Safeguarding children and young people policy

This is a mandated policy under the operational policy framework. Any edits to this policy must follow the process outlined on the creating, updating and deleting operational policies page.

Overview

This policy outlines the responsibilities and legal obligations of individuals, schools, early childhood services and the department to safeguard children and young people. We do this by:

- providing safe, respectful and engaging environments where children and young people have a voice and can develop positive life skills and values
- recognising when children and young people's safety and wellbeing is compromised and responding to concerns, including making a mandatory notification where required
- understanding the needs of children and young people who have experienced harm and provide additional support.

This policy is part of the department's obligations to safeguard and promote the wellbeing of children and young people and to meet its child safe environments compliance. It was previously called the child protection in education and early childhood services policy.

Scope

This policy applies to all staff and volunteers working with and/or providing a service to children and young people in the department's schools and early childhood services, including:

- Staff and volunteers working in education sites
- leaders and employees in corporate office
- employees and volunteers of School Governing Councils and Preschool Management Committees
- approved family day care educators/respite carers
- employees and volunteers of external and contracted service providers.

For the remainder of this policy – references to staff and volunteers will incorporate all the above positions named in the scope.

This policy is complemented by the mandatory notification procedure which supports individuals to enact their responsibilities under this policy.

Detail

What we mean by safeguarding children and young people

The most important responsibility of staff and volunteers in education, is to ensure that children and young people are protected from harm and risk of harm.

This responsibility is present through this policy. It is consistent with the department's obligations under the Children and Young People (Safety) Act 2017, the Child Safety (Prohibited Persons) Act 2016, the National Principles for Child Safe Organisations and the United Nations Convention on the Rights of the Child.

Our staff and volunteers have a responsibility to work together to safeguard and promote that all children and young people:

- are safe from harm
- do well at all levels of learning and to have skills for life
- enjoy a healthy lifestyle
- are active citizens who have a voice and influence.

(Children and Young People (Safety) Act 2017, section 5).

Why this is important

Safety and wellbeing are critical to how children and young people learn and grow. Maintaining children and young people's attendance at, and engagement with education and early childhood environments is a key contributor to their long-term health, safety and wellbeing. For every day that a child or young person attends education and early childhood services, they are:

- observing and learning about positive life skills
- increasing the chance that they will seek and access help from adults and those adults will have the opportunity to provide support
- protected from adverse home circumstances and risks.

When a child or young person's safety and wellbeing is compromised, education and early childhood services staff have a role in taking action to respond and in providing ongoing support.

Safeguarding priority groups of children and young people

There are additional risks and considerations for groups of children and young people who are overrepresented in experiencing serious and widespread barriers to learning and wellbeing.

Priority groups include:

- Aboriginal children and young people
- Children and young people in care
- Children and young people with disability
- Gender diverse children and young people
- Children and young people living with mental health issues
- Children of culturally and linguistically diverse parents.

What are our legal obligations

The responsibility for the safety of children and young people is explained in the following legislation:

- Education and Children's Services Act 2019
- Children and Young People (Safety) Act 2017
- Education and Children's Services Regulations 2020
- Education and Early Childhood Services (Registration and Standards) Act 2011
- Education and Care Services National Law Act 2010
- Child Safety (Prohibited Persons) Act 2016
- Statutes Amendment (Child Sexual Abuse) Act 2021
- Civil Liability (Institutional Child Abuse Liability) Amendment Act 2021

This legislation outlines the obligations of the department and individuals to safeguard children and young people.

In addition to our legal obligations, the department supports the National Principles for Child Safe Organisations. These principles provide a nationally consistent approach to creating organisations that foster child safety and wellbeing.

Children and young people at risk

Children and young people are vulnerable to harm and risk of harm in two main ways. They are:

- harmful behaviours directed towards a child or young person, usually described as abuse
- failure to provide appropriate care, usually referred to as neglect.

The Children and Young People (Safety) Act 2017 recognises the scope of behaviours that can put a child or young person at risk and cause them harm. The type of risk covered by the Act include (but are not limited to) concerns about unborn children, concerns a child or young person is likely to participate in criminal activity, school-aged children and young people who are persistently absent from school without satisfactory explanation, and children and young people who are living with homelessness. Refer to the definition of 'at risk' for further examples of risk.

Harm can result from a single incident but usually is the result of cumulative instances. In an education setting a child or young person might be at risk of harm

- from staff and volunteers of the department (institutional child abuse)
- from the actions of a parent or another person in the community (community child abuse).
- in an online environment.

The decisions and actions required to safeguard children and young people can differ.

Refer to:

- the Mandatory notification procedure
- the Responding to online safety incidents in South Australian Schools: Guidelines for staff working in education settings for further detail and advice on how to respond to keep children and young people safe in online environments.

Institutional child abuse

Institutional child abuse may occur within the department or a site of the department (the institution), online, or perpetrators may obtain access to children through the department.

In these circumstances the department and its employees are the focus of the investigation. Any investigation must proceed with transparency and a commitment to ensuring the safety of children and young people, and responsibility to their families, staff and volunteers who may be adversely impacted by allegations or incident of harm by a colleague. The staff or volunteer responsible for the harm is held accountable and the department's practices to safeguarding children and young people may be investigated.

There are particular penalties that apply to departmental staff and volunteers who fail to prevent institutional child sexual abuse. This is outlined in the Statutes Amendment (Child Sexual Abuse) Act 2021 which requires adults in institutions to take responsibility for preventing and reporting child sexual abuse in institutional contexts to SA Police. Refer to managing allegations of sexual misconduct (PDF 714.4KB) for further detail regarding personal obligations.

Under the Civil Liability (Institutional Child Abuse Liability) Amendment Act 2021 there is a legislative duty on institutions to take all reasonable steps to prevent abuse of a child associated with the institution. The institution has the onus of proof to demonstrate the steps taken to prevent abuse. This emphasises the importance of thorough record keeping, and a clear understanding of the roles and responsibilities set out in this policy.

Community child abuse

Community child abuse occurs when a child or young person has been, or may be at risk of harm, by parents, others in the community or online. The role of staff or volunteers who become concerned that community child abuse is occurring, is to ensure that relevant information about the risks are appropriately identified and reported (see mandatory notification procedure (PDF 308.3KB)). They must also fulfil their responsibilities in line with their role as outlined in this policy.

How the department meets our obligations

The Children and Young People (Safety) Act 2017 requires the department to provide safe environments for children and young people and ensure that children and young people are protected from harm. To achieve this, the department must act in the following way:

Screening and suitability

The department will assess that a person is suitable, from a child safety perspective, to work or volunteer with children and young people as per the screening and suitability – child safety policy (PDF 280.0KB).

The Child Safety (Prohibited Persons) Act 2016 requires people who are working with children and young people or providing child-related work to have a working with children check issued by the Department of Human Services. There are a few exceptions when a check is not required such as parents or guardians who volunteer in connection with an activity that involves their own child. Information is available from the department's website.

Suitability must be established at the point of recruitment and monitored continuously as outlined in roles and responsibilities.

Training

Responding to risks of harm, abuse and neglect – education and care (RRHAN-EC) training

Responding to risks of harm, abuse and neglect – education and care (RRHAN-EC) training is a condition of employment in, and provision of services to, education and early childhood environments. RRHAN-EC training, including 3-yearly update programs, is required of:

- employees
- volunteers (including Homestay providers)
- governing council members
- pre-service professionals including tertiary students on placement
- students on traineeships
- external service providers who work directly with children through the department.

The training explains the departmental and individual responsibilities for children and young people's safety and wellbeing, including the legal obligations to provide child safe environments and mandatory notification of a suspicion that a child or young person is, or may be, at risk.

To support this training departmental staff should access the mandatory notification procedure.

Adult conduct

Protective practices for staff in their interactions with children and young people guidelines for staff working or volunteering in education or care settings

Following the protective practices for staff in their interactions with children and young people guidelines (PDF 3.2MB) is mandatory for all education staff and volunteers. Online training is available to provide a practical look at the guidelines and it is suggested that sites undertake this every year.

Protective practices for staff in their interactions with children and young people guidelines (PDF 3.2MB) help adults understand appropriate boundaries in all interactions with children and young people and when they should intervene in the inappropriate conduct of other adults.

Managing allegations of sexual misconduct

The department has in place Managing allegations of sexual misconduct guidelines. The incident management directorate receives and assesses reports of suspected or alleged employee serious misconduct. Allegations of serious sexual misconduct against staff will be referred to the incident management directorate (in liaison with SA Police) in accordance with the managing allegations of sexual misconduct in SA education and care settings guidelines. Actions taken will be made with the best interests of children and young people as the paramount consideration.

Parents and carers must be informed about allegations of sexual misconduct in keeping with the guidance of the 2013 report of the Independent Education Inquiry Royal Commission. Sites must follow the communication process outlined in the managing allegations of sexual misconduct in SA education and care settings guidelines (PDF 714.4KB).

Any allegations regarding misconduct of volunteers must also be reported via the Incident and Response Management System (IRMS) and where appropriate, referred to SA Police.

Separate to the departmental guidelines there are also personal responsibilities that may result in criminal offences carrying a penalty of imprisonment for:

- failure to report suspected child sexual abuse and/or
- failure to protect a child from child sexual abuse.

These offences have been introduced into the Criminal Law Consolidation Act by the Statutes Amendment (Child Sexual Abuse) Act 2021 in response to the Royal Commission findings that it is often difficult for victims of child sexual abuse to disclose abuse in a timely manner; children have fewer opportunities and less ability to report abuse to police or take effective steps to protect themselves.

Under the Act, a prescribed person is guilty of an offence if they fail to report to SA Police (131 444) that they know or suspect another person (the abuser) is an employee of the department and is, has, or is likely to sexually abuse a child. The requirement to report to police created by this offence is a different obligation to reporting a child at risk of harm of sexual abuse to DCP (CARL), which still needs to occur.

The department has an expectation that a prescribed person who knows there is a substantial risk that another employee will engage in the sexual abuse of a child, will take all action they can (commensurate with their role and responsibility) to reduce or remove the risk.

(See definitions section of this policy for the meaning of 'prescribed' person and 'employee' for the purposes of the *Statutes Amendment (Child Sexual Abuse) Act 2021*).

Curriculum

Keeping Safe: Child Protection Curriculum (KS:CPC)

The Keeping Safe: Child Protection Curriculum (KS:CPC) is mandated in all department sites for all children and young people from age 3 to year 12. Child safety is also delivered through the Early Years Learning Framework, and the Australian Curriculum.

The KS:CPC teaches children and young people about:

- the nature of, and their rights to, personal safety and wellbeing,
- help seeking and self-protecting behaviours, and
- their responsibility to the safety and wellbeing of others.

The KS:CPC gives children the knowledge and strategies to be able to keep themselves safe and talk to trusted adults when their safety is compromised. It is a requirement that all children and young people in department preschools and schools will access the KS:CPC each year, taught by educators who are trained in its use.

The KS:CPC is regularly reviewed to provide up-to-date evidence about the risks of harm to children, respectful relationships and violence prevention programs.

Communication and record keeping

Children, young people and their carers can be encouraged to access departmental information relating to their safety, wellbeing and engagement in education and early childhood settings via their local leadership team, school website and/or the department's website.

Information sharing

The department, other state government agencies and state-funded non-government organisations can share information with each other:

- to perform their functions relating to children and young people

- to manage any risk to a child or young person, or to a group of children or young people, that may arise in the provision of services.

Information sharing provisions, for the purpose of promoting the safety and wellbeing of children and young people, are included in the Education and Children's Services Act 2019 (section 14), the Children and Young People's (Safety) Act 2017 (section 152) and the Information Sharing Guidelines.

Parents and children/young people are made aware of the application of the Information sharing guidelines in the school enrolment form.

The Children and Young People (Safety) Act 2017 also permits the Department for Child Protection (DCP) to request information from preschools, schools and corporate divisions or require a report to be prepared. The department's Information Release team provides guidance and assistance where necessary.

Record keeping

Official records need to be created in all instances where there is a need for the department or individual to be accountable for decisions made and actions taken to safeguard children and young people. Staff must ensure that records are documented and filed correctly according to the information and records management policy and department, state and national requirements .

Referrals from the Department for Child Protection (DCP)

To safeguard children and young people DCP may, following a notification to the Child Abuse Report Line, refer to an appropriate State authority. The department is a State authority and may receive referrals where it is best placed to support a child or young person. The department's responsibility as a State authority and procedure for accepting referrals from DCP is outlined on EDi.

How to meet your individual responsibilities

All individuals must:

- complete the RRHAN-EC training program as appropriate to their role, to understand how to identify and respond to suspicion that a child or young person is, or might be, at risk and to meet their mandated notification responsibilities
- report suspicion that a child or young person is, or might be, at risk to the Child Abuse Report Line (13 14 78)
- understand and act on your personal responsibilities to protect a child from child sexual abuse and report to SA Police on 131 444 suspected child sexual abuse in certain circumstances (see Managing Allegations of Sexual Misconduct)
- follow the protective practices for staff in their interactions with children and young people guidelines (PDF 3.2MB)

- raise concerns when risks, barriers or threats to the protection of children and young people's safety and wellbeing are identified, including through the conduct of other adults
- seek appropriate advice from a site or corporate leader if uncertain about actions to take.

As well as these responsibilities, some roles in the department have specific responsibilities to safeguard children and young people. These are outlined in roles and responsibilities.

Roles and responsibilities

These roles and responsibilities are in addition to the individual responsibilities outlined in the policy.

Corporate leaders

Corporate leaders must oversee the implementation of the department's responsibilities outlined in this policy. In particular:

- Ensuring mandatory reporting training programs are available.
- Ensuring staff meet mandatory reporting training requirements.
- Maintaining necessary screening and suitability processes.
- Ensuring ongoing delivery of the Keeping Safe: Child Protection Curriculum.

They must also:

- Support education directors, site leaders and employees of the department to apply the policy.
- Respond to issues identified as obstacles to the protection of children and young people's safety and wellbeing. Raise at Chief Executive or ministerial levels as appropriate.
- Collaborate about child safety with:
    - non-government school sectors,
    - the Teacher's Registration Board,
    - relevant regulating bodies,
    - other government agencies and organisations.
- Conduct whole of system reviews for any serious critical incidents. Implement any subsequent recommendations.
- Review this policy every three years (or earlier) and fulfil the departments obligation to lodge a Child Safe Environments Compliance Statement with DHS.

The Incident Management Directorate

The incident management directorate manage the department's investigative responses to serious allegations against staff.

The directorate must ensure investigations are conducted with the interests of children as the primary consideration.

Senior Advisor Child Protection (or delegate)

The senior advisor child protection must:

- Provide advice and support to site leaders, educators and corporate staff about their responsibilities to safeguard all children and young people. This might include directing site leaders and educators to appropriate department policies, procedures and guidelines.
- Provide consultation regarding the department's implementation of its responsibilities outlined in this policy.
- Provide advice and support to corporate leaders to ensure department responsibilities are met.
- Liaise and work with department divisions and external agencies and individuals to support the safeguarding of children and young people.

Education directors and delegates

Education directors and delegates must:

- Support education or early childhood service leaders experiencing difficulties meeting the requirements of this policy.
- Ensure that for all schools and early childhood services:
    - The Keeping Safe: Child Protection Curriculum is delivered,
    - All staff and volunteers are aware of protective practices guidelines,
    - All staff and volunteers have been screened for suitability to work with children, and
    - All staff and volunteers RRHAN-EC training is up to date.
- Monitor annual compliance reports provided by education or early childhood service leaders to confirm that they are following their requirements under this policy.

Education and early childhood service leaders

Education and early childhood service leaders must ensure:

- HR requirements are met by:
    - Adults working or volunteering at the education or early childhood service have current Working with Children Checks.
    - Staff, volunteers and third-party providers have completed the RRHAN-EC training relevant to their role.
    - Recording RRHAN-EC completion on the HR system.
    - Supporting staff and volunteers to fulfil their individual requirements under this policy including to make a mandatory notification when necessary.
    - Staff follow all record keeping requirements.
- Conduct at the education or early childhood service is monitored to make sure it complies with this policy:
    - Staff and volunteer performance concerns that compromise the safety of children and young people are responded to proactively.
    - Concerns are raised with education directors and corporate leaders about staff or volunteer conduct and responded to in line with approved protective practices guidelines.
- Compliance with this policy:
    - is monitored on an ongoing basis, and
    - reports on elements of that compliance are provided to the department when required.
- Keeping Safe:Child Protection Curriculum (KS:CPC) requirements are met:
    - All children and young people access the KS:CPC each year.
    - The KS:CPC is taught by educators who are trained in its use.

Governing council

Governing councils must make sure that anyone appointed by a governing council adheres to this policy, in particular:

- completing and monitoring Working with Children Checks,
- RRHAN-EC training and
- understands their mandatory notification obligations.

External and contracted service providers

External providers contracted by the department acknowledge their legal obligations and understanding of child safe environments and mandatory notification in the execution of their service agreement. Service agreements are reviewed and authorised by crown solicitors to ensure legislative requirements are included and meet child safety regulations by contracted providers where appropriate.

Definitions

at risk

The legal definition of 'at risk' is in the Children and Young People (Safety) Act 2017 (section 18(1).) In brief, the types of risk covered by the Act include:

- where a child has experienced or is likely to experience harm (that they would ordinarily be protected from)
- concerns about unborn children
- the likelihood a child or young person will be removed from the state:
    - for an unlawful medical or other procedures, including female genital mutilation
    - for a child marriage
    - to take part in criminal activity
- parents or guardians of a child or young person who are unwilling or unable to care for them, have abandoned them, or are dead
- a school-aged child or young person who has been persistently absent from school without satisfactory explanation
- a child or young person who:
    - is homeless (has no fixed address)
    - or is living somewhere unsafe (in a hazardous environment).

child abuse and neglect

The World Health Organisation defines child abuse and neglect which occurs to children or young people under 18 years of age as follows:

'It includes all types of physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results in actual or potential harm to the child's health, survival, development or dignity in the context of a relationship of responsibility, trust or power.'

Child abuse and neglect also includes children and young people witnessing domestic and family violence, which comes under the category of emotional abuse in South Australia.

The Children and Young People (Safety) Act 2017 defines 'harm' (see below) and 'at risk' (see above).

children and young people

The legal definition as applies to mandatory reporting is a person under the age of 18 years. However, staff and volunteers should be aware of responsibilities to all students in departmental education or early childhood service settings, including those that may be over 18 (and particularly where there are developmental vulnerabilities).

children and young people in care

Where a child or young person is the subject of a custody or guardianship order under the Children and Young People (Safety) Act 2017.

This includes the following care arrangements:

- where a child or young person is under the custody or guardianship of the Chief Executive of the Department for Child Protection
- where there is an order granting a specified person care of a child (previously referred to as Other Person Guardianship)
- voluntary custody agreements
- unaccompanied refugee minors under the Immigration (Guardianship of Children) Act 1946 (Cth) with guardianship delegated from the Minister for Home Affairs to the Chief Executive of the Department for Child Protection.

child protection

Child protection is a broad term used to describe efforts that aim to keep children and young people safe from harm. It is part of the safeguarding process.

UNICEF Australia defines it as the programs, measures and structures to prevent and respond to abuse, exploitation, neglect and violence affecting children and young people in all sectors, contexts and environments. Examples of child protection systems in the education context include mandatory reporting and information sharing.

The Department for Child Protection (DCP) is a statutory child protection service.

Statutory child protection services may not have the legal authority to intervene, in particular ways until risks are beyond a given threshold.

Regardless of any DCP involvement, the Department for Education has an ongoing role for safeguarding children and supporting children and young people's wellbeing which may include follow up support offered to children and young people, and their families as appropriate (i.e., through referral to culturally appropriate child, adult and family focussed services and resources, internally and externally).

corporate leader

Anyone in a leadership role who is not providing site leadership in a school or early childhood site, it can include those based within an education office.

disability

Children with disability or additional needs or both include:

- physical impairment
- hearing impairment
- vision impairment
- autism spectrum
- global developmental delay
- speech and language impairment
- significant challenging behaviours.

External and contracted service providers

This includes a person and/or organisation who:

- works with, or in proximity to, children on a regular basis, or manages or supervises personnel undertaking those roles, or
- has access to records relating to children and young people or manages or supervises personnel undertaking those roles, or
- is an approved provider of out of school hours care (OSHC) services.

harm

The Children and Young People (Safety) Act 2017 defines harm as:

- physical harm or psychological harm (whether caused by an act or omission)
- harm caused by sexual, physical, mental or emotional abuse or neglect.

prescribed person and employee (as defined under the Statutes Amendment (Child Sexual Abuse) Act 2021)

A prescribed person under this Act means an adult who is an employee of an institution which includes a person who is self-employed who carries out work for the institution or a person who carries out work under a contract of services for the institution or a person who undertakes practical training with the institution or carries out work as a volunteer for an institution. Within the meaning of this Act an employee therefore includes (but is not limited to) a principal, teacher, SSO, ASEO, ECW, grounds person, student teacher, contractor who does work for the department, Governing Council employee, OSHC employee and Family Day Care operator. It also includes a volunteer such as a Governing Council member or parent volunteer.

safeguarding or child safe

Concepts that are necessary for and contribute to creating safe environments for children and young people are interchangeably referred to as safeguarding or child safe. The Children and Young People Safety (Act) 2017 recognises that it is everyone's duty to safeguard children and young people in our state.

These include creating inclusive and welcoming environments, action taken to promote the wellbeing of children and protect them from harm, enabling children and young people to participate in decisions that affect them, cultural safety, promoting equity and respect for diversity, and having child protection systems.

staff

Employees, professional service providers, other paid education and care participants at department, education and early childhood services (through contracts and agreements) and tertiary students on placement.

volunteers

A suitable individual who has been accepted to willingly engage, share their skills and experiences, without payment (other than reimbursement of approved out-of-pocket expenses). This might include regular or irregular assistance and direct or indirect contact with children and young people.

Volunteers work in a position designated by the education or early childhood leader as a volunteer position. They could be a department volunteer, parent volunteer or third-party provider. Refer to the volunteer policy for further detail.

Supporting information

Mandatory notification procedure (PDF 308.3KB)

Student Support Services delivery model (PDF 1.6MB)

Suicide response and postvention guidelines

Wellbeing for Learning and Life framework

Information Sharing Guidelines

Charter of Rights for Children and Young People in Care (PDF 643KB)

Disability Standards for Education 2005

Australian Student Wellbeing Framework

Information Privacy Principles (IPPS) Instruction

Responding to Online Safety Incidents in South Australian Schools: Guidelines for staff working in education settings (PDF 400.7KB)

Bullying prevention strategy

National principles for child safe organisations

Working with Children Checks

Responding to Risks of Harm, Abuse and Neglect – Education and Care (RRHAN-EC) training

Protective practices for staff in their interactions with children and young people (PDF 3.2MB): Guidelines for staff working or volunteering in education and care settings

Keeping Safe: Child Protection Curriculum

Managing allegations of sexual misconduct guidelines (PDF 714.4KB)

Sexual behaviour in children and young people procedure and guideline (PDF 1.7MB)

Related legislation

Education and Children's Services Act 2019

Children and Young People (Safety) Act 2017

Child Safety (Prohibited Persons) Act 2016

Children and Young People (Oversight and Advocacy Bodies) Act 2016

Education and Children's Services Regulations 2020

Disability Discrimination Act 1992 (Cth)

Immigration (Guardianship of Children) Act 1946 (Cth)

Statutes Amendment (Child Sexual Abuse) Act 2021

Civil Liability (Institutional Child Abuse Liability) Amendment Act 2021

Related policies

Attendance policy

Curriculum, pedagogy, assessment and reporting: early childhood services to year 12 policy

Children and students with disability policy

Gender diverse and intersex child and young people support procedure (PDF 249.0KB)

Information sharing guidelines for promoting safety and wellbeing procedure

Information and records management policy

Non-education service providers in preschools, schools and educational programs procedure

Screening and suitability – child safety procedure

School and preschool enrolment policy

Supporting gender diverse, intersex and sexually diverse children and young people policy (PDF 367.8KB)

Volunteer policy

Volunteer procedure in schools, preschools and care settings

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