, such as children, aged persons and people living with disability, are more prone to risk of harm. This policy acknowledges and fortifies Council's commitment to protecting those persons living in our community who may be more prone to vulnerability and to encourage an awareness amongst stakeholders of their responsibilities in terms of protection.

A '**vulnerable person**' is defined in this policy as being a person in need of special care, support, or protection because of age, disability, or risk of abuse or neglect. This policy deals specifically with three distinct categories of vulnerable people, namely children, people living with disability, and the frail aged.

Scope

This policy applies to all Council staff, Councillors, contractors and sub-contractors, work experience students, volunteers, Council committee members, Family Day Care Educators and other service providers and stakeholders that Council may undertake business with from time to time (collectively, '**stakeholders**').

Safety and wellbeing for children

Mandatory reporting of risk of significant harm

Mandatory reporters are people who deliver the services, wholly or partly, to children as part of their paid or professional work (and, by good practice, those involved in volunteer work) as nominated in the *Children and Young Person (Care and Protection) Act 1998* (NSW). Mandatory reporters are required by law to report suspected child abuse and neglect to government authorities.

Council's stakeholders have a duty to report behaviours or suspected behaviours towards children that it considers unacceptable. Such behaviours include those outlined in Council's Code of Conduct and include, but are not limited to, conducting oneself in a manner that:

- a) Is contrary to statutory requirements;
- b) Is improper or unethical;
- c) Is an abuse of power;
- d) Causes, compromises or involves intimidation or verbal abuse,

and is directed towards or concerns a child or children.

POLICY: | [VERSION 1.1, 1.2 ETC], [INSERT DATE]

Responsibilities – Reportable Conduct Scheme

For the purposes of the *Children’s Guardian Act* 2019, Council has an obligation to investigate ‘**reportable allegations**’, which are allegations that an employee (or contractor or volunteer) who is engaged to provide services to children or who is required to hold a Working with Children Check has engaged in sexual offences, neglect or assault or ill-treatment of a child, and to make determinations about reportable convictions for an offence.

General Manager	The General Manager is responsible for the implementation of child safe standards through systems, policies and processes.
Managers	Managers are responsible for ensuring compliance with policy and ensuring that employees, contractors and volunteers are informed, resourced and supported to understand their role in providing a child safe environment.
Governance Coordinator	The Governance Coordinator is responsible for providing ongoing support and responses to concerns about the safety and wellbeing of children while engaged in services, programs or events delivered by Council. The Governance Coordinator (along with Mandatory Reporters) is also responsible for notifying the Office of Children’s Guardian (NSW) when an allegation (of which they are aware) of child abuse is made against a Councillor, employee, volunteer or contractor.
Mid-Western Regional Family Day Care Scheme employees	Mid-Western Regional Family Day Care Scheme must to report to the General Manager a reportable allegation or reportable conviction that relates to an employee of the Scheme. This requirement also extends to Family Day Care Educators who are not, by definition, employees of Council.
All Council employees, contractors and volunteers	All Council employees, contractors and volunteers shall adhere to this policy and related procedures and be able to demonstrate their awareness of their child safety responsibilities.

More generally, Council recognises that child safety is everyone’s responsibility and is proud to be a community role model for promoting National Principles for Child Safe organisations by upholding the National Child Safe Principles as outlined in related procedure.

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Safety and wellbeing for those people living with disability

Council recognises that safety and wellbeing for those living with a disability (the expression 'participant' is to be used as is consistent with National Disability Insurance Scheme terminology) is everyone's responsibility and is proud to be a community role model for promoting respect and inclusion by complying with and setting an example with respect to Disability Standards as outlined in the related procedure.

Safety and wellbeing for frail aged persons

Council recognises that safety for frail aged persons is everyone's responsibility and is proud to be a community role model for promoting, complying and setting an example with respect to Aged Care Quality Standards as outlined in related procedure.