Children and Vulnerable Persons Safe Environment Policy

CITY OF PROSPECT

Reference Number:	C20/527
Type:	Council Policy
Responsibility:	Director City Strategy, Community and Culture
Responsible Officer (s):	Manager Community Relations and Programs
Initial Adopted Date:	Council 27 August 2013
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Next Review Date:	2028
Legislation:	• Children and Young People (Safety) Act 2017 • Children and Young People (Safety) Regulations 2017 • Child Safety (Prohibited Persons) Act 2016 • Disability Services Act 1993 • Aged Care Act 1997 (Cth) • Criminal Law Consolidation Act 1935
Related Documents:	• Behavioural Standards for Council Members • National Principles for Child Safe Organisations) • Disability services (Assessment of Relevant History Regulations 2014 (Regulation 9)Local Government of South Australia's Information Sharing Guidelines

1 Purpose

1.1 The Children and Vulnerable Persons Safe Environment Policy (the "Policy") describes the rights of children, young people and other vulnerable people to be safe and protected at all times, including when accessing services in the community.

1.2 The purpose of this policy is to state Council's commitment to creating and maintaining a safe environment that promotes and enhances the safety and welfare of children, young and other vulnerable people in the community who access our services or participate in programs developed by or on behalf of Council.

1.3 This policy will govern how systems and processes are implemented to minimise the risk of harm resulting from the delivery of Council services and programs including employment screening for prescribed positions.

1.4 It will also assist in the reporting of suspected harm against children, young and other vulnerable people.

1.5 The policy also refers to guidance on sharing information with non-government and government agencies where there is a reasonable suspicion of harm.

1.6 This policy will apply to Council Members, employees, volunteers, contractors and consultants and any others involved in the delivery of Council services and programs to children, young and other vulnerable people.

2 Definitions

2.1 Children (Child)

- Refers to a person who is under 18 years of age.

2.2 Department for Human Services Screening Unit

- Is authorised under different Acts and Regulations to conduct Working with Children Checks; Disability Services Employment Screening; Aged Care Sector Employment Screening; Vulnerable Persons Related Employment Screening and General Employment Probity Screening.

2.3 Harm

- Refers to all aspects of harm, that is, neglect, physical, psychological, emotional, financial and sexual.

2.4 Mandatory Reporting Obligation

- Any person providing services to children (employee, volunteer, contractor or consultant), or who holds a management position supervising a person providing services to children, must report any suspicion of harm of a child to the Department for Child Protection's 24 hour Child Abuse Report Line (CARL - 13 14 78) or online in appropriate circumstances

2.5 Prescribed Position

- A prescribed position means: A position in which it is reasonably foreseeable that a person works, or is likely to work, with children in the ordinary course of her or his duties.

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2.6 Relevant History Assessments

- Is the process of obtaining information about potential Council Members, employees, volunteers, contractors or consultants, where it is deemed relevant to working in a child, youth or vulnerable person related area.
- The information may include previous employment history, a Working with Children Check for all people engaged in child-related work over the age of 14 years as required under the Child Safety (Prohibited Persons) Act 2016, relevant experience, qualifications, professional registration, criminal history information, reference checks and work history reports.

2.7 Vulnerable People

- Refers to those who may be at risk of harm or exploitation due to their dependency on others or experiences of disadvantage, and could include people with a disability, the frail aged, people from culturally and linguistically diverse backgrounds, refugees and those living in poverty.

2.8 Young People

- Aged between 18 and 25 years.

3 Scope

3.1 This policy applies to all employees, volunteers, Council Members, students on placement, work experience students, contractors and consultants providing services wholly or partly to children, or who work with or near children.

3.2 Fostering the safety of children, young and other vulnerable people is integral to the delivery of services and programs.

3.3 Children, young and vulnerable people:

3.3.1 Need to know they have the right to be safe from harm at all times

3.3.2 Are deserving of respect, care and protection

3.3.3 Are entitled to the support of a responsible person if they experience or are at risk of harm or if they feel unsafe.

4 Legislative and Corporate Requirements

4.1 The Children and Vulnerable Persons Safe Environment Policy is to be read and implemented in conjunction with Council's other relevant policies, strategies and documents.

4.2 Children and Young People (Safety) Act 2017 Section 30 of this Act establishes mandatory reporting obligations for those individuals in a prescribed position who suspect that a child is being harmed.

4.3 Under Sections 31(1) and 31(4) of this Act, certain persons are obligated to notify the Department of Child Protection (SA) (through the Child Abuse Report Line (CARL) either by telephone or online) if they suspect, on reasonable grounds, that a child has been harmed or is at risk of being harmed and the suspicion is formed in the course of their work (paid or voluntary) or in carrying out official duties.

4.4 Failure to comply with mandatory reporting obligations is serious and gives rise to an offence under the Act, whereby a maximum penalty of $10,000 applies.

4.5 Section 114 requires implementation and maintenance of policies and procedures designed to ensure that safe environments for children and young people are established and maintained.

4.6 Section 115 requires that policies and procedures prepared or adopted must be reviewed at least once in every five year period.

4.7 Failure to comply with Sections 114 or 115 gives rise to an offence under the Act, whereby a maximum penalty of $10,000 applies.

4.8 Children and Young People (Safety) Regulations 2017 These Regulations underpin the requirements under the Children and Young People (Safety) Act 2017. The Regulations are amended from time to time and must be read in conjunction with the Children and Young People (Safety) Act 2017.

4.9 Child Safety (Prohibited Persons) Act 2016 Section 17 requires that an employer must not employ a person in a prescribed position unless a Working with Children Check has been conducted in relation to the person within the proceeding five years and the person is not prohibited from working with children.

4.10 Section 18 requires that Working with Children Checks must be conducted at least every five years.

4.11 Failure to comply with Sections 17 or 18 may result in a maximum penalty of $50,000.

4.12 Section 19 requires that the central assessment unit must be notified if they become aware of any assessable information in relation to a person employed in a prescribed position.

4.13 Failure to comply with Section 19 may result in a maximum penalty of $25,000.

4.14 Child Safety (Prohibited Persons) Regulations 2019 These Regulations underpin the Child Safety (Prohibited Persons) Act 2016 and define prescribed positions and child related work. The regulation is amended from time to time and must be read in conjunction with the Child Safety (Prohibited Persons) Act 2016.

4.15 Disability Services Act 1993 This Act requires that disability service providers funded under the Act must ensure that before a person is appointed or engaged in a prescribed position, he or she undergoes an assessment of his or her relevant history by an authorised screening unit. People seeking to work or volunteer with people with disability in South Australia are required to undergo disability services employment screening.

4.16 Aged Care Act 1997 (Cth) This Act and associated Principles requires that organisations funded by the Commonwealth to provide aged care services should be satisfied that a person providing these services has not committed a precluding offence. Precluding offences are defined as: a conviction for murder or sexual assault or a conviction of, and sentence to imprisonment for, any form of assault.

4.17 Any person with a conviction for a precluding offence must not be employed, contracted, hired, retained or accepted as an unsupervised volunteer in an aged care service subsidised by the Commonwealth.

4.18 Criminal Law Consolidation Act 1935 Sexual offences are set out in the Criminal Law Consolidation Act and include Rape (section 48), unlawful sexual intercourse (section 49), persistent sexual abuse of a child (section 50), sexual exploitation of a person with a cognitive impairment (section 51), indecent assault (section 56), failure to report child sexual abuse (section 64A) and failure to protect a child from sexual abuse (section 65).

4.19 Reference to other Acts: The Sex Discrimination Act 1984 (Cth), Disability Discrimination Act 1992 (Cth), Racial Discrimination Act 1975 (Cth), and Equal Opportunity Act 1984 make sexual harassment and discrimination on the grounds of sex, marital status, sexuality, pregnancy, race, impairment, and age unlawful in the provision of goods and services.

4.20 Within the terms of the above legislation, Council is responsible for its own conduct as well as the conduct of its employees, including volunteers.

4.21 Other references Council documents including:

- 4.21.1 Employee Conduct Policy
- 4.21.2 Fair Treatment Policy and Procedure
- 4.21.3 Pre employment WWCC as relevant
- 4.21.4 Fees and Charges Register
- 4.21.5 Risk Management Policy and Departmental Risk Register Procedure
- 4.21.6 Volunteer Policy

4.22 External documents including:

- 4.22.1 Behavioural Standards for Council Members
- 4.22.2 National Principles for Child Safe Organisations)
- 4.22.3 Disability services (Assessment of Relevant History Regulations 2014 (Regulation 9)
- 4.22.4 Local Government of South Australia's Information Sharing Guidelines

4.23 This policy is based on a model policy developed by the Local Government Association.

5 Policy Statement

5.1 Council is committed to the safety and wellbeing of children, young people and other vulnerable people who access our services.

5.2 We support the rights of the child and vulnerable persons in the community and will act without hesitation to ensure a safe environment is maintained at all times.

5.3 We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all children, young people and other vulnerable people.

5.4 In addition to the moral obligation to address any harm to children, amendments to the Children and Young People (Safety) Act 2017 (SA) (the Safety Act) places a legal obligation on Councils (and all other organisations providing a service wholly or partly to children) to ensure all children are safe from harm.

5.5 This policy aims to ensure the Council organisation and facilities are safe environments for children, young people and that they are protected from harm and risk of harm. This policy also aims to ensure that all relevant Council managers, employees, volunteers, contractors and consultants are aware of their duty of care responsibilities for the protection, safety and wellbeing of children at all times.

5.6 Council regards the interests of children, young and vulnerable people in our community as paramount and acknowledges that harm to children and young and vulnerable people is abhorrent, illegal and must not be tolerated or ignored.

5.7 While some factors are outside the control of Council, it is acknowledged that Council has a role to play in fostering a safe local environment and contributing to a whole of community effort towards the protection of children, young and vulnerable people from harm.

6 Application of Policy

6.1 This Policy will be implemented by the Chief Executive Officer or relevant Director and managed in accordance with Council's scheme of delegations.

6.2 Council commits to:

6.2.1 Encouraging the reporting of any incident of discriminatory behaviour towards young and/or vulnerable persons to the relevant authority

6.2.2 Maintaining a rigorous employee and volunteer recruitment and/or screening/selection process, that will include a Criminal History Assessment in accordance with the Criminal History Check Policy

6.2.3 Monitoring and ensuring the renewal of screening for employees and volunteers in prescribed positions in accordance with the Relevant History Assessment Procedure

6.2.4 Ensuring that contractors, sub-contractors and agents who will be working in a prescribed position hold or obtain an appropriate WWCC, verified for accuracy through the Department of Human Service Screening Unit Portal, before they are engaged to undertake work for Council

6.2.5 Providing required mandated notification and working with children training, as identified in the Internal Training Plan

6.2.6 Adhering to mandatory reporting obligations and dealing with complaints and issues effectively as they arise

6.2.7 Operating in a spirit of cooperation and consultation with other relevant agencies in matters concerning protection of children, young and vulnerable people from harm

6.2.8 Developing, monitoring, evaluating and reviewing risk management strategies to minimise harm to children, young and vulnerable people

6.2.9 Developing and maintaining internal procedures and guidelines that underpin the requirements of the Children and Young People (Safety) Act 2017 and the Children and Young People (Safety) Regulations 2017 to ensure compliance with this policy

6.2.10 Establishing and maintaining local procedures and developing additional strategies to minimise and control risks that directly impact on the delivery of specific programs and services for children, young and other vulnerable people

6.2.11 Council will identify and assess potential sources of harm and take steps to decrease the likelihood that harm will occur to children, young people and other vulnerable people who use our services. Areas of risk assessment will include human resources, activities and programs, record keeping, physical spaces and organisational culture, and will be undertaken in line with Council's established Risk Assessment process.

6.2.12 Implementing the Local Government of South Australia's Information Sharing Guidelines, including providing the relevant training and development

7 Reporting Requirements

7.1 Mandated Notifiers

7.1.1 Mandated Notifiers have obligations under the Safety Act to notify the Department for Child Protection's (DCP) Child Abuse Report Line on 13 14 78 (CARL) if they suspect, on reasonable grounds, that a child is being harmed or may be at risk of harm and the suspicion is formed in the course of their work (paid or voluntary) or in carrying out official duties.

7.1.2 *Note: Whilst the obligation to report suspicions of harm rests with mandated officers, they are encouraged to seek advice and support from their supervisor and manager in relation to suspicions of harm or risk of harm to a child. This practice will ensure staff and volunteers are appropriately supported, records are kept confidentially and securely, and any organisation responsibilities in addition to the mandatory reporting obligation are pursued where relevant i.e availability and promotion of Employee Assistance Program to impacted notifiers.

7.1.3 Council recognises that support may be required for the child, young person or vulnerable person when a notification is made, and where appropriate we will assist to identify appropriate services for them and/or their family

7.2 Other Council Staff, volunteers, contractors and consultants (non-mandated notifiers)

7.2.1 All Council staff, volunteers, contractors and consultants providing services on behalf of Council have a role to play in providing a safe environment for children, young people and other vulnerable people, and for complying with the policy.

7.2.2 Council strongly encourages and will sensitively support any staff member, volunteer, contractor or consultant, though not a “mandated notifier” as defined by the Safety Act, to report any suspicion they have of incidents of harm of a child or young person.

7.2.3 In these cases, incidents of harm of a child or young person are to be reported to the relevant program manager who will, in consultation with the Chief Executive Officer, determine the appropriate action to be taken and where appropriate report to the relevant Government authorities.

7.3 Any allegations made against an employee, volunteer, Council Member or contractor will be reported to CARL and addressed under the guidance of the Department Child Protection, SAPOL and with the application of the relevant Code of Conduct.

8 Review

8.1 The Policy will be reviewed once per Council term or as required by legislation.

9 Access to the Policy

9.1 The Policy is available for public inspection on Council's website www.prospect.sa.gov.au and from Customer Service at the Civic Centre, 128 Prospect Road, Prospect SA 5082.

10 Further Information

10.1 For further information about this policy please contact:

Director City Strategy, Community and Culture
City of Prospect
128 Prospect Road
Prospect SA 5082

Phone 8269 5355
Email admin@prospect.sa.gov.au