

2 – Child Protection

Children’s Services Procedures

Effective From:	26 August 2020
Contact Officer:	Coordinator of Children’s Services
Next review date:	2 years
File Reference:	1825/29.5
Related Policies/Legislation:	<ul style="list-style-type: none">• <i>Education and Care Services National Law Act 2010 Part 6 Section 166-167; s 174</i>• <i>National Quality Standard: QA 2.2, 7.1.2</i>• <i>Education and Care Services National Regulations 2011 – Part 4.2, R84 Part 4.7 R168, R175 2(d) and R176 2 (c).</i>• <i>Children and Young Persons (Care and Protection) Act 1998</i>• <i>Commission for Children and Young People Act 1998</i>• <i>Children’s Guardian Act 2019 – Part 4</i>

Related Documents and References:


- ACECQA (2018) Guide to National Quality Framework
- NSW Government Community and Justice website: <https://www.facs.nsw.gov.au/families/Protecting-kids>
Accessed 23 April 2020
- CELA Sample Child Protection Policy – March 2020
- *Definitions taken from Child Story – Accessed April 2020*
<https://reporter.childstory.nsw.gov.au/s/>
- *NSW Government, Department of Family and Community Services Resources for Mandatory Reporters. Accessed on 24/04/2020*
<https://www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters>

Superseded Procedures: 2- Child Protection Procedure - V1.3 2 May 2017

Purpose

Wingecarribee Children’s Services (the Service) is committed to providing environments that foster health, development, spirituality, self-respect and dignity, which is free from violence and exploitation.

Under the *Children and Young Persons (Care and protection) Act 1998*, children and young people must receive the care and protection necessary to ensure their safety, welfare and wellbeing. All educators and volunteers of the Service are Mandatory Reporters and are required to report to the **Child Protection Helpline (Phone: 132 111)** if they have reasonable grounds to suspect a child or young person is at risk of significant harm and have current concerns about the safety, welfare or wellbeing



of a child or young person where the concerns arise from their work. The Service is committed to ensuring all educators and staff have a full understanding of their responsibilities as Mandatory Reporters and are supported in fulfilling these.

Scope

This procedure applies to:

Staff employed by Wingecarribee Shire Council, inclusive of Family Day Care Staff and Out of School Hours Staff

Wingecarribee Family Day registered Educators, Educator Assistants and adults residing in the premise where an Education and Care Service is conducted.

All Children and Families accessing care in Wingecarribee Children's Services.

All visitors, volunteers and students engaged with Wingecarribee Children's Services.

Definitions

Approved Provider - means a person who holds a provider approval, for the purposes of Wingecarribee Children's Services this is Wingecarribee Shire Council

Child is defined as a person who is under the age of 16 years (*Children and Young Persons Act 1988*)

Employee under Reportable Conduct refers to employees, volunteers, contractors, authorised carers/educators, household members residing on the same property as a carer and others listed in the *Children's Guardian Act 2019*.

Mandatory Reporter - people who deliver the following services, wholly or partly, to children as part of their paid or professional work, including Children's services (e.g. Child care workers, Family Day Care Educators and Home-Based carers)


Nominated Supervisor - in relation to an education and care service and for the Service procedures, means an individual who is nominated by the Approved Provider of the service under Part 3 of the *Act* to be a Nominated Supervisor of that service.

Persons with Management and Control - is an officer of the Approved Provider, who is responsible for managing the delivery of the education and care service. In the case of Wingecarribee Shire Council this is the Deputy General Manager of Corporate Strategy and Development Services and the Group Manager of Corporate and Community.

Responsible Persons - The responsible person is an individual who is physically present and is responsible for the operation of a centre-based service for an agreed period of time. A responsible person must be present at all times that the approved service operates and can be:

- the approved provider or a person with management or control of the service;
- a nominated supervisor of the service; or
- **a person placed in day-to-day charge** of the service in accordance with the National Regulations (*National Law*).

Risk of Significant Harm – sufficiently serious to warrant a response by a statutory authority, irrespective of a family's consent.



What is significant is not minor or trivial, and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child's or young person's safety, welfare, or wellbeing.

Young Person is defined as a person who is aged 16 years or above but who is under 18 years.

Procedure


1. Working with Children Checks and National Criminal Checks

- 1.1 All staff employed by the Service, educators, and adult household members living in educators homes, will be subject to the relevant Working with Children Check and clearance through the NSW Office of the Children's Guardian prior to commencement with the Service. Ongoing employment and registration with Council is dependent on the relevant Educators, Staff Members and Household Members having a valid clearance at all times.
- 1.2 Any adult residing on the premises where family daycare is conducted for a period of more than three (3) weeks is required to have a current Working With Children Check Clearance.
- 1.3 All applications for registration as a Family Day Care Educator with the Service must demonstrate that the applicant and all adults residing in the premise are "fit and proper persons", including the successful completion of a Working With Children Checks and **relevant Criminal History Checks**. (Engagement and Registration of Family Day Care Educators Procedure)
- 1.4 Family Day Care Educators must notify the Coordinator of Children Services if they, or any other member of their household, is accused of, or charged with, any reportable offence. Staff members must also notify Council if they are accused or charged.
- 1.5 Volunteers and Students: Anyone in child related work must have a Working with Children Check regardless of paid or unpaid work. This includes volunteers and students.

Note: Exemption for parent volunteers. NSW Working With Children Check allows parents to volunteer in activities involving their own children without a Working with Children Clearance. This encourages parents to be involved in their children's lives and participate with them in activities.
- 1.6 A visiting speaker, adjudicator, performer, assessor or other similar visitor at a place where child-related work is carried out if the work of the person at that place is for a one off occasion and is carried out in the presence of one or more other service supervising staff members or educators, does not require a Working With Children Check
- 1.7 Family Day Care Educators should minimise visitors to their home whilst children are in care to ensure appropriate supervision is maintained. A record of visitors will be kept.

2. Educator and Staff Training and Access to Information

- 2.1 The Nominated Supervisor and Responsible Persons in day to day charge must have successfully completed a recognised course in Child Protection which is recognised and approved by the Australian Children's Education and Care Quality Authority (ACECQA).
- 2.2 Educators registered with the Service are to be provided with at least individual training prior to commencing, on indicators of Risk of Harm and their responsibilities as a Mandated Reporter.
- 2.3 Educators are encouraged to have completed a recognised course in child protection which is recognised and approved by the Australian Children's Education and Care Quality Authority (ACECQA).
- 2.4 Family Day Care Educators and staff will be kept informed and maintain an updated understanding of child protection issues at least every two years through one of the following



measures:


- Training by an external trainer
 - Training provided by the coordination unit staff on visits or at Educator/staff meetings.
 - Online training or assessment tasks
- 2.5 When external child protection training is offered all Staff and Educators attendance at workshops or training seminars is considered compulsory as a part of ongoing professional development.
- 2.6 Educators registering with Wingecarribee Family Day Care and staff of Wingecarribee Children's Services will be provided with a "Child Protection Kit". This kit includes (but not necessarily limited to) information on:
- What is Child Abuse
 - Responding to a disclosure from a child
 - Reporting and the Mandatory Reporter Guide (MRG)
 - Sexual behaviour guide – inappropriate contact between children
 - Required documentation and forms
 - Information on the NSW Children's Guardian

3. Reporting of suspected significant risk of harm

- 3.1 The protection and safety of the child is paramount at all times.
- 3.2 Staff and Educators are to be familiar with the indicators of risk of harm, grounds for notification, and know their legal and professional responsibilities.
- 3.3 Staff and Educators are to document any incident or injury, requiring first aid, involving a child whilst in care on the "Incident, Injury, Trauma and Illness" form.
- 3.4 Staff and Educators are to document accurately any concerns, observations, conversations, direct disclosures and other relevant information on the appropriate form. Information should include date, times, accurate account of conversation and detail of injury (if applicable).
- 3.5 Staff and Educators are to notify the Coordinator/Supervisor immediately if they suspect a child is at risk of harm.
- 3.7 The Coordinator/Supervisor, in consultation with the Educator or staff, will access the NSW Online Mandatory Reporter Guide (MRG) to assess the situation and follow any recommended action at <https://reporter.childstory.nsw.gov.au/s/mrg>. Educators and staff may, as Mandatory Reporters, do this independently if they wish. This may result in a report to the Child Protection Helpline on **132 111** or referral to another family support service.
- 3.8 Reports to the Helpline are to be documented on the "Service Child Protection Summary Form"
- 3.9 The Educator or staff will follow the guidance and instruction of the Department's Officers regarding the report.
- 3.10 All records and proceedings regarding the report will be kept strictly confidential in a secure place and will only be made available to authorised persons.
- 3.11 Notifications made to the NSW Department of Community and Justice are confidential and any person who makes a notification is afforded the protection of the law.

4. Information Exchange


- 4.1 In order to provide effective support and referral it may be necessary to exchange information with other prescribed bodies including government agencies or non-government organisation and services.


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- 4.2 The NSW Children & Young Persons (Care and protection) Act 1998 has been amended (2009) to include chapter 16A Information Exchange.
- 4.3 Under Chapter 16A of “The Act” enables staff and Educators involved with a family, where they have concerns for the safety, welfare and wellbeing of a child to exchange information about those concerns.
- 4.4 The sharing or exchange of information should:
- Have regard to the child’s best interests as paramount and work towards providing support to maintain their safety,
 - Promote communication between agencies/services to ensure the best support options are considered and or provided,
 - Take on a shared responsibility with respect to the safety, welfare and wellbeing of the child,
 - Consider that child safety, welfare and wellbeing remain paramount and information exchange may supersede/override privacy/confidentiality needs.
- 4.5 All exchange of information under 16A must be done in consultation with the Coordinator and the applicable form/s completed prior to seeking or giving information to another agency or Department.
- 4.6 Where possible and appropriate, the consent of the parents will be sought prior to information being exchanged between agencies.
- 4.7 All information exchanged with Department of Community and Justice, including information that Department requests, is done so under section 248 of the Act. Officers of the Department are to confirm that information they are collecting comes under section 248 prior to information being exchanged. This should be documented on the confidential file.

5. Procedure for “Reportable Allegation/ Conduct”.

When an allegation of abuse is made concerning a Family Day Educator, a member of the Educator’s home, Children’s Services Staff, Contractor or Volunteer

- 5.1 In each case the nature of the allegation will need to be assessed to determine in which order action is taken. At all times the current and perceived future safety of any child is to be the major consideration.
- 5.2 The allegation is received at the Co-ordination Unit and documented. The General Manager and Approved Provider of Wingecarribee Shire Council will be notified as a matter of priority
- 5.3 Reportable allegations applies even if the alleged conduct occurred at a time when the person was not an employee, as long as they are employed when the allegation becomes known to the General Manager. This is because the Reportable Conduct Scheme is designed to address any current risks a person may pose to children being cared for by Council and any other agency that employs them in a relevant role.
- 5.4 The Children’s Services Coordinator will:
- 5.4.1 Undertake a risk assessment and management approach following an allegation to ensure the safety and protection of children, staff and visitors to the service. Based on the risk assessment, decisions made in order to manage the risks that have been identified. For example: suspension of educator pending further investigation.
- 5.4.2 Access the NSW Online Mandatory Reporter Guide to assess the situation and follow any recommended action. This may include making a report to the Child Protection Helpline (132 111)

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- 5.4.3 Determine whether the allegation is a reportable allegation, a reportable conviction, or reportable conduct. For determination, reference will be made to:
www.kidsguardian.nsw.gov.au/ArticleDocuments/1021/Identifying_reportable_allegations.pdf.aspx?Embed=Y
- 5.4.4 Ensure a seven (7) day notification form is completed by the General Manager – Approved Provider and submitted to the office of the Children’s Guardian within seven (7) days of becoming aware of the reportable allegation, as required under the *Children’s Guardian Act 2019*:
- Links to the forms provided below:
- www.kidsguardian.nsw.gov.au/child-safe-organisations/reportable-conduct-scheme/organisations-in-the-scheme/notify-the-childrens-guardian
 - www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/7-DayNotificationForm.pdf.aspx?Embed=Y
- 5.4.5 Determine whether the matter needs to be reported to the police and the relevant report submitted to the Regulatory Authority
- If a report is made to the police, complete an *S101 Notification of a Serious Incident Form* and submit to the NSW Department of Education (EC Directorate) within 24 hours of incident;
 - If a report has not been made to the police, complete a *NL01 Notification of Complaints and Incidents* (other than a serious incident) form and submit to the NSW Department of Education (EC Directorate) within seven (7) days of incident.
- 5.4.6 Ensure confidentiality is maintained at all times and that systems are in place to deal with any breaches of confidentiality
- 5.4.7 Develop an investigation plan of the matter. Obtain relevant information from a range of sources. This may include a statement from the person who made the allegation; statements from witnesses and a statement from the person against whom the allegation has been made and any other relevant documentation;
- 5.5 If the allegation is being investigated by Department Community and Justice (DC&J) or the Police, Council and the Services Coordinator will be guided by their advice as to whether they should independently investigate the allegation;
- 5.6 If the investigation is carried out by Council, the information that has been gathered will be assessed and a finding made as to whether the allegation is false, vexatious, misconceived, not reportable conduct, not sustained or sustained. The reasons for the finding will be clearly recorded to ensure that the decision-making has been transparent;
- 5.7 Council and Children’s Services Coordinator will:
- 5.7.1 Treat the staff member/educator/volunteer/student/household member with fairness at all times and upholds their employee rights at all times;
 - 5.7.2 Depending on the nature of the allegation, arrange to inform the person immediately (though be guided by the advice of Department Community and Justice or the police);
 - 5.7.3 Arrange for the person against whom an allegation has been made, to have a support person attend the meeting. This support person must not participate in the discussions throughout the meeting;
 - 5.7.4 Make accurate documentation of all conversations, and ensure all records are kept



confidentially;

- 5.7.5 Offer counseling or support to the person subject to the allegation;
- 5.7.6 Depending on the nature of the allegation made, the person subject to the allegation may be suspended pending further investigation;
- 5.7.7 The educator/staff member/volunteer/household member will be advised of the outcome of the investigation in writing. Advice will be provided about the investigation findings and any follow up action that may be required. Advice will also be provided about any rights of appeal and the person will be advised that the Office of the Children's Guardian has been notified and the Joint Child Response (JCPR) Program also notified of the relevant employment proceeding (if relevant):
- 5.7.8 Thirty (30) day Interim Report form or Entity Report Form (to be provided after the investigation or determination is completed) will be completed by the General Manager – Approved Provider and submitted to the Office of the Children's Guardian within 30 calendar days of becoming aware of a reportable allegation as required under the *Children's Guardian Act 2019*.

Links to the forms provided below:

- www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/30-DayInterimReportForm.pdf.aspx?Embed=Y
- www.kidsguardian.nsw.gov.au/ArticleDocuments/1022/EntityReportForm.pdf.aspx?Embed=Y

- 5.7.9 Department of Community and Justice will also be informed of the outcome of the investigation
- 5.8 Rights of all Parties
- 5.8.1 The decision making process throughout the investigation will be based on the safety and wellbeing of the child/ren and the staff/educators/household members;
 - 5.8.2 Consideration will be taken in relation to actual or potential 'conflicts of interest' that may be held by the investigator
 - 5.8.3 The Approved Provider, Coordinator of Children's Services, or other nominated person who conducts the investigation, will ensure that they act without bias, without delay and without conflict of interest; and
 - 5.8.4 All parties can make a complaint to the Office of the Children's Guardian if they are not satisfied with the conduct of the investigation.
 - 5.8.5 In the case of Family Day Care, if the Educator has been suspended, all families who attend the Educators home will be offered and provided with alternate care if available.
 - 5.8.6 At no time will the allegation be discussed with the families using the Service or the reason for suspension.

Approved by:



Danielle Lidgard

Group Manager Corporate and Community

26 August 2020