Child Protection Policy

POLICY STATEMENT

Lake Mac Newy OOSH is committed to providing a child safe environment in which children are protected from harm and feel safe, valued and respected. In all decisions, interactions and practices, the safety, welfare and wellbeing of the child is paramount, and this takes precedence over operational convenience, staffing arrangements or any other consideration.

The Service embeds the National Principles for Child Safe Organisations, reflected in the NSW Child Safe Standards, and requires every employee, educator, student and volunteer to understand their obligations as mandatory reporters and to act immediately on any concern for a child's safety.

Educators, staff, students and volunteers complete child protection and child safety training appropriate to their role. In NSW, Nominated Supervisors and persons in day-to-day charge complete the approved child protection training required under section 162A of the National Law and the NSW Government Protocol. All people working or volunteering in an NQF-regulated education and care service complete the prescribed national child safety training required under section 162B, with additional advanced training applying to persons with management or control, Nominated Supervisors, persons in day-to-day charge and staff members who work directly with children. Training tiers, timeframes, refresher requirements and records are set out in Staffing.

The systems that support a child safe culture — the Child Protection Concerns Register, the Reporting Decision Tree, child protection risk assessments and attendance monitoring — are set out in *Providing a Child Safe Environment*. This policy sets out what happens when a concern, disclosure, or allegation arises: how it is recognised, documented, reported, and managed.

DEFINITIONS

- **Mandatory reporting** — the legislative requirement for specified classes of person to report suspected risk of significant harm to a child to the Department of Communities and Justice (DCJ). Under the *Children and Young Persons (Care and Protection) Act 1998* (NSW), mandatory reporters include people who deliver health care, education or children's services — which includes educators and staff of this Service.
- **Risk of significant harm (ROSH)** — circumstances of a kind, and to an extent, that warrant a statutory response regardless of the family's consent. What is significant is not minor or trivial, and may reasonably be expected to have a substantial and demonstrably adverse impact on the child's safety, welfare or wellbeing.
- **Immediate risk of significant harm (IROSH)** — used in the Mandatory Reporter Guide to indicate that a report must be made immediately to DCJ and NSW Police.
- **Reasonable grounds** — an objective basis for suspecting a child may be at risk of abuse or neglect, based on firsthand observation, what a child or other person has disclosed, or what can reasonably be inferred from observation, training or experience.
- **Reportable conduct** — conduct defined under the *Children's Guardian Act 2019* (NSW), including a sexual offence or sexual misconduct against, with or in the presence of a child; ill-treatment, neglect or assault of a child; an offence under section 43B (failure to protect) or 316A (failure to report) of the *Crimes Act 1900*; and behaviour causing significant emotional or psychological harm to a child.

RECOGNISING ABUSE AND NEGLECT

Child abuse is any action, or pattern of actions, that harms or puts at risk a child's physical, psychological or emotional health or development. NSW Communities and Justice identifies neglect, physical abuse, sexual abuse, emotional abuse, and psychological harm as the primary categories, alongside forms of family and domestic violence.

A physical or behavioural sign on its own does not necessarily indicate abuse or neglect but should always be considered alongside the child's other circumstances rather than dismissed. Further guidance on recognising harm is available through the NSW Department of Communities and Justice.

Forms of abuse, neglect and harm may include:

- neglect;
- physical abuse;
- sexual abuse, sexual misconduct and grooming;
- emotional abuse or psychological harm;
- domestic and family violence;
- forced marriage or underage forced marriage; and
- female genital mutilation and other harmful practices.

Abuse and neglect may involve a single incident or a pattern of behaviour, and may be intentional or unintentional. A single indicator can be significant and must be considered in the context of the child's circumstances, presentation and any other information available.

DOCUMENTING A DISCLOSURE

A disclosure occurs when a child, or another person, tells an educator or staff member about harm that has happened or is likely to happen. When receiving a disclosure, the person receiving it:

- Gives the child their full attention, and finds a place to talk where the child can be heard properly, while remaining in view of others.
- Does not make promises that cannot be kept, including a promise of secrecy — the child is told honestly what will happen next and that someone who can help will need to be told.
- Tells the child they have done the right thing, and that what happened is not their fault.
- Asks only enough questions to confirm the need to report — further questioning could cause distress or interfere with a later investigation — and lets the child use their own words and their own time.
- Does not investigate the disclosure, mediate an outcome, or confront the person the child has named.
- Supports culturally and linguistically diverse children, Aboriginal and Torres Strait Islander children, and children with disability or additional needs to communicate in their preferred and accessible way.
- Documents the disclosure as soon as possible, recording the time, date and place, what was said and done word for word, any observations, questions asked, actions already taken, reports made, and the date and signature of the person recording it.

NOTIFICATIONS

Reporting pathway

• **Immediate danger** to a child**,** educators and staff contact NSW Police on 000 and intervene if it is safe to do so.

• **Possible criminal offence against a child:** NSW Police

• **Suspected risk of significant harm (ROSH):** DCJ Child Protection Helpline / Mandatory Reporter Guide (MRG) / ChildStory Reporter

• **Reportable allegation or conviction involving an employee, volunteer, student or contractor:** Office of the Children's Guardian (OCG)

• **Prescribed incident, allegation or complaint:** NSW Early Learning Commission through NQA ITS

More than one reporting obligation may apply to the same incident or concern. Reporting to one authority does not replace a separate obligation.

Police

- Where information indicates that a criminal offence against a child may have been committed, including sexual abuse, serious physical abuse or grooming-related offending, the matter is reported to NSW Police where required by law**.** Where there is no immediate danger and staff are unsure whether the matter is criminal, advice may be sought from NSW Police on 131 444**.**

DCJ Child Protection Helpline

- Where a child is suspected to be at risk of significant harm, a report is made to the Child Protection Helpline (132 111) or via the ChildStory Reporter website as soon as practicable. Where the MRG outcome requires an immediate report, the Child Protection Helpline is contacted directly on 132 111. The Service requires the report to be made without delay and, as an internal maximum, no later than 24 hours after the concern is identified.
- The NSW Mandatory Reporter Guide (MRG) is used to support the reporting decision on each occasion a concern arises and to identify the appropriate reporting or support pathway — see *Providing a Child Safe Environment* for the Service's Reporting Decision Tree.
- A report is not investigated by the person making it — only enough information is collected to document and report the concern before passing it to the Helpline or appropriate authority.
- Where a concern does not meet the threshold of significant harm, the MRG may identify alternative actions or supports, including consultation with an appropriate service or professional, referral to an appropriate family support service, or documenting and continuing to monitor and support the child.

Confidentiality of a notification

A notification remains confidential. No confirmation of an allegation is given until the matter has been investigated, and the person making a notification does not inform the person the notification concerns — this protects the integrity of any investigation and reduces the risk of retaliation against the child.

Reportable Conduct Scheme — allegations against employees, volunteers, students or contractors

Report to Police on 000 for any immediate concern for a child's safety.

The Approved Provider has a legislative obligation under the Reportable Conduct Scheme (*Children's Guardian Act 2019*) to notify the Office of the Children's Guardian (OCG) of reportable allegations and convictions against employees, volunteers and contractors, investigate with procedural fairness, and advise the OCG of the outcome. This obligation applies regardless of whether the conduct occurred within or outside work hours.

- The Approved Provider notifies the OCG within **7 business days** of becoming aware of a reportable allegation or conviction, using the OCG's notification form.
- A final report is submitted within **30 business days**, or the OCG is otherwise updated on the investigation's progress.
- The Approved Provider discloses relevant information about a reportable allegation or conviction — its nature, the investigation's progress, its findings and any action taken — to the child concerned and to a parent of the child, unless satisfied that disclosure is not in the public interest (section 57(2), *Children's Guardian Act 2019*). Disclosure to an authorised out-of-home carer, or another person with daily care and control of the child, is discretionary rather than mandatory, and is made only where it promotes the child's safety, welfare or wellbeing (section 57(4)).
- An employee who is the subject of a reportable allegation may make written submissions to the investigator before a final determination is made, addressing why the conduct should not be considered reportable conduct. Any submission made is included in the entity report provided to the OCG.
- The Approved Provider may inform the employee that an allegation has been made against them, and may disclose the determination, the reasons for it and any planned action, except where this would affect a person's health or safety, prejudice an investigation or proceeding, or create a risk of harassment or intimidation.
- Mandatory reporting to the Child Protection Helpline operates alongside, and does not replace, the Reportable Conduct Scheme — the two obligations are separate and both apply where relevant.

Notification to the Regulatory Authority – NSW Early Learning Commission

• The Approved Provider must notify the NSW Early Learning Commission (Regulatory Authority) through the National Quality Agenda IT System (NQA ITS) of prescribed incidents, allegations and complaints within the required regulatory timeframes.

• Serious incidents must be notified within 24 hours of the incident occurring, or of the Service becoming aware of the incident **(**Regulation 176(2)(a)**).**

• Where the Approved Provider reasonably believes that physical or sexual abuse of a child has occurred or is occurring while the child is being educated and cared for by the Service**,** the Regulatory Authority must be notified within 24 hours of the incident, or within 24 hours of the Approved Provider becoming aware of the incident **(**Regulations 175(2)(d) and 176(2)(bb)**).**

• Where an allegation is made that physical or sexual abuse of a child has occurred or is occurring while the child is being educated and cared for by the Service**,** the Regulatory Authority must be notified within 24 hours of the allegation being made, or within 24 hours of the Approved Provider becoming aware of the allegation **(**Regulations 175(2)(e) and 176(2)(bc)**).**

• A sexual offence or sexual misconduct**,** within the meaning of Part 4 of the *Children's Guardian Act 2019*, committed by a person who engages in work for the Service, including an employee, volunteer or participating student, is a serious incident and must be notified to the Regulatory Authority within 24 hours of the incident, or within 24 hours of the Approved Provider becoming aware of the incident **(**Regulation 175(2)(ea) and Regulation 176**).**

• A complaint alleging that a serious incident has occurred or is occurring at the Service must be notified within 24 hours of the complaint **(**Regulation 176(2)(b)**).**

• Notifications are submitted through NQA ITS**.** Relevant documentation must also be completed and retained, including an incident, injury, trauma and illness record where applicable **(**Regulation 87**).**

PROTECTION FOR REPORTERS

A person who makes a report in good faith to DCJ, or to a person with the power or responsibility to protect a child, is protected under section 29 of the *Children and Young Persons (Care and Protection) Act 1998* (NSW). Provided the report is made in good faith:

- the report does not breach standards of professional conduct or ethics;
- no liability for defamation is incurred because of the report;
- the report does not give rise to civil or criminal liability against the person who made it;
- the report, or evidence of its contents, is not admissible in most proceedings; and
- the identity of the person making the report is kept confidential, except in limited circumstances — including where NSW Police need it to investigate a serious offence against a child.

Section 29AB of the same Act, in force since 1 March 2020, additionally protects a person against retribution for making, or proposing to make, a report. A mandatory reporter who has made a report continues to respond to the child's needs within their work role — making a report does not discharge that ongoing duty of care.

SHARING OF INFORMATION

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* allows prescribed bodies — including NSW Police, public authorities, schools, health providers and OOSH services — to exchange information relating to the safety, welfare or wellbeing of a child, for the purpose of making a decision, assessment or investigation, or providing a service, relating to that safety or welfare, or of managing a risk to the child that may arise in a prescribed body's capacity as an employer of a person who poses that risk. Consent is sought where sharing is otherwise appropriate and would not compromise a child's safety.

RESPONSIBILITIES

Approved Provider, Nominated Supervisor and management

- Ensure this policy and procedure are accessible to educators, staff, students, volunteers and families, and that everyone engaged by the Service understands their obligations under it.
- Ensure required child protection and child safety training is completed and recorded — see *Staffing* for training tiers, timeframes and records.
- Maintain the Child Protection Concerns Register, Reporting Decision Tree, child protection risk assessments and attendance monitoring — see *Providing a Child Safe Environment*.
- Keep records relating to a concern, disclosure or allegation secure and confidential — see *Privacy and Confidentiality* and *Record Keeping and Retention*.
- Ensure the Service's complaint handling system is child-focused — see *Complaints and Grievance Handling*.
- Following a child protection incident, ensure children, staff and families have access to appropriate support, such as counselling or debriefing.
- Ensure all children being educated and cared for by the Service are adequately supervised and that child safety is considered in supervision planning and risk assessment.
- Provide educators and staff with ongoing child protection training, supervision and professional development, and regularly check that they understand reporting pathways, mandatory reporting obligations and child safe practices.
- Use regular team discussions, scenarios, quizzes or other checks to reinforce child protection knowledge and identify where further training or support is required.
- Ensure educators are provided with clear reporting procedures and access to current child protection resources, including the Mandatory Reporter Guide and relevant NSW reporting guidance.
- After a child protection incident or significant concern, critically reflect on the response and identify any changes required to policy, procedures, supervision, training, environments or risk assessments.

Educators and staff

- Understand and act on their obligations as mandatory reporters, including the circumstances requiring a report and how to make one.
- Report any concern, disclosure or allegation to the Nominated Supervisor or Approved Provider, and to Police or DCJ directly where the urgency of the situation requires it.
- Comply with *Code of Conduct* on physical contact, one-to-one situations and professional boundaries with children, and with the *Safe Use of Digital Technologies and Online Environments* on the use of personal and Service devices.
- Maintain a current Working with Children Check and notify the Approved Provider of any change to their status — see *Staffing* and *Code of Conduct*.
- Understand that an allegation of abuse against them is treated in the same way as an allegation against any other person.
- Participate in induction, orientation and regular up-to-date training on how to identify, understand, report and respond to child maltreatment, abuse, neglect, grooming and other harm, including the Reportable Conduct Scheme.

- Maintain practical knowledge of the ChildStory Reporter and Mandatory Reporter Guide and know how to use the reporting pathway when a concern arises.
- Support children to participate in decisions that affect them, where appropriate, and provide ongoing monitoring and follow-up for a child's safety and wellbeing after a concern or report.

Students, volunteers and visitors

- Report any concern or suspicion that a child is at risk of abuse, harm, neglect or ill-treatment to the Nominated Supervisor or Approved Provider as soon as possible.
- Report any concern about the behaviour or conduct of a staff member, educator or volunteer to management.
- Are engaged, screened, inducted and supervised in accordance with *Participation of Volunteers and Students*, including Working with Children Check verification.
- Participate in the Service's child protection and child safety induction and complete any training required for their role.
- Promote the welfare, safety and wellbeing of children and comply with the Service's Code of Conduct and Safe Use of Digital Technologies and Online Environments requirements.
- Understand the reporting pathway and immediately raise any disclosure, concern or suspicion of harm; internal reporting does not prevent a person from contacting Police or another authority directly where required.

BREACH OF THIS POLICY

A breach is any action or inaction that fails to comply with this policy. Any allegation of a criminal offence against a child is reported to Police immediately — failing to report a suspected sexual offence against a child is itself a criminal offence.

Managing a breach

Management investigates a breach of this policy fairly and without bias, by:

- liaising with DCJ, NSW Police and the OCG to ensure the chain of evidence is not compromised;
- not conducting an internal investigation while DCJ, Police or the OCG are conducting theirs; and
- following any direction from DCJ or Police, which may include removing the person from a role involving contact with children until the authorities' investigation concludes.

Where DCJ or Police are not investigating, or have concluded their investigation, management may investigate. In doing so, management gives the person an opportunity to respond, documents all accounts, keeps the matter confidential, and reaches a decision based on the evidence available.

Outcome of a breach

Depending on the nature of the breach, outcomes may include:

- disciplinary action, including dismissal, if required;
- reinforcing the specific element of this policy or procedure that was not followed;
- closer supervision;

- further education and training; and
- reviewing and strengthening current policies and procedures.

EDUCATING CHILDREN ABOUT PROTECTIVE BEHAVIOURS

The Service's program supports children to learn about their rights and to express their views and feelings, including:

- acceptable and unacceptable behaviour, in both physical and online environments;
- body safety, using the correct names of private body parts, and the right to say no to anything that feels unsafe or uncomfortable;
- the difference between a secret that should and should not be kept, and that there is no concern too small to share with a trusted adult; and
- who their trusted adults are, and that educators are available if they have a concern.
- their right to feel safe at all times and to identify feelings or situations that make them feel unsafe;
- appropriate and inappropriate contact and respect for personal space and boundaries;
- that they can tell a trusted adult about suspicious, unsafe or worrying behaviour, people or online contact;
- ways to recognise and express their feelings verbally and non-verbally; and
- that they can participate in decisions that affect them and know how to make a complaint or raise a concern.

CONSIDERATIONS

Education and Care Services National Law & Regulations	National Quality Standard & Child Safe Standards	Links to other Service Policies	Other Documentation / Evidence
Sections 162A, 162B, 166 Regulations 84, 87, 168, 170, 175, 176	Standard 2.2, Elements 2.2.1–2.2.3 Child Safe Standards 1, 5, 7, 10	– Providing a Child Safe Environment – Code of Conduct – Staffing – Safe Use of Digital Technologies and Online Environments – Privacy and Confidentiality – Record Keeping and Retention – Complaints and Grievance Handling – Management of Incidents, Injury, Illness & Trauma – Participation of Volunteers and Students – Protected Disclosures Policy	– Children and Young Persons (Care and Protection) Act 1998 (NSW) – Children's Guardian Act 2019 (NSW) – Child Protection (Working with Children) Act 2012 (NSW) – Crimes Act 1900 (NSW), including ss 43B, 316A – NSW Mandatory Reporter Guide – NSW Department of Communities and Justice reporting guidelines – NSW Child Safe Standards Guide

ENDORSEMENT BY THE SERVICE

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