

<b>Name of policy:</b>	<b>Child Protection</b>		
<b>Adoption by Council:</b>	<b>23 August 2023</b>	<b>Minute number:</b>	<b>331/2023</b>
<b>Last review date:</b>	<b>August 2020</b>		
<b>Review timeframe:</b>	<b>4 years</b>		
<b>Next scheduled review date:</b>	<b>August 2027</b>		
<b>Related legislation:</b>	<p><i>Local Government Act 1993 (NSW)</i></p> <p><i>Child Protection (Working with Children) Act 2012 (NSW)</i></p> <p><i>Child Protection (Working with Children) Regulation 2013 (NSW)</i></p> <p><i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i></p> <p><i>Children and Young Persons (Care and Protection) Regulation 2012 (NSW)</i></p> <p><i>Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015 (NSW)</i></p> <p><i>Advocate for Children and Young People Act 2014 (NSW)</i></p> <p><i>Disability Inclusion Act 2014 (NSW)</i></p> <p><i>National Disability Insurance Scheme Act 2013 (Australia)</i></p> <p><i>Ombudsman Act 1974 (Amendment 68) (NSW)</i></p> <p><i>Ombudsman Regulation 2016 (NSW)</i></p> <p><i>Community Services (Complaints, Reviews and Monitoring) Act 1993 (NSW)</i></p> <p><i>Children's Guardian Act 2019 (NSW)</i></p> <p><i>Children's Guardian Regulation 2022 (NSW)</i></p>		
<b>Associated policies/documents:</b>	<p>MidCoast Council Child Protection Procedure</p> <p>MidCoast Council Working with Children Check Procedure</p> <p>MidCoast Council Code of Conduct</p> <p>MidCoast Council Complaint Handling Policy and associated documents</p> <p>Child Safe Action Plan</p>		
<b>Responsible division:</b>	<b>Libraries and Community Services</b>		

## **Policy objective**

The objectives of this policy are to:

- prevent harm to children and young people accessing Council services through effective risk management;
- guide Council officers on how to behave with children and young people in the organisation; and
- promote the participation of children and young people in the organisation and make it a child-safe organisation.

## **Policy statement**

MidCoast Council ('Council') supports children and young people having safe and happy experiences in our community, accessing our facilities and services and in our care.

Council is committed to fulfilling its duty of care to ensure that children and young people who access Council services are safeguarded from harm, recognising that feeling safe can be as important to children and young people as being safe.

Child protection is everyone's responsibility, including Council officers and families and carers of children and young people.

Council is committed to fulfilling its legislative and regulatory obligations regarding child protection.

## **Coverage of the policy**

This policy applies to all Council services and Council officers.

## **Strategic Plan link**

Community Outcome 1: A resilient and socially connected community.

Community Outcome 4: Strong leadership and good governance.

## **Policy content**

Council will:

- continually work toward meeting the 10 Child Safe Standards to ensure that the Council services accessed by young people are safe;
- maintain rigorous and consistent recruitment, screening and selection processes, and ensure Council officers working in identified child-related roles hold a valid Working with Children Check;
- actively promote its child-safe philosophy through key documents and information channels including its website, position advertisements and staff inductions;
- ensure that Council officers engaged in identified child-related roles are supported, supervised and trained to deliver child-safe services;
- maintain clear standards of conduct for Council officers working with children and young people;

- maintain robust procedures to enable concerns or allegations regarding child protection to be raised and managed effectively;
- ensure the private information of children and young people accessing Council services is managed effectively; and
- ensure that Council's policies, procedures and associated documents regarding child protection are effectively promoted, enforced and reviewed.

## Definitions

**Allegation** is defined as an allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct.

**Assault** is defined by the Children's Guardian Act 2019 as:

- a) the intentional or reckless application of physical force without lawful justification or excuse, or
- b) any act which intentionally or recklessly causes another to apprehend immediate and unlawful violence.

Examples of assault:

- hitting, striking, kicking, punching or dragging a child
- threatening to physically harm a child.

**Child/ren** is defined as a person who is under the age of 18 years.

**Child protection** is defined as any measure taken to safeguard children from abuse or harm.

**Child-related role/employment** is defined as:

- work for, or in connection with, a specific, child-related role, as defined in the Child Protection (Working with Children) Act and Regulation, where that work involves direct contact by the worker with a child or children and that contact is a usual part of and more than incidental to the work;
- work that involves access to confidential records or information about children or young people;
- Council's Principal Officer, that being the General Manager of MidCoast Council, or any officer acting in that role from time-to-time.

**Child Safe Standards** are the 10 standards introduced in February 2022 by the NSW Child Safe Scheme and overseen by the Office of the Children's Guardian, which encourage ongoing child safety improvements.

**Concern** is defined as a reasonable belief that a child has suffered or is at risk of suffering significant harm.

**Council officer** is defined as any person who carries out work on behalf of Council including, but not limited to, Council employees, contractors, sub-contractors, labour hire employees, apprentices, trainees, work experience students and volunteers.

**Employee** is the same as a Council Officer.

**Grooming** is defined as any act with the aim of befriending, building rapport, and gaining the trust of a child for the purpose of subjecting them to abuse. Examples of grooming behaviours include, but are not limited to:

- Persuading a child or a group of children that they have a 'special' relationship eg; giving gifts or special attention, favouritism and/or keeping the relationship secret;
- Testing boundaries eg; undressing in front a child, encouraging inappropriate physical contact and/or talking about sex;
- Inappropriately extending a relationship outside of work;
- Inappropriate personal communication (including emails, telephone calls, text messaging, social media and web forums) that explores sexual feelings or intimate personal feelings with a child.

**Ill treatment** is defined by the Children's Guardian Act 2019 as conduct towards a child that is unreasonable and seriously inappropriate, improper, inhumane or cruel.

**Mandatory reporter** is defined as an individual required under Section 7 of the Children and Young Persons (Care and Protection) Act 1998 to report to the Child Protection Helpline when he/she has reasonable grounds to suspect a child is at risk of significant harm from abuse or neglect, and those grounds arise during the course of or from the person's work.

**Neglect** is defined by the Children's Guardian Act 2019 as a significant failure to provide adequate and proper food, supervision, nursing, clothing, medical aid or lodging for the child, that causes or is likely to cause harm to the child, by

- a) A person with parental responsibility for the child, or
- b) An authorised carer of the child, or
- c) An employee, if the child is in the employee's care.

**Physical abuse** is defined as the non-accidental use of force against a child or young person that results in physical harm to the child or young person. Physical abuse may include shoving, hitting, kicking, shaking, throwing, biting, burning and poisoning.

**Psychological harm** is defined as inappropriate verbal or symbolic acts toward a child and/or a pattern of failure over time to provide a child with adequate non-physical nurture and emotional availability. Psychological harm may include rejecting, isolating, ignoring, terrorising and corrupting.

**Reasonable belief** is defined as a belief based on reasonable grounds (see below) that child abuse has occurred when all known considerations or facts relevant to the formation of a belief are taken into account and these are objectively assessed. A reasonable belief is formed if a reasonable person believes that:

- a) the child is in need of protection;
- b) the child has suffered or is likely to suffer significant harm as a result of physical injury;  
or
- c) the parents are unable or unwilling to protect the child.

A reasonable belief is not the same as having proof but is more than mere rumour or speculation. A reasonable belief is formed if a reasonable person in the same position would have formed the belief on the same grounds.

**Registered agency** is, as defined in the Children and Young Persons (Care and Protection) Act 1998, any of the following that is registered for the time being by the Children's Guardian in accordance with the Act:

- a) a Public Service agency (or part of a Public Service agency),
- b) an organisation (or part of an organisation) that provides or arranges voluntary out-of-home care

**Reportable allegation**, as defined in the Children's Guardian Act 2019 means (for a public authority, eg local government entity):

- a) if the employee holds, or is required to hold, a working with children check clearance for the purpose of employment – an allegation that the employee has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee's employment, or
- b) if the employee is not required to hold a working with children check clearance for the purpose of employment – an allegation that the employee has engaged in conduct that may be reportable conduct, unless the conduct is alleged to have occurred outside the course of the employee's employment.

**Reportable conduct** as defined in the Children's Guardian Act 2019 means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded:

- a) sexual offence
- b) sexual misconduct
- c) ill-treatment of a child,
- d) neglect of a child
- e) an assault against a child,
- f) an offence under section 43B or 316A of the Crimes Act 1900,
- g) behaviour that causes significant emotional or psychological harm to a child,

Examples of indicators of significant emotional or psychological harm for paragraph (g) –

- displaying behaviour patterns that are out of character
- regressive behaviour
- anxiety or self-harm

**Reportable conviction** is, as defined by the Children's Guardian Act 2019 as a conviction, including a finding of guilt without the court proceeding to a conviction, in this State or elsewhere, of an offence involving reportable conduct –

- a) if the employee holds, or is required to hold, a working with children check clearance for the purpose of employment with the public authority – whether or not the conduct occurred in the course of the employee’s employment, or
- b) if the employee is not required to hold a working with children check clearance for the purpose of employment with the public authority – unless the conviction relates to conduct that occurred outside the course of the employee’s employment with the public authority.

**Reportable incident** as defined in the Ombudsman Act 1974, means:

- a) Employee to client incidents: incidents involving any of the following in connection with an employee of the Department of Communities and Justice (DCJ) or a funded provider and a person with disability living in supported group accommodation:
  - any sexual offence committed against, with or in the presence of the person with disability;
  - sexual misconduct committed against, with or in the presence of the person with disability, including grooming of the person for sexual activity;
  - an assault of the person with disability, not including the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated under workplace employment procedures,
  - an offence under Part 4AA of the Crimes Act 1990 committed against the person with disability (fraud);
  - ill-treatment or neglect of the person with disability.
- b) Client-to-client incidents: incident involving an assault of a person with disability living in supported group accommodation by another person with disability living in the same supported group accommodation that:
  - is a sexual offence or
  - causes serious injury, including, for example a fracture, burns, deep cuts, extensive bruising or concussion, or
  - involves the use of a weapon, or
  - is part of a pattern of abuse of the person with disability by the other person.
- c) Contravention of an apprehended violence order: incidents occurring in supported group accommodation and involving a contravention of an apprehended violence order made for the protection of a person with disability, regardless of whether the order is contravened by an employee of DCJ or a funded provider, a person with disability living in the supported group accommodation or another person.
- d) Unexplained serious injury: incidents involving an unexplained serious injury to a person with disability living in supported group accommodation.

Additionally, reportable incidents include incidents that:

- involve an act, event or omission defined in the National Disability Insurance Scheme (NDIS) Act 2013, and NDIS (Incident Management and Reportable Incidents) Rules 2018; and

- occurred, or are alleged to have occurred, in connection with the provision of supports or services by a registered NDIS provider.

These reportable incidents can be categorised as follows:

- the death of a person with a disability;
- serious injury of a person with disability'
- abuse or neglect of a person with disability;
- unlawful sexual or physical contact with, or assault of, a person with disability;
- sexual misconduct committed against, or in the presence of, a person with disability, including grooming of the person for sexual activity;
- unauthorised use of a restrictive practice in relation to a person with disability.

**Risk of significant harm** is defined as a child/young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or well-being of the child/young person are present to a significant extent ('significant' being sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent).

**Reporting body** is defined as a body listed in the Act in Section 35, part 4, one of which is Government Agency.

**Sexual misconduct** is as defined by the Children's Guardian Act 2019 as conduct with, towards or in the presence of a child that:

- a) is sexual in a nature, but
- b) is not a sexual offence.

Examples of sexual misconduct include:

- descriptions of sexual acts without a legitimate reason to provide the descriptions
- sexual comments, conversations and communications
- comments to a child that express a desire to act in a sexual manner towards the child or another child.

**Sexual offence** is as defined by the Children's Guardian Act 2019 as an offence of a sexual nature under a law of the State, another State, a Territory, or the Commonwealth, committed against, with or in the presence of a child.

Examples of sexual offences include:

- sexual touching of a child
- a child grooming offence
- production, dissemination or possession of a child-abuse material.

**Supervisor** is defined as a Council officer in a supervisory position.

**Young person** is defined as a person who is aged up to 18 years.

**Complaint** is defined as an expression of dissatisfaction made about standard or service provided by Council or the actions or lack of actions by Council or its workforce

**Service request** is defined as a request for the provision of a service or product

**References and related documents**

Provide a list of supporting documents and reading material.

**Responsible officer (position)**

Manager Libraries and Community Services.

**Attachments**

Nil.