

# Child Safe Environments

## Principles of Good Practice



Government  
of South Australia  
Department for Education  
and Child Development

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

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

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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 obtained about a person's criminal history as part of a relevant history assessment* 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).

## Child safe environments

A child safe organisation:

- ‘takes a preventative, proactive and participatory stance on child protection issues’.<sup>5</sup> The safety and wellbeing 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: 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.**

### 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.

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

<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>.

- 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 wellbeing 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

<https://www.decd.sa.gov.au/child-protection/child-safe-environments>.

## 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 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, cultural, entertainment, party, child care or residential services wholly or partly for children are required by law to

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<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.

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 Child safe environments: Principles of good practice and the Child safe environments: Standards for dealing with information obtained about a person's criminal history as part of a relevant history assessment (available from <https://www.decd.sa.gov.au/child-protection/child-safe-environments>).

Relevant organisations are also required to lodge a statement 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 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 wellbeing of children. The Information Sharing Guidelines for Promoting the Safety and Wellbeing 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 wellbeing.

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 may incur a fine of up to \$5,000.

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

<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>.

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 website <https://www.decd.sa.gov.au/child-protection/child-safe-environments>.

### **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 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 Department for Child Protection 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
- 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 The Department for Child Protection 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 Department for Child Protection, 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 wellbeing (Section 11(5)).

See Child safe environments: Guidelines for mandated notifiers and information for organisations available online at <https://www.decd.sa.gov.au/child-protection/child-safe-environments>.

### **Dealing with information obtained about the relevant 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, cultural, entertainment, party, childcare or residential services wholly or partly for children are required to conduct relevant 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; or
- undertake functions of a type prescribed by regulation (currently the provision of overnight care or a prescribed passenger transport service).<sup>12</sup>

Organisations or their responsible authorities (e.g. the Chief Executive or managing authority) must ensure that if a relevant history report has been obtained for employees and volunteers who work with children in prescribed positions, the relevant 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 a person's relevant history.

The standards to be observed in dealing with information obtained in connection with an assessment of a person's relevant history are available in a separate document entitled Child safe environments: Standards for dealing with information obtained about a person's criminal history as part of a relevant history assessment. This document is available from the Department for Education and Child Development website <https://www.decd.sa.gov.au/child-protection/child-safe-environments>.

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

<sup>12</sup> As at 1 June 2016.

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.

## 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 wellbeing 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.

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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.

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>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 wellbeing 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 wellbeing will be severely compromised.

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

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

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

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

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 wellbeing.<sup>17</sup>

### **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.

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

## 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 wellbeing 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 wellbeing of children. It helps to create a safe and positive environment for children to promote children’s wellbeing 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 wellbeing 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.

### Sample Child Safe Policy Statement

The organisation (insert name) is committed to the safety and wellbeing 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 wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants.

(Child Wise, 2004: 59)

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 first point of contact to provide advice and support to children, parents and employees/volunteers regarding the safety and wellbeing 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.

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

## 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>19</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

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.

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



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>21</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 everyone.

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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 relevant history report is obtained as part of the screening process, the organisation must ensure that the relevant history information is dealt with in accordance with the Standards developed by the Chief Executive, Department for Education and Child Development.

Where relevant history assessments are required by law, the organisation must ensure that a satisfactory relevant 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
- access to records prescribed by regulation relating to children
- functions of a type prescribed by regulation (currently the provision of overnight care or a prescribed passenger transport service).<sup>21</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

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<sup>21</sup> As at 1 June 2016.

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>22</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>23</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 relevant history assessments<sup>24</sup>
- undertake other background checks (e.g. psychological testing, on the job observation).

#### 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).

(Office of Juvenile Justice and Delinquency Prevention, 1998: 15).

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; relevant history information; thorough reference checks; and work history reports'.<sup>25</sup>

<sup>22</sup> Jackson, Elanor & Wernham, Marie, *Child Protection Policies and Procedures Toolkit: How to make a child-safe organisation*. ChildHope UK, London, 2005.

<sup>23</sup> Community and Disability Services Ministers Conference, *Guidelines for Information Sharing Across Jurisdictions*, 2007, p. 6.

<sup>24</sup> Some government and non-governments are required by law to conduct relevant history assessments for people who are working with children in prescribed positions (see *Children's Protection Act 1993 (s8B)*).

<sup>25</sup> Community and Disability Services Ministers Conference, *An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking*, 2006, p. 2.

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>26</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>27</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?’

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

### **Relevant 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 relevant 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 child related employment screening through the Department for Communities and Social Inclusion (DCSI) Screening Unit.

Where an organisation chooses to conduct their own relevant history assessments they must conduct these assessments in accordance with the standards published by the Chief Executive, Department for Education and Child Development.<sup>28</sup>

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<sup>26</sup> Ibid, p. 2.

<sup>27</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.

<sup>28</sup> More information is available in Department for Education and Child Development *Child Safe Environments: Standards dealing with information obtained about a person’s criminal history as part of a relevant history assessment* Government of South Australia, Adelaide, 2012.

In order to prevent unnecessary intrusion, relevant 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 relevant 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 relevant 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 history. While a statutory declaration cannot replace an official relevant 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]

#### **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 Relevant 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 relevant history assessment is required by law, the organisation ensures that a satisfactory relevant 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 wellbeing and child protection and enable employees and volunteers to ensure that the policies and procedures are implemented to a consistently high standard.<sup>29</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>30</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 ensure that child safety and wellbeing 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 wellbeing 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.

#### 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>29</sup> Jackson & Wernham 2005, above n. 27, p. 55.

<sup>30</sup> Ibid, p. 59.



## 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 wellbeing 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 wellbeing 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>31</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>32</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 wellbeing 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

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

(Child Wise, 2004: 41)

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<sup>31</sup> Ibid, p. 43.

<sup>32</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 (<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, Department for Child Protection 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 to train people in how to deliver the seven-hour program.

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.

### 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 The Department for Child Protection 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.

Keeping children and young people safe involves more than just reporting concerns to The Department for Child Protection 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>33</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 (Department for Child Protection). 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 the Department for Child Protection.

In many cases, a multiagency response will be appropriate. Where applicable organisations are guided by the Information Sharing Guidelines for Promoting the Safety and Wellbeing of Children, Young People and their Families<sup>34</sup> and the Interagency Code of Practice: Investigation of Suspected Child Abuse or Neglect.<sup>35</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).

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<sup>33</sup> Jackson & Wernham 2005, above n. 27, p. 62.

<sup>34</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>35</sup> Government of South Australia "Interagency Code of Practice: Investigation of Suspected Child Abuse or Neglect" (2009).

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 the Department for Child Protection 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
  - after a report has been made including seeking feedback from the Department for Child Protection
  - 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
  - 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.

## 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; relevant history information; thorough reference checks; and work history reports’.<sup>36</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>37</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.

Criminal history reports may be obtained through South Australia Police the Australian Crime Commission (ACC) or an ACC accredited agency or broker.

**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>38</sup>

**Relevant History Assessment** is a decision about whether a person is suitable to work with children based on the person’s relevant 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 obtained about a person’s criminal history as part of a relevant history assessment issued by the Department for Education and Child Development.

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<sup>36</sup> Community and Disability Services Ministers Conference, 2006, above n.28, p.2.

<sup>37</sup> DECD Child and Student Well being [www.decd.sa.gov.au/speced2/pages/default](http://www.decd.sa.gov.au/speced2/pages/default).

<sup>38</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.



**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, the Australian Crime Commission (ACC) or an ACC accredited agency or broker containing any disclosable criminal history information about an individual. Prior to 1 July 2016, criminal history reports were also provided by CrimTrac and CrimTrac accredited agencies and brokers.

**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.

**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>39</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>40</sup>

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

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<sup>39</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>40</sup> *Fair Work Act 1994 (SA)*.

**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 wellbeing.

**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
- 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>41</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>42</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 report of the criminal history of an individual carried out by South Australia Police, the Australian Crime Commission (ACC) or an ACC accredited agency or broker.

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<sup>41</sup> *Public Sector Act 2009 (SA)*.

<sup>42</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)

- functions of a type prescribed by regulation (currently the provision of overnight care or a prescribed passenger transport service).<sup>43</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’ 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>44</sup>

**Risk management** is identifying and assessing all potential sources of harm, and taking steps to decrease the likelihood that harm will occur.<sup>45</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>46</sup>

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<sup>43</sup> As at 1 Julye 2016.

<sup>44</sup> Community and Disability Services Ministers Conference (2007) *Creating Safe Environments for Children: Organisations, Employees and Volunteers*.

<sup>45</sup> Graff, 2003, above n 19.

<sup>46</sup> Community and Disability Services Ministers Conference, 2007, above n.28, p.6..

**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>47</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>48</sup>

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<sup>47</sup> Community and Disability Services Ministers Conference (2007) *Creating Safe Environments for Children: Organisations, Employees and Volunteers*.

<sup>48</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>.