



ATTACHMENT 10.4.5

DRAFT CHILD SAFE STANDARDS AND REPORTABLE CONDUCT SCHEME POLICIES AND PROCEDURES

(15 PAGES)

Child Safe Policy and Code of Conduct 2018

Department/Unit: <i>Department Name</i>	First Implemented: XX Effective From: XX Review Date: XX Version: XX Trim Reference: EXXX	Origin: Responsible Officer: <i>Corporate and Organisational Development Manager</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: *Yes/No* Date comments required by: *XXX*
- Review by Audit & Risk Advisory Committee: *Yes/No*
- Review by Councillors: *Yes/No*
- Approved by CEO: *Yes/No (Date)*
- For consideration and endorsement by Council (if appropriate): *Date*

PURPOSE/OBJECTIVE

In 2015 the Victorian Government introduced the Child Safe Standards into legislation, which are compulsory minimum standards for organisations that interact with and/or provide services to children to help protect those children from harm.

The purpose of the Child Safe Policy is to ensure that all staff are aware of Mansfield Shire Council's commitment and obligation to create a child safe organisation.

This policy aims to communicate Council's commitment to implement a best practice framework to ensure the safety of children and explain the organisation's approach to meeting the mandated Child Safe standards to ensure that all staff understand and adhere to them.

POLICY STATEMENT

Mansfield Shire Council:

- Is committed to child safety and the best interests of children
- Has zero tolerance for child abuse and will take all allegations of reportable conduct and safety concerns very seriously, ensuring such conduct is dealt with in accordance with Council policies, procedures and the law
- Will uphold the right of all children who come into contact with Mansfield Shire Council to feel safe and protected



- Is committed to preventing child abuse by identifying risk early, and reducing and removing these risks
- Will actively work and listen to and empower children who come into contact with Council
- Has legal and moral obligations to contact authorities when there are concerns about a child's safety, which will be followed rigorously
- Has robust human resources and recruitment practices for all staff and volunteers
- Is committed to providing training and education to staff and volunteers regarding child abuse risks and child safety
- Is committed to promoting cultural safety for Aboriginal and Torres Strait Islander children, cultural safety for children from culturally and/or linguistically diverse backgrounds, and to providing a safe environment for children with a disability
- Considers the needs of same sex attracted, intersex, and gender diverse children and young people, and recognises the need to provide them with a safe environment.

DEFINITIONS

Child Safe Standards	means standards made under section 17(1) of the <i>Child Wellbeing and Safety Act 2005</i> .
Child	means persons under 18 years of age
Child Abuse	means any act committed against a child involving a sexual offence or an offence under section 49B(2) of the <i>Crimes Act 1958</i> or the infliction on a child of physical violence, serious emotional or psychological harm, or the serious neglect of a child.
Reportable conduct	includes: <ul style="list-style-type: none"> - a sexual offence committed against, with or in the presence of, a child, whether or not a criminal proceeding in relation to the offence has been commenced or concluded, or - sexual misconduct, committed against, with or in the presence of, a child, or - physical violence committed against, with or in the presence of, a child, or - any behaviour that causes significant emotional or psychological harm to a child, or significant neglect of a child.
Staff	means employees, Councillors, contractors, consultants or volunteers.

SCOPE

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



RESPONSIBILITIES

Overall responsibility for the application of this Policy is held by the Chief Executive Officer.

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.

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

Mansfield Shire Council Reportable Conduct Scheme Policy and Procedures
Mansfield Shire Council Children in the Workplace Policy
Mansfield Shire Council Privacy and Data Collection Policy
Mansfield Shire Council Protected Disclosure Policy
Mansfield Shire Employee Code of Conduct
Mansfield Shire Councillor Code of Conduct and Councillor Charter

Child Wellbeing and Safety Act (2005)

Children Youth and Families Act (2005)

Crimes Act 1958

Health Records Act 2001

Privacy and Data Protection Act 2014

The Reportable Conduct Scheme

IMPLEMENTATION

This Policy is effective from XXX.

REVIEW DATE

This Policy is to be reviewed by XXX.

AUTHORISATION TO IMPLEMENT POLICY

Signed: _____

Councillor

Witnessed: _____

Chief Executive Officer

Approval dated: XXX

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



Child Safe Code of Conduct

The following Code of Conduct is designed to ensure that the application of the Child Safe Policy, and all decisions made under it, are made in a consistent and open manner.

Mansfield Shire Council's Child Safe Code of Conduct applies to all staff of the organisation, including employees, consultants, contractors, volunteers and Councillors (staff). It applies to a broad range of situations where interaction with children may occur.

The Child Safe Code of Conduct will apply whenever staff come into contact with children as part of their duties as staff, and through incidental contact, such as when children visit Council premises or through interaction with the public at Council events.

It is important that all staff are aware of Council's **Reportable Conduct Scheme Policy**, whereby allegations of employee misconduct involving children can be made against an employee, even if the conduct occurred outside of their work.

Child Safe Code of Conduct standards and obligations

All Mansfield Shire Council staff are responsible for supporting the safety, participation, wellbeing and empowerment of the children that they come into contact with in their professional capacity, and must:

- adhere to Council's Child Safe Policy at all times and abide by the Council's commitment and obligation to creating a child safe organisation
- treat children with respect, including valuing ideas and opinions
- take all reasonable steps to protect children from abuse by being vigilant to signs of abuse
- provide a welcoming, inclusive and safe environment for all children and young people
- promote the cultural safety, participation and empowerment of all children
- work with children in an open and transparent way; for example, by ensuring that where appropriate, interactions with children can be observed by other adults
- disclose any information of charges, convictions of abuse and all other offence history in accordance with Council requirements
- challenge unacceptable behaviour toward children and report all allegations or suspicions of child abuse
- respect the privacy of children and their families and only disclose information to people on a need to know basis and in accordance with the *Privacy and Data Protection Act 2014* and *Health Records Act 2001*
- encourage children to 'have a say' and participate in all relevant organisational activities where possible, especially on issues that are important to them.



All Mansfield Shire Council staff are responsible for supporting the safety of children that use Council services, and in respect of these children must not:

- develop inappropriate relationships with children or young people
- display violent behaviour towards a child
- ignore or disregard any concerns, suspicions or disclosures of child abuse
- initiate unnecessary physical contact with children or exhibit behaviours with children which may be construed as inappropriate
- put children at risk of abuse (for example, by allowing unnecessary one-adult/one-child encounters to occur)
- conduct a sexual relationship with a child or young person or indulge in any form of sexual contact with a child or young person
- engage in open discussions of a mature nature in the presence of children
- use inappropriate, offensive, harassing, abusive, sexually provocative, demeaning, culturally inappropriate or discriminatory language when speaking with, or in the presence of, a child or young person
- discriminate against any child, including because of age, gender, race, culture, vulnerability, sexuality, ethnicity or disability
- use any computer, mobile phone, or video and digital camera to exploit or harass children or expose children to offensive or sexualised content
- exchange personal contact details with a child such as phone number, social networking sites or email address
- engage with children or young people in an unauthorised capacity, such as via their own personal Facebook or other social networking sites
- develop 'special' relationships with specific children or show favouritism through the provision of gifts or inappropriate attention
- conduct relationships with children outside of their authorised capacity. (In cases where a conflict of interest may arise, such as when a staff member has a previous relationship with a child client/user of Council services outside of work, they must notify their manager or team leader as soon as is practicable, to ensure that this conflict of interest is dealt with professionally and appropriately).

All staff are obliged to report any breaches of this Code of Conduct. In instances where a reportable allegation has been made, the matter will be managed in accordance with Council's Reportable Conduct Policy and may be subject to referral to Victoria Police.

All staff of Mansfield Shire Council who breach this Code of Conduct may be subject to disciplinary procedures which may include termination of employment.



Mansfield Shire Council's approach to child safety

This section provides an overview of measures in place to support child safety across the organisation.

Building a child safe culture

All staff have a responsibility to support Mansfield Shire Council's commitment and obligation to creating a child safe environment.

Child Safe Code of Conduct

All staff must ensure that they display appropriate standards of behaviour towards children, ensuring that children's rights are respected, that they feel safe and protected, and that their concerns are taken seriously.

Training and supervision

Mansfield Shire Council is committed to ensuring that staff have access to appropriate professional learning and training opportunities to develop and maintain an understanding of child safety and prevention of harm. To support staff with this commitment, relevant training programs, as well as the staff induction procedure, will include appropriate content that outlines Council's expectations and commitment to child safety.

Recruitment

The recruitment and selection of staff and volunteers aims to support Council's commitment to promoting an organisational culture of child safety. Interviews and reference checks are undertaken for all potential staff, and all people engaged in work with children are required to undergo a police check, and to hold a valid Working with Children Check.

Risk Management

Council is responsible for effectively identifying and managing risk and for promoting a safe and healthy environment for employees, volunteers and the community.

Reportable Conduct Scheme Policy 2018

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- Approved by CEO: *Yes/No (Date)*
- For consideration and endorsement by Council (if appropriate): *Date*

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 XXX.

REVIEW DATE

This Policy is to be reviewed by XXX.

AUTHORISATION TO IMPLEMENT POLICY

Signed: _____

Councillor

Witnessed: _____

Chief Executive Officer

Approval dated: XXX

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.lovick@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.