

Submission to the  
Royal Commission into Institutional  
Responses to Child Sexual Abuse

Issues Paper 3:  
Child Safe Institutions



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In 2005, Hetty was announced as a finalist for the 2006 Australian of the Year Awards – she is the recipient of two Australian Lawyers Alliance Civil Justice Awards (2003, 2004) and was named a finalist in the 2008 Suncorp Queenslander of the Year Awards. She was awarded a Paul Harris Fellowship in 2010 and is a Fellow of the Australian Institute of Community Practice and Governance (March 2010). In early 2009, Hetty was recognised as one of approximately 70 outstanding leaders throughout the world, receiving the prestigious annual Toastmasters International Communication and Leadership award. In 2013 Hetty was awarded Northern Australia's Ernst & Young Social Entrepreneur of the year. Hetty is a member of the International Society for the Prevention of Child Abuse and Neglect and sits on the Federal Government's Cybersafety Working Party.

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# About Bravehearts Inc.

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Our **Mission** is to stop child sexual assault in our society.

Our **Vision** is to make Australia the safest place in the world to raise a child.

Our **Guiding Principles** are to at all times, do all things to serve our Mission without fear or favour and without compromise and to continually ensure that the best interests and protection of the child are placed before all other considerations.

Bravehearts has been actively contributing to the provision of child sexual assault services throughout the nation since 1997. As the first and largest registered charity specifically and holistically dedicated to addressing this issue in Australia, Bravehearts exists to protect Australian children against sexual harm. All activities fall under 'The 3 Piers' to Prevention; Educate, Empower, Protect – Solid Foundations to Make Australia the safest place in the world to raise a child. Our activities include but are not limited to:

## **EDUCATE**

- ◆ Early childhood (aged 3-8) 'Ditto's Keep Safe Adventure' primary and pre-school based personal safety programs including cyber-safety.
- ◆ Personal Safety Programs for older children & young people and specific programs aimed at Indigenous children.

## **EMPOWER**

- ◆ Community awareness raising campaigns (Online and Offline) including general media comment and specific campaigns such as our annual national White Balloon Day.
- ◆ Tiered Child sexual assault awareness, support and response training and risk management policy and procedure training and services for all sectors in the community.

## **PROTECT**

- ◆ Specialist advocacy support services for survivors and victims of child sexual assault and their families including a specialist supported child sexual assault 1800 crisis line.
- ◆ Specialist child sexual assault counseling is available to all children, adults and their non-offending family support.
- ◆ Policy and Legislative Reform (Online and Offline) - collaboration with State Government departments and agencies.

Bravehearts Inc. is a National organisation, it is a registered Public Benevolent Institution, registered as a Deductible Gift Recipient, operates under a Board of Management and is assisted by State based Community Regional Committees, Executive Advisory Committees and a Professional Finance Committee.

# Introduction

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As an agency that works with, and advocates for, survivors of child sexual assault we trust our feedback will be useful in clarifying issues relating the sexual assault of children and young people as they pertain to child safe organisations.

It is Bravehearts position that we cannot ignore the immediate child protection issues faced by organisations or the broader child protection issues in the communities in which they work. It is every organisation's responsibility to do their best to protect the children who they come in contact with. This is true whether harm or potential harm is internal or external to the organisation.

We note the *National Framework: Creating Safe Environments for Children – Organisations, employees and volunteers* endorsed at the 2005 Community and Disability Services Ministers' Conference which provides for a consistent, national approach to increasing the capacity of organisations to provide for the safety of children and young people. Bravehearts encourages the Commission to consider the Framework in its review of the issue of child safe institutions.

The importance of the role of organisations in child protection cannot be understated. It has long been accepted that given the nature of harm against children, the responsibility of child protection extends beyond that of parents, carers and families, and that there is a greater responsibility that sits within organisations to ensure that children are protected from harm, or when they have been harmed that the response is in the child's best interests.

## **Offending processes and organisations**

In relation to child sexual assault, we know that the greatest barrier to protecting children and young people is the silence, secrecy and shame that surround this offence. Approximately one in five children will experience some form of sexual exploitation before the age of 18 (James, 2000; Center for Disease Control and Prevention, 2006). Experts estimate that less than one in ten of these children will tell. Research tells us that in 70-90% of the time offenders are known and trusted by the child and/or their families (National Child Protection Clearinghouse, 2005). Experts estimate that for a vast number of reasons, less than one in ten of these children will tell.

Child sexual assault usually involves a process of grooming and contrived compliance based on trickery and manipulation of a child, their primary carers and/or organisations. Understanding these offending components, it becomes clearer how easily children can become coerced into silence, or indeed made to feel some responsibility for the offence. In addition it becomes clear how adults and organisations in a child's life may remain unaware of the harm being perpetrated by someone they also trust or may struggle to appropriately respond to disclosures or concerns.

The grooming process is an integral part of the overall offending cycle. The grooming process is often a graduated process defined as “[a] process by which a person prepares a child, significant adults and the environment for the abuse of a child. Specific goals include gaining access to the child, gaining the child’s compliance and maintaining the child’s secrecy to avoid disclosure. This process serves to strengthen the offender’s abusive pattern, as it may be used as a means of justifying or denying their actions” (Craven, Brown & Gilchrist, 2006). Offenders groom to both provide for contact with children and to also lessen the likelihood of victims speaking out or if they do speak out, to lessen the likelihood that the victim will be believed.

Grooming often occurs by:

- Building the child’s trust: Using presents, special attention, treats, spending time together and playing games with non-sexual physical contact.
- Favouritism: The offender treats the child as an adult; treating them differently and making them feel like a unique friend.
- Gaining the trust of the child’s parent/carer: Careful to be seen as a close, caring and reliable relative or friend of the family.
- Isolation from family and friends: Isolating the child to ensure secrecy and lessen chances of disclosure or belief.
- Intimidation and secrecy: The offender may use coercion through threatening looks, body language, glares, stalking and rules of secrecy. Child sexual assault strongly relies on silence, in order to keep offending, therefore offenders need secrecy.
- Slow boundary violation: ‘Innocent’ touching, gradually developing into ‘accidental’ sexual contact.
- Shaping the child’s perceptions: The child is often confused as to what is acceptable and can take on self-blame for the situation, as his/her viewpoint can become totally distorted.

Understanding that child sex offenders do not just groom children and young people, but also groom the important adults in children’s lives as well as organisations in order to position themselves as trusted individuals is important in creating child safe organisations.

## **1. The essential elements of establishing a ‘child safe organisation’ that protects children from sexual abuse in an institutional context. In particular, are there core strategies that should be present and others that are less critical?**

Establishing a ‘child safe organisation’ involves a process based on identifying organisational factors that are associated with increased vulnerability for child sexual assault. Research over the past decade has shown that the following factors increase risks within an organisation:

- Staff being alone with a child: Environments where staff members have the opportunity to be alone with a child or children are high risk.
- Lack of staff accountability: Lack of transparency and accountability (both internal and external) create organisations where there is a high risk of problems and concerns being unidentified and/or hidden.
- Lack of professionalism: Staff professionalism should be regulated to ensure integrity and increase compliance with organisational policies.
- Poor policies and procedures: Organisations with no or poorly written policies and procedures increase the risk of employing high risk staff.
- Risky physical attributes: Opportunities to harm children are increased in organisations which are closed and create isolation from the outside. The physical structure of an organisation plays an important role in creating ‘safe environments’ for children and young people.
- Economic independence: The lack of external scrutiny is a high correlate to the high risk level organisations.
- Inadequate resources: Inadequate funding and resources increases the likelihood that organisations will slip in terms of positive staffing and oversight practices. These organisations tend to not prioritise instituting effective policies and procedures.
- Hierarchical management: Organisations that are managed in a hierarchical system tend to be ‘highly controlled’ and as such their practices are highly controlled and not transparent.

It is clear from the multitude of reports of child sexual assault within institutions, that organisations that involve substantial contact with children must prioritise the protection of children and young people from harm.

In creating a child safe environment organisations need to take a holistic approach to embedding child protection within its policies and procedures. Bravehearts believes that the essential elements of establishing a ‘child safe organisation’ to protect children from sexual assault include: (1) the enforcement of a Child Protection Policy; (2) a clear Code of Conduct; (3) the development of a risk management strategy; (4) a training/professional development and communication strategy; and (5) a dedicated role for a *Workplace Child Protection Officer*.

### ***Child Protection Policy***

Organisations working with children should have a specific child protection policy to guide the actions of staff and volunteers involved in the service's operations. Effective policies can ensure consistent understandings and expectations about processes and procedures within the organisation as they relate to ensuring the organisation is 'child safe'. It's important to ensure the effectiveness of organisational policies that they be viewed as 'living' documents that should be regularly reviewed to respond to the individual needs of those working with them, reflect new knowledge, meet legal requirements and obligations and meet changing trends in the organisation and wider community.

To ensure a child safe organisation, it is essential to develop policies and procedures that will:

- Focus on protecting children accessing the organisation.
- Protect staff and volunteers from unfair procedures and outcomes.
- Articulate clear processes for responding to concerns, disclosures or notifications.
- Link to an expected code of conduct for staff, volunteers and those involved in the organisation (including parents and children).
- Link to the risk management strategy.

A child protection policy should include at a minimum:

- **Statement of intent and commitment to the safety and protection of children:** For example: "Bravehearts Inc is committed to the safety and well-being of all children and/or young people accessing our service. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained".
- **Policy philosophy and purpose:** The policy should include the organisation's philosophy and purpose in respect to child protection and duty of care. This should clearly articulate the organisation's intention to act in the best interests of children and young people.
- **Definitions:** Definitions should be included that outline what is meant by child protection, child sexual assault, child abuse, harm, risk etc. This should include reference to legislation where appropriate.
- **Recruitment practices:** It is important to formalise recruitment processes for both staff and volunteers to reduce the risk of employing individuals who may pose a risk to children within the organisation. Clearly defined position descriptions, having a clear selection criteria, checking references thoroughly, utilising working with children checks, using a selection panel to interview and using behavioural-based questions, can all help strengthen selection processes.
- **Rules around contact with children:** the policy should include written guidelines detailing appropriate behaviour with children. This may vary depending on the organization and may include guidelines for appropriate behaviour by children towards other children.



- **Reporting protocols and management of notifications:** This section should include information on:
  - What should be reported
  - When to report
  - Who to report to
  - How to report (verbal, documentation, standardised forms)
  - Process that will follow the report

### ***Code of Conduct***

An organisation’s Code of Conduct should define expected and minimum behaviours for the organisation and should outline acceptable conduct around:

- Defining boundaries
- Privacy and confidentiality
- Language
- Cultural sensitivity
- Personal relationships/friendships
- Appearance and presentation
- Contact outside the organisation
- Discipline
- Dealing with breaches of the Code of Conduct

Specific to child protection issues, the Code of Conduct should include reference to relevant sections of the organisation’s Child Protection Policy.

### ***Risk Management Strategy***

There are a number of organisational factors that are associated with greater risk of child sexual assault. Having a clearly defined strategy for managing risk allows an organisation to minimise these risks. This need should be recognised as of fundamental importance by all managers and staff. Organisational risk management policies should include:

- Statement of intent and commitment to the safety and protection of children: For example: “Bravehearts Inc is committed to the safety and well-being of all children and/or young people accessing our service. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained”.
- Reference to legislation that applies to your organisation: This should include legislation specific to the sector the organisation is part of, as well as relevant child protection legislation in the specific State or Territory.
- A risk assessment or audit: This includes the identification and assessment of risks relevant to the protection of children generally as well as specific to the organisation and its activities. This should also include strategies for controlling these risks.
- A strategic plan for reducing risk for your organisation: The policy should include strategies for the reduction of future, foreseeable risks, including for possible

- activities outside the organisation's day to day function (include all activities – low, medium and high risk - and special events).
- A policy for managing breaches of the risk management strategy: Strategies for reporting and managing breaches of the organisation's risk management approach should be clearly articulated.

### ***Training and Communication Strategy***

The specific aim of training is to encourage organisations to assess for themselves what they can do to ensure their organisation upholds best practice in child protection. An important component of this is initial and on-going professional development for staff and volunteers around child protection.

Organisations should have induction and/or training in place for all new staff and volunteers. There should also be opportunities within the organisation to develop and maintain the necessary skills and understanding, not only of individualised job-skills, but to safeguard children against harm. It is important that all staff know how to implement child protection policies and procedures and work to the highest standard.

In addition strategies for communication and support of the organisation's policies and procedures are fundamental for their effective implementation. This may include:

- Standard information sheets for staff, volunteers and parents about policies, procedures and Codes of Conduct, and
- Training materials and strategies to help staff, volunteers and parents identify and manage risks of harm.

### ***Workplace Child Protection Officer***

Bravehearts believes that any organisation that has substantial contact with children should have a dedicated *Workplace Child Protection Officer* whose role it is to ensure the organisation remains focussed on maintaining a child safe environment.

This role should include overseeing the complaints process and ensuring that the best interests of children and young people are at the forefront of organisational policies and procedures.

**2. The evidence base for the range of strategies associated with making an organisation 'child safe'. Does this evidence base extend to the physical environment?**

It is absolutely vital that strategies employed in creating child safe organisation be based on evidence-based practice. Families SA recently published its *Child Safe Environments: Principles of good practice* (2012) (Attachment A) which provides a scope of evidenced-based principles.

The physical environment certainly needs to be considered in ensuring child safe organisations, specifically in relation to the supervision of children. The physical layout for organisation's activities or the organisation's setting can hide or expose child sexual assault; with the physical structure of an organisation playing an important role in creating 'safe environments' for children and young people.

### **3. How should the effectiveness of 'child safe' strategies be tested?**

The implementation of strategies to establish child safe organisations should be viewed as an on-going process with organisations routinely reviewing their policies and procedures.

To ensure the effectiveness of child safe strategies, it is important to establish a monitoring, evaluation and review framework for the organisation. Bravehearts would advise that this should be as much a participatory process as possible; engaging all staff, volunteers and stakeholders in reviewing and assessing the organisation.

In developing this evaluation framework, it may help for organisations to consider:

1. What exactly does the organisation need to know to monitor the specific elements of their child protection policy and procedures?
2. What are the indicators which show the organisation what it needs to know?
3. When should this monitoring be conducted – i.e. how often?
4. How should this monitoring be done? (what techniques for data collection, analyses, review)
5. Who will facilitate/take the lead on the monitoring of the different components?
6. How will the organisation involve stakeholders in this monitoring process?

In addition, Bravehearts believes that as a key responsibility of the National Children's Commissioner is to advocate for children at a national level, the Children's Commissioner's role should include the review of legislation, policy and practices across the country relating to the protection of children and young people.

#### 4. How 'child safe' policies and procedures work in practice.

The implementation of an organisation's policies and procedures will vary depending on the function and structure of the organisation.

Broadly speaking, in practice creating a child safe organisational environment needs an all-of-organisation approach. It may seem for some organisations that this is a huge task, but organisations may find that many of the components already exist, either formally or informally, and just need revision, restructuring or documenting formally.

Some positive steps that can help put 'child safe' policies and procedures into practice include:

- Creating a 'working with children check' registry and include expiry dates to ensure that checks remain up to date.
- Put a feedback card in waiting areas to encourage stakeholders to provide feedback on their experiences with the organisation.
- Gather staff and volunteers together and brainstorming some thoughts around what child protection issues might be relevant to the specific organisations.
- Brainstorming a system for managing complaints/notifications within the organisation.
- Nominating a *Workplace Child Protection Officer* or (in the interim) one or two staff members to take the lead on drafting policies for the organisation.

Once child protection policies and practices have been established it is important that these are communicated with existing staff, volunteers and stakeholders, and that they are included in induction/training of new members and in standard information packs for stakeholders.

For example, for organisation stakeholders (such as service users) simple flowcharts providing them with the process of what they can do if they have any child protection concerns and the basic tenets on the organisation's child protection policies could be placed on the walls of waiting/reception areas.

Copies of all policies and procedures should be in a place where all members of the organisation are able to access them, including any incident/reporting forms.

A nominated staff member (ideally a *Workplace Child Protection Officer*) should set up a filing system where any complaints or notifications can be stored. This should be secure and only a minimum number of staff should have access to the files.

**5. Should there be a universal framework for a 'child safe organisation' or should strategies be specifically tailored to particular types of institutional settings?**

We note the *National Framework: Creating Safe Environments for Children – Organisations, employees and volunteers* was endorsed at the 2005 Community and Disability Services Ministers' Conference providing for a consistent, national approach to increasing the capacity of organisations to provide for the safety of children and young people. Bravehearts encourages the Commission to consider the Framework in its review of the issue of child safe institutions.

It is our position that while there are a number of basic principles that must be included across all organisations, there may also be a need for organisations to consider sector specific strategies under the 'national' framework.

## **6. The role of staff performance management systems and disciplinary processes in a 'child safe organisation'.**

Staff performance management systems and clear disciplinary processes are vital components of effective organisational risk management. It is crucial that staff responsible for the supervision of employees and volunteers provide suitable support, and workplace monitoring of performance.

A focus on staff performance and management is fundamental element of a child safe organisation. Adequate supervision provides staff with clear expectations about roles and responsibilities. In addition, when staff and volunteers are provided with regular opportunities to meet with and talk to a 'supervisor', they are more likely to share any observations or problems they experience or are concerned about. This could act as an alert when something is not going well or someone is not acting in the best interests of the organisation or the children who are in contact with the organisation.

It is likewise important that organisations establish annual staff performance reviews. This can serve as an opportunity to discuss any issues with staff members on a one-to-one basis. Aspects that should be included in the review include:

- Understanding of position and role in the organisation
- Positive and negative experiences over the past 12 months
- Achievements
- Motivations
- Stress and worry
- What would enhance the role/position
- Aims for the coming year
- Training and education aims

## **7. The role and characteristics of governance and management leadership in creating and maintaining a 'child safe' organisational culture.**

Bravehearts' believes that underpinning the good child safe practices are the following:

- Organisations working with children have a moral and legal responsibility to protect children within their care.
- Organisations working with children have been, are and will continue to be vulnerable to child protection concerns until the issues are brought into the open.
- Strong policy will guide organisations in dealing with difficult situations. When there is a crisis it may be harder to think clearly. If organisations have reliable policy they are better in a position to react in an informed way and avoid accusations of a biased response in any participant's favour or disadvantage.
- Organisations without child protection policies, guidelines and systems are more vulnerable to attracting offenders to their organisation.
- Organisations without child protection policies, guidelines and systems are more vulnerable to false or malicious accusations.
- Organisations without child protection policies, guidelines and systems may be more vulnerable to civil action.
- Child protection in the workplace helps to create 'child safe' organisations:
  - that have an 'aware' culture;
  - that do everything possible to prevent intentional and unintentional harm coming to children;
  - where children feel safe;
  - where children can speak out;
  - where children are listened to; and
  - where children and staff are respected and empowered.

Creating organisational policies and procedures is only the first step. To establish a child safe organisation the governance and management of the organisation must be focussed on ensuring the implementation of these processes. The role of management in creating and maintaining a child safe culture in the organisation may include:

- Communication to staff, volunteers and stakeholders. Management may need to consider different communication needs and methods for different stakeholders.
- Ensuring training and awareness for all staff at the initial stage and then on a continuous basis for updating staff. Specific training for those with lead or named responsibility for child protection.
- Ensuring the appropriate induction of new staff, including training on procedures and responsibilities before staff start to have contact with children.
- Monitoring and supervision of the application of the policies and procedures.
- Managing allegations or incidents within the organisation.
- Ensuring the periodic review of child protection policies and risk assessment.



## 8. Should there be any additional enforceable requirements for institutions or particular institutions to maintain a 'child safe' environment?

### Reporting of Disclosures and Concerns

With respect to understanding that some victims are reluctant to proceed down the criminal path by reporting to the Police, we believe that any and all allegation of child sexual assault should be reported to the Police.

Bravehearts understands that many victims need the belief and/or validation of others to gain the strength to disclose and to heal. Bravehearts also recognises that disclosure, awareness and education are the best weapons against the continuing sexual assault of children.

Many challenges exist in the identification, reporting and disclosure of child sex offenders and offences. These include:

- Fear of breaking the silence and coming forward;
- Fears that the victims' story will not be heard let alone believed or validated;
- The victims themselves are increasingly isolated by their own fear, shame and self persecution;
- Fear and lack of faith in the establishment/authority figures;
- Anxiety about their own families and society's potential disbelief, intolerance and lack of support;
- Fear that disclosure will result in them being treated 'differently' by friends and family;
- Concerns about confidentiality, losing control of the situation; and
- No confidence or gratification in the sentencing/justice outcomes.

Bravehearts believes that the first presumption if someone discloses child sexual assault should be that the matter is referred to police for investigation:

- **Where the victim is still a child** and the organisation becomes aware or has concerns that a child is being sexually harmed, we all have a responsibility to put the protection and safety of children first. Any form of sexual behaviour by an adult towards or with a child is always sexual assault, is always a crime and must always be reported immediately to the police. Allegations of child sexual assault must not be investigated internally, and in particular the child/young person or the accused must not be questioned by the organisation.
- **Where the victim is now an adult**, the organisation should encourage the adult victim to disclose to the Police, and provide them with support to do so. For adult victims who are not confident to report to Police, an alternative process needs to be put in place to assist them. Bravehearts Sexual Assault Disclosure Scheme (outlined below) has been running successfully since 2001 and provides an ideal model for the organisations to access. Such a process will ensure transparency and professionalism in responding to complaints of child sexual assault and will deflect criticisms of organisational cover-up.

The Sexual Assault Disclosure Scheme (SADS) was developed by Bravehearts to overcome these barriers and assist survivors in their disclosure to police in a safe and non-confronting way:

Two forms (linked by a common identification number) are completed either online or via paper copy.

1. Form A only seeks information on the person making the disclosure. Form A is held securely by Bravehearts.

2. Form B seeks information on the alleged offender and offence. Form B is provided to the Police. The first question on this form provides you with the opportunity to provide police with your name and contact details directly, or choose to remain anonymous and only be contacted through Bravehearts.

Information from Form B is processed by the Police and entered into their system.

The Police assess the information and contact Bravehearts with the forms identification number when they wish to speak to the discloser (unless you have indicated on Form B that Police can contact you directly)

Bravehearts contacts the discloser, letting them know that the Police are interested in speaking to them, what this means and seeking permission to pass on your name and contact details to the Police.

If you are happy to speak to the Police your details are passed on and Police can speak with you to establish whether or not an investigation is possible. If you do not wish to speak to the Police, the information from Form B remains in the Police system as intelligence.

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# Attachment A

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**Families SA (2012) Child Safe Environments: Principles of good practice**



# **Child Safe Environments**

## **Principles of Good Practice**

**Issued by the Chief Executive,  
Department for Education and Child Development  
(Section 8A, *Children's Protection Act 1993 (SA)*)**

**Version: July 2012**

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- Association of Professional Engineers, Scientists and Managers, Australia (APESMA)
- Attorney-General's Department
- Australian Liquor, Hospitality and Miscellaneous Workers' Union (LHMU)
- Australian Nursing Federation (ANF)
- Catholic Archdiocesan
- Catholic Education SA
- Department for Communities and Social inclusion
- Department of Further Education Employment Science and Technology (DFEEST)
- SA Health
- Local Government Association of South Australia
- Office for Recreation & Sport
- Office for Volunteers
- Public Service Association (PSA)
- South Australia Police (SAPOL)
- South Australian Salaried Medical Officers Association (SASMOA)
- Teachers Registration Board of South Australia (TRB)

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## Introduction

Every child<sup>1</sup> has a right to be safe from harm at all times. The well being and best interests of children are the responsibility of the entire community. As members of the wider community, we must act to ensure that every environment where children are present is safe.

The *Children's Protection Act 1993* aims to ensure that all children are safe from harm and are cared for in a way that allows them to reach their full potential. For this reason, the Act places particular responsibilities on the Chief Executive, Department for Education and Child Development, and government, non-government and local government organisations with respect to developing and maintaining child safe environments.

Under Section 8A of the Act, the Chief Executive, Department for Education and Child Development, is responsible for:

- developing codes of conduct and principles of good practice for working with children
- defining appropriate standards of care for ensuring the safety of children
- providing guidance on the recruitment and supervision of employees of government and non-government organisations who may have contact with children in the course of their employment
- developing and issuing standards to be observed in dealing with information obtained about the criminal history of employees and volunteers who work with children in government or non-government organisations.

The Chief Executive is also responsible for monitoring progress towards child safe environments in the government and non-government sectors and reporting regularly to the Minister on that subject.

Under Section 8C of the Act, government, non-government and local government organisations that provide services wholly or partly for children are required to have in place appropriate policies and procedures to establish and maintain child safe environments.<sup>2</sup> These policies and procedures must comply with Standards and Principles issued from time to time by the Chief Executive, Department for Education and Child Development.<sup>3</sup>

Organisations must also lodge a statement with the Department for Education and Child Development that demonstrates that they meet the requirements to establish and maintain a child safe environment. Many organisations already have policies and procedures in place that reflect and address these good practice principles.

These Principles of Good Practice have been issued pursuant to Section 8A of the Act. They are part of an integrated package<sup>4</sup> of measures aimed at establishing and

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<sup>1</sup> Child means a person under 18 years of age

<sup>2</sup> Children's Protection Act 1993 section 8C (1)

<sup>3</sup> Children's Protection Regulations 2010, Part 4, Regulation 15

<sup>4</sup> The minimum requirements are set out in these *Principles of Good Practice* and the *Standards for dealing with information about the criminal history of employees and volunteers who work with*



maintaining child safe environments and ensuring that the safety and well being of children remains of paramount consideration for all organisations that provide services for children.

## Child safe environments

A child safe organisation:

- ‘takes a preventative, proactive and participatory stance on child protection issues’.<sup>5</sup> The safety and well being of children is a paramount consideration when developing activities, policies and management practices
- is one that values and embraces the opinions and views of children
- encourages and assists children to build skills that will assist them to participate in society
- takes action to protect children from physical, sexual, emotional and psychological abuse and neglect.

Creating child safe environments is a dynamic process that involves active participation and responsibility by all sectors of the community – individuals, families, government and non-government organisations and community groups. Sharing responsibility for the care and protection of children helps to develop a stronger, more child-focused community. A child safe community can: care for all children; identify vulnerable children; support children who have been abused and neglected; and prevent further harm to children.

The focus of a child safe organisation is not simply to create an environment that minimises risk or danger. Rather it is about building an environment which is both child-safe and child-friendly, where children feel respected, valued and encouraged to reach their full potential.

A child safe environment is the product of a range of strategies and initiatives. In addition to child safe policies and appropriate codes of conduct and behaviour for employees, volunteers and members, organisations must foster cultures of openness. This means:

- children need to know what to do if they believe they have been subject to inappropriate behaviour or have experienced abuse
- organisations need to have very clear procedures to assist employees/volunteers in identifying suspected abuse and neglect
- management, employees and volunteers must also be aware of their duty to report suspected abuse and neglect to the Families SA: Child Abuse Report Line (13 14 78) and take other measures to establish, promote and maintain child safe and child friendly environments.

**This commitment to protecting and supporting children should be embedded in an organisation’s culture such that everyone is aware of their responsibility.**

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*children* that are issued by the Chief Executive, DECD. These and other resources are available from [www.families.sa.gov.au/childsafe](http://www.families.sa.gov.au/childsafe).

<sup>5</sup> Child Wise *Choose with Care*<sup>®</sup>: *A handbook to build safer organisations for children*. Child Wise, Melbourne 2004, p. 18.

## General principles

The principles and philosophy that underpin child protection work within Australia are based on the United Nations Convention on the Rights on the Child.<sup>6</sup> The Convention provides the foundations for both the *Children's Protection Act 1993* and these principles of good practice. The Convention emphasises that:

- All children have equal rights to protection from abuse and neglect.
- All children should be encouraged to fulfil their potential and inequalities should be challenged.
  - All children should be encouraged to participate fully in cultural and artistic life and appropriate and equal opportunities should be provided for cultural, artistic, recreational and leisure activity.
- Everybody has a responsibility to support the care and protection of children.
- Organisations shall take all appropriate legislative, administrative, social and educational measures to protect children from all forms of abuse, neglect or negligent treatment, while in their care.
- Organisations have a duty of care to children with whom they work and with whom their agents, contractors and subcontractors work.
  - If organisations work through partners (e.g. contractors, subcontractors or agents), they have a responsibility to meet minimum standards of protection for the children in their partners' programs.

The *National Framework for Creating Child Safe Environments* has been endorsed by all Australian jurisdictions and states that organisations have a moral and legal responsibility to ensure that children in their care are safe. Community service organisations have additional obligations because of the particular vulnerability of many children and young people in their care or utilising their services.<sup>7</sup> These Principles of Good Practice reflect the rationale of the *National Framework Schedule: An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking*,<sup>8</sup> which emphasises that:

- The paramount consideration is the rights, interests and well being of children and their protection from harm
- The organisation has a duty of care to take all reasonable, necessary and appropriate steps to protect children and young people from risk of harm while they are under the care or supervision of employees or volunteers.

The *National Framework for Creating Child Safe Environments* is available from [www.families.sa.gov.au/childsafes](http://www.families.sa.gov.au/childsafes).

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<sup>6</sup> United Nations Office of the High Commissioner for Human Rights *Convention on the Rights of the Child: Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989*. At: <http://www2.ohchr.org/english/law/crc.htm>.

<sup>7</sup> Community and Disability Services Ministers Conference - *National Framework for Creating Child Safe Environments Schedule: An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking*, 2005, p. 3.

<sup>8</sup> *Ibid*, p. 2.

## Legislation

These principles of good practice have been developed in accordance with the requirements of the *Children's Protection Act 1993*, in particular Section 8A and Section 8C. Under the Act, relevant organisations that provide services wholly or partly for children must, as soon as practicable following the formation of the organisation, establish appropriate policies and procedures for ensuring:

- that appropriate reports of abuse or neglect are made by mandated notifiers
- that child safe environment are established and maintained within the organisation.

These organisations must also lodge a statement with the Chief Executive, Department for Education and Child Development, setting out their policies and procedures.

### **Establishing and maintaining child safe environments: appropriate policies and procedures**

All organisations providing health, welfare, education, sporting or recreational, religious or spiritual, child care or residential services wholly or partly for children are required by law to develop appropriate policies and procedures for establishing and maintaining child safe environments. These organisations are obliged, under the Regulations of the *Children's Protection Act 1993*, to ensure that their policies and procedures comply with:

- codes of conduct and principles of good practice of a kind referred to in Section 8A (a) of the Act; and
- standards of a kind referred to in Section 8A (j) of the Act

insofar as such documents apply to the organisation.<sup>9</sup>

Documents issued under section 8A of the Act include these *Principles of Good Practice* and the *Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children* (available from [www.families.sa.gov.au/childsafe](http://www.families.sa.gov.au/childsafe) ).

Relevant organisations are also required to lodge a statement with the Chief Executive, Department for Education and Child Development, which sets out their child safe environment policies and procedures (a "Child safe Environment Compliance Statement").

Under Section 8A (i) of the *Children's Protection Act 1993*, the Chief Executive of the Department for Education and Child Development is responsible for monitoring progress towards child safe environments. In addition to lodging a statement about their child safe policies and procedures with the Chief Executive, organisations may be required to provide further evidence of their progress in establishing and maintaining child safe environments. To meet this obligation, organisations may decide to document their progress towards establishing and maintaining child safe environments in an Annual Report. In addition, to check the overall progress of an

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<sup>9</sup> Children's Protection Regulations 2010, Regulation 15.

organisation, a number of other indicators might be used. For example an organisation may measure:

- children's self-reported level of perceived safety through a purpose-designed questionnaire
- employees' and volunteers' understanding of the child safe policy, related procedures and code of conduct
- employees' and volunteers' awareness of reporting and response procedures when dealing with suspected abuse or neglect
- written records of the advice and support provided by the Child Safety Officer to children, parents, employees and volunteers (where applicable).

Another measure of an organisation's commitment towards establishing child safe environments is its information sharing guidelines to protect and promote the well being of children. The *Information Sharing Guidelines for Promoting the Safety and Well being of Children, Young People and their Families*<sup>10</sup> requires that relevant government and state government funded organisations develop an appendix that outlines how the organisation will ensure that information is appropriately shared to promote child safety and well being.

Organisations that do not act to establish a child safe environment may face a fine of up to \$10 000. Failure to lodge a statement with the Department for Education and Child Development may incur a fine of up to \$5,000.

More information about establishing child safe environments, including an online lodgement form for submitting a Child Safe Environment Compliance Statement, is available from the Department for Education and Child Development – Families SA website. [www.families.sa.gov.au/childsafe](http://www.families.sa.gov.au/childsafe).

### **Mandated notification and reporting suspected abuse and neglect**

Anyone who suspects, on reasonable grounds, that a child or young person is being abused or neglected, should report it to Families SA Child Abuse Report Line (ph. 13 14 78).

Under Section 11 of the *Children's Protection Act 1993*, certain groups of people are required to report to Families SA if they suspect on reasonable grounds that a child is being abused or neglected and this suspicion is formed in the course of their work. This is a legal obligation which carries a penalty if the individual fails to comply. These people are referred to as mandated notifiers, and include:

- medical practitioners
- pharmacists
- registered or enrolled nurses
- dentists

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<sup>10</sup> The Guidelines can be accessed from the Guardian for Children and Young People's website: <http://www.gcyp.sa.gov.au/information-sharing-guidelines>.

- psychologists
- police officers
- community corrections officers (an officer or employee of an administrative unit of the Public Service whose duties include the supervision of young or adult offenders in the community)
- social workers
- ministers of religion
- employees or volunteers of organisations formed for religious or spiritual purposes
- teachers in educational institutions (including kindergartens)
- approved family day care providers
- any other person who is an employee of, or volunteer in, a government or non government organisation that provides health, welfare, education, sporting or recreational, child care or residential services wholly or partly for children, being a person who:
  - is engaged in the actual delivery of those services to children
  - holds a management position in the relevant organisation the duties of which include direct responsibility for, or direct supervision of, the provision of those services to children.

Reasonable grounds to report suspected abuse and/or neglect may include:

- when a child tells you she/he has been abused
- when your own observations of a particular child's behaviour and/or injuries lead you to suspect abuse is occurring
- a child telling you that they know of someone who has been abused (she/he may possibly be referring to her/himself)
- when you hear about it from someone who is in a position to provide reliable information, perhaps a relative or friend, neighbour or sibling of the child who is at risk.

Keeping children and young people safe involves more than just reporting concerns to Families SA or responding once an allegation of abuse or neglect is made. By promoting a whole of community responsibility for the care and protection of children, amendments to the *Children's Protection Act 1993* help to challenge the unrealistic expectation that one agency, namely Families SA, can effectively respond to all child protection concerns.

The Act also states that mandated notifiers may have a duty of care, beyond making a notification, to take further steps to assist a child and ensure their safety and well being (Section 11(5)).

See *Child Safe Environments: Guidelines for Mandated Notifiers and Information for Organisations* available from Families SA website [www.families.sa.gov.au/childsafes](http://www.families.sa.gov.au/childsafes).

## Dealing with information obtained about the criminal history of employees and volunteers who work with children

Under Section 8B of the *Children's Protection Act 1993*, government, non-government and local government organisations providing health, welfare, education, sporting or recreation, religious or spiritual, childcare or residential services wholly or partly for children are required to conduct criminal history assessments for staff and volunteers who are working with or around children in prescribed positions<sup>11</sup>.

This includes all staff and volunteers who:

- have regular contact with children or regularly work in close proximity to children and are not directly supervised at all times,
- manage or supervise such personnel; or
- have access to records relating to children that are prescribed by regulation.<sup>12</sup>

Organisations or their responsible authorities (e.g. the Chief Executive or managing authority) must ensure that if a criminal history report has been obtained for employees and volunteers who work with children in prescribed positions, the criminal history information is dealt with in a manner that reflects the Standards issued by the Chief Executive to be observed in dealing with information obtained about the criminal history of employees and volunteers.

The Standards to be observed in dealing with information obtained about criminal history of employees and volunteers are available in a separate document entitled *Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children*. This document is available from the Department for Education and Child Development - Families SA website [www.families.sa.gov.au/childsafe](http://www.families.sa.gov.au/childsafe).

Establishing and maintaining a child safe organisation requires ongoing commitment. Throughout this document we have provided indicators of compliance which may be used as a measure of an organisation's efforts towards building a child safe environment.

Many organisations will already have some or all of the above elements written into their policies and practices. The Children's Protection Act 1993 does not require that organisations re-write or reproduce the above elements. It simply requires that the policy framework that is in place is of the standard set by Department for Education and Child Development.

<sup>11</sup> Unless an exemption applies.

<sup>12</sup> *Children's Protection Regulations 2010*

<http://www.legislation.sa.gov.au/LZ/C/R/CHILDRENS%20PROTECTION%20REGULATIONS%202010/CURRENT/2010.176.UN.RTF> Regulation 10.

## Applying the principles of good practice

Child safe organisations require a policy framework that addresses specific requirements outlined in the *Children's Protection Act 1993*. These include:

- the organisation's commitment to the safety and protection of children
- how volunteers and employees recognise and respond to suspicions of child abuse and neglect
- standards of care for ensuring the safety of children including standards for addressing bullying by children within the organisation
- codes of conduct for employees and volunteers within the organisation
- standards of care for employees and volunteers within the organisation that reflect the organisation's duty of care to children.

The principles set out in this document establish the minimum requirements that organisations must meet in order to demonstrate that appropriate steps have been taken to establish a safe environment for children.

Guidelines and indicators of compliance are set out below each principle to assist organisations to make clear their commitment to establishing and maintaining child safe environments. The indicators of compliance provide organisations with clear examples of steps that they can take to ensure that they have complied with their requirements under the legislation. The guidelines and indicators of compliance are not intended to be wholly prescriptive but to assist organisations in establishing and maintaining child safe environments. By providing indicators of compliance, these principles can be used to measure and audit the child-safe practices of organisations. They can also assist organisations in reviewing and evaluating current practice and identifying goals for development. The principles also provide a basis for accountability and challenge if practice falls below the specified standards.<sup>13</sup>

Although no policy or procedure can guarantee child safe environments, by implementing these good practice principles, organisations may promote child safety and well being while minimising the risk of harm to children. The principles provide clear guidance on appropriate standards of behaviour around children and what an organisation can do if it becomes aware of inappropriate behaviour on the part of others. In addition, by establishing child-safe practices, organisations may deter those who would wish to abuse children from joining the organisation.

In writing these good practice principles, the aim has been to make them relevant and achievable while also recognising that different organisational contexts will at times pose challenges.<sup>14</sup> While provisions within organisations' policies and practices must meet the requirements of the principles when establishing and maintaining child safe environments, the *Children's Protection Act 1993* acknowledges that provisions to achieve this may vary according to the size, nature and resources of each organisation.

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<sup>13</sup> Tearfund & NSPCC '*Setting the Standard*': A common approach to Child Protection for international NGOs. Tearfund & NSPCC, Middlesex, 2003, p. 6.

<sup>14</sup> Ibid.

## Principle 1: Identify and analyse risk of harm

**The organisation develops and implements a risk management strategy that identifies, assesses and takes steps to minimise the risks of harm to children because of the action or inaction of a person involved with the organisation (such as an employee, volunteer, or another child.)**

**This includes a review of existing child protection policies and practices to determine how child safe and child friendly the organisation is and the development of strategies to minimise and prevent risk of harm to children.**

### Guidelines

The purpose of the risk management strategy is to ensure the well being of children and young people in contact with organisations, and protect them from harm. In the context of creating safe environments for children, risk management means identifying, assessing and taking steps to minimise the risks of harm to children because of the action or inaction of another person involved with the organisation (such as an employee, volunteer, or another child).<sup>15</sup>

Risk management does not have to be hard or complicated.

In this context, a risk is anything that can cause harm or loss to a child. Risk of harm is the likelihood of inflicting harm to children (either directly or as a consequence of other actions) and the severity of that harm. In the child protection context, a child would be considered to be at risk if they are in a situation where there is a high likelihood that the child's safety and/or well being will be severely compromised.

Harm in the child protection context is defined as the detrimental impact on the physical, psychological, emotional or social safety, well being and development of a child as a result of the actions or inactions of another person.

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<sup>15</sup> Community and Disability Services Ministers Conference (2007) *Creating Safe Environments for Children: Organisations, Employees and Volunteers*, pg 3.



Risk management is identifying and assessing all potential sources of harm, and taking steps to decrease the likelihood that harm will occur.<sup>16</sup>

Effective risk management strategies need to be transparent, well understood and diverse, to take account of the increased level of risk associated with the specific nature of some activities and the vulnerability of particular groups.

Risk and safety assessments need to be integrated into practice at every stage of intervention with a child or young person. Risk management strategies will vary in scope and detail depending on the complexity and size of the organisation, the type of activities or services provided for children and the age and maturity of the children and young people involved.

To best identify and respond to risk, it is important that employees and volunteers have a basic understanding of child development and child abuse (refer Principle 5). In this way, positive steps can be taken to keep children safe and promote their well being.<sup>17</sup>

## Seven stages of risk management

1. *Establish the goals and objectives (scope and setting) – clarify objectives and areas of operation where risks may occur*
2. *Identify risks – including how they may happen*
3. *Analyse risks – determine likelihood and magnitude of consequences*
4. *Evaluate risks (e.g. low, medium, high) – which risks are acceptable based on cost-benefit analysis*
5. *Implement strategies to minimise and prevent risk – actions to be taken and who is responsible*
6. *Review and revise risks and preventative measures – detect and manage new risks*
7. *Communicate and consult – to build commitment and increase compliance*

(Child Wise, 2004: 45; AS/NZS 4360: 2004)

<sup>16</sup> Graff, Linda (2003) *Better Safe ... Risk management in Volunteer Programs and Community Service*. Linda Graff and Associates Inc, Ontario.

<sup>17</sup> Community and Disability Services Ministers Conference (2007) *Creating Safe Environments for Children: Organisations, Employees and Volunteers*.

## **Principle 1: Indicators of Compliance**

These indicators of compliance are not mandatory. They provide clear examples of steps that an organisation can take to ensure that it has complied with its obligations to establish child safe environment policies and procedures under the *Children's Protection Act 1993*.

- 1.1 Members (including management, employees and volunteers) of the organisation are aware of both child development and how child abuse can occur and be detected within an organisation.
- 1.2 A safety review identifies the organisation's strengths and weaknesses relating to the safety and protection of children.
- 1.3 The key services provided to children by the organisation are identified. An assessment is made of the risk posed to children relating to each of these services
  - 1.3.1 Issues such as sources of, and reasons for, potential risks to children are examined. Potential consequences and existing controls are also identified.
- 1.4 Once high-risk situations have been identified, the organisation develops a risk management process or plan that minimises the risk of such situations or relationships occurring. This includes situations which might lead to false, malicious or mistaken accusations of abuse
  - 1.4.1 The organisation may refer to these risky situations in its Code of Conduct [refer: Principle 3]. A Code of Conduct may explicitly outline how these situations are best avoided or how to minimise their occurrence.
- 1.5 The organisation undertakes regular reviews and responds to new challenges in order to maintain child safe environments.

## Principle 2: Develop a clear and accessible child safe policy

The organisation has a child safe environments (child protection) policy that outlines its commitment to promoting children's well being and safeguarding children from harm.

### Guidelines

A child safe policy is a statement of intent that demonstrates an organisation's commitment to safeguard children from harm and makes clear to all what is required in relation to the protection and well being of children. It helps to create a safe and positive environment for children to promote children's well being and to show that the organisation is taking its duty of care seriously.<sup>18</sup>

Principle 1 outlined how to identify and manage risk. In developing a child-safe policy and supporting procedures, the risks that have been identified should be specifically addressed in the organisation's policy. In addition, child safe organisations require a policy framework that includes:

- a statement of the organisation's commitment to the safety and well being of children and the protection of children from harm
- how volunteers and employees respond to and report their suspicions of child abuse and neglect
- codes of conduct and standards of care for employees and volunteers within the organisation
- recruitment and training of volunteers and employees
- standards for addressing bullying by children within the organisation
- strategies to promote the participation of children.

Everyone, including children, need to know who they can approach to disclose and discuss abuse or to seek support and advice. A good practice that the organisation may adopt is to appoint an individual (e.g. Child Safety Officer) as the

### Sample Child Safe Policy Statement

*The organisation (insert name) is committed to the safety and well being of all children and young people accessing our service. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and well being of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants.*

(Child Wise, 2004: 59)

<sup>18</sup> Tearfund & NSPCC, (2003) above n.8, p1.

first point of contact to provide advice and support to children, parents and employees/volunteers regarding the safety and well being of children when dealing with the organisation.

Policies and procedures require collaborative effort and ongoing review and improvement. A child-safe policy will only be effective if people are aware of them, have some ownership of them and have the opportunity to express their views on how they are working.

## **Principle 2: Indicators of Compliance**

These indicators of compliance are not mandatory. They provide clear examples of steps that an organisation can take to ensure that it has complied with its obligations to establish child safe environment policies and procedures under the *Children's Protection Act 1993*.

- 2.1 The organisation has a policy that indicates the organisation's commitment to a child safe organisation.
- 2.2 The policy is written in a clear and easily understandable way.
- 2.3 The policy is publicised, promoted and distributed widely.
- 2.4 The policy identifies legislative imperatives.
- 2.5 The policy is approved and endorsed by the organisation's managing authority.
- 2.6 The policy specifies responsibilities.
- 2.7 The policy has supporting procedures and standards.
- 2.8 The policy has been communicated to all relevant audiences
  - 2.8.1 All employees and volunteers are aware of and have had the opportunity to read the policy
  - 2.8.2 Employees and volunteers are encouraged to sign a written statement indicating they have read the policy. The signed acknowledgement should be retained on the personnel file and the organisation should also ensure that a copy is retained by the individual
  - 2.8.3 Parents, carers and children (where appropriate) in the organisation are made aware of the policy and are able to access a copy.
- 2.9 The policy is current and has been evaluated and reviewed in accordance with its review date.<sup>22</sup>

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<sup>19</sup> It is recommended that the policy is reviewed as a minimum every three years and/or is adapted whenever there is a significant change in the organisation or in relevant legislation.

## Principle 3: Develop codes of conduct for adults and children

**The organisation has a code of conduct that specifies standards of conduct and care when dealing and interacting with children, particularly those in the organisation's care. The organisation also has a code of conduct to address appropriate behaviour between children.**

**The code(s) of conduct set out professional boundaries, ethical behaviour and unacceptable behaviour.**

### Guidelines

A code of conduct 'is a straightforward guide of dos and don'ts to assist staff and volunteers to conduct their work professionally and effectively'.<sup>20</sup>

All organisations that provide services to children should have codes of conduct. Codes of conduct require employers and others specified in the code to adopt the standards of conduct and practice set out in the code. Codes of conduct help prevent abuse of trust, where a party is in a position of power or influence over the other by virtue of their work or the nature of their activity. Care is always needed when such a relationship potentially exists.

By setting a clear benchmark of acceptable standards of conduct and care, a code of conduct can promote safe, positive and encouraging environments. A code of conduct can minimise opportunities for abuse and help to prevent unfounded allegations. In this way, codes of conduct help protect children and young people as well as employees and volunteers. This dual purpose is typically made clear in a preamble (for example, the code of conduct could be linked with the organisation's child safe policy, with an opening statement similar to the sample child safe policy statement referred to in Principle 2).

Codes of conduct may be independent or written into existing policies or codes of behaviour to provide safeguards and prevent abuse. The code of conduct is a brief, clear document that covers issues such as:

- Physical contact
- Confidentiality
- Toilet and bathing arrangements
- Favouritism and 'special' relationships
- Training

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<sup>20</sup> Child Wise, 2004 above n.4, p 62.

A code of conduct aims to minimise risk. Your code of conduct should specify appropriate codes of behaviour for employees or volunteers when interacting with children, particularly when employees and volunteers are required to be alone with children (e.g. counselling). Wherever possible, your organisation should ensure employees and volunteers spend minimal time alone with one child.

High-risk situations or relationships are specifically addressed in a code of conduct or code of behaviour. Risk minimisation practices such as supervision can support adherence to your code of conduct.

Two examples of high risk situations include some forms of sports coaching, which may involve non-sexual physical contact, and domiciliary care where toileting and bathing arrangements may need to be performed for children or young people.

In addition, standards of conduct should also be specified for children to outline appropriate behaviour and address bullying.

Bullying is repeated verbal, physical or social behaviour that is harmful and involves the misuse of power by an individual or group towards one or more persons.

Cyber-bullying refers to bullying through information and communication technologies.

It is up to each organisation, profession or occupation to develop its own codes of conduct to suit individual circumstances and roles, based on these principles of good practice.

### **Principle 3: Indicators of Compliance**

These indicators of compliance are not mandatory. They provide clear examples of steps that an organisation can take to ensure that it has complied with its obligations to establish child safe environment policies and procedures under the *Children's Protection Act 1993*.

- 3.1 The organisation has a code of conduct.
- 3.2 The code of conduct includes statements about the responsibility of adults and children to treat one another with dignity, respect, sensitivity and fairness.
- 3.3 The code(s) of conduct clearly set out acceptable (and unacceptable) behaviour for everyone within the organisation, including but not limited to:
  - 3.3.1 existing management, employees, members or volunteers including those who are currently occupying or acting in identified prescribed positions
  - 3.3.2 all persons seeking paid employment, membership or voluntary work with the organisation in a prescribed position, regardless of whether they are existing employees, members or volunteers
  - 3.3.3 independent contractors, agency staff, consultants, apprentices, trainees and students on placement
  - 3.3.4 children and young people.<sup>20</sup>
- 3.4 The code identifies and addresses unacceptable behaviours (i.e. high-risk behaviours), for example:
  - 3.4.1 unwarranted, unwanted and/or inappropriate touching of a child
  - 3.4.2 bullying or harassment of a child
  - 3.4.3 inappropriate contact or relationships between employees/ volunteers and children within the organisation
  - 3.4.4 management of situations where adults are alone with children.
- 3.5 Codes of conduct are developed collaboratively including input from children (wherever practicable).
- 3.6 Codes of conduct are widely available, published and communicated to individuals identified above.

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<sup>21</sup> Codes of Conduct may also address behaviour and interaction between children and young people.

- 3.7 Codes of conduct require signed acknowledgement (a statement of commitment) by all employees and volunteers (wherever practicable)
  - 3.7.1 By making the acknowledgment and/or signing the code, employees and volunteers confirm their obligation to apply the code to their work within the organisation. The acknowledgment is included on their staff record or personnel file (where applicable).
- 3.8 Codes of conduct reflect the unique values and program activities of the organisation.
- 3.9 A code of conduct is linked to performance management of employees and volunteers.
- 3.10 The code of conduct makes it clear that discriminatory, offensive and violent behaviour is unacceptable and complaints will incur an appropriate response
  - 3.10.1 Members of the organisation are aware of their duty to raise concerns about the behaviour of employees, managers, volunteers, children or others which may be harmful to children, without prejudice to their own position. This duty exists even if they are not mandated notifiers under the *Children's Protection Act 1993*
  - 3.10.2 Parents and carers are encouraged to raise any concerns (e.g. to the Child Safety Officer) about the behaviour of employees, managers, volunteers, children or others which may be harmful to children, and expect to be listened to and supported.
- 3.11 The code of conduct is supported by clear organisational reporting and response mechanisms to address breaches of the code of conduct
  - 3.11.1 Clear procedures outline what employees/volunteers should do if they are concerned that their actions or words have been misunderstood
  - 3.11.2 Employees and volunteers are aware of existing reporting and disciplinary procedures and how to communicate concerns regarding improper behaviour of volunteers, employees or children within the organisation
  - 3.11.3 The consequences of breaching the code are linked to organisational disciplinary procedures
  - 3.11.4 All procedures are clear, accessible and transparent.



## Principle 4: Choose suitable employees and volunteers

The organisation takes all reasonable steps to ensure that it engages the most suitable and appropriate people to work with children (in prescribed positions).

This is more likely to be achieved using a range of screening measures. Such measures aim to minimise the likelihood of engaging (or retaining) people who are unsuitable to work with children.

If a criminal history report is obtained as part of the screening process, the organisation must ensure that the criminal history information is dealt with in accordance with the Standards developed by the Chief Executive, Department for Education and Child Development.<sup>22</sup>

Where criminal history assessments are required by law, the organisation must ensure that a satisfactory criminal history assessment is conducted for all persons undertaking prescribed functions at agency-defined intervals up to a maximum validity period of three years.

### Guidelines

The organisation has a duty of care to take all reasonable steps to protect children from harm. Choosing suitable employees and volunteers is part of fulfilling the duty of an organisation to act diligently and prudently to prevent actions and behaviour that would be harmful to children. It is important that the organisation engages the best possible people to work with children who are suited to the specific role they are undertaking.

The *Children's Protection Act 1993* refers to people who work with children as working in 'prescribed positions' which includes positions that require or involve 'prescribed functions'. Prescribed functions are those involving any of the following:

- regular contact with children or working in close proximity to children on a regular basis, where the work or contact is not supervised at all times
- supervision or management of persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis

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<sup>22</sup> Department for Education and Child Development *Child Safe Environments: Standards for dealing with information obtained about the criminal history of employees and volunteers who work with children.*

- access to records prescribed by regulation relating to children
- functions of a type prescribed by regulation.<sup>23</sup>

People who work with children may be either employees, volunteers, contractors, subcontractors or agents. South Australia has the highest volunteer participation rate in Australia. Volunteers play a major role in many organisations, providing services and strengthening communities. Most volunteers are genuine, caring, helping people who want to do the best for children and their communities. A small number of people who seek to work with children in a paid or voluntary capacity pose a risk of harm to children. It is possible to minimise the risks and to prevent harm by putting safeguards in place. This will deter unsuitable applicants/child abusers from applying and help ensure that they are not recruited into the organisation.<sup>24</sup>

Background checking, screening and risk assessment during the recruitment of employees and volunteers are important measures within organisations' policies and practices for developing child safe organisations.

The three key terms –

- background checking
- screening and
- risk-assessment

are often used interchangeably but refer to different concepts and processes.

Screening 'in the context of minimising the risk of harm to children in their dealings with organisations is generally understood to refer to the combined process of background checking, risk assessment and decision-making concerning acceptance/exclusion of persons in areas of child related employment/volunteering'.<sup>25</sup> In order to screen and assess employees and volunteers, organisations may:

- undertake face-to-face interviews
- confirm educational status
- request referee reports and obtain reference checks
- conduct criminal history assessments<sup>26</sup>

## Basic Screening

Basic screening may be sufficient in cases where:

- a criminal history assessment is not required by law
- it is not practicable to undertake comprehensive screening for all applicants who are seeking to work or volunteer in **prescribed positions**. (e.g. small non-government organisations with limited resources), and
- the position to be filled is low risk (e.g. constantly supervised by individuals who have been comprehensively screened).

Basic screening includes:

- a comprehensive application form with a signed statement
- a thorough personal interview
- professional and personal reference checks/referee reports with telephone contact
- confirmation of education (appropriate for some positions).

<sup>23</sup> As at July 2012, there are no additional functions prescribed by Regulation.

<sup>24</sup> Jackson, Elanor & Wernham, Marie, *Child Protection Policies and Procedures Toolkit: How to make a child-safe organisation*. ChildHope UK, London, 2005.

<sup>25</sup> Community and Disability Services Ministers Conference, *Guidelines for Information Sharing Across Jurisdictions*, 2007, p. 6.

<sup>26</sup> Some government and non-governments are required by law to conduct criminal history assessments for people who are working with children in prescribed positions (see *Children's Protection Act 1993 (s8B)*).

- undertake other background checks (e.g. psychological testing, on the job observation).

Background checking ‘involves obtaining information about potential employees and volunteers, on the basis that the information is deemed relevant to working in a child-related area. The information gathered may include details concerning previous employment and relevant experience; verification of qualifications and professional registration; criminal history information; thorough reference checks; and work history reports’.<sup>27</sup>

In the area of child protection, “risk assessment” refers to a process of evaluating the information received to reach a decision about the risk of harm a person may pose to children’.<sup>28</sup> Some roles present higher levels of risk to children, based on the nature of the work.

Some screening practices may also be used for ongoing monitoring purposes of existing employees and volunteers (e.g. obtaining criminal history reports or on the job observation). Another measure to reduce risk of harm to children is to use probationary periods for new employees and volunteers, to assess their suitability for specific positions, roles or duties.

### Face-to-face interviews

Interviews may include behaviour-based questions and open questions that invite explanations rather than a yes/no response (e.g. why do you want to work with children?).<sup>29</sup> It is recommended that one of the interviewers is a Child Safety Officer (refer Principle 2) or someone who has undergone training/is familiar with issues of child protection.

### Referee reports and undertake reference checks

Relevant referee reports/references can help determine when individuals present a risk of harm to children or are unsuitable to work with children. A structured referee check is to be undertaken as part of any selection process for recommended applicants who are not currently employees or volunteers of the organisation. It is recommended that information on the applicant’s suitability to work with children is sought from a minimum of two referees. This is in line with international good practices. One referee should be the applicant’s current supervisor, unless acceptable reasons are provided for not nominating that person. If the applicant is not working, the applicant’s most recent supervisor should be nominated as the referee. If the applicant has never been employed, the applicant may provide the contact details of persons who are able to provide reliable character references.

A suggested question to be asked of referees for the structured referee check regarding working with children is: ‘to your knowledge is there any aspect of the applicant’s behaviour, actions or activities that would make them unsuitable for working with children?’

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<sup>27</sup> Community and Disability Services Ministers Conference, *An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking*, 2006, p. 2.

<sup>28</sup> Ibid, p. 2.

<sup>29</sup> Simcock, Anthea *Safe, not sorry: A handbook for selecting suitable people to work with children*. The Institute for Child Protection Studies Inc, Hamilton, 2000, p. 13.

In some cases it may be necessary for organisations to undertake follow up with referees in order to establish confidence in the applicant.

### **Criminal history assessments**

Under Section 8B of the *Children's Protection Act 1993*, relevant government, non-government and local government organisations are required to ensure that criminal history assessments are conducted for all employees and volunteers who work in prescribed positions (i.e. with or around children and/or their records) unless an exemption applies.

Organisations may conduct assessments themselves or they may direct employees and volunteers to obtain a Letter of Clearance through the Department for Communities and Social Inclusion (DCSI) Screening Unit.

Where an organisation chooses to conduct their own criminal history assessments they must conduct these assessments in accordance with the Standards published by the Chief Executive, Department for Education and Child Development.<sup>30</sup>

In order to prevent unnecessary intrusion, criminal history assessments should only be obtained for new applicants who have been short-listed for a prescribed position. It is important to first interview applicants and undertake referee checks. This will minimise the costly undertaking of unnecessary criminal history assessments for applicants who are unsuccessful in meeting the selection criteria or who are unsuccessful in completing the early stages of the screening process.

In situations where a criminal history assessment is not required by law and obtaining an assessment is neither practicable nor proportionate to the resources of an organisation, it is recommended that the organisation requires the applicant/employee/volunteer sign a statutory declaration stating that the individual has no relevant criminal history. While a statutory declaration cannot replace an official criminal history report, it can go some way towards mitigating risk and may assist in screening as a useful measure of an individual's integrity.

### **Other background checks**

An organisation may decide to undertake other screening measures such as psychological testing and on the job observation.

The screening measures used by an organisation to screen and assess potential and existing employees and volunteers will depend on both:

- the size, nature and resources of the organisation
- the level of risk attributed to the prescribed position or role [refer Principle 1]

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<sup>30</sup> More information is available in Department for Education and Child Development *Child Safe Environments: Standards dealing with information obtained about the criminal history of employees and volunteers who work with children* Government of South Australia, Adelaide, 2012.

## **Principle 4: Indicators of Compliance**

These indicators of compliance are not mandatory. They provide clear examples of steps that an organisation can take to ensure that it has complied with its obligations to establish child safe environment policies and procedures under the *Children's Protection Act 1993*.

- 4.1 The organisation has policies and procedures for recruiting employees/volunteers and for assessing their suitability to work with children.
- 4.2 Screening is undertaken by the organisation prior to the appointment of new employees/volunteers.
- 4.3 All current employees, contractors and volunteers in prescribed positions are screened in accordance with these principles of good practice.
- 4.4 The organisation has clearly articulated screening and risk assessment procedures that are transparent and available to all relevant audiences.
- 4.5 Risk assessment takes into consideration both situational and individual factors.
- 4.6 Criminal history assessments are conducted for all people appointed to or occupying prescribed positions, unless an exemption applies.
- 4.7 If a criminal history report is obtained, criminal history information is dealt with in accordance with the Standards developed by the Department for Education and Child Development.
- 4.8 Where a criminal history assessment is required by law, the organisation ensures that a satisfactory criminal history assessment is conducted at agency-defined intervals up to a maximum validity period of three years.
- 4.9 The rationale for excluding people has been documented and decision-making is evidence-based.
- 4.10 An assessment panel considers applications and decisions are recorded
  - 4.10.1 The panel includes someone who has undergone training/is familiar with issues of child protection
  - 4.10.2 When assessing an applicant who is Aboriginal, the panel includes an appropriate Aboriginal person (wherever possible).
- 4.11 The organisation ensures that applicants have an opportunity to have input into the decision-making process (e.g. provide a right of reply) as well as an opportunity to have the decision independently reviewed (where possible).

## Principle 5: Support, train, supervise and enhance performance

The organisation ensures that volunteers and employees who work with children or their records have ongoing supervision, support and training such that their performance is developed and enhanced to promote the establishment and maintenance of a child safe environment.

### Guidelines

The organisation fosters a supportive environment which encourages everyone to work towards continuous improvement and accountability.

To achieve this, the organisation should ensure that there are opportunities for employees and volunteers to develop and maintain the necessary skills and understanding to promote child safe environments. This will ensure that everyone understands the importance of child safety and well being and child protection and enable employees and volunteers to ensure that the policies and procedures are implemented to a consistently high standard.<sup>31</sup>

Training and education is important to ensure that everyone in the organisation understands that child safety is everyone's responsibility. Employees and volunteers (in addition to parents/guardians and children) should feel confident and comfortable in discussing child protection issues.<sup>32</sup>

Training and support also promotes an awareness of the appropriate standards of care required to be met by employees and volunteers to ensure that the organisation meets its duty of care when providing services to children. Employees and volunteers of an organisation may be supported through the appointment of an individual e.g. Child Safety Officer (as referred to in Principle 2), with specified 'child-safe' duties in their job description, the organisation can

#### Strategies for Managing Abuse Related Trauma (SMART) Program

A good practice example of training is the SMART Program which may be undertaken by employees and volunteers. The SMART program has been funded by the Department of Education and Children's Services (DECS), as part of the *Keeping Them Safe* child protection reform agenda. It can enhance the capacity of employees and volunteers to understand child development and effectively respond to the needs of children and young people who have experienced abuse and trauma.

The SMART Program consists of integrated professional development opportunities including a free, interactive online learning package.

(The online learning package is available on: [www.childhood.org.au](http://www.childhood.org.au))

<sup>31</sup> Jackson & Wernham 2005, above n. 27, p. 55.

<sup>32</sup> Ibid, p. 59.

ensure that child safety and well being is prioritised. A designated Child Safe Officer also provides a single contact for children, parents and employees/volunteers to seek advice and support regarding the safety and well being of children when dealing with the organisation.

Effective child safe organisations embed a commitment to child safety within the policy and practice of their organisation and reinforce this by recognising the good work and practices of employees and volunteers to help keep children safe and protected.

### **Principle 5: Indicators of Compliance**

These indicators of compliance are not mandatory. They provide clear examples of steps that an organisation can take to ensure that it has complied with its obligations to establish child safe environment policies and procedures under the *Children's Protection Act 1993*.

- 5.1 A pro-active performance development strategy for individual employees and volunteers is developed which focuses on developing skills, knowledge and capabilities of individuals relating to the safety and well being of children (including child development and recognising and responding to suspected abuse and neglect).
- 5.2 Employees/volunteers undertaking prescribed functions (as defined in Principle 4) are involved in regular planning discussions to review previous work and plan for the future.
- 5.3 To promote the safety and well being of children, relevant areas for performance improvement are identified and targeting in action plans to ensure employees/volunteers meet expected performance outcomes.
- 5.4 Performance is measured against standards of conduct and care
  - 5.4.1 Employees and volunteers are aware of the organisation's expectations and appropriate behaviour.
- 5.5 Performance development is an ongoing process.

## Principle 6: Empower and promote the participation of children in decision-making and service development

The organisation promotes the involvement and participation of children and young people in developing and maintaining child safe environments.

### Guidelines

In ensuring that the best interests of the child remain paramount in the decision-making and practices of the organisation, a child rights-based approach should be used. Such an approach views 'each and every child, without discrimination, as an individual human being, deserving of rights and capable of participating in the process of achieving them in a supportive and adequately resourced environment'.<sup>33</sup>

The organisation needs to ensure that children know what behaviour is considered appropriate and when and how to speak out if they feel uncomfortable.<sup>34</sup> The organisational culture should encourage and empower children to be able to raise and discuss their concerns or issues.

Organisations should also encourage children to participate in decisions that may impact on their involvement and their well being within the organisation. It is important that feedback provided by children and young people is acknowledged and acted upon wherever possible.

#### Five Steps to promoting a child safe environment

2. *Listen to children*
3. *Believe children*
4. *Learn about child abuse and protective behaviour for children*
5. *Teach children about their rights and protective behaviour strategies*
6. *Instill a culture of safety and awareness*

(Child Wise, 2004: 41)

<sup>33</sup> Ibid, p. 43.

<sup>34</sup> Ibid, p. 59.



## Principle 6: Indicators of Compliance

These indicators of compliance are not mandatory. They provide clear examples of steps that an organisation can take to ensure that it has complied with its obligations to establish child safe environment policies and procedures under the *Children's Protection Act 1993*.

- 6.1 The organisation seeks feedback from children (according to their evolving capabilities) on its services provided for children and its child-safe policies and procedures.
- 6.2 The organisation has reporting mechanisms that allow children to provide comment and feedback
  - 6.2.1 The reporting mechanisms are clearly communicated to children and parents.
- 6.3 The organisation indicates, in a clear and timely manner, how it has incorporated or responded to the feedback provided by children.
- 6.4 The organisation has procedures to inform children and young people of their rights and available complaints procedures
  - 6.4.1 These procedures allow children to safely and confidentially report and provide feedback
  - 6.4.2 Children and parents are aware how they can access help and advice, both within the organisation and beyond, such as:
    - 6.4.2.1 through telephone services e.g.
      - Kids Help Line      ph.1800 55 1800
      - Lifeline              ph.131 114
      - Youth Health Line    ph.1300 13 17 19
      - Parent Help line:    ph.1300 364 100
    - 6.4.2.2 through written and online resources e.g. Parent Easy Guides developed by Parenting SA.<sup>34</sup>

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<sup>35</sup> At: <http://www.parenting.sa.gov.au/pegs>.

## Principle 7: Report and respond appropriately to suspected abuse and neglect

**The organisation ensures that volunteers and employees are able to identify and respond to children at risk of harm.**

**The organisation makes all volunteers and employees aware of their responsibilities under the Children's Protection Act 1993 if they have suspicion on reasonable grounds that a child has been or is being abused or neglected.**

### Guidelines

Suspected child abuse or neglect must be reported to the Child Abuse Report Line (ph. 13 14 78). The purpose of imposing a legal obligation on certain people who work with children in our community is simply to protect children from harm. By making it a legal requirement for more people to act as mandatory notifiers, the safety net against abuse and neglect has expanded for our children. Early identification of abuse and neglect can ensure that families are assisted in meeting their responsibility for children's safety. When a family cannot protect its children, Families SA has the statutory mandate to assist with the provision of care and protection, or to seek alternative care for children.

**Although not a legal requirement, mandated notifiers may undergo training to assist them in recognising and responding to suspected abuse and neglect.**

South Australia has been offering state wide training of Mandated Notifiers since 1989. A seven-hour training program in reporting and responding to child abuse and neglect is offered, and in addition a Train-the-Trainer program is facilitated by the Department for Communities and Social Inclusion to train people in how to deliver the seven-hour program.

#### Reporting suspected abuse and neglect

Anyone who suspects, on reasonable grounds, that a child or young person is being abused or neglected, should report it to the Child Abuse Report Line on 13 14 78.

It is the role of Families SA to assess the notification and determine whether departmental action is warranted.

It is important to remember that child protection is everyone's responsibility and that even if you have made a report, you may still have a role in supporting the child or young person.

The law imposes liability on mandated notifiers who fail to report suspected child abuse. If a mandated notifier fails to notify the Child Abuse Report Line of suspected abuse and neglect, they may be found to have committed an offence under the *Children's Protection Act 1993* and may be fined up to \$10,000.

It is also an offence to threaten or intimidate, or cause loss, damage or disadvantage to, a mandated notifier because the person has discharged, or proposes to discharge, his or her duty to notify suspected abuse or neglect. A maximum penalty of \$10,000 may apply.

The organisation must take proactive steps to ensure that both mandatory and voluntary notifiers know how to report and respond to allegations of suspected abuse and neglect. Clear procedures, guidance and training (refer Principle 5) can all help individuals recognise harm in addition to the particular risks faced by some children and the extra barriers they may face to obtaining help, because of their race, gender, age, religion or disability, sexual orientation, social background and culture.

Keeping children and young people safe involves more than just reporting concerns to Families SA or responding once an allegation of abuse or neglect is made. It means minimising the possibility of child abuse occurring in the first place, working to reduce the impact of child abuse and neglect after it has occurred, and doing everything possible to ensure it does not occur again and providing ongoing support and services to children, young people and adults as appropriate.

Therefore, the organisation should also establish procedures that include clear, step-by-step guidance on what to do in different circumstances, including reporting and reacting to witnessed, suspected or alleged child abuse and/or a breach of the child safe policy. Standard, transparent reporting procedures and response mechanisms clarify roles and responsibilities and lines of communication. They also embody principles of confidentiality and thereby encourage concerns to be raised.

Systems for recording information and for dealing with complaints are also needed, to ensure implementation and compliance. Clear, written guidelines for employees and volunteers when a child makes an allegation can ensure:

- a relationship of trust is established
- the trauma experienced by the child is minimised in the telling of the abuse
- the incident is reported with the greatest possible factual accuracy

- the child understands that the issue may need to be taken further.<sup>36</sup>

Under the *Children's Protection Act 1993*, a mandated notifier may not have exhausted their duty of care by reporting suspected abuse or neglect to the Child Abuse Report Line (Families SA). There may be cases of suspected abuse or neglect which identify a child who has needs that can be addressed by the organisation rather than requiring a more significant response by Families SA.

In many cases, a multiagency response will be appropriate. Where applicable organisations are guided by the *Information Sharing Guidelines for Promoting the Safety and Well being of Children, Young People and their Families*<sup>37</sup> and the *Interagency Code of Practice: Investigation of Suspected Child Abuse or Neglect*.<sup>38</sup>

Sometimes an individual may suspect a child has been abused by an employee or volunteer of the organisation. As stated in Principle 3, members of the organisation must be made aware of their duty to raise concerns about the behaviour of employees, managers, volunteers, children or others which may be harmful to children, without prejudice to their own position. This duty exists even if they are not mandated notifiers under the *Children's Protection Act 1993*.

In many cases, when a notifier makes the decision to report suspected abuse or neglect to the Child Abuse Report Line, neither the organisation nor the child who is the subject of the report will be aware that a notification has been made. However this does not negate an organisation's obligation to have established practices and procedures that support and assist everyone involved (both adults and children). The organisation should ensure that all employees and volunteers are aware of the supports available to:

- children
  - both at the time of reporting and after a report has been made
  - in relation to any specific cultural needs
  - during an investigation by Families SA or the South Australia Police
  - in providing ongoing services to children.
- the person making the report (the notifier)
  - both at the time of reporting and after a report has been made

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<sup>36</sup> Jackson & Wernham 2005, above n. 27, p. 62.

<sup>37</sup> The Guidelines can be accessed from the Guardian for Children and Young People's website: [www.gcyp.sa.gov.au/information-sharing-guidelines](http://www.gcyp.sa.gov.au/information-sharing-guidelines).

<sup>38</sup> Government of South Australia "Interagency Code of Practice: Investigation of Suspected Child Abuse or Neglect" (2009).

- after a report has been made including seeking feedback from Families SA
- when the organisation provides ongoing services to the child and the family
- in relation to any secondary or vicarious trauma the person may have suffered (e.g. through the provision of or referral to counselling services)
- when notifiers and or the children or adults who are the subject of the notification are members of Aboriginal, Torres Strait Islander or culturally and linguistically diverse communities
- to ensure their safety in their continuing work with families after they have reported a concern to the Child Abuse Report Line.

With such a framework in place, organisations can ensure that immediate and ongoing appropriate action will be taken that reflects the best interests of the child and protects the child from any further harm. In some cases where a risk of harm is present but there is no suspected abuse or neglect, the organisation will be required to respond to, and manage the risk itself.

## **Principle 7: Indicators of Compliance**

These indicators of compliance are not mandatory. They provide clear examples of steps that an organisation can take to ensure that it has complied with its obligations to establish child safe environment policies and procedures under the *Children's Protection Act 1993*.

- 7.1 The organisation ensures that employees and volunteers are made aware of their responsibilities under the *Children's Protection Act 1993*.
- 7.2 The organisation provides volunteers and employees with adequate information and/or training to assist them to identify children at risk of harm and to report to the Child Abuse Report Line (13 14 78).
- 7.3 The organisation has established clear and unambiguous procedures in place which provide step by step guidance on what action to take if there are concerns about a child's safety or welfare.
- 7.4 The organisation has clear procedures that assist employees and volunteers when responding to suspected child abuse or neglect
  - 7.4.1 There is a process within the organisation for recording incidents, concerns and referrals and storing these securely
  - 7.4.2 The organisation has a policy statement that informs employees and volunteers whether or not (and when) it is appropriate to inform the organisation that a report has been made to the Child Abuse Report Line<sup>36</sup>.
  - 7.4.3 The organisation has clear procedures for dealing with concerns of abuse or neglect of a child that has been perpetrated by a volunteer or employee within the organisation (refer also to Principle 3)
  - 7.4.4 The organisation has processes and practices in place to address and respond to children who may be in need.

<sup>36</sup> A notifier is not specifically legally required to inform their organisation that a report has been made to the Child Abuse Report Line although in many cases this will be the most appropriate practice.

## Glossary of terms

**Abuse or neglect**, in relation to a child, means:

- sexual abuse of the child or
- physical or emotional abuse of the child, or neglect of the child, to the extent that either:
  - the child has suffered, or is likely to suffer, physical or psychological injury detrimental to the child's well being
  - the child's physical or psychological development is in jeopardy.

**Background Checking** in the context of working with children 'involves obtaining information about potential employees and volunteers, on the basis that the information is deemed relevant to working in a child-related area. The information gathered may include details concerning previous employment and relevant experience; verification of qualifications and professional registration; criminal history information; thorough reference checks; and work history reports'.<sup>40</sup>

**Background checking** includes, but is not limited to the assessment of a criminal history report.

**Bullying** is repeated verbal, physical or social behaviour that is harmful and involves the misuse of power by an individual or group towards one or more persons.<sup>41</sup>

**Checks of criminal history reports** (also known as a National Police Certificate or a National Criminal History Record Check) are checks of the records of all police services that discloses evidence of whether a person:

- has any recorded convictions or
- has been convicted of an offence or
- has been charged with, and found guilty of, an offence but discharged without conviction or
- is the subject of any criminal charge still pending before a Court.

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<sup>40</sup> Community and Disability Services Ministers Conference, 2006, above n.28, p.2.

<sup>41</sup> DECD Child and Student Well being [www.decd.sa.gov.au/speced2/pages/default](http://www.decd.sa.gov.au/speced2/pages/default).

Individuals seeking to obtain a criminal history report through South Australia Police are provided with a National Police Certificate (NPC). Checks undertaken through a CrimTrac accredited agency are referred to as a National Criminal History Record Check (NCHRC). Checks of criminal history reveal and record convictions across all jurisdictions in Australia (subject to each jurisdiction's spent convictions scheme).

**Child** means a person under 18 years of age.

**Conviction** means "the complete orders made by a court after finding an accused person guilty of an offence including both the finding of guilt and the sentence passed as a consequence".<sup>42</sup>

**Criminal History Assessment** is a decision about whether a person is suitable to work with children based on the person's criminal history (if any) and the assessed risk of harm to children who receive a service from the organisation. The assessment must be conducted by an organisation or authorised screening unit in accordance with Section 8B of the *Children's Protection Act 1993* and the *Standards for dealing with information about the criminal history of people and volunteers who work with children* issued by the Department for Education and Child Development.

**Criminal History Information** means information relating to disclosable court outcomes, or other information regarding the name provided by the applicant to a police service and included within a National Criminal History Record Check. This information will only be released subject to relevant spent convictions/non-disclosure legislation and/or information release policies.

**Disclosable Court Outcomes** mean the records of court convictions and findings of guilt, which may include spent convictions and findings of guilt that have not been recorded as convictions or deemed to be convictions by the court.

**Criminal History Report** is a report from South Australia Police or CrimTrac containing any criminal history information about an individual.

**Cyber-bullying** uses e-technology as a means of victimising others. It is the use of an internet service or mobile technologies - such as e-mail, chat room, discussion groups, instant messaging, web pages or SMS (text messaging) - with the intention of harming another person. Examples include communications that seek to intimidate, control, manipulate, put down or humiliate the recipient.

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<sup>42</sup> Nygh et al, *Concise Australian Legal Dictionary* (2<sup>nd</sup> Edition), Butterworths, Australia, pg 97 Note that the South Australian Supreme Court case *Vreeker v Police* [2004] SASC 90 discusses the meaning of the word 'conviction' and confirms that there is no uniform definition of this term and that it depends on the context in which it is used.



**Duty of Care** is a common law concept that refers to the responsibility of employees and volunteers to provide children with an adequate level of protection against harm. It is usually expressed as a duty to take reasonable care to protect children from all reasonably foreseeable risk of harm. The question of what constitutes reasonable care in any given case will be determined objectively by a court and will depend on the individual circumstances of each case. In their relationships with children, employees and volunteers are required to ensure that the physical and emotional welfare of students is safeguarded, and that their own behaviour with children is always regulated by this duty of care.<sup>43</sup>

**Emotional abuse** is a chronic attitude or behaviour directed at a child whereby a child's self esteem and social competence is undermined or eroded over time or the creation of an emotional environment which is detrimental to or impairs the child's psychological and/or physical development. Behaviours may include:

- devaluing
- ignoring
- rejecting
- corrupting
- isolating
- terrorising
- family violence.

**Employee** means a person employed for remuneration under a contract of employment.<sup>44</sup>

**Government instrumentality** is any body, whether incorporated or unincorporated, which serves the purposes of government.

**Government organisation** means a government department, agency or instrumentality.

**Harm** means physical, sexual, emotional or psychological abuse and neglect of children. Harm is any detrimental effect of a significant nature on a child's physical, psychological or emotional well being.

**Informed consent** means that the individual understands the purpose of the request and the likely outcomes of giving consent. Typically it will involve the applicant signing a consent form that sets out:

- what a criminal history report is and how it will be obtained

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<sup>43</sup> Department for Education and Child Development, Association of Independent Schools of South Australia & Catholic Education SA *Protection Practices for Staff in their Interactions with Students: Guidelines for Schools, Preschools and Out of School Hours Care*. DECD: Adelaide, 2005.

<sup>44</sup> *Fair Work Act 1994 (SA)*.

- the purposes for which the criminal history information is being collected
- any person to whom, or agency to which, the criminal history information will be disclosed
- any law which requires that their personal information be collected and the consequences of not complying.

**Merit**<sup>45</sup> in the context of selection processes as:

- The extent to which each of the applicants has abilities, aptitude, skills, qualifications, knowledge, experience (including community experience) and personal qualities relevant to the carrying out of the duties in question
- If relevant:
  - the manner in which each of the applicants carried out any previous employment or occupational duties or functions
  - the extent to which each of the applicants has potential for development.

**Natural justice**<sup>46</sup> can be explained using two primary rules:

- audi alteram partem - ('hear the other side')
- nemo debet esse iudex in propria sua causa - ('no one shall be judge in his or her own case').

With regard to dealing with criminal history information, **natural justice** requires that:

- people are entitled to be informed of allegations made against them
- all persons affected by a decision should be given the relevant information to enable an informed submission to be made to the decision-maker or person subsequently reviewing a decision
- during the review of a decision, all persons affected by a decision should have an opportunity to put their case, relevant arguments should be heard, and relevant information should be accessible to all parties
- decision-makers act fairly and impartially.

**National Criminal History Record Check (NCHRC)** is a check of the criminal history of an individual carried out by South Australia Police or CrimTrac in accordance with the appropriate standards.

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<sup>45</sup> *Public Sector Act 2009 (SA)*.

<sup>46</sup> The Commissioner for Public Employment *Guideline for the South Australian Public Service for the Protection of Merit and Equity*, South Australia Government, Adelaide, 2001, p. 3.

**Neglect** is any serious omission or commission by a person which jeopardises or impairs a child's psychological, intellectual or physical development. Neglect is characterised by the failure to provide for the child's basic needs. Behaviours may include:

- inadequate care and supervision of young children for long periods of time
- failure to provide adequate nutrition, clothing or personal hygiene
- failure to provide necessary health care/medical treatment
- disregard for potential hazards in the home
- forcing the child to leave home at an early age
- allowing children to engage in chronic truancy.

**Non-government organisation (NGO)** means:

- a business; or
- a service provider; or
- a group organised for some purpose, work or undertaking (such as a society, club, institution or body), whether incorporated or unincorporated, and includes a local government organisation but does not include a government organisation.

An organisation may consist of a single person.

**Organisation** means all groups of persons organised for some end or work. This includes: voluntary or otherwise; an association whether incorporated or not; a non-profit organisation; a society, club, institution or body. It may also consist of a single person.

**Physical abuse** is any non-accidental act inflicted upon a child which results in physical injury to the child. Physical abuse results from practices such as:

- hitting, punching, kicking (indicators: marks from belt buckles, irons, fingers, cigarettes)
- shaking (particularly young babies)
- burning, biting, pulling out hair
- alcohol or other drug administration.

A **prescribed position** is a position in an organisation that requires or involves prescribed functions, as defined by Section 8B (8) of the *Children's Protection Act 1993* (see below).

**Prescribed functions** mean:

- regular contact with children that is not directly supervised at all times

- work in close proximity to children on a regular basis that is not directly supervised at all times
- supervision or management of persons who:
  - have regular contact with children or
  - work in close proximity to children on a regular basis
- access to records of a kind prescribed by regulation relating to children (see following definition).<sup>47</sup>

**Prescribed records** are those relating to children in connection with:

- the administration of the *Children's Protection Act 1993*, *Family and Community Services Act 1972*, *Young Offenders Act 1993* or *Youth Court Act 1993*; or
- an educational or child care service for children: or
- a health service with the meaning of the *Health Care Act 2008* (SA); or
- a disability service within the meaning of the *Disability Services Act 2003* (SA); or
- legal proceedings.

**Regular contact** implies contact that has a constant or definite pattern, or which recurs at short uniform intervals or on several occasions during short periods of time such as a week. Ultimately it will be up to the courts to decide what it means in the context of the Act.

**Responsible authority** means:

- the Chief Executive for a government organisation
- for a non-government organisation to which Section 8B of the *Children's Protection Act 1993* applies:
  - the managing authority of the organisation or
  - the body approved in the *Children's Protection Regulations 2010* if the managing authority has delegated its responsibility to that body.

**Risk** is the likelihood of anything occurring that can cause harm or loss to a child.

**Risk assessment** in the context of child protection 'refers to a process of evaluating the information received to reach a decision about the risk of harm a person may pose to children'.<sup>48</sup>

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<sup>47</sup> As of July 2012 no other functions prescribed.

<sup>48</sup> Community and Disability Services Ministers Conference (2007) *Creating Safe Environments for Children: Organisations, Employees and Volunteers*.

**Risk management** is identifying and assessing all potential sources of harm, and taking steps to decrease the likelihood that harm will occur.<sup>49</sup>

**Risk of harm** is the likelihood of inflicting harm to children (either directly or as a consequence of other actions) and the severity of that harm.

**Screening** 'in the context of minimising the risk of harm to children in their dealings with organisations is generally understood to refer to the combined process of background checking, risk assessment and decision-making concerning acceptance/exclusion of persons in areas of child related employment/volunteering'.<sup>50</sup>

**Sexual abuse** is any sexual behaviour imposed on a child. The child concerned is considered to be unable to alter and/or understand the perpetrator's behaviour due to his or her early stage of development and/or powerlessness in the situation. Sexual abuse occurs when someone in a position of power to the child uses her/his power to involve the child in sexual activity. Behaviour can include:

- sexual suggestion
- exhibitionism, mutual masturbation, oral sex
- showing pornographic material e.g. DVDs, internet
- using children in the production of pornographic material
- penile or other penetration of the genital or anal region
- child prostitution.

**A suitability assessment** 'may refer to a wide range of factors including attitude to physical discipline and acknowledgement of children's developmental status and needs. A person may be deemed "not suitable" to work with children without automatically implying that the person poses a risk of harm to children'.<sup>51</sup>

**Volunteering** means an activity which is of benefit to the community, is done of one's free will and is undertaken without monetary reward.<sup>52</sup>

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<sup>49</sup> Graff, 2003, above n 19.

<sup>50</sup> Community and Disability Services Ministers Conference, 2007, above n.28, p.6..

<sup>51</sup> Community and Disability Services Ministers Conference (2007) *Creating Safe Environments for Children: Organisations, Employees and Volunteers*.

<sup>52</sup> *Advancing the Community Together A Partnership between the Volunteer Sector and the South Australian Government*, 2003, p2. <http://www.ofv.sa.gov.au/act.htm>.