

# D-11 CHILD PROTECTION



## POLICY STATEMENT

TWOOSH believes that it is every child's right to be safe and protected from all forms of abuse, violence or exploitation. It is the legal and moral obligation of all adults who work at TWOOSH to ensure the safety and wellbeing of all children in our care. All Educators, volunteers, and students have a duty of care to ensure the safety and protection of all children who access TWOOSH's facilities and/or programs.

The safety and welfare of all children is of paramount importance. All Educators and Management have a legal responsibility, as Mandatory Reporters, to take action to protect and support children they suspect may be at significant risk of harm.

TWOOSH will carry out the responsibilities of Mandatory Reporters as indicated under legislation. This responsibility involves following the procedures as outlined by Community Services and the NSW Commission for Children and Young People.

## REFERENCES AND CONSIDERATIONS

- NSW Children and Young Persons (Care and Protection) Act 1998
- Child Protection (Working with Children) Act 2012
- Commission for Children and Young People Act 1998
- Child Protection (Prohibited Employment) Act 1998
- Ombudsman Act 1974 (with relevant Child Protection Amendments)
- Keep Them Safe information session/overview participants manual 2009/2010
- ChildStory Mandatory Reporter Guide
- National Regulations: 84, 85, 86, 87, 109, 110, 114, 115, 155, 170, 176, 168
- National Quality Framework, quality areas 2, 3, 4, 5, 6, and 7
- Children's Guardian Act 2019

## Related TWOOSH documents

- Family Information Booklet
- Staff Handbook
- Policy C-1 – Staffing

## PROCEDURES

### Mandatory reporting

- ◆ A Mandatory Reporter is anybody who delivers services to children/young people as part of their paid, voluntary or professional work.
- ◆ In OOSH services Mandatory Reporters are:
  - Educators, including the Leadership Team, who deliver services to children
  - Other persons involved in OOSH services, either paid or voluntary, whose duties include direct responsibility or direct supervision for the provision of these services, including the Management Committee

- ◆ All Mandatory Reporters are required by law to report to Communities and Justice if they have current concerns about the safety or welfare of a child relating to Section 23 of the NSW Children and Young Persons (Care and Protection) Act 1998, and they have been advised by the Mandatory Reporter Guide (MRG) to do so.

## Risk of significant harm

- ◆ Risk of significant harm is defined as harm that:
  - is sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent
  - is not minor or trivial
  - may be reasonably expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or well being
  - can result from a single act or omission or an accumulation of both an act and omission
- ◆ Section 23 [NSW Children and Young Persons (Care and Protection) Act 1998] states that a child is at risk of significant harm if:
  - (a) the child's or young person's basic physical or psychological needs are not being met or are at risk of not being met,
  - (b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care,
  - (b1) in the case of a child or young person who is required to attend school in accordance with the Education Act 1990 – the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act,
  - (c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated
  - (d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm,
  - (e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm,
  - (f) the child was the subject of a pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

- ◆ All Educators will undergo training in relation to child protection and reporting as part of the TWOOSH training arrangements. This will be recorded in Educator files and on the training register
- ◆ Any Educator that forms a belief based on reasonable grounds that a child is at risk of harm should ensure they record the details of the report in a clear objective format.
- ◆ Reports should be treated with strict confidentiality in adherence to TWOOSH's Privacy Policy and Procedures, and any confidential report will be stored in a locked cabinet.
- ◆ After completing the report, the Educator should discuss their concerns with the Director. The Director will then assist the Educator in running the online Mandatory Reporter Guide (see below) to determine whether the report meets the threshold to make the report to Community Services.
- ◆ If directed by MRG to report to the Child Protection Helpline, staff should report their concerns to the Child Protection Helpline (phone 132 111).
- ◆ When reporting to the Helpline it is important to have as much information as possible available to give to the Helpline. This might include child's information (have the enrolment form available), family information, reporter details and outcomes of the MRG.

- ◆ It is the responsibility of the Educator to make the report and this should be done in the presence of the Director to support them through the process. Time will be allowed at the end of a shift for the Educator to do this in a quiet and private place.
- ◆ Once a report is made to the Child Protection Helpline no further report needs to be made unless new information comes to hand.

## Mandatory Reporter Guide (MRG) tool

- ◆ The MRG has been developed to help frontline Mandatory Reporters, including OOSH workers, to determine whether the risk to a child or young person meets the new statutory threshold of 'risk of significant harm'. The MRG will guide the reporter on what action should be taken. The MRG is an interactive tool and is available online at <https://reporter.childstory.nsw.gov.au/s/>
- ◆ If still in doubt the Child Protection Helpline will provide feedback about whether or not the report meets the new threshold for statutory intervention.
- ◆ If new information presents concerning the child or young person, run the MRG tool again; this must be done each and every time a new concern arises.
- ◆ If there is an accumulation of concerns in regard to any child or family, it is advisable to call Child Protection and ask for their advice.
- ◆ Where concerns do not meet the significant harm threshold, the MRG tool may guide the reporter to 'Document and continue the relationship'. This requires TWOOSH to continue to support, provide services, and coordinate assistance and referral for the child and their family.
- ◆ The report page from the MRG should be printed and placed in the child's file along with the written report for future reference regardless of whether or not further action is recommended.
- ◆ For assistance with referral information:
  - Human Services Network [www.hsnet.nsw.gov.au](http://www.hsnet.nsw.gov.au)
  - Family and Community Services <https://www.facs.nsw.gov.au/>

## Information exchange

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 organisations and services.

- ◆ The NSW Children and Young Persons (Care and Protection) Act 1998 has been amended (2009) to include chapter 16A Information Exchange.
- ◆ Chapter 16A requires prescribed bodies to take reasonable steps to coordinate decision making and the delivery of services regarding children and young people.
- ◆ Under Chapter 16A NSW Children and Young Persons (Care and Protection) Act 1998, Staff will exchange information with Community Services that relates to a child or young person's safety, welfare or wellbeing, whether or not the child or young person is known to Community Services and whether or not the child or young person consents to the information exchange.
- ◆ The information requested or provided **must** relate to the safety, welfare or wellbeing of the child. Information includes:
  - a child or young person's history or circumstances
  - a parent or other family member, significant or relevant relationship
  - the agency's work now and in the past.
- ◆ Where information is provided in good faith and according to legal provisions, under section 29 & section 245G NSW Children and Young Persons (Care and Protection) Act 1998, reporters cannot be seen as breaching professional etiquette or ethics or as a breach of professional standards. There can be no liability for court action.

- ◆ When an issue or concern arises or is reported regarding a child in relation to allegations against a person outside the child's family, the Director or Responsible Person will notify the parent of the concern within 24 hours.
- ◆ A request for information must be completed as a formal request using the template available on network's website. Other services may also contact us using the same request and we must respond formally as per the documents available at <https://networkofcommunityactivities.org.au/child-safe/chapter-16a-letter-templates/>

## Reportable conduct

Reportable conduct covers complaint about a staff member or someone in the service.

- ◆ Should an incident occur that involves a child being put at risk of harm from an Educator, volunteer, trainee or person visiting the service, this is regarded as 'reportable conduct' and necessitates such conduct being reported to the Children's Guardian within 30 days. This also needs to be reported to the Management Committee President.
- ◆ 'Reportable conduct' is:
  - a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material), or
  - b) any assault, ill-treatment or neglect of a child, or
  - c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child.
- ◆ Reportable conduct does not extend to:
  - a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards, or
  - b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
  - c) conduct of a class or kind exempted from being reportable conduct by the Children's Guardian Act 2019.
- ◆ Examples of conduct that would not constitute reportable conduct include (without limitation) touching a child in order to attract a child's attention, to guide a child or to comfort a distressed child; a school teacher raising his or her voice in order to attract attention or to restore order in the classroom; and conduct that is established to be accidental. Some conduct may fall within more than one category.
- ◆ Where the allegation, or suspicion of risk of harm, is made against an Educator of a person in Management, the facts as stated will be recorded in writing, that includes dates, times, names of person/s involved, name of person making allegation and the person making the report. This report should be kept on record and treated as strictly confidential in locked files. This report needs to be filed and the Director must be notified whether or not the incident or conduct has been deemed reportable conduct.
- ◆ If the Director or Responsible Person is suspected then the Management Committee should be informed.
- ◆ The relevant forms together with information and assistance are available on line at <https://www.kidsguardian.nsw.gov.au/child-safe-organisations/reportable-conduct-scheme/>
- ◆ The person making the report should follow the advice of the Children's Guardian's Departmental Officers. Management will also follow this advice.
- ◆ The matter will be treated with strict confidentiality.
- ◆ For the protection of both the children and the Educator involved, the Educator should be encouraged to take special leave or removed from duties involving direct care and contact with children, until the situation is resolved.

- ◆ Support should be provided to all involved. This support can be given in the form of counseling or referral to an appropriate agency.
  - Community Services [www.community.nsw.gov.au](http://www.community.nsw.gov.au)
  - Child Protection Helpline 13 36 27
  - NSW Commission for Children and Young People [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)
  - NSW Government, Office of the Children's Guardian [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au)

## Staff recruitment

- ◆ All staff employed by TWOOSH including Management, full time/part time employees, volunteers and students will be subject to a Working With Children Check (WWCC) carried out by the NSW Office of the Children's Guardian. It is the employee's responsibility to apply for this check online ([www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au)), and pay the \$80 fee to Service NSW or Government access centre for the clearance to be processed (if required). Once the clearance letter is received, the employee is required to send the WWCC number, their last name, and their date of birth to the Director to verify the WWCC online. The online verification needs to be printed and placed in the employee's staff file. Employees are unable to begin employment at TWOOSH until this application and verification is complete.
- ◆ When TWOOSH engages a self-employed individual to provide services, the provider is required to provide a WWCC clearance, or self-employed work clearance. These certificates provide verification that the person employed is not banned by law from working with children.
- ◆ All visitors running incursions, sporting, or other programs with the children are required to supply proof of WWCC.

## For further information

- Keep Them Safe [www.keepthemsafe.nsw.gov.au](http://www.keepthemsafe.nsw.gov.au)
- Mandatory online reporting <https://reporter.childstory.nsw.gov.au>
- Human Services Network [www.hsnet.nsw.gov.au](http://www.hsnet.nsw.gov.au)

## Revisions

### Date of next review: May 2022

Date	Reviewer	Approved by
18.06.18		TWOOSH Management Committee
18.03.19		TWOOSH Management Committee
22.06.20	RC, MK	TWOOSH Management Committee
10.04.21	MK	TWOOSH Management Committee