

# Children and Vulnerable Persons Safe Environment Policy

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Record number	D19/38995
Responsible Manager	Manager Organisational Development
Other key internal stakeholders	Director Community and Cultural Development Director Organisational Services & Excellence Director Assets and Environment Manager Library Services Arts and Culture Manager Community Safety Manager Recreation and Leisure Services Manager Community Development and Engagement
Last reviewed	19 June 2019
Adoption reference	Policy and Strategic Development Committee
Resolution number	22
Previous review dates	8/03/2016, 20/11/13, 21/03/12, 18/01/11, 19/01/10, 10/10/06
Legal requirement	The Children and Young People (Safety) Act 2017 (SA) requires Councils to have policies and procedures in place. The Child Safety (Prohibited Persons) Act 2016 (SA) requires that Working with Children Checks are undertaken for people employed in prescribed positions
Due date next review	2022

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## PURPOSE

Children, young people and other vulnerable people have a right to be safe and protected at all times, including when accessing services in the community. 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.

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. It will also assist in the reporting of suspected harm against children, young and other vulnerable people. The policy also refers to guidance on sharing information with non-government and government agencies where there is a reasonable suspicion of harm.

This policy will apply to Council Elected 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.

## POLICY

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

## Principles

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. 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.

Elected Members, employees, volunteers, contractors and consultants may all be involved in the delivery of services and programs from time to time and/or on an ongoing basis and will be required to comply with all Council policies, local procedures, Employee Conduct Policy and the Code of Conduct for Council Members.

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

- Need to know they have the right to be safe from harm at all times
- Are entitled to basic human rights regardless of special needs, cultural or socioeconomic factors
- Are deserving of respect, care and protection
- Are entitled to the support of a responsible person if they experience or are at risk of harm or if they feel unsafe.

Council commits to:

- Encouraging the reporting of any incident of discriminatory behaviour towards young and/or vulnerable persons to the relevant authority
- Maintaining a rigorous employee and volunteer recruitment and/or screening/selection process, that will include a Relevant History Assessment in accordance with the Relevant History Screening Procedure
- Monitoring and ensuring the renewal of screening for employees and volunteers in prescribed positions in accordance with the Relevant History Assessment Procedure
- Ensuring that contractors, sub-contractors and agents who will be working in a prescribed position have the Relevant History Assessment before they are engaged to undertake work for Council
- Implementing an ongoing training and support program for Elected Members, employees, volunteers and all those involved in the delivery of services and programs to ensure they are able to fulfil their duty of care
- Establishing supportive and responsive procedures for fulfilling mandatory reporting obligations and dealing with complaints and issues effectively as they arise
- Operating in a spirit of cooperation and consultation with other relevant agencies in matters concerning protection of children, young and vulnerable people from harm
- Developing, monitoring, evaluating and reviewing risk management strategies to minimise harm to children, young and vulnerable people
- 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
- 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
- Undertaking Business Unit, Centre and/or individual program risk assessments to assess the provision of a safe environment
- Implementing the Local Government of South Australia's Information Sharing Guidelines, including providing the relevant training and development.

## LEGISLATIVE FRAMEWORK

The following legislation applies to this policy:

### [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.

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 or is being harmed and the suspicion is formed in the course of their work (paid or voluntary) or in carrying out official duties.

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.

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.

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

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

#### [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*.

#### [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.

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

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

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.

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

#### [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.

#### [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.

#### [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. 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.

### [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)

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.

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

## Other references

Council documents including:

- Employee Conduct Policy
- Fair Treatment Policy and Procedure
- Relevant History Screening and Assessment Principles and Procedure
- Fees and Charges Register
- Risk Management Policy and Departmental Risk Register Procedure
- Volunteer Policy

External documents including:

- [Code of Conduct for Council Members](#)
- [Child safe environments: Principles of good practice and Child safe environments](#) (South Australian Department for Education)
- [Disability services \(Assessment of Relevant History Regulations 2014 \(Regulation 9\)\)](#)
- [Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children issued by the Chief Executive](#) (South Australian Department for Education)
- [Local Government of South Australia's Information Sharing Guidelines](#)

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

## DEFINITIONS

For the purposes of this policy the following definitions apply:

### **Children (Child)**

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

### **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.

## Harm

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

## Mandatory Reporting Obligation

Any person providing services to children (employee, volunteer, contractor or consultant) must report any suspicion of harm of a child to the Department for Communities and Social Inclusion 24 hour Child Abuse Report Line (13 14 78) or online in appropriate circumstances

## 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.

A position in which a person is employed to provide preschool, primary or secondary education to a child (whether or not the person is a registered teacher).

## Relevant History Assessments

Is the process of obtaining information about potential Elected 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 under the Child Safety (Prohibited Persons) Act 2016, relevant experience, qualifications, professional registration, criminal history information, reference checks and work history reports.

## 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.

## Young People

Aged between 18 and 25 years.

# POLICY IMPLEMENTATION

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

# ACCESSIBILITY

This Policy and Council's Fees and Charges Register are available to be downloaded free of charge from Council's website: [www.cttg.sa.gov.au](http://www.cttg.sa.gov.au)

Hard copies, for a fee, can be provided in accordance with Council's Fees and Charges Register at Council's Civic Centre at 571 Montague Road, Modbury SA 5092.