

Kyogle Council

Child Protection Policy



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1. Statement of Intent

Kyogle Council strongly supports the Office of the Children's Guardian's encouragement for "organisations to use a range of responses to manage the potential risks in their individual environments, including meeting their Working With Children Check legal obligations."

The Office of the Children's Guardian further advises that, "while a criminal record check can be an important tool in an organisation's approach to being 'child safe', it cannot identify people who have not previously been caught or are yet to offend."

This policy puts the safety and wellbeing of Children first and ensures Kyogle Council complies with the legislative framework covering the protection of children, specifically:

Child Protection (Working with Children) Act 2012
Children & Young Persons (Care & Protection) Act 1998
Ombudsman Act 1974

All suspected cases of child abuse and neglect, or instances of children possibly at risk, coming to the notice of Kyogle Council, either observed by employees in the course of their duties, or reported to staff, will be reported immediately and in accordance with legislative requirements.

Procedures are in place to ensure that:

- Child-related employment in Kyogle Council is identified and positions are designated and managed in accordance with child protection legislation
- Reporting requirements are met
- Employment screening is undertaken for prospective appointments to all positions designated as child-related employment
- Disclosures are sought from existing and prospective employees in designated positions
- Allegations of child abuse are handled professionally and sensitively in order to meet legislative requirements and guarantee the safety and privacy of individuals

2. Eligibility

This Child Protection Policy and relevant Procedures applies to all Councilors, permanent, temporary and casual employees of Kyogle Council, and includes volunteers, work experience persons and contractors.

3. Validity - This policy derives validity from Council resolution **CO/0318/16**

4. Definitions

Children & Young Persons: Section 3 of the Children & Young Persons (Care & Protection) Act 1998 defines a child, for the purposes of the act, to mean a person who is under 16 years of age, and a Young Person as a person aged 16 or 17 years of age.

Section 23 of the Children and Young Persons (Care and Protection) Act 1998 provides the following;

Child or young person at risk of significant harm

- (1) *A child or young person is at risk of significant harm if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances:*
- (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,*
 - (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,*

Note. Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.

Child-related Employment is employment that primarily involves direct, unsupervised contact with children and includes:

- Contractors
- Volunteers
- Trainees undertaking training as part of an educational or vocational course
- Work experience

5. Reporting suspected abuse or neglect:

The office of the Children's Guardian provides the following:

Anyone who suspects, on reasonable grounds, that a child or young person is at risk of being neglected or physically, sexually or emotionally abused, should report it to Community Services.

Reasonable grounds is the standard that reporters must use in deciding whether or not to report to Community Services.

It does not mean that reporters are required to confirm their suspicions or provide solid proof before making a report. A useful rule of thumb is to consider whether another person, when faced with similar information, would also draw the same conclusion.

*You can make a report by phoning the **Child Protection Helpline on 132 111** for the cost of a local call, 24 hours a day, 7 days a week.*

A Child Abuse Allegation is an assertion or declaration that a child has been or is in danger of being abused. Wherever possible an allegation should have the following:

- The persons subject to the allegation are clearly identifiable
- The allegation details specific conduct or pattern of behaviour that indicates abuse or potential abuse
- An allegation can also include an allegation of misconduct that may involve child abuse and would cover allegations such as possession of child pornography

6. Provisions

Provisions are incorporated into the *Ombudsman Amendment Act 1998*, the *Children & Young Persons (Care & Protection) Act 1998*, for the protection of persons from defamation or other civil liability when reporting child abuse or undertaking employment screening in good faith and with reasonable care.

The identities of staff or Councillors reporting child abuse and neglect will be protected.

Protection is **not** available for disclosures, which are frivolous, malicious or vexatious or are made in an attempt to avoid dismissal or disciplinary action. Employees who willfully make a false or misleading statement when making a disclosure will be disciplined in accordance with Council's Code of Conduct and the Local Government (State) Award 2017.

7. Responsibility/Accountability

Kyogle Council has the following key responsibilities:

Council is required to report any case of suspected child abuse or neglect of children presenting at Council services, facilities or activities.

Council will protect young people in its care from sexual, physical and emotional abuse and neglect.

As an employer of staff responsible for the supervision of children, Council ensures that "prohibited persons", where the nature of their

work brings them into unsupervised contact with children, are not employed or do not continue to be employed when discovered.

As an employer of staff responsible for the supervision of children, Council has a responsibility to notify any allegation of child abuse against an employee to the NSW Ombudsman.

Kyogle Council has a responsibility to work with other agencies, within agreed guidelines, to plan and provide services for child protection and family support.

8. Working with Children Checks

All staff working with Children will be required to undertake a Working With Children Check.

A Working With Children Check is a requirement for people who work or volunteer in child-related work. It involves a national criminal history check and a review of findings of workplace misconduct.

The result of a Working With Children Check is either a clearance to work with children for five years, or a bar against working with children. Cleared applicants are subject to ongoing monitoring and relevant new records may lead to the clearance being revoked.

The Working With Children Check is fully portable so it can be used for any paid or unpaid child-related work in NSW for as long as the worker remains cleared.

Manager Human Resources is responsible for records management, including keeping relevant Working with Children Check and National Criminal Records Check documents for five years after the employment or engagement has been completed, or longer if required (for example, if the recruitment or engagement action has been the subject of legal action); and for disposing these documents thereafter in a secure manner.

9. Employee Responsibilities

The *Children & Young People (Care & Protection) Act, 1998* places a duty of mandatory reporting on any person who, in the course of his or her professional work or other paid employment delivers services, wholly or partly, to children, and any person who holds a management position which includes direct responsibility for or direction of the delivery of services wholly or partly to children.

Employees are required to report any allegation or suspected case of child abuse or neglect to the General Manager, Directors or Manager Corporate Services (Executive Management Team).

The General Manager, Directors or Manager Corporate Services is responsible for collecting the necessary information and reporting incidents to the ***Child Protection Helpline on 132 111***, and or Ombudsman.

10. Investigating Allegations

The Department of Family and Community Services (FACS) is the agency with lead responsibility for child protection and has the legal mandate to ensure a child's safety, care and welfare. Accordingly FACS has, among other duties, the role of:

- Receiving allegations of child abuse and neglect
- Responding to allegations
- Referring to the NSW Police any suspected criminal offences; and
- Including, as appropriate, the notifying agency in any response they are undertaking in relation to the allegation

As part of its coordinating role FACS may request that Council participate in the response in accordance with the Interagency Guidelines for Child Protection Intervention.

Council is obliged by law to notify the NSW Ombudsman's Office of any allegation of child abuse or neglect against an employee within thirty (30) days of receiving the allegation.