



# Child Safety Reportable Conduct Procedure

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Effective Date:	28 October 2020
Last Reviewed:	26 April 2024
Next Review Date:	April 2026
Division/Department:	Corporate Performance/ People, Safety & Performance
Responsible Officer:	Human Resources Coordinator
HPE CM Record Number:	23/41563

## 1 Associated Policy

This Procedure is associated with the Child Safe Policy (HPE 23/132600).

Note:

*Mandatory Reporters* have additional responsibilities to report the risk of significant harm.

Council's mandatory reporting procedures are included in the Preschool Child Protection Procedure (HPE: 24/83617).

Further information is available in the Mandatory Reporters Guide:

<https://dcj.nsw.gov.au/children-and-families/protecting-our-kids/mandatory-reporters/mandatory-reporters--what-to-report-and-when/the-mandatory-reporter-guide--mrg-.html>

## 2 Application

### Purpose

This Procedure exists in line with the Reportable Conduct Scheme governed by Children's Guardian Act 2019, under which Woollahra Municipal Council is obliged to report allegations of conduct by Woollahra Municipal Council employees that is harmful to children.

### Scope

This Procedure applies to all paid and unpaid employees of Woollahra Municipal Council, including contractors, sub-contractors, trainees, work experience participants and volunteers. This procedure also applies to elected representatives (Councillors).

This Procedure applies regardless of whether the employee or elected representative is in child-related employment.

## Overview

Under the Reportable Conduct Scheme, public authorities, such as Woollahra Municipal Council, have a responsibility to formally respond to allegations of conduct that is harmful to children.

This includes notifying the Office of the Children’s Guardian when an employee is alleged to have participated in such conduct and performing an investigation to determine whether the allegation can be substantiated.

Council must notify the Office of the Children’s Guardian about reportable allegations and convictions against employees that arise in the course of an employee’s work.

Where the alleged conduct takes place outside of work, the conduct must be reported if the employee is required to hold a Working with Children Check for the purposes of their work.

## 3 Definitions

Term	Meaning
Child	The terms 'child', 'children', and the terms 'young person' or 'young people' mean a person or persons under the age of 18.
Child Protection Coordinator	The Child Protection Coordinator is the Manager - People, Safety & Performance.
Employee	<p>An employee is any person undertaking work on behalf of Woollahra Municipal Council, including:</p> <ul style="list-style-type: none"> <li>• Paid employees (including permanent, temporary and/or casual);</li> <li>• Contractors;</li> <li>• Sub-contractors;</li> <li>• Volunteers;</li> <li>• Trainees undertaking training as part of an educational or vocational course;</li> <li>• Work experience;</li> <li>• Grant recipients and</li> <li>• For the purposes of this policy, an elected representative (Councillor) is treated as an employee.</li> </ul>
Head of an entity or Entity Head	Under legislation, the most senior officer and the person who is primarily responsible for executive decision making. At Woollahra Municipal Council, this is the General Manager. The entity head may nominate a contact person for day-to-day correspondence or inquiries. This is the Child Protection Coordinator (Manager - People, Safety and Performance).

Term	Meaning
Mandatory Reporters	<p>The <i>Children and Young Persons (Care and Protection) Act 1998</i> defines Mandatory Reporters as those 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:</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• Welfare — registered psychologists, social workers, caseworkers and youth workers;</li> <li>• Education — teachers, counsellors, principals;</li> <li>• Children’s services — child care workers, family day carers and home-based carers;</li> <li>• Residential services — refuge workers, community housing providers;</li> <li>• Law enforcement — police;</li> <li>• Disability services – disability support workers and personal care workers;</li> <li>• Religious ministry or persons providing religion-based activities to children (e.g. minister of religion, priest, deacon, pastor, rabbi, Salvation Army officer, church elder, religious brother or sister) ; and</li> <li>• Registered psychologists providing a professional service as a psychologist (whether or not exclusively to children).</li> </ul>
Reportable allegation	<ol style="list-style-type: none"> <li>1. if the employee holds, or is required to hold, a working with children check clearance for the purpose of employment with the public authority—an allegation that the employee has engaged in conduct that may be reportable conduct, whether or not the conduct is alleged to have occurred in the course of the employee’s employment, or</li> <li>2. if the employee is not required to hold a working with children check clearance for the purpose of employment with the public authority—an allegation that the employee has engaged in conduct that may be reportable conduct, unless the conduct is alleged to have occurred outside the course of the employee’s employment</li> </ol>

Term	Meaning
Reportable conviction	<p>A conviction (including a finding of guilt without the court proceeding to a conviction), in New South Wales (NSW) or elsewhere, of an offence involving reportable conduct:</p> <ol style="list-style-type: none"> <li>1. if the employee holds, or is required to hold, a working with children check clearance for the purpose of employment with the public authority—whether or not the conduct occurred in the course of the employee’s employment, or</li> <li>2. if the employee is not required to hold a working with children check clearance for the purpose of employment with the public authority—unless the conviction relates to conduct that occurred outside the course of the employee’s employment with the public authority.</li> </ol>
Reportable conduct	<p>Reportable conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded:</p> <ul style="list-style-type: none"> <li>• a sexual offence,</li> <li>• sexual misconduct,</li> <li>• ill-treatment of a Child,</li> <li>• neglect of a Child,</li> <li>• an assault against a Child,</li> <li>• failure to reduce or remove the risk of a Child becoming a victim of abuse or concealing Child abuse,</li> <li>• behaviour that causes significant emotional or psychological harm to a Child.</li> </ul> <p>Examples of indicators of significant emotional or psychological harm in respect of paragraph (g) include:</p> <ul style="list-style-type: none"> <li>• displaying behaviour patterns that are out of character,</li> <li>• regressive behaviour, and/or</li> <li>• anxiety or self-harm.</li> </ul>

## 4 Relevant Legislation

Children’s Guardian Act 2019  
 Child Protection (Working with Children) Regulation 2013  
 Child Protection (Working with Children) Act 2012  
 Children and Young Persons (Care and Protection) Act 1998  
 Children and Young Persons (Care and Protection) Regulation 2022  
 Crimes Act 1900  
 Education and Care Services National Regulations 2011

## 5 Procedure

### 5.1 Reportable Conduct

Further detail regarding the components of the definition of Reportable Conduct above can be sought from the Office of the Children’s Guardian

<https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme/reportable-conduct-fact-sheets>

Reportable conduct does not include:

- a) conduct that is reasonable for the purposes of discipline, management or care of a child, having regard to:
  - i) the age, maturity, health or other characteristics of the child and
  - ii) any relevant code of conduct or professional standard.

For example, a school teacher raising his or her voice in order to attract attention or restore order in a classroom.

- b) the use of physical force if:
  - i) in all the circumstances, the physical force is trivial or negligible, and
  - ii) the circumstances in which it was used have been investigated and the result of the investigation has been recorded in accordance with appropriate procedures.

For example, touching a child in order to attract the child's attention, momentarily restraining a child to prevent the child hurting themselves or others, touching a child to guide or comfort the child.

Questions or concerns about whether behavior or alleged behavior is Reportable Conduct must be confidentially directed to the Child Protection Coordinator or the Office of Children's Guardian helpline for Reportable Conduct on (02) 8219 3800.

## 5.2 Reporting Child Protection Concerns

If child is in immediate danger call the Police on 000 (triple zero).

If you think a child or young person is at risk of harm from abuse or neglect, contact one of the following:

1. Eastern Suburbs Police Station by calling 131 444
2. The Child Protection Helpline on 132 111
3. Crime Stoppers on 1800 333 000

If the concern relates to Council employee, it must be reported to the Child Protection Coordinator (as below).

You must complete the Child Safety Incident Report Form (HPE: 24/60204) in consultation with your Manager and submit to Manager - People Safety & Performance.

## 5.3 Reporting to Child Protection Coordinator (Manager - People, Safety & Performance)

If an employee or a member of the public becomes aware of:

- a reportable allegation, or
- a conviction they consider to be a reportable conviction

relating to an employee of Woollahra Municipal Council including volunteers, contractors and Councillors, they must report the matter to the Child Protection Coordinator as soon as practicable after becoming aware of the matter.

Employees who become aware of a reportable allegation or a conviction they consider to be a reportable conviction must not discuss the matter with anyone who is not the Child Protection Coordinator (Manager - People, Safety and Performance), Manager Community and Culture or the General Manager.

If the conduct pertains to the Child Protection Coordinator (Manager - People, Safety & Performance), the matter must be reported to the General Manager.

If the conduct pertains to the General Manager, the matter must be reported to the Children's Guardian. Staff from the Reportable Conduct Directorate are available on (02) 8219 3800 or email ([reportableconduct@ocg.nsw.gov.au](mailto:reportableconduct@ocg.nsw.gov.au)).

As Entity Head, the General Manager is responsible for addressing the allegation. This shall be done with the assistance of the Child Protection Coordinator.

#### **5.4 Reporting to the Office of the Children's Guardian**

The General Manager through the Child Protection Coordinator must advise the Office of the Children's Guardian within seven (7) business days of becoming aware of a reportable allegation or reportable conviction, through the Reportable Conduct notification forms:

<https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme/reportable-conduct-notification-forms>

#### **5.5 Investigating the allegation**

Notwithstanding notification to the Office of the Children's Guardian, reportable allegations must be investigated to determine whether reportable conduct or a reportable conviction has occurred.

The Child Protection Coordinator will assist with any such investigation, including recommending that the matter be investigated by a qualified external party.

Those involved in the investigation must ensure an appropriate level of confidentiality of information relating to reportable allegations and only disclose information about the allegations in circumstances permitted by the Children's Guardian Act or other legislation.

The investigation must be completed within a reasonable timeframe, having regard to the principles of procedural fairness, the nature of the reportable allegation and any defence, and the gravity of the matters alleged. A finalised investigation report or an update with an estimated timeline for completion (in exceptional circumstances) must be provided to the Office of the Children's Guardian by 30 days of the reportable allegation being reported to the Child Protection Coordinator and/or General Manager.

In investigating the allegation, the Child Protection Coordinator and General Manager must also consider whether the reportable allegation relates to conduct that is in

breach of established standards (professional standards, codes of conduct, accepted community standards) which apply to the employee.

The General Manager must provide information about the allegation, the progress of the investigation and the finding and action taken to the alleged victim and their parent/carer unless the General Manager considers that it is not in the public interest to do so.

Further information about investigating allegations can be found in the Planning and Conducting an Investigation - The NSW Reportable Conduct Scheme (HPE: 22/235882 or [https://ocg.nsw.gov.au/sites/default/files/2022-02/fs\\_rc\\_planning\\_conducting\\_investigation.pdf](https://ocg.nsw.gov.au/sites/default/files/2022-02/fs_rc_planning_conducting_investigation.pdf)).

## **5.6 Making a determination**

The General Manager must make a finding of reportable conduct if satisfied, on the balance of probabilities, that the case against the employee, volunteer, contractor or Councillor who is the subject of the reportable allegation has been proved.

## **5.7 Reporting**

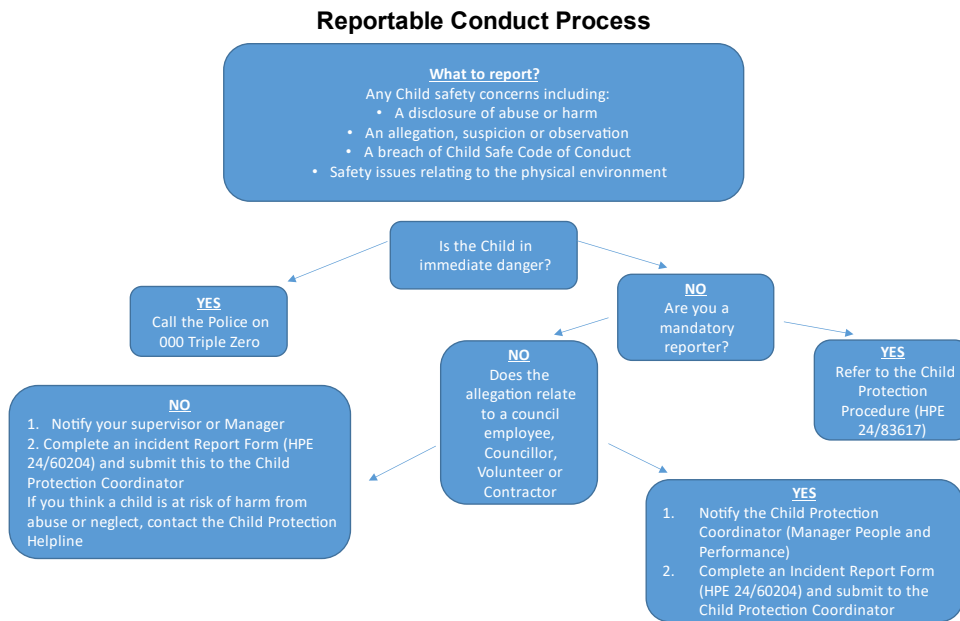
The General Manager must provide a finalised report to the Office of the Children's Guardian within 30 calendar days of becoming aware of the reportable allegation.

If the report has not been finalised, an interim report outlining the reasons the investigation has not been completed and an estimated timeframe for completion must be provided.

The General Manager will respond to requests for information from the Office of the Children's Guardian.

At the end of the investigation of a reportable allegation, the General Manager 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.

## 6 Flow Chart



## 7 Documentation/References

	<b>HPECM/ Other Reference</b>
Mandatory Reporters Guide	<a href="https://dcj.nsw.gov.au/children-and-families/protecting-our-kids/mandatory-reporters/mandatory-reporters--what-to-report-and-when/the-mandatory-reporter-guide--mrq-.html">https://dcj.nsw.gov.au/children-and-families/protecting-our-kids/mandatory-reporters/mandatory-reporters--what-to-report-and-when/the-mandatory-reporter-guide--mrq-.html</a>
Reportable Conduct notification forms	<a href="https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme/reportable-conduct-notification-forms">https://ocg.nsw.gov.au/organisations/reportable-conduct-scheme/reportable-conduct-notification-forms</a>
NSW Reportable Conduct Scheme – Fact Sheet 4	<a href="https://ocg.nsw.gov.au/sites/default/files/2022-02/fs_rc_planning_conducting_investigation.pdf">https://ocg.nsw.gov.au/sites/default/files/2022-02/fs_rc_planning_conducting_investigation.pdf</a>
Child Safe Standards 2023	<a href="https://ocg.nsw.gov.au/sites/default/files/2021-12/g_CSS_GuidetotheStandards.pdf">https://ocg.nsw.gov.au/sites/default/files/2021-12/g_CSS_GuidetotheStandards.pdf</a>

## Related Policies and Procedures

	<b>HPECM Reference</b>
Child Safe Policy	23/132600
Preschool Child Safe Procedure	24/83617
Incident Report Form	24/60204



## Procedure Amendments

Date	Responsible Officer	Description
30 November 2022	Eva Leszczynska	Inclusion of external reporting, reference to the Planning and Conducting an Investigation - The NSW Reportable Conduct Scheme (HPE: 22/235882) and flow chart
26 April 2024	Jenifer O'Connor	Updated Child Safe Policy HP container from 23/2721427 to 23/132600
26 April 2024	Jenifer O'Connor	Updated Reportable Conduct Procedure HP container from 20/140661 to 23/41563
25 May & October 2024	Policy Officer	Quality assurance, review/ updates