

Shoalhaven City
Council

Shoalhaven
City Council

Child Safe Framework



Working to keep
children safe

Acknowledgement of Country



We acknowledge the traditional owners and custodians of this country and their continuing connection to the land through culture and community. We pay our respects to Elders past, present and future.

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1 Shoalhaven City Council's commitment to Child Safety

Shoalhaven City Council, through its Statement of Commitment to Child Safety, has committed to embedding a culture where the safety, wellbeing, and participation of all children and young people in our community is paramount. Shoalhaven City Council is committed to fulfilling its obligations and following best practice to identify and address risk and harm to promote the wellbeing of children in our community.

Shoalhaven City Council is consistently working to improve individual and organisational capacity to understand risk, recognise harm and take action for effective prevention, reporting, response and support for anyone who is harmed. All Council personnel have legal and moral obligations to respond to child safety concerns and reports. These obligations include contacting authorities when there are concerns about a child's safety.



Statement of Commitment to Child Safety

1.1 Purpose of the Child Safe Framework

The Child Safe Framework demonstrates Shoalhaven City Council's strong commitment to child safety, and identifies the key elements for **preventing, recognising, responding** to and **reporting** of child safety reports or concerns and:

- provides an outline of the policies, procedures and strategies developed to keep children in our community safe from harm, including all forms of abuse within physical, virtual and online environments.
- takes into account relevant legislative requirements within the state of New South Wales, including the specific requirements of the **New South Wales Child Safe Standards** (NSW Standards)
- details Council requirements for **record keeping, sharing information, redress** and **continual improvement**.

The Child Safe Framework applies to all Council personnel including employees, apprentices, volunteers and contractors (Council personnel).

The Child Safe Framework includes Shoalhaven City Council's operational basis for prevention of and response to child safety reports and concerns. It is also a mandatory part of the induction process for new employees and ongoing training and education of Council personnel.

1.2 Key terms

Child safety report or concern	Includes any disclosure, report or concern about: <ul style="list-style-type: none"> • child abuse and other harm as set out in the definitions. • a child at risk of significant harm as set out in the definitions. • reports or concerns about Reportable Conduct as set out in the definitions. • reports or concerns about a breach of the Child Safety Code of Conduct by Council personnel. • reports or concerns about child abuse or other harm inflicted by children towards another child.
Child / Children	For the purpose of this policy, a child is a person under the age of 18 years.
Child-related work	<p>Work that involves Council personnel having direct contact (physical or online) with a child or children which is a routine and usual part of their work.</p> <p>It also involves work where the contact with a Child is in connection with at least one of the 20 legislated categories of child-related work, which include:</p> <ul style="list-style-type: none"> • clubs or other bodies providing programs and services for children. • education or child-minding services. • sport, recreation and entertainment clubs, activities and programs for children. • transport services for children. <p>It may also include Council personnel having access to sensitive, personnel or confidential information about a child.</p>
Council personnel	Any person engaged in work for Shoalhaven City Council in any of the following capacities: <ul style="list-style-type: none"> • full-time, part-time, casual, temporary and fixed term employees • agency staff • students on placement • volunteers • Councillors

2 Prevention

Shoalhaven City Council recognises the importance of having systems, policies and procedures in place that minimise risks to the safety and wellbeing of children because every individual and organisation has a role to play in keeping the children in our community safe.

Shoalhaven City Council has developed and implemented policies, procedures and programs to:

- reduce risks of abuse and other harm to children.
- increase our capacity to identify actual and potential abuse and other harm to children.
- partner with families and the community to strengthen child safety.

We will:

- ensure a best practice approach to recruitment and screening of Council personnel who work with children.
- develop and implement policies and procedures to ensure that all Council personnel who work with children, are properly trained and supervised.
- create physical and online environments that are safer by design.
- create and distribute documents containing information so children and families know how to raise a child safety report of concern about their safety and are taken seriously.

2.1 Purpose of the Child Safe Framework

Shoalhaven City Council will ensure that recruitment and screening processes for all personnel, prioritise child safety. Council personnel includes all full-time, part-time, casual, temporary and fixed term Council employees (and includes agency staff, students on placement, volunteers, and Councillors).

Before a position within Shoalhaven City Council is advertised, it is assessed for the expected level of contact with children. Where a position – including a voluntary position - involves work with children, the recruitment and screening of candidates for that position must follow the applicable Council policies on child protection and legislative requirements. This includes following Council policies and procedures on:

- advertising positions
- the selection process
- screening applicants

Human resources staff and interview panels responsible for recruiting and screening candidates for a position which involves work with children must have appropriate education and training in child protection, including knowledge of the legal requirements for screening candidates.

In some cases, a Council entity may use an external agency, labour supplier or contractor to undertake or assist with recruiting and screening candidates for positions involving work with children. A Council employee must be assigned responsibility for ensuring that all applicable Council child protection policies and procedures are followed during that process, namely the child safe delegate.

The NSW Office of the Children's Guardian, who is the designated agency with oversight for organisational compliance to the NSW Child Safe Standards, has developed a handbook for Child Safe Recruitment practices: NSW OCG Child Safe Recruitment handbook

2.1.1 Advertising positions within Shoalhaven City Council

All areas within Shoalhaven City Council with a responsibility for recruiting personnel – including employees and volunteers – must ensure that job descriptions and any advertising material include:

- Shoalhaven City Council's Statement of Commitment to being a child safe organisation.
- specific selection criteria concerning attitudes to, and application of, child safety measures.
- information about accessing the applicable Council's Code of Conduct and Child Safe Framework (which includes the child safe operational policy and procedure).

The NSW Office of the Children's Guardian website contains guidance on recruiting with a child-safety focus, including a template for writing job descriptions.



2.1.2 Selection Process

As part of the selection process, applicants should be required to read and familiarise themselves with:

- Shoalhaven City Council's Statement of Commitment to being a child safe organisation.
- Shoalhaven City Council's Child Safe Framework.
- any other child protection policies and procedures that apply to a particular role or to the relevant Council organisation or body.

The selection process should include thorough, structured interviews with selected applicants. It must include assessment of:

- the values, motives and attitudes of short-listed applicants.
- why the applicant wishes to leave their current position or left their former position.
- the applicant's motivation for the position – why do they want to work or volunteer with children.
- the applicant's professional experience, qualifications and competence to work with children.
- whether the applicant has previously been the subject of a child safety report or concern related to their work with or behaviour towards children or adults.
- whether the applicant has previously been the subject of any disciplinary findings or action in relation to a child safety report or concern.

2.1.3 Screening applicants

Before an applicant is formally offered a position within Shoalhaven City Council, the relevant Council entity must thoroughly screen that applicant. The screening process must include an assessment of whether the applicant is suitable to work with children based on all available information. The following steps must be undertaken as part of the screening process:

1. Working With Children Check Clearance (WWCC)
2. National Police Check
3. Stringent and careful reference checks:
 - a. involving direct conversations with at least two professional referees, including the applicant's current or most recent employer
 - b. asking about the applicant's attitudes and behaviours in previous child-related roles

- c. asking about whether the applicant has previously been the subject of a concern or allegation related to their work with or behaviour towards children or adults.

4. Verifying any qualifications relevant to working with children and, where necessary, professional registration.

If the applicant discloses that they have been the subject of a child safety report or concern and/or finding, Shoalhaven City Council entity must undertake reasonable enquiries about the child safety report or concern and the outcome. Shoalhaven City Council must carefully consider this information in assessing the applicant's suitability. Shoalhaven City Council entity may wish to seek advice or guidance from the [child safe delegate](#).

If it is discovered during the screening process, and an applicant did not disclose a relevant child safety report or concern and/or finding, it is extremely unlikely that the applicant will be employed or engaged in child-related work.

For some positions, Shoalhaven City Council entity may conduct additional screening. This could include:

- International Police Check
- Australian Securities and Investments Commission (ASIC) Check
- lodgement of an Australian Charities and Not for Profit Commission (ACNC) Declaration for Responsible Persons
- a Carers Register check.

2.2 Working with Children Checks (WWCC)

All adults engaged in child-related work in NSW – including volunteers – must have a WWCC clearance. The NSW Office of the Children's Guardian screens the WWCC applicant's records for any relevant criminal history, Community Services history and findings of workplace misconduct (including 'reportable conduct' information). If the NSW Office of the Children's Guardian identifies relevant records, it conducts a risk assessment to determine, on the basis of available information, whether the applicant is suitable to work with children.

The outcome of a WWCC is either a clearance to work with children for five years, or a bar from working with children.

In some cases, the NSW Office of the Children's Guardian may impose an interim bar during the WWCC process. This prevents the person from working with children while the NSW Office of the Children's Guardian conducts a risk assessment, and will usually be in place until a final decision is made.

2.2 Working with Children Checks (WWCC) cont...

Anyone who is barred, or interim barred, under the WWCC process is prohibited from working with children.

The NSW Office of the Children's Guardian continuously monitors criminal and workplace misconduct information for all people who hold a WWCC clearance. In some cases, new records may trigger further risk assessments, which may in turn lead to a person's WWCC clearance being revoked and the person being barred or interim barred from working with children.

WWCCs are an important part of assessing whether a person who intends to or does work with children is safe and suitable. The WWCC scheme has limitations and will not identify all individuals who may pose a risk to children. For this reason, Shoalhaven City Council regards WWCCs as a minimum check – one of a number of strategies to assess whether a person is suitable to work with children.

Shoalhaven City Council does not permit anyone to begin child-related work, whether as an employee or volunteer, without a WWCC clearance. [Note that this is a higher bar than the legal position, which allows an employer to engage a worker where they have a current WWCC application (section 9 of the Act).]

Council will verify the WWCC clearance of any potential personnel prior to an offer of employment or volunteer engagement. This will confirm that the WWCC has not been revoked or had conditions placed on it since it was approved.

Where existing Council personnel are barred from working with children by the NSW Office of the Children's Guardian, or have an interim bar, Shoalhaven City Council will immediately remove them from child-related work. Depending on the circumstances, Shoalhaven City Council may:

- suspend the person from child-related work pending an appeal.
- transfer the person to a role that has no access to children.
- dismiss the person or terminate their role.

2.2.1 Who needs a WWCC clearance

Working with Children Checks (WWCCs) are required for adults in child-related work. This includes those who have face-to-face contact with children in a child-related sector or who are in a child-related role. Child-related work includes working or volunteering in:

- programs, facilities, clubs and associations of a cultural, recreational, sporting or community service nature.
- education including early childhood education and child-minding services.

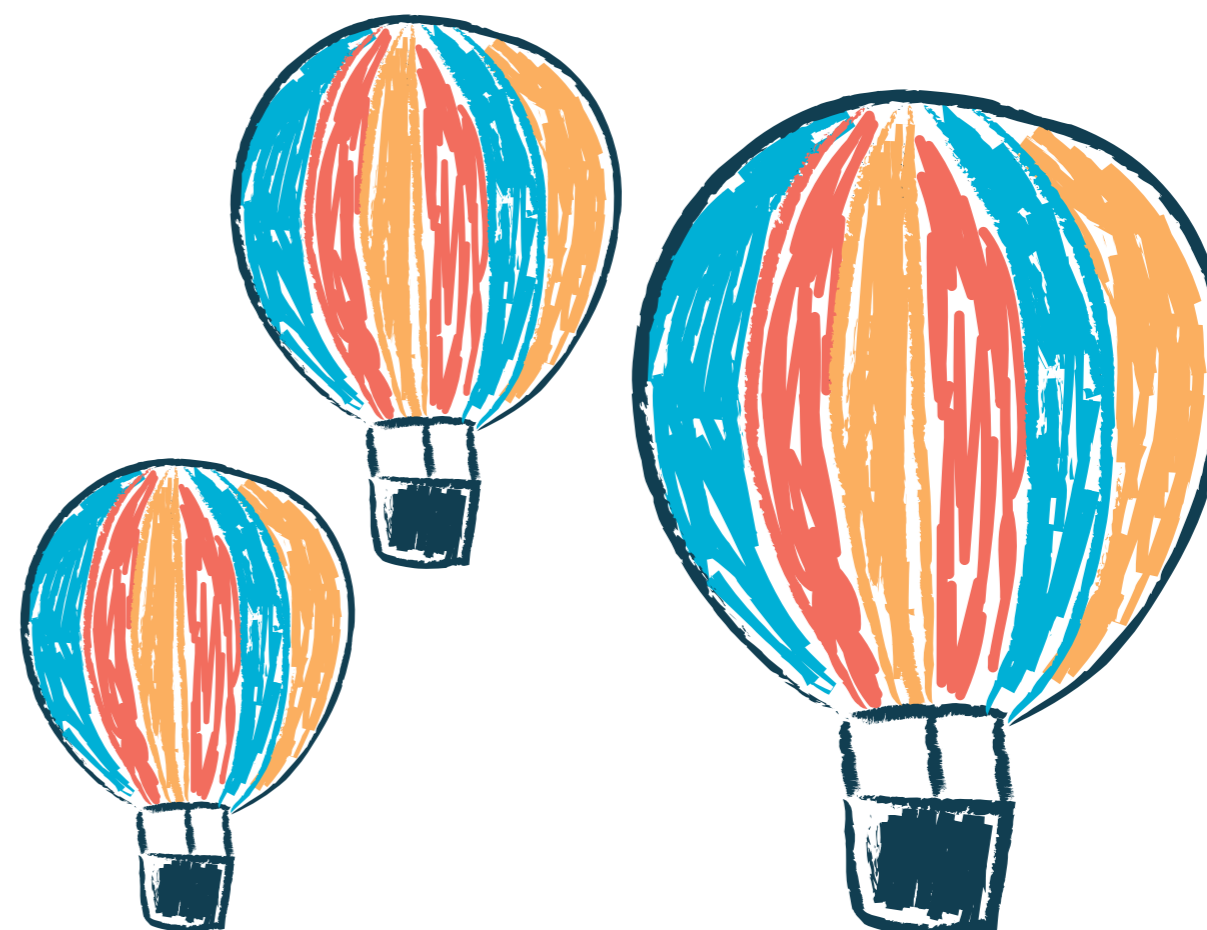
- disability services.
- youth work.
- mentoring, counselling and family services.
- transport services for children.

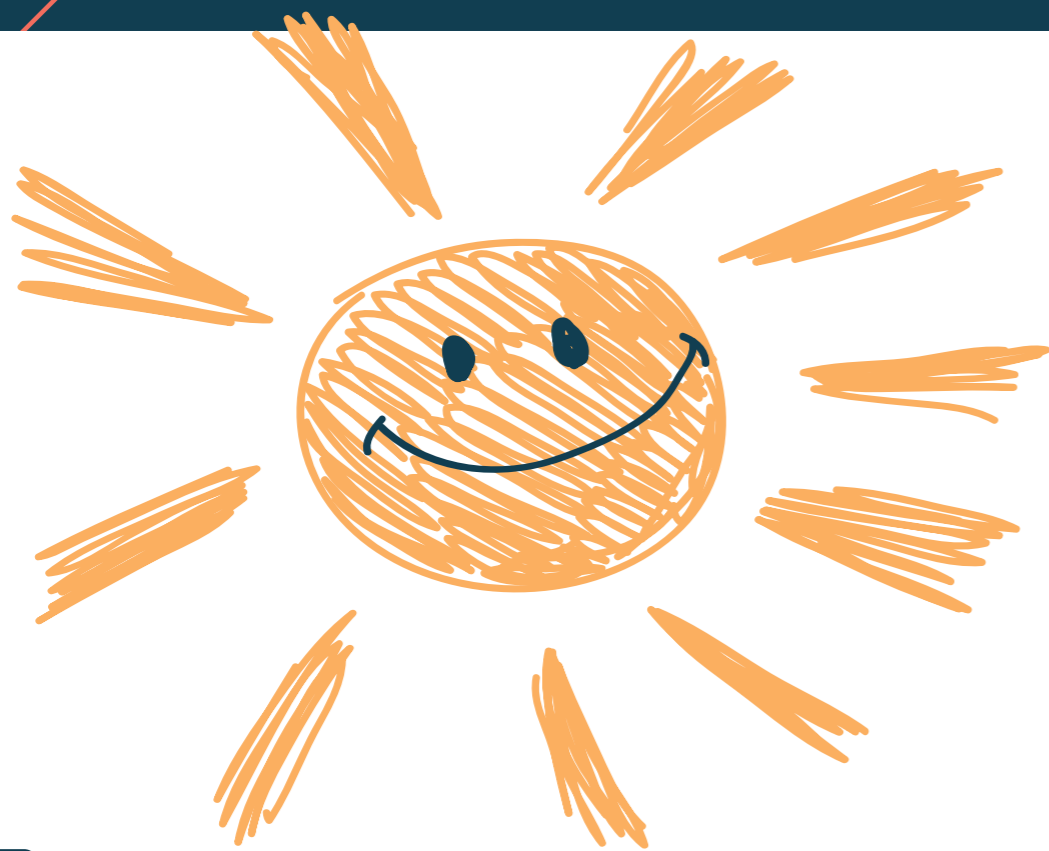
Authorised carers in out-of-home care and adults who reside on the same property as authorised carers also need WWCCs.

For the full list of those who need a WWCC clearance, see the NSW Office of the Children's Guardian factsheet NSW OCG - Who needs a WWCC?



Resource:
Who needs a Working with Children Check?





2.2.2 How do I get a WWCC clearance?

You can apply online through the Office of the Children's Guardian website - NSW OCG WWCC APPLY

2.2.3 When do I renew my WWCC?

A WWCC clearance lasts for five years. You need to submit a renewal application to the NSW Office of the Children's Guardian before your WWCC clearance expires. You can renew your WWCC any time from three months before it expires.

2.2.4 What are my responsibilities if I work or volunteer with children within Shoalhaven City Council?

It is your responsibility to ensure you have a current WWCC clearance while engaged in child-related work within Shoalhaven City Council.

You will need to give your supervisor information about your WWCC clearance. You must notify your supervisor immediately upon the occurrence of any of the following:

- each time your WWCC clearance is renewed (every five years).
- if your WWCC clearance expires without having been renewed.
- if there are any changes to a WWCC clearance number for any reason.
- if you receive a bar from working with children, including an interim bar.

2.2.5 Monitoring WWCC clearances within Shoalhaven City Council

Shoalhaven City Council is legally required to verify the WWCC status of any personnel in child-related work. Monitoring of the currency of WWCC clearances is via Shoalhaven City Council systems in the People & Culture department.

Your supervisor or manager will arrange to have your clearance verified before you commence in your position and, later, when your clearance is renewed. The NSW Office of the Children's Guardian will notify Shoalhaven City Council if Council personnel lose their clearance.

Shoalhaven City Council is legally required to keep records of the WWCC status for all Council personnel who engage in child-related work for a period of at least seven [7] years.

2.3 Ensuring personnel receive appropriate training, supervision, and support.

Shoalhaven City Council is committed to training, supervising and supporting all Council personnel, particularly those who work with children, including through:

- Induction: all staff and volunteers receive an induction, which includes training on their child safety responsibilities and reporting obligations [insert link below].
- People management processes to ensure appropriate oversight of personnel, which have a focus on child safety.
- Supervision and support.
- Continuous training and professional development: staff and volunteers receive continuous training and professional development so that we can continuously build our capacity to protect children from harm.

2.3.1 Induction

- All new staff and volunteers are required to attend a Child Safe Induction within four months of starting a position in Shoalhaven City Council, before they work with or have access to children.
- The Child Safe Induction is designed to assist Council personnel to be aware of their child safety and reporting obligations.
- The child safe delegate is responsible for reviewing the Child Safe Induction, to ensure it remains best practice and reflects legal developments.
- The Office of Professional Standards and Safety keeps records of induction attendance.

2.3.2 Child Safe Induction

Child safe induction includes training on:

- the Child Safe Framework, applicable Codes of Conduct and other policies and procedures.
- child rights and respect for children regardless of their individual characteristics, cultural backgrounds and abilities.
- strategies to identify, assess and minimise harm to children, including child sexual abuse.
- responding to disclosures.
- reporting obligations
- protections for reporters and other whistle-blowers.

Some positions in Shoalhaven City Council may require additional sector-specific induction training to ensure that staff and volunteers are equipped to meet the unique or diverse needs of children.

2.3.3 People management

Shoalhaven City Council is committed to ensuring that our people management processes ensure appropriate oversight of all personnel who work with children, including volunteers.

Our strategies for people management, include:

- requiring all new Council personnel undergo a probationary period of three months, during which their suitability to the role will be assessed.
- regularly reviewing the performance of all personnel, including adherence to the Code of Conduct and applicable child safety policies and procedures.
- tailored supervision strategies for personnel who work in isolated settings or remote locations.
- ensuring all personnel meet the minimum professional reflective practice, training and development requirements.

An important part of appropriate oversight, is responding to concerns that Council personnel have not acted in accordance with the Child Safe Code of Conduct, or have otherwise acted inappropriately towards a child or children. This is addressed in Section 4 Reporting and responding to concerns about the safety and wellbeing of children.

4 - Reporting and responding to child safety reports and concerns

2.3.4 Continuing training and professional development

Shoalhaven City Council is committed to providing ongoing training and professional development for personnel who work with children.

All Council personnel who work with children must engage in ongoing training and education with respect to child safety and professional standards.

2.4 Education for children, parents and carers, and the community

Children benefit when they, their parents, and the broader community receive education aimed at preventing abuse and other harmful behaviours to children ('prevention education').

Shoalhaven City Council considers that it is our responsibility - together with parents, carers and schools - to support and encourage the delivery of prevention education to children, as well as parents and our broader community.

2.4.1 Importance of prevention education

Prevention education for children can provide them with the knowledge and skills to identify abuse and other harmful behaviours, and to help protect themselves. This education also teaches children how they can seek help if they experience, or feel at risk of, abuse or other harmful behaviours.

Prevention education for parents is also important in helping to prevent child sexual abuse, since parents are uniquely placed to educate and protect their children. They are often the most available source of information for their children, and support by parents may be critical for the success of prevention education delivered to children.

Prevention education for the community may help drive cultural conditions where abuse and other harmful behaviours are identified, reported and acted upon. This education can give the community members the skills to:

- identify early signs that a child might be at risk.
- identify grooming and other signs of sexual abuse and harmful behaviours.
- know how to respond effectively and where to report their concerns about concerning behaviours.
- know how to best engage with, and support, the children in their community.

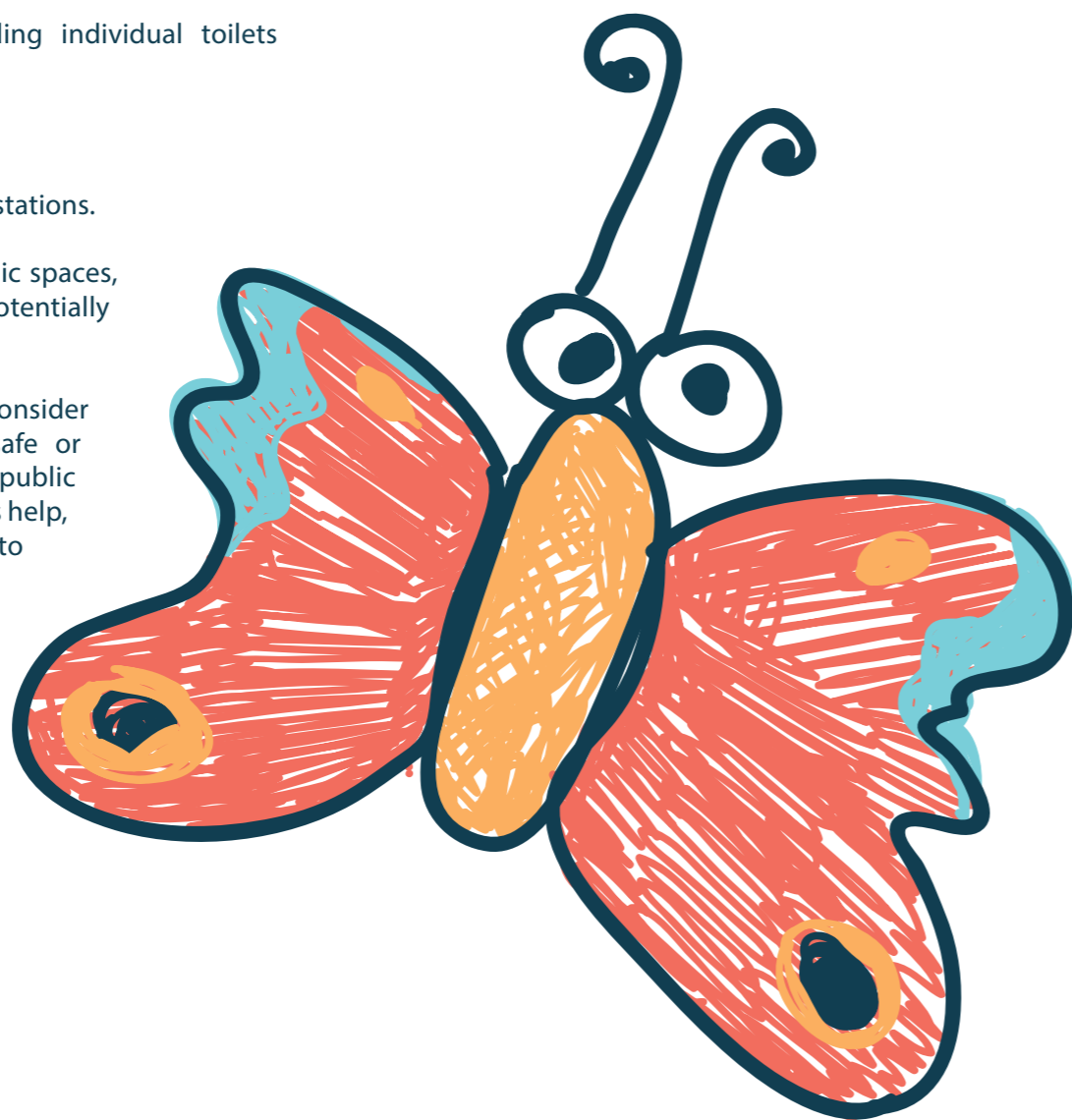
2.5 Create physical and online environments that are safer by design

Shoalhaven City Council understands that children are less likely to experience harm, when the spaces they frequent, both physically and online, are designed to keep them safe.

Shoalhaven City Council will consider child safety in the design and maintenance of public spaces, such as parks, community centres, sports facilities, public toilets and changerooms, shopping precincts, childcare centres and nature reserves. The following factors will be considered:

- adequate lighting.
- visibility.
- CCTV monitoring.
- toilet accessibility, including individual toilets and family facilities.
- access to public phones.
- access to phone charging stations.
- access to free wi-fi in public spaces, which restricts access to potentially harmful sites.

In addition, Council will consider how a child who felt unsafe or experienced harm in a public space or service could access help, including promotion of how to raise a child safety report or concern.



3 Recognising signs of abuse

All Council personnel have a responsibility to develop both their understanding of abuse and other harm that a child may experience, and their capacity to protect and support children in the community. Knowing how to recognise indicators that a child may have experienced or may be at risk of abuse or other harm, and knowing how to support disclosure, are essential for this.

3.1 What are child safety report or concern?

A child safety report or concern can involve one or more of the following elements:

- sexual offences and sexual abuse, or an experience of problematic sexual behaviours by another child or children.
- grooming behaviours, grooming offences and encouragement offences.
- physical violence and physical abuse.
- serious/significant emotional or psychological harm (including by exposure to family violence).
- serious/significant neglect.
- being subjected to a sexual orientation or gender identity change or suppression practice.

3.2 Recognising signs of abuse

Council personnel can become aware of a child safety disclosure, concern or incident in different ways which include the following:

Disclosure which is the process by which a child communicates or attempts to communicate that they have experienced, or are at risk of, abuse or other harm. An adult may also disclose abuse they suffered as a child. Disclosures may be partial, unclear or indirect and a child may disclose intentionally or by accident, including:

- 'blurted out' a harmful experience or fear of something.
- confiding privately in an adult or other child that they have been, or fear being, abused or hurt.
- disguising a disclosure by asking 'what if' or 'a friend of mine' scenarios.
- using derogative language about a particular adult (or adults).
- providing hints through play or stories.

3.2 Recognising signs of abuse continued...

Children may disclose non-verbally by:

- using painting, drawing or writing.
- Gesticulating.
- refusing to spend time with an adult, indicating dislike for the adult, or indicating something bad happened with the adult.

Partial disclosures: Children may only partially disclose abuse. A fuller account of their experience may only emerge over time. For this reason, disclosure is often described as a 'process' – it is rarely a one-off event, and victims may disclose in different ways to different people throughout their lives. The importance of child safety recordkeeping addressed in Section 5.5 is particularly important to capture all that a child reports over a period of time.

5.5 How to make and maintain records

Denying abuse and retracting disclosures: It is not uncommon for children to deny that they have experienced abuse or other harm, or to retract a disclosure. A child may later disclose abuse for the first time (following an earlier denial) or affirm an initial disclosure after it is retracted.

Recognising signs of abuse or other harm (indicators): It cannot be assumed that a child will tell an adult that they have experienced, or are at risk of, abuse or other harm. There are a range of indicators of trauma and distress in a child, which could signal that something is 'wrong'. For example:

- injuries or behavioural changes by a child.
- behaviour displayed by other people (adults or children) in a child's life (including grooming).
- children who display sexualised behaviours which are inappropriate having regard for the child's age and development. Concerning sexual behaviours vary depending on age and may include:
 - violent or forceful and repetitive sexualised play with toys.
 - sexually explicit drawings.
 - sudden and intense masturbation.
 - sexualised behaviours with adults.
 - excessive concern with genitalia and sex or use of sexually explicit imagery.
 - risky sexual behaviours.

3.2.1 What are other ways that child safety concerns may be identified?

Another person may tell you that they have witnessed suspicious or inappropriate behaviour by an adult towards a child.

A child may have displayed concerning or harmful sexual behaviours. If you have observed or been told about this, you should:

- consider this as a possible indicator that the child has been abused or experienced other serious harm, and/or that the child may be at risk of exploitation or future abuse.
- take steps to ensure there is no immediate danger to any child.
- notify your [child safe delegate](#) of the situation and, if appropriate, seek guidance on how to manage it, including the need for referral to internal or external specialist services and supports.
- consider and seek guidance from your [child safe delegate](#) on your reporting obligations (reporting may be required by law and/or by diocesan policy).

Behaviour of others in a child's life, including grooming. The behaviour or actions of others can also indicate that a child is at risk of abuse or other harm. For instance, there may be grounds for concern where:

- grooming behaviours are observed in a relationship between a child or children and an adult.
- a child's parents or carers appear to be misusing alcohol or drugs.
- there is family violence in the child's home.
- parents or carers experience significant problems in managing their child or children.
- a child's sibling is suspected of having been abused or neglected.

You may also witness concerning behaviours that constitute a sexual offence (including a sexual offence in the context of a special care relationship) or sexual misconduct. Sexual offences and misconduct must be reported as soon as possible. For more information, see [Responding to and reporting child safety reports or concerns](#).

3.2.2 Grooming

Grooming a child refers to actions deliberately undertaken (usually by an adult or older child) with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in order to instigate and perpetrate abusive sexual activity with the child.

3.2.2 Grooming (continued)

Grooming generally consists of many discrete acts that, on their own, are not necessarily abusive or criminal. Some grooming behaviours are consistent with those in normal adult-child relationships, and include desirable social behaviours, with the only difference being the motivation.

Grooming often occurs over a period of time. In its early stages, grooming may not necessarily involve any overt sexual activity or discussion of sexual activity. It may be focused only on building trust to facilitate sexual activity at a later time. It may begin with extra attention and non-sexual touching, and become increasingly more intimate and intrusive. Grooming is manipulative and difficult to detect and can extend to grooming the child's family and broader social circles.

Grooming may take place in person or online - through social media, email, instant messaging apps and other digital technologies. Online grooming may involve sending a child sexually explicit photos or messages, or communicating with a child with the aim of meeting them in person for sexual activity. Behaviours that may indicate that a person is grooming a child include:

- befriending a child, becoming familiar with their interests and being helpful, to gain their confidence and trust.
- crossing professional boundaries – having an overly personal or intimate relationship with, or focus on, a child.
- creating a special or exclusive relationship with a child by giving gifts, money, privileges, affection and rewards, and sharing secrets - which can isolate a child from their parents or other safe adults.
- paying increased attention to a child, including by adopting a pseudo-parental role or inappropriately extending a relationship with a child outside of work.
- giving and withholding gifts or money to exert more control over a child.
- giving a child alcohol or drugs.
- telling a child to keep any aspect of their relationship a secret, or using tactics to keep an aspect of their relationship a secret.
- gradually increasing intimacy with a child, for example through non-sexual touching including play-acting, tickling and wrestling.
- watching children undress in circumstances where it is not required or undressing in front of a child.
- making sexually explicit comments and other overtly sexual behaviour.
- using sexual conversations or materials to familiarise a child with sexual behaviours and invoke feelings of shame or guilt in a child.
- isolating the child from their family, peers and other support networks.

Grooming behaviours may be directed at adults who have responsibility for a child. This occurs when a person seeks to win the trust of, or ingratiate themselves with another person (for example, by giving the person money or gifts) to make it easier to access a child under that person's authority for unlawful sexual activity.

Grooming may also be undertaken for the purpose of procuring a child for sexual activity with someone other than the groomer. Online communications and other digital technologies are likely to be used for this purpose.

Grooming can be a criminal offence, when there is a pattern of inappropriate conduct, consistent with grooming a child for sexual activity, and there is no other reasonable explanation for it. It is a criminal offence for an adult to:

- groom a child under 16 for sexual activity by exposing them to indecent material, or providing them with an intoxicating substance or financial or material benefit.
- groom another person by providing them financial or material benefit with the intention of making it easier to access a child under their care, supervision, or authority for unlawful sexual activity.
- groom a child under 16 for sexual activity through online communications (or telecommunications and postal services).



3.2.2 Grooming (continued)

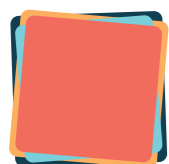
Although some grooming behaviours do not constitute a criminal offence, they are sexual misconduct under Shoalhaven City Council's Code of Conduct and the NSW Office of the Children's Guardian's reportable conduct scheme.

Sexually explicit comments and sexual behaviour may sometimes be seen as separate, one-off incidents and may be hard to identify as part of a pattern of grooming. Sexually explicit comments and overtly sexual behaviour by Council personnel towards, or in the presence of, children are considered sexual misconduct under the NSW Office of the Children's Guardian's reportable conduct scheme.

In some cases, conduct may look like normal, social or caring behaviour, or like behaviour that may be inappropriate but not clearly or overtly sexual or abusive. This behaviour, may be crossing professional boundaries where it involves an overly personal or intimate relationship with, conduct towards, or focus on child. If the crossing of professional boundaries is serious or persistent, it is sexual misconduct under the NSW Office of the Children's Guardian's reportable conduct scheme.

If you are concerned that a staff member of Shoalhaven City Council or a volunteer may be grooming a child or children or behaving inappropriately around children or otherwise in a way that may be in breach of the Code of Conduct or the Child Safe Framework, you should discuss your concerns with your [child safe delegate](#) immediately.

Council personnel who suspect that another Council personnel is grooming a child or children, or engaging in other sexual misconduct, must follow Shoalhaven City Council's process on reporting concerns about the safety and wellbeing of children. Council personnel are required to notify their [child safe delegate](#) of suspicions as soon as possible.



Resource:
NSW Office of the children's guardian
About Grooming

3.3 Removing barriers to the identification and disclosure of concerns relating to children

A child faces many barriers to disclosing the abuse or neglect they may be suffering. When harm is occurring within the home:

- a child may not know they are being abused or suffering neglect, it may be their normal
- a child may have feelings of shame or embarrassment
- a child may feel they need to protect others in the home by staying quiet
- a child may also love or want to protect the person that is harming them

- a child may be scared to disclose for fear of retribution

If harm is occurring outside the home:

- a child may have been threatened or threats made against those they love
- a child may fear they won't be believed
- a child may not know how to find the words to describe their experiences

Perpetrators of child sexual abuse will actively try and prevent disclosure. Perpetrators of child sexual abuse will often use threats and manipulation to try and prevent victims from disclosing. This may include:

- grooming the child to create a relationship that is emotionally significant for the child.
- grooming the child's family, community, or others in an organisation to create relationships of trust.
- threatening the child or others.
- isolating the child from peers or safe adults in that child's life.
- making the child feel complicit in or responsible for the abuse.
- explaining or describing the abuse to the child as a demonstration of love or affection.
- making the child fearful of the consequences of disclosing.

A perpetrator of child sexual abuse may also use his or her position of authority or status to try and prevent abuse from being disclosed, identified or acted upon.

In order to help remove the barriers to identifying child safety concerns, Shoalhaven City Council will continually strive to create a culture where children know their rights, and feel safe to raise concerns.

3.3.1 Safe and trusted personnel

Shoalhaven City Council is committed to creating an organisational culture where:

- children's safety and wellbeing is prioritised.
- personnel can identify, and are receptive to, disclosures by children.
- personnel can identify and respond to signs of child abuse and other harm.

3.3.1 Safe and trusted personnel (continued)

Research was commissioned by the Royal Commission into Institutional Responses to Child Sexual Abuse (Royal Commission) that asked children about the characteristics of safe and trusted adults. That research found that children considered trusted adults to be those who:

- are available.
- listen to the child.
- are able to talk about sensitive issues.
- prioritise children's needs and concerns.
- do what they say they will do.

It is important that Council personnel create opportunities for children to talk about their concerns or fears. We are working towards a culture across Shoalhaven City Council where both adults and children feel supported to discuss concerns about child safety and wellbeing.

We recognise that many victims of child sexual abuse, in particular, do not disclose until adulthood and require support as adult survivors that is distinct to that of children to enable them to come forward.

4 Responding to and reporting child safety reports or concerns

All Council personnel have a responsibility to respond to and report, child safety reports and concerns they become aware of.

Council has introduced clear reporting procedures to allow staff members to raise their concerns about a child in a potentially abusive or otherwise dangerous situation, and take appropriate action to protect and support them, and others who may be impacted. These reporting procedures form part of Council's duty of care, outline employees' responsibilities and obligations under both law and this policy, including:

- the Failure to Protect and Failure to Report offences
- mandatory reporting of abuse to the Department of Communities and Justice (DCJ)
- mandatory reporting of sexual offences against children (including grooming) to Police

- the New South Wales Reportable Conduct Scheme
- other laws, regulations, and relevant standards related to recognising, reporting and responding to child safety incidents or concerns.

4.1 Principles in response to child safety reports and concerns



4.2 How should you respond to a disclosure or other signs of abuse or harm?

All people deserve a **warm and empathetic response** to a report or concern of abuse or other harm. A person's experience of disclosure and the response of the person who hears the disclosure, can have a significant impact. A supportive response, whether in a personal or professional context, can greatly assist a person to manage the impacts of disclosing.

Any Council personnel who receive or are informed of a child's disclosure, or who hold concerns that a child may have experienced, or be at risk of abuse or other harm must, as a matter of priority, **provide a supportive response**, informed by the child's unique circumstances, including their age, level of understanding, social and cultural context, the nature of any disability and their relationship to the person or person causing harm.

4.2 How should you respond to a disclosure or other signs of abuse or harm? (continued)

It can be helpful to consider the following elements when responding to a child safety concern:

1. Immediate safety.

- Ensure the child is safe and that the person subject to the allegation cannot access them, either physically, via phone or online.
- If a child is in imminent danger, or has been the victim of a crime, you must call Police on 000.
- If a child has sustained a serious physical or acute psychological injury, you must call an Ambulance on 000.

2. Listen, reassure and respect the child.

- Allow the child to disclose in their own time and their own words.
- Reassure the child they have been brave to share their worries and that they are not in any trouble.
- Respect the child, by listening to their views on what they'd like to happen next, even if what they request isn't possible (for example, not telling anyone else).



See: [Australian Institute of Family Studies guide to managing a disclosure](#)

3. Make a detailed and confidential record of the child safety disclosure, report and/or concern. Whenever possible, use direct quotes provided by the child or person who provided the concerns.

4. Follow Shoalhaven City Council's policy on internal reporting of child protection concerns. You must tell an appropriate person in Council ([child safe delegate](#) or CEO) of any concerns about a child, and of any disclosure by a child that they know about. Reporting internally helps to:

- ensure child safe information is centralised.
- expert advice can be provided on the best response.
- organisations share the 'risk' in the management of these difficult concerns.

5. Consider whether an external report is required, to:

- NSW Police;
- Department of Communities and Justice and/or;
- NSW Office of the Children's Guardian.

6. Store any records relating to a disclosure or child protection concern securely. You should also be careful to respect the child's privacy and the confidentiality of information you have received.

Individual and organisational Duty of Care in child safety matters is not satisfied once external reports are made. Organisations have ongoing responsibilities in child safety matters, for example:

- fully cooperating with any resulting investigation by an external agency
- protecting any child connected to the child safety disclosure, concern or incident until it is resolved and providing ongoing support to those affected, particularly in response to a child safety reports or concerns about:
 - an Aboriginal or Torres Strait Islander child;
 - a child from a culturally and linguistically diverse background,
 - a child with lived experience of disability, and at risk (including a child who is unable to live at home or identifies as having a different gender or diverse sexual identity)
- sharing information with, or requesting information from, external people or agencies as permitted or required under law.
- securing and retaining records of the child safety disclosure, concern or incident and Shoalhaven City Council's response.
- taking broader actions to improve child safety within the Shoalhaven community including systemic reviews and resulting improvements.

4.3 Roles and Responsibilities

All Council personnel are responsible for understanding and complying with their general duty of care towards all children within the community.

In a Child Safe context, all Council personnel have a Duty of Care to understand their role in keeping children safe, in particular, they have an obligation to avoid acts or omissions (failures) that could be reasonably foreseen to injure or harm a child.

As part of this duty of care, all Council Personnel must report situations that may result in reasonably foreseeable risks of any kind of harm to a child they engage with (including risks of child abuse and other harm) internally to Shoalhaven City Council or a [child safe delegate](#) and externally to relevant authorities.

Additionally, all Council personnel have a responsibility to foster an organisational culture which prioritises child safety and reduces barriers to disclosures by:

4.3 Roles and Responsibilities (continued)

- knowing how to recognise a disclosure and other indicators – including grooming - that a child may have been abused, or may be at risk of abuse or other forms of harm.
- understanding how to receive a disclosure in an appropriate and supportive manner.
- taking prompt action in response to disclosures, reports or concerns – including knowing where to seek guidance and help within Shoalhaven City Council, who you must tell, and what reports you must make.
- being familiar with and complying with Council policies, including the Code of Conduct, that apply to child safety reports and concerns, and being aware that it is not Council's responsibility to investigate disclosures, reports or concerns.
- understanding Council's internal and external reporting requirements and for complying with this Policy.

4.3.1 Shoalhaven City Council's Child Safe delegate

Shoalhaven City Council's child safe delegate, Manager - People and Culture, and the CEO are responsible for:

- receiving internal reports about a child safety concerns.
- providing assistance and advice to Council personnel about their obligations under this Child Safe Framework.
- ensuring that all child safety disclosures, reports and concerns including those that occur at or involve Shoalhaven City Council, are taken seriously, escalated, reported and responded to appropriately.
- managing Shoalhaven City Council's response to any child safety reports and concerns.
- monitoring Shoalhaven City Council's compliance with this framework.

Where a particular child safety report or concern involves the CEO, the child safe delegate undertakes these responsibilities.



4.4 Reporting obligations

Everyone has a moral and social responsibility to report child safety disclosures, reports or concerns. Some professionals are also legally required to report these concerns to external bodies:

- The Department of Communities and Justice (for risk of significant harm reports).
- The NSW Office of the Children's Guardian (for reportable conduct reports).
- To Police (for reports involving criminal offences in relation to a child).

4.4.1 Reporting to the Department of Communities and Justice (DCJ)

DCJ is the NSW statutory Child Protection agency, with responsibility for assessing, investigating and acting when children are unsafe due to abuse and neglect. DCJ primarily investigate harm that occurs within a family, but they can also investigate in other circumstances.

Shoalhaven City Council personnel are required to make a report to DCJ if they know or reasonably suspect that a child is at risk of significant harm (known as RoSH). RoSH concerns for a child, or group of children, may arise from conduct by one or more persons associated with Council (including another child), or from circumstances outside Shoalhaven City Council, including in the child's home. Some Council personnel will be mandatory reporters. Mandatory reporters are people who deliver the following services, wholly or partly, to children as part of their paid or professional work:

- health care.
- welfare (such as psychologists or social workers).
- Education.
- children's services (such as childcare workers).
- residential services.
- law enforcement (such as police).

Council Personnel in the above categories are mandatory reporters regardless of how they are engaged with Council.

DCJ have provided an online tool, call The NSW Mandatory Reporter Guide (MRG) to help you assess if your concerns for a child meet a reportable threshold. If the MRG requires you to report your concerns, mandatory reporters can make an eReport through the ChildStory Reporter website or call the Child Protection Helpline on 132 111.

Any Council personnel who are not mandatory reporters, but who know or suspect that a child is or may be at risk of significant harm must immediately take appropriate steps in accordance with this policy (and the law) to make a child protection report by notifying Shoalhaven City Council's [child](#)

[safe delegate](#) or by making a Child Protection Helpline report on 132 111

The Joint Child Protection Response Team are NSW tri-agency teams of DCJ child protection officers, Police detectives and NSW Health clinicians, who respond to child safety matters that have a criminal element. The Joint Referral Unit is a sub-section of the DCJ Child Protection Helpline, and reports that meet the Joint Child Protection Response Team criteria will be automatically sent to the Joint Referral Unit for consideration.

Child Protection Helpline phone reports and eReport can be made 24 hours a day, seven days a week.

4.4.2 Reporting to Police

Council personnel who know or reasonably suspect that a criminal offence has been committed against a child, should report that matter to police.

Under NSW law, any adult person who knows, or believes that a child has been sexually abused or seriously physically abused must report any relevant information they have about that abuse to police. This information must be reported to police if it may assist in the apprehension, prosecution or conviction of the perpetrator of the abuse.

Shoalhaven City Council requires all council personnel to report information relevant to a suspected crime against a child to Police if they:

- know, believe, or reasonably ought to know about the abuse.
- whatever their position.
- whether or not the abuse was in connection with Council activities or services.

If you are unsure of whether particular conduct may constitute a criminal offence, you should contact the [child safety delegate](#) for advice and assistance. A detailed DCJ report, assessed by the Joint Referral Unit is equivalent to a Police report. However, if the person suspected of perpetrating the abuse has ongoing access to the child, a Police report must be made as it can elicit an immediate response.

All Council personnel are expected to follow the legal and applicable Council policy requirements for reporting and responding to abuse and risk of abuse to children.

Failure to follow these requirements may result in disciplinary action. It may also constitute a serious criminal offence:

- Failure to report child abuse is a criminal offence.
- Failure to protect against child abuse may be criminal offence.

4.4.3 Failure to report

Under section 316A of the Crimes Act 1900 (NSW), a new failure to report (concealing) child abuse offence applies to all adults in NSW, including Council personnel, whatever their position. It covers reporting of sexual abuse or serious physical abuse of a child.

If you know, believe, or reasonably ought to know that a child has been seriously physically abused or sexually abused, and you have relevant information that may assist with investigation, prosecution or conviction of the perpetrator, you must report it to police.

'Child abuse offence' covers a wide range of crimes against persons under 18, including:

- Serious assaults.
- Sexual offences such as sexual assault, sexual touching, sexual act, grooming, procuring, child abuse material and child prostitution.
- Failing in parental responsibilities to care for a child, as well as abandoning or exposing a child.

4.4.4 Failure to protect

Under section 43B of the Crimes Act 1900 (NSW), a failure to protect offence applies to any adult personnel who occupies a position within an organisation who knows that there is a serious risk that child:

- will be sexually or serious physically abused by an adult associated with the organisation.
- has, by reason of their position, the power or responsibility to reduce or remove that risk.
- negligently fails to reduce or remove that risk.

This criminal offence is known as "Failure to Protect" and covers failures of Shoalhaven City Council Personnel to protect a child from sexual abuse.

A criminal offence against a child could include physical assault or sexual offences. Sexual offences include:

- indecent assault
- sexual assault
- possession, dissemination or production of child exploitation material.
- grooming or procuring children under the age of 16 years for unlawful sexual activity.

- sexual activity in a 'special care relationship' with a young person aged 16 or 17 years [s73 of the Crimes Act 1900].

Shoalhaven City Council also has a common law duty to protect all children within its care from reasonably foreseeable risks of harm, including risks of all types of child abuse or other harm that may arise from all Council Personnel.

4.5 How to fulfill your duty to protect and duty to report requirements?

To help Council personnel meet their criminal law obligations to protect children and report a reasonable belief that a child abuse offence has been committed, Council requires Council Personnel to:

- take any actions to reduce or remove a risk of child abuse that is within their power or responsibilities to take.
- report the matter to the CEO (or, if the adult who poses the risk is the CEO, to the [child safe delegate](#))
- follow their obligations to make appropriate external reports to the NSW Police.

Actions that could be taken to protect a child include, but are not limited to:

- immediately removing the person from contact with children.
- ensuring that the person is not left alone with a child.

4.6 Reportable Conduct

This section explains Shoalhaven City Council's policies and procedures for responding to child safety disclosures, reports and concerns where:

- the person of concern is currently an employee, contractor or volunteer with Shoalhaven City Council
- the person of concern was previously an employee, contractor or volunteer with Shoalhaven City Council, but is no longer involved with Shoalhaven City Council.

If the conduct of a Council employee, contractor or volunteer meets the legal threshold for reportable conduct, then Council must comply with the requirements of the NSW Reportable Conduct Scheme. If the concern does not meet the threshold for reportable conduct, it will be responded to in line with the Code of Conduct.

4.6.1 The Reportable Conduct Scheme

The Reportable Conduct Scheme monitors how organisations investigate, respond to and report on allegations of certain conduct towards children by their employees, contractors and volunteers.

The NSW Reportable Conduct Scheme has been in operation in NSW since May 1999 and was originally administered by the NSW Ombudsman. On 1 March 2020, oversight of the Reportable Conduct Scheme transferred to the NSW Office of the Children's Guardian, and is enabled by the NSW Children's Guardian Act 2019, Part 4.

Shoalhaven City Council is a Schedule 1 Entity, as a public authority, and therefore falls within the NSW OCG's Reportable Conduct Scheme.

The Children's Guardian Act 2019 defines the following conduct as reportable conduct:

- a sexual offence
- sexual misconduct
- ill-treatment of a child
- neglect of a child
- an assault against a child
- an offence under s 43B (failure to protect) or s 316A (failure to report) of the Crimes Act 1900
- behaviour that causes significant emotional or psychological harm to a child

Reportable conduct allegations may also need to be reported directly to the Department of Communities and Justice (DCJ) and/or Police.

4.6.2 Reportable Conduct Process

Child safety reports and concerns that involve a current or former Council employee, contractor or volunteer, must be reported to the child safe delegate, whether it relates to the person who is the subject of the allegation working in a professional capacity or not.

The child safe delegate, in collaboration with the CEO, will assess the allegation to consider if, on face value, it meets the threshold of a reportable conduct allegation.

4.6.2.1 Initial response to an allegation:

The initial response to a child safety report or concerns is critical, because if the initial response fails to identify the critical elements or level of risk, any future investigation could be compromised and risks may not be contained. Initial steps will include:

- providing support and assistance to those who have disclosed harm and other affected people.
- making initial enquiries to clarify information as necessary. The purpose is not to establish if the allegation is true or not – that is the purpose of the investigation – but to gather enough detail to understand and manage the level of risk.
- responding to any immediate risks, including considering how Shoalhaven City Council should respond to the person/s of concern.
- making a Police report if the allegation includes a criminal offence. In these circumstances, do not make any investigative actions until police provide clearance to do so
- making a report to the DCJ Child Protection Helpline, if the allegations includes risk of significant harm (RoSH) to a child. Any response from DCJ, including the Joint Child Protection Response Program (JCPRP) takes priority over a reportable conduct investigation.
- notify Shoalhaven City Council's child safe delegate as soon as possible.
- notify the NSW Office of the Children's Guardian (OCG) within 7 business days of Shoalhaven City Council becoming aware of the alleged reportable conduct.

If an allegation does not meet the threshold for reportable conduct, it should be responded to under the Code of Conduct.

4.6.2.1 Risk Assessment:

The head of a relevant entity (Shoalhaven City Council's CEO) is responsible for ensuring that any risk an employee may pose to a child(ren) is assessed and managed while responding to reportable allegations. This should be a dynamic process:

- An initial assessment on receipt of a reportable allegation should be based on all relevant information known at that time;
- The risk assessment should be revisited and – where appropriate – adjusted during the investigation, as new information becomes known;
- A final risk assessment should be undertaken at the end of the investigation.

4.6.2.1 Risk Assessment (continued):

At each stage, the assessment should inform any decision about risk management – that is, action that will be taken to address identified risks. It is important to record why the decision was made to take, or not take, any action following an initial, subsequent and final risk assessment.

The initial risk assessment should plan to avoid or minimise risks to:

- the child(ren) who are the subject of the allegation.
- other children with whom the employee may have contact.
- the employee against whom the allegation has been made.
- the employing entity.
- other parties to the alleged incident (such as witnesses or reporters).
- the proper investigation of the allegation.

Importantly, heads of relevant entities should assess the potential risk to the investigation or any individual's health and safety before informing an employee about a reportable allegation against them. An entity should not inform an employee about the reportable allegation if doing so would compromise the investigation or put a person's health or safety at serious risk.

When gathering information about an allegation, it is important to assess and manage any new risks that emerge. While new information may indicate a higher level of risk than initially assessed, it may also indicate a lower level of risk, and risk management plans should be adjusted accordingly. As new information comes to light that changes your assessment of risk, it is helpful to make contact with the NSW Children's Guardian to discuss your assessment and ongoing risk management.

4.6.2.3 Reportable conduct investigation:

An investigation is a formal inquiry into whether the facts that underlie a disclosure or report can be established to the necessary standard. Shoalhaven City Council will investigate all child safety concerns related to staff conduct, in a manner that is commensurate with the circumstances of the case.

Reportable conduct investigations are conducted on the balance of probability, not the legal rules of evidence beyond a reasonable doubt.

Investigations may be conducted by an internal investigator or by an external provider and the following principles will apply to all investigations:

- The investigation is conducted in a child-centric, trauma-informed manner.

- The principles of natural justice and procedural fairness will be upheld.
- Conflicts of Interest will be declared and managed.
- Any participant in the investigation process has the right to raise a complaint about the process.

Stages of an investigation:

- An allegation is reported to the Office of the Children's Guardian by Shoalhaven City Council's CEO in the 7-day report
- An investigator is appointed
- An investigation plan is drafted to guide the investigation and assist with interim reporting
- The person subject of the allegation (PSOA) will be notified of the nature and scope of allegations against them and that a notification has been made against them to the NSW Office of the Children's Guardian. They will be entitled to have a support person through the process
- Evidence is gathered. This may include:
 - Interviews with the impacted child, any witness including other children or workers.
 - supporting evidence such as files, emails, or rosters.
 - physical evidence such as mobile phones, computers, or other objects.
 - inspecting or photographing physical spaces.
 - information from external bodies or departments, obtained under chapter 16a exchange of information, such as police, DCJ or health providers.
- The allegation will be formally put to Shoalhaven City Council Personnel and they will have the right to have a support person.
- The employee will have the right to respond to the allegation. Best practice would be to interview the employee so they can clarify any issues relevant to the investigation.

4.6.2.4 Disclosing information to children, parents and carers

Section 57 of the Children's Guardian Act 2019, requires that organisations must disclose 'relevant information' to the following persons unless they are satisfied that the disclosure is not in the public interest:

4.6.2.4

Disclosing information to children, parents and carers (continued)

- a child to whom the information relates.
- a parent of the child.
- if the child is in out-of-home care—an authorised carer that provides out-of-home care to the child.

'Relevant information' is defined to mean the following information relating to a reportable allegation or conviction considered to be a reportable conviction:

- information about the progress of the investigation.
- information about the findings of the investigation.
- information about action taken in response to the findings.

In practice, considerations that may constitute a 'public interest' consideration may include:

- not be in the interests of the child's safety, welfare or wellbeing.
- jeopardise a current or future police investigation or other proceedings (such as a coronial inquiry, Children's Court proceedings, a statutory child protection response, the reportable conduct investigation).
- endanger a person's health or safety.
- result in a waiver of legal privilege.
- result in unfairness to the employee to an extent that is not outweighed by the interest of the relevant party.
- enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained.

4.6.2.5

Findings and Recommendations

The common law recognises two standards of proof: the civil standard (the balance of probabilities), and the criminal standard (beyond reasonable doubt).

A 'finding of reportable conduct' is defined in the Act to mean a finding that a reportable allegation has been sustained. The Act states that heads of relevant entities must make a finding of reportable conduct if satisfied, on the balance of probabilities, that the case against the employee has been proved.

The NSW Office of the Children's Guardian, in the factsheet Making a finding of reportable conduct, defines the thresholds for making a finding of reportable conduct as:

Sexual offence: A sexual offence does not have to have resulted in a charge or conviction for it to be sustained as reportable conduct. In addition, as the rules of evidence do not apply, the decision-maker may give consideration to evidence that would not be admissible in criminal court proceedings. However, to make a finding of reportable conduct for a sexual offence, the decision-maker must be reasonably satisfied that all the elements of the sexual offence have been proven on the balance of probabilities.

Sexual misconduct: To make a finding of sexual misconduct, the decision-maker must be reasonably satisfied that the alleged conduct occurred and that it was sexual in nature.

Assault: Assault has both a physical (or 'action') element and a mental (or 'attitude') element. To make an assault finding, decision-makers need to be reasonably satisfied that both the action and attitude elements have been satisfied.

Ill-treatment: In making a finding of ill-treatment, it is important to consider relevant codes of conduct that outline the nature of professional conduct and practice by the employees, which inform whether the conduct was not only unreasonable but also seriously inappropriate, improper, inhumane or cruel.

Neglect: To make a determination of neglect, the decision-maker must be reasonably satisfied that the employee engaged in the alleged conduct (including an omission to act); that it constituted a significant failure; and that the child either was harmed or it was likely the child could have been harmed as a result.

Behaviour causing significant emotional or psychological harm to a child: To make a determination under this category, the decision-maker must be reasonably satisfied that all three elements are met – that is, that the alleged inappropriate behaviour occurred; that the child suffered harm that was more than transient; and that there was a causal link between the inappropriate behaviour and the harm. It will often be necessary to obtain a psychological or medical assessment of the child to determine whether psychological harm can be established. However, a clinical diagnosis will not be required in every circumstance – particularly if the assessment itself may cause harm. In addition, in certain serious and/or ongoing domestic violence cases, it may be open to infer that a child has been psychologically harmed, in the absence of a clinical diagnosis of such harm.

The investigation must determine, on the balance of probabilities, if each allegation is sustained, in part or in full. A sustained finding is considered an adverse finding.

4.6.2.6 *Adverse findings and recommendations*

Any action taken by Shoalhaven City Council towards an employee will be in accordance with this Child Safe Framework will be recorded on that individual's internal (employment) record. Shoalhaven City Council will inform that individual, at the time the decision is made, of their rights to have that decision reviewed internally and externally.

The range of action that may be taken in response to proven misconduct by Council personnel includes a decision that the respondent:

- give an apology in person or in writing.
- attend specified training or other educational course.
- be cautioned or reprimanded.
- be under supervision for a specified period of time.
- have conditions or restrictions applied to their role.
- be suspended from their position for a specified period of time.
- be given an alternate position within Shoalhaven City Council (for example a position without access to children or vulnerable adults.)
- be demoted or dismissed from their position (including by termination of employment, appointment or engagement) .

Shoalhaven City Council is committed to ensuring that no person shall be permitted to work in a position if Shoalhaven City Council believes, on the basis of all the information available, that there is an unacceptable risk that children may be abused. The Child Safe delegate may decide that a respondent does pose an unacceptable risk to children on the basis of the evidence before the investigator, even if the investigator concluded that this evidence was not sufficient to find that the child safety report or concern could be established to the requisite standard of proof.

If the Child Safe delegate concludes that the respondent does pose an unacceptable risk to children, it must provide recommendations to the relevant sector head as to steps that should be taken to manage and mitigate that risk.

The Child Safe delegate will provide the respondent with an opportunity to respond to this proposed conclusion and any recommended steps. Any response received will be taken into account before the CEO reaches a final decision.

The Child Safe delegate may recommend to the CEO that the respondent be placed under supervision for a period of time or until further notice, or that his or her duties be restricted or changed. Such restriction may include ensuring that the respondent is not to have any contact with children in their position in Shoalhaven City Council.

Where a conclusion is reached that an individual poses an unacceptable risk to children, Shoalhaven City Council will inform that individual of their rights to have that decision reviewed internally and externally.

4.6.2.7 *Request for review*

Once the investigation report is finalised with findings and recommendations, it must be endorsed by Shoalhaven City Council CEO and submitted to the NSW OCG. The NSW OCG will then determine whether the investigation was carried out in a satisfactory manner and whether appropriate action was or can be taken.

The following parties are able to request a review of a reportable conduct investigations findings by writing to Shoalhaven City Council Child Safe delegate:

- The NSW Office of the Children's Guardian.
- the person whose conduct is the subject of the investigation.
- an alleged victim or a person (including a parent or carer) representing an alleged victim.
- the head of the area of Shoalhaven City Council in which the conduct was alleged to have occurred.

The Child Safe delegate will consider if the request has sufficient grounds, and if so they will appoint a reviewer. The NSW OCG must also oversight any review of a reportable conduct finding.



4.6.2.8 *Head of Entity responsibilities*

NSW law requires the CEO of Shoalhaven City Council, as the head of entity, to ensure reportable conduct allegations are reported to the NSW Office of the Children's Guardian (OCG) and investigated in line with the Reportable Conduct Scheme. Specifically, the CEO (or their delegate) has the following responsibility:

- ensure specified systems are in place for preventing, detecting and responding to reportable allegations or convictions.
- make a notification to the NSW Office of the Children's Guardian within 7 business days of becoming aware of a reportable allegation or conviction against an employee of the entity.
- as soon as practicable after receiving the reportable allegation/conviction, arrange for it to be investigated/determined.
- complete the investigation within a reasonable time, having regard to the principles of procedural fairness and the mandatory considerations outlined in Division 6 of the Act.
- provide information about the allegation, the progress of the investigation and the finding and action taken to the alleged victim and their parent/carer unless the CEO considers that it is not in the public interest to do so.
- by 30 calendar days after the CEO becomes aware of the reportable allegation, provide either a finalised entity report or an update (an interim report, reasons the investigation has not been completed and an estimated timeframe for completion).
- make a finding of reportable conduct if satisfied, on the balance of probabilities, that the case against the employee, the subject of the reportable allegation, has been proved.
- provide information to the NSW Children's Guardian required under relevant provisions of the Act, which may include information about a reportable allegation, the relevant entity's response to a reportable allegation, and systems for preventing and responding to reportable allegations.
- ensure an appropriate level of confidentiality of information relating to reportable allegations and only disclose information about the allegations in circumstances permitted by the Act or other legislation.

At the end of the investigation of a reportable allegation, the CEO must send a report to the NSW Office of the Children's Guardian that enables the NSW Office of the Children's Guardian to determine whether the investigation was carried out in a satisfactory manner and whether appropriate action was or can be taken.

5 Recordkeeping and information sharing

5.1 Child safety recordkeeping – a key requirement to safeguarding

Shoalhaven City Council recognises the importance of recordkeeping and information sharing in the prevention of, and response to, child safety reports and concerns.

Good record keeping assists in improving accountability and promotes transparent decision-making. Records are key part of an organisation's memory and must be accurate, complete and objective to satisfy Shoalhaven City Council's legal requirements and duty of care to children. The records created today can have unforeseen and important applications in the future, especially in relation to child safety reports and concerns.

Records about seemingly minor or isolated incidents when not assessed holistically through accurate record keeping can minimise or obscure the extent of knowledge held about child safety reports or concerns. If records are kept accurately and comprehensively and assessed holistically the records can provide a cumulative picture of risks to children and be the most effective approach to the prevention of and response to child safety reports and concerns.

Information relating to child safety reports and concerns may be information about:

- adults who may pose a risk to a child or children.
- children who have displayed harmful behaviours.
- children who have been or are at risk of being abused.

5.2 Why is good recordkeeping important?

Shoalhaven City Council recognises the importance of recordkeeping and information sharing in the prevention of, and response to, child safety reports and concerns.

Good record keeping assists in improving accountability and promotes transparent decision-making. Records are key part of an organisation's memory and must be accurate, complete and objective to satisfy Shoalhaven City Council's legal requirements and duty of care to children. The records created today can have unforeseen and important applications in the future, especially in relation to child safety reports and concerns.

Records about seemingly minor or isolated incidents when not assessed holistically through accurate record keeping can minimise or obscure the extent of knowledge held about child safety reports or concerns. If records are kept accurately and comprehensively and assessed holistically the records can provide a cumulative picture of risks to children and be the most effective approach to the prevention of and response to child safety reports and concerns.

5.3 What are the consequences of poor record-keeping?

A failure to adequately document your response to a child safety report or concern can have serious consequences for your entity, for an employee and for the safety of children in your care. For example:

- a failure to plan and document an investigation can result in inefficiencies, delays and key evidence being overlooked or lost.
- poor documentation of a risk assessment could mean that risks are not appropriately identified and/or managed, and this may place children or others at risk.
- inadequate recording of interviews and other evidence can lead to involved parties challenging the accuracy of the evidence attributed to them.
- a lack of records or adequate records will undermine the integrity of an organisations response and investigation (where relevant) and may compromise the outcome.
- a response and associated disciplinary action may be successfully appealed if the entity cannot produce records that support its process and decision.
- your entity may be found to be non-compliant with the requirement to have systems for receiving, handling and/or disclosing information about reportable allegations and information
- relating to investigations of reportable allegations.

5.4 Five key record keeping principles

The Royal Commission, recommended all institutions follow these five high-level principles:

- Creating and keeping full and accurate records relevant to child safety and wellbeing, including child sexual abuse, is in the best interests of children and should be an integral part of institutional leadership, governance and culture.
- Full and accurate records should be created about all incidents, responses and decisions affecting child safety and wellbeing, including child sexual abuse.
- Records relevant to child safety and wellbeing, including child sexual abuse, should be maintained appropriately.
- Records relevant to child safety and wellbeing, including child sexual abuse, should only be disposed of in accordance with law or policy.
- Individuals' existing rights to access, amend or annotate records about themselves should be recognised to the fullest extent.

5.4.1 Three main stages of record keeping

The initial response to a child safety report or concerns is critical, because if the initial response fails to identify the critical elements or level of risk, any future investigation could be compromised and risks may not be contained. Initial steps will include:

- providing support and assistance to those who have disclosed harm and other affected people.
- making initial enquiries to clarify information as necessary. The purpose is not to establish if the allegation is true or not – that is the purpose of the investigation – but to gather enough detail to understand and manage the level of risk.
- responding to any immediate risks, including considering how Shoalhaven City Council should respond to the person/s of concern.
- making a Police report if the allegation includes a criminal offence. In these circumstances, do not make any investigative actions until police provide clearance to do so
- making a report to the DCJ Child Protection Helpline, if the allegations includes risk of significant harm (RoSH) to a child. Any response from DCJ, including the Joint Child Protection Response Program (JCPRP) takes priority over a reportable conduct investigation.
- notify Shoalhaven City Council's Child Safe delegate as soon as practical.
- notify the NSW Office of the Children's Guardian (OCG) within 7 business days of Shoalhaven City Council becoming aware of the alleged reportable conduct.

If an allegation does not meet the threshold for reportable conduct, it should be responded to under the Code of Conduct.

5.5 How to make and maintain records?

Key points to ensure accurate and comprehensive records:

- be legible, signed and dated.
- clearly identify who the record is about, anyone else involved and who created the record.
- be as accurate and as close to verbatim account as possible of what has been said and by whom.
- be objective and descriptive and not include speculation or inference.
- capture a child's own words using 'quotation marks'.

5.5 How to make and maintain records? (continued)

- include a full and factual description of what happened, follow up actions and the views of the child and their family.
- include meeting participants, time and locations of the meeting, as well as an agenda and meeting notes / actions.
- detail Council's initial and ongoing responses and decisions about a child safety report or concern including:
 - notifications considered or made to Police of a suspected criminal offence; to a Child Wellbeing Unit of risk of harm; or the Department of Communities and Justice of a child who may be at risk of significant harm.
 - the outcome of any reports made to other agencies.
 - initial and ongoing assessments of risk, including what the identified risks are and the arrangements to manage those risks.
 - detailed records of any investigation process – including how the investigation had regard to the principles of procedural fairness – the findings in relation (including the rationale for the finding).
 - the final risk assessment (which includes any final decision about a councillor or employee's work).
 - decisions made about the employee and the action taken in relation to the child or employee (e.g. change in duties, support or counselling).

5.6 Reportable conduct record keeping

The NSW Office of the Children's Guardian has specific requirements in relation to recordkeeping in Reportable Conduct matters. The NSW OCG has developed guidance on record keeping specific to Reportable Conduct investigations, this can be accessed: NSW Reportable Conduct Scheme Factsheet 6 - Recordkeeping



NSW Reportable Conduct Scheme Factsheet 6 - Recordkeeping

5.6.1 How long must records be stored for?

Council will retain records relating to all child safety reports and concerns, including child sexual abuse, for a minimum period of 45 years. This period allows for the delay in disclosure and limitations to the legal process.

Information regarding the storage of records can be obtained from State Records NSW at www.records.nsw.gov.au. Information about the GIPA Act can be obtained from the Office of the Information Commissioner NSW at www.oic.nsw.gov.au

5.6.2 Where should records be stored about staff and for how long?

The CEO must set up systems for keeping records concerning the response to child safety reports and concerns against Councillors and staff. Records relating to the child safety report or concern should be kept on a file that is separate to the employee's personnel file.

Some information that may be important about the care of the alleged victim or management of the employee, could be copied to their respective files. For example, a record of the critical incident and any ongoing action resulting from the response to the child safety report or concern.

All records should be kept confidentially and securely, with access granted only to those persons in the entity who have a need to know about that situation. Related files should be cross-linked to each other, for the purposes of future management.

5.6.3 Secure and thorough record-keeping and data collection

All records must be updated and kept secure to document processes and record outcomes at each stage.

These records can be used for profiling and managing risks posed by individuals. Data collected over time can also be used to show trends from investigation outcomes and highlight systemic issues as a critical aspect of continuous improvement. Document records must include details of all of the information received or communicated and by whom. Records must also detail time and date together with the action taken and/or planned.

5.6.4 Access to records

Records must be made available to the subject of the record upon request.

However there are limitations to the information that will be provided, and some information may need to be redacted to preserve the confidentiality of others. For example, if a child safety report or

5.6.4 Access to records (continued)

concern names multiple child victims and details their abuse, all but the information pertaining to subject who made the request will be redacted.

If information within a record must be redacted, the subject of the record should be provided with specific information related to the redacted sections, verbally.

5.7 Recordkeeping legislation

Shoalhaven City Council commits to recordkeeping in accordance with legal obligations, policies and principles, including but not limited to:

- NSW Child Safe Standards: Standard 10 requires that documents are saved in accordance with NSW record keeping requirements.
- NSW State Records Act 1998 outlines the record management responsibilities of all public offices, including Shoalhaven City Council.
- The Privacy Act 1988 promotes and protects the privacy of individuals and regulates how Australian Government agencies and organisations handle personal information.

Shoalhaven City Council has a Records Management Policy and Privacy Management Plan which outlines the Council's information sharing policy.



6 Information sharing that prioritises children

Child safety, welfare and wellbeing is at the centre of information sharing practice. Information sharing is a key part of collaboration as it allows organisations to work together and make informed decisions and how to best respond to child safety reports and concerns.

Sharing information effectively and under the right circumstances can increase safety for children and prevent harm. Sharing information carelessly, can have negative personal, organisational and legal ramifications.

Due to the sensitivity of child safety information, there are restrictions on what information can and must be shared. Sharing personal information about a child safety report or concern must be lawful, which means either gaining consent, or working within relevant legislation.

6.1 Principled information sharing for child safety: a need-to-know test

All 'reasonable steps' must be taken to protect personal and sensitive information, balanced against the requirement to share information on a 'need-to-know' basis to protect a child or prevent further harm with the best interests of the child being always paramount. Information must only be shared if required or permitted, with due regard for privacy principles and relevant legislation.

Information about a child safety report or concern or response is permitted or required in law to facilitate:

- the identification of risks to children, and their needs.
- early, effective intervention and well-coordinated service provision to promote the safety and wellbeing of children, and their development and care.
- the effective assessment and management of family violence risk.

Information sharing by consent, where possible, is important in the prevention of and response to child safety reports or concerns. Consent may be obtained verbally or in writing; however, you should not seek consent if doing so might compromise the safety of a child or any other person.

6.2 Understanding information sharing legal obligations, policies and principles

Shoalhaven City Council commits to sharing information in accordance with legal obligations, policies and principles.

Council personnel must maintain knowledge of legislative obligations, and what information they can share, with whom, how and when including:

6.2 Understanding information sharing legal obligations, policies and principles (continued)

- their responsibilities in relation to information sharing and privacy.
- the various circumstances in which sharing information is required, permitted, restricted or prohibited.
- the basis for decisions they make regarding information sharing and privacy.

Critical information shared as required by law must be shared and communicated with relevant agencies in a timely, effective and appropriate way, balanced with confidentiality and privacy obligations. For more information visit the NSW Information and Privacy Commission.

6.2.1 Using the Children and Young Persons (Care and Protection) Act 1998 (the Care Act) to share

6.2.1.1 Mandatory Reporting

Mandatory reporting is the legislative requirement for selected classes of people to report suspected child abuse and neglect to government authorities. The obligations of mandatory reporting is outlined in Part 4 - Reporting and responding to child safety reports and concerns.

4 - Reporting and responding to child safety reports and concerns

The Care Act provides when and how information sharing is specifically authorised, restricted or prohibited in relation to child protection cases, and will cover most circumstances related to open child protection cases.

Where there are no specific provisions in the Care Act relevant to a particular circumstance, information sharing may be permitted or restricted under other legislation.

6.2.1.2 Chapter 16A Exchange of Information

Chapter 16A of the Care Act facilitates the sharing of information that relates to the safety, welfare or wellbeing of children in NSW. Chapter 16A allows prescribed agencies working with a child to share information involving their safety, welfare or wellbeing without consent.

Chapter 16A highlights the critical need for interagency collaboration, and the paramount importance of the safety, welfare or wellbeing of children. Chapter 16A empowers agencies and practitioners to share information under certain conditions. A provision of any other Act or law that prohibits or restricts the disclosure of information does not operate to prevent the provision of information under Chapter 16A (section 245H).

To provide (section 245C) or request (section 245D) information it must relate to the safety, welfare or wellbeing of a particular child or class of children. The information must be for the purposes of assisting a prescribed body to:

- make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety and welfare of the child or class of children, or
- manage any risk to the child or class of children that might arise in the prescribed body's capacity as an employer or designated agency.

Section 245C (2) provides that information may be provided under Chapter 16A regardless of whether a request has been made. This means that prescribed bodies in NSW can proactively share information if the requirements of Chapter 16A are met.




Section 245G provides protection from liability for persons who share information in accordance with Chapter 16A. This includes protection from any civil, criminal or disciplinary action.

Information can only be shared between prescribed bodies. You cannot share information with an organisation that is not a prescribed body.

You do not need to have made a child protection report to share information using Chapter 16A (with the exception of unborn children, as per section 245B of the Care Act).

6.2.2 Other information sharing legislation

The other legislation relevant to child safety information sharing:

-  • The Government Information (Public Access) Act 2009 allows members of the public to access government information held by DCJ and other government departments, including information relating to DCJ's child protection role.
Reportable conduct correspondence from the Children's Guardian about reportable allegations is 'excluded information' under section 6 of the GIPA Act. That means that you cannot release those records to any person under GIPA without first obtaining consent from the NSW Children's Guardian.
-  • The Children's Guardian Act 2019 allows the NSW Children's Guardian and relevant organisations to share information related to the NSW Children's Guardian's functions, including the Reportable Conduct Scheme.
-  • The Child Protection (Working with Children) Act 2012 provides the legal framework for the working with children's check scheme to access criminal history and certain workplace records to determine if a person is suited to working with children.

6.2.2 Other information sharing legislation (continued)

- The Defamation Act 2005 allows individuals in New South Wales to bring claims for defamation by lodging a statement of claim that contains certain details, such as the wording of the defamatory material.

6.2.3 Public sharing of information about a child safety report or concern

Where there is public or media inquiries about a child safety report or concern information must be provided in a transparent and accountable manner where possible, but only where appropriate and balanced with confidentiality and privacy requirements including the wishes of any person who may have suffered abuse or other harm.

7 Definitions

Term	Definition
A child at risk of significant harm	<p>According to the Children and Young Persons (Care and Protection) Act 1998, this includes where a child:</p> <ul style="list-style-type: none"> • does not have their basic physical or psychological needs met or they are at risk of not being met • has parents or other caregivers who have not arranged and are unable or unwilling to arrange for their necessary medical care • has parents or other caregivers who have not arranged and are unable or unwilling to arrange for the child to receive an education • has been, or is at risk of being, physically or sexually abused or ill-treated • 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 • has suffered or is at risk of suffering serious psychological harm by their parent or caregiver

Term	Definition
A child at risk of significant harm	<ul style="list-style-type: none"> • pre-natal report under section 25 and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report. I'm not sure what this means <p>For the duration of this policy, these terms will be referenced under the umbrella of 'a child at risk of significant harm'.</p>
Child abuse and other harm	<p>As outlined in the various child safety and protection laws in New South Wales, this includes:</p> <ul style="list-style-type: none"> • sexual offences and sexual abuse, or an experience of problematic sexual behaviours by another child or children • grooming behaviours, grooming offences and encouragement offences • physical violence and physical abuse • serious/significant emotional or psychological harm (including by exposure to family violence) • serious/significant neglect • being subjected to a sexual orientation or gender identity change or suppression practice.
Child / Children	For the purpose of this policy, a child is a person under the age of 18 years.
Child Safety Law	<p>Includes, as updated from time to time, the following legislation:</p> <ul style="list-style-type: none"> • Child Protection (Working with Children) Act 2012 (NSW) • Child Protection (Working with Children) Regulation 2013 (NSW) • Children and Young Persons (Care and Protection) Act 1998 (NSW) • Children's Guardian Act 2019 (NSW) • Children (Education and Care Services National Law Application) Act 2010 (NSW)

7 Definitions (continued)

Term	Definition
Child safety report or concern	<p>Includes any disclosure, report or concern about:</p> <ul style="list-style-type: none"> • child abuse and other harm as defined above. • reports or concerns about a child at risk of significant harm as defined above. • reports or concerns about Reportable Conduct as defined below. • reports or concerns about a breach of the Child Safety Code of Conduct by Council personnel • reports or concerns about child abuse or other harm inflicted by children towards another child.
Child-Related Work	<p>Work that involves Council personnel having direct contact (physical or online) with a child or children which is a routine and usual part of their work.</p> <p>It also involves work where the contact with a Child is (?) in connection with at least one of the 20 legislated categories of Child-Related Work, which include:</p> <ul style="list-style-type: none"> • clubs or other bodies providing programs and services for children • education or child-minding services • sport, recreation and entertainment clubs, activities and programs for children • transport services for children. <p>It may also include Council personnel having access to sensitive, personnel or confidential information about a child.</p>
Council Personnel	<p>Any person engaged in work for Shoalhaven City Council in any of the following capacities:</p> <ul style="list-style-type: none"> • full-time, part-time, casual, temporary and fixed term employees • agency staff • students on placement • volunteers • Councillors

Term	Definition
Contracted Service Provider	<p>A third party contracted to provide goods, services or programs on behalf of or with the Council. The Contracted Service Provider could be:</p> <ul style="list-style-type: none"> • an organisation (including for profit and not for profit organisations, private companies or government entities), or • a sole trader - a business run by one person, that is either run in the sole trader's own name or a separate business name. <p>Are there only two options here?</p>
Reportable Conduct	<p>Reportable conduct means the following behavior committed against or in the presence of a child:</p> <ul style="list-style-type: none"> • a sexual offence including sexual penetration, sexual assault or sexual touching; a grooming offence; production, dissemination or possession of child abuse material. • sexual misconduct including the crossing of professional boundaries, but not a sexual offence. • physical violence • any behaviour that causes "significant" emotional or psychological harm. • neglect of a child, which involves failure to provide for a child, by a parent or authorised carer. • failure to reduce or remove the risk of a child becoming a victim of abuse or concealing child abuse.

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