



Reporting Obligations and Processes

A handbook for child-related organisations

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PART A: UNDERSTANDING CHILD SAFE REPORTING

Overview

The Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission) found that to be child safe, organisations should have a robust culture of reporting as an integral part of their systems, policies and practices. A child-focused complaints process supports children and others to raise any issues or concerns they have around being safe and feeling safe.

A policy that promotes the reporting of all issues regarding the safety of children is a good strategy, to not only encourage the reporting of harm and abuse if it does occur but to also ensure the effective handling of allegations and investigations. Reporting policies should be reviewed regularly and after critical incidents to ensure they take a thorough, proactive and preventative approach to child safety.

Having a culture of reporting is a key component of being a safe organisation for children and young people because it supports them to speak up about anything that concerns them with an understanding they will be listened to and believed. They should feel they will be treated fairly and with respect. When children do not feel like they will be believed or that adults in the organisation will not take steps to keep them safe, they are less likely to speak up and abuse is more likely to continue.



In addition to helping organisations understand the importance of reporting and how to develop a Child Safe Reporting Policy, the second part of this resource provides information and support about reporting obligations for child-related organisations in NSW. This includes reporting to NSW Police, the Department of Communities and Justice (DCJ), the Office of the Children's Guardian (OCG) and other bodies. Other reporting obligations are also discussed.



Glossary

Abuse:	Abuse against a child may take the form of physical abuse, psychological or emotional abuse, sexual abuse or neglect. It may fall into the category of 'reportable conduct', or it may sit outside it and still be considered harmful. See the OCG's Risk Management and the Child Safe Standards – Part 2: Identifying risk handbook for full descriptions of the different kinds of abuse.
Allegations:	When someone learns of a child protection concern, they make an allegation or tell someone who makes an allegation. It stays an allegation until an investigation or legal process finds it to be sustained or not sustained. An allegation must be reported internally and to police or DCJ. If it is not sustained it may still be risk assessed to see whether the person the allegation is made about should continue to hold a Working with Children Check clearance. While all allegations should be investigated, the type of investigation will be determined by the nature of the allegation. For example, not all breaches of a Code of Conduct will need to be escalated to police, the OCG or DCJ.
Child Wellbeing Unit:	Some organisations have a Child Wellbeing Unit (CWU) that allows agencies to access internal specialists in abuse and child welfare. These units also deal with allegations of misconduct. They usually manage contact with external agencies in cases of abuse.
Complaint:	A 'complaint' in an organisational context can be used to mean any allegation or suspicion of a child protection concern, or report of a breach of a Code of Conduct. For many people, however, a complaint implies a resolution can be found in a non-abuse related context. (For example, 'The swings are too dangerous.') An allegation, however, is usually understood to mean a child has been deliberately harmed. (For example, 'The child has been inappropriately touched.') This requires reporting (including to NSW Police and DCJ) and investigating. A person making an allegation may, however, be known as a 'complainant'.
Disclosure:	'Disclosure' is the term used when a child reveals they have been harmed. In this context it is usually verbal or written. A child may not recognise they are making a 'disclosure' as such – they may only want to talk about something that is upsetting them.
Head of Relevant Entity:	Under the <i>Children's Guardian Act 2019</i> , the head of an organisation covered by the Reportable Conduct Scheme is described as 'Head of Relevant Entity' (HRE). This person is responsible for the entity's compliance with its legislative obligations under the scheme. Depending on its organisational structure, the entity head may be: <ul style="list-style-type: none"> ■ the chief executive officer, principal officer or equivalent ■ the secretary of a NSW Government department or delegate of the secretary ■ a person prescribed by the Children's Guardian regulations ■ a person nominated by the entity and approved by the Children's Guardian,¹ in the absence of any of the above.

Investigation:	An investigation is a formal process of examining an allegation.
Mandatory reporters:	Mandatory reporters are a broad group of employees and volunteers who work with children in a variety of roles. They're required to make a report to the Child Protection Helpline if they have reasonable grounds to suspect that a child is (or group of children are) at risk of significant harm.
Reportable conduct:	<p>The OCG's Reportable Conduct Directorate has oversight of investigations into reportable allegations and reportable convictions. Relevant entities conduct these investigations. Something that needs investigating is called a reportable allegation. If it's substantiated (found to be in all likelihood true) it's called a reportable conviction. Things that need investigating are:</p> <ul style="list-style-type: none"> ▪ a sexual offence against a child ▪ sexual misconduct with or in the presence of a child ▪ ill-treatment of a child ▪ neglect of a child ▪ an assault against a child ▪ behaviour that causes significant emotional or psychological harm to a child ▪ an offence under section 43B (failure to reduce or remove risk of child becoming victim of child abuse) or 316A (concealing child abuse offence) of the <i>Crimes Act 1900</i>.
Sustained allegation:	A sustained allegation is one that is, on the balance of probabilities,* found to be true. It may also be called a substantiated allegation, and an unsustained one is unsubstantiated.
Worker:	In the context of this resource, a 'worker' means an adult employee or volunteer, including sole traders and someone engaged by a third party to provide services to children, including contractors required to hold a Working with Children Check for the purpose of their engagement with the organisation. See Section 16 of the Children's Guardian Act 2019 for a complete definition.



Note:

The information contained in this handbook is for guidance purposes only. Always refer to the legislation to fully inform yourself of your legal obligations.

* 'Balance of probabilities' is taken to mean a situation where one version of events is found to be more likely to have occurred. Sometimes it is judged by whether a fair-minded person, in full possession of the facts that are presented, would believe the situation to have occurred. Often, the more serious the matter, the stronger the evidence needs to be for it to be sustained.

Prioritising the safety of children and young people

The safety, welfare and wellbeing of children, including protecting children from abuse, should be the paramount consideration in any decision-making undertaken by child-related organisations. This means that children's safety should be prioritised over the reputation of staff, volunteers and the organisation itself. This is known as the **paramountcy principle**. It should be evident in all aspects of an organisation, including its stated values, how it is championed by leaders, how it is embedded in everyday practice, and how it responds to allegations of harm and abuse.

If you have concerns for the immediate safety of a child or children, police should be notified *immediately* using 000. You can also make a report to the Child Protection Helpline (132 111) or [DCJ's ChildStory online system](#). You may also have obligations to report to your own internal Child Wellbeing Unit (if you have one). Additionally, you may have obligations to other government regulators such as:

- [Early Childhood Education Directorate](#)
- [Department of Communities and Justice](#)
- [Department of Education](#)
- [National Disability Insurance Scheme \(NDIS\) Quality and Safeguards Commission](#)
- [NSW Education Standards Authority \(NESA\)](#)
- [NSW Health](#)
- some government funding agencies.

When the police or government child protection agencies are involved, you should liaise with them about any action you intend to take to ensure they do not compromise any police or child protection response. See Part B of this resource for more information about your reporting obligations.



The Child Safe Standards

Organisations can improve their response to abuse, or suspected abuse, by implementing the Child Safe Standards. While Standard Six focuses on organisational reporting processes, all the Standards should inform your organisation's reporting processes and other relevant policies and procedures, to create an environment where children, families, community

members, volunteers and staff all feel empowered enough to raise any concerns they have with the understanding that these will be taken seriously and acted upon appropriately.

The table below describes how each Standard is relevant when reporting and responding to abuse.

Child Safe Standard	Application to reporting
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Standard 1:

Child safety is embedded in organisational leadership, governance and culture



How reporting applies to the Standard

Leaders encourage a culture of reporting. This includes all breaches of the organisation's Code of Conduct, reportable allegations and any instances where children or young people have been abused or harmed. Policies and procedures reinforce the need for reporting processes that are seen as fair and are easy to access for children and adults. Privacy is maintained and the safety of the child is the highest priority.

If it's not applied

Leaders who fail to respond to reports, even minor ones, demonstrate to workers and children that reporting is not important. In these situations, children are more vulnerable to abuse.

If it's applied

Where staff and volunteers see leaders respond even to small breaches of their Code of Conduct they know that reporting is a priority. Leaders who clearly embed reporting into their organisation's policies and procedures and act when they are not followed, demonstrate keeping children safe is important. They do this by explaining not only when reporting should occur, but how it should occur and what the response will be: fair, transparent and timely. In these situations, children are safer.

Child Safe Standard

Application to reporting

Standard 2:

Children participate in decisions that affect them and are taken seriously



How reporting applies to this Standard

Children and young people are given ongoing opportunities to report abuse that are accessible to their ages and abilities. Empowering children via participation in your organisation can provide the skills and confidence needed to report abuse or harm if it occurs. Children and young people are offered training in protective behaviours to support their understanding and recognition of abuse, potentially avoid it and feel able to tell other people about it.

If it's not applied

If children feel powerless to report abuse, child protection concerns are under-reported and may not be addressed. If children are not empowered with the knowledge of what abuse is and how to respond to it, they are more vulnerable to potential harm and abuse.

If it's applied

Children who can participate in the decisions that affect them are more empowered. They have a greater understanding of and input into the rules that apply to reporting in their organisation. They know the reporting mechanisms that are available to them, and (for older children) what the responses to a report will look like. In these situations, they are safer.

Standard 3:

Families and communities are informed and involved



How reporting applies to this Standard

Families know their children best and are more likely to recognise any changes that may indicate they are being harmed. Community members who have oversight of organisations are more able to report their concerns and also ensure that organisations are more accountable.

If it's not applied

Families and communities who are excluded, or who find it difficult to participate in child-related organisations, are unable to gauge the level of responsibility the organisation is taking in terms of meeting its reporting obligations. The flow of information between families and organisations regarding child protection concerns may be stifled, impacting the safety of children. Where families or carers are excluded from organisations, children are at greater risk of harm or abuse.

If it's applied

Where families and communities are involved, information can flow from community members to the organisation that supports a culture of reporting. Families and communities can have input into initiatives and strategies that support children understanding what and how to report. In these cases, children are safer.

Child Safe Standard**Application to reporting****Standard 4:**

Equity is upheld and diverse needs are taken into account

**How reporting applies to this Standard**

By supporting equity and diversity, children and young people are more likely to understand that any concerns they have will be taken seriously. Where equity is upheld, children feel able to participate to the best of their ability and feel valued by adults in the organisation. The organisation demonstrates that it upholds the rights of children by providing appropriate ways for them to be heard.

If it's not applied

Children and young people who are more vulnerable to abuse because of their age, intellectual ability, physical ability, cultural background or other reasons may be more reluctant, or find it harder, to report abuse or things that make them feel unsafe. In cases where they are not supported to understand when and how to report abuse, they are at greater risk.

If it's applied

The organisation understands and applies equitable opportunities for children to understand what abuse is and when and how to report it. Providing equitable opportunities for children to be heard is not about providing all children with access to one method of reporting. It is about providing different ways they can be heard in a way they are comfortable with. All children should be encouraged to provide input on things that affect them.

Standard 5:

People working with children are suitable and supported

**How reporting applies to this Standard**

People working with children are provided with clear guidance and training on their obligations to keep children safe. They understand the importance of reporting any breaches of an organisation's child safe policies or codes of conduct. Leaders in the organisation support people making reports and investigate matters fairly.

If it's not applied

Unsuitable staff and volunteers are less likely to understand the importance of reporting and may be less likely to prioritise it. Failing to report breaches of policies and codes of conduct creates environments that put children at risk.

If it's applied

Staff and volunteers who understand and follow child safe policies and codes of conduct are more likely to comply with their reporting obligations. They will consider it a priority. In this environment, children are safer.

Child Safe Standard**Application to reporting****Standard 6:**

Processes to respond to complaints of child abuse are child focused

**How reporting applies to this Standard**

Having robust reporting processes increases the likelihood that children and young people will report abuse and may discourage abuse from occurring in the first place.

Organisations should prioritise safe and nurturing environments, and not put their reputation before the safety of children and young people. They:

- prioritise the needs and safety of the child and take action to respond to all concerns
- do not conceal allegations or adopt an approach of 'damage control' by trying to protect the reputation of the organisation or those who are accused (while remaining mindful of privacy considerations).

Organisations supporting children will seek to hear from all cohorts of children, including children with disability or intellectual disability, in detention or with low self-esteem.

If it's not applied

When organisations do not prioritise the safety of children when responding to complaints of child abuse, they send a message that children are not valued or respected. This can lead to abuse becoming more prevalent because a potential perpetrator does not believe they will be held accountable for their offences. This places children at greater risk.

If it's applied

Where organisations support all children and young people to report harm and abuse, they proactively create reporting mechanisms that are accessible to all the children in their care. Children understand there are clear rules about the behaviour of adults, and it is explained to them in age and ability-appropriate ways. Children know when the rules have been broken and who they should tell. Children are safer in these environments.



Child Safe Standard**Application to reporting****Standard 7:**

Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training

**How reporting applies to this Standard**

Adults who work with children and young people are given advice, support and training on how to recognise abuse and the behaviours that precede abuse. They understand and are supported in how to respond and report abuse if it occurs. The organisation stays up to date on best practice reporting methodologies and child protection strategies.

If it's not applied

Staff will be less likely to raise a concern of child safety if:

- they do not understand what abuse and harm is or how it can occur
- child safe policies and procedures do not provide clear guidance
- there is a culture of blaming and shaming
- they are afraid of doing the wrong thing
- previous reports were not handled respectfully and fairly
- the person making the report doesn't believe they will be supported or believed
- they feel they will become the target of unfair treatment.

This creates environments where children are at greater risk of harm or abuse.

If it's applied

Staff feel confident their concerns will be investigated fairly and transparently, and there will be no ramifications for exposing wrongdoing even if a report is found to be unsubstantiated. Staff reporting instances of non-compliance with policies and codes of conduct, or where they witness unsafe behaviours, are supported. In these environments all the people who interact with an organisation will be more likely to raise concerns – and children and young people will be safer.

Standard 8:

Physical and online environments minimise the opportunity for abuse to occur

**How reporting applies to this Standard**

Understanding where children are at risk of harm in physical and online environments is a key component of keeping children safe. Adults, children and young people should understand the risks present in both spaces. Staff are clear about how to reduce risk of harm, and the organisation's risk management strategy and supporting policies guide acceptable behaviours.

If it's not applied

Research tells us that children are at greater risk when they are in one-on-one situations with adults. This risk increases when there is little or no supervision or oversight by other adults. Physical spaces should allow for clear lines of sight in situations where adults interact with children and young people. Online engagement between adults and children should not allow the adult to engage with children in a private setting. Failing to have child safe policies, codes of conduct and procedures places children at greater risk of harm.

If it's applied

Staff are clear on what is acceptable behaviour when engaging with children. This includes when they're communicating with them using devices such as phones, tablets and laptops. Having clear policies around online messaging, texting and interaction on social media will help reduce the risk to children.

Children should be given information on what is and is not acceptable behaviour in physical and online spaces, and who to speak to if they are scared, sad or upset. Children should also be supported to understand that nothing is so awful that they cannot talk about it.

Child Safe Standard**Application to reporting****Standard 9:**

Implementation of the Child Safe Standards is continuously reviewed and improved

**How reporting applies to this Standard**

The Royal Commission heard from 8000 survivors of abuse aged between seven and 93 years old. It identified over 4000 organisations where abuse occurred; 32% were government organisations.

As a result of its research the Royal Commission developed the Child Safe Standards to provide a framework organisations can apply to be child safe. The Standards are principle-based and outcome focused. This means that organisations can be flexible in the way they implement them and that implementation may look different in other settings and organisations. Only by continually reviewing how the Standards are applied can organisations be assured they are doing all they can to be child safe.

If it's not applied

Failing to stay up to date on contemporary child safe issues means an organisation may not be able to respond appropriately to allegations of harm and abuse, or may apply their own values and beliefs to a situation. Organisations that do not review their policies, codes of conduct and procedures may leave children exposed to greater risk.

If it's applied

The Child Safe Standards provide a framework so organisations know how to create environments that support the reporting of abuse by all the organisation's staff, volunteers, children, family and community members. Where reporting is supported in this way, children are safer.

Standard 10:

Policies and procedures document how the organisation is child safe

**How reporting applies to this Standard**

Having effective policies and procedures that describe how and when reporting should occur helps ensure adults, children and young people know what to report and how to report it. Policies should also describe the processes that take place once a report is made so people have confidence in them, knowing they will be fair, transparent and conducted in a timely manner. They should describe privacy provisions and make clear what reporting obligations exist, both internally within an organisation and externally to government agencies.

If it's not applied

In organisations where policies do not exist, are not adequate or are not applied, there is less understanding of what to report, how to report it and what will occur if a report is made. In these situations, there is less reporting – and children are not safe.

If it's applied

Robust policies and procedures that are clearly communicated underpin an organisation's commitment to reporting and its response to reporting. In places where good policies and procedures are understood and applied, children are safer.



Reflective questions:

1. How do your leaders in your organisation use the Child Safe Standards to inform and educate staff on the reporting of abuse?
2. How do children and young people participate in your organisation so they feel empowered to speak up about abuse?
3. How do children in your organisation know how to raise an issue or a concern?
4. What training are adults given to support your organisation's reporting obligations?
5. How do leaders in your organisation encourage and support the reporting of any breach of your Code of Conduct?
6. How do you support your staff to feel safe in coming forward if they have an allegation against a colleague?



How does a Child Safe Reporting Policy help prevent harm and abuse?

For child harm or abuse to occur three things are required.

Firstly, and quite obviously, there is a child. There are factors that make some children more likely to be singled out for abuse and these should be considered in some of your strategies to prevent abuse. For more information about what can make a child vulnerable to abuse please refer to the OCG's risk management resources.

Secondly, there needs to be a situation in which someone has behaved in a way that would cause a reasonable person to believe they have breached a policy, Child Safe Code of Conduct or social norm that has, or could place, a child at risk of harm. The perpetrator could be a carer, teacher, coach or other adult in their life. Children may also harm other children if not properly supported and supervised.

Thirdly, there needs to be a lack of appropriate guardianship. In an organisational setting, the term 'appropriate guardianship' does not refer to parent or carer. It means the adults responsible for the children in the organisation. Guardianship fails when adults lack the skills, willingness or understanding of how to keep children safe, or the organisation has no policies, codes of conduct or practices that guide acceptable behaviour (or they have them but they aren't implemented). It could also be that the culture of an organisation does not value children and their safety is not prioritised.

When administered properly, a Child Safe Reporting Policy addresses the issue of appropriate guardianship because it:

- prioritises the safety, welfare and wellbeing of children
- makes it clear that keeping children safe is everyone's responsibility
- provides clear guidance and instruction on how to respond to an incident
- places an onus on staff to report all concerns and issues
- describes what should be reported and to whom
- describes a fair and transparent process of investigation
- supports the whistleblower
- follows procedural fairness and maintains privacy
- places a responsibility on the organisation to respond.

A Child Safe Reporting Policy works in collaboration with the organisation's other policies that describe acceptable behaviour when working with children and young people, including the Code of Conduct and Child Safe Policy.

While these policies describe acceptable behaviour, your Child Safe Reporting Policy describes what to do if you receive information that other policies and codes of conduct are not being followed. It can also describe the potential disciplinary outcomes if the investigation finds the concerns to be sustained.

Your policy should describe the different types of abuse, which include the following.



Grooming:

this is a process where a person manipulates a child or group of children and sometimes those looking after them, including parents, carers, teachers and leaders. They do this to establish a position of 'trust' so they can then later abuse the child.



Physical abuse:

includes physical punishment, such as pushing, shoving, punching, slapping and kicking, resulting in injury, burns, choking or bruising, as well as threatening to physically harm a child or causing danger to life.



Psychological abuse:

includes bullying, threatening and abusive language, intimidation, shaming and name calling, ignoring and isolating a child, and exposure to domestic and family violence.



Sexual misconduct:

some forms of unacceptable behaviour in an organisation are known as misconduct and may not be as severe as abuse – although they could indicate that abuse is occurring. They may include showing a child something on a phone, inappropriate conversations or an adult sitting with a child on their lap, in breach of an organisation's policies such as their Child Safe Code of Conduct.

Examples of sexual misconduct include:

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



Sexual offences:

includes the sexual touching of a child, grooming, and production, distribution or possession of child abuse material (often known as pornography).



Neglect:

includes lack of supervision, not providing adequate nourishment, clothing, shelter or medical care, and lack of education.

The Royal Commission documented countless instances of how organisations failed children in responding appropriately to allegations of harm and abuse. Having a Child Safe Reporting Policy will mean, if ever you are faced with an allegation, you will be able to take reasonable and appropriate action to protect children.

Important components of reporting

When thinking about reporting, take the following into consideration.

- Commitment: having a culture that values complaints.
- Facilitation: making it easy for people to make complaints.
- Resourcing: ensuring staff are trained, empowered and resourced to manage complaints appropriately.
- Learning: analysing allegations and disclosures and their outcomes to improve systems and processes.
- Guidance: developing policies and procedures to guide staff in effective reporting.²

Organisations that have clear systems in place that describe how to respond to allegations will make environments safer for children.



Supporting reporting by adults

‘... many survivors disclosed because they wanted the abuse to stop or wanted to prevent it happening to others. Other survivors disclosed because they could no longer carry the burden of the secrecy of sexual abuse.’³
– the Royal Commission final report

Having effective policies that are understood and embedded within an organisation, and training that helps workers understand how to identify and report harm, works towards creating a ‘culture of reporting’. However, legislation and policies are not enough by themselves. Robust reporting processes must be driven by strong leadership and governance which repeatedly demonstrates that reports of child abuse will be taken seriously and responded to appropriately.

Leaders in child-related organisations should ensure that everyone interacting with the organisation is confident to speak up about things that concern them. This includes providing them with clear guidance,

information and training on how to respond to an allegation of harm or abuse.

The person responsible for managing allegations and disclosures should receive specialist training on how to manage an investigation and how to comply with the relevant legislation, including any mandatory reporting obligations.

However, keeping children safe is everyone’s responsibility and all adults have a responsibility for the safety and welfare of the children in their care. Therefore, information, training and support on reporting should be provided regularly to all staff.

‘Disclosure is rarely a one-off event and is a process. Victims will disclose in different ways to different people throughout their lives. Disclosures may be verbal or non-verbal, accidental or intentional, partial or complete.’⁴
– the Royal Commission final report

Allegations made by staff or volunteers

Child safe leaders understand that keeping children safe may mean having to have difficult conversations if a trusted colleague is central to an allegation. No one wants to believe the person they have worked alongside and laughed with for years would harm a child, but failing to address these concerns could mean children are at risk.

Reporting policies should clearly describe what procedures the organisation has in place for workers to report allegations of abuse. They should emphasise that all adults have a responsibility to care for children and young people, and that part of this duty involves reporting when it is required.

If workers feel all matters are investigated fairly and transparently, this removes the barrier some people may feel about 'dobbing on a mate'. They will trust the subsequent investigation process and will not feel they are simply 'getting colleagues into trouble'. If they believe the matter will be investigated fairly, they will be encouraged to report.

Staff members who make a report may become the victim of bullying and harassment, including in some cases by the alleged perpetrator or by the child's family or carers. Your policy should consider this outcome and take steps to support the staff member, including withholding their identity when necessary.

The *Children and Young Persons (Care and Protection) Act 1998* has whistleblower provisions to protect the identity of any person who makes a report to the Child Protection Helpline. In March 2020 amendments were made to provide additional protections for those who make reports in good faith, by providing protection against civil and criminal liability.⁵ This includes mandatory reporters. Section 64 of the *Children's Guardian Act 2019* provides protection to workers who make a report to the Head of Relevant Entity (HRE), or make a complaint or notification to the Children's Guardian.⁶

Barriers to reporting for adults

The Royal Commission found that on average it took 23.9 years for survivors to disclose child sexual abuse.⁷ Sometimes the victim felt shame or guilt that prevented them from coming forward, or they thought they would not be believed. Many had been abused in situations where a threat was made so they were frightened for themselves or their families. In other cases, because of grooming, a misguided desire to 'protect' the offender also discouraged reporting. Some children and young people with disability lacked the means to make a report; some simply did not even understand that what had happened to them was abuse. Organisational factors also contributed. These included:

- no obvious reporting processes
- preferencing the organisation's reputation over the safety of the child
- lack of policies or procedures that supported reporting
- a culture or history of bullying or harassment of those who raised concerns
- disbelief – refusing to believe the child over the adult, who in many cases was a respected member of the community
- a culture or set of values where such matters are considered taboo.

'For a long time, I have not been able to discuss the abuse I suffered as a child ... It wasn't until a visit to my psychiatrist last year that I managed to raise the issue of the abuse for the first time. Even now, I find the disclosure of the abuse horrendously difficult to tell. I am still terrified, fearful and distressed and sometimes find it difficult to breathe because of a deep sense of humiliation when I recount what happened to me.'⁸

– Abuse survivor

Unconscious bias also creates barriers to reporting allegations and following through on them. For example, an employee who observes a colleague behaving in an unacceptable manner with a child might convince themselves that they have misunderstood what they have seen, believing they know the colleague well and they would not intentionally harm a child. This can also be true when a child discloses abuse. The adult's initial thought may be that the child is lying because this person the child has mentioned could not harm children.

Personal values and beliefs may mean the person is reluctant to raise issues because they do not like to discuss or believe that child abuse is occurring. It may also be considered a taboo subject in some cultures.

The Royal Commission cited a survey that found 32 per cent of respondents believed that children make up stories about being abused, and 24 per cent did not agree or could not make up their mind whether to believe children who disclose experiences of abuse or neglect. It found that false allegations of child sexual abuse are rare and that a child who has experienced abuse is more likely to deliberately choose to not disclose the abuse than to deliberately choose to disclose.⁹

– the Royal Commission final report

Other barriers to reporting include fear of retribution, thinking that a promotional opportunity may be missed because of raising concerns about a colleague, or feeling like they do not have the skills to respond appropriately to concerns.

It is important organisations acknowledge the potential barriers that exist in their organisations and take steps to remove them. The Royal Commission noted that even in situations where adults had the best intentions towards protecting children, in some cases it still did not happen because there was 'a lack of training, education and guidance'.¹⁰

Having no clear descriptions of what is acceptable and unacceptable behaviour may also prevent a person from reporting. Your Child Safe Policy and Code of Conduct should set clear boundaries that are easy to identify when they are crossed.



Reflective questions:

1. What barriers exist in your organisation that may prevent children and young people reporting abuse?
2. Has there been a history of poor reporting in your organisation and, if so, what steps have been taken to improve it?
3. How have improvements to your organisation's reporting procedures been communicated to your staff, volunteers, children, families and community members?
4. How does your organisation prioritise the child in any incident of reporting?

Case study

Denise was a promising athlete who loved the game. Sadly, she was groomed and abused by her coach, Marcus. Her mother, Sandy, made a complaint to her club and the organisation's state-based peak body. An investigation found the abuse claim was sustained but a subsequent review by the organisation's lawyers, who were not given all the information, determined the opposite. As a result, Marcus continued coaching.

Denise left the club and stopped playing sport altogether. She began to suffer from depression and started using illegal substances.

An umpire came forward because she too had been abused as a young player and wanted to support Denise. She raised the matter again without any success. She then became the victim of bullying and intimidation by the organisation. Eventually, she resigned from her position because, she said, the victimisation became too much.

Marcus, the coach who had abused Denise, remained in the sport and was promoted.

By the time he was eventually charged and found guilty, both Denise and the umpire had suffered considerably.

The national body of the sport later insisted all its clubs should put policies and procedures in place to support victims and whistleblowers by protecting their confidentiality and allowing due process to take place with fair, transparent and timely investigations.



Image used on this page is commercial photography and not an actual picture of someone who has been exposed to abuse.

How children and young people can be supported to make a report

Dependent on their age and development, children will not necessarily understand or may not feel comfortable with the terms 'complaint' or 'allegation', yet child-safe organisations need to ensure all children are able to raise their concerns in a way that makes sense to them. In addition, some children and young people may ask the adult not to reveal their disclosure to others. This can be a complex situation. Adults must remember that the safety of the child is paramount and that they have a duty of care to keep children safe. They need to be honest with the child about confidentiality and its limits, and not make promises they cannot, and should not, keep.

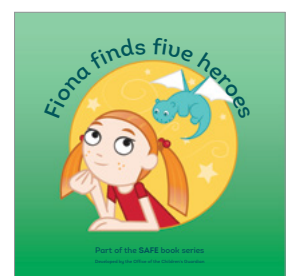
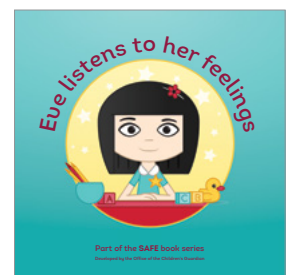
Children should be encouraged to speak up about their safety. Child-focused policies are important to support children to talk about anything that concerns them. Educating children in protective behaviours can be a successful strategy to increase awareness of personal safety.

Providing practical ways that children can participate in an organisation can also create a sense of safety. This 'protection through participation'¹¹ can give children the confidence and ability to speak up if they are being harmed or abused, or if they feel unsafe. When developing a reporting process for children it is important to use age-appropriate language. When developing any policy or procedure for children ensure you include their voice as part of the process.

Encouraging children to have a voice is not difficult. You can encourage their feedback by:

- helping them to identify who they feel safe to talk to if they feel sad, scared or upset (this can be reinforced using resources like posters that explain the process in a visual way)
- minimising power imbalances between adults and children. This can include making processes informal, avoiding jargon and paying attention to body language and tone of voice
- creating ongoing opportunities for children to provide feedback

- taking all feedback seriously. If children believe they are listened to, even about small things, they are more likely to speak up about larger things
- explaining to children what to expect from workers when participating in programs or activities. This allows children to better understand what is acceptable and unacceptable behaviour
- teaching children protective behaviours that include:
 - how to recognise when they feel safe and unsafe
 - how to identify other people (including those outside the organisation) they can speak to when they are feeling unsafe, scared, worried or upset
 - how to tell someone something is wrong (empowering children to speak up)
 - information on the parts of their bodies that are private, and that they are in charge of their own bodies
 - information describing they have a right to be safe and there's nothing so awful that can't be talked about.



Protective behaviours training should be combined with programs and practices that support the participation of children and young people in your organisation. Training should be offered on children's rights, and on ways of supporting the participation and empowerment of children.



When children are informed and feel supported by trusted adults, they are more likely to raise their concerns sooner.¹² Remember, children with disability or who have additional vulnerabilities, such as being very young, from a culturally and linguistically diverse (CALD) background or who live remotely, may need extra support so they know what to report, how to report it and who to report it to. Similarly, children and young people from Aboriginal and Torres Strait Islander backgrounds can be supported by recognising and prioritising their cultural heritage – and having empathy for the historical legacy of distrust of the authorities.

'Whether, when, how and to whom a victim discloses is influenced by their age and developmental stage, disability, gender, and cultural or linguistic background. Underlying these factors is the vulnerability of a child and the inherent power imbalances and complex institutional environments that they are required to understand and overcome to disclose abuse.'¹³
– the Royal Commission final report



Reflective questions:

1. How can children disclose abuse in your organisation?
2. How are children taught protective behaviours in your organisation?
3. Who are the cohorts of vulnerable children in your organisation?
4. How does your organisation address the imbalance that prevents vulnerable children from reporting?

Children, particularly older children, are more likely to disclose abuse to their peers before disclosing it to an adult. This can be because they feel closer to their friends, or because they do not feel safe speaking to an adult.

In a report by the Australian Catholic University titled *Taking Us Seriously: Children and young people talk about safety and institutional responses to their safety concerns*, participants recognised that children did or thought things that could act as a barrier to them seeking support and having their concerns dealt with. They believed that adults and organisations needed to appreciate these barriers and work with children and young people to overcome them. Barriers included:

- the child or young person doesn't realise how big an issue it is they are facing
- they feel embarrassed or ashamed about asking for help
- they don't have confidence that adults can help
- they don't know who to talk to
- they think that raising their concerns will make things worse
- they think that there will be retribution if they raise a concern about an adult or institution
- they have had bad experiences in the past – when they weren't listened to, when adults' reactions weren't helpful, or when there were consequences for them or others.

Children and young people also felt that adults did and thought things that prevented children and young people engaging with them, and prevented adults responding in a helpful way. Participants:

- felt that unhelpful adults don't spend enough time with children or young people
- don't care enough about children and young people or their concerns
- don't appreciate the extent to which children and young people feel concerned
- are not available or accessible
- have other things they need to do and can't resolve every issue
- don't appear to have the interest, skills or authority to resolve the issue
- don't like coming across children and young people who are uncomfortable, at risk or in pain
- believe the issue or concern relates to something outside of their workplace/environment and it's not their place to respond
- think someone else is dealing with the issue
- don't think it's their role to respond.¹⁴

It could be the child does not understand that what has happened to them is 'wrong'. Sometimes it is another child who comes forward to make the allegation on behalf of their friend. This may be traumatising for them because they have heard about the abuse of their friend, feel responsible to act to protect their friend and decide to come forward to talk about it. When managing an investigation, the organisation should consider how it plans to support the informant, particularly where this is a child.

A study in Sweden in 2003 found that of high school students who had been abused, over 40 per cent disclosed to a friend of their own age and nobody else. In Australia, about 20 to 25 per cent of reports to caseworkers about abuse in out-of-home care were from young people worried about their peers. In addition, young people in youth detention facilities often prefer to talk to each other about important and serious issues and 'deal with our own problems together'.¹⁵
– the Royal Commission final report

Sometimes children may disclose to a parent or carer about abuse they have witnessed or been told about. It is imperative that families and communities understand how they can report this information and that

organisations have systems in place to respond to their concerns – including offering support to any children or young people who are affected, whether they are victims, witnesses or those who have been told about the abuse.

Responding to allegations made by children and young people

Children and young people may raise an allegation of abuse about a worker, family member, an adult not known to them, or another child or young person. This may be either a direct or indirect disclosure. Remember, a child is unlikely to understand the formal concept of an ‘allegation’.

A direct disclosure is when a child discloses abuse with a clear intent of making the abuse known. An indirect disclosure is done so without intentionally revealing the abuse.¹⁶ Indirect disclosures may be evident in behavioural changes such as (but not limited to):

- a child or young person becoming withdrawn, sad or angry
- avoidant behaviour toward a particular person, activity or area
- self-harm or eating disorders

- sexualised behaviour (not age appropriate), including young children drawing sexually explicit pictures.

Providing workers with training in contemporary child safe issues will help them to recognise these cues and know how to respond to them to protect the child. Given how challenging it can be to respond to a disclosure, all workers should receive regular training and ongoing support in how to respond appropriately. At a minimum, organisations should provide clear guidance and procedures for staff to follow if they suspect or learn about abuse, and let them know who to contact for support.

If a child or young person discloses an allegation and there is *any* doubt the matter is of a criminal nature, the organisation’s policies must reflect the urgency to immediately contact police, to protect the child and to minimise contamination of evidence.

Do

- Reassure the child and remain calm.
- Listen carefully without interrupting.
- Only ask open ended questions (not questions with a ‘yes’ or ‘no’ response) to seek enough information to make a report.
- Stop asking leading questions (e.g. did John hurt you?) and seek the support of management to make a report.
- Support the child. Reassure them that they have done the right thing by telling you, that you believe them and that the abuse is not their fault.
- Explain clearly what will happen next, including timeframes.
- Establish the welfare and safety of the child and take steps to ensure the child is removed from the risk.
- Make detailed notes to document all information given and received (as soon as possible after the child has disclosed). It is important to document the child’s exact words.
- Follow your organisation’s reporting policy.
- Seek guidance if you are unsure what to do.
- Maintain the privacy of the child; this may include the privacy of the perpetrator.

Do not

- Express panic, shock, anger, disgust or disbelief.
- Ask questions once you have established there is a genuine concern, as these may compromise future investigations by NSW police or DCJ.
- Ask leading questions (see next section for more information on what these are).
- Dismiss, minimise or challenge the disclosure.
- Make promises you cannot keep (including keeping the disclosure a secret).
- Confront the alleged perpetrator.



What is a ‘leading question’?

A leading question prompts someone to answer with information given in the question. It is a question that points to a particular answer.

Example

A child has disclosed they have been harmed by a teacher.

Leading questions	Non-leading questions
Did Mr Smith hurt you?	What happened?
Did he hit you hard?	Who was there?
Did Mrs Jones see what happened?	Did anyone else see what happened?

There is a fine balance between gathering enough information to make a report and asking too many questions; however, it needs to be recognised as going too far may impact future investigations. A good rule of thumb is to let the child tell you in their own words and stop asking questions once you have established that you have reasonable grounds for concern. Staff are not required to confirm their suspicions or provide evidence the allegation occurred.

If you decide there are reasonable grounds for concern, you should then allow those who are experts in these matters – police, child protection officers and other appointed investigators – to ask any further questions. Failures to do this can result in perpetrators escaping prosecution because evidence has not been collected in the right way.

A NSW District Court judge in a 2016 criminal case was highly critical of a high school principal for ‘interrogating’ a pupil. The child – who was accused of harming another child – was forced to answer questions without a parent being present and without being offered the opportunity to obtain legal advice to prevent him incriminating himself.¹⁷ The actions of the principal, even if intended to be well meaning, compromised the entire case.





Reflective questions:

1. Do all adults in your organisation know what to do if a child discloses that they have been abused?
2. How are adults in your organisation trained to support children who make a disclosure of abuse?
3. Do you have adults in your organisation who are specifically tasked with ensuring the wellbeing of children, such as child safety contact officers?
4. If you have a child safety contact officer, or officers, how do you ensure the children and adults interacting with your organisation know who they are?
5. How do children and young people in your organisation know which adults to approach if they want to have a confidential conversation? Are there posters, newsletter articles or social media posts?
6. How does your organisation provide information to children and young people about who they can contact for support outside the organisation (such as Lifeline 13 11 44 or Kids Helpline 1800 55 1800)?

Barriers to reporting for children and young people

People who work in child protection will often refer to receiving a 'disclosure' or an 'allegation' of abuse. It is important you do not allow the words used by adults to deflect what the child is saying. For most children they will not start a conversation with 'I'd like to make a disclosure of abuse'.

For some children they may not understand they are a victim of abuse; they may even have a sense of love or protection for their abuser. For others, they may not have the language or cognitive ability to articulate the abuse because of their age or ability. Others may not speak up because the abuser has coerced them in to remaining silent.

If your organisation managed incidents poorly in the past, this may also lead children and young people to believe there is no point in reporting as nothing will happen anyway. In some instances, children may believe adults in their life may make the situation worse if they tell.

Staff can be upskilled so they know what to do if they receive a disclosure of harm from a child, or if they see indicators that might mean a child is being harmed. Staff responsible for handling allegations of harm can complete the following online training: [Identify and respond to children and young people at risk](#).

Some of the ways in which your organisation can remove the barriers for children include:

- educate children, in an appropriate way, on what abuse and harm are
- provide children with information about what acceptable behaviour by the adults who work with them looks like
- provide them with protective behaviours training (age appropriate)
- encourage empowerment and participation of children in developing child safe strategies
- ask children how they know when they feel safe or unsafe in your organisation
- have appropriately skilled adults who can recognise the signs of grooming, abuse and harm
- provide several ways in which a child can make a report, with consideration given to the age and development stage of the children and young people
- engage the caring adults in the child's life
- keep the child engaged in the investigation process – say what you will do and do what you say
- do not make promises you cannot keep
- do not overreact – nothing is so awful that we cannot talk about it
- ensure the matter reaches an outcome.



Supporting the reporting process

Everyone in your organisation should be aware of the need to report all incidents of concerning or unacceptable behaviour, no matter how minor they may appear. In many organisations, when abuse has been detected, reviews have identified that grooming was occurring. They have often found there was a pattern of behaviour that could have revealed the abuse had it been seen as a whole rather than as a series of isolated 'harmless' unreported incidents.

Reporting *all* breaches is considered child safe best practice because it allows organisations to respond appropriately to any incident and sends a clear message that unacceptable behaviour with children, or breaches of child safe policies, codes of conduct or child safe practices, will not be tolerated. It can also make it easier for a staff member or child to report, as it is less challenging to report a small breach than to accuse someone of having the intent to harm children.

'I didn't want to think he was a child abuser, but he sat Bobby on his knee and that's a clear breach of our Code of Conduct. I felt confident to challenge that behaviour and to report it as a single breach. He said he'd forgotten we had that rule and Cathy, our team leader, made a note of it. The incident gave us the opportunity to review our Code of Conduct as a whole and discuss what other rules we'd perhaps let slip. This revealed a few other people, me included, had also forgotten a few things in it.

Dealing with it in an open and transparent way meant I didn't feel like I was accusing anyone. We were also able to review our policies to make sure we were doing everything possible to reduce the risk of harm occurring. It was also a good opportunity to remind ourselves of what was in the policies and our Code of Conduct.'
– story from the Royal Commission



Reflective questions:

1. How have you ensured you have an effective Child Safe Reporting Policy?
2. Have there been any reports made in your organisation? If not, is this because of exemplary behaviour by staff or volunteers, or do they lack the confidence or ability to make a report?
3. How are children and their families encouraged to make a report?
4. How do you ensure all the people who interact with your organisation are empowered to speak up if they have a concern about child safety?
5. How often are your policies reviewed?
6. Who has oversight of your policy review processes?



Effective management of reports and concerns

Having a process to assess, investigate and respond to incidents of harm or abuse will enable you to appropriately respond to all incidents. Depending on the size of your organisation and the severity of the allegation you may want to consider how you effectively manage reports and concerns.

‘... ultimately, for an environment that is conducive to staff reporting concerns, an organisational culture is required in which prevention of child abuse is accepted as an ordinary responsibility of all adults. This requires leadership from senior management and staff. It also requires that reported concerns should be taken seriously and staff who express a concern should be informed of any action taken.’¹⁸
– Professor Stephen Smallbone, the Royal Commission final report

It is often the case that bigger and more complex organisations tend to have well-established systems, including online, that make it easier to make a report, track its progress and review its findings. There may even be a dedicated team of people who manage allegations. This approach may not be possible for smaller organisations, which might have to adopt simpler and more cost-effective methods for creating systems. The important thing is that each report or allegation is given appropriate consideration and an outcome is reached.



All organisations should be able to demonstrate they have:

- policies and procedures that work with the Child Safe Reporting Policy to establish acceptable behaviour of adults when working with children
- a description of harm, abuse, neglect and grooming
- methods for collecting and documenting allegations, and clear procedures for confidentially storing information
- accessible information for workers, children and other people in the community that describes how to make an allegation and how the organisation will respond
- clear information about procedural fairness and how allegations are investigated
- clear information about how confidentiality is maintained after an allegation is made
- clear and identifiable roles of the people who are responsible for managing allegations
- commitment to reviewing systems on a regular basis (at least every 12 months) and after critical incidents, including seeking feedback from children and young people.

Not all reports will require a full investigation. Understanding when an allegation is serious and calls for a full investigation may require you to seek the advice of your peak group or association, or your own internal human resources team. You may also have a peer network you can ask for advice.

If a matter is on the lower end of unacceptable behaviour, then a potential outcome may result in the worker being given a verbal warning or retraining. It may be that refresher training on policies and practices for the whole organisation is necessary. However, if the person does not cease their concerning behaviour, you may want to consider an escalation in the disciplinary action taken. Your Child Safe Reporting Policy should describe ‘likely’ outcomes, depending on the severity, nature and reoccurrence of the offences.

Case study

Coach Thompson tells the whole team an unacceptable story involving sexualised behaviour. He believes the story is a joke, although he admits it was not acceptable and meets the definition of misconduct.

When determining a disciplinary response, you may consider that the appropriate response in this instance is a verbal warning. You may also want to consider refresher child safe training for him, and indeed all employees.

Coach Thompson engages an athlete in a private conversation that describes sexualised behaviour.

This disciplinary response could be more complex. This is because this matter would require the organisation to conduct an investigation. The outcome may ultimately warrant the same disciplinary action as in the first instance but you will not be able to establish that until you have investigated. If something more sinister is established, the disciplinary response needs to be significantly stronger. Ensuring that the reporting, investigation and disciplinary processes are fair, consistent, timely and proportionate will promote a culture of reporting.*



*It is important to note that if the coach were an employee of a relevant entity, whether or not he believed the story was a joke, the alleged conduct would be a reportable allegation of sexual misconduct. This is because he is alleged to have engaged in sexual comments, conversation or communications with a child. This would require the relevant entity to notify the Children's Guardian and conduct a reportable conduct investigation. It is always important to remember that you might have obligations under both the Child Safe Scheme and the Reportable Conduct Scheme. Be aware of any reporting obligations your agency has and if in doubt seek further advice.

Images used on this page are commercial photography and not actual pictures of people who have been exposed to, or perpetrated, abuse.

Responding to an allegation of child abuse

Allegations of children being deliberately harmed should not be responded to in the same way as oversights or lapses in judgement. Adults should understand that different processes exist when handling an allegation of abuse.

Standard Six of the Child Safe Standards states that reporting policies must clearly identify who in the organisation has responsibility for responding to allegations – and what processes they should follow. It also notes that all allegations should be taken seriously and be responded to promptly and thoroughly.

Leaders in an organisation should acknowledge that managing an allegation of harm or abuse can be confronting for a staff member, and they should ensure the person investigating is given the appropriate level of support, training and guidance to manage the risk to children appropriately.

After receiving an allegation, the person responsible should conduct a risk assessment to ensure the safety of all people involved and to maintain the integrity of the investigation.





Safe and secure lens to reporting abuse:



Step 1

Is there an immediate threat to the safety of a child or other person?

- If there is an immediate danger, call 000 and take reasonable action to reduce the risk.



Step 2

Is there a criminal allegation that needs to be reported to police?

- If a reportable allegation could involve a criminal offence, police must be notified as they may need to investigate the alleged offence.



Step 3

Is there a child at risk of significant harm (ROSH)?

- If a reportable allegation indicates that a child is at risk of significant harm, a prompt report should (and, in the case of mandatory reports, **must**) be made to the Child Protection Helpline on 132 111 or through DCJ's ChildStory online system for mandatory reporters.
- It is important to consult with DCJ about any risk management strategies you plan to take to manage any ongoing interactions an employee may have with children.



Step 4

Has a child or employee's wellbeing been negatively impacted?

- Signs that a child, employee or other person's wellbeing has been impacted can happen soon after an incident. The wellbeing of all people affected by an allegation should be considered in the initial risk assessment, including the employee subject to the allegation.

Stages of the investigation process

Depending on the size of your organisation you may wish to have a panel of at least three people for the investigation.



Most investigations will follow these key stages.



Preliminary assessment:

Includes making enquiries (which may include written versions of events), determining whether to investigate, allocating an investigator, and determining and actioning risks to children. Assess whether the employee should continue in child-related work during the investigation. Consult with police and DCJ about any risk management strategies you plan to implement to support the safety and wellbeing of all people involved.

Managing the wellbeing of the child is paramount. In an organisational context, the child's daily circumstances should remain unchanged where possible. Exceptions might be where the child is at risk of victimisation by peers or employees because of the allegations, or where it is difficult to ensure their safety because of the entity's inability to directly supervise the child and the adult the allegation has been made about.

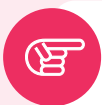
Managing an employee who is subject to an allegation can be difficult and a leader may sometimes feel conflicted loyalties. For example, removing them from their usual employment pending an investigation can have a negative impact upon their wellbeing. However, the alternative of exposing a child to an alleged perpetrator for the duration of an investigation could have a negative impact on the child's wellbeing.

As always, the paramountcy principle means the *child's* welfare, wellbeing and rights should be foremost in any decisions made.



Information gathering:

Includes notifying the employee, seeking information and nominated witnesses from the employee, case planning, gathering documents and interviewing witnesses.



Putting allegations to the employee:

Includes considering the evidence, drafting allegations and seeking a response from the employee to the allegations.



Report writing:

Includes analysing evidence and submissions, and drafting an investigation report that is endorsed by the leadership team.



Making findings:

Includes the decision maker reading the evidence and report, making sustained or not sustained findings on each allegation, and seeking additional information. If misconduct is not found, the employee should be advised and the investigation closed.



Proposing action:

Includes writing to the employee proposing what action (if any) will be taken and providing the employee with an opportunity to make submissions on any adverse action (this demonstrates procedural fairness).



Finalising action:

Includes advising the employee and relevant parties of the outcome. Disciplinary action against the worker may be required, including counselling, training, dismissal or permanent remove from child-related work.

The child may need ongoing support in the form of counselling or other services. Parents and carers should be consulted at all stages.

All reporting obligations, including to the OCG's Reportable Conduct Directorate, should be finalised.

Review

After the report is finalised, your organisation may benefit from conducting a risk analysis of the incident, particularly for more serious offences. This could include a review of current policies, codes of conduct and practices to determine:

- How did the offence occur?
- What steps could the organisation have taken to prevent the abuse from occurring?
- If there are no additional steps, what worked well in bringing the offence to light?
- What were the contributing factors to the offence occurring?
- Why did the perpetrator feel they were able to breach the codes of conduct and policies in place?
- Did the investigation prioritise the safety of children?
- Do you need to make amendments to your policies and procedures?
- Who is responsible for making these changes?
- When should they be made?



Child safety contact officers*

Similar to work health and safety officers, appointing someone as a child safety contact officer in your organisation may help children understand how to direct their concerns or issues. The role of this person should include responsibility for managing reports and allegations, including managing investigations. They could also provide support to staff by ensuring child safety is a regular agenda item at staff meetings and that issues affecting child safety are regularly reviewed.

Ideally, child safety contact officers should have the following:

- formal training in identifying and responding to incidents of child abuse
- experience in managing complaints and allegations
- knowledge of child protection legislation relevant to their sector

- experience in providing support and guidance to workers regarding acceptable behaviour when interacting with children
- experience in educating workers, particularly in child protection
- experience in providing support to children and young people who may wish to disclose abuse.

In larger organisations, more than one person may be appointed as a child safe contact officer. For some organisations, forming a child safe committee, or even a community of practice (CoP) with peer organisations, can be effective ways of helping each other manage issues regarding keeping children safe as well as managing reports and incidents.

* People in this position may not always be known by this title. They may sit under an organisation's HR department, for example. The important thing is that someone is a point of contact for child harm prevention and response – and that all the children and adults interacting with your organisation know how to contact them.

Employee obligations

Keeping children safe is everyone's responsibility. Changes to the *Crimes Act 1900* in August 2019 strengthened the civic responsibilities of adults in NSW. It is now a criminal offence for adults not to report to police as soon as practical that they 'know, believe or reasonably ought to know that a child abuse offence has been committed'. (See reference for full wording of relevant section.)¹⁹ In addition, people employed in child-related work may be subject to a criminal offence if they fail to reduce or remove risk of a child becoming a victim of child abuse.²⁰

Under the *Children's Guardian Act 2019* all employees of relevant entities are required to make a report about any reportable allegations or reportable convictions to the HRE or the Children's Guardian, and HREs are required to have systems in place to support reporting.



Procedural fairness

Procedural fairness refers to the procedures followed in investigations, and includes notifying an employee of a disciplinary hearing and what will occur at the hearing. Staff and volunteers should understand that the response of an organisation to an allegation of abuse should be fair, transparent, timely – and should meet the demands of confidentiality where required.



Record keeping

After an allegation is made, it is important to document the incident to retain accurate information for future reporting and to maintain accountability. Most organisations will have a specific form for this such as a complaints and allegations record form, an incident reporting form or a child protection notification form. Regardless of where the form is sourced, it must contain all the relevant information pertaining to the allegation. When reporting to more than one statutory body, any reference numbers that have been provided should be cited and added to the form.

The *Children's Guardian Act 2019* requires organisations to keep sound records of all allegations. This includes all correspondence relating to the incident such as emails, phone calls and the findings of reports. It is also important to retain other information relating to the investigation, including interview transcripts, risk management plans and decision-making processes (including references to mandatory reporting considerations).²¹

Your records should also reflect any reviews or changes to your existing policies and procedures – or the creation of new ones.

It is quite common for victims of sexual assault, particularly child sexual assault, to delay reporting to police for many years, often decades. In 2016 the NSW Government removed time limits for commencing civil claims arising from child abuse. This may increase requests for older records.

Some professions have a peak body that sets record-keeping standards, and many organisations and services already have policies and guidelines on record keeping. Agencies need to comply with any requirements that apply to their workplace. Section 178 of the *Children's Guardian Act 2019* says records may either be written or electronic, and records relating to Aboriginal and Torres Strait Islander children must be kept permanently.

Other considerations:

1. Is there a conflict of interest that needs to be managed?
 - Conflicts of interest occur when an employee's professional role and duty conflicts with a personal interest, potentially influencing their performance of those duties, including decision-making. They can be 'actual' or 'perceived' and tend to be more common in smaller or close-knit organisations and communities.
 - Consideration should be given to conflicts of interest in any risk assessments.
2. Is there evidence that needs to be secured?
 - Physical or forensic evidence should be securely stored so it is not destroyed or contaminated.
 - If you have evidence that may relate to a criminal matter, police should be immediately informed so they can secure it.
3. Is there a risk to confidentiality?
 - Organisations should have systems for managing confidentiality. However, the initial risk assessment should assess whether there are any unique risks related to maintaining the security of information.
 - Information should only be shared on a 'need to know' basis where it does not have the potential to compromise an ongoing child protection or police investigation.



Information storage

When keeping records concerning the handling of allegations against employees, records relating to the allegation should be kept on a file separate to (but references) the employee's personnel file. This is to ensure the confidentiality of the victim and their family.

Some information in relation to the investigation can be included in their human resources files, such as anything that may be pertinent to the care of the alleged victim or management of the employee. This may include

records of critical incidents and any ongoing actions resulting from any investigations. All records should be kept confidentially and securely, with access granted only to those persons who have a 'need to know' about that situation. Related files should be cross-linked to each other for the purposes of future management.

There are additional requirements for heads of relevant entities for the purpose of the Reportable Conduct Scheme. For more information, visit ocg.nsw.gov.au.



Overview of reporting process

Step	Response
Identifying a complaint	<p>There are several ways of identifying a concern. For example:</p> <ul style="list-style-type: none"> ■ listening to and taking seriously any child or adult survivor who indicates possible child sexual abuse has occurred ■ listening to and taking seriously a peer of the victim who indicates the possible child sexual abuse of the victim ■ noticing any behaviour by staff members, volunteers, visitors or carers that constitutes grooming, child sexual abuse or a possible breach of an organisation's Code of Conduct ■ noticing changes in a child's behaviour ■ receiving a written or verbal complaint from the victim or another party.
Assessing risk and ensuring safety	<p>This involves assessing the safety of any child or adult victims (and other affected parties) and determining what actions should be taken to ensure their safety. It may involve developing a safety plan with the child. It may also involve determining what actions should be taken with the subject of an allegation – such as supervision, removal of contact with children or termination of employment. Also consider any other organisational risks.</p>
Reporting	<p>Where required by legislative, contractual or other obligations, the organisation must report the concern to the police, a child protection authority, an oversight agency and potentially a professional or registration authority.</p>
Investigating	<p>This is the process of inquiry that begins after an allegation has been made and an institution has performed a risk assessment.</p>
Communicating and providing support	<p>Organisations may be required to communicate with all parties affected by the allegation and provide support for any affected stakeholders. They may also need to manage the media (including social media) where necessary.</p>
Maintaining records	<p>Organisations should maintain relevant records, including records of the investigation processes – for example, documenting reasons for decisions and subsequent actions taken.</p>
Completing a root cause analysis	<p>Organisations may be required to review the circumstances of the allegation and the outcome to identify systemic factors that might have contributed to the incident. In these cases, codes of conduct, policies and procedures should be reviewed and updated if necessary.</p>
Monitoring and reviewing	<p>In addition to critical incidents, organisations should regularly review their codes of conduct, policies and procedures to allow a practice of continuous improvement. This should be done in a way that aligns with the organisation's values and the Child Safe Standards. Inform the child and family of the investigation's outcome, being mindful of privacy obligations.</p>

What's a root cause analysis?

A root cause analysis (RCA) is a process to help people get to the bottom of an incident to prevent it reoccurring. It often uses different investigative techniques to those undertaken to explore the actions of a specific individual. For example, it may focus on the organisation as a whole. You are then able to revise policies and codes of conduct, and change practices to reduce the opportunity of the incident happening again.

An example of the need for a root cause analysis could be if your car stopped working. You could simply ignore it and start walking, or you could buy a new one. A better solution would be to take it to a mechanic to see what needs fixing and make the necessary repairs.

A child safe root cause analysis should consider the following four dimensions of risk:

- Organisational risk: were there failures in the organisation that contributed to harm occurring?
- Vulnerabilities of children: are there children, or cohorts of children, in your organisation who require different kinds of support to others?
- Physical and situational environments: are there environments and settings your organisation operates in that leave children exposed to potential abuse?
- Propensity of adults to abuse: how are adults recruited, trained and supervised in your organisation, and can these processes be improved to reduce opportunities of harm and abuse happening again?

A root cause analysis traditionally has the following parts:

- identify the incident you want to understand the causes of
- gather information, including from children and young people. One common method is to keep asking, 'Why?'
- identify how the incident was able to occur and determine the root cause, then recommend and implement solutions.



PART B: UNDERSTANDING YOUR REPORTING OBLIGATIONS

Making and receiving a complaint or issue

Receiving a complaint or allegation of child harm or abuse can be quite daunting. Some organisations will not feel equipped to deal with it; others may believe the incident lacks seriousness and therefore fail to respond appropriately. In some cases, the organisation will be so ill-equipped it adds to the impact of the abuse.

How you promote and encourage workers and children to raise issues is the first step, but what happens once they do raise an allegation? Being prepared and having clear guidance and instructions will ensure you can respond appropriately, timely and fairly, and in the child's best interests.

How you respond can directly influence how safe others consider your organisation to be. It could mean people do not believe you when you say you are committed to keeping children safe. Failing to have a Child Safe Reporting Policy, or having an ineffective one, could lead a potential perpetrator to believe the safety of children is not prioritised in your organisation.

Who can raise a safety concern?

Allegations can be made by anyone – including a child, adult survivor, parent, trusted adult, independent support person, staff member, volunteer or community member – and can include breaches of a Code of Conduct that do not need to be reported to external agencies, through to more serious matters.

Allegations may be made about any child protection concern and a person does not need to have proof the incident happened. This includes when an allegation involves an adult perpetrator or is about a child exhibiting harmful sexual behaviours.²²

Concerns can be raised around witnessing unacceptable behaviour or changes in a child's behaviour. It may be something a person is told or because of other evidence, such as video footage, scarring or other physical signs of harm. The fundamental issue is that the matter is investigated thoroughly and fairly.

Allegations may fall into the following three categories.

- Concerning conduct: behaviours or patterns of behaviour that are a risk to the safety of children. This also refers to ambiguous behaviours that are potentially inappropriate for children to be exposed to but may not necessarily be indicators of abuse occurring. The sharing of inappropriate jokes is an example of this.
- Misconduct: behaviours that breach the organisation's Code of Conduct.
- Criminal conduct: conduct that, if proven, would constitute a criminal offence.

Your Child Safe Reporting Policy should guide staff in the investigative process and the possible outcome. It should also detail how the outcome would be proportionate to the level and type of offence, and how the severity of the outcome could be affected by things such as the frequency of the event, or if the person has been subject to previous disciplinary issues regarding a similar instance.



Reflective questions:

1. How do you make it easy for children or the adults who care for them to raise concerns?
2. How do you promote the different ways in your organisation that children can raise concerns?
3. What are some of the ways your organisation blocks a person from raising a concern or an issue?

Organisations (and their employees and volunteers) in NSW that provide services to children have certain reporting obligations related to the safety, welfare and wellbeing of children. These reporting obligations exist to protect children from abuse or other harm that may occur while they are in the care of the organisation or elsewhere. Organisations and their staff (including volunteers) are required to report certain incidents, complaints and allegations, and these reports often need to be made to more than one agency.

There are three statutory bodies that an organisation may need to report to when there has been an allegation of child abuse in NSW. These are the police, the Department of Communities and Justice and the Office of the Children's Guardian. Each has a different role, which means there are different definitions and thresholds of abuse and harm. It's important workers understand the difference and know who to report to.

Some organisations will also have other regulatory obligations to report allegations, such as to the NDIS Quality and Safeguards Commission or Early Childhood Education and Care Directorate. It is important organisations with additional reporting obligations understand how these reports may impact with statutory obligations. Many organisations will also have their own internal reporting mechanisms and procedures that need to be followed.

Reporting to police

A report must be made to police where there is an allegation of a crime. The *Crimes Act 1900* is the legislation that police use to investigate and prosecute these offences.

In the event of an emergency, the police must be notified immediately by calling 000. Matters will then be investigated by the Police Area Command, or sometimes a more specialist unit such as the Child Abuse and Sex Crimes Squad. There are also occasions where police may work with their interstate counterparts or the Australian Federal Police.

If it is unclear whether a report to police is required, you should err on the side of caution and consult with them before taking any action that may compromise a potential police response. The most effective way to make a report to NSW Police is via the phone or in-person at your local police station. Inform the officer that you are reporting an alleged criminal offence against a child. Provide the names and contact details of the child or children who are the alleged victims, the person who is the subject of the allegations and any alleged witnesses. Also be sure to provide police with all the details you have received about the matter and the basis of your concerns. (This does not need to be 'hard' evidence. Finding that is the role of the police.) It can be helpful to provide police with a copy of any incident reports or written allegations. Request a reference number for your report and record the name of the officer or officers who took your report. This information should be documented in your organisation's complaints and allegations record form. A template for this form appears later in this document.

Reporting to the Department of Communities and Justice (DCJ)

DCJ (formerly FACS) is the statutory child protection agency in NSW. The *Children and Young Persons (Care and Protection) Act 1998* and the Children and Young Persons (Care and Protection) Regulation 2012 are the pieces of legislation that underpin DCJ's work. Several functions embedded in them are directly relevant when responding to reportable allegations. Reading them will also help you to understand the role of DCJ in responding to child protection concerns in NSW.

Mandatory reporting

If any member of the public thinks a child is at risk of significant harm they should make a report. NSW law requires some members of the community to report concerns that a child is at risk of significant harm. It is not optional for them. Those people are listed in section 27 of the *Care and Protection Act 1998* and are commonly known as mandatory reporters.

Mandatory reporters are a broad group of employees and volunteers in a variety of roles. They work with children in education, welfare, religious ministries, health and other services. If you are unsure whether you're a mandatory reporter, discuss it with your supervisor.²³

Mandatory reporters are required to make a report to the Child Protection Helpline on 132 111 or DCJ's ChildStory online system if they have reasonable grounds to suspect that a child or children are at risk of significant harm and those grounds arose during the course of their work. The mandatory reporter must make a report as soon as practical, providing the name of the child and the grounds for suspecting that they are at risk.²⁴ Mandatory reporters can scan the QR code to learn more about how to make a report with [DCJ's ChildStory online system](#).

DCJ administers the mandatory reporting scheme and has a number of resources available for mandatory reporters. It also has the capacity to lodge reports online. This means you can keep an exact copy of what you have reported for your records.²⁵

Note: It's important to keep abreast of current legislation; reporting requirements may have changed since this resource was published.

Are you a mandatory reporter?

Mandatory reporters are people who deliver the following services, wholly or partly, to children as part of their professional work or other paid employment, and those in management positions in these services.

- Health care: registered medical practitioners, specialists, enrolled and registered nurses, registered midwives, occupational therapists, speech pathologists, psychologists, dentists and other allied health professionals working in sole practice or in public or private health practices.
- Welfare: registered psychologists, social workers, caseworkers and youth workers.
- Education: teachers, counsellors and principals.
- Children's services: childcare workers, family day carers and home-based carers.
- Residential services: refuge workers and community housing providers.
- Law enforcement: police.
- Disability services: disability support workers and personal care workers.
- A person in religious ministry or providing religion-based activities to children (for example, minister of religion, priest, deacon, pastor, rabbi, Salvation Army officer, church elder, or religious brother or sister).
- Registered psychologists providing a professional service as a psychologist to adults.

Risk of significant harm (ROSH)



The term risk of significant harm (ROSH) as defined in the *Children and Young Persons (Care and Protection) Act 1998*²⁶ is that the threshold of ROSH is met *if current concerns exist for the safety, welfare and wellbeing of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances.*

1. The child's basic care needs are being neglected or at risk of being neglected, and the parents or caregivers are unable or unwilling to meet those needs (physical, psychological, medical or educational).
2. The child is living in a home where there have been incidents of domestic violence and, consequently, they are at risk of more serious physical or psychological harm.

3. The child has been, or is at risk of being, abused or ill-treated (physically, psychologically or sexually).
4. A baby has been the subject of a pre-natal report and the birth mother did not engage successfully with support services to minimise or lower the level of risk to the baby.

The *Children and Young Persons (Care and Protection) Act 1998* states that any of these circumstances may relate to a single act or omission, or to a series of acts or omissions. If you are in child-related employment in NSW, it is important you understand what constitutes ROSH as you may be required in the course of your employment to make a report to DCJ.

Reporting to the Office of the Children's Guardian (OCG)

The OCG is an independent statutory agency in NSW that regulates and oversees organisations, upholding the rights of children to be safe. It has several functions that are relevant to reporting.

Who should report to the OCG?

The *Children's Guardian Act 2019* sets out three types of relevant entities that must notify the Office of the Children's Guardian of reportable allegations or convictions against employees (including volunteers and contractors):

- Schedule 1 entities:
 - Department of Education, including government schools
 - Ministry of Health
 - local health districts
 - non-government schools
 - designated agencies arranging or providing out-of-home care
 - approved education and care services
 - Youth Justice (within the Department of Communities and Justice)
 - staff administering legislation under the Minister for Families, Communities and Disability Services (within the Department of Communities and Justice)
 - statutory health corporations
 - affiliated health organisations
 - NSW Ambulance service
 - TAFE (Technical and Further Education) Commission
 - any agency providing substitute residential care for children.

- all other public authorities²⁷
- religious bodies whose staff are required to hold a Working with Children Check for the purposes of their engagement with the religious body.

A schedule 1 entity also refers to an authorised carer not employed by or in an entity mentioned in the schedule 1 list, or an adult who resides on the same property as an authorised carer for three weeks or more and who is required to hold a Working with Children Check clearance.



Reportable Conduct Scheme

The Reportable Conduct Scheme was transitioned from the NSW Ombudsman to the OCG on 1 March 2020. Recommendations from the Royal Commission broadened the scope of the scheme so it now includes religious bodies.

Under the *Children's Guardian Act 2019* the following are considered to be reportable conduct.

Definitions	Examples
Sexual offence	<ul style="list-style-type: none"> Sexual touching of a child A child grooming offence Production, dissemination or possession of child abuse material
Sexual misconduct (conduct with, towards or in the presence of a child that is sexual in nature but is not a sexual offence)	<ul style="list-style-type: none"> Descriptions of sexual acts without a legitimate reason to provide the descriptions Sexual comments, conversations or communications Comments to a child that express a desire to act in a sexual manner towards the child, or another child
Ill-treatment of a child (treatment that is unreasonable, unacceptable, improper, inhumane or cruel)	<ul style="list-style-type: none"> Making excessive or degrading demands of a child A pattern of hostile or degrading comments or behaviour towards a child Using unacceptable forms of behaviour management towards a child
Neglect of a child	<ul style="list-style-type: none"> Lack of supervision Not providing adequate nourishment Not providing adequate clothing or shelter Lack of adequate and proper supervision Lack of adequate and proper medical aid
Assault	<ul style="list-style-type: none"> Some forms of physical punishment Hitting, striking, kicking, punching or dragging a child Threatening to physically harm a child
An offence under s43B (failure to protect) or s316A (failure to report) of the <i>Crimes Act 1900</i>	<ul style="list-style-type: none"> Failure to reduce or remove risk of child becoming victim of child abuse Concealing a child abuse offence
Behaviour that causes significant emotional or psychological harm to a child	<p>Actions by adults that result in emotional or psychological harm to child, including:</p> <ul style="list-style-type: none"> Behaviour patterns that are out of character Regressive behaviour Anxiety Self-harm

The Reportable Conduct Scheme provides a framework for certain organisations known as relevant entities to oversight investigations. It requires them to notify the Children's Guardian of reportable allegations and reportable convictions against their employees. They are also required to investigate those matters and their investigations are subject to oversight and monitoring by the Reportable Conduct Directorate.

They also have other obligations, including reporting on their risk management plans, their investigation of the allegation, the findings made, any actions taken in response to the findings and what information was provided to certain parties.

Subcontractors

Some organisations, including many local councils, subcontract individuals or organisations to provide services to children on their behalf. These include labour hire agencies, sport and recreational service providers, respite care services and entertainers. Many subcontractors are not relevant entities in their own right, but when they are contracted by a relevant entity to provide services to children they are captured under the Reportable Conduct Scheme. Any reportable allegations raised against them must be investigated so it's important there is an understanding between the organisations and their subcontractors as to how these circumstances will be managed (preferably in writing). Want to know more? Call 02 8219 3800 or email reportableconduct@ocg.nsw.gov.au.

For more information on the Reportable Conduct Scheme, visit the [OCG's website](#).

Head of Relevant Entity obligations

Under the *Children's Guardian Act 2019*, the Head of Relevant Entity (HRE) carries the responsibility and is accountable for managing reportable conduct matters. The HRE is the most senior officer in the organisation and should ensure systems are in place to prevent, detect and allow for an appropriate response to reportable allegations or convictions. They should also oversee the end-to-end process of an allegation through to a finding.²⁸

Working with Children Check (WWCC)

The OCG administers the WWCC in NSW. People in NSW in child-related work as defined by the *Child Protection (Working With Children) Act 2012* are required to hold a current WWCC. A finding of reportable conduct in relation to sexual misconduct, a sexual offence or a serious physical assault will be referred to the Working with Children Check directorate within the OCG. It may result in a bar or interim bar pending a formal risk assessment, and could lead to a cancellation of the person's WWCC clearance.

Scouts NSW* and 'registration or other licensing authorities constituted under an Act' that lie outside the Reportable Conduct Scheme are still required to report findings of a sexual offence, sexual misconduct (as defined by the *Children's Guardian Act 2019*) and serious physical assault through the WWCC system.



* Scouts NSW does fall under the Reportable Conduct Scheme in cases where it provides substitute residential care.

NSW Carers Register

Some out-of-home care (OOHC) agencies have a responsibility to report to the NSW Carers Register, which is administered by the OCG. The NSW Carers Register is a centralised database of persons who are authorised, or who apply for authorisation, to provide statutory or supported out-of-home care in NSW. The aim of the Carers Register is to promote the safety, welfare and wellbeing of children and young people in statutory or supported out-of-home care by supporting the appropriate authorisation of carers. The Carers Register supports agencies to share relevant information about carers and prospective carers. The scheme is mandatory and means carers de-authorised by one organisation will not be able to present at another organisation without the two organisations discussing the person's suitability to be a carer. The HRE oversees this responsibility.



Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*

In 2007-08, the Special Commission of Inquiry into Child Protection Services in NSW was conducted. The commission found that privacy laws and regulations were having a detrimental impact upon how agencies could work together in providing services to children and young people because they were worried it was unlawful to share information about the children and families they were working with. The commission made a recommendation which saw the significant reform we now know as Chapter 16A. This allows prescribed bodies* to exchange information that relates to the safety, welfare and wellbeing of children and young people

between certain government and non-government agencies and service providers.

The DCJ website provides templates and other guides to assist prescribed bodies providing information. It is important that relevant entities are familiar with all the provisions of Chapter 16A and seek legal advice as necessary to clarify whether they are entitled to rely on the provisions. Relevant entities that are prescribed by the legislation can lawfully provide relevant information without breaching privacy laws.

* A prescribed body is any organisation specified in section 248(6) of the Act or in clause eight of the Children and Young Persons (Care and Protection) Regulation 2012, and includes government departments and NGOs.



PART C: CREATING A CHILD SAFE REPORTING POLICY

Overview

This section looks at creating policies and forms relating to reporting. It includes samples and a template. These are also available on the OCG website. Some organisations, because of their size and complexity, will require a more detailed policy. What follows contains the minimum information a reporting policy should include.

Reporting policies should guide stakeholders about:

- what should be reported
- how to report and who to report to
- how children can make a report or complaint
- formal reporting obligations to other agencies and internal departments
- record keeping.

Component	Explanation	Reflective questions
Introduction that describes the intent of the policy and who it is for	Explains how the intent of the policy is to create, maintain and improve effective child safe reporting practices for everyone in your organisation to follow, to keep children safer.	How is your commitment to child safety reflected in your Child Safe Reporting Policy?
Define types of harm and abuse	<p>Examples of harm and abuse include:</p> <ul style="list-style-type: none"> ■ psychological abuse ■ physical abuse ■ sexual abuse ■ grooming ■ misconduct ■ lack of appropriate care. <p>If your organisation is captured under the Reportable Conduct Scheme, include the definitions of reportable conduct, which you'll find on page 48 of this handbook.</p> <p>(Visit the OCG website to find out if you're covered by the scheme and are a relevant entity.)</p>	Do the workers in your organisation know what abuse is and what to look out for?
List types of complaints that should be reported	<p>Examples include:</p> <ul style="list-style-type: none"> ■ criminal conduct ■ risk of significant harm (ROSH) (see page 46 of this handbook to see how ROSH is defined, or refer to the legislation) ■ disclosures of abuse ■ unacceptable behaviour around children and young people that is in breach of an organisation's Child Safe Code of Conduct ■ suspicion of harm or abuse to a child or young person ■ reportable conduct, if your organisation is a relevant entity. 	Do your workers know the different types of complaints they need to report?

Component	Explanation	Reflective questions
Identify who can make a complaint	Explains that everyone in your organisation has the right to make a complaint and won't be punished if they do. This includes children and young people, staff members and volunteers.	Is everyone in your organisation aware and encouraged to make a complaint if they need to?
List reporting obligations	<ul style="list-style-type: none"> Allegations of criminal conduct (some will be reportable allegations and will need to be reported to the OCG, if your organisation is a relevant entity) Risk of significant harm (ROSH) Reportable allegations and convictions (that is, reportable conduct) Breaches of your organisation's Child Safe Code of Conduct 	<p>Does everyone in your organisation know how to make a complaint or report an allegation if they need to?</p> <p>What training and support do you offer to ensure your workers understand and report allegations of criminal conduct, ROSH, reportable allegations and convictions, and breaches of your Child Safe Code of Conduct?</p>
Describe risk management in response to an allegation	<p>Includes strategies that focus on the immediate safety of the child and ongoing procedures workers will need to undertake to keep the child and other people involved safe.</p> <p>Note: Your Child Safe Risk Management Plan may need to be updated in response to the incident. Risk management is an ongoing responsibility and may require further assessment and review, both during and after an allegation.</p>	<p>How are your workers trained to implement risk management strategies following an allegation?</p> <p>Does your organisation work with the required statutory authorities to ensure the necessary training, policies and procedures are in place so workers understand the measures they need to take to keep the child and other people involved in an allegation safe?</p>
Describe the process around procedural fairness and privacy and confidentiality	Explains how allegations and investigations will be carried out fairly, promptly and transparently where possible, being mindful of confidentiality.	<p>Do your workers understand the process and potential outcomes if an allegation is made against them?</p> <p>Do your workers understand their rights if an allegation is made against them?</p>

Component	Explanation	Reflective questions
Describe the complaint process	<p>Explain how the complaint process works, including:</p> <ul style="list-style-type: none"> steps taken to remove child from harm incident recorded (see page 58 for a complaints and allegations record form template) reporting obligations met, if necessary investigation conducted, keeping everyone involved up to date with what's happening offering ongoing support to the child as needed reviewing the incident and updating the organisation's child safe policies, if necessary. 	<p>Do your workers know how the complaint process works?</p>
Include a list of the legislation that applies	<ul style="list-style-type: none"> <i>Crimes Act 1900</i> <i>Child and Young Persons (Care and Protection) Act 1998</i> <i>Children's Guardian Act 2019</i> 	<p>Do you know the legislation that applies to your organisation and the different workers in it?</p> <p>Do your workers understand their responsibilities under each piece of legislation?</p>
Describe how the policy and reporting obligations will be publicised	<p>Explain how you will inform everyone in your organisation about your policy and their reporting obligations, including:</p> <ul style="list-style-type: none"> information sessions fact sheets, brochures and posters that explain the reporting process internal and external training opportunities age-appropriate programs for children and young people so they are aware of their rights and know how to report. 	<p>How do you plan to let everyone in your organisation know about your Child Safe Reporting Policy?</p>
Include a review date	<p>Reviews should be done annually and after critical incidents.</p>	<p>Do your workers know when you plan to review your Child Safe Reporting Policy and have they been invited to contribute or provide feedback?</p> <p>What have you done to ensure children and young people have an opportunity to provide feedback on the policy?</p>

Sample Child Safe Reporting Policy

Sample Child Safe Reporting Policy

The sample that follows is suggestive of the elements that should appear in a Child Safe Reporting Policy. You can use the Child Safe Reporting Policy template on page 60 to create your own Child Safe Reporting Policy, using this sample as a guide. Remember to not simply copy and paste the information. It needs to be carefully considered in relation to the unique needs of your organisation.

Title	Content
Introduction Describe the intent of the policy and who it is for	To help keep children safe, we must create, maintain and improve our child safe reporting practices to ensure they remain effective. Everyone in our organisation must: <ul style="list-style-type: none"> • know what to report, who to report it to and how to report it • report any concerns about the safety or welfare of a child or young person immediately • feel confident that concerns and allegations will be dealt with honestly and fairly • feel confident in reporting unacceptable behaviour around children and young people • ensure the safety and wellbeing of the child is paramount when an allegation is made.

Title	Content
Definitions of harm and abuse (what to report) 	<p>Psychological abuse</p> <p>Includes bullying, threatening and abusive language, intimidation, shaming and name calling, ignoring and isolating a child, and exposure to domestic and family violence.</p> <p>Physical abuse</p> <p>Includes physical punishment such as pushing, shoving, punching, slapping and kicking, resulting in injury, burns, choking or bruising.</p> <p>Sexual abuse</p> <p>Includes the sexual touching of a child, grooming, and production, distribution or possession of child abuse material (often known as photography).</p> <p>Grooming</p> <p>The process where a person manipulates a child or group of children, and sometimes those looking after them, including parents, carers, teachers and leaders. They do this to establish a position of trust so they can then later sexually abuse the child.</p> <p>Misconduct</p> <p>Inappropriate behaviour that may not be as severe as abuse, although could indicate that abuse is occurring and would often be in breach of an organisation's Child Safe Code of Conduct*, including showing a child something inappropriate on a phone, having inappropriate conversations with a child or an adult sitting with a child on their lap.</p> <p>Lack of appropriate care</p> <p>Includes not providing adequate and proper supervision, nourishment, clothing, shelter, education or medical care.</p> <p>*Please refer to our Child Safe Code of Conduct for a full list of acceptable and unacceptable behaviours at our organisation.</p> <p>Note: As a relevant entity, our organisation must also report reportable conduct.</p>
Types of complaints (what to report) List what should be reported	<p>All complaints should be reported. This includes:</p> <ul style="list-style-type: none"> • criminal conduct • risk of significant harm (ROSH) • disclosures of abuse • unacceptable behaviour around children and young people that breaches our Child Safe Code of Conduct • suspicion of harm or abuse to a child or young person • reportable conduct.
Making a complaint (who can report) Identify who can make a complaint	<p>Everyone in our organisation has the right to make a genuine complaint and won't be punished if they do. This includes children and young people, staff members and volunteers. Reporting abuse is mandatory and encouraged – it is never obstructed or prevented.</p>

Title	Content
<p>Reporting obligations (who to report to)</p> <p>Identify all reporting obligations</p>	<p>Reporting criminal conduct</p> <p>Contact NSW Police on 131 444 for anything you consider could be a criminal offence. This includes sexual assault, physical assault, grooming offences, and producing, disseminating or possessing child abuse material.</p> <p>Note: It is a criminal offence for adults not to report to police if <u>they know or believe that a child abuse offence has been committed</u>. In addition, people employed in child-related work may be subject to a criminal offence if <u>they fail to reduce or remove the risk of a child becoming a victim of child abuse</u>.</p> <p>Reporting risk of significant harm</p> <p>Any person who has reasonable grounds to believe that a child or young person is at risk of significant harm (ROSH) can report to the Department of Communities and Justice (DCJ) on 132 111 (this is a 24-hour service).</p> <p>Mandatory reporters must report to the <u>ChildStory Reporter Community</u> if they have reasonable grounds to suspect a child is at ROSH.</p> <p>Reporting allegations and convictions</p> <p>Relevant entities must notify the Office of the Children's Guardian of reportable allegations or convictions (that is, reportable conduct). This includes sexual offences, sexual misconduct, ill-treatment of a child, neglect of a child, an assault against a child, failure to protect a child or failure to report if a child has been harmed, as well as any behaviour that causes significant psychological harm to a child.</p> <p>Reporting breaches of our Child Safe Code of Conduct</p> <p>All complaints must be reported to our child safe contact officers.</p>
<p>Risk management strategies (how to report)</p> <p>Identify any strategies that need to be put in place to ensure the immediate and ongoing safety of the child and any other people involved</p>	<p>To ensure the immediate and ongoing safety of the child:</p> <ul style="list-style-type: none"> • establish the welfare and safety of the child and take steps to ensure the child is removed from the risk • reassure them and remain calm • listen carefully without interrupting • don't ask leading questions or any additional questions once you've established there is a genuine concern (to not compromise future investigations by NSW Police or DCJ) • support them, reassuring the child that they have done the right thing, that you believe them and that the abuse is not their fault • explain what will happen, including timeframes • don't make promises you can't keep • don't confront the alleged perpetrator • seek guidance if you are unsure about what to do. <p>It is the child safety officer's role to conduct a risk assessment after receiving an allegation, to ensure the safety of all people involved and maintain the integrity of the investigation.</p>

Title	Content
Procedural fairness, including privacy and confidentiality (how to report) Explain the process around procedural fairness and how your organisation manages privacy and confidentiality	<p>Any allegation of abuse will be treated in a fair, transparent and timely manner. Workers subject to an allegation will be notified when a disciplinary hearing will take place and what will occur at the hearing. We follow the obligations defined under the <i>Privacy Act 1988</i> (Commonwealth), and relevant reportable conduct investigations are conducted with the OCG's Reportable Conduct Directorate.</p> <p>Additionally:</p> <ul style="list-style-type: none"> all information is recorded on our reporting form for complaints and allegations all reporting forms for complaints and allegations are stored securely and only accessed by those in the organisation with responsibility for oversight of the investigation information may be exchanged under Chapter 16A of the <i>Child and Young Persons (Care and Protection) Act 1998</i>, with other agencies who have responsibilities relating to the safety, welfare or wellbeing of children or young people our organisation maintains the privacy of those involved in accordance with our obligations under the <i>Privacy and Personal Information Protection Act 1998</i> if an incident is found to be substantiated, likely outcomes or responses will be determined by HR or from advice given by relevant authorities (police, DCJ or OCG).
Complaint process (how to report) Provide a step-by-step rundown of the complaint process	<p>Once a complaint has been made, use this step-by-step process to make sure it's appropriately followed up:</p> <ul style="list-style-type: none"> steps taken to remove child from harm incident recorded reporting obligations met, if necessary investigation conducted, keeping everyone involved up to date with what's happening offering ongoing support to the child as needed reviewing the incident and updating the organisation's child safe policies, if necessary.
Legislation Include a list of the legislation that applies to the reporting obligations in your organisation to keep children safe	<p><u><i>Crimes Act 1900</i></u></p> <p><u><i>Child and Young Persons (Care and Protection) Act 1998</i></u></p> <p><u><i>Children's Guardian Act 2019</i></u></p> <p><u><i>Privacy Act 1988 (Commonwealth)</i></u></p> <p><u><i>Privacy and Personal Information Protection Act 1998</i></u></p>
How we publicise our Child Safe Reporting Policy Include a communications plan	<p>To ensure everyone in our organisation is aware of our Child Safe Reporting Policy and their reporting obligations we:</p> <ul style="list-style-type: none"> hold information sessions about our child safe policies and how they apply to families, workers and children create and display important information from our Child Safe Reporting Policy that describes what to report, who to report to and how to report, including fact sheets, brochures and posters provide workers with internal and external training opportunities so they understand our processes for complaints and allegations create and promote age- and ability-appropriate programs for children and young people that explain what to do if they feel sad, angry or concerned.

Title	Content
Review date Set a date to review and update this policy	continuous improvement of our child safe practices and that we keep up to date with relevant legislation and industry requirements. Children and young people have an opportunity to provide feedback on the policy and complaint handling.

This sample and its corresponding template were developed by the NSW Office of the Children's Guardian.

For more free child safe resources, please go to ocg.nsw.gov.au/our-resources

Child Safe Reporting Policy template

Place your organisation's name here

Place your
organisation's
logo here

Child Safe Reporting Policy

You can use this template to create your Child Safe Reporting Policy. If you need some guidance, you can refer to our Sample Child Safe Reporting Policy on page 55, being mindful to not simply copy and paste the information. It needs to be carefully considered in relation to the unique needs of your organisation.

Title	Content
Introduction Describe the intent of the policy and who it is for	
Definitions of harm and abuse (what to report)	
Types of complaints (what to report) List what should be reported	
Making a complaint (who can report) Identify who can make a complaint	

Child Safe Reporting Policy template

Title	Content
Reporting obligations (who to report to) Identify all reporting obligations	List the mandatory reporters in your organisation List the names and contact details of your child safe contact officers Note: Refer to the list on page 45 of the Reporting Obligations and Processes handbook or visit the DCJ website. Refer to the legislation (or the list on page 46 of the handbook) to find out what is considered to be risk of significant harm (ROSH). You may wish to include this as an appendix at the end of your Child Safe Reporting Policy. If there are no mandatory reporters in your organisation you may choose to mention that reports of ROSH can still be made to DCJ as a member of the community, although they are not mandatory. The NSW Mandatory Reporter Guide lists concerns that are reportable.
Risk management strategies (how to report) Identify any strategies that need to be put in place to ensure the immediate and ongoing safety of the child and any other people involved	
Procedural fairness, including privacy and confidentiality (how to report) Explain the process around procedural fairness and how your organisation manages privacy and confidentiality	
Complaint process (how to report) Provide a step-by-step rundown of the complaint process	You may like to include a reporting form template for complaints and allegations as an appendix at the end of your Child Safe Reporting Policy

Title	Content
Legislation Include a list of the legislation that applies to the reporting obligations in your organisation to keep children safe	
How we publicise our Child Safe Reporting Policy Include a communications plan	
Review date Set a date to review and update this policy	Include next review date Include who or which role is responsible for the review

This template was developed by the NSW Office of the Children's Guardian.
 For more free child safe resources, please go to ocg.nsw.gov.au/our-resources

Complaints and allegations record form template

Use this template or adapt it to record complaints or allegations in your organisation.

Include what is relevant to your organisation and add any other details if necessary.

This form should be used to record a suspicion, allegation or disclosure of child abuse, or a complaint of unacceptable behaviour.

Your name and position

Name of the child or young person involved

Name of person making complaint

Name of person who the complaint was made against

1. Nature of the complaint: include time, date, location, what happened and who was involved (this can include observations of the child's behaviour).

2. Details of any injuries and if the child received medical attention.

3. Accurately record what the child said when describing what happened – use their exact words – or record why you suspect abuse due to an indirect disclosure, such as a drawing or observed behaviour.

(In the case of an allegation of abuse, formal investigations and interviews will be carried out by DCJ and/or NSW Police. You must record what the child has said but unless it is your role to investigate, you should not interview the child.)

4. Details of anyone who saw what happened.

5. Does this complaint indicate the possibility of child abuse, such as physical abuse, psychological or emotional abuse, sexual abuse or neglect?

Yes

No

6. Who did you make a report to?

NSW Police

DCJ via ChildStory

DCJ via 132 111

OCG Reportable Conduct Directorate

Internal reporting obligations (name the relevant department or person)

Other (name them)

7. People spoken to in relation to the matter (describe who was spoken to and why they were spoken to about the matter – include police officers, DCJ staff, OCG staff and anyone else you spoke to).

Date(s):

Endnotes

- 1 The Head of a Relevant Entity (or their delegate) is required to:
 - ensure specified systems are in place for preventing, detecting and responding to reportable allegations or convictions
 - make a notification to the Office of the Children's Guardian within seven business days of becoming aware of a reportable allegation or conviction against an employee of the entity
 - arrange for the reportable allegation/conviction to be investigated/determined as soon as practicable after receiving it
 - complete the investigation within a reasonable time, having regard to the principles of procedural fairness and the mandatory considerations outlined in Division 6 of the *Children's Guardian Act 2019*
 - provide information about the allegation, the progress of the investigation and the findings and actions taken to the alleged victim and their parent/carer, unless the Head of the Relevant Entity considers it is not in the public interest to do so
 - provide either a finalised entity report or an update (an interim report, reasons the investigation has not been completed and an estimated timeframe for completion) by 30 calendar days after the Head of the Relevant Entity becomes aware of the reportable allegation
 - make a finding of reportable conduct if satisfied, on the balance of probabilities, that the case against the subject of the reportable allegation has been proved
 - provide information to the Office of the Children's Guardian that is required under relevant provisions of the Act, which may include information about a reportable allegation, the relevant entity's response to a reportable allegation, and systems for preventing and responding to reportable allegations
 - ensure an appropriate level of confidentiality of information relating to reportable allegations and only disclose information about the allegations in circumstances permitted by the Act or other legislation.

At the end of the investigation of a reportable allegation, the Head of the Relevant Entity must send a report to the Office of the Children's Guardian that enables the Office of the Children's Guardian to determine whether the investigation was carried out in a satisfactory manner and whether appropriate action was or can be taken.
- 2 Ombudsman New South Wales (2015) [Complaint Management Framework](#), NSW Ombudsman, accessed 5 May 2022.
- 3 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Identifying and disclosing child sexual abuse](#), 4:9, Commonwealth of Australia, accessed 5 May 2022.
- 4 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Identifying and disclosing child sexual abuse](#), 4:9, Commonwealth of Australia, accessed 5 May 2022.
- 5 [Section 29AB of the Children and Young Persons \(Care and Protection\) Act 1998](#)
- 6 [Section 64 of the Children's Guardian Act 2019](#)
- 7 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Identifying and disclosing child sexual abuse](#), 4:30, Commonwealth of Australia, accessed 5 May 2022.
- 8 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Identifying and disclosing child sexual abuse](#), 4:31, Commonwealth of Australia, accessed 5 May 2022.
- 9 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Identifying and disclosing child sexual abuse](#), 4:81, Commonwealth of Australia, accessed 5 May 2022.
- 10 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Improving institutional responding and reporting](#), 7:72, Commonwealth of Australia, accessed 5 May 2022.
- 11 T Moore (2017) [Protection through participation: Involving children in child-safe organisations](#), Australian Institute of Family Studies, accessed 5 May 2022.
- 12 For more on empowerment see the OCG's [Empowerment and Participation](#) resource.
- 13 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Identifying and disclosing child sexual abuse](#), 4:10, Commonwealth of Australia, accessed 5 May 2022.
- 14 T Moore, M McArthur, D Noble-Carr and D Harcourt (2015) [Taking Us Seriously: Children and young people talk about safety and institutional responses to their safety concerns](#), Australian Catholic University, accessed 5 May 2022.
- 15 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Identifying and disclosing child sexual abuse](#), 4:38, Commonwealth of Australia, accessed 5 May 2022.
- 16 C Esposito (n.d.) [Child Sexual Abuse and Disclosure: What does the research tell us?](#), Family & Community Services, NSW Government, accessed 5 May 2022.
- 17 [District Court NSW \(2016\) R v MG](#)
Wakatama G (3 February 2017) '[Judge slams NSW education interrogation protocols after school peer rape case](#)', ABC News.
- 18 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) [Final Report: Improving institutional responding and reporting](#), 7:87, Commonwealth of Australia, accessed 5 May 2022.

- 19 Concealing child abuse offence
- (1) An adult—
- (a) who knows, believes or reasonably ought to know that a child abuse offence has been committed against another person, and
- (b) who knows, believes or reasonably ought to know that he or she has information that might be of material assistance in securing the apprehension of the offender or the prosecution or conviction of the offender for that offence, and
- (c) who fails without reasonable excuse to bring that information to the attention of a member of the NSW Police Force as soon as it is practicable to do so,
- is guilty of an offence.
- [Section 316A of the Crimes Act 1900](#)
- 20 [Section 43B of the Crimes Act 1900](#)
- 21 [Section 178 of the Children's Guardian Act 2019](#) (records under this Act for Aboriginal and Torres Strait Islander children must be kept permanently).
- 22 Royal Commission into Institutional Responses to Child Sexual Abuse (2017) *Final Report: Improving institutional responding and reporting*, 7:13, Commonwealth of Australia, accessed 5 May 2022.
- 23 For more information, visit www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters, accessed 5 May 2022.
- 24 For more information, visit www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters, accessed 5 May 2022.
- 25 For more information, visit reporter.childstory.nsw.gov.au/s/article/How-to-create-an-eReport-in-the-Reporter-Community, accessed 5 May 2022.
- 26 [Section 23 of the Children and Young Persons \(Care and Protection\) Act 1998](#)
- 27 14 Meaning of “public authority”
- Public authority means—
- (a) a government sector agency within the meaning of the Government Sector Employment Act 2013, or
- (b) a person specified in section 5(1)(a), (b) and (d)–(f) of the Government Sector Employment Act 2013, or
- (c) a local government authority, or
- (d) a statutory body representing the Crown, or
- (e) a statutory officer, or
- (f) a body, whether incorporated or unincorporated, established for a public purpose under the provisions of a legislative instrument, or
- (g) a State-owned corporation, or
- (h) a university established under an Act, or
- (i) an Aboriginal Land Council within the meaning of the Aboriginal Land Rights Act 1983, or
- (j) an entity, or part of an entity, declared by the regulations to be a public authority for this definition.
- 15 Meaning of “local government authority”
- Local government authority means a council, county council or joint organisation under the Local Government Act 1993.
- 15A Meaning of “religious body”
- Religious body means—
- (a) a body established for a religious purpose, and
- (b) an entity that establishes, or directs, controls or administers, an educational or other charitable entity that is intended to be, and is, conducted in accordance with religious doctrines, beliefs or principles
- [Part 4, Division 2 Children's Guardian Act 2019](#)
- 28 For more information, visit ocg.nsw.gov.au/organisations/reportable-conduct-scheme/responsibilities-head-relevant-entity, accessed 5 May 2022.

