

## 7.17 Responding to Standard of Care Concerns and Safety and Wellbeing Concerns Against Department Employees

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<p><b>Policy</b></p> <p>Children and Young People in the CEO's Care Policy</p> <p>Reporting and Handling Misconduct Policy</p> <p><b>Purpose</b></p> <p>To guide child protection workers in responding to standard of care concerns and safety and wellbeing concerns for a child in the care of the Chief Executive Officer (CEO) of the Department for Child Protection and Family Support (the Department) where the person alleged responsible is current department employee.</p> <p><b>Legislative Authority</b></p> <p><a href="#">Children and Community Services Act 2004</a>  <a href="#">Public Sector Management Act 1994</a>  <a href="#">Industrial Relations Act 1973</a>  <a href="#">Corruption and Crime Commission Act 2003</a></p> <p><b>Standards</b></p> <p><a href="#">Better Care, Better Services - Standards for Children and Young People in Protection and Care</a></p> <p><b>Practice Requirements</b></p> <ul style="list-style-type: none"> <li>• Department employees are expected to maintain high standards of conduct and integrity at all times. When a department employee is the person alleged responsible, in a safety and wellbeing assessment, the Department has a responsibility to:             <ul style="list-style-type: none"> <li>◦ undertake a safety and wellbeing assessment for the subject child; and</li> <li>◦ consider any potential misconduct by the employee.</li> </ul> </li> <li>• When a current department employee is the person alleged responsible in a safety and wellbeing assessment the child protection worker must:             <ul style="list-style-type: none"> <li>◦ ensure the safety of the child while the assessment is undertaken</li> <li>◦ consider the safety of other children with whom the employee has contact, including the employee's own children</li> <li>◦ undertake the safety and wellbeing assessment in accordance with the <i>Signs of Safety Child Protection Framework</i></li> <li>◦ report the concern to the employee's director for consideration of potential misconduct.</li> </ul> </li> <li>• The employee's director must assess the concern and should the concern constitute potential misconduct, report the concern to Integrity Services Unit (ISU). The director may consult with ISU in making this decision.</li> <li>• All concerns relating to a child in the care of the CEO or concerns relating to children with whom the employee has contact in the course of their employment must be reported to ISU. If the concern relates to the employee's own children, or children known to the employee outside the employment context, the decision to report to ISU will be informed by:             <ul style="list-style-type: none"> <li>◦ the nature and seriousness of the concern; and</li> <li>◦ the employee's work role and the contact they have with children as part of their employment.</li> </ul> </li> <li>• If a matter is not reported to ISU or if the matter is assessed as not constituting potential misconduct, the employee's director may consider a managerial response to address any concerns. The rationale behind the decision to report or not to report to ISU must be documented by the director.</li> <li>• Where the Mandatory Reporting Service (MRS) of Crisis Care receives a mandatory report of safety and wellbeing concerns by a department employee against a child the MRS will advise ISU.</li> <li>• There are a number of potential outcomes if a matter is reported to and assessed by ISU:             <ul style="list-style-type: none"> <li>◦ the matter does not constitute reportable misconduct and no further action is required by ISU</li> <li>◦ the matter is assessed as suitable for Local Management Resolution and referred to the employee's director</li> <li>◦ the matter is referred to the discipline process and managed by ISU in accordance with the <i>Reporting and Handling Misconduct Policy</i>.</li> </ul> </li> <li>• ISU, in consultation with the employee's director, will make a decision in relation to the employee's status, including their contact with children. Options include:             <ul style="list-style-type: none"> <li>◦ continuing normal duties</li> <li>◦ transferring to non-contact or alternate role</li> <li>◦ suspension.</li> </ul> </li> <li>• ISU are required to report potential misconduct to the Corruption and Crime Commission in accordance with the <i>Corruption and Crime Commission Act 2003</i>, s.28.</li> <li>• If the Department is aware of any person having been charged with, or convicted of, a <a href="#">Class 1 or Class 2 offence</a>, or any other offence that the Department assesses as making the person inappropriate to carry out child-related work, the Department's Screening Unit must be notified. The Screening Unit must then notify the Working with Children Screening Unit. While this is a general provision, it must also be observed in department casework practice in relation to approved foster carers and department employees, and in regard to charges or convictions relating to safety and wellbeing concerns for a child in the CEO's care.</li> </ul>	<p><b>Related Resources</b></p> <p><b>Departmental Frameworks</b></p> <p>Corporate - Aboriginal Services Framework 2012</p> <p>Corporate - CaLD Services Framework 2013</p> <p>Service 1 - Foster Care Partnership Practice Framework 2012</p> <p>Service 1 - Residential Care (Sanctuary) Framework 2012</p> <p>Service 2 - Signs of Safety Child Protection Framework 2011 2nd edition</p> <p><b>Related Casework Practice Manual Entries</b></p> <p>2.2 Record Checks and the Working with Children Card</p> <p>9.7 Revocation of a Foster Carer's Approval</p> <p>7.6 Supporting Foster Carers</p> <p>5.1 Safety and Wellbeing Assessment</p> <p>5.2 Assessing and Classifying a Person Responsible (PR) or Person Assessed as Causing Significant Harm (ASH)</p> <p><b>Contact Person</b></p> <p>Manager, Duty of Care Unit</p>
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#### Procedure - 7.17 Responding to Standard of Care Concerns and Safety and Wellbeing Concerns Against Department Employees

##### Introduction

The Department has a two tiered response to concerns involving department employees. These processes occur jointly and concurrently with the child protection worker undertaking the safety and wellbeing assessment of the child.

##### Tier 1: Local Management Resolution

A Local Management Resolution response is undertaken when:

1. A safety and wellbeing assessment identifies a current department employee as the person alleged responsible.
2. ISU has assessed the matter and has determined that the concern may be responded to using a Local Management Resolution process.

The ISU may refer the matter to the employee's director, consistent with the Local Management Resolution Procedures.

Local Management Resolution may be suitable for isolated or one-off incidents involving:

- inappropriate behaviour modelling by the employee
- verbal interaction with the child that is offensive, intimidating or degrading and may affect the child's sense of self-worth
- measures used to restrain or contain a child outside guidelines for best practice
- preventing the child from participating in specialised care and treatment that is needed for adequate developmental progress
- derogatory comments relating to race, culture, ethnicity, religion, sexual preference, gender
- inadequate supervision of the child
- disciplinary practices or consequences that might damage the self-esteem or development of a child.

These concerns may be indicators or early signs that an employee is struggling with the demands of the position or that the employee is not receiving adequate support, supervision or training.

As it has been determined that the matter does not warrant a misconduct investigation:

- Information should not be sought from any person or source other than the employee in question.
- The questions asked of the employee should be simple and limited to the matters raised in the concern. The director is required to make notes of the discussion so that there is an accurate record of the process, maintaining these securely at the local level.
- The child protection worker undertakes the safety and wellbeing assessment in accordance with the *Signs of Safety Child Protection Framework*.
- Depending on the circumstances of the case it may be appropriate for any agreed actions between the employee and the director to be implemented and monitored as part of the employee's on-going performance management arrangement, and may include employee training, supervision and mentoring arrangements.
- The action taken should be informed by the safety and wellbeing assessment undertaken by the child protection worker.
- The director must complete the *Local Management Resolution Report* and forward it to ISU within 30 days. The Manager ISU has authority to extend the timeframe.
- ISU must notify the Corruption and Crime Commission in relation to the outcome of a matter involving misconduct.
- The employee's director or ISU should provide a written outcome letter to the employee. A copy of the letter should be attached to the *Local Management Resolution Report*.
- ISU and the director, in consultation with the child's child protection worker, must consider the most appropriate manner in which to provide the child, the child's parents and the reporter with updates on the progress and outcome of the concern.

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## Tier 2: Integrity Services Unit Assessment and Investigation

An ISU assessment and investigation is undertaken when:

1. A safety and wellbeing assessment identifies a current department employee as the person alleged responsible.
2. A concern is referred to the discipline process for assessment and/or investigation by ISU.

Most ISU assessment and investigations will be undertaken jointly and concurrently with a safety and wellbeing assessment by the child protection worker.

The child protection worker undertaking the safety and wellbeing assessment will:

- record a Safety and Wellbeing Concern in Care notification for the child in the care of the CEO subject to the safety and wellbeing assessment
- participate in the joint investigation planning meeting
- proceed with the safety and wellbeing assessment for the child
- ensure the safety of the child during the assessment
- make recommendations in relation to the safety and wellbeing assessment outcome, including substantiation, or not, and recording of person responsible (PR) and person assessed as causing significant harm (ASH).

The investigation officer in the Duty of Care Unit (DoCU) will:

- quality assure the notification
- consult with ISU
- create an encoded employee name for recording on Assist (note: employee names are not recorded on Assist for reasons relating to confidentiality)
- participate in the joint investigation planning meeting, if the employee is also an approved foster carer
- in certain circumstances, have an additional coordination role in complex investigations involving multiple children across districts.

The ISU senior investigator will:

- make a decision, in consultation with the employee's director, in relation to the employee's status including their contact with the child, while the ISU assessment and investigation is undertaken
- report the concern to childFIRST Child Assessment and Interview Team and/or the Western Australia Police Service, as appropriate
- convene a joint investigation planning meeting
- track the progress of the investigation and review the investigation plan as appropriate, and
- notify the employee of progress of the investigation in compliance with the *Commissioner's Instruction: Discipline – General*.

Some employee investigations may involve multiple safety and wellbeing assessments and multiple district offices.

The investigation is undertaken in accordance with the *Public Sector Management Act 1994 (PSMA)* or natural justice for employees not subject to PSMA.

The Manager ISU will review the investigation progress every 30 days.

The ISU *Investigation Report* is completed by the ISU senior investigator and is informed by the relevant safety and wellbeing assessment completed by the child protection worker.

The ISU Investigation report is quality assured and endorsed by Manager ISU and forwarded to the relevant Executive Director/s.

The relevant Executive Director/s have authority to endorse recommendations and direct implementation.

ISU and the relevant director, in consultation with the child's child protection worker, must consider the most appropriate manner in which to provide the child, the child's parents and the reporter with updates on the progress and outcome of the investigation.

The employee is advised in writing of the outcome and the endorsed recommendations of the safety and wellbeing assessment and the misconduct investigation.

If the safety and wellbeing assessment substantiates harm and assesses the employee as PR or ASH, the DoCU will make a recommendation to the relevant Executive Director/s to have the employee's name and status recorded on Assist.

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