

## **CHILD PROTECTION POLICY**

### **PURPOSE:**

In accordance with the Department of Community Services and our responsibility under Mandatory Reporting, Management and staff will act as child protection advocates and ensure that any suspected cases of child abuse or neglect will be dealt with accordingly. We aim to ensure that there is provision for a safe environment for all children who attend the service. We will ensure that preventative practices of Child Protection Training and comprehensive understanding and adherence to child protection legislation are implemented and followed in order to prevent reportable conduct from occurring within and outside our service.

### **IMPLEMENTATION:**

Either through formal Child Protection Training and/or through the reading and subsequent commitment to this policy all staff are deemed to understand their responsibilities under the child protection legislation.

Should any staff member suspect that a child attending the centre may be at Risk of Harm it is their duty to report this to the Authorised Supervisor.

Risk of Harm means that there is concern about the safety, welfare and well-being of children for any of the following reasons:

- The child's basic physical or psychological needs are not being met or are at risk of not being met (neglect)
- The parents /caregivers have not arranged necessary medical care  
The child is at risk of being physical or sexually abused or ill-treated
- The child is living in a home where there have been incidents of domestic violence
- The child had suffered or is at risk of suffering serious psychological harm

All people who work in Children's Services are mandatory reporters, ie. are legally obliged to report any current concerns to NSW Department of Community Services Intake Officer. It is imperative that all staff maintain confidentiality for the protection of the family involved.

### **RESPONDING TO ALLEGATIONS OF CHILD ABUSE INVOLVING EMPLOYEES**

Elder Street Early Childhood Centre is committed to the care and protection of children and young people under the Ombudsman amended (Child Protection and Community Services) Act 1998. As a designated agency we have the responsibility in reporting to the Ombudsman allegations or convictions of

child abuse against an employee regardless of where the alleged abuse occurred, either in the course of their employment or outside working hours. As a part of our overall Duty of Care responsibility to the safety, welfare and wellbeing of children and young people, Elder Street will adhere to:

- ❖ Conducting Working with children check in screening for work - related employment and Prohibited Employment Declaration Form
- ❖ Procedures for responding to child abuse allegations and convictions involving employees
- ❖ Provide staff with professional education and relevant training in Child Protection

**The key focus areas:**

- \* Notifying the Ombudsman of any allegations or convictions of child abuse against an employee
- \* Responding to allegations and convictions of child abuse against employees
- \* Reporting to the Ombudsman's office the outcomes of an investigation
- \* Preventing child abuse by employees

**Definitions:**

- "Reportable allegation" means an allegation of reportable conduct against an employee or an allegation of misconduct that may involve reportable conduct.
- "Reportable conviction" means a conviction (including a finding of guilt without the court proceeding to a conviction) in NSW or elsewhere, of an offence involving reportable conduct.
- "Reportable conduct" means:
  - (a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including child pornography offence), or
  - (b) any assault, ill-treatment or neglect of a child, or
  - (c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child."Reportable conduct" does not include:
  - (a) conduct that is reasonable for the purposes of the discipline, management of care of children, having regard to the age, maturity health or other characteristics of the children and to any relevant codes of conduct or professional standards, or
  - (b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
  - (c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under section 25CA (this section does not currently relate to the children's services sector)
- "Child" means a person under the age of 18 years
- "Employee" includes:

- any employee of the agency, whether or not employed in connection with any work or activities that relate to children, and
- any person engaged by the agency to provide services to children, including volunteers, work experience students and students on placement.

### **Head of Agency – Licensee**

- \* The role of the Licensee is to make sure all staff are aware of their obligations
- \* The allegation is reported to the Department of Community Services as a child at 'Risk of Harm' under the Children and Young Persons (Care and Protection) Act 1998 if current concerns exist for the safety, welfare or well-being of the child or young person.
- \* To notify the NSW Ombudsman of any child abuse allegation or conviction against employees within 30 days of finding out about the matter.
- \* To conduct an internal investigation which can be preliminary or other inquiries, perform assessments and to take appropriate action as a result
- \* Submit a report to the Ombudsman at the end of the investigation into the allegation or conviction.

### **Legislative requirements**

It is the agency's responsibility to understand and follow the guidelines set down by the following legislation:

- Children and Young Persons (Care and Protection) Act 1998: All staff working in children's services are mandatory reporters. There is a mandatory obligation to report any suspected risk of harm to the Department of Community Services (DOCS) Helpline.
- Ombudsman Act 1974: The head of the agency has the responsibility to notify the Ombudsman of the reportable allegations or reportable convictions made against an employee in the agency within 30 days of becoming aware of the allegation. The head of agency also has the responsibility to investigate all allegations.
- Commission for Children and Young People Act 1998: The employer has the responsibility to notify the Commission for Children and Young People (CCYP) of the employee's details who was the subject of the completed relevant employment proceeding as outlined in the CCYP Act and the "Working with Children Check Guidelines", April 2004.
- Child Protection (Prohibited Employment) Act 1998: The employer has the responsibility to screen all prospective employees according to this Act.

## **Prevention**

The following processes are undertaken by staff working at Elder Street Early Childhood Centre to ensure a safe environment for all children:

- Working with Children Checks
- Prohibited Persons Declaration
- Thorough recruitment and interview process
- Staff training in child protection
- Code of conduct – this document clearly states the centre’s guidelines for appropriate conduct and what is deemed to be inappropriate
- Policies – including Supervision, Behaviour Management, Nappy Change Procedure, Child Protection Policy and a Commitment to Policies process which requires staff to sign off that they have read all policies of the centre.

## **Roles and Responsibilities of staff when a reportable allegation is made**

### **Relevant Information:**

- \* An allegation of child abuse can be made against a staff member by another employee, a child, the child/ren’s family member, other caregiver, or may arise from advice received by an investigative agency including DOCS, the Police Service and/or the Ombudsman
- \* All allegations made against an employee will be addressed according to the procedures outlined in this policy.
- \* It does not matter where the abuse is said to have taken place, eg. at the centre, in the home or the community. All allegations of child abuse against an employee must be reported to the Ombudsman’s Office.
- \* The Ombudsman has to be notified of any allegation against an employee whether or not you have reasonable grounds to believe that the abuse has taken place, irrespective of whether the head of the agency believes the allegation to be unfounded, malicious or vexatious. The Ombudsman has a lower threshold or “test” for notification than DOCS. The Ombudsman must receive written notification within 30 days of becoming aware of the allegations. The investigation does not need to be completed within this time frame.
- \* An allegation involving the head of agency (Licensee) will be addressed to the Director.

## **RIGHTS**

### **Child/ren**

- ❖ Will be treated with dignity and respect
- ❖ Their allegations and statements will be taken seriously and addressed without undue delay
- ❖ Will not be interviewed by inexperienced investigators
- ❖ Information will only be disclosed to appropriate persons or agencies
- ❖ Will be offered support and special consideration during and after the process is underway whilst they are still attending the service

with their individual needs of safety, security and stability being of foremost importance.

### **Family**

- ❖ Will be informed that their child is the subject of alleged abuse by an ESECC employee as soon as possible unless to do so would compromise the investigation
- ❖ Permission to interview the child will be obtained from the parents.
- ❖ Will be offered support through the process, (counselling, arranging for alternate care).
- ❖ Will have respect for diversity
- ❖ Are able to complain to the NSW Ombudsman if they are dissatisfied with the conduct of the investigation.

### **Employee**

- ❖ Will be afforded procedural fairness in the event of an allegation being made against them - this will include informing them of the substance of the allegation and providing them with a reasonable opportunity to respond to the allegation (verbally, in writing, or both)
- ❖ Will be informed of the process for the investigation,
- ❖ Will be informed of the outcome of an initial risk assessment undertaken when an allegation is first made if the outcomes adversely effect the employee, and of subsequent risk assessments.
- ❖ Will know that the outcome will be supported by evidence
- ❖ Will be able to complain to the NSW Ombudsman if they are dissatisfied with the conduct of the investigation
- ❖ Will be offered support through the process where possible

## **ROLES AND RESPONSIBILITIES**

### **Staff**

- ❖ Report any incident which may constitute an allegation of child abuse immediately to the Director
- ❖ Ensure the safety, welfare and well - being of child/ren

### **Director**

- ❖ Ensure any incident which may constitute an allegation of child abuse is reported immediately to the Licensee
- ❖ Undertake in the investigation process
- ❖ Prepare investigation report for the Licensee
- ❖ Assist in the ongoing management of issues arising out of an investigation
- ❖ Consult with the Licensee re: disciplinary action against the employee
- ❖ Support and facilitate the development or review of relevant policies and procedures through the final outcome of the investigation
- ❖ Ensure the safety, welfare and well - being of child/ren

### **Licensee**

- ❖ Determine if allegation exists
- ❖ Notify Ombudsman (Initially)
- ❖ Report to DOCS/Police and liaise throughout the process
- ❖ Develop investigation plan in consultation with the Director

- ❖ Determine who will undertake this plan
- ❖ Determine status of employee during investigation based on the outcome of the risk assessment
- ❖ Make a decision on whether allegation is sustained or not, based on the findings of the investigation and investigators recommendations.
- ❖ Determine if disciplinary action is warranted
- ❖ Forward final report to NSW Ombudsman's Office
- ❖ Implement any disciplinary action
- ❖ Report to the Commission for Children and Young People any relevant disciplinary proceedings

### **NSW Ombudsman**

Under the Ombudsman Act the Ombudsman must keep under scrutiny the systems agencies have in place for preventing child abuse by employees, and for handling and responding to child abuse allegations, or convictions involving those employees.

The Ombudsman may undertake a number of activities to monitor those systems, including:

- ❖ Assessing notifications of allegations of child abuse
- ❖ Monitoring investigations conducted by an agency
- ❖ Recommendations for action in respect to the matter
- ❖ Direct investigation by the Ombudsman
- ❖ Investigating complaints
- ❖ Auditing agencies

### **Department of Community Services**

The role of DOCS in Child Protection is prescribed by the Children and Young Persons (Care and Protection) Act 1998 and includes:

- ❖ Providing or arranging services to children young people or parents when a request is received
- ❖ Receiving and assessing reports of child abuse and neglect
- ❖ Investigating those reports where there is a likelihood of risk of harm to the child or young person
- ❖ Acting to maintain the safety of children and young people
- ❖ Monitoring the safety of the child when serious harm has been identified and developing case plans

### **NSW Police Service**

The role of the NSW Police Service in child protection is to recognise, report and investigate child abuse and neglect, and initiate legal proceedings for child abuse and neglect offences under the Crimes Act 1900 and the Children and Young Persons (Care and Protection) Act 1998. In addition, the Police Service intervene in child abuse and neglect cases to ensure the immediate protection of children and young people including, where appropriate, the initiation of apprehended violence orders and / or criminal court proceedings.

Plan, conduct and manage, with the DOCS, (the NSW Health when required), joint investigations of child sexual abuse and serious physical abuse reports, through Joint Investigation Teams.

### **Commission for Children and Young People Act 1998**

The role of the Commission in child protection is to promote the safety, welfare and well-being of children and young people. It has a key role in conducting and monitoring the Working With Children Check in screening for child related employment.

### **Child Protection (Prohibited Employment) Act 1998**

Aims to prevent a "prohibited person" from applying for, gaining or remaining in child - related employment.

## **PROCEDURE FOR RESPONDING TO THE ALLEGATION OF CHILD ABUSE INVOLVING AN EMPLOYEE**

- A. Employee becomes aware of an allegation
- B. Director notified immediately - Employee notifies Director of the child protection concern or allegation of child abuse.
- C. Director notifies Licensee of child protection concern or allegation.

On receipt of the allegation the Licensee in consultation with the Director seeks to clarify the allegation. When a complaint/concern does not have the elements of an allegation a decision is made whether the matter should be treated as an allegation. When an allegation is clearly wrong or unsustainable the Licensee, Director, employee and any support person at the employees request, will meet to discuss and agree in the assistance that the employee requires as a result of the allegation

If, after notification to the Ombudsman and investigation, a matter is found to be a vexatious complaint made by an employee against another employee this shall be dealt with under Elder Street's disciplinary procedures. Vexatious complaints made by users of this service may result in exclusion of the family from the service and will be determined by the Licensee.

### **Risk Assessment of an employee**

A risk assessment is initiated and will continue throughout the centre's investigation of the allegation, at the conclusion, after a finding is made and when a decision needs to be taken regarding any possible disciplinary action. After this stage a review of the risk assessment procedure will also be conducted.

### **Factors to be considered when conducting a risk assessment include:**

- Nature of the allegation
- Vulnerability of children
- Nature of position occupied by the employee
- Level of supervision of the employee
- Disciplinary history of the employee
- Safety of the employee

## Risk to the investigation

A decision is made to determine if the employee should remain in their current position, have increased supervision, on restricted duties, transferred to alternate duties, or suspended until the allegations have been determined after thorough investigation.

A decision to take action on the basis of a risk assessment arising from an allegation of child abuse against an employee, is no way an indication that the allegation is sustained, rather it recognises the serious potential consequences of a child abuse allegation (whether or not it is proven) and that Elder Street Early Childhood Centre is seeking to manage the risk.

A notification is made to DOCS Helpline if there is a current concern that a child is **'At Risk Of Harm'**

A confidential file and initial report is prepared by the Director  
Supports may be offered to the child/ren, any witnesses, the employee or other involved parties, including counselling, management support, or a stipulated period of staff leave agreed to by the relevant staff member and management

### **D. Conducting an internal investigation**

Who will conduct the investigation and establish an investigation plan will be determined by the Licensee and/or Director.

#### **This plan will address the following issues:**

- ❖ What information will be offered to the family, employee involved and other staff.
- ❖ Who are relevant people and witnesses to be approached in providing information / evidence.
- ❖ Identification of possible strategies to support the child, family members, employee / other staff and witnesses for example: referral to professional counselling, alternate care arrangements for the child, staff leave or redeployment.
- ❖ Ensure that investigator/s are objective and impartial and that there is no 'conflict of interest'. This refers to situations where a conflict arises between duty (position) and self interest (person). Therefore, investigators and /or any person deciding matters who has a conflict of interest (actual or perceived) will not be appointed or remain involved. If the appointment of investigator cannot be resolved internally, ESECC would seek assistance externally.
- ❖ Establishing how, when, where, and by who interviews with employee involved, witnesses and the child will be conducted. Wherever possible the interviewer must be trained and experienced in the interviewing of children.
- ❖ Where possible an estimated time frame for the investigation will be set.

## **E. Investigation Procedure**

1. Clarify the allegation; make notifications internally (eg. Parents and relevant staff members and externally (Ombudsman Office) as required.
2. Determine whether Department of Community Services will be notified, who may in turn refer the matter to the Joint Investigation Team of the NSW Police Department.
3. Carry out a risk assessment.
4. Collect all relevant documentary evidence eg. (Medical reports if procurable, rosters).
5. Interview all relevant witnesses, ensure all are adequately recorded - taped and transcribed and records are signed and dated by all involved.
6. Interview the employee; ensure this is done in accordance with all relevant legal considerations and giving them the opportunity to respond.
7. Make a finding based on the factual evidence as to whether the allegation is sustained or not sustained
8. Confidentiality is imperative, in the interests of all parties and to foster procedural fairness.

## **F. From the investigation and supporting documents the Licensee makes a determination on the findings and course of action.**

### ***Several outcomes are possible -***

- (a) The allegation is not sustained
- (b) Referral to an external agency for further investigation, prosecution or other appropriate action
- (c) Disciplinary or other management action by Elder Street Early Childhood Centre which may jeopardise the staff member's employment
- (d) Development or review of relevant policies and procedures

At a further interview the employee is advised in writing of the final findings/ recommendations and what disciplinary action (if any) will be taken. The employee will be given the opportunity to make a submission on their behalf for inclusion to the Ombudsman's Office.

The employee is advised of his/her right of appeal to the Licensee, or to make a complaint to the Ombudsman's Office if the employee is not satisfied with the response to, or handling of the allegation.

## **G. A final written report is submitted to the Ombudsman's Office**

A final report with supporting documentation is sent to the Ombudsman. This will include the results of the investigation, copies of all statements taken in the course of the investigation, all other documents on which the report is based and advise as to the action that has been taken with respect to the employee.

## **H. The Ombudsman responds to the final report and findings**

The Ombudsman will review the findings, the process and whether appropriate action was taken as a result of the investigation.

## **I. Record keeping**

All records are confidential and will be kept in a secure location separate from the employee file with restricted access of information. It is important that correct records are kept of any reportable allegation as this will demonstrate how we have responded to such an allegation. The following information must be documented when an allegation has been made:

- the allegation itself – a brief summary of what has been said by whom
- any initial response provided by the centre to the person making the allegation, the alleged victim(s) and the employee who is the subject of the allegation
- a plan detailing how the investigation is to be carried out including whether others such as DOCS or Police need to be advised
- an initial risk assessment, including identified risks, arrangements to manage those risks, decisions about the employee and actions taken in relation to the child or employee – change in duties, support or counselling
- all interviews, including details of the questions and responses, including location of interview, names of those present and start and finish times. Where possible this record of interview should be verified, signed and dated.
- any decisions made either during or at the conclusion of the investigation, including rationale, position and name of person making the decision and date of making.
- Any personal contact made including discussions or emails with anyone regarding the matter
- A summary report that details the allegation, the investigation process, the findings including rationale of each investigation, the final risk assessment including final decisions regarding the employee and considered factors and any subsequent action that did or did not take place.

We will also maintain records of letters or reports to the employee involved regarding findings to each allegation and any actions taken and all records will be stored securely and in a place readily accessible (please see Confidentiality Policy for further information). All records will be kept permanently.

## **J. Commission for Children and Young People**

Any investigation which results in disciplinary action against an employee will be reported to the CCYP and the employee will be notified in writing that such action has been taken.

## **K. Prevention Strategies**

- ❖ All staff to sign and abide by the centre's Code of Conduct and Code of Ethics
- ❖ Provide child protection information and training during staff induction process
- ❖ Staff will have access to relevant training and development in the recognition and reporting process.

- ❖ Staff will have access to information on current child protection legislation.
- ❖ All staff will be given a copy of Responding to Allegations of Child Abuse involving Employees Policy and sign "Policy Acknowledgement Form".
- ❖ Policy to be reviewed annually in consultation with families and staff.

Developed: 11<sup>th</sup> September 2002

Reviewed: 16<sup>th</sup> June 2003

Reviewed: 8 March, 2005 by M Duffy-Fagan

Reviewed: 12<sup>th</sup> April, 2006 by M Duffy-Fagan

Reviewed: 28 June 2006 by M Duffy-Fagan

Reviewed: May 2007 by M Duffy-Fagan

Reviewed: 11 August 2008 by M Duffy-Fagan/K Pomfrett/T Christie/K Mitchell

Source: Children and Young Person (Care & Protection) Act 1998

Department of Community Services

NSW Child Protection Council

Children's Services Regulation 2004 85(2)(a)

[www.community.nsw.gov.au/child\\_protect/mandatory\\_reportersinfo](http://www.community.nsw.gov.au/child_protect/mandatory_reportersinfo)

NSW Ombudsman Child Protection, Responding to Allegation of Child Abuse Against Employees – March 2001

NSW Interagency Guidelines for Child Protection Intervention – 2000 Edition

Children and Young Persons (Care and Protection) Act 1998 No 157 February 2001

2008 review supported by – ECTARC Statement of Attainment in identify and respond to children and young people at risk of harm – study booklet, Early Childhood Training and Resource Centre

Supporting Policies:

Interactions with Children

Behaviour Intervention & Support

Sun Protection

Staff Recruitment

Confidentiality & Privacy

Food & Nutrition

Nappy Change Procedure

Toileting

Injuries & Accidents