

# Wagga Wagga City Council

## CHILD PROTECTION POLICY

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<b>RESPONSIBLE MANAGER</b>	Manager People & Culture		
<b>RESPONSIBLE DIRECTOR</b>	General Manager		
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1		Res No: 09/077	27 July 2009
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## PART 1: INTRODUCTION

Child Protection legislation emphasises the care of children and young people is a responsibility shared by families, government and communities working in partnership. Wagga Wagga City Council (Council) plays an active role in providing services, events and activities for children and young people. Council also supports the provision of childcare through Wagga Wagga Regional Family Day Care.

This Policy demonstrates Wagga Wagga City Council's commitment to the protection of children and young people and supports key objectives of the Community Strategic Plan 2040 – Wagga View 'Our Future in Focus' to support and promote a safe and healthy community.

### 1.1 Policy Objectives

The objective of this Policy is to:

1. Ensure Wagga Wagga City Council complies with its legislative obligations governing the protection of children and young people from risk of significant harm; and
2. Protect children and young people utilising Council's services and programs from risk of significant harm.

### 1.2 Scope of Policy

This Policy applies to all potential and current workers associated with Wagga Wagga City Council who may be required to work with children or young people.

### 1.3 Definitions

<b>Allegation</b>	<p>An allegation may be written, verbal or anonymous and must comprise all of the following three (3) elements:</p> <ul style="list-style-type: none"> <li>• The person who is the subject of the allegation must be a current worker of a designated agency or public authority or have been a worker at the time the allegation was made and must clearly be identifiable. This does not necessarily mean identified by name, as a person may be identifiable by other information including their description and work schedules of the agency;</li> <li>• The allegation must describe behaviour that may constitute placing a child or young person at risk of significant harm; and</li> <li>• The alleged victim must have been under the age of eighteen (18) years at the time of the alleged offence or behaviour</li> </ul>
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<p><b>Child</b></p>	<p>Under the Children and Young Persons (Care and Protection) Act 1998 a child is a person who is under the age of sixteen (16) years.</p> <p>Under the Child Protection (Working with Children) Act 2012 and the Ombudsman Amendment (Child Protection and Community Services) Act 1998, a child is a person under the age of eighteen (18) years.</p>
<p><b>Child Abuse or Neglect</b></p>	<p>Child abuse or neglect shall mean the following:</p> <ul style="list-style-type: none"> <li>• Physical abuse</li> <li>• Lack of supervision</li> <li>• Lack of physical shelter/environment</li> <li>• Inadequate medical care</li> <li>• Inadequate access to education</li> <li>• Sexual abuse</li> <li>• Psychological harm</li> <li>• Relinquishing care</li> <li>• Parent/carer substance abuse</li> <li>• Parent/carer mental health</li> <li>• Parent/carer domestic violence; or</li> <li>• Risks to an unborn child</li> </ul>
<p><b>Child Abuse Allegation</b></p>	<p>Child abuse or neglect allegation shall mean an allegation of child abuse or neglect against a worker of Council or an allegation of misconduct that may involve child abuse or neglect. An allegation should be investigated if it is identifiable with place, time and description of:</p> <ul style="list-style-type: none"> <li>• Any worker of Council, whether or not employed in connection with any work activities of Council that relates to children; and</li> <li>• Any worker engaged by Council to provide services to children.</li> </ul>
<p><b>Mandatory Reporter</b></p>	<p>A mandatory reporter is any person who delivers health care, welfare, education, children's services, residential services or law enforcement wholly or partly to children (aged under 16) as part of their paid work and includes any person who directly manages or supervises such work.</p> <p>A mandatory reporter with current concerns that a child aged under 16 is at risk of significant harm is required to make a report to Department of Family and Community Services.</p>
<p><b>Parent</b></p>	<p>A parent is a person who has parental responsibility for the child or young person.</p>

<b>Parental Responsibility</b>	In relation to a child or young person, parental responsibility means all duties, powers, responsibilities and authority that, by law, parents have in relation to their children.
<b>Disqualified Person</b>	Someone who has been convicted or a person who is a registrable person within the meaning of the Child Protection (Offenders Registration) Act 2000.
<b>Risk of Significant Harm</b>	<p>A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent, of any one or more of the following circumstances:</p> <ul style="list-style-type: none"> <li>• Basic physical or psychological needs are not being met; or</li> <li>• Necessary medical care has not been arranged; or</li> <li>• Is not receiving an education in accordance with the Education Act 1990; or</li> <li>• Has been, or is at risk of being physically or sexually abused or ill-treated; or</li> <li>• Is living in an environment of domestic violence and is at risk of serious physical or psychological harm; or</li> <li>• Someone has behaved in such a way toward the child/young person that they have suffered or are at risk of suffering serious psychological harm.</li> </ul>
<b>Significant</b>	<p>What is meant by ‘significant’ in the phrase ‘to a significant extent’ is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family’s consent.</p> <p>What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or wellbeing.</p> <p>In the case of an unborn child, what is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child’s birth.</p> <p>Significance can result from a single act or omission or an accumulation of these.</p>
<b>Vexatious Complaints</b>	Vexatious complaints are those that are instituted without sufficient grounds and serving only to cause annoyance.

<p><b>Worker</b></p>	<p>A person is a <i>worker</i> if the person carries out work in any capacity for a person conducting a business or undertaking, including work as:</p> <ul style="list-style-type: none"> <li>• An employee; or</li> <li>• A contractor or subcontractor; or</li> <li>• An employee of a contractor or subcontractor; or</li> <li>• An employee of a labour hire company who has been assigned to work in the person's business or undertaking; or</li> <li>• An apprentice or trainee; or</li> <li>• A student gaining work experience; or</li> <li>• A volunteer.</li> </ul>
<p><b>Young Person</b></p>	<p>Under the Children and Young Persons (Care and Protection) Act 1998 a young person is a person who is aged sixteen (16) years or above but who is under the age of eighteen (18) years.</p>

## 1.4 Legislative Context

The Children and Young Persons (Care and Protection) Act 1998 requires Council to ensure the delivery of child-related services are provided in an environment which is not only free of violence and abuse, but fosters an approach that recognises health, developmental needs, self-respect and dignity.

The Child protection (Working with Children) Act 2012 outlines the restrictions on workers engaging in child-related work; sets out the requirements of Council in the process of recruiting and employing workers in child-related employment; and the processes for working with children check application, risk assessment, determination of application, and the review and appeal of determination.

The Ombudsman Amendment (Child Protection and Community Services) Act 1998 has wide powers to review the systems Council has in place for the protection of children and to oversee and monitor internal investigations of child abuse against Council workers. Council is also required to report any allegations or convictions of child abuse by Council workers to the Ombudsman.

## 1.5 Relevant Legislation

Children and young persons (Care and Protection) Act 1998

Children Protection (Working with Children) Act 2012

Child Protection (Offenders Registration) Act 2000

Education Act 1990

Government Information (Public Access) (GIPA) Act 2009

Ombudsman Act 1974

Ombudsman Amendment (Child Protection and Communication Services Act 1998

## 1.6 Related Documents

NSW Local Government (State) Award 2017 (as amended)

WWCC Code of Conduct

WWCC Child Protection Procedures

WWCC IT Operating Standards

WWCC POL080 Work Health & Safety Policy

WWCC POL085 Equal Employment Opportunity (EEO) Policy

Wagga Wagga Regional Family Day Care Child Protection Standards, Procedures and Guidelines

WWCC POL097 Protected Public Interest Disclosure Policy

WWCC POL095 Privacy Policy

WWCC Privacy Management Plan

WWCC Recruitment Operating Standard

## 1.7 Responsibilities

### 1.7.1 General Manager

It is the responsibility of the General Manager to:

- Ensure appropriate systems are in place for the prevention, handling and response to allegations or conviction of child abuse against a Council worker;
- Report allegations or convictions of child abuse to the Ombudsman's office as soon as practicable, or in any event, within thirty (30) days of the General manager becoming aware of the allegation or conviction;
- Provide a copy of any report prepared to the ombudsman, as to the progress or results of any child abuse allegation investigation, copies of all statements taken during the investigation, and other relevant documentation on which the report is based;
- Inform the ombudsman of action taken or proposed to be taken against any worker with respect to the child abuse allegation or conviction.

### **1.7.2 Directors, Managers and Supervisors**

It is the responsibility of Directors, Managers and Supervisors to:

- Promote and ensure compliance with child protection legislation, policies and associated procedures;
- Report any allegations of child abuse to the Manager People & Culture.
- Respect the rights of the parties involved.

### **1.7.3 Workers**

It is the responsibility of all Council workers to:

- Comply with child protection legislation, policies and associated procedures;
- Notify their supervisor immediately if they witness a child abuse incident, or someone discloses a situation of child abuse to them.

### **1.7.4 Mandatory Reporter**

It is the responsibility of a Mandatory Reporter to make a report to the Department of Family and Communication Services if they have current concerns about the safety, welfare or wellbeing of a child. Mandatory Reporters shall include Wagga Wagga Regional Family Day Care staff, and educators.

### **1.7.5 People & Culture Division**

It is the responsibility of the People & Culture Division to:

- Review and update Council's child protection policies and procedures;
- Provide advice and support to both management and workers;
- Ensure Council workers are aware of their obligations;
- Ensure all workers are appropriately screened for the purposes of child protection.

### **1.7.6 Other Parties**

Other parties that may be involved in the process include the relevant Union, the Employee Assistance Program provider and Equal Employment Opportunity (EEO) Contact Officers, and their role is to advise and support Council workers.

## **PART 2: POLICY CONTENT**

### **2.1 Statement of Policy**

Council will:

1. Protect children and young people utilising Council's services and programs from risk of significant harm;
2. Ensure all workers required to work in a child-related area or participate in the delivery of services and programs for children and young people are not disqualified persons and have been screened for child protection in accordance with legislative requirements;
3. Ensure all workers of Wagga Wagga City Council understand their child protection obligations;
4. Encourage and facilitate the reporting of children and young persons at risk of significant harm; and
5. Provide a system for reporting of all child abuse allegations ensuring such allegations are:
  - a. Treated with sensitivity, having regard to the privacy of individuals and their families;
  - b. Investigated in an efficient and equitable manner; and
  - c. Promptly notified to the appropriate Government Authority.

### **2.2 Specific Provisions**

#### **2.2.1 Rights of the Parties**

- a) The child that is the subject of the alleged abuse has the right to be in a secure and safe environment, therefore the accused worker will be removed from that environment until the investigation is complete;
- b) All parties involved have the right to a confidential, fair and unbiased investigation;
- c) Workers will be afforded procedural fairness in the event of an allegation being made against them;
- d) The investigation team has the right to deny the accused worker access to records if they feel it would jeopardise the investigation;

- e) The person who has made the allegation has the right not to be identified. If they wish to remain unidentified, any written documents they have provided to the investigation team cannot be accessed by the accused worker;
- f) If the accused worker feels that they have been unreasonably denied access to records, they can apply through the Government Information (Public Access) (GIPA) Act 2009 to have access to those records considered; and
- g) Workers and parents of the child have the right to complain to the Ombudsman if they are unhappy with the conduct of the investigation.

### **2.2.2 Confidentiality**

All workers involved in the reporting or investigating of allegations of child abuse will be mindful of the sensitive nature of the issue and take all reasonable steps to maintain confidentiality and respect the privacy of those involved. Nothing in this statement is to be taken as mitigating against the obligation of workers to report incidents or allegations of child abuse.

Any person who makes an allegation of child abuse is protected under Council's Protected Public Interest Disclosure Policy.

### **2.2.3 Unsubstantiated Allegations**

Where an allegation is clearly wrong or unsubstantiated, the worker who is the subject of the allegation will be supported by Council. The nature of the support will be reasonable and appropriate subject to the circumstances of the case. It may include access to specialist counselling services, legal services or special leave.

Any worker who is found to have made a malicious allegation will be subject to disciplinary action.

### **2.2.4 Record Keeping**

Council shall retain all records of an investigation, regardless of whether or not the allegation was proven, and regardless of any requirement for disposal of the record that may exist elsewhere.

Where an investigation results in disciplinary action the following details will be kept on the worker's personnel file:

- Date the allegation was made;
- That an investigation was conducted;
- What the finding was; and
- What action was taken.

### **2.2.5 Failure to Comply**

A failure to comply with this Policy and associated procedures will be considered a breach of discipline and will be dealt with in accordance with discipline procedures under the NSW Local Government (State) Award 2017 (as amended), except where summary dismissal is required.