Introduction

Bega Valley Shire Council Children’s Services have a strong commitment to the safety, welfare and well-being of children, young people and families. The Child Protection procedure outlines how we will act to ensure that the protection and well-being of children, young people and families associated with Bega Valley Shire Council Children’s Services remains paramount.

The child protection procedure is designed to ensure that:

- All allegations of child abuse by employees or any other person are appropriately investigated, reported and responded to
- All steps are taken to ensure the prevention of child abuse in the workplace. This includes ensuring that all employees, volunteers and students on placement undergo a "Working with Children" check and/or make required declarations.
- All concerns regarding the well-being or safety of children and young people are appropriately reported.

Definitions

Child Abuse

Child abuse is defined as being any form of maltreatment inflicted on a child aged between 0 - 18 years. Child abuse may include:

- Physical abuse such as hitting, kicking, shaking, throwing, pushing, shoving, pinching, grabbing, poking, use of excessive force, inappropriate restraint, use of an object or threatened use of an object.
- Sexual abuse such as indecent touching, intercourse, obscene language/gestures, deliberate exposure to sexual behaviour/sexual exhibitionism or sexually explicit material such as pornography.
- Psychological or emotional abuse such as persistent hostility, yelling, rejection, scapegoating, humiliating or belittling
- Ill treatment or neglect of a child
- Exposing or subjecting a child to behaviour that psychologically harms the child
- Misconduct such as inappropriate touching (not indecent), inappropriate comments/jokes or inappropriate relationship with a child. (An allegation of misconduct may or may not involve child abuse).

Risk of Significant Harm

A child or young person is at risk of significant harm if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence of one or more of the following:

- The child’s or young person’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 or for their child to receive an education.
- The child or young person has been, or is at significant risk of being, physically or sexually abused or ill-treated.
- The child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm.
- A parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of significant psychological harm.
- A series of acts or omissions when viewed together may establish a pattern of significant harm (cumulative impact).

**Current concern**
A 'current concern' means that at the time of making a report the educator or staff person is worried about the safety, welfare or well-being of a child or young person. Educators or staff may also have concerns about a class of children i.e. other children or young people who have current contact with an alleged abuser. Current concerns may also exist for a child or young person where abuse has happened in the past and the child or young person may be at risk because of their current reaction to the abuse.

**Identifying a child or young person at risk of significant harm**
Educators or staff may become concerned that a child is at risk of significant harm in many ways. Examples may include:

- direct disclosure by a child or young person.
- an adult discloses abuse of a child or young person.
- a worker observes changes in a child's behaviour, instability in the child or family, notices physical evidence such as bruising or burns, witnesses inadequate or abusive care.
- a parent of a child or young person discloses abuse of their child.
- a worker forms the view that an adult client is not capable of caring for their children at the time, for example due to physical or mental health problems, intoxication or distress.
- a worker forms the view that a pregnant woman may not be able to care for her child when born.

**Strategies**

**Respond to allegations or conviction of child abuse against employees**
The Ombudsman amendment (Child protection and community services) Act 1998 which was incorporated as part of the *Ombudsman Act 1974* creates clear obligations for Bega Valley Shire Council where allegations or convictions of child abuse are made against Bega Valley Shire Council education and care services employees or any other person. Bega Valley Shire Council is the Approved Provider for 4 education and care services. The Group Manager, Community and Relationships (as the Approved Provider’s representative) is responsible for ensuring systems are in place for reporting and responding to an allegation or conviction of child abuse against an employee, or any other person.

The Approved Provider will:

- Report to the Department of Education and Communities within 24 hours of becoming aware of any allegations and take appropriate action as a result.
• Report to the Ombudsman, within 30 days of becoming aware, any allegations or convictions of child abuse made against employees.

• Conduct an investigation (which can include preliminary or other inquiries and assessment) into child abuse allegations or convictions and take appropriate action as a result.

• The NSW Ombudsman’s Officer will

  • Scrutinise that systems in place are adequate to prevent and respond to allegations and convictions of child abuse against employees
  • Monitor and undertake direct investigations of an agency's response to allegations or convictions of child abuse against an employee
  • Respond to complaints made about an agency's handling of or response to an allegation or conviction of child abuse.

To ensure these systems work effectively within Bega Valley Shire Council education and care services the following procedures will be monitored by the Group Manager, Community and Relationships. These procedures have been put in place for reporting and responding to allegations or convictions of child abuse against an employee or any other person.

**Reporting an allegation of abuse made against an employee**

The Approved Provider will

• Record the allegation of abuse or misconduct and notify the Bega Valley Shire Council General Manager of any allegation or conviction of child abuse against an employee

• Access the online Department of Premier and Cabinet Mandatory Reporter Guidance tree (MRG) and assess the risk of significant harm to the child, employee and others of the allegation

• Follow the recommendations for action provided by the MRG

• Implement the Bega Valley Shire Council policy and procedures for complaints against staff

• Monitor all procedures for reporting and responding to allegations or convictions of child abuse against an employee.

• Notify the NSW Ombudsman of any allegations or convictions of child abuse against an employee within 30 days of becoming aware of the allegation or conviction.

• Notify the commission for Children and Young People about any relevant disciplinary proceedings taken as a result of an allegation or conviction of child abuse by an employee.

• Ensure employees and clients are aware of their rights and the procedure to report allegations of abuse by employees under this Child Protection Policy

All staff and educators will

• Report allegations or suspected incidents of child abuse or misconduct involving other employees to the Nominated Supervisor of the education and care service, the Director of Children’s Services and the Group Manager, Community and Relationships.

• Risk assessment following allegation of abuse made against an employee

The Approved Provider will

• Conduct an initial risk assessment of the safety of children concerned and other children using the service. This risk assessment will include consideration of whether or not the child is still at risk of significant harm and
what steps need to be taken to prevent further abuse. The risk assessment must also identify and minimise the risk to other children, families, employees, Bega Valley Shire Council and ensure the proper investigation of the allegations.

- Forward the initial risk assessment to the Bega Valley Shire Council General Manager who will use it to determine whether to investigate further and what immediate action should be taken. Immediate action will be guided by the child's or other children's needs for protection from further potential abuse or victimisation. Examples of immediate action may include:
  - suspension of an employee with or without pay,
  - deployment to another work area.

A decision to take immediate action on the basis of the risk assessment has no relevance to the eventual findings of the matter and is not an indication that the allegation has been substantiated.

### Investigation of allegation of abuse made against an employee

The Approved Provider will conduct an investigation into the allegation of child abuse against an employee within the guidelines provided by the NSW Ombudsman. This may involve:

- Gathering relevant information
- Interviewing the witnesses
- Reviewing the initial risk assessment to see if further action to address concerns is required
- Preparing a written report on the investigation
- Putting the allegation to the employee at an interview
- Giving the employee the opportunity to respond, both during the interview and in a written response.
- Considering all the information gathered and make a finding as to whether or not on the balance of probabilities the allegation is sustained or not sustained.
- Clearly documenting and communicating the rationale for the finding to all relevant parties.
- Providing information about avenues of appeal for the person making the allegation or the employee including the right to appeal to the Ombudsman.
- Making a decision about what subsequent action, if any will be taken as a result of the investigation. This includes any disciplinary action, amendments to policy and procedures, action to be taken against a vexatious or malicious allegation and a final review of risk.
- Reporting all actions taken to the Department of Education and Communities and any other agencies as required.

### Records

The Approved Provider will:

- Prepare a final report on the matter and forward this to the Ombudsman and to the Department of Education and Communities.
- Inform the Commission for Children and Young People of relevant disciplinary matters.
- Ensure that all allegations, investigations, meetings, contacts, discussions and reports are adequately documented, that information is stored securely according to Bega Valley Shire Council policies, and that confidentiality is maintained.
Procedural Fairness

The Approved Provider will:

- Ensure that confidentiality for all persons affected by an allegation or conviction of child abuse against an employee is maintained.
- Follow all Council policies to ensure procedural fairness in responding to an allegation of child abuse. This includes ensuring that employees are made aware of their rights including the right of appeal, representation and external complaint. Policies ensuring procedural fairness are outlined in more detail in Bega Valley Shire Council and Bega Valley Shire Council Children’s Services Grievance Policies.
- Appropriate support is put in place for the child who is alleged to have been abused.

Reports by employees of children at risk of significant harm

All Educators and Staff will:

- Report to DoCS the name, or a description, of a child suspected at risk of significant harm and the grounds for suspecting risk of significant harm.
- Report a child who is homeless
- Report a class of children or young people where there are reasonable grounds to suspect risk of significant harm. A 'class' of young people includes community groups, childcare centres, or school classes.
- Report an unborn child who may be at risk of significant harm after its birth. Prenatal reporting may be helpful for pregnant women in domestic violence situations, with a mental health problem or who abuse drugs and/or alcohol during pregnancy.

Documenting concerns

All Educators and Staff will:

- Record their concerns about a child or young person and include the date of the record, and any anecdote or observations. These should be specified clearly and factually.
- NOT ask a child to give details about the abuse
- Collate this data and speak with the Nominated Supervisor, Responsible Person and/or Director of Children’s Services and

Decision to report a child at risk of significant harm

The Nominated Supervisor and person making the report will:

- Identify further actions, priorities and responsibilities.
- Follow instructions for contacting DoCS if the MRG indicates that the child is at risk of significant harm and requires the worker to report.
- Advise the Approved Provider of the report

Where abuse is suspected an Educator of Staff person will:

- Record the time and date they spoke with the child and the child’s exact words (as far as possible).
- NOT ask the child to give details about the abuse. This is the role of the Department of Community Services or the Police.
- Report the disclosure to the Nominated Supervisor or Responsible Person
• Use the Department of Premier and Cabinet Mandatory Reporter Guidance tree (MRG) to determine the required course of action http://sdm.community.nsw.gov.au/mrg/app/summary.page

This website will ask a series of questions in relation to the concern identified by the reporter and describe the next step/s required of the mandatory reporter. At the end of the session, print a copy of the decision and file this in the confidential location. Copies of reports are not to be kept as part of the individual client's file and clients will not have automatic access to child protection records

• Report to the DoCS Helpline PHONE 13 3627 and provide the following information:
  o The name or description of the child or young person, or class of children or young people
  o The current whereabouts of the child or young person
  o Whether the Risk of Significant Harm is related to a staff member
  o When the child was last seen
  o The name and address, if known, of the person suspected of abusing the child or young person and, if possible, their occupation
  o All available information relating to the safety, welfare and well-being of the child or young person
  o Reasons for concern about Risk of Significant Harm
  o Information about the parent, family or caregivers.

• Record the call reference number allocated by the Helpline, the name of the Helpline worker and file securely with copies of information provided

• Secure all records in the confidential child protection file

Making a child protection report can be upsetting. All employees of Bega Valley Shire Council, are able to seek counselling and support from the Employee Assistance Program. These services are confidential and free. Phone: 02 6499 2197 for more information or speak with your Nominated Supervisor.

DoCS response to a report and ongoing work with the child and family

The DoCS District Officer will:

• Assess the situation, investigate the allegations and offer preventative measures to protect the child at risk of significant harm. Subsequent action, guidelines, advice and family support services will be negotiated between the family and DoCS.

• Communicate and liaise with Bega Valley Shire Council Children’s Services through the Nominated Supervisor and or Director of Children’s Services concerning the case management.

The Nominated Supervisor will:

• Request information from the family’s child protection case worker about the medical/ educational or other appropriate reports, the family support services involved and the welfare agencies and emergency contact phone number and case management person/s.
The Nominated Supervisor and family’s Child Protection Case-worker will:

- Develop an action plan for the education and care of the child and family whilst in the centre.

Safety issues

The Nominated Supervisor, Educators and Staff will:

- Ensure the person to whom a disclosure of sexual abuse is made does not confront the alleged perpetrator as this may lead to further risk to the child. This is the role of the DoCS or the Police.
- contact the Department of Community Services for advice about how to handle a situation where a child cannot be kept separate from an alleged perpetrator e.g. the alleged perpetrator is due to arrive before DoCs worker.
- Contact the Police immediately if there are concerns about the immediate safety of the child or a worker.
- Report to the Police and the BVSC Department of Human Services if any person is threatened with, or fears personal violence as a result of making a report to DoCS. The Police and Bega Valley Shire Council will assist the person to obtain an apprehended violence order (AVO).
- NOT inform alleged offenders of sexual assault or domestic violence that a report will be made as they may pressure the child or young person to retract their disclosure. The non-offending caregiver of the child should also NOT be informed, except where they have provided the information and the worker assesses that it is safe.

Protection for workers who report

Staff making reports are protected under the Act. The identity of a person making a report cannot be disclosed except where the person gives consent.

Working with and providing information to other agencies

Under the Act, staff may be required to provide information to DoCS. It is a legal obligation to comply with a request for information. Maintaining the confidentiality of a client is not a sufficient reason for failing to respond. Recent changes to the Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 allow for a freer exchange of information between prescribed bodies that relate to a child or young person’s safety, welfare or wellbeing provided the information is about:

- A child or young person’s history or circumstances and/or
- A parent or other family member and/or
- People having a significant or relevant relationships with a child or young person and/or
- The other agencies’ dealings with the child or young person including past support or service arrangements.

A request from DoCS must be made using the DoCS Information Request form. The information requested can only be related to the safety, welfare and well-being of a particular child or young person, or a class of children or young people.

All Educators and Staff will:

- report any request for information to the Nominated Supervisor, Director of Children’s Services and the Group Manager, Community and Relationships.
• If a DoCS caseworker rings to ask for information all Educators and Staff will:
  • Ask for the request in writing on a DoCS Information Request form
  • Make sure the Nominated Supervisor and/ or Responsible Person speaks with the DoCS worker
  • Provide information to the DoCS by telephone in urgent situations. This information should then be confirmed
    in writing. Any urgent request for information should be discussed first with the Nominated Supervisor,
    Director of Children’s Services and/ or the Group Manager, Community and Relationships first wherever
    possible
  • Document the name of the caseworker, the information provided and contact details for the case worker

If a DoCS caseworker rings to say they will visit and interview a child all Educators and Staff will ask and
document:
• The time the workers will come and who will come
• What they will need to do and who will be involved (eg will they require an educator to support the child
  involved, will they need to interview children separately or alone, will they need a private room to work in)
• Whether the case workers know the family
• What they will do if the family arrives to collect the child while they are here. In particular ask what strategies
  they have put in place to minimise any risks to the workers in the service and to the other children and
  families using the service
• What arrangements have been made for contacting the family or for speaking with the family after they have
  interviewed the child
• How they will protect the privacy of the family, the child and the staff in the education and care service during
  and after the interview process

Children's Court Orders
The Nominated Supervisor will:
• Inform all caseworkers that family access visits and supervised visitation orders will not be approved to occur
  in the education and care service,
• Obtain information on the proposed terms and period of any court order that applies to the child within the
  education and care service
• Undertake a risk assessment of the proposed court order for all persons affected including staff, educators,
  other children and families using the education and care service
• Refer the proposal and risk assessment to the Group Manager, Community and Relationships for
  consideration.
• Identify steps that must be taken by the education and care service if the court order is enacted and either
  the child or family breach the order.

Education and training
The Approved Provider will:
• Require Nominated Supervisors to have completed an approved course in child protection as required under
  Education and Care Services National Regulations, 2011.
The Nominated Supervisor will:

- Successfully complete an approved course in child protection as required under Education and Care Services National Regulations, 2011.
- Ensure all educators, staff, students, volunteers and visitors are familiar with their roles and responsibilities for child protection.
- All Educators and Staff will:
  - Become familiar with their child protection obligations under the Children and Young Persons (Care and Protection) Act 1998, and Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009
- Follow policy and procedures for reporting a child at risk of significant harm]
- Take part in any Child Protection information sessions, including induction programs offered by Bega Valley Shire Council.

Pre-employment/ pre-training

The Approved Provider and Nominated Supervisor will:

- ensure all prospective applicants for employment, training or voluntary work are informed of the requirement for a Working with Children Check clearance and/ or declaration.

Advice to families at induction

The Nominated Supervisor and Administrative Officer will:

- Provide children and families with information about the education and care service's obligation under the Children and young Persons (Care and Protection) Act 1998 and how this restricts access to records.
- Working with Children Checks
- The Approved Provider and Nominated Supervisor will:
  - Ensure all education and care services employees, volunteers and students complete a Working with Children check and/ or related declaration prior to confirmed employment or placement
  - Forward copies of this document to Bega Valley Shire Council Human Resources Department to be stored securely.
  - Ensure that no 'prohibited persons’, that is a person with convictions for child murder, kidnapping or sexual offences, will be permitted to be associated with Bega Valley Shire Council Children’s Services as a paid staff member, volunteer or student on placement.
  - Notify any applicants who have not been offered employment or placement at Bega Valley Shire Council Children’s Services as the result of the outcome of a Working with Children check or declaration.

All prospective or existing Educators, Students, Volunteers or Visitors will:

- Notify the Group Manager, Community and Relationships if they are a prohibited person.

Additional resources and support

- All employees of Bega Valley Shire Council, are able to seek counselling and support from the Employee Assistance Program. These services are confidential and free. Phone: 02 6499 2197 for more information or speak with your Nominated Supervisor.
- Anne Leydon, Co-ordinator, Brighter Futures: 6499 2192; 0428 644 814
Evaluation

All educators, staff, volunteers, visitors and others follow strategies to ensure children are protected from risk of significant harm.

Statutory legislation and considerations

- *Children and Young Persons (Care and Protection Act, 1998*
- *Child Protection (Prohibited Employment) Act 1998*
- *Children’s Services Regulation 2004.*
- *Commission for Children and Young People Act, 1998*
- *Crimes Act 1900*
- *Evidence (Children) Act, 1997*
- *Freedom of Information Act, 1989*
- *Ombudsman Act 1974*
- *Privacy and Personal Information Act, 1998*
- *State Records Act, 1998*
- *Children (Education and Care Services National Law Application) Act, 2010.***
- *Education and Care Services National Regulations, 2011.*

References

- New South Wales (2009) Keep them safe: A shared approach to child well-being. NSW Department of Premier and Cabinet
Appendix 1

SUMMARY OF STEPS for contacting DoCS Helpline 13 3627

If a child makes a disclosure or you suspect a child is at risk

1. Document where and when the disclosure occurred, who was there, what was said and any other relevant details as soon as possible after the incident.

2. Report the incident to the Nominated Supervisor/ Responsible Person as soon as possible after the incident. If they are available, contact the Director of Children’s Services or the Group Manager, Community and Relationships.

3. Use the Department of Premier and Cabinet Mandatory Reporter Guidance (MRG) tree to determine the appropriate course of action and print a copy of the decision http://sdm.community.nsw.gov.au/mrg/app/summary.page

4. If the MRG indicates you are required to report your concerns to the Helpline, the Nominated Supervisor or a senior person will help you to collect the information you need:
   a. The name or description of the child
   b. The current whereabouts of the child or young person and how long they will be there
   c. Whether the risk of significant harm is related to a staff member
   d. When the child was last seen
   e. The name and address, if known, of the person suspected of abusing the child or young person and, if possible, their occupation
   f. All available information relating to the safety, welfare and well-being of the child or young person
   g. Documentation of the disclosure and your reasons for concern about risk of significant harm
   h. Information about the parent, family or caregivers from enrolment forms.

5. The Nominated Supervisor or a senior person will assist you to ring the DoCS Helpline 13 3627. If no-one in a senior position is available, then you should advise the Responsible Person in the education and care service and make the report yourself immediately.

6. Record the reference number given to you by the DoCS helpline

7. Place the MRG decision information, the reference number and all documentation of the incident in the separate confidential DoCS Child Protection case file.

Wherever possible, DoCS caseworkers should speak with the Nominated Supervisor and/ or Director of Children’s Services about child protection issues in the service.

If a DoCS caseworker rings to ask for information:

- Make sure the Nominated Supervisor and/ or Responsible Person speaks with them
- Document the name of the caseworker, the information provided and contact details for the case worker.

If a DoCS caseworker rings to say they will visit and interview a child ask and document:

- The time they will come and who will come
- What they will need to do and who will be involved (eg will they require a child care worker to support the child involved, will they need to interview children separately or alone, will they need a private room to work in)
- Whether the case workers know the family
• What they will do if the family arrives to collect the child while they are here. In particular ask what strategies they have put in place to minimise any risks to the workers in the service and to the other children and families using the service

• What arrangements have been made for contacting the family or for speaking with the family after they have interviewed the child

• How they will protect the privacy of the family, the child and the workers in the service during and after the interview process

After involvement in a child protection response:

• Document what happened and identify any difficulties that arose

• Identify any improvements that could be made to the process

• Report to the Nominated Supervisor, Director of Children’s Services and to the Group Manager, Community and Relationships

**NOTE**
Reporting allegations of abuse can be distressing. You may wish to seek counselling and support from the Employee Assistance Program.