

LIVERPOOL PLAINS SHIRE COUNCIL

POLICY REGISTER

Policy No. 1.31

POLICY TITLE: CHILD PROTECTION POLICY

File Reference No.: C.16
Date Adopted 20th June, 2001
Minute No: 8530
Last Updated: 24th June, 2004

OBJECTIVES

1. To ensure that children are protected from child abuse as defined under the Commission for Children and Young People Act 1998 and the Children and Young Persons Act 1998.
2. To ensure that a system exists for the reporting of all child abuse allegations under the Ombudsman Amendment Act 1998 and to encourage and facilitate the reporting of children and young persons at risk of harm.
3. To ensure the prompt notification to the Ombudsman and the efficient and equitable investigation of allegations of child abuse.
4. To prevent the employment of persons in child-related employment who are a prohibited person under the Child Protection Act 1998, or who Council considers are inappropriate persons to be working with children.
5. To build a workforce committed to child protection through a range of policies and work practices designed to ensure that services are provided to children in a safe and caring environment.

POLICY STATEMENT

Council is registered with the **NSW Department of Community Services** as its Approved Screening Agency to carry out the screening processes for employees.

The definition of child-related employment under the Child Protection (Prohibited Employment) Act is that which involves direct contact with children where that contact is not directly supervised. Council has determined that its employees who fall under that category and require Working with Children Checks are as follows:

- Swimming Pool attendants and supervisors
- Swimming Pool Canteen staff including volunteers
- Library staff including volunteers
- Holiday Fun Centre staff including volunteers
- Recreation Centre Staff including volunteers
- Childcare Centre/Pre-School Staff, including volunteers.

Definitions

Allegation: Includes an allegation of child abuse, and an allegation of misconduct that may involve child abuse. Allegations may be written, verbal or anonymous. An allegation should have the following elements:

- The person who is the subject of the allegation must be a current employee and must be identifiable (either by name or by a description).
- It must detail the conduct or pattern of behaviour that indicates abuse of a child.
- The alleged victim must have been a child under the age of 18 years at the time of the alleged behaviour. The alleged victim may be an adult now and the alleged behaviour may have occurred years before.

Child: A person under the age of 18 years.

Child Abuse: Refers to the non-accidental physical injury, neglect or ill treatment, psychological abuse and sexual exploitation and abuse of children.

Child at risk of harm: Under the Children and Young Persons (Care and Protection) Act, a child is at risk of harm if there are current concerns for the safety, welfare or well being of the child because of the presence of any one or more of the following circumstances:

- The child's basic physical or psychological needs are not being met or are at risk of not being met.
- The parents or other caregivers have not arranged or are unable or unwilling to arrange for the child to receive necessary medical care.
- The child has been, or is at risk of being, physically or sexually abused or ill-treated.
- The child is living in a household where there have been incidents of domestic violence and, as a consequence, the child is at risk of serious physical or psychological harm.
- A parent or other caregiver has behaved in such a way towards the child that the child has suffered or is at risk of suffering serious psychological harm.

Child related employment: Employment that involves direct contact with children under 18 years of age, where that contact is not **directly supervised**.

Direct supervision: A person present at all times during, and is observing and capable of directing, if required, the contact by the person under supervision with any child, where such contact is part of the duties to be performed by the person under supervision or can reasonably be expected to occur during the performance of those duties.

Employee: Any person who is engaged in child-related employment in any of the following capacities:

- Paid employment
- Sub-contractors
- Volunteers
- Ministers of religion
- Members of religious organisations
- Undertaking training as part of an educational or vocational course

Employment Screening: The process of gathering relevant information about an applicant for employment by an organisation in order to enable an informed decision to be made on whether to employ the applicant or not. The method of employment screening is the **Working With Children Check**.

Head of Agency: Under the Ombudsman's Act, the Head of Agency is the Chief Executive Officer or other Principal Officer of the Agency. In the case of Council, the Head of Agency is the General Manager.

Physical Neglect: Neglect occurs when a parent or other caregiver, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child in his or her care.

Notification: The requirement under the Ombudsman Amendment (Child Protection and Community Services) Act to inform the Ombudsman of any allegation of child abuse against employees, or any conviction of employees.

Physical Abuse: The non-accidental injury to a child by the parent, caregiver or other person. It includes injuries such as bruising, lacerations or welts, fractures or dislocation, medically or pharmaceutically induced injuries or illness etc.

Prohibited person: A person convicted of a serious sex offence, other than where there is an order in force declaring that the Child Protection (Prohibited Employment) Act 1998 does not apply to the person in respect of the offence. A serious sex offence is one that attracts a period of imprisonment of 12 months or more.

Sexual Abuse: Any sexual act or sexual threat imposed on a child. It refers to the involvement of children in sexual acts where the child is exploited for the gratification of another person's sexual needs or desires. Examples include genital exposure, prostitution, pornography and sexual assault.

Working with Children Check: This check involves the following:

- (a) A national criminal record check, which is a check for child abuse, child pornography, sexual activity or acts of indecency.
- (b) A check on related Apprehended Violence Orders.

- (c) A check of previous relevant disciplinary proceedings with other employers/
- (d) Structured referee checks.

Under Council's Child Protection Policy and the Child Protection (Prohibited Employment) Act 1998, people working with children are to complete the Child Check Consent Form and the Prohibited Employment Declaration.

Examples of these forms are attached.

Roles and Responsibilities

1. It is the responsibility of the General Manager to report allegations or convictions or child abuse to the Ombudsman's Office.
2. It is the responsibility of the General Manager to notify the Commission for Children and Young People of any employee against whom relevant investigation proceedings have been completed, where the investigation has resulted in disciplinary action being taken against that employee. The General Manager will also decide what disciplinary action, if any, will be taken.
3. It is the responsibility of Council to retain all records of an investigation, regardless of whether or not the allegation was proven. This responsibility applies regardless of any requirement for disposal of the record, which may exist elsewhere.
4. It is the responsibility of Directors, Managers and Supervisors to report any allegations of child abuse to the General Manager, and to carry out any investigation.
6. It is the responsibility of all Council Managers to ensure all procedures outlined in this policy are applied, in particular relevant employment screening or prospective employees.
7. Other parties that may be involved in the process include the Union, Councillors and Contact Officers – their role is to advise and support employees.

Rights of All Parties

1. The child that is the subject of the alleged abuse has the right to be in a secure and safe environment; therefore the accused employee will be removed from that environment until the investigation is complete.
2. All parties involved have the right to a confidential, fair and unbiased investigation.
3. Employees will be afforded procedural fairness in the event of an allegation being made against them.
4. The investigation team has the right to deny the accused employee access to records kept if they feel it would jeopardise the investigation.
5. The person who has made the allegation has the right not to be identified. If they wish to remain unidentified, the accused employee cannot access any written documents they have provided to the investigation team.
6. If the accused employee feels that he/she has been unreasonably denied access to records, he/she can apply through the Freedom of Information Act to have access to those records considered.

7. Employees and parents of the child have the right to complain to the Ombudsman if they are unhappy with the conduct of the investigation.

Transportation of Children

Council recognises that children are a very vulnerable section of the community and that specific checks/actions must be carried out when considering the transportation of children.

To ensure that Council's obligations under the Child Protection Regulations are met, Council needs to ensure:

- Wherever possible, children who are under the age of eighteen years are accompanied by a responsible or designated adult (i.e. parent or guardian);
- Where a responsible or designated person is unavailable, Council must ensure that all mandatory checks under the Child Protection Act are carried out before the transportation is undertaken;
- When transporting a child the child will be seated in the rear of the car and proper restraints used.

The person(s) selected to transport the child are not to be engaged if:

- They refuse to complete the Prohibited Employment Declaration and Working with Children Consent Form; or
- They indicate they are a prohibited person.

Confidentiality

1. All staff involved in the reporting or investigation of allegations of child abuse will be mindful of the sensitive nature of the issue and take all reasonable steps to maintain confidentiality and respect the privacy of those involved. Nothing in this statement is to be taken as mitigating against the obligation of staff to report incidents or allegations of child abuse.
2. All information relating to investigations will be secured indefinitely, and separately from other files, unless the investigation results in disciplinary action. If this is the case, the following details will be kept on the employee's personnel file:
 - That an allegation was made
 - That an investigation was conducted
 - What the finding was
 - What action was taken
3. Any person who makes an allegation of child abuse is protected under the Protected Disclosures Act.

Unsubstantiated Allegations

1. Where an allegation is clearly wrong or unsubstantiated, Council will support the person who is the subject of the allegation. The nature of the support will be reasonable and appropriate subject to the circumstances of the case. It may include access to specialist counselling services, legal services or special leave.

2. Any employee who is found to have made a vexatious allegation will be subject to disciplinary action.

Prevention and Education

1. All recommended applicants for child-related employment will be screened in an effort to ensure their suitability to work with children.
2. All employees will be educated in the legislation and how it impacts on them in terms of the position they hold and their responsibilities.
3. Council's induction program will include information on the Child Protection legislation.
4. All new and existing employees who fall within the Working with Children category will be required to sign off on relevant policies and documentation as an indication that they have read and understood the contents of the policy.

Liverpool Plains Shire Council

PROHIBITED EMPLOYMENT DECLARATION

Child Protection (Prohibited Employment) Act 1998

With the exception of where an order, from the industrial Relations Commission or the Administrative Decisions Tribunal, declares that the Act does not apply to a particular person, the Child Protection (Prohibited Employment) Act 1998 makes it an offence for a person convicted of a serious sex offence (a prohibited person) to apply for, undertake or remain in, child-related employment.

Section 5 of the Child Protection (Prohibited Employment) Act 1998 defines a serious sex offence as an offence involving sexual activity or acts of indecency that was committed in NSW and that was punishable by penal servitude or imprisonment for 12 months or more, or an offence involving sexual activity or acts of indecency that was committed elsewhere and that would have been an offence punishable by penal servitude or imprisonment for 12 months or more if it had been committed in NSW.

Child-related employment means any employment that primarily involves direct contact with children where that contact is not directly supervised. Section 1 of the Child Protection (Prohibited Employment) Act 1998 specifies that child-related employment is employment:

- involving the provision of child protection services
- in pre-schools, kindergartens and child care centres (including residential child care centres)
- in schools or other educational institutions (not including universities)
- in detention centres (within the meaning of the Children (Detention Centres) Act 1987)
- in refuges used by children
- in wards of public or private hospitals in which children are patients
- in clubs, associations or movements (including of a cultural, recreational or sporting nature) having a significant child membership
- in any religious organisation
- in any entertainment venues where the clientele is primarily children
- as a babysitter or childminder that is arranged by a commercial agency
- involving fostering or other child care
- involving regular provision of taxi services for the transport of children with a disability
- involving the private tuition of children
- involving the direct provision of health services
- involving the provision of counselling or other support services for children
- on school buses
- at overnight camps for children

Under this Act:

- it is an offence for a prohibited person to apply for, undertake or remain in child-related employment
- employers must ask existing employees, both paid and unpaid, and preferred applicants for employment to declare whether they are a prohibited person or not
- all child-related employees must inform their employers if they are a “prohibited person” (someone who has been convicted of a serious sex offence) or remove themselves from child-related employment
- penalties are imposed for non compliance

I am aware that I am ineligible to apply for, undertake or remain in child-related employment if I have been convicted of a “serious sex offence” as defined in the Child Protection (Prohibited Employment) Act 1998.

I have read and understood the above information in relation to the Child Protection (Prohibited Employment) Act 1998 and understand my responsibilities and obligations under this Act.

I declare that I am not a person prohibited by the Act from seeking, undertaking or remaining in child-related employment.

Name	Signature	Date
------	-----------	------

Note: Seek legal advice if you are unsure of your status as a prohibited person. This form should be returned to your employer/potential employer.

Liverpool Plains Shire Council

P.O. Box 152
QUIRINDI. NSW. 2343

Telephone: (02) 6746 1755

Facsimile: (02) 6746 3255
Email: lpssc@lpssc.nsw.gov.au

CONSENT TO THE WORKING WITH CHILDREN CHECK

First Name:

Middle Name:

Surname:

Previous Names/Aliases:

Gender: (Please tick)

Male

Female

Date of Birth: **Place of Birth (city, state, country):**.....

Address:

Are you to be employed in a paid or voluntary capacity?

I certify that the above information is accurate and understand that if I have provided false or misleading information it may result in a decision not to employ me, or if already employed, may lead to my dismissal.

I am aware that if considered for employment in a primary child-related position, several screening processes will be undertaken to ascertain my suitability, including:

- a national criminal record check (for child related and/or relevant sexual offences)
- a check for relevant Apprehended Violence Orders
- checks for completed relevant disciplinary proceedings involving sexual misconduct and acts of violence in the workplace which involve children, are directed at children or take place in the presence of children.

I understand that the existence of convictions relating to sexual activity, acts of indecency, child abuse or child pornography will automatically prohibit my employment in a child-related position and that relevant criminal records, Apprehended Violence Orders and completed relevant disciplinary proceedings which involve child abuse, sexual misconduct or acts of violence in the workplace may influence the decision to offer me child-related employment.

I acknowledge that any information obtained as part of this process may be used by Australian Police Services for law enforcement purposes including the investigation of any outstanding criminal offences.

I consent to these checks being conducted and am aware that any information obtained through these processes may be provided to my current or prospective employers for employment screening purposes.

NAME (block letters):

Signature: **Date:**