



# Leader Support Guide

## Managing physical contact with youth members

### “WHEN TO TOUCH AND NOT TOUCH”

In 2006 the ‘New South Wales Commission for Children and Young People’ issued updated guidelines dealing with the ‘Working With Children Checks’. In particular, Section 5.1 dealt with the reportable and non reportable offences, providing guidelines as to what was considered appropriate in dealing with children and young people.

These guidelines tend to mirror the attitude that Scouting in NSW has promoted for some years. Edited extracts of the Commissions guidelines appear on the next three pages.

There are five main points to understand in using this guide.

1. **These** guidelines are not to be read in isolation but in conjunction with our existing policies and the Leader Support Guide ‘Avoiding Abuse in Scouting’ available on our website. [www.nsw.scouts.com.au](http://www.nsw.scouts.com.au)
2. The greatest protection offered is by having two deep leadership. There are cases where well meaning people have reported leaders, direct to the police, for what they think is a reportable offence. Where there has been two deep leadership the complaint is usually quickly resolved, where there has been only one leader the journey to finding a resolution is often long and protracted.  
  
Where a second leader is unavailable a parent roster also serves as additional protection should a youth member have to suddenly be taken to hospital. Life threatening asthma attacks and the such are becoming more frequent.
3. Our Code of Conduct, which can be found on the back page of this Guide and on the back of your Leader Appointment, provides clear requirements for appropriate leadership in Scouting.
4. Ensure you are never alone with a youth member. Remember “always in sight but out of hearing”.
5. Scouts NSW works with NSW Police, NSW Community Services (formerly DoCS), the NSW Commission for Children and Young People, and other relevant authorities to address any child protection concerns.

All suspicions, concerns or allegations about criminal matters or child protection matters should be reported directly to the Chief Commissioner, the Chief Executive or the Child Protection Officer at State Office on 9735 9000. Once we receive a notification, the Association will make an immediate report to the relevant authorities.

If an individual has made a report to NSW Police, NSW Community Services, or another relevant authority, they should also report the matter to the Chief Commissioner, the Chief Executive or the Child Protection Office. The Association will then make direct contact with the relevant authority about the matter.

Reporting to the Association enables the Association to work directly with the authorities in managing the matter. It enables the Association to take immediate action under its Behavioural Management Policy, in consultation with the authorities.

If a young person is in imminent danger, the matter should be reported directly and immediately to NSW Police on 131 444.

**THE QUESTION ON YOUR MIND SHOULD  
ALWAYS BE:**

***Would a reasonable person see this as being  
reasonable in the circumstances?***

*(e.g. Helping a disabled or ill child will require greater physical contact than for the average youth member. However it would be seen as reasonable to provide appropriate physical contact/ support for the child's wellbeing. In fact part of your 'duty of care')*

**Condensed Extracts From  
The NSW Commission for Children & Young People  
The Working with Children Check Guidelines 2004**

### 5.1.1 What is reportable conduct?

Reportable conduct means:

- (a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a 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 (Section 33, Commission for Children and Young People Act 1998).

Reportable conduct may include any of the following behaviour:

#### ► Physical assault

Using common law principles, physical assault must include all three of the following elements:

- It is an act committed on or towards a child;

**and**

- It involves either the application of force to a child or an act that causes a child to think that immediate force will be used on them;

**and**

- It is either hostile or reckless (a reckless act is one where the person foresees the likelihood of inflicting injury or fear and ignores the risk).

Actual physical harm does not have to occur in order for an assault to have taken place, i.e. the child does not have to be injured.

Physical contact which is an inevitable part of everyday life does not amount to an assault. See the list at 5.1.2 for some examples of such contact.

#### ► Sexual assault

Sexual assault refers to a sexual offence against, with or in the presence of a child. It includes the involvement of children in sexual acts or acts of indecency and any sexual threat imposed on a child.

#### ► Neglect

Neglect occurs when a child is harmed by the failure of a person whose job includes care responsibilities towards a child, to provide basic physical and emotional necessities of life, including failure of the person to provide or arrange for the provision of adequate and proper food, nursing, clothing, medical attention or lodging for a child in that person's care.

### ► Behaviour that causes psychological harm

Psychologically harmful behaviour is behaviour that results in significant emotional harm or trauma to a child. There is a causal link between the inappropriate behaviour and the harm.

**REMEMBER...**

**TWO DEEP LEADERSHIP AT ALL TIMES**

**PROTECTS LEADERS AND YOUTH MEMBERS**

#### 5.1.2 What kinds of behaviours fall outside the definition of reportable conduct?

The Commission for Children and Young People Act 1998 provides that reportable conduct does not include:

*conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant professional standards.*

The Act lists some examples of conduct that would not constitute reportable conduct, namely:

- touching a non-intimate part of a child's body in order to attract a child's attention, to guide a child or to comfort a distressed child,
- a school teacher raising his or her voice in order to attract attention or to restore order in the classroom; and
- conduct that is established to be accidental.

Further examples of behaviours that are not reportable conduct include:

- (a) providing appropriate medical care to a child who is hurt;
- (b) guiding a child by the shoulders, arms or hands;
- (c) not providing supervision where this was for good reason, and for a short period of time and where the risk of harm was reasonably perceived at the time to be low;
- (d) actions found to have been appropriate physical contact in classes such as sport, drama, dance etc.

#### 5.1.4 What is 'sexual misconduct'?

Sexual misconduct is a term used to describe a range of behaviours or a pattern of behaviour aimed at the involvement of children in sexual acts.

Some of these behaviours may include:

- inappropriate conversations of a sexual nature;
- comments that express a desire to act in a sexual manner;
- unwarranted and inappropriate touching;
- sexual exhibitionism;
- personal correspondence (including electronic communication) with a child or young person in respect of the adult's sexual feelings for a child or young person;
- deliberate exposure of children and young people to sexual behaviour of others including display of pornography; and
- possession of child pornography in the workplace.

Sexual misconduct includes 'grooming behaviour', or patterns of behaviour aimed at engaging or 'grooming' a child as a precursor to sexual abuse. The grooming process can include:

- Persuading the child that a "special" relationship exists - spending inappropriate special time with the child, inappropriately giving gifts, showing special favours to them but not other children, allowing the child to overstep rules etc.;

- Testing of boundaries - undressing in front of the child, allowing the child to sit on the lap, talking about sex, 'accidental' touching of genitals etc.

These behaviours may not indicate risk if they occur in isolation, but if there is a pattern of behaviour occurring, it may indicate grooming.

For sexual misconduct to be reportable, the alleged conduct must have been committed against, with or in the presence of a child.

### **5.1.5 What is an 'act of violence'?**

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For an act of violence to be reportable, the alleged conduct must have been committed in the course of employment and in the presence of a child.

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*NSW Commission Children and Young Peoples*

*Working With Children Check Guidelines 2004*

## **CODE OF CONDUCT**

This Code of Conduct is expected of all adults, uniformed and non-uniformed, who work within the Movement, recognising that at all times they should act responsibly and exercise a duty of care.

1. Adults in Scouting respect the dignity of themselves and others.
2. Adults in Scouting demonstrate a high degree of individual responsibility, recognising that at all times their words and actions are an example to other members of the Movement.
3. Adults in Scouting act at all times in accordance with Scouting Principles, thereby setting a suitable example for all.
4. Adults in Scouting do not use the Movement to promote their own beliefs, behaviours or practices where these are not compatible with Scouting Principles.
5. Adults in Scouting act with consideration and good judgement in all interpersonal relationships both inside and outside Scouting.
6. Adults in Scouting respect everyone's right to personal privacy at all times. They take special care where sleeping, changing of clothing, bathing and ablutions are associated with any Scouting activity
7. Adults in Scouting avoid unaccompanied and unobserved activities with youth members wherever possible.
8. Adults in Scouting, for their own protection, should avoid potentially compromising situations by ensuring, where reasonably possible, that at least two adults are in attendance whilst supervising and/or accompanying youth members. It is recognised that, in certain circumstances, it may be necessary for a Leader or adult, whilst acting responsibly and exercising their duty of care, to be alone with a youth member.
9. Adults in Scouting realise that bullying, physical or verbal abuse, neglect or any other type of abuse, is unacceptable conduct by any member of the Movement.
10. Adults in Scouting must report any conduct seen or heard that does not comply with this Code of Conduct.

**Report Child Protection Concerns and Abuse!**

Scouts NSW works with NSW Police, NSW Community Services (formerly DoCS), the NSW Commission for Children and Young People, and other relevant authorities to address any child protection concerns.

All suspicions, concerns or allegations about criminal matters or child protection matters should be reported directly to the Chief Commissioner, the Chief Executive or the Child Protection Officer at State Office on 9735 9000. Once we receive a notification, the Association will make an immediate report to the relevant authorities.

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Reporting to the Association enables the Association to work directly with the authorities in managing the matter. It enables the Association to take immediate action under its Behavioural Management Policy, in consultation with the authorities.

**Imminent Danger**

If a young person is in imminent danger, the matter should be reported directly and immediately to NSW Police on 131 444.