

CHILD PROTECTION

ES240



NARRANDERA SHIRE COUNCIL POLICY

CHILD PROTECTION

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| Policy No: | ES240 |
| Policy Title: | Child Protection |
| Department Responsible: | Executive Services |
| Minute No: | 16/69 |
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Purpose

This policy confirms Narrandera Shire Council's commitment to:

- Provide a safe, caring and nurturing environment for children using Narrandera Shire Council services and facilities that is also free from discrimination and that caters for the rights of all parties;
- Comply with all obligations under the NSW Child Protection legal framework; and
- Ensure a fair and just process for staff involved in any investigation of child related matters at all stages of their employment relationship.

Policy Statement

The Community of Narrandera Shire is entitled to expect:

- A safe, caring and nurturing environment will be provided for their children when using any of the services and facilities of Narrandera Shire Council;
- That their children will not be placed at significant risk of harm while using Narrandera Shire Council services and facilities. Accordingly they will be protected from all forms of abuse, including sexual, physical, psychological abuse and neglect while attending services operated by, or under the auspices of, Narrandera Shire Council.
- Narrandera Shire Council will take all possible precautions to ensure that persons involved in child related activity have undergone appropriate pre-employment checks.

Child Protection Procedures and Guidelines Refer to Attachment Appendix 1

Scope

This Policy applies to:

- All Narrandera Shire Council employees including casual staff; management committees; volunteers and work experience students.
- NOOSH Coordinator and all NOOSH contracted and casual staff.
- Community groups and other hirers of Narrandera Shire Council owned or managed facilities providing services to children.
- Contractors and sub-contractors.
- Councillors.

CONTENT:

This policy and the associated procedure provide a process for the appropriate engagement, management and training of all persons with an involvement in the provision of services to children. It also details the mandatory reporting and investigation obligations of Narrandera Shire Council officers in relation to specified incidents

Policy History

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| Adopted | 20 January 2004 |
| Reviewed | 15 July 2008 |
| Reviewed | 9 December 2008 |
| Reviewed | 9 December 2015 |
| Adopted | 19 April 2016 |



Signed: Chief Executive Officer

Date: 8 February 2017

APPENDIX 1 - CHILD PROTECTION PROCEDURES

1. PURPOSE

This procedure provides Narrandera Shire Council with measures to ensure:

- a safe and supportive environment for children;
- compliance with all obligations under the NSW Child Protection legal framework;
- the investigation of any allegations relating to child protection matters is conducted in a fair and just manner; and
- staff have access to due process at all stages of employment particularly in relation to child protection matters.

2. SCOPE

This procedure applies to the following persons:

- All employees of Narrandera Shire Council
- Councillors
- Any person engaged by Narrandera Shire Council in any paid or unpaid capacity, including:
 - Contractors and sub -contractors;
 - Self-employed persons;
 - Work Experience participants;
 - Volunteers;
 - Student placements such as school based trainees; and
 - All NOOSH employees including contracted and casual employees.

This procedure also applies to community groups and other hirers of Narrandera Shire owned or managed facilities where services are being provided to children.

3. DEFINITIONS

3.1 Child

A child is defined as a person who is under 18 years of age Child Protection (Working with Children) Act 2012. (NOTE Clause 20 of the Child Protection (Working with Children) Regulation 2013 contains a list of workers engaged in child-related work (and employers of those workers in that capacity) who are exempt from the Act. Narrandera Shire Council now fits under list item (j) which states:

(j) a worker who is a co-worker of a child or who is a work supervisor or work placement supervisor of a child (other than as referred to in clause 12 (2)). This applies in respect to work experience school students.

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3.2 Child -related work

Child related work is the undertaking of a role in early education or child care that involves direct contact (as defined) with children eg. A person employed to drive a bus, with children as the only passengers, would be regarded as being in child related employment but an electrical contractor performing repairs within a childcare facility is not in child related employment.

3.3 Direct contact with children

Direct contact with children is where a person has physical or face to face contact with a child in a child care setting and no other adult is present.

3.4 Commission

Commission means the Commission for Children and Young People which has been appointed by the Minister to assess and issue the Working With Children Check clearance required for each person engaged in child -related work.

3.5 working with children check clearance or clearance working with children check clearance or clearance means an authorisation issued by the Commission for a 5 year term, that is a mandatory requirement for any person engaging in child - related work

3.6 working with children check number working with children check number means the unique identifying number allocated by the Commission when it issues or renews a clearance.

3.7 engaging in child -related work engaging in child related work , for the purposes of this procedure, is performance of such work: under a contract of employment; as a self-employed person; as a contractor or subcontractor; or as a volunteer; and by persons undertaking practical training as part of an educational course .

3.8 Disqualified Person

A disqualified person means either: A person convicted of a serious sex or other serious criminal offence committed on or in the presence of a child. A registrable person within the meaning of the Child Protection (Offender Registration) Act 2000.

3.9 interim bar

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interim bar is an application for a clearance that is subject to the Commissions assessment of the risk arising if the applicant engages in child related work.

3.10 bar

A bar is an application for a clearance that has been rejected normally on the grounds of the applicants criminal convictions or work history.

3.11 Reportable Conduct

Reportable Conduct means either: any sexual offence, or sexual misconduct, committed against, with, or in the presence of, a child; or any child pornography offence or misconduct involving child pornography; or any child related personal violence offence; or an offence of filming for indecent purposes committed against, with, or in the presence of, a child under section 21G or 21H of the Summary Offences Act 1988; or any assault, ill treatment or neglect of a child; or any behaviour that causes psychological harm to a child, whether or not the child consents; or an act of violence committed by an employee in the course of employment and in the presence of a child; or an incident where some evidence exists that reportable conduct or an act of violence occurred, however the finding is inconclusive or there is insufficient evidence.

3.12 Reportable Allegation

A reportable allegation is an allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct.

3.13 Mandatory Reporting

Mandatory Reporting is the requirement that persons engaged in licensed childrens services and their supervisors are obliged to make an assessment of risk and if necessary report to the Department of Family and Community Services if they have reasonable grounds to suspect that a child or young person is at significant risk of harm.

3.14 Significant Risk of Harm

A child or young person is at significant risk of harm if there are concerns that he/she may suffer physical, sexual, psychological and/or emotional injury as a result of abusive actions or neglect by another person.

3.15 Mandatory Notification

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The notification to the NSW Ombudsman of reportable allegations against persons engaged in Narrandera Shire Council licensed child care operations regardless of when or where the event occurred. Other Narrandera Shire Council employees in relation to child protection complaints in the workplace.

3.16 Designated Child Protection Complaints Officer

The Manager Library and Community Services delegated responsibility by the Chief Executive Officer for the receipt of child protection allegations and for oversight of subsequent investigations.

3.17 Designated Child Protection Investigations Officer

The Human Resources Officer and Executive Officer or another delegated member of Narrandera Shire staff suitably qualified to conduct investigations into child protection matters.

3.18 Relevant Employment Proceeding

A relevant employment proceeding is a completed investigation process where an employer has investigated a reportable allegation. The outcome of the investigation must be reported to the Commission of Children and Young People.

3.19 Department of Family and Community Services (FACS)

Mandatory reporters must advise the Department of Family and Community Services of any suspected cases of children or young persons at significant risk of harm.

3.20 Commission for Children and Young People or the Commission

The Commission issues the Working with Children Check Clearance on application by prospective workers and persons already engaged in child related work. The Commission must be advised of any relevant employment proceeding and of any applicant for child related employment rejected on the grounds of a previous behavioural issue involving children identified in pre-employment checks.

3.21 NSW Ombudsman

The Ombudsman must be notified of reportable allegations and the outcome of the subsequent investigation.

4. REFERENCES

4.1 The legislation relevant to Child Protection comprises:

4.1.1 The Children and Young Persons (Care and Protection) Act 1998 and the Education and Care Services National Regulations 2011 under the Education and Care Services National Law Act .This legislation and associated regulations addresses a wide range of issues designed to ensure providers of services:

- protect children;
- provide an environment which is not only free of violence and abuse;
- foster the health and developmental needs of children including, self-respect and dignity.

Under this legislation:

- any person may report an instance of a child or young person suspected of being at significant risk of harm;
- all Narrandera Shire staff who are employed in childrens services are subject to mandatory reporting requirements.

4.1.2 Commission for Children and Young People Act 1998

The government has established this body to coordinate the protection of children. This Act sets out the role and responsibilities of the Commission as well as the guiding principles to govern its work.

The major aspects of the Commissions role are:

- maintaining a register of persons barred from engaging in child related work
- assessing applications for Work With Children (WWC) check clearances; and
- to receive notifications of the outcome of disciplinary proceedings relating to reportable conduct.

4.1.3 Child Protection (Working with Children) Act 2012

This Act created the WWC check clearance that requires persons seeking or engaged in child related work to initiate an application for assessment of their suitability for this work.

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4.1.4 The Ombudsman Act 1974

Under this statute the NSW Ombudsman has wide powers to review child protection systems and related investigations. This statute also provides for notification to the Ombudsman of allegations of complaints of child abuse and the Ombudsmans responsibility to monitor employers dealing with such complaints.

Narrandera Shire Council must make a mandatory notification to the Ombudsman of any reportable allegation made against an employee and is required to investigate any such complaint in accordance with the Ombudsmans procedure.

4.1.5 Other relevant legislation:

- Crimes Act 1900;
- Government Information Public Access Act 2009 (GIPA Act);
- National Quality Framework and standards established for specific workplaces;
- Protected Disclosures Act 1994;
- Privacy and Personal Information Protection Act 1998.

4.2 Related Narrandera Shire Council Policies and Procedures:

- NOOSH Operational Policies;
- Code of Conduct for Councillors, Staff and Delegates;
- Equal Employment Opportunity Policy and Procedures;
- Employee Grievance Policy and Procedures;
- Recruitment and Selection Policy and Procedures;
- Volunteer Policy and Procedures;
- Human Resources working with Children Policy
- GIPA Act;
- Privacy Management Plan;

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- Local Government State Award (the Award);
- Training and Development Policy and Procedures;
- Employee Assistance Program;
- Councils Complaints Management Policy and Procedures;

5. ACTIVITY

5.1 Roles and Responsibilities:

5.1.1 Executive Leadership Team (ELT) is responsible for ensuring appropriate child protection policies, procedures and relevant staff training are implemented and monitored.

5.1.2 The Chief Executive Officer is responsible for overseeing the reporting and investigation of any allegation of or conviction for reportable conduct by a person engaged in child related work in a Narrandera Shire Council child care facility once he/she becomes aware of such a matter, regardless of whether it occurs within or outside the workplace.

5.1.3 Designating work as child related, where a role falls within the definition at 3.2 above; ensuring that prescribed screening procedures are followed and interviews and reference checking of applicants for child related work are conducted; conferring with the Human Resources Officer on any disciplinary proceedings in relation to child protection matters and in relation to any person whose employment is rejected on the grounds of a prior conviction of a criminal nature or for allegations of child related offences. (Commission for Children and Young People Act 1998); following redeployment or termination procedures, if required, as the result of an investigation into a child -related allegation; receiving complaints against staff with regard to children and referring cases to the Designated Child Protection Complaints Officer to initiate an investigation; ensuring all Childrens Services staff receive regular training in child protection matters and are aware of their responsibilities associated with child protection including mandatory reporting to the Department of Family and Community Services and the notification of reportable allegations to the Designated Child Protection Complaints Officer via their supervisor.

5.1.4 The Human Resources Officer is responsible for:

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Maintaining and monitoring a register of WWC clearances, their identification number, expiry date and verification date. Referring complaints against staff in relation to child protection matters to their Supervisor. Informing the Chief Executive Officer of persons engaging in child related work who have been convicted for reportable conduct as advised by the employee themselves or another person.

Conducting an assessment of the risk to children should a staff member or volunteer against whom a reportable allegation has been made, be permitted to remain in their current position.

5.1.5 Staff working in child -related positions are responsible for:

Identifying, assessing risk and where children are assessed as being at significant risk of harm, reporting any such cases to the Department of Family and Community Services under mandatory reporting requirements. (Children and Young Persons (Care and Protection) Act 1998); notifying their supervisor if they or any other member of staff or are the subject of an allegation or conviction for a reportable offence regardless of where the event occurred; maintaining a current WWC check clearance and providing the details of the clearance to their supervisor; notifying their supervisor if they become the subject of an allegation or convicted of a reportable offence.

5.1.6 Staff employed in the delivery or supervision of the delivery of child care services to children must report to the Department of Family and Community Services when they have reasonable grounds to suspect that a child is at significant risk of harm from abuse or neglect arising during the course of the persons work.

5.1.7 Other Narrandera Shire Council staff who are not in child related positions but who become directly involved with children in the workplace are responsible in conjunction with their supervisor for ensuring that, there are staff who have a clearance, teachers, parents or other responsible adults present and capable of supervising the children.

5.1.8 All supervisors are responsible for ensuring that, when any of their staff who are not in child related positions become directly involved with children in the workplace, there are staff who have a clearance, teachers, parents or other responsible adults present and capable of supervising the children.

5.1.9 Human Resources is responsible for:

- providing advice on this procedure

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- ensuring that, where an appointment is made to a child related position, verification and records are maintained including:
 - the appropriate WWC check clearance has been issued
 - the date it was issued
 - the date the clearance was verified; and
 - number of the clearance recorded; informing the supervisor of the clearance and verification details.
- notifying the Commission for Children and Young People if an applicant is rejected on the basis of a risk assessment taking into account prior behaviour with children, prior convictions or allegations of reportable conduct;
- conducting investigations into allegations of reportable conduct made in relation to a Narrandera Shire Council employee; reviewing and maintaining this procedure.

5.1.10 The Designated Child Protection Complaints Officer, as delegated by the Chief Executive Officer, is responsible for:

- receiving allegations of reportable conduct;
- providing oversight of the investigation of allegations of reportable conduct;
- making mandatory notifications to the Ombudsman of any allegations of reportable conduct received and of the outcome of the subsequent investigation of the allegations.

5.1.11 The Designated Child Protection Investigations Officer is responsible for conducting investigations into allegations of reportable conduct in accordance with the Ombudsmans investigation procedure and for notifying the Ombudsman of the outcome of the investigation.

5.1.12 Applicants for paid or unpaid child related work are responsible for obtaining and providing the details of a current WWC check clearance.

6. Documentation

Records relating to pre-employment checks, investigations and any other sensitive child protection matters shall be stored under secure conditions in accordance with confidentiality and privacy principles in appropriately restricted areas of TRIM.

7. Prevention & Education

7.1 Prevention

Narrandera Shire Council will take a preventative approach to ensure that all staff working with children understand the policy and procedures and are aware of their responsibilities.

7.2 Awareness and Education

Narrandera Shire Council will actively promote a safe, caring and nurturing environment for children and young people, in partnership with relevant government and community agencies.

The Coordinator of NOOSH, where childrens services are provided, shall conduct training for child care staff on child protection matters every 18 months in line with Quality Assurance criteria.

8. Volunteers and Student Placements

Students undertaking placements as part of a recognised university or TAFE course at Narrandera Shire Council that involve child related work, and volunteers performing child related work must provide a current WWC check clearance. Prior to commencing the role students and volunteers must be provided with information about relevant Narrandera Shire Council policies including the Child Protection Policy as part of their induction.

9. School students participating in work experience programs

School students participating in work experience programs are ineligible to apply for a WWC check clearance. A student engaged in a role that involves children must be supervised at all times by an appropriately trained, Narrandera Shire Council employee who possesses a current clearance.

10. Guests and Visitors

Visiting providers of entertainment or educational services to children and any other guests at Narrandera Shire Council childrens facilities must be supervised by an appropriately trained, Narrandera Shire Council employee who possesses a current clearance.

11. School Groups visiting Narrandera Shire Council facilities

Schools bringing students on visits to Narrandera Shire Council facilities must obtain prior approval from the relevant Deputy General Manager and must

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ensure that sufficient teachers will be present to supervise the students at all times during the visit.

12. Hirers and Lessees of Narrandera Shire Council facilities

Narrandera Shire Council has a legal responsibility to advise persons who hire or lease Narrandera Shire Council owned or managed facilities for the provision of services to children that obligations under the NSW Child Protection legal framework are met. The following statement is included and acknowledged in the Conditions for Use or service agreement which is endorsed by the user:

I/we (the hirer/s, lessee) acknowledge that it is my/our responsibility to ascertain and comply with any obligations under the NSW Child Protection legal framework that may apply in the particular circumstances of my/our use of these Narrandera Shire Council facilities.

13. Contractors

Organisations providing contracted services to Narrandera Shire Council in a child related area where contact with children may be unsupervised must provide the supervisor of the facility with evidence of their current Working With Children Check (WWC) clearance. The facility Coordinator must verify and record the details of the clearance .

14 SPECIFIC ACTIONS REQUIRED UNDER THIS PROCEDURE

14.1 Working with children check clearances Child Related Positions

14.1.1 Work designated as child related as per Definition 3.2 must be specified as such in the position description and advertisement.

14.1.2 Persons seeking such positions must first apply for or provide details of a current WWC check clearance or evidence that the Commission has received an application for a clearance. In addition, a comprehensive employment history must be provided within a resume and the details of two referees able to supply an opinion on the applicants suitability for work in a child related position.

14.1.3 Referee checks for the preferred applicant, including specific questions regarding previous interactions with children in the workplace and other settings and any issues that may have arisen from the applicants behaviour towards children must be conducted prior to the recommendation for appointment. Where the referee checks are outsourced these areas must be

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specified in the instructions to the consultant. If concerns are raised by referees and the applicant is assessed as a risk if engaged in child related work, these details must be reported to the Commission by the Human Resources Officer.

14.1.4 Applicants who are selected for child -related work must provide WWC clearance details and the clearance must be verified by Human Resources before a formal offer is made. The clearance is to be verified online by Human Resources through the Commission. The verification details are recorded on the personnel file and the Coordinator is notified.

14.1.5 Narrandera Shire Council must verify a person's WWC application or clearance on line before engaging that person to work in child related employment. Sighting the WWC number is not sufficient verification. Verification must be done through the Working with Children check Employer Register.

14.1.6 Immediately prior to the expiry of the 5 year term of the clearance persons performing child -related work must reapply for a clearance. Details of any subsequent clearance issued must be provided to the Coordinator.

14.1.7 If the Commission becomes aware that a person previously issued with a clearance becomes a disqualified person or is deemed a risk to the safety of children, the clearance will be cancelled. In such cases the Commission must inform the person and Narrandera Shire Council that the person is ineligible to perform child related work. Narrandera Shire Council must either redeploy the person to a suitable position or terminate the persons employment or volunteer engagement.

14.2 Mandatory Reporting of Children at Significant Risk of Harm who use Narrandera Shire Council Childrens Services

14.2.1 Any person engaged by Narrandera Shire Council has statutory responsibilities as a Mandatory Reporter if they are engaged in the delivery or supervision of the delivery of child related work to children in the context of child care

14.2.2 If during the course of work, a Mandatory Reporter has reasonable grounds to suspect that a child is at risk of harm from abuse or neglect, the level of that risk must be determined using the Mandatory Reporter Guide.

14.2.3 If a Mandatory Reporter determines that a child may be at significant risk of harm from abuse or neglect the matter must be reported to the Department of Family and Community Services.

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14.2.4 Failure to make a mandatory report of a child at significant risk of harm may result in Disciplinary action where an employee is involved; or

14.2.5 The following process is to be followed to determine the appropriate response when a Mandatory Reporter suspects the presence of child abuse or neglect

The Mandatory Reporter Guide (MRG) is to be used in the first instance. The MRG is a resource to help staff make a decision about whether they should make a report to Community Services or take another course of action. An electronic version of the MRG tool can be found at

http://www.community.nsw.gov.au/docs_menu/preventing_child_abuse_and_neglect/resources_for_mandatory_reporters.html

14.2.6. After completing the decision tree the MRG will provide guidance in the form of a final decision. The final decision will be either:

- Make an immediate report to Family and Community Services 132 111 (Protection Helpline 24hrs/7days) OR
- Consult with a professional advisor usually located in sector based Well Being Units.

14.2.7. As there is no Well Being Unit attached to the local government sector, consultation with other agencies will be required if it is necessary to arrange support for the child/children and their family.

14.2.8. Government and non-government agencies may share and exchange information that is relevant to the safety, welfare or wellbeing of a child or young person regardless of whether the report meets the risk of significant harm threshold.

14.2.9. A completed information exchange Agreement between Narrandera Shire Council and relevant organisations is required before information on child safety, wellbeing or welfare is requested or provided. This form can be downloaded from:

www.community.nsw.gov.au/informationexchange

14.2.10. Agencies/Sources that may need to be consulted include:

- www.nswfamilyservices.asn.au
- Schools that the child may be attending

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14.3. Investigation of a Child Protection Complaint against a Narrandera Shire Council employee, Volunteer, Student or Contractor

14.3.1 Response to a Reportable Allegation against an employee, volunteer, student or contractor. When a reportable allegation is made against a person engaged by Narrandera Shire Council in any of these roles, the Designated Child Protection Complaints Officer and the Human Resources Officer will ensure that a mandatory notification is made to the NSW Ombudsman and that an investigation is conducted by the Designated Child Protection Investigations Officer.

<https://www.ombo.nsw.gov.au>

14.3.2 Depending on the nature of the allegation, the Police and the Department of Family and Community Services may also have to be notified.

14.3.3 An assessment of the risks to children in care during the course of the investigation must be undertaken. Following this assessment, modifications may need to be implemented to safeguard children during the investigation.

14.3.4 Outcome of Investigation

The Ombudsman must receive a brief written report of the outcome of the investigation, including the reasons supporting the finding, the action taken and any submissions from the employee. In addition, if the investigation constitutes a relevant employment proceeding and confirms that a Narrandera Shire Council employee was involved in an incidence of reportable conduct, regardless of whether they are in child -related employment or not, the Commission for Children and Young People must be notified of the details and the outcome of the investigation.

<http://www.community.nsw.gov.au/kts/guidelines/roles/commission.htm>

14.3.5 Implementation of Outcome

Once a finding is made and accepted by the Chief Executive Officer, further action in the form of counselling, formal warning or dismissal of the employee may be warranted. Any such action must be in accordance with the disciplinary provisions of the Notional Agreement Preserving the Local Government State Award 2004.

Other actions including reviews of policies, procedures and other documentation may be required.

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14.4 Child Protection Allegations against the Chief Executive Officer or a Councillor

The NSW Ombudsmans investigation procedure applies if a complaint is made against the Chief Executive Officer or a Councillor with the exception that the investigation will be undertaken by a Conduct Committee convened under Narrandera Shire Councils Code of Conduct.

15 GIPA Act

Under the GIPA Act a person has the legal right, subject to public interest tests, to obtain access to information held as records by council.

16 DOCUMENTATION

NSW Ombudsman Risk management following an allegation against an employee guidelines.

https://www.ombo.nsw.gov.au/data/assets/pdf_file/0017/3680/FS_CP_09_Risk_Management_following_allegations.pdf