

## Rationale

SDN is committed to promoting the safety, welfare and wellbeing of children. This means providing and supporting environments where children are safe, nurtured and respected. A safe environment is one in which children and young people are free from harm or abuse of any type.

The range of services that SDN operates offers many opportunities to identify children at risk and to assist vulnerable parents/carers to access support to provide safe nurturing environments for their children. SDN staff members are well placed to identify and respond to family risk factors for child abuse and neglect early in a child's life in order for these risks to be reduced and child outcomes to be improved.

SDN recognises the important role that family and community play in children's protection and wellbeing. For this reason, SDN works closely with families, local agencies and communities to contribute to achieving good outcomes for children. This stance is consistent with the *International Convention on the Rights of the Child*, New South Wales (NSW) and Australian Capital Territory (ACT) child protection legislation and SDN's vision, mission and values.

A range of agencies have responsibility for responding to children and young people who may be at risk. It is the responsibility of non-government agencies, including SDN, to support families when a child is identified as being at 'risk of harm', where the risk is not deemed to be significant.

## Scope

This policy covers all SDN Board members, staff members, volunteers and students and relates to children and young people under the age of 18.

## Key Terms

### Child wellbeing

The concept of 'child wellbeing' covers all areas of SDN operations, from promoting healthy relationships within families, staff members and communities, to designing accessible built environments, and promoting a healthy, sustainable environment for future generations.

Children's wellbeing underpins SDN's decision making in relation to service delivery, planning and evaluation.

SDN is committed to enhancing the 'quality of life' of children. Quality of life and wellbeing indicators, as informed by *Australian Research and Alliance for Children and Youth (ARACY)* and the *International Convention of the Rights of the Child*, include children being surrounded by and a part of supportive systems and environments which contribute to them:

- being loved and safe
- having material basics
- being healthy
- learning and participating.

## Child protection

The goal of child protection is to promote, protect and fulfil children’s rights to be free from abuse, neglect, exploitation and violence.

Child abuse and neglect can take on many forms including physical, sexual, psychological, exposure to domestic violence, impacts of parental mental health concerns and substance misuse, educational, as well as cumulative risk of harm.

Child Protection is the collective responsibility of families, community and whole of government and is guided by the NSW *Child and Young Person (Care and Protection) Act 1998 – with amendments* and the ACT *Children and Young People Act 2008*.

In NSW, the Department of Family and Community Services (FaCs) is the statutory authority responsible for child protection. In the ACT, it is Child and Youth Protection Services (CYPS). Each of these bodies has the power under legislation to investigate and intervene when there are concerns of ‘risk of significant harm’ (in NSW) or ‘risk of harm’ (in ACT).

## Mandatory reporter (NSW and ACT)

Certain groups of people are required by law to report to Government if they suspect (using their professional judgement and training) on reasonable grounds, that a child or young person is at risk of harm or significant harm. In NSW, a mandatory reporter is anybody who delivers the following services to children as part of their paid or professional work:

- health care (e.g. doctors, nurses, dentists and other health workers)
- welfare (e.g. psychologists, social workers and youth workers)
- education (e.g. teachers, principals)
- children’s services (e.g. child care workers, family day carers and home-based carers)
- residential services (e.g. refuge workers, community housing providers)
- law enforcement (e.g. police).

‘Mandatory reporter’ also includes the direct managers of the above groups.

In the ACT, mandatory reporting is a legal requirement for certain professionals that work with children. This includes, amongst others:

- doctors
- dentists
- nurses

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- midwives
- teachers
- police
- counsellors
- child care centre workers

Mandatory reports in the ACT must make a report if they believe on reasonable grounds, based on information obtain during (or because of) their work, that a child or young person has experienced, or is experiencing:

- sexual abuse, or
- non-accidental physical injury.

In the ACT mandatory reports can also choose to make a voluntary report if there is a suspicion or belief that a child or unborn child is:

- being abused, or
- being neglected, or
- at risk of abuse or neglect.

### Risk of significant harm - NSW

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent.

Where a child is identified as at ‘risk of harm’ or at ‘risk of significant harm’, SDN shares responsibility for the child’s safety, welfare and wellbeing and works with families, local agencies and communities to contribute to a reduction of risk, and toward achieving improved outcomes for the child.

What is meant by ‘significant’ in the phrase ‘to a significant extent’ is that which is sufficiently serious to warrant a response by a statutory authority irrespective of a family’s consent.

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person’s safety, welfare or wellbeing.

In the case of an unborn child, what is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child’s birth.

‘Significant’ can result from a single act or omission or an accumulation of these.

### Reportable conduct (NSW and ACT)

All Board members, staff members, volunteers, students and contractors of SDN in NSW and the ACT can be subject to an allegation of reportable conduct.

In NSW, SDN defines Reportable Conduct in accordance with section 25A(1) of the *Ombudsman Act 1974 (NSW)*, as:

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- any sexual offence, or sexual misconduct, committed against, with, or in the presence of a child or young person including a child pornography offence, sexually explicit comments and other overtly sexual behaviour in the presence of a child, grooming behaviour; and crossing professional boundaries (behaviour that can be reasonably construed as involving inappropriate and overly personal or intimate relationship with, conduct towards or focus on a child or young person or a group of children or young persons).
- any assault or ill-treatment, including hitting, shaking or any action that involves inappropriate restraint/excess force, or force that is hostile or reckless
- any neglect of a child including supervisory neglect that is either an intentional or reckless failure to adequately supervise a child that results in the death of, or significant harm to, a child, or an intentional or reckless failure to adequately supervise a child, or a significantly careless act or failure to act, that involves a gross breach of professional standards, and has the potential to result in the death of, or significant harm to, a child
- any behaviour that causes psychological harm to a child or young person.

The above conduct qualifies as reportable even in cases where the child or young person has given their consent to the behaviour.

In ACT, SDN defines Reportable Conduct in accordance with section 17E of the *Ombudsman Act 1989 (ACT)* as:

- sexual offences and convictions where a child is a victim or is present
- offences against the person, including physical offences and convictions, where a child is a victim or is present
- conviction, or finding of guilt, under a territory law or a state or Commonwealth law, involving reportable conduct
- offences against the *Education and Care Services National Law* (inappropriate discipline or offences relating to protecting children from harm)
- ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, neglect and inappropriate, restrictive intervention)
- psychological harm
- misconduct of a sexual nature.

The above conduct qualifies as reportable even in cases where the child or young person has given their consent to the behaviour.

## Policy

SDN will:

- recognise and respond to vulnerabilities, risks and needs of families and children when providing any service with a focus on child wellbeing and prevention from harm

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- collaborate across SDN and with relevant agencies and comply with information exchange provisions to support and strengthen families and promote child health, safety, welfare and wellbeing; including taking reasonable steps to coordinate the provision of services with other agencies
- meet requirements for mandatory reporting of children suspected of being at risk of significant harm in NSW and risk of harm in the ACT and report unborn children where it is suspected they may be at risk of significant harm (NSW) or risk of harm (ACT) after their birth
- respond to the needs of children after making a report to the relevant statutory authority, provide access to support for children, families, staff and/or anyone raising concerns or making an allegation
- maintain strategies to prevent ‘reportable conduct’ by staff members; and strategies for reporting and responding to alleged reportable conduct involving SDN staff members and students doing placements in SDN services. All staff members will be familiar with what actions constitute reportable conduct. At the first mention (by anyone) or observation of any action that could be reportable conduct, the staff member will take no immediate action to investigate the situation. Such mentions or observations will be brought to the attention of the CEO as soon as possible
- in addition to meeting all legislation relating to mandatory reporting and/or reportable conduct, report any allegations to the Regulatory Authority in the relevant state or territory via the NQAITs within the required timeframe outlined in the National Law and Regulations.
- meet requirements for the Working with Children Check (NSW); or the *Working with Vulnerable People (Background Checking) Act 2011* in the ACT
- in NSW, use the *Mandatory Reporter Guide* to help identify children suspected of being at risk of significant harm and to help respond to vulnerable families and children below the ‘risk of significant harm’ threshold
- in ACT, make a *Child Concern Report* if you have a reasonable belief or suspicion that a child or young person is at risk of abuse or neglect and you wish to inform Child and Youth Protection Services of your concerns.
- actively seek feedback from the relevant statutory authority after making a child protection report and continue to support the child and family, consistent with roles and responsibilities
- follow the *Child Wellbeing and Protection – NSW Interagency Guidelines* and other agreed interagency procedures when working with children and families, including in relation to information exchange
- provide mandatory and/or other child protection and wellbeing training, resources and support for staff members
- take reasonable steps to ensure that families are aware that staff members who care for their children are mandatory reporters. It is not a breach of SDN's *Privacy Policy* to:
  - make a report to Family and Community Services in NSW or Care and Protection Services in the ACT about a child or young person
  - liaise with other agencies about a child’s wellbeing

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- in NSW, respond and initiate exchange of information (under Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998*) with other prescribed bodies, relating to the safety, welfare and wellbeing of children
- in ACT, track and monitor supports in place for children identified as being at risk of harm.

## Related SDN Documents

### Policies

- GI-HLP-1.07: Providing a Child Safe Environment
- GI-HLP-1.09: Privacy and Protection of Information
- GI-HLP-1.10: Code of Conduct
- GI-OP-1.13: Complaints Management
- SD-OP-2.04: Guiding Children’s Behaviour and Developing Social Competency
- SD-OP-2.05: Supervision of Children
- SD-OP-2.18: Excursions, Incursions and Regular Outings
- SD-OP-2.19: Death of a Child in Care
- SD-OP-2.22: Babysitting
- HR-HLP-3.03: Code of Conduct for Interactions with Children
- HR-OP-3.06: Onboarding and Probation
- WHS-HLP-4.01: Work Health and Safety

### Procedures

- SD-PRO-2.02-01: Reporting an Allegation of Possible Reportable Conduct
- SD-PRO-2.02-02: Responding to Concerns about Risk of Harm
- HR-PRO-2.02-03: Working with Children and Vulnerable People and Police Checks

### Other SDN Document

- SDN’s Strategic Plan

## Relevant Legislation/Regulations

- Children and Young Persons (Care and Protection) Act 1998
- Children and Young People Act 2008
- Children Legislation Amendment (Wood Enquiry Recommendations) Act 2009
- Children’s Court Act 1987

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- Child Protection (Working with Children) Act 2012
- Child Protection (Working with Children) Regulation 2013
- Commission for Children and Young People Act 1988
- Community Services (Complaints, Reviews and Monitoring) Act 1993
- Ombudsman Act 1974 (NSW)
- Ombudsman Act 1989 (ACT)
- Working with Vulnerable People (Background Checking) Act 2011
- Education and Care Services National Law Act 2010, sections 166 to 167
- Education and Care Services National Regulations, regulations 84, 168 (h)
  - Schedule 1: National Quality Standard, Quality Area 2, standard 2.3, elements 2.3.2, 2.3.4, 5.2.3, 7.1.5

## Other References/Related Documents

- Child Wellbeing and Child Protection - NSW Interagency Guidelines (Interagency Collaboration)
- National Framework for Protecting Australia’s Children
- A Guide to Working with Vulnerable People in the ACT 2012
- Australian Research and Alliance for Children and Youth (ARACY)
- NSW Working with Children Check
- WWCC Employment Screening Consent
- Child Protection in the Workplace NSW Ombudsman 2004
- Keeping Children and Young People Safe 2009
- Keep Them Safe: A Shared Approach to Child Wellbeing: 2009, Justice Wood.
- International Convention on the Rights of the Child
- The NSW Mandatory Reporter Guide. <http://www.community.nsw.gov.au/kts/reporting/mrg2>
- The ACT Child Concern Report <https://form.act.gov.au/smartforms/csd/child-concern-report/>
- National Framework for Protecting Australia’s Children
- NSW Ombudsman. *Child Protection - Notifying and identifying reportable conduct* <https://www.ombo.nsw.gov.au/news-and-publications/publications/fact-sheets/child-protection/child-protection-notifying-and-identifying-reportable-conduct>
- ACT Ombudsman Identifying Reportable Conduct [http://www.ombudsman.act.gov.au/\\_data/assets/pdf\\_file/0009/81000/No.-2-Identifying-Reportable-Conduct.pdf](http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0009/81000/No.-2-Identifying-Reportable-Conduct.pdf)

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