

CHILD SAFE STANDARDS (CONT.)

MITCHELL SHIRE COUNCIL

Council Meeting Attachment

SUSTAINABLE COMMUNITIES

12 DECEMBER 2016

7.2

CHILD SAFE STANDARDS

Attachment No: 1

Child Safe Standards Policy

Child Safe Standards Policy

Policy Owner	Chief Executive Officer
Creation Date	01/12/2016
Revision Date	01/12/2018

1. Purpose

The purpose of this policy is for Mitchell Shire Council (MSC) to

1. Facilitate the prevention of child abuse
2. Promote a zero tolerance to child abuse
3. Empower the organisation with a culture of child safety
4. Ensure employees, councillors, volunteers and contractors are aware of their responsibilities, controls and procedures for identifying and reporting child abuse

2. Scope

The policy applies to all employees, councillors, volunteers and contractors (referred to as responsible people) of MSC.

3. Overview

In response to the Victorian Parliament's *Betrayal of Trust: Inquiry into the Handling of Child Abuse by Religious and Other Non-Government Organisations*, the Victorian Government has introduced the Child Safe Standards to improve the way organisations respond to child abuse that may occur or be identified within their organisation. The standards are compulsory for all organisations providing services to children and/or activities which may result in contact with children.

There are seven mandatory Child Safe Standards as follows:

Standard 1: Strategies to embed an organisational culture of child safety, including through effective leadership arrangements.

Standard 2: A child safe policy and/or statement of commitment to child safety.

Standard 3: A code of conduct that establishes clear expectations for appropriate behaviour with children.

Standard 4: Screening, supervision, training and other human resources practices that reduce the risk of child abuse by new and existing personnel.

Standard 5: Processes for responding to and reporting suspected child abuse.

Standard 6: Strategies to identify and reduce or remove risks of child abuse.

Standard 7: Strategies to promote the participation and empowerment of children.

Compliance with the child safe standards must include the following principles:

- *promoting the cultural safety of Aboriginal children*
- *promoting the cultural safety of children from culturally and/or linguistically diverse backgrounds*
- *promoting the safety of children with a disability.*

4. Definitions

Term	Definition
Aboriginal Child	A person under the age of 18 who: <ul style="list-style-type: none"> • is of Aboriginal or Torres Strait Islander descent • identifies as Aboriginal or Torres Strait Islander, and • is accepted as Aboriginal or Torres Strait Islander by an Aboriginal or Torres Strait Islander community
Child	As per the Child Safe Standards a child is a person below the age of eighteen (18) years.
Child abuse	Abuse is an act by a parent, care giver, other adult or older adolescent who by virtue of their age, power, responsibility or authority endangers a child's physical or emotional health or development. Abuse can be a single incident, but more commonly takes place over time. Abuse constitutes any act committed against a child involving: <ul style="list-style-type: none"> • physical violence • sexual offences • serious emotional or psychological abuse • serious neglect.
Child Safe Standards	Mandatory Standards developed by the Department of Health and Human Services for all organisations providing services to children
Child safety	In the context of Child Safe Standards, child safety refers to measures to protect children from child abuse
Contractors	Refers to all contractors who provide work on behalf of MSC or are required to be on site at a MSC facility
Failure to disclose	Failure to report to police a reasonable belief that an offence has been committed against a child (unless they have a reasonable excuse for not doing so).
Failure to protect	Failure to protect a child from abuse offence applies to people who: <ul style="list-style-type: none"> • Hold a position of authority • Know of a sexual offence committed against a child under (16) years • Have the power or responsibility to remove or reduce that risk BUT they negligently fail to do so.
Grooming	The Grooming offence targets communication, including online communication, with a child under the age of (16) years or their parents with the intent of committing child sexual abuse. This offence targets predatory conduct undertaken to prepare a child for sexual abuse at a later time with the groomer (aged 18 years old or over) or another adult.

Term	Definition
Neglect	The failure to provide a child with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that the child's health and development is, or is likely to be, significantly harmed.
Reasonable belief	A reasonable belief is not the same as having proof. A reasonable belief is formed if a reasonable person in the same position would have formed the belief on the same grounds.
Reasonable excuse	Failure to disclose an offence due to: <ul style="list-style-type: none"> • a fear for safety, either to the victim or another person as a result of the disclosure; • the information has already been disclosed to police (for example, because a mandatory report has been made to child protection); <p>It does not include a concern for 'perceived interests', such as reputation, legal liability or financial status.</p>
Responsible people	Responsible people are employees, Councillors, volunteers or contractors who may work directly with, have oversight of or interface with children at a Shire run facility or in the Mitchell Shire community
Volunteers	Refers to all individuals who undertake volunteer work (including student placement) with MSC
Child Safe Champion	Staff appointed by the organisation to support internal reporting by responsible people.

Child Safe Statement of Commitment

At Mitchell Shire Council we are committed to ensuring all children and young people reach their full potential as we strive to achieve our mission of *working with our communities to build a great quality of life*.

We have zero tolerance for all forms of abuse and neglect towards children and young people. We will work actively to provide a safe environment in all our programs and services. We will ensure that any incidents of suspected child abuse will be acted upon appropriately and in accordance with our policy and legal obligations.

We are committed to the safety, participation and empowerment of all children and young people. Child protection is a shared responsibility by all councillors, employees, workers, contractors, volunteers, associates, and members of the community.

5. Policy

- All children, regardless of their gender, race, religious beliefs, age, disability, sexual orientation, or family or social background, have equal rights to protection from child abuse.
- There is zero tolerance for all forms of child abuse.
- All allegations, concerns and complaints brought to the attention of MSC will be taken seriously and acted upon in a timely manner and reported to the relevant authority.
- Any responsible person making a report of alleged child abuse must submit an organisational incident report through the Occupational Health and Safety and Risk program area, including investigation updates.
- Best practice standards will apply in the recruitment of staff/volunteers/contractors and all staff/volunteers/contractors must adhere to the MSC Code of Conduct.
- Relevant people engaged in child-related work, or work resulting in contact with children including volunteers and contractors, are required to hold the applicable Working with Children Check and to provide evidence of this Check.
- A statement of our commitment to child safety requirements is included in recruitment and human resources practices.
- MSC have risk management strategies in place to identify, assess, and take steps to minimise risks to children
- All personal information considered or recorded will respect the privacy of the individuals involved under the Privacy Act and the *best interests of the child* will be considered when sharing information with relevant authorities and agencies.
- Staff undertaking work in program areas where there is regular interface with children require a current Working with Children Check (WWCC) which will be designated within the relevant position description and will be gained and maintained at the cost of the employee.
- MSC has a responsibility to report any allegations of child abuse that may be observed or brought to its attention regarding an external organisation or community group that has an agreement to utilise council facilities or infrastructure.

Three new criminal offences were introduced in 2014 and 2015 to improve responses within organisations and the community to child sexual abuse. While

previous laws have focused on the perpetrator, these new laws place greater obligation, additional responsibility and personal exposure on all members of community in relation to child abuse and neglect. Further details are provided in Appendix A

6. Responsibilities/Owner

The Chief Executive Officer has overall responsibility, however implementation is the responsibility of Director Corporate Services with Child Safe Champions appointed across the organisation to provide support and guidance for all responsible people.

All responsible people must adhere to this policy.

Manager, Community Strengthening and Coordinator, Children's Services in partnership with the Manager, People and Culture and Coordinator, Occupational Health and Safety and Risk are responsible for creating a system of monitoring and reporting to support the implementation of this policy.

The Manager, People and Culture and/or a relevant delegate is will provide support to all responsible people as part of this policy.

Failure to adhere to this policy may result in MSC disciplinary processes and legal consequences.

7. Review

This policy is to be reviewed no later than August 2018

8. Related Documents

Policies and Procedures

- Privacy Policy
- Freedom of Information Policy
- Human Rights policy
- Protected Disclosure Procedure
- Risk Management Framework
- Incident Reporting
- Recruitment procedure
- Induction procedure

References

- Child Safe Standards 2015
- National Quality Framework
- Victorian Early Years Learning and Development Framework

Legislation

Victorian

- Children, Youth and Families Act 2005 (Vic)
- Child Wellbeing and Safety Act 2005 (Vic)
- Working with Children Act 2005 (Vic)
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Equal Opportunity Act 2010 (Vic)
- Racial and Religious Tolerance Act 2001 (Vic)
- Crimes Amendment (Grooming) Act 2014 (Vic)

Commonwealth

- Family Law Act 1975
- Crimes Act 1958 (Section 45)
- Disability Discrimination Act 1992
- Privacy Act 1988
- Education and Care Services National Law Act 2010
- Education and Care Services National Regulations 2011
- Anti-discrimination Act 1991
- Child Protection Act 1999

Appendix A: Criminal Offences regarding Child sexual abuse**Failure to Disclose Offence**

The failure to disclose child sexual abuse offence requires adults to report to police a reasonable belief that a sexual offence has been committed against a child (unless they have a reasonable excuse for not doing so).

It establishes that reporting child sexual abuse is a community-wide responsibility.

The law states that all adults must report to police:

- Any reasonable belief that a sexual offence has been committed
 - By another adult (over 18)
 - Against a child under the age of 16.

Unless there is a reasonable excuse or an exemption applies.

Failure to disclose does **not** change mandatory reporting obligations.

Maximum penalty is three (3) years imprisonment.

See Betrayal of Trust Fact Sheet: The new 'failure to disclose' offence

<http://assets.justice.vic.gov.au/justice/resources/ea484f74-feb7-400e-ad68-9bd0be8e2a40/failure+to+disclose.pdf>

Grooming Offence

The Grooming offence targets communication, including online communication, with a child under the age of 16 or their parents with the intent of committing child sexual abuse.

This offence targets predatory conduct undertaken to prepare a child for sexual abuse at a later time with the groomer (aged 18 years old or over) or another adult.

Maximum penalty ten (10) years imprisonment.

Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.

See Betrayal of Trust Fact Sheet: The new 'grooming' offence

<http://assets.justice.vic.gov.au/justice/resources/df7994c3-9238-4de5-9ff1-a5c0cf79a7fa/grooming.pdf>

Failure to Protect Offence

The failure to protect a child from sexual abuse offence applies to people within organisations if:

- They hold a position of authority within a relevant organisation that works with children
- They know of a substantial risk another adult associated with the organisation may commit a sexual offence against a child under 16 within the organisation's care
- They have the power or responsibility to remove or reduce that risk
- BUT they negligently fail to do so.

Maximum penalty is five (5) years imprisonment.

See Betrayal of Trust Fact Sheet: The new 'failure to protect' offence

<http://assets.justice.vic.gov.au/justice/resources/0f547d32-a4c4-4e05-9fbf-7415a4b4e3f6/failure+to+protect+-+version+1.0.pdf>