



Council Policy

Reportable Conduct Scheme Policy 2018

Department/Unit: <i>Department Name</i>	First Implemented: <i>July 2018</i> Effective From: <i>17 July 2018</i> Review Date: <i>July 2021</i> Version: <i>1</i> Trim Reference: <i>E5230 and E1533</i>	Origin: Responsible Officer <i>Manager's Title</i> Authorising Officer: <i>Chief Executive Officer</i>
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Governance Use Only

Action / Status:

- To EMT for comment/review: *June 2018*
- Staff consultation required: *No* Date comments required by: *N/A*
- Review by Audit & Risk Advisory Committee: *N?A*
- Review by Councillors: *Yes*
- Approved by CEO: *N/A*
- For consideration and endorsement by Council (if appropriate): *17 July 2018*

PURPOSE/OBJECTIVE

This policy is designed to ensure appropriate responses to allegations of child abuse and neglect by staff, including employees, volunteers, contractors, consultants and Councillors (staff). The policy has been developed in accordance with the *Child Wellbeing and Safety Act 2005* (the Act).

The policy, in conjunction with the Child Safe Policy, aims to improve organisational responses to suspected child abuse and to facilitate the identification of individuals who pose a risk of harm to children, but do not have a criminal record.

CONTEXT

In 2012, the Victorian Government initiated an inquiry into the handling of child abuse allegations within religious and other non-government organisations. The *Betrayal of Trust* Report, which detailed the inquiry findings, was tabled in parliament in 2013.

The *Betrayal of Trust* Report made a range of recommendations, including the need to better protect children from child abuse when they access services provided by organisations. Child Safe Standards and the Reportable Conduct Scheme are part of the Victorian Government's commitment to implementing these recommendations.

The Commission for Children and Young People (CCYP) is responsible for administering the scheme. Its role includes:



- supporting and guiding organisations that receive allegations in order to promote fair, effective, timely and appropriate responses
- independently overseeing, monitoring and, where appropriate, making recommendations to improve the responses of those organisations.

The Reportable Conduct Scheme has been designed to ensure that the CCYP is aware of every allegation of certain types of misconduct involving children in relevant organisations that exercise care, supervision and authority over children.

The CCYP will also be able to share information where appropriate, including with the Working with Children Check (WWCC) Unit, relevant regulators and Victoria Police, to better prevent and protect children from abuse.

Importantly, a finding that a person has engaged in reportable conduct can trigger an assessment of whether that person is suitable to continue to work or volunteer with children. In turn, this may lead the WWCC Unit to revoke a person's WWCC card.

POLICY STATEMENT

Mansfield Shire Council is committed to the safety of children under legislation under the *Child Wellbeing and Safety Act 2005* and its obligations under the act to report inappropriate conduct toward children by staff.

In accordance with this, Mansfield Shire Council will:

- have in place systems to prevent child abuse, and in case child abuse occurs, to ensure allegations can be brought to the attention of appropriate persons for investigation and response
- ensure that the CCYP is notified of a reportable allegation and given updates on the Council's response to that allegation
- report to Victoria Police as soon as they become aware that a reportable allegation may involve criminal conduct
- uphold the right of all children who come into contact with Council to feel safe and protected

DEFINITIONS

Staff: employees, volunteers, contractors, consultants and Councillors

Children: persons under 18 years of age

Reasonable Belief: A reasonable belief is more than suspicion. There must be some objective basis for the belief. However, it is not the same as having proof and does not require certainty.



SCOPE

This policy applies to all Council employees, Councillors, contractors, consultants, volunteers and other authorised personnel of Mansfield Shire Council.

RESPONSIBILITIES

The *Child Wellbeing and Safety Act 2005* states that the head of an organisation is required to make the report to the CCYP. As the head of the organization, overall responsibility for the application of this Policy is held by the Chief Executive Officer CEO).

To discharge their obligation, the CEO can delegate tasks. This may include creating and developing systems, sending approved notifications to the CCYP, and conducting investigations on its behalf.

However, it is ultimately the responsibility of the CEO to ensure the CCYP is notified when they form, or become aware that another person has formed a reasonable belief that reportable conduct has occurred.

Managers are responsible for ensuring their staff comply with the principles, practices and any associated procedures of this policy. Management, employees, contractors and volunteers are to be familiar with, and competent in, the application of this policy, and are accountable for the delivery of this policy within their areas of responsibility.

If in any such circumstance that the CEO is not available or is not the suitable person to fulfil these requirements, Mansfield Shire Council Privacy Officer is the delegated staff member.

There are five types of ‘reportable conduct’ listed in the *Child Wellbeing and Safety Act 2005*:

- sexual offences (against, with or in the presence of, a child)
- sexual misconduct (against, with or in the presence of, a child)
- physical violence (against, with or in the presence of, a child)
- behaviour that causes significant emotional or psychological harm
- significant neglect.

Corporate and Organisational Development is the owner of this policy. Any reviews of this Policy must be made in consultation with the Corporate and Organisational Development Coordinator and departmental Manager.



REFERENCES / RELATED POLICIES

Child Safe Policy

Child Wellbeing and Safety Act 2005

[http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/dde300b846eed9c7ca257616000a3571/6606bb1b2dc56ce3ca257974000e4879/\\$FILE/05-83aa014%20authorised.pdf](http://www.legislation.vic.gov.au/domino/Web_Notes/LDMS/LTObject_Store/LTObjSt6.nsf/dde300b846eed9c7ca257616000a3571/6606bb1b2dc56ce3ca257974000e4879/$FILE/05-83aa014%20authorised.pdf)

Children Youth and Families Act 2005

http://www.legislation.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/edfb620cf7503d1aca256da4001b08af/15A4CD9FB84C7196CA2570D00022769A/%24FILE/05-096a.pdf

The Reportable Conduct Scheme

<https://ccyp.vic.gov.au/reportable-conduct-scheme/>

For further information regarding the Reportable Conduct Scheme, please see the following information sheets included at

<https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/>

- Information sheet 1: About the Reportable Conduct Scheme
- Information sheet 2: What is reportable conduct?
- Information sheet 3: Responsibilities of the head of an organisation
- Information sheet 4: Investigation overview
- Information sheet 5: Other reporting obligations
- Information sheet 6: Child Safe Standards and Reportable Conduct Scheme
- Information sheet 7: Reporting to the Commission
- Information sheet 8: Investigation findings
- Frequently asked questions

IMPLEMENTATION

This Policy is effective from 17 July 2018.

REVIEW DATE

This Policy is to be reviewed by July 2021.

AUTHORISATION TO IMPLEMENT POLICY

A handwritten signature in black ink, appearing to read "M. Wherry".

Signed: _____

Councillor

A handwritten signature in black ink, appearing to read "A. C.".

Witnessed: _____

Chief Executive Officer

Approval dated: 17 July 2018

Mansfield Shire Council reserves the right to review, vary or revoke this Policy at any time.



REPORTABLE CONDUCT SCHEME PROCEDURES

All staff engaged by Council are required to notify the Privacy Officer immediately after forming a reasonable belief that a person employed or otherwise engaged by Council , has committed Reportable Conduct or misconduct that may involve Reportable Conduct.

Immediately is defined as soon as reasonably practicable, within a period of 24 hours (or if after hours, the next business day). This is the case even if:

- That persons does not have direct contact with children; and/or
- The conduct occurred outside their work or other form of engagement with Council

Verbal Notification

- Verbal notification can be made in private and may be made in person by telephone to one of the persons set out below, including by leaving a voicemail message on that telephone number. The verbal notification must be made to one of the following persons:
 - The Privacy Officer (Sharon Scott, Corporate and Organisational Development Manager) on 5775 8548
 - Julie Dolling, Corporate and Organisational Development Coordinator on 5775 8503
 - Jenny Lovick, Community Health and Wellbeing Team Leader on 5775 85603.
 - Kirsten Lingard, Community Development Team Leader on 5775 8534
- The person receiving the notification will make notes at the time recording relevant information.

Written Notification

- A written notification can be made directly to the Privacy Officer via email or delegated person as follows:
 - Emailed directly to Privacy Officer (Sharon Scott, Corporate and Organisational Development Manager) at sharon.scott@mansfield.vic.gov.au
 - Emailed directly to Julie Dolling, Corporate and Organisational Development Coordinator at julie.dolling@mansfield.vic.gov.au
 - Emailed directly to Jenny Lovick, Community Health and Wellbeing Team Leader at jenny.lowick@mansfield.vic.gov.au
 - Emailed directly to Kirsten Lingard, Community Development Team Leader on kirsten.lingard@mansfield.vic.gov.au
- Note that some areas of Council may have other reporting requirements due to additional legislation, this can include but is not limited to Family and Children's Services, Youth Services and Community and Home Care.



Obligations on the Chief Executive Officer (CEO)

Following receipt of a Reportable Allegation, the CEO (or their appointed delegate) undertakes to:

- Manage any immediate risks to children, which for allegations of suspected criminal misconduct, will involve reporting to Victoria Police.
- Ensure the Commission for Children and Young People (CCYP) is notified within 3 business days of becoming aware of the Reportable Allegation. Notifications can be made via this link: <https://ccyp.vic.gov.au/reportable-conduct-scheme/notify-and-update/>
- Engage an independent investigator (as appropriate) and initiate an investigation into the Reportable Allegation (subject to police clearance on criminal matters); and inform the CCYP the details of the person undertaking the investigation;
- Provide the CCYP (within the prescribed period of 30 calendar days) detailed information about the Reportable Allegation and any action taken or proposed by the Council;
- Notify the CCYP of the investigation findings and any disciplinary action the Council has taken or the reason no action has been taken.

Reportable Conduct Allegation Investigations

Allegations of suspected criminal misconduct will be reported to Victoria Police as the first priority, who will maintain the primacy of an investigation. The CEO or delegated officer will work with Victoria Police and the Commission to ensure:

- Allegations of criminal conduct are dealt with appropriately; and
 - Any internal workplace investigation, aimed at gathering and examining information to establish and make findings in relation to allegations of child abuse against an employee or other person engaged by the Council, does not interfere with police investigations.
- Any investigation initiated by Council, may include recommendations about what disciplinary or other action should be taken (if any). The determination of which will be made by the CEO, or their appointed delegate.
- In circumstances where Council is unable to investigate or otherwise engage an independent person or body to investigate a Reportable Allegation, Council will work with the CCYP, to the greatest extent possible, to support the CCYP's independent oversight and investigation into this matter.

Procedural Fairness

- Determinations made with respect to a Reportable Allegation are required to be made on the balance of probabilities, following principles of procedural fairness. In response to a Reportable Allegation, Council undertakes to:
 - obtain clearance from Victoria Police, if the allegation is criminal in nature, before initiating a workplace investigation; and
 - before any findings are made or disciplinary action taken.
 - Notify the subject of the allegation of details of any adverse information that is credible, relevant and significant. This need not be at the time the CCYP is notified so as to



ensure an investigation is not compromised; or at all, in circumstances the allegation is fictitious.

- Provide the subject of the allegation a reasonable opportunity to respond to that information.
- Any persons that is the subject of an allegation may choose (but is not obliged) during the course of an investigation, to give information or documents that support their versions of events; or prove/disprove any fact or issue being investigated.
- In circumstances where other allegations or concerns are identified the additional information will be considered by the Investigator, and may add or change the nature and or scope of the allegation.
- Interviews with witnesses, organisational management, other staff, the subject and/or victim of the allegation may be undertaken by Victoria Police, Council's delegated staff, an independent investigator engaged by Council, the CCYP or other regulator with expert opinion or advice (such as from a medical practitioner or legal counsel) obtained during a workplace investigation, as deemed required.

Support Services – Employee Assistance Program

Council recognise that Reportable Conduct investigations can be stressful and demanding on all involved and is committed to the welfare and support of staff. Access to Council's Employment Assistance Program or other counselling services will be made available as required in support of persons making a Reportable Conduct report.