
CHILD SAFE MANAGEMENT SYSTEM - REPORTABLE CONDUCT POLICY



PURPOSE

This policy recognises the importance of child safety in the provision of quality community services. It contributes to public value through building community confidence by demonstrating the accountability of our people and our organisation in responding to allegations of reportable conduct.

SCOPE

This policy relates to reportable conduct allegations and applies to all people elected to, employed by, and working within Wyndham City Council: Councillors, Advisory Committee Members, Staff (including temporary and contracted) and Volunteers (registered and student). Allegations may be made in the context of the work environment and in a person's personal life.

POLICY STATEMENT

Wyndham City Council is committed to creating a child safe environment and the protection, safety and wellbeing of children in its care, supervision and authority. We encourage people to report conduct of concern where there is reasonable belief that child abuse or harm has occurred, is occurring or will occur. The Reportable Conduct Scheme seeks to improve how organisations respond to allegations of child abuse, child harm, risk of harm and neglect. It requires the CEO to report to the Commission for Children and Young People within a set period, if they become aware of an allegation of child abuse, child harm, risk of harm, neglect, or child related misconduct being made against an person to whom this policy applies.

Reportable Conduct includes:

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

Reportable conduct cases will then be investigated by Wyndham City Council, with oversight from the external authorities; which may include the Commission for Children and Young People, the Police and the Department of Families, Fairness and Housing Child Protection. Reportable Conduct Schemes and their prescribed processes do not replace the need to report concerns, allegations, and disclosures to the Police when there are indicators that a crime may have been committed, and/or to child protection authorities where there are protective concerns for children and young people.

All allegations which demonstrate reasonable belief will be taken seriously. There does not need to be agreement or shared belief that the alleged conduct has occurred. People may report to their line manager or directly to the Child Safe Officer(s). The Child Safe Officer will ensure that we handle allegations consistently and in line with our legal obligations. Their assessment will determine which external authorities are required to be notified. They may seek advice from the Commission for Children and Young People in making this assessment. A Child Safe Officer will notify reportable conduct to the Commission of Children and Young People, on behalf of the Chief Executive Officer (CEO). The Ethics and Integrity Committee will oversee management of reported incidents, to ensure council processes are followed. There is no requirement to notify the Commission if the allegation is plainly wrong or has no basis in reality.

POLICY OBJECTIVES

1. Wyndham City Council will maintain an environment that minimises the risk of harm to children, promoting their safety, in line with community expectations and compliant with legislation.
2. Wyndham City Council will foster and actively promote a culture where our people advocate for child safety and we empower children, respecting their rights and hearing their voice.
3. Wyndham City Council will embed practices which enable reporting avenues to be available at all levels of the organisation which maintain confidentiality, deliver procedural fairness and facilitate natural justice.
4. Wyndham City Council will require our people to act with integrity and respect for child safety in the performance of their roles and promptly report any misconduct, risks or concerns related to child safety.

MANDATORY AND VOLUNTARY REPORTING OBLIGATIONS

Victoria has enacted legislation requiring mandatory reporting of suspected child abuse, child harm and neglect to the relevant authority. These obligations necessitate reports of a reasonable belief of physical or sexual child abuse, child harm, risk of harm or neglect to the appropriate authorities.

Wyndham City Council expects that everyone, regardless of their legal mandate, has a moral and social responsibility to report concerns about child abuse, child harm, risk of harm and neglect and this approach is reflected in our Child Safe Management Guidance.

The tables below set out key features of mandatory and voluntary reporting. The table identifies all relevant legislation, what needs to be reported, who is mandated to report, and who is a voluntary reporter.

There is a range of legislation which requires all adults to report abuse in certain instances.

Mandatory Reporting Obligations¹

Legislation	When to report	Who must report	Who is a child
Children, Youth and Families Act 2005	A mandated reporter must make a report to Department of Families, Fairness and Housing Child Protection if: <ul style="list-style-type: none"> • They form the belief on reasonable grounds that a child has suffered, or is likely to suffer significant harm as a result of physical injury or sexual abuse; and • The parents have not protected or are unlikely to protect the child from harm of that type. • The belief is formed in the course of practising his/her position of employment. 	Registered medical practitioners, midwives, nurses, registered teachers, counsellors and psychologists	A person under 18 years old
Child Safety and Wellbeing Act 2005	The CEO must make a report to the Commission for Children and Young People if they become aware of a reportable allegation against an employee, volunteer or contractor of the entity.	The head of an entity that is affected by the Reportable Conduct Scheme	A person under 18 years old
Crimes Act 1958	A mandatory reporter must make a report to the police if they form a reasonable belief that a physical or sexual offence has been committed in Victoria against a child by another person of or over the age of 18 years.	Any person 18 years or older	A person under 16 years old

¹ Source: Australian Government, Australian Institute of Family Studies, Child Family Community Australia, Mandatory Reporting of Child Abuse and Neglect

At Wyndham City Council the CEO reporting requirement is delegated to the Child Safe Officer. All incidents are expected to be reporting to the Child Safe Officer. There are public reporting avenues available at the websites of the Commission for Young People and Department of Families, Fairness and Housing.

Voluntary Reporting Obligations

Legislation	When to report	Who can report	Who is a child
<i>Children, Youth and Families Act 2005</i>	A voluntary reporter may make a report to a protective intervener (i.e. Department of Families, Fairness and Housing Child Protection) if: <ul style="list-style-type: none"> The person believes on reasonable grounds that a child is in need of protection. 	Any person	A person under 18 years old
<i>Child Safety and Wellbeing Act 2005</i>	A voluntary reporter may disclose a reportable allegation to the Commission for Children and Young People	Any person	A person under 18 years old

Role Accountabilities & Responsibilities

Audit and Risk Committee	Monitor management systems in place to obtain sufficient assurance that Wyndham City Council is operating in compliance with applicable legislation and regulation.
Chief Executive Officer	While the CEO is legally responsible to report to the external authority, this responsibility is delegated to the Child Safe Officer(s).
Executive Leadership Team	Endorse and support the Child Safe Policy and ensure child safety is prioritised at a strategic and operational level. Ensure adequate human and financial resources are allocated to child safety management. Champion child safety, demonstrating leadership and accountability for child safe practices at all levels of the organisation, including duty of care and mandatory reporting. Advocating for a child safe culture by encouraging reporting and supporting prompt and proportionate response to allegations of reportable conduct.
Ethics and Integrity Committee	Provide oversight of incident management to assure procedural fairness, timeliness of action to investigate and resolve, equity of outcome, appropriate provision of welfare support and compliance with the requirements and directives of external authorities (including the Commission for Children and Young People, the Police and the Department of Families, Fairness and Housing).
Child Safe Officer(s)	<p>Holders of this role are named within the Instrument Delegation and on the Child Safe Management System intranet page. Officer(s) must receive and review disclosures, undertaking the following actions, as required:</p> <ul style="list-style-type: none"> conduct an initial assessment to determine the incident notification and management requirements; refer criminal conduct directly to Victoria Police; refer potential reportable conduct to the Commission for Children and Young People; refer disclosures which are not reportable conduct to the relevant Manager to enact the internal disciplinary process, in consultation with People and Capability as appropriate; refer allegations which are not made about Wyndham people to the Department of Families, Fairness and Housing; ensure support is offered to the child and their parents/carers, to the person making the report and the person who is the subject of allegations; and provided where accepted; engage external investigators from our legal panel, as required; manage the resolution of disclosures related to child safety incidents in accordance with council processes; and report to the Ethics & Integrity Committee as required.

Risk Team	<p>The Risk Team are responsible for the implementation and continuous improvement of the Child Safe management system, they must:</p> <ul style="list-style-type: none"> • champion child safe practices; • provide communication, information, advice and support in relation to the management of allegations, internally and externally in line with legal requirements; • ensure there are processes and systems in place to enable anyone to raise concerns or make allegations related to potential reportable conduct, including about the head of the organisation; • provide communication, information, advice and support in relation to the management of allegations to be provided internally and externally in line with legal requirements; • provide opportunities for training, supervision, ongoing support for those responsible for child safe practices; • maintain secure information management systems for the receipt, storage, assessment and notification of potential allegations of reportable conduct; • continuously improve the Child Safe Management System, building the capability of our people to manage meet their responsibilities; and • monitor, manage and continually improve the organisation’s child safe strategies.
People Managers	<p>Responsible for acting as a reporting channel for their direct reports and referring allegations to a Child Safe Officer and maintaining confidentiality about such situations.</p>
Mandated Reporters (Child Protection)	<p>People employed in occupations subject to mandatory reporting as named in the <i>Child Wellbeing and Safety Act 2005</i> have additional mandatory reporting obligations to child protection authorities and Victoria Police. These roles include:</p> <ul style="list-style-type: none"> • kindergarten and early years educators; • maternal and child health nurses; • youth workers; • counsellors and psychologists; and • out of home workers.
All people	<p>All people covered by the scope of this policy are responsible for:</p> <ul style="list-style-type: none"> • understanding the signs of child abuse, child harm and neglect and knowing how to respond should an incident occur; • reporting conduct which the person reasonably believes qualifies as reportable conduct; and • following organisational reporting processes when a reportable conduct allegation arises. <p>In addition, people who engage, manage and monitor contractor agreements for the provision of goods or services; are required to ensure that contractor performance meets the organisations expectations in relation to child safety.</p> <p>If you have reason to believe that a child’s safety is in immediate danger contact 000.</p>

DEFINITIONS

Child Safe Management System – the system of planning, organising, leading and controlling activity; in order to direct and control the organisation with regard to the implementation of child safety practices.

Child – any person under the age of 18.

Allegation – A disclosure made to a line manager or the Child Safe Officer(s), which alleges that reportable conduct has occurred and that there is reasonable belief to substantiate this allegation.

Mandated Reporter – any individual who is legally required to ensure a report has been made when a concern, allegation and /or disclosure of child abuse arises. A mandatory reporter may be a person who holds a particular occupation **or** falls under state specific legislation.

Reasonable Belief – A ‘reasonable belief’ is not the same as having proof. A ‘reasonable belief’ is formed if a reasonable person in the same position would have formed the belief on the same grounds. A ‘reasonable belief’ might be formed when:

- a child or young person states that they have been abused
- a child or young person states that they know someone who has been abused (sometimes the child or young person may be talking about themselves)
- someone else discloses that a child has been abuse or is at risk of abuse
- professional observations of the child’s/young person’s behaviour or development leads a person to form a belief that the child/young person has been abused
- signs of abuse lead to a belief that the child/young person has been abused.

Reportable Conduct – as defined in the Child Wellbeing and Safety Act (2005), are categorised as:

1. Sexual offences (against, with or in the presence of, a child);
2. Sexual misconduct (against, with or in the presence of, a child);
3. Physical violence (against, with or in the presence of, a child);
4. Behaviour that causes significant emotional or psychological harm; or
5. Significant neglect.

Sexual offences – In Victoria, it is an offence to engage in certain sexual behaviours against, with or in front of, a child. A person does not need to be charged with, or found guilty of, a sexual offence for their behaviour to be reportable conduct. Reportable behaviours in this category include:

- sexual assault;
- indecent acts;
- possession of child abuse material;
- ‘grooming’ a child in order to commit a sexual offence.

A full list of the relevant sexual offences is set out in clause 1 of Schedule 1 to the Sentencing Act 1991.

Sexual misconduct – reportable behaviours in this category involve a broader range of inappropriate behaviours of a sexual nature that are not necessarily sexual offences, examples include:

- Developing an intimate relationship with a child, for example, through regular contact with the child without the knowledge or approval of the organisation’s management.
- Inappropriately discussing sex and sexuality with a child.
- Other overtly sexual acts that could lead an organisation to take disciplinary or other action.

Physical Violence – reportable behaviours in this category involve an act that causes physical injury or pain, examples include:

- hitting, kicking or punching;
- pushing, shoving, grabbing, throwing, shaking;
- using an object to hit or strike; or
- using inappropriate restraint/excessive force.

Physical violence does not include lawful behaviour. This may include reasonable steps taken to protect a child from immediate harm, such as taking a child's arm to stop them from going into oncoming traffic; or medical treatment given in good faith by an appropriately qualified person, such as a senior first aid officer administering first aid.

Behaviour that causes emotional or psychological harm to a child – reportable behaviours in this category require a determination that:

- a child must have suffered significant emotional or psychological harm;
- there must be a clear link between the alleged conduct and the harm suffered; and
- the behaviour must cause emotional or psychological harm that is significant.²

Significant Neglect – Neglect occurs when a person does not meet their obligations and responsibilities to keep a child safe and well. Reportable behaviours in this category involve:

- must be more than minor and insignificant;
- does not need to have a lasting or permanent effect; or
- may be an ongoing situation or a one-off incident, as long as it is not minor in nature.

² Significant in this context refers to impacts which have the potential to have a lasting or permanent effect.

REFERENCES

External reference material:

Legislation and Regulation

[Children Legislation Amendment \(Reportable Conduct\) Act 2017](#)

[Child Wellbeing and Safety Act 2005](#)

[Child Wellbeing and Safety Amendment \(Child Safe Standards\) Act 2015](#)

[Child Wellbeing and Safety Regulations 2017](#)

[Crimes Act 1958](#)

[Sentencing Act 1991](#)

[Worker Screening Act 2020 \(VIC\)](#)

[Working with Children Regulations 2016](#)

Government Guidance

[The Commission for Children and Young People](#)

[Working with Children Victoria](#)

[Department of Families Fairness and Housing \(making a report to child protection\)](#)

Wyndham City Council reference material:

[Child Safe Management System WYNi](#) (intranet page) collates relevant Child Safe Management System information including this policy and the Reportable Conduct Policy, Child Safe Code of Conduct, Child Safe Compliance Plan, Child Safe Management Guide, and the Working with Children Check Policy

[Staff Code of Conduct](#) & [Councillor Code of Conduct](#)

[Performance Management Policy](#)

Wyndham City Council Website, [Child Safe Organisation](#) webpage