

Child Protection and Reporting Policy

Purpose

This document sets out the WCS commitment to support and maintain safe environments for children and young people, to reduce the risk of abuse or neglect occurring in WCS services and the community, and to ensure that reports are made when necessary to reduce harm and meet legislative reporting requirements.

Scope

This policy applies to anyone who works for WCS irrespective of whether that person's work directly relates to children and young people under the age of 18 years. This includes employees, volunteers, student placements and any others who have been engaged to provide services for or on behalf of WCS, such as contractors and consultants. For the purpose of this policy, 'employee' includes all categories of staff and non-staff described immediately above (noting variations for specific reporting requirements as discussed below).

This document covers the WCS response to any possible child abuse or misconduct toward children. It considers reporting requirements under the *Children and Young People Act 2008 (ACT)*, *Family Law Act 1975 (Cth)*, requirements for all adults to report child sexual abuse under the *Crimes Act 1900 (ACT)*¹ and reportable conduct in the *Ombudsman Act 1989 (ACT)*. The different levels of reporting are:

	Concern	Reporting
Possible child abuse or neglect or misconduct towards a child or young person	All concerns	Discuss with WCS management
	Imminent risk	Contact ACT Police – 000
	Serious and justified concerns – mandated reporters	Contact Child and Youth Protection Services – 1300 556 728
	Serious and justified concerns – non-mandated reporters	Contact Child and Youth Protection Services – 1300 556 729
	Sexual abuse (including historic)	Contact ACT Police – 131 444
	By a WCS employee (all concerns, including historic or crossing professional boundaries)	Reportable conduct – notify Ombudsman (see below)

A child is defined as a person under the age of 12 years, while a young person is defined as a person who is 12 years of age or older and under the age of 18 years. Note, for this policy and some associated documents, the term child may also refer more broadly to a person under the age of 18 years.

Mandated reporters: Mandated reporters are groups of professionals who, because of their work, have unique access to and expertise to identify abuse more readily than the general community. These groups are mandated under law to report to Child and Youth Protection Service (CYPS) their concerns regarding potential physical or sexual abuse when they come across it in their day-to-day business. (ref: *Keeping Children and Young People Safe – a guide to reporting child abuse and neglect in the ACT*).

As set out in *Keeping Children and Young People Safe*, mandated reporters include a:

- 'childcare centre worker that cares for a child (including a paid childcare assistant or aide)'
- 'person coordinating or monitoring home-based care for a family day care scheme provider'.

¹ From 1 September 2019

Thus, within WCS, Children Services educators are considered mandated reporters, while other employees are not. Note that anyone can make a voluntary report to CYPS regarding concerns of child abuse or neglect.

Policy

WCS is committed to the safety, care and wellbeing of all people who access our services.

All WCS employees have responsibilities for providing a safe environment for children, young people and their families and for reporting information about harm or abuse identified or suspected to management.

WCS management will take action to minimise the risk of harm or abuse, ensuring allegations or suspicions are appropriately addressed. WCS recognises it has a duty to facilitate the prompt reporting of all matters to police or other government agencies and, if requested, will assist with all proper information sharing requests for police and other statutory authorities including CYPS, ACT Ombudsman and Access Canberra.

WCS employees will maintain confidentiality in all matters in accordance with legal obligations and ensure all disclosures and reports of abuse or harm are treated seriously and with respect.

Creating a safe environment

WCS takes the following steps to create a safe environment for service delivery:

- WCS has procedures for recruiting, selecting and screening suitably qualified and experienced employees and volunteers (refer to Recruitment Policy and Procedures).
- WCS complies with ACT legislation for WWVP and takes reasonable steps to ensure ongoing monitoring of its validity. WCS maintains records of all WWVP and Police Checks for employees where required for their position. Employees must produce evidence of their current ACT WWVP registration prior to commencing work or volunteering with WCS.
- WCS ensures that all other persons (e.g. contractors) do not have unsupervised access to children or young people in the workplace.
- WCS has a Code of Conduct for all employees. In addition, employees who are required to be mandatory reporters sign the *Declaration of being a fit and proper person to provide an appropriate environment for the care and protection of children*.
- WCS maintains awareness for employees through training and ongoing support. Management provides induction training for all employees and refresher training programs for Children's Services as required.
- WCS maintains current policies, procedures and resources that are accessible to all employees.
- Regular close supervision of employees, including case reviews, spot checks on the care environment and regular contact with carers for feedback.
- Record keeping – records related to service delivery to children and young people are kept securely and indefinitely (at least until the child or young person turns 25 years old) to enable investigation should the need arise.

Procedure for reporting concerns of abuse or neglect

WCS has a duty of care to a child or young person, regardless of the actions of CYPS. The process below will provide WCS employees with potential controls to protect the child or young person.

1. An employee who suspects or believes on reasonable grounds that a child or young person is experiencing abuse or neglect, or has concerns about a child or young person, must immediately discuss this with their team leader or manager.
For imminent threats to safety, employees must contact the police on 000 immediately.
2. The team leader or manager will determine what response is needed and if any report should be made.
 - Where the employee is a mandated reporter, and the concern relates to potential physical or sexual abuse, then this must be reported to CYPS, unless the matter has already been reported or the abuse was by another child and a person with parental responsibility for the injured child is willing and able to protect the injured child from further injury.
 - When assessing whether a voluntary report should be made, the *Children and Young People Act 2008 (ACT)* requires that the decision maker take into consideration whether the parents have expressed that they are 'willing and able' to keep the child safe, and 'must regard the best interests of the child or young person as the paramount consideration'.
 - If there is any uncertainty about the need to make a report, the employee, team leader or manager can call the CYPS Voluntary Reporters line to discuss the circumstances with the CYPS Intake Officer to help determine the risk.
3. Where the team leader or manager decides that a Child Concern Report must be made, the employee should make the report through the CYPS website, with the support of their manager or team leader if required (<https://form.act.gov.au/smartforms/csd/child-concern-report/>) or contact CYPS on the appropriate number (1300 556 728 for Mandatory Reporters and 1300 556 729 for Voluntary Reporters).

Where possible, when reporting to CYPS, the employee will inform the child that they are going to tell someone else who can help them, and tell the parents / guardians that they are making a report.

The Child Concern Report should include as much information about the child/young person/family and the concerns as possible, and may include the following: (note: a report can still be made even if some of the information is not known):

- Name, age, background and home address of the child/ren / young person(s)
- Current whereabouts of child/ren / young person(s)
- Name of parents/guardians/aliases and contact details
- Name of known siblings
- Nature of abuse or neglect, and when and where it is said to have occurred
- When and how you became aware of the information
- Names of others who may have witnessed the abuse or neglect
- Details of any disclosure made to you by others
- Description of any injuries seen
- Description of the behaviour of the child/ren / young person(s)
- Attitude of carers of the child/ren / young person(s)
- Known supports to the child/ren / young person(s)

4. Where concerns relate to potential neglect of a child as a result of suicide ideation by the parent/ guardian, then the employee should also call the Access mental health crisis team on 1800 629 354.
5. Whether or not a report is made, the employee must record a case note, and also complete a WCS Incident Report setting out the basis for their concern and the basis for the decision to report or not report. If applicable, the employee should also update the risk assessment for the child / family / young person to record the risk and the steps taken to address the risk.
6. Where the employee is with a WCS service supporting the child / young person, the employee should follow up CYPS several days after the report to find out the CYPS response to the report. If needed, the employee should also incorporate actions into the child / young person's support.

In cases where the family disengages from support following a report – and particularly where CYPS may have an expectation of support being provided by WCS – the employee must make a further report alerting CYPS of the disengagement.

Procedure for reporting concerns regarding child sexual abuse

From 1 September 2019, adults who reasonably believe that a sexual offence has been committed against a child or young person (ie. under 18 at the time of the offence) must make a report to police. Failure to make a report is an offence. The procedure below should be followed where the child or adult (if the offence is historic) is receiving services from WCS at the time the employee becomes aware of the offence.

1. Any employee who believes a sexual offence has been committed against a child or young person is required to report this to police. They should also inform their team leader or manager. If unsure about whether a report is required (for example, whether falls under exemptions, as described below), an employee can discuss further with team leader or manager in the first instance.
2. If a report is required, the employee should contact the police on 131 444 to make a report. If there is an immediate risk of harm, the employee should call 000.
3. Whether or not a report is made, the employee must record a case note, and also complete a WCS Incident Report setting out the basis for their belief and the basis for the decision to report or not report.

The requirement to report is separate to any report under the Reportable Conduct scheme (also follow procedures in the next section if the offence is covered under that scheme), or a voluntary report to CYPS. However, an employee who makes a mandatory report to CYPS does not also have to report to Police, as CYPS will pass this information on.

Definition of child sexual abuse: A sexual offence committed against anyone who was under 18 at the time the offence was committed. There are a range of sexual offences in the ACT including:

- having sexual intercourse with a person under the age of 16
- grooming a person under 16
- being an adult who has 'special care' for a person who is under 18 (e.g. as a teacher, employer, foster parent, etc) and having sexual intercourse with that person
- certain family members having sexual intercourse with other family members
- committing an act of indecency on or in the presence of a child or young person, or
- using children for the production of child pornography.

Exceptions to the requirement to report: There are a number of exemptions to the requirement – the list below is a summary, and more detail is available in the factsheet (link when available).

An employee does not have to make a report if they:

- obtained the information after the victim became an adult and believe he or she does not want a police officer to be told
- believe a police officer already has the information or it is generally available in the public domain, or
- believe that giving the information to a police officer would endanger somebody's safety (other than the safety of the alleged perpetrator).

Procedure for reporting concerns regarding behaviour of a WCS employee

Note: This process does not interfere with reporting obligations described in the previous sections. If an employee has concerns regarding abuse, neglect or sexual abuse about a child or young person, first follow the applicable procedure described above. If the concern relates to the behaviour of a WCS employee, then follow the steps below subsequently.

Scope: The reportable conduct legislation covers specified 'designated entities' including child care services and education and care service providers, such as after school care. Thus, within WCS, it includes Children's Services but does not include support services such as the Child, Youth and Family Service Program.

Note regarding scope – applicable to all WCS: While the formal reportable conduct provisions cover only Children's Services, WCS will still investigate all allegations of such conduct concerning a WCS employee, to ensure the integrity and safety of all WCS services.

Definition of an employee: for this purpose, an employee includes all employees within WCS, whether or not they provide services to children or young people. Contractors and volunteers are also employees but only if they provide services to children or young people. It also includes employees engaged to provide services to children or young people on behalf of WCS.

Definition of reportable conduct: allegations, offences or convictions relating to child-related misconduct by an employee. It does not matter whether or not the employee engaged in the conduct in the course of employment or whether a child consents to the conduct as long as the person was an employee at the time the employer became aware of the allegation.

Reportable conduct includes:

1. sexual offences and convictions where a child is a victim or is present
2. offences against the person, including physical offences and convictions, where a child is a victim or is present
3. conviction, or finding of guilt, under a territory law or a state or Commonwealth law, involving reportable conduct
4. offences against the Education and Care Service National Law (inappropriate discipline or offences relating to protecting children from harm)
5. ill-treatment of a child (including emotional abuse, hostile use of force/physical contact, neglect and restrictive intervention)
6. psychological harm
7. misconduct of a sexual nature (including crossing professional boundaries, sexually explicit comments or other overtly sexual behaviour and grooming behaviour).

Note: the definition of reportable conduct is much broader than the definition of abuse or neglect. For example:

- *Emotional abuse* may occur when treatment towards a child is unreasonable and seriously inappropriate, inhumane or cruel.
- *Crossing professional boundaries* includes behaviour involving an inappropriate and overly personal or intimate relationship with, conduct towards or focus on a child or class of children. Communications directed to an individual child that are different or exclude other children may be inappropriate.

For detailed guidance on identifying reportable conduct, see the Practice Guide No. 2 - Identifying Reportable Conduct (http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0009/81000/No.-2-Identifying-Reportable-Conduct.pdf)

Process: The process below meets the WCS's obligations under the ACT Ombudsman's Reportable Conduct Scheme.

1. An employee who becomes aware of an allegation, offence or conviction that may be covered under the definition of reportable conduct must immediately discuss this with their team leader or manager and complete a WCS Incident Report.
2. If there is a need to take action to report abuse or neglect to CYPs and/or police, that should be followed up, according to the steps described in the previous sections.
3. The team leader or manager must then discuss with their Director to determine if this might constitute reportable conduct, as described above. The Director can seek advice from the ACT Ombudsman (02 6276 3770 or act@ombudsman.gov.au) to determine whether it is necessary to make a report. The Director should advise the CEO immediately of any allegations that may constitute reportable conduct.
4. If the Director considers that it does constitute reportable conduct, the next step is to complete a risk assessment, to ensure that the risk is managed – identifying the potential or an incident or harm to occur and taking steps to reduce the likelihood or severity of its occurrence.
For more information, see Practice Guide No. 3 - Risk management following an allegation of reportable conduct against an employee (http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0010/81001/No.-3-Risk-management-following-an-allegation-of-reportable-conduct-against-an-employee.pdf).
5. The Director will then determine an investigation plan and complete a s17G notification and email it to the ACT Ombudsman, within 30 days of being made aware of the conduct. For more information regarding developing an investigation plan, see the WCS Investigation Process and Practice Guide No. 4 - Planning and conducting an investigation (http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0011/81002/No.-4-Planning-and-conducting-an-investigation.pdf)
6. The ACT Ombudsman will acknowledge receipt of the s17G notification and include a reference number. The ACT Ombudsman will work with WCS during the investigation. This may be as broad oversight, where there would be communication as need arose, or as monitoring, which would involve regular contact between WCS and the ACT Ombudsman.
7. **Investigation:** The investigator appointed by WCS will complete the investigation in accordance with the investigation plan and the WCS Investigation Process, providing information to the ACT

Ombudsman as determined in the previous step. WCS is committed to ensuring a thorough, timely and professional investigation is conducted.

8. **Concluding the investigation:** The investigator will document all of the information and evidence gathered during the investigation, then analyse and weigh the evidence to support the conclusions. A reportable conduct investigation should apply the balance of probabilities as the standard of proof. This means that findings should be based on whether it is more likely than not that the reportable conduct has occurred.

The investigator should also consider and make recommendations as to whether there is any action that should be taken by WCS in response to the findings of the investigation, either regarding the specific situation or generally for the organisational policy or process.

9. **Reporting to the ACT Ombudsman:** The investigator will then draft a s17J report, summarising the outcome of the investigation and making any recommendations, and submit it to the CEO (the decision maker) for review. The CEO will then identify the findings, determine the suitable finding best supported by the available evidence and forward the final s17J report to the ACT Ombudsman.

The findings in the matter may be:

- sustained
- not sustained – insufficient evidence
- not sustained — lack of weight
- false (enquiries show that the conduct was not reportable)
- not reportable conduct.

Further information about the final finding can be found at Practice Guide No. 6 - Making a finding of reportable conduct (http://www.ombudsman.act.gov.au/_data/assets/pdf_file/0027/43875/RCS-ACT-Ombudsman-Practice-Guide-No.-6-Making-a-finding-of-reportable-conduct.pdf)

10. **Follow up and further reporting:** The Ombudsman will assess the s17J report, and may request further information and/or reports, or ask WCS to undertake further activities in relation to the reportable conduct. The Ombudsman will then provide feedback to WCS and this will close the case.

Continuous improvement

Whenever WCS Directors or Managers consider making a report about child abuse or neglect under any of the frameworks covered here, at the conclusion of the matter they will review the identification, investigation and reporting process to determine any need for improvements to service or updates to any policies or procedures.

They will then follow through in accordance with the WCS continuous improvement processes, with actions monitored through relevant meetings. The continuous improvement processes will be set out in detail in the WCS Quality and Risk Management Framework (being drafted).

References

Internal

Investigations Process

Code of Conduct

Quality and Risk Management Framework

WCS Incident Reporting Guide and Form

External

Children and Young People Act 2008 (ACT)

Education and Care Services National Law (ACT) Act 2011

Ombudsman Act 1989 (ACT)

Crimes Act 1900 (ACT)

Working With Vulnerable People (Background Checking) Act 2011 (ACT)

Reportable Conduct Scheme - ACT Ombudsman

<http://www.ombudsman.act.gov.au/reportable-conduct-scheme>

Failure to Report Offence factsheet (and other factsheets related to the ACT response to the Child Abuse Royal Commission) <https://www.act.gov.au/childabuseroyalcommission/formalresponse/new-laws-to-improve-reporting-of-child-abuse>

Keeping Children and Young People Safe – a guide to reporting child abuse and neglect in the ACT <https://www.communityservices.act.gov.au/ocyfs/keeping-children-and-young-people-safe>

Policy review

Current version

Service line Service area	Office of the CEO	Version	3.2
Process owner	Chief Executive Officer (CEO)	Date of issue	Dec 2019
Approved by	Jenny Kitchin	Scheduled review date	August 2020

Modification history (including current version)

Version	Date	Author	Approved by	Description of changes
3.2	Dec 2019	Julie Evans	Draft	Added in link for Failure to Report Offence factsheet, and clarified incident reporting requirements
3.1	Sept 2019	Julie Evans	Sharon Flanigan	Incorporating minor updates and feedback from Leadership Forum members
3.0	Aug 2019	Louise Shea, People and Culture; Julie Evans, Quality and Reporting	Jenny Kitchin, CEO	Brings together the two previous policy, and updates with more detail about the reporting processes and how the reporting requirements differ and overlap.
2.0	Feb 2017	Rhonda Pilgrim, Quality Specialist	Kate Crawford	Child Protection and Risk Management – in new template
2.0	Sept 2017		Kate Crawford	Reportable Conduct and Risk Management
0.1	Unknown	E. Purrer		Child Protection and Risk Management – first issue of content