



## Child Protection Procedures.

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### Purpose

These procedures provide information for the purposes of child protection reporting practices at Marist Youth Care (MYC). The procedures outline the responsibilities around legal compliance and safe delivery of services to clients. It also outlines the roles and responsibilities of all employees and carers in this regard. These procedures should be read in conjunction with the Child Protection Policy.

### Legislation

The Agency is committed to compliance with the NSW Child Protection Legislation, common law duty of care and other legislative obligations that impact upon the provision of safe and supportive service delivery to clients and work environment for staff and carers.

The Agency reaffirms its commitment to the legislative requirements contained in the following Acts that relate to child protection in NSW.

***Ombudsman Act 1974*** (Part 3A relates to Child Protection jurisdiction)

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

***Children and Young Persons (Care and Protection) Act 1998***

***Community Services (Complaints, Reviews & Monitoring) Act 1993***

***Disability Services Act 1993 (& Disability Service Standards)***

### Who should report

Everyone in the community should be alert to signs of abuse or neglect in children and young people. Their safety, welfare and well-being is a community responsibility. An injury, concerning behaviour or

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a disclosure may be a trigger to consider whether you should report a child or young person, or whether you or your agency can offer support to prevent significant harm from occurring or continuing.

Any member of the community including **mandatory reporters** who suspect, on reasonable grounds, that a child or young person is at risk of **significant harm** should report their concerns to the Child Protection Helpline. Mandatory reporters should telephone **13 36 27**. Non mandatory reporters, including the general public, should phone **132 111**.

## Mandatory reporter

A mandatory reporter is an individual required by law to report to Family & Community Services (FACS) when they have reasonable grounds to suspect that a child, or class of children, is at risk of significant harm from abuse or neglect and that those grounds are identified during the course of, or from the person's work. Mandatory reporting responsibilities are set out in the *Children and Young Persons (Care and Protection) Act 1998* (Care Act).

While it is mandatory to report children aged 0-15 years at risk of significant harm, it is not mandatory to report young people aged 16-17 years, or unborn children. Professional judgement should be used in deciding whether concerns about the safety, welfare or wellbeing of an unborn child or a young person warrant a report to Family & Community Services (FACS). In the case of MYC employees and carers, policy and procedures require them to report risk of significant harm of young people.

Mandatory reporters in the Care Act are those who deliver the following services wholly or partly to children as part of their paid or professional work:

- Health care (eg; doctors, nurses, dentists and other health workers)
- Welfare (eg; psychologists, social workers and youth workers)
- Education (eg; teachers)
- Children's services (eg; child care workers, family day carers and home based carers)
- Residential services (eg; refuge workers)
- Law enforcement (eg; police).

Managers - including both paid employees and volunteers - who supervise those providing direct services to children are also mandated to report.

Mandatory reporters will be guided by the **Mandatory Reporter Guide (MRG)**, available as an interactive online tool at [http://www.keepthemsafe.nsw.gov.au/reporting\\_children\\_at\\_risk/mandatory\\_reporter\\_guide](http://www.keepthemsafe.nsw.gov.au/reporting_children_at_risk/mandatory_reporter_guide)

Mandatory reporters employed in government agencies that have a Child Wellbeing Unit (CWU) can call their CWU for help to determine whether a case meets the new threshold of risk of significant harm and to discuss options to assist the child or young person and family. At MYC in the absence of a CWU staff should contact their supervisor/ Manager for advice.

Mandatory reporters should note that the legislation requires that they continue to respond to the needs of the child or young person within the terms of their work role, even after a report to the Child Protection Helpline has been made.

While the legal obligation to report remains, the provision for a criminal penalty to be imposed on mandatory reporters for failing to report concerns about risk of harm was removed from the legislation in January 2010.

(Source: Community Services Factsheet, KTS Website: [www.keepthemsafe.nsw.gov.au](http://www.keepthemsafe.nsw.gov.au) )

## Risk of Significant Harm

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

This means the concern is sufficiently serious to warrant a response by a statutory authority (such as Family & Community Services) 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 well being, or in the case of an unborn child after the child's birth.

The significance can result from a single act or omission or an accumulation of these.

## When to report

The Care Act provides that reports can be made about;

- Children and young people at risk of significant harm
- Unborn children at risk of significant harm
- Homeless children and young people

This includes children who were the subject of a prenatal report under section 25 and whose birth mother has not engaged with support services to eliminate or minimise the risk that gave rise to the report.

Significant harm may be caused by any of the following:

- Physical abuse
- Neglect
  - supervision
  - physical shelter/environment
  - food
  - medical care
  - mental health care
  - education
- Sexual abuse
- Psychological harm
- Relinquishing care
- Carer concerns
  - parent/carer substance abuse
  - parent/carer mental health
  - parent/carer domestic violence

Where staff or carers have reasonable grounds to suspect risk of significant harm, they should first use the Mandatory Reporter Guide (MRG) to assess whether their concerns meet the threshold of risk of significant harm. However, if there is an immediate danger to the child or young person the Police and/or the Child Protection Helpline should be contacted directly.

Reasonable grounds refers to the need to have an objective basis for suspecting that a child may be at risk of significant harm, based on:

- first hand observations of the child or family
- what the child, parent or another person has disclosed
- what can reasonably be inferred based on professional training and / or experience.

It does not mean that reporters are required to confirm their suspicions or have clear proof before making a report.

Concerns must be current - that is, significant harm arising from abuse or neglect is recent or likely in the foreseeable future should circumstances continue unchanged. Current concerns may also arise from a child or young person having contact with someone who is known to be responsible for causing harm to a child in the past. Current concerns also refer to situations where the abuse or neglect of the child occurred some time in the past but continue to have an impact on the child or young person's safety, welfare or wellbeing.

Where use of the online Mandatory Reporter Guide advises risk of significant harm, mandatory reporters must make a report to the Child Protection Helpline. Other reporters should also report a child or young person to the Community Services Helpline where the Mandatory Reporter Guide confirms risk of significant harm. A report to the Child Protection Helpline starts the process of assessing the need for statutory child protection.

(Source: Community Services Factsheet, KTS Website)

## Making a report

Mandatory reporters should consult the online Mandatory Reporter Guide (MRG) to assess whether a child or young person is at risk of significant harm. This tool is also available to anyone concerned about a child or young person and who wants help with determining if a report to the Child Protection Helpline is necessary.

Mandatory reporters should report matters where they believe a child is at risk of significant harm to the Child Protection Helpline on: Phone 13 3627 or fax to 9633 7666.

The general public will continue to make reports to the Child Protection Helpline by calling 132 111. If uncertain about whether a situation constitutes risk of significant harm all reporters are encouraged to make use of the online Mandatory Reporter Guide.

**Where there are urgent concerns for the child's health or life, it is important to contact the police, using the emergency line '000'.**

## Information required in a report

The detail and quality of the information provided to the Helpline by the reporter is critical to the quality of the decision making that follows. It is important to provide all relevant information when making a child protection report. Prepare for making a report to Helpline by gathering all the information together.

The kind of information which is useful includes risk of significant harm information as prompted by the online Mandatory Reporter Guide, as well as information about the child, the family, the reporter, and the context of the report.

Suggested Information Required for Making a Report	
Child's information	Family information
<ul style="list-style-type: none"> <li>• Name of child or young person (or alias) or other means of identifying them</li> <li>• Age and date of birth (or approximation)</li> <li>• If child is Indigenous – Aboriginal, Torres Strait Islander or both if known</li> </ul>	<ul style="list-style-type: none"> <li>• Name, age of parents/carer and household adults</li> <li>• Home and/or mobile phone number</li> <li>• Cultural background of parents, language(s) spoken, religion and other cultural factors</li> <li>• Information about parental risk factors and how</li> </ul>

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<ul style="list-style-type: none"> <li>• Cultural background of child, language(s) spoken, religion and other cultural factors</li> <li>• Name, age of other household children or young people</li> <li>• Address of child and family</li> <li>• School or child care details (if known)</li> <li>• If child has a disability – nature/type, severity, impact on functioning</li> <li>• Is the child/young person subject of an Apprehended Violence Order?</li> <li>• Is the child or young person under the care of the Minister of residing in out of home care?</li> </ul>	<ul style="list-style-type: none"> <li>• they link to child's risk of harm <ul style="list-style-type: none"> <li>– domestic violence</li> <li>– alcohol or other drug misuse</li> <li>– unmanaged mental illness</li> <li>– intellectual or other disability</li> </ul> </li> <li>• Protective factors and family strengths</li> <li>• Non-offending carers' capacity to protect child</li> <li>• Any previous suspicious death of a child or young person in the household?</li> <li>• Is the parent/carer pregnant?</li> <li>• Is the parent/carer subject of an Apprehended Violence Order?</li> <li>• Description of family structure (for example, biological parents, single parent, blended family)</li> <li>• Name, age, gender of siblings. Do siblings live with the child or young person?</li> </ul>
Reporter Details	Other information
<ul style="list-style-type: none"> <li>• Name, agency address, phone and email details</li> <li>• Position</li> <li>• Reason for reporting today</li> <li>• Nature of contact with child or family</li> <li>• Nature of ongoing role with child or family (include frequency, duration and type)</li> <li>• If report is being made by someone else in the agency, name of the agency worker who sourced the report</li> </ul>	<ul style="list-style-type: none"> <li>• Services involved with child/family if known</li> <li>• Principal language of family and whether an interpreter for a spoken or signed language is required</li> <li>• If parent knows of report and their response</li> <li>• If child or young person knows about the report and their views</li> <li>• Information related to worker safety issues (if known)</li> </ul>

Note that reports may also be made where only a little information is known but there is risk of significant harm.

Once a report is made to the Helpline no further report needs to be made unless new information comes to hand.

Reports should be made in one form only, ie either by phone or fax or e report. Duplicating or confirming a report in writing is unnecessary.

(Source: Community Services Factsheet, KTS Website)

## Safeguards for reporters

Reports to Family & Community Services are confidential and the reporter's identity is protected by law if the report is made in good faith. The law offers the following protections:

- the report shall not be held to be a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct
- no liability for defamation can be incurred because of the making of the report
- the report, or its contents, is not admissible in any proceedings as evidence against the person who made the report
- a person cannot be compelled by a court to provide the report or give any evidence as to its contents
- a report is an exempt document under the *Freedom of Information Act 1989*.

If law enforcement agencies require the identity of a reporter in order to investigate serious offences alleged to have been committed against children or young people, the identity of the reporter may be released to the police. This new provision is effective from the end of January 2010. It aims for a balance between the privacy of the reporter and the safety of the child or young person. The reporter will be notified that their identity is to be released to the police unless doing this would prejudice the investigation.

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## Feedback to reporters

The Child Protection Helpline will provide feedback to reporters on the reports it receives. Where the feedback indicates that the statutory threshold is not met, this will require mandatory reporters, who may have an ongoing service role with the children, young people or families they have reported, to consider what additional services or supports could be provided locally. Services offered should assist in addressing identified problems and minimising the risk of future harm.

## Services for children, young people and families.

If the Mandatory Reporter Guide indicates that a matter does not reach the significant harm threshold a report should not be made to the Child Protection Helpline, unless in your professional judgement there are additional factors that the Helpline needs to take into account.

Other actions you can take to find help for a child or family include:

- if you believe that other agencies can assist the child and family, you should consult with your supervisor/Manager about sharing your information (under Section 16A) with those agencies and/or make appropriate referrals
- if you believe your own agency can further assist the child and family then you should arrange this
- if you have access to a Family Referral Service, you may wish to contact that service
- you may access the HSNet ServiceLink for information about services in your area. HSNet ServiceLink is a comprehensive online directory of human services across NSW available free of charge to members of HSNet. The directory provides organisational and service information across a variety of sectors including health, welfare, community services, education, disability, aged care, legal and housing. Further information is available at; [www.hsnet.nsw.gov.au/login/ServiceLink.aspx](http://www.hsnet.nsw.gov.au/login/ServiceLink.aspx)

(Source: Community Services Factsheet, KTS Website)

## Data Base and Filing Reports

A data base of all Risk of Significant Harm reports is kept by Residential Services, the data is captured via the MYC incidents email group. A copy of the Mandatory Reporting Guide Report made to Family & Community Services is to be placed on the child/young person's file.

**For information about complaints about staff please refer to the Feedback & Complaints Policy and Procedures.**

## The Working with Children Check

This section details Marist Youth Care's child protection obligations related to employment screening. The legal requirements of MYC for the employment of staff, carers and volunteers to work with children are governed by the Commission for *Children and Young People Act 1998*.

The main requirements are that MYC:

- Does not employ prohibited persons in child-related employment.
- Does Working with Children background checks.
- Reports relevant employment proceedings.
- Keeps records and protects confidentiality.

## Prohibited Persons

If you are a prohibited person you cannot work with children.

A prohibited person is a person who is convicted of the following (whether in NSW or elsewhere):

- serious sex offence;
- child-related personal violence offence;
- murder of a child;
- indecency offences punishable by imprisonment of 12 months or more;
- kidnapping (unless the offender is or has been the child's parent or carer);
- offences connected with child prostitution;
- possession, distribution or publication of child pornography; or
- attempt, conspiracy or incitement to commit the above offences.

A prohibited person includes a registrable person under the Child Protection (Offenders Registration) Act 2000.

MYC is obligated by law to ask all preferred applicants for child-related employment to complete a *Applicant Declaration and Consent* form to declare that they are not a prohibited person. This includes carers, volunteers and students on placement. It is an offence to employ anyone in child-related employment without requiring them to disclose whether they are a prohibited person.

An applicant who fails to complete and sign the *Applicant Declaration and Consent* form cannot be offered a paid or unpaid position in the agency.

As part of the funding agreement, all federally funded programs run by MYC now require staff to have a National Criminal History Check, in order to be eligible to work within the program.

**An employee who believes that s/he might be a prohibited person, or that another employee is a prohibited person, must inform the Chief Executive Officer immediately.**

It is an offence to commence employing or to continue employing a person who the employer knows is a prohibited person.

## Roles and Responsibilities

As part of the Agency's overall commitment to the safety, welfare and well-being of children the following responsibilities under this procedure are as documented below:

### The Chief Executive Officer is responsible for:

- Establishing policies, training and systems for providing a safe environment for children in the care of Marist Youth Care.
- Ensuring systems are in place for recording and responding to all allegations or convictions against an employee or carer, including matters that are required to be notified to the Ombudsman.
- As the Head of Agency ensuring that the Ombudsman is notified of reportable allegations or convictions made against an employee or carer of the Agency.
- Conducting an initial and subsequent risk assessment, including an assessment of the safety of the children residing in the Agency and what action, if any, is to be taken regarding the employee or carer who has had an allegation made against them, in consultation with Executive Manager and Manager.
- Collaborating with other relevant agencies.

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- Ensuring the Commission for Children and Young People is notified of completed relevant employment proceedings.
- Ensuring the Ombudsman is notified of the outcome of all investigations into allegations of reportable conduct.
- Ensuring the establishment of appropriate staff and carer recruitment, selection and screening processes.
- Ensuring that confidentiality is maintained for all records and information pertaining to child protection matters. This includes Working with Children Check documentation, risk of harm reports and documents related to allegations or convictions of reportable conduct against staff or carers. Access to these records is to be restricted to persons who require this information to carry out their professional duties and must be compliant with the law.

### **The Managers and Executive Managers are responsible for:**

- Ensuring that Risk of Significant Harm Reports are made to the Child Protection Helpline where indicated by the Mandatory Reporter Guide. Following up the outcome of risk of significant harm reports with Community Services
- Reporting to the CEO and/or Executive Manager allegations of misconduct against employees or carers.
- Assist in carrying out inquiries if required
- Assist in the communication of complaints and the procedures to staff carers and clients if required
- Consulting with HR to develop appropriate risk management, inquiry plans and findings.
- Providing learning opportunities and support for staff and carers in meeting their obligations under NSW child protection legislation and this child protection policy.

### **Coordinator Professional Standards is responsible for:**

- Coordinating a central system for recording and management of complaints of misconduct against employees involving children and young people
- Ensuring a high standard of security and confidentiality around relevant records and documentation
- Coordinating centrally all investigations of complaint about misconduct against staff or carers including:
  - Reporting to the Ombudsman in a timely manner when relevant
  - Developing inquiry plans and responsibilities for communication to staff or carers about the process from start to end
  - Liaising with investigators and arranging interviews and gathering of relevant documentation
  - Ensuring investigations are completed thoroughly and as quickly as possible
  - Consulting with relevant Managers and Executive Managers about findings and outcomes
  - Drafting investigation reports with recommendations on findings and outcomes
  - Providing advice and recommendations to CEO as required to support their role as Head of Agency
  - Reporting to CCYP in a timely manner when relevant
- Attending to requests for access to investigation files under the *Freedom of Information Act*.

- NOTE: Human Resources is responsible for completing the *Applicant Declaration and Consent* form and liaising with HR Manager relating to new employees.

### **All Staff and Carers are Responsible For:**

- Reporting to their supervisor, as soon as practicable, any allegation of misconduct conviction against an employee or carer of which they become aware.
- Reporting to the Child Protection Helpline, as soon as practicable, where they have any suspicion on reasonable grounds, that a child is at risk of significant harm and where those grounds arise during the course of, or from their work.
- Reporting to their supervisor, as soon as practicable, where they have any suspicion on reasonable grounds, that a young person is at risk of significant harm and where those grounds arise during the course of, or from their work.
- Completing the Mandatory Reporter Guide (MRG) online and making a report to the Child Protection Helpline (where required) and sending a copy of the report to the relevant incident email group and supervising F&CSC.
- Maintaining appropriate confidentiality in relation to all incidents or complaints against staff or carers or about abuse of a child or young person.
- Participating in child protection core training and refresher modules provided by the agency which are designed to assist the recognition of abuse and neglect of children and young people and the implementation of relevant policies and procedures.

***If staff or carers are unsure what their responsibility is in relation to child protection, they should contact a Manager/Executive Manager or the Chief Executive Officer.***

## **Appendix.**

### Appendix 1 – Key Child Protection Contacts

#### **Appendix 1: Key Child Protection Contacts**

##### **Department of Family and Community Services NSW**

Child Protection Helpline (24 hours)

Mandatory Reporters: 13 36 27

Fax: 9633 7666

Community Service Centres across NSW (listed in the white pages telephone directory)

Net: [www.community.nsw.gov.au](http://www.community.nsw.gov.au)

##### **NSW Commission for Children and Young People**

Level 2, 407 Elizabeth Street, Surry Hills NSW 2010

Telephone (02) 9286 7276

Facsimile (02) 9286 7267

Net: [www.kids.nsw.gov.au](http://www.kids.nsw.gov.au)

##### **NSW Ombudsman**

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Level 24, 580 George Street Sydney NSW 2000

Telephone (02) 9286 1000

Toll free: 1800 451 524

Facsimile (02) 9283 2911

Net: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

## Related Policies, Procedures and Forms

### Review

Annually as part of the Policy review schedule

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