

In addition to the moral obligation, amendments to the Children's Protection Act 1993 (SA) places a legal obligation on Councils (and all other organisations providing a service wholly or partly to children) to ensure all children in their care are safe from harm. New requirements for criminal history checks for existing and new staff, contractors and volunteers who are working with children in prescribed positions commenced on January 2011 to be phased in over a three (3) year period. Requirements for criminal history checks for certain staff and volunteers working in the area of aged care also applied from 1 March 2007.

This policy aims to ensure the Council organisation and facilities are safe environments for children, young people and other vulnerable people and that they are protected from abuse and neglect. This policy also aims to ensure that all relevant Council elected members, managers, employees, volunteers, contractors and consultants are aware of their duty of care responsibilities for the protection, safety and wellbeing of children at all times.

Strategic reference

Community leadership: strategy 2.1.5; review policies and procedures to ensure compliance with legislation and that they are relevant to community needs.

2. Legal obligations

Section 8C(1) of the Children's Protection Act requires local government have in place policies and procedures for ensuring:

- child safe environments are established and maintained within the organisation;
- reports of suspected abuse or neglect are made under Part 4 of the Act.

The policies and procedures must comply with the Principles and Standards issued by DFC (insofar as they are applicable to the organisation).

S11(2) prescribes mandated notifiers as any Council employee or volunteer directly involved in the delivery of health, welfare, education, sporting or recreational childcare or residential services wholly or partly for children. Mandated notifiers must report any suspicion of abuse or neglect of a child to the DECE Child Abuse Report Line: telephone 24 hours a day, 7 days a week on 13 14 78 or online at www.reportchildabuse.families.sa.gov.au

Section 8B requires criminal history screening to be undertaken of people occupying or acting in a prescribed position before a person is appointed to, or engaged in a prescribed position; and/or at any time as the organisation thinks necessary or desirable for the purpose of establishing or maintaining child safe environments.¹

As of March 2007, the Australian Government Department of Health and Ageing also required criminal history (police) checks for certain staff and volunteers working in the area of aged care. This applies to Australian Government subsidised aged care services

¹ **Note:** DFC Standards suggest criminal history checks should be undertaken every 3 years.

3. Definitions

The Children's Protection Act 1993 (SA) states that **child abuse and neglect** (or harm) in relation to a child means

- Sexual abuse; or
- Physical or emotional abuse, or neglect to the extent that:
 - the child has suffered, or is likely to suffer, physical or psychological injury detrimental to the child's wellbeing; or
 - the child's physical and psychological development is in jeopardy.

Child means a person under the age of 18.

Criminal history screening involves obtaining information about relevant potential employees, volunteers, contractors or consultants on the basis that the information is deemed relevant to assessing the suitability of a person to work in a child-related area. The information gathered may include details concerning previous employment and relevant experience; verification of qualifications and professional registration; criminal history information, reference checks and work history reports.

Mandatory reporting obligation means a mandated notifier (any person providing services solely or partly to children – staff, volunteer, contractor or consultant) must report any suspicion of abuse or neglect of a child to the Families SA Child Abuse Report Line or on-line.

Prescribed position is one that requires or involves one or more prescribed functions as follows:

- Regular contact with children or working in close proximity to children on a regular basis where that contact or work is not directly supervised at all times.
- Close proximity means in reasonable unaided visual sight that is physically being within eyeshot.
- Regular contact includes multiple instances of contact of limited duration (attendance at a weekly program) or fewer, extended and intense periods of contact which may be away from children's usual environment.
- Supervision or management of above positions; and
- Access to records of a kind prescribed by regulation relating to children (including records relating to child protection services, health services, education services, disability services and court orders and proceedings).

Identifying prescribed positions will involve consideration of the nature of the service provided (proximity or intimacy), the frequency (incidental contact, regular and/or on-going contact).

4. Application of the policy

The policy will apply from the date of endorsement, to all elected members, employees, students on placement, work experience students, relevant volunteers, contractors and consultants providing services wholly or partly to children, or who work with children.

The Safe Environment Policy will be communicated to all relevant audiences to ensure awareness and understanding of Council's commitment to ensuring a safe environment.

This will include elected members, staff, volunteers, contractors, consultants, parents, carers, and children where relevant.

5. Policy and procedure standards

Council is committed to and has endorsed procedural standards which focus on ensuring the organisation and Council facilities are safe environments for children and vulnerable people. In particular, the following standards reflect the guidance provided by DECD on appropriate standards of conduct for adults in dealing with children.

5.1 Risk management strategy

Council will identify and assess potential sources of harm and take steps to decrease the likelihood that harm will occur to children, young people and other vulnerable people who use our services. Areas of risk assessment will include human resources, activities and programs, record keeping, physical spaces, and organisational culture.

5.2 Codes of conduct

All employees, volunteers, contractors and consultants will be required to comply with the code of conduct endorsed by Council which sets out standards of conduct when providing services to children.

The code of conduct is supported by Council's grievance procedure to address breaches of the code of conduct. For more information about these procedures, contact the Safe Environment Contact Officer, Denise Ebert, Human Resources Officer.

5.3 Recruitment, selection and enhancing performance

Council will take all reasonable steps to ensure that it engages the most suitable and appropriate people to work with, and provide services to, children and other vulnerable people. Applicants for prescribed positions will be screened for their suitability to provide services. Screening will involve criminal history screening, interviews, referee reports, checking qualifications and previous employment history in working with children, and undertaking criminal history screening. If a criminal history is recorded, information will be dealt with in a manner that reflects the standards developed and issued by DECD (refer <https://www.decd.sa.gov.au/child-protection/child-safe-environments/procedural-fairness-and-records-management>)

Council will ensure that all staff and volunteers who work with children or who have access to their personal records have ongoing support and training to develop, enhance and maintain a child safe environment.

5.4 Involvement in decision-making

Council will promote the involvement of children, young people and other vulnerable people in service development planning where relevant, and inform them of their rights and how to access grievance procedures where relevant.

5.5 Responding to suspected abuse and neglect

Council will ensure that staff, volunteers, contractors and consultants providing services to and/or working with children are aware of and are trained, and appropriately supported to report any suspicion of abuse or neglect on reasonable grounds.

6. Associated documents

- Children's Protection Act 1993 (SA)
- Children's Protection Regulations
- *Approved Providers of Australian Government Subsidised Aged Care Services – Fact Sheet* www.health.gov.au
- Code of conduct - Employees
- Child Safe Environments - Code of Conduct

Standards and guidelines

- [Child safe environments: Principles of good practice \(PDF 372KB\)](#)
 - [Child safe environments: Standards for dealing with information obtained about a person's criminal history as part of a relevant history assessment \(PDF 840KB\)](#)
 - [Child safe environments: Guidelines for mandated notifiers and information for organisations \(PDF 1.2MB\)](#)
 - [Information sharing guidelines](#)
 - [Protecting children and young people with disability: A booklet for parents and carers \(PDF 1MB\)](#)
- <https://www.decd.sa.gov.au/child-protection/child-safe-environments/additional-resources-creating-child-safe-environments>

7. Availability of the policy

This policy will be available for inspection at the Council Offices at Loxton or Waikerie during ordinary business hours at no charge.

Copies of this policy will also be available from Councils website www.loxtonwaikerie.sa.gov.au or postal copies may be obtained from the Council Office free of charge.

8. Policy review

The Safe Environment Policy will be reviewed annually, unless further changes in legislative requirements are noted, to ensure compliance with the DECD standards, and effective maintenance of a safe environment.

9. Document history and version control

| Date | Version | Authorisation - Council/ Committee/ Senior Management Team | Amendment Details |
|------------|---------|--|--|
| 18/09/2009 | 1.0 | Council; meeting of 18 September 2009 | First version |
| 17/09/2010 | 1.1 | Council; meeting of 17 September 2010 | Noted legislative amendment Child Protection Act 2010 |
| 17/02/2012 | 2.0 | Council; meeting of 17 February 2012 | Appendices added to note responsibilities of officers |
| 15/02/2013 | 2.0 | Council: meeting of 15 February 2013 | No changes noted |
| 18/12/2015 | 2.1 | Council: meeting of 18 December 2015 | Changes to training options noted, ie external providers utilised |
| 15/09/2017 | 2.2 | Council: meeting of 15 September 2017 | Proposed change – addition of document history and version control Organisational changes noted and location of information – DECD site |

Appendix 1

Roles and responsibilities

Council is responsible for development of the “Safe Environment Policy” and in conjunction with the Chief Executive Officer:

- promoting protection of children and other vulnerable people from abuse;
- responding promptly to advice received from the Chief Executive Officer or other sources concerning significant changes to relevant legislation and regulations; and
- regularly reviewing the effectiveness of the policy.

Elected Members have individual responsibility for appropriate behaviour towards children and other vulnerable people, and for compliance with the policy.

The **Chief Executive Officer** is accountable to Council and responsible as follows:

- Ensuring the policy is implemented, monitored, reported on and evaluated.
- Being aware of mandatory reporting requirements, procedures, and associated legal responsibilities.
- Ensuring significant changes to relevant legislation are brought to the attention of Council in a timely manner.

Directors, managers and supervisors (paid and voluntary) are accountable to the Chief Executive Officer as follows:

- Recruitment and selection in accordance with Council’s human resources policies and procedures and requirements for criminal history screening of existing employees and preferred applicants for prescribed positions.
- Effective implementation of the policy, procedures and safe work place practices.
- Being aware and promoting acceptable behaviour when dealing with children and other vulnerable people.
- Providing appropriate induction and on-going training as required in relation to the Safe Environment Policy.
- Establishing and maintaining supportive procedures for fulfilling mandatory notification requirements and ensure mandated notifiers understand their legal responsibilities.
- Reporting any reasonable suspicion of abuse of a child to the Child Abuse Report Line.
- Supporting staff and responding to enquiries regarding suspicions of abuse or related issues, maintaining appropriate records and ensuring records are securely stored.
- Maintaining confidentiality and fully cooperating with the DECD, the South Australian Police and other relevant government agencies in their investigations of suspected abuse of a child or other vulnerable person.
- Report annually to the Chief Executive Officer on implementation, monitoring and review the Policy and relevant services, programs, and workplace practices.

Mandated notifiers have obligations under the *Children's Protection Act 1993* (SA) to notify the the Department for Child Protection if they suspect, on reasonable grounds, that a child has been or is being abused or neglected and the suspicion is formed in the course of their work (paid or voluntary) in carrying out official duties.

Note: Whilst the obligation to report suspicions of abuse rests with mandated officers, they are encouraged to seek advice and support from their supervisor and manager, or Child Safe Contact Officer in relation to suspicions of child abuse or neglect. This practice will ensure staff and volunteers are appropriately supported, records are kept confidentially and securely, and any organisation responsibilities in addition to the mandatory reporting obligation are pursued where relevant.

Other council staff, volunteers, contractors and consultants (non-mandated notifiers)

All Council , staff, volunteers, contractors and consultants providing services on behalf of Council have a role to play in providing a safe environment for children, young people and other vulnerable people, and for complying with the policy.

Council strongly encourages and will sensitively support any staff member, volunteer, contractor or consultant who, though not a "mandated notifier" as defined by the *Children's Protection Act* (1993), suspects incidents of abuse or neglect of a child or other vulnerable person.

In these cases, incidents of abuse of a child or other vulnerable person are to be reported to the relevant program manager who will, in consultation with the Chief Executive Officer, determine the appropriate action to be taken and where appropriate report to the relevant Government authorities.

Third party responsibility

- **Contractors/consultations**
- **Licensees**
- **Lease of council premises/facilities**
- **Hire of council facility - conditions/agreements**

It is recommended that Councils include a clause in contracts of engagement, leases and relevant hire agreements, stipulating the requirement for compliance with Council's Child Safe Environment Policy. This applies to organisations, sole traders and partnerships.

Councils should:

- disclose the policy
- attach a copy of the policy to the contract, lease or hire agreement, or provide access to an electronic version of the policy
- reserve within the clause a right to update the policy
- insert within the clause an obligation to comply with the policy, and
- insert within the clause an obligation to notify Council of instances of non-compliance with the policy.
- If the third party meets the "prescribed position" test require certification of a criminal history screening which does not exclude party/ parties from providing services to or working with children. (as of 11 April 2015 this includes cultural, entertainment and party events)

It is suggested that Councils seek legal advice in relation to any specific third party arrangements where relevant.

Department for Education and Child Development - Guidelines- Criminal History Screening

This attachment provides a brief summary of the key requirements set out in DFC Guidelines.

Child safe environments: Standards for dealing with information obtained about a person's criminal history as part of a relevant history assessment

Also refer to DECD Fact Sheet 4 – Relevant history assessments – Information for organisations.

Councils must conduct an assessment of the criminal history of each person who is, or will be, engaged in an identified prescribed position, providing services to or working with children.

Principles that govern risk assessment are as follows:

- The paramount consideration is the rights, interests and wellbeing of children and their protection from harm.
- The assessment will be
 - Conducted by persons who are appropriately trained and supported
 - Recognised as one of a range of strategies to protect children
 - Evidence based, where evidence exists, and be ethical and defensible, efficient and timely
 - Based on principles of natural justice and procedural fairness, procedures will be transparent, documented and consistently applied
 - Accompanied by provisions for review and appeal against a decision
- The privacy of people will be strictly protected, and sensitive and personal information will be protected from inappropriate disclosure.

Standard 1: Identifying affected positions (prescribed functions/positions – See page 4 of this document)

- Covering paid and unpaid positions that are prescribed positions
- Exemptions apply – refer 3.3.2 *What exemptions apply?* in this document.

Standard 2: Developing policies and procedures for obtaining criminal history reports including:

- obtaining informed written consent before obtaining a criminal history report
- advertisements should state that appointment is subject to criminal history report being obtained and satisfactory screening result
- using a 100 point check to establish the true identity of applicants
- ensuring procedural fairness and what records will be maintained
- communicating the policies and procedures to all staff and volunteers

Standard 3: Conducting assessments in a timely manner

- Obtain criminal history report prior to appointment or by phasing in date for relevant position for existing staff, volunteers, contractors, subcontractors, agents in prescribed positions; and
- at least every three years for current employees or volunteers
- Procedures should be in place to ensure
 - Re-validation occurs, and those turning 18 are identified in a timely manner.
 - Encourages individuals to notify if a change in criminal history status

Standard 4: Accepting other evidence

Councils may use a number of forms of evidence (obtained within the last three years) to assess a person's suitability to work with children, including:

- National Police Certificate that does not expressly state that it cannot be used as a clearance to work with children
- A letter of clearance to work with children from a CrimTrac accredited agency (such as the DFC screening unit)
- An interstate working with children check

Councils will need to decide whether they will accept these types of evidence and communicate the decision to all in the organisation.

Standard 5: Assessing criminal history reports

Note: Most people do not have a criminal history, and in these cases the assessment is successfully completed and no further action is required.

Councils may obtain a criminal history report and conduct the assessment/screening themselves or apply to a third party (such as the DECS Screening Unit) for an assessment and letter of clearance. Information about the screening unit is available from:

www.dcsi.sa.gov.au/services/screening

If Council chooses to conduct the assessment/screening, and the individual does have a criminal history, this information must be assessed in accordance with DECD Standard 5.

Indicators of compliance are summarised as follows:

- Transparent process – opportunities for individual to understand the basis upon which criminal history information is assessed, and allow the individual to provide further information and contextual factors
- In assessing risk to children, assess
 - Situational factors (nature of services, nature and vulnerability of children receiving services, personal factors)
 - Context of offending

- Document evidence that indicates consideration on case by case rather than automated clearances or preclusions.

Standard 6: Ensuring procedural fairness if a person has a criminal history

- Decision to employ or retain the services of a person with recorded convictions must be rigorous, defensible and transparent
- Rationale for excluding people has been documented and is evidence-based
- Procedures state individuals have a right to respond
- Grievance procedures where relevant are known and understood.

Standard 7: Records Management

- Ensure procedures in place to protect privacy (to the extent possible) and ensure confidentiality of both criminal history information and the assessment of a criminal history report. Safeguard to protect against loss, unauthorised access, modification, disclosure or other misuse
- Criminal history should not be obtained once a decision has been made regarding the person's suitability to work with children, and should not be retained for a period exceeding three months.
- Organisations should retain the following information regarding their decision:
 - That a criminal history report was obtained
 - How the information affected decision making
 - Statutory declarations where applicable.

A Screening Unit has been established within Department of Communities and Social Inclusion to provide a centralised and consistent approach to screening/assessment of criminal history records.

The Unit offers a full fee based screening service to all government departments and agencies, non government agencies and volunteer groups. National Criminal History Record Checks are conducted by the Branch via the CrimTrac Agency.

In the majority of cases, checks will be completed within 72 hours of receipt at the Unit.

For further information contact the Screening Unit at www.dcsi.sa.gov.au/services/screening.

Mandatory reporting - who needs what training?

Mandated notifiers are staff, volunteers, contractors or consultants **who provide services wholly or partly** for children, being young people under 18 years of age. Supervisors and/or managers who have **direct responsibility** for the supervision of the provision of those services are also mandated notifiers. The following points provide further guidance:

- 1.1** Parks and garden staff, dog and parking inspectors, and maintenance staff, do not provide services to children. They may come into contact with children from time to time in carrying out their duties, but are not mandated notifiers.
- 1.2** Children are amongst the recipients of certain Council services, for example libraries, recreation centres, swimming pools, community centres, information services, and some community development programs. Staff and volunteers in these roles are mandated notifiers because they provide services **partly** to children.
- 1.3** Staff and volunteers in other roles provide services **wholly** to children, such as immunization services, child care centres, children's library programs, education programs for children, and Youth Advisory Committees. Those involved in delivering these services are mandated notifiers.
- 1.4** Supervisors and/or managers who have **direct responsibility** for the supervision of those staff and volunteers who provide services partly or wholly to children are also mandated notifiers.

There will be other types of services provided by Councils either wholly or partly to children. It is suggested that the above "partly" or "wholly" test be applied to determine if relevant staff and volunteers are mandated notifiers.

2. What are the training requirements?

Note: DECD Standards require that Council ensures all volunteers and employees aware of their responsibilities under law as mandated notifiers and that volunteers and employees are able to identify and respond to children at risk of harm.

The training programs delivered through Local Government in South Australia since 2007 has been accredited by DECD in accordance with these standards.

The DECD suggest mandated notifiers undertake refresher training 3 years after the initial training and every 3 years thereafter.

Clarification has been sought by some councils about the level of training required for mandated notifiers in various roles, that is, whether providing services partly or wholly to children. Enquiries have also been received from Councils about refresher training requirements. The following schedule provides guidance to assist Councils to determine the appropriate level of training for mandated notifiers.

| Nature of services provided | Training Requirements |
|---|--------------------------------|
| Staff/volunteers providing services wholly to children | One day program |
| Staff/volunteers providing services partly to children, and who may have regular and on-going contact, and where there is the possibility of establishing a relationship with the child | One day program |
| Direct managers or supervisors of the above staff/volunteers | One day program |
| Staff/volunteers providing services partly to children, incidental to the overall service provision | 2-1/2 hour Orientation Session |
| Direct managers or supervisors of the above staff/volunteers | 2-1/2 hour Orientation Session |

A refresher program, similar to the orientation session, is also suggested as good practice 3 years after the initial training/orientation session and every 3 years after that.

WHAT ARE THE TRAINING OPTIONS?

DFC offer a 3 day *Child Safe – Mandatory Reporting Train the Trainer Program*. Participants who complete this program are accredited trainers for the one day training session and then able to conduct in-house training.

A one day “*Child Safe Mandatory Reporting*” training session, and a 2-1/2 hour *Orientation/Refresher session* is offered through LGA’s Education and Training Service Program.

- **Contact: Training and Development at the LGA on telephone 8224 2035, or**
- or independent DECD accredited trainers are available to conduct “in-house” training.

Office for Recreation and Sport (ORS) are offering training for recreation centres, clubs and sporting associations.

- Visit: www.recsport.sa.gov.au

On line training for sport and recreation service providers

- via *Play by the Rules*
- www.playbytherules.net.au

- TAFE SA have also conducted regional training

Please see the Risk & WHS Officer for training options.

Managing the risks of abuse

The following commentary highlights issues to address to manage risks of abuse under the categories of Programs, Premises and Participants. The information has been sourced from the Risk Management Resource Centre – www.nonprofitrisk.org (Washington DC USA)

Programs – the combination of activities, equipment and leadership

Basic safety considerations serve to limit opportunities for abuse, such as

- Determining the number of leaders required for specific activities
- Providing opportunities for parental/carer participation
- Matching program activities to the physical and intellectual capabilities of participants
- Recognising the risks that some activities – such as photography and access to the Internet – afford for abuse.

Premises – the physical environment in which activities are conducted

The physical environment in which an organisation conducts its activities can enhance opportunities for abuse, or it can reduce the risks. Organisations should consider the following issues.

- Safety and security in recreational areas such as playgrounds, reserves, skate parks, and places where young people gather. For example, design features which ensure visual surveillance and lighting.
- Access control, lighting, design of shower and toilet facilities when selecting locations to use for children's programs.
- Ideally, the organisation should be able to monitor people entering and leaving its programs.
- Rooms and closets not required for program activities should be secured to prevent children from being isolated.
- Indoor and outdoor areas should be adequately illuminated to enable observation of activities and discourage victimization attempts in parking lots or play areas.

Participants – protective work practices

Organisations should strive to develop a personal shield of safety around participants in activities for children and other vulnerable people, and ensure protective work practices are in place to guide staff and volunteers in providing services to children. Examples follow.

- Adopt policies concerning the administration of discipline. Corporal punishment should not be permitted.
- Out of program contact between staff/volunteers and participants should be expressly prohibited. If not, the liability for such activities should be transferred to the parents/carers.
- Limit the opportunity for one-on one, close and unsupervised contact between workers and volunteers and children, young people and other vulnerable people
- Gain consent of parents/care givers in advance if one-on-one unsupervised contact is to occur
- Workers and volunteers to report to supervisors/managers in advance if one-on-one unsupervised contact is to occur
- Offer child abuse prevention education to young participants in programs and parents/carers.

Appendix 5

References and contacts

A collection of Child Safe Environment references and resources on a range of topics is available via the [Department for Child Protection](#).

Child Abuse Report Line - Telephone 13 14 78. This is a 24 hour line and can be reached from anywhere in South Australia for the cost of a local call. Reports can also be made on-line at <https://my.families.sa.gov.au/IDMProv/landing.html>, please note that not all reports should be made on-line and you will need to register prior to lodgement.

SAPOL Special Investigations Unit – Telephone 8226 1604.

A resource for discussing, in confidence, concerns about behaviour of employees or volunteers that is believed to be inappropriate adult to child behaviour.

Department for Education and Child Development , Child Protection Policies and Training Packages

- Appropriate Behaviour “Protective Practices for School Staff in their Interactions with Students - Draft Policy Statement”
- www.developingpeople.sa.edu.au/developingpeople/pages/people_directory/directory_home/

NSW Commission for Children and Young People

“Child Safe and Child Friendly Policy”

“Working with Children Check”

“Reducing Risk”

- www.kids.nsw.gov.au

Volunteer Resources Canada

“Screening: Volunteer Canada’s Safe Steps Screening Program”

- www.volunteer.ca/volcan/eng/content/sscreening/safe-steps.hph?display=4,0>

SAPOL – Volunteer Organisation Authorisation Number for Police Checks – applying to non-government organisations providing a charity or community service.

- The State Government will meet the cost of police checks for volunteers who work with “vulnerable groups” such as children, the aged and frail, or people with a disability.
- For further information contact 8204 2438, visit www.police.sa.gov.au or email SAPOLrecodrds@police.sa.gov.au

Telephone contacts for advice and assistance for children and parents

- Kids Help Line 1800 55 1800
- Lifeline 131 114