

## Child Safe Policy

### Mandatory – Quality Area 2

#### Purpose

This policy provides a clear set of guidelines and procedures for Bethany Kindergarten Services (BKS) to:

- provide a safe environment for all children which promotes their health, safety and wellbeing
- promote an organisational culture of child safety
- identify, reduce and remove risks of child abuse
- intervene when a child may be at risk of abuse or neglect
- make staff aware of their legal and duty of care obligations in reporting child abuse and neglect, and
- inform other policies, procedures and activity planning in addition to general occupational health and safety risks.

#### Scope

This policy applies to the BKS as the Approved Provider, Nominated Supervisor, Educators, other BKS staff, students on placement, volunteers, parents/guardians, children and others attending the programs and activities of a BKS service.

This policy guides our staff and volunteers on how to behave with children in our organisation. All of our staff and volunteers must agree to abide by our Code of Conduct which specifies the standards of conduct required when working with children.

#### Background

The Approved Provider, Nominated Supervisor, staff, contractors and volunteers of early childhood services have legal and moral obligations to protect children under their supervision and care.

Duty of care obligations (refer to *Definitions*) relate to the high level of responsibility to protect children in the care of a service. Duty of care obligations apply to the Approved Provider and all staff members within any early childhood service and require that the Approved Provider and staff to take reasonable steps to protect children from injury that is reasonably foreseeable.

*The Children, Youth and Families Act 2005* provides the legislative basis for the provision of services to vulnerable children, young people and their families, and places children's best interests at the heart of decision-making and service delivery.

Any person who forms a reasonable belief (refer to *Definitions*), that a child is in need of protection may report their concerns to the Child Protection (refer to *Definitions*).

Three **criminal offences** have been introduced in Victoria in the *Crimes Amendment (Protection of Children) Act 2014* to protect children from child abuse:

- **Failure to disclose:** All adults (not just those working with children) have a legal duty to report information about child sexual abuse to Victoria Police. The offence applies to any adult who forms a reasonable belief that a sexual offence has been committed by an adult against a child under 16 and fails to report that information to the Victoria Police.

- **Failure to protect:** The offence applies to people within organisations who hold positions of authority within an education and care service, such as the Approved Provider or the Nominated Supervisor, and who know of the substantial risk another adult associated with the organisation may commit a sex offence and they have the power or responsibility to remove or reduce the risk but negligently fail to do so.
- **Grooming offence:** The offence targets predatory conduct by an adult with the intent of committing child sexual abuse. Conduct may include communication, including online communication, with a child under the age of 16 or their parents.

Under section 182 of the *Children, Youth and Families Act 2005*, a person registered under the *Education Training and Reform Act 2006* (as amended in 2014), or who has been granted permission to teach under that Act, is designated as a mandatory reporter. Early childhood teachers are required to be registered with the Victorian Institute of Teaching and are classified as 'mandatory reporters'.

All mandatory reporters must make a report to Victoria Police and/or Child Protection (refer to *Definitions*) as soon as practicable if, during the course of their roles and responsibilities they form a reasonable belief that:

- A child is likely to suffer, or has suffered, significant harm as a result of physical abuse and/or sexual abuse, **and**
- The child's parents have not protected, or are unlikely protect, the child from harm of that type.

Victorian organisations that provide services to children are required under the *Child Safety and Wellbeing Act 2005* to ensure that they implement compulsory minimum Child Safe Standards to protect children from harm. The standards aim to drive continuous improvement in the way services prevent and report child abuse and respond to allegations of child abuse.

Under the *Education and Care Services National Regulations 2011*, the Approved Provider must ensure that all educators and staff are familiar with current policies and procedures with regard to child safety and protection, including state and territory legislative responsibilities and their obligations under these laws (Regulation 84).

## Definitions

**Abuser:** A person who mistreats and/or harms a child or young person.

**Abuse:** refer child abuse definition below.

**Bullying:** Repeated verbal, physical, social or psychological behaviour that is harmful and involves the misuse of power by an individual or group towards one or more persons. Bullying occurs when one or more people deliberately and repeatedly upset or hurt another person, damage their property, reputation or social acceptance.

**Child:** In Victoria, under the *Children, Youth and Families Act 2005*, a child or young person is a person under 18 years of age.

**Child abuse:** (In the context of this policy) refers to an act or omission by an adult that endangers or impairs a child's physical and/or emotional health or development. Child abuse can be a single incident but often takes place over time. Abuse, neglect and maltreatment (refer to *Definitions*) are generic terms used to describe situations in which a child may need protection. Child abuse includes any and all of the following:

- **Physical abuse:** When a child suffers or is likely to suffer significant harm from an injury inflicted by a parent/guardian, caregiver or other adult. The injury may be inflicted intentionally, or be the consequence of physical punishment or the physically aggressive treatment of a child. Physical injury and significant harm to a child can also result from neglect by a parent/guardian, caregiver

or other adult. The injury may take the form of bruises, cuts, burns or fractures, poisoning, internal injuries, shaking injuries or strangulation.

- **Sexual abuse:** When a person uses power or authority over a child, or inducements such as money or special attention, to involve the child in sexual activity. It includes a wide range of sexual behaviour from inappropriate touching/fondling of a child or exposing a child to pornography, to having sex with a child and grooming with the intent of committing child sexual abuse.
- **Emotional and psychological abuse:** When a child's parent or caregiver repeatedly rejects the child or uses threats to frighten the child. This may involve name calling, put downs or continual coldness from the parent or caregiver, to the extent that it significantly damages the child's physical, social, intellectual or emotional development.
- **Neglect:** The failure to provide a child with the basic necessities of life, such as food, clothing, shelter, medical attention or supervision, to the extent that the child's health and development is, or is likely to be, significantly harmed.
- **Domestic/family violence:** When children and young people witness or experience the chronic, repeated domination, coercion, intimidation and victimisation of one person by another through physical, sexual and/or emotional means within intimate relationships. Contrary to popular belief, witnessing episodes of violence between people they love can affect young children as much as if they were the victims of the violence. Children who witness regular acts of violence have greater emotional and behavioural problems than other children.
- **Racial, cultural, religious abuse:** Conduct that demonstrates contempt, ridicule, hatred or negativity towards a child because of their race, culture or religion. It may be overt, such as direct racial vilification or discrimination, or covert, such as demonstrating a lack of cultural respect (attitude and values) and awareness (knowledge and understanding) or failing to provide positive images about another culture.
- **Child FIRST:** A Victorian community-based intake and referral service linked with Family Services. Child FIRST ensures that vulnerable children, young people and their families are effectively linked to relevant services, including Child Protection <http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/family-and-parenting-support/how-to-make-a-referral-to-child-first>.
- **Child sex offender:** Someone who sexually abuses children, and who may or may not have prior convictions.
- **Child Protection:** The term used to describe the whole-of-community approach to the prevention of harm to children. It includes strategic action for early intervention, for the protection of those considered most vulnerable and for responses to all forms of abuse.
- **Child Protection Service** (also referred to as Child Protection): The statutory child protection service provided by the Victorian Department of Health and Human Services, to protect children and young people at risk of abuse and neglect. This service also works closely with Family Services (including Child FIRST) to support the assessment and engagement of vulnerable children and families in community-based services. <http://www.dhs.vic.gov.au/for-service-providers/children,-youth-and-families/child-protection>.
- **Code of conduct:** A set of rules or practices that establish a standard of behaviour to be followed by individuals and organisations. A code of conduct defines how individuals should behave towards each other and towards other organisations and individuals in the community (refer to *Code of Conduct Policy*).
- **Contractor:** A person or company that undertakes a contract to provide materials or labour to perform a service or do a job. Examples include photographer, tradesperson, people contracted to provide an incursion.
- **Disclosure:** (In the context of this policy) refers to a statement that a child or young person makes to another person that describes or reveals abuse.

- **Duty of care:** A common law concept that refers to the responsibilities of organisations and staff to provide people with an adequate level of protection against harm and all reasonable foreseeable risk of injury. In the context of this policy, duty of care refers to the responsibility of education and care services and their staff to provide children with an adequate level of care and protection against foreseeable harm and injury.
- **Maltreatment:** (In the context of this policy) refers to physical and/or emotional mistreatment, and/or lack of care of the child. Examples include sexual abuse, the witnessing of family violence and any non-accidental injury to a child.
- **Mandatory reporting:** The legal obligation of certain professionals and community members to report when they believe, on reasonable grounds, that a child is in need of protection from harm.

A broad range of professional groups are identified in the *Children, Youth and Families Act 2005* as 'mandatory reporters'. From 30 September 2015 this list includes early childhood teachers.

Mandated staff members must make a report to Victoria Police and/or Child Protection as soon as is practicable if, during the course of acting out their professional roles and responsibilities, they form a belief on reasonable grounds (refer to *Definitions*) that:

- a child has suffered, or is likely to suffer, significant harm as a result of physical and/or sexual abuse (refer to *Definitions*) **and**
- the child's parents/guardians have not protected, or are unlikely to protect, the child from harm of that type.

Mandatory reporters must also follow processes for responding to incidents, disclosures or suspicions of child abuse to fulfil all their legal obligations (refer to Attachment 5: Processes for responding to and reporting suspected child abuse).

- **Neglect:** see Child abuse definition above.
- **Negligence:** Doing, or failing to do something that a reasonable person would, or would not do in a certain situation, and which causes another person damage, injury or loss as a result.
- **Notifiable complaint:** A complaint that alleges a breach of the Act or Regulation, or alleges that the health, safety or wellbeing of a child at the service may have been compromised. Any complaint of this nature must be reported by the Approved Provider to the secretary of DET within 24 hours of the complaint being made (Section 174(2)(b), Regulation 176(2)(b)). Written reports to DET must include:
  - details of the event or incident
  - the name of the person who initially made the complaint
  - if appropriate, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant)
  - contact details of a nominated member of the Grievances Subcommittee/investigator
  - any other relevant information.

Written notification of complaints must be submitted via the ACECQA portal using the appropriate forms at <http://acecqa.gov.au/notifications>. If the Approved Provider is unsure whether the matter is a notifiable complaint, it is good practice to contact DET for confirmation.

- **Offender:** A person who mistreats and/or harms a child or young person.
- **Perpetrator:** A person who mistreats and/or harms a child or young person.
- **Reasonable belief/reasonable grounds:** A person may form a belief on reasonable grounds that a child or young person is in need of protection after becoming aware that the child or young person's health, safety or wellbeing is at risk and the child's parents/guardians are unwilling or unable to protect them. There may be reasonable grounds for forming such a belief if:
  1. a child or young person states that they have been physically or sexually abused

2. a child or young person states that they know someone who has been physically or sexually abused (sometimes the child may be referring to themselves)
  3. someone who knows the child or young person states that the child or young person has been physically or sexually abused
  4. a child shows signs of being physically or sexually abused (see details in Appendix 2 of *Protecting the safety and wellbeing of children and young people* – refer to *Sources*)
  5. the person is aware of persistent family violence or parental substance misuse, psychiatric illness or intellectual disability or other factors that are impacting on the child or young person's safety, stability or development
  6. the person observes signs or indicators of abuse, including non-accidental or unexplained injury, persistent neglect, poor care or lack of appropriate supervision
  7. a child's/young person's actions or behaviour may place them at risk of significant harm and the parents/guardians are unwilling or unable to protect the child.
- **Serious incident:** A serious incident is defined as (regulation 12):
    - the death of a child -
      - while being cared for by an education and care service; or
      - following an incident while being educated and cared for by an education and care service
    - any incident involving serious injury or trauma to, or illness of, a child while being educated and cared for by an education and care service -
      - which a reasonable person would consider required urgent medical attention from a registered medical practitioner (examples include broken limbs or anaphylaxis reaction) attention of a registered medical practitioner; or
      - for which the child attended, or ought reasonably to have attended a hospital
    - any incident where the attendance by emergency services at the education and care service premises was sought, or ought reasonably to have been sought
    - any circumstances where a child being educated and cared for by an education and care service appears to be missing or cannot be accounted for;
      - appears to have been taken or removed from the education and care services premises in a manner that contravenes National Regulations;
      - is mistakenly locked in or locked out of the education and care service premises or any part of the premises.

The Regulatory Authority must be notified of a serious incident (section 174(2)(a)) **in writing in the case of:**

- the death of a child, as soon as practicable but within 24 hours of the death, or the time that the person becomes aware of the death
- any other serious incident, within 24 hours of the incident or the time that the person becomes aware of the incident.

Written notification of serious incidents must be submitted via the ACECQA portal using the appropriate forms at <http://acecqa.gov.au/notifications>.

- **Volunteer:** Parent/guardian, family member or community member who attends the service to assist the service in some capacity.
- **Voluntary (non-mandated) notification:** A notification to the Child Protection Service by a person who believes that a child is in need of protection and is not mandated to make the notification. Section 183 of the *Children, Youth and Families Act 2005* states that any person who believes, on reasonable grounds, that a child is in need of protection, may notify a protective intervener of that belief and of the reasonable grounds that the belief is based on. Under this part of the Act, notifications are made out of moral obligation, rather than legislative obligation. The person

making the notification is not expected to prove the abuse, and the law protects the anonymity of the person making the notification.

- **Young person:** In Victoria, under the *Children, Youth and Families Act 2005*, a child or young person is a person under 18 years of age.

### **BKS Statement of Commitment to Child Safety**

BKS is committed to child safety. We want children to be safe, happy and empowered. We have zero tolerance of child abuse. We understand our legal and moral obligations to treat concerns seriously and report allegations, safety and wellbeing concerns to authorities. We are committed to the cultural safety of all children including Aboriginal children, children from culturally and/or linguistically diverse backgrounds, and to providing a safe environment for children with a disability.

### **Legislation and standards**

Relevant legislation and standards include but are not limited to:

- *Children, Youth and Families Act 2005* (Vic)
- *Child Safety and Wellbeing Act 2005* (Vic)
- *Charter of Human Rights and Responsibilities Act 2006* (Vic)
- *Child Safe Standards* (Vic)
- *Crimes Amendment (Protection of Children) Act 2014* (Vic)
- *Education and Care Services National Law Act 2010* (Vic): Sections 165, 166, 167
- *Education and Care Services National Regulations 2011* (Vic): Regulations 84, 85, 86, 99, 100, 101, 102, 168(2)(h)
- *Education Training and Reform Act 2006* (Vic) (As amended in 2014)
- *Family Law Act 1975* (Cth)
- *National Quality Standard, Quality Area 2: Children's Health and Safety*
  - Standard 2.3: Each child is protected
  - Element 2.3.4: Educators, co-ordinators and staff members are aware of their roles and responsibilities to respond to every child at risk of abuse and neglect
- *Working with Children Act 2005* (Vic)
- *Working with Children Regulations 2006* (Vic)

### **Related BKS Policies**

- *Screening and management of contractors, volunteers and students Procedure*
- *Responding to Disclosures, allegations and suspicions of Abuse Policy and Procedure*
- *Recruitment, Selection and Appointment Policy and Procedure*
- *Acceptance and Refusal of Authorisations Policy*
- *Child Safe Environment Policy*
- *Code of Conduct Policy*
- *Complaints and Grievances Policy*
- *Delivery and Collection of Children Policy*
- *Incident, Injury, Trauma and Illness Policy*
- *Inclusion and Equity Policy*
- *Interactions with Children Policy*
- *Participation of Volunteers and Students Policy*
- *Privacy and Confidentiality Policy*

- *Staffing Policy*
- *Supervision of Children Policy*

## **Review**

This policy will be reviewed every two years and following significant incidents if they occur. As part of this review BKS will undertake a Child Safe Self Audit.

## **Allegations, concerns and complaints**

Our organisation takes all allegations seriously and has practices in place to investigate thoroughly and quickly. Our staff are trained to deal appropriately with allegations.

We work to ensure all children, families, staff and volunteers know what to do and who to tell if they observe abuse or are a victim, and if they notice inappropriate behaviour. We all have a responsibility to report an allegation of abuse if we have a reasonable belief that an incident took place (see information about failure to disclose above).

## **RESPONSIBILITIES**

### **The Approved Provider is responsible for:**

- providing leadership in the development of an organisational culture of accountability for child safety which is open to scrutiny and is continuously reviewed and improved
- advising staff of current child protection legislation, and their legal and duty of care obligations (Regulation 84)
- undertaking child safety reviews to identify the potential for and respond to signs of child abuse at BKS in consultation with staff
- identifying and implementing appropriate programs and practices to support the implementation of the Child Safe Standards in consultation with staff
- conducting recruitment and induction processes for staff in line with this policy
- screening contractors, volunteers and students in line with the BKS Procedure
- putting processes in place so that contractors, volunteers, students, parents/guardians and other visitors to the service are not left with sole supervision of individual children or groups of children
- developing and implementing procedures to prevent contact from occurring or responding if it has occurred, when the service has been notified of a court order prohibiting an adult from contacting an enrolled child
- ensuring educators, staff, and where appropriate, contractors, volunteers and students undertake appropriate training on child safety, including recognising the signs and symptoms of child abuse (refer to *Definitions*), knowing how to respond, and understanding responsibilities and processes for reporting
- developing and monitoring procedures for reporting and responding to suspected child abuse or neglect which are promoted across the service and regularly reviewed in partnership with staff and parents/guardians, and where appropriate contractors, volunteers, students and children
- offering support to the child and their family, and to staff in response to concerns or reports relating to the health, safety and wellbeing of a child attending a BKS service
- developing co-operative relationships with appropriate services and/or professionals (including Child FIRST) in the best interests of children and their families

- implementing reporting procedures and notifications when there are significant concerns for the health, safety or wellbeing of a child at the service
- notifying DET within 24 hours of a serious incident (refer to *Definitions*) occurring at the service
- notifying DET within 24 hours in writing of becoming aware of a notifiable complaint (refer to *Definitions*) or allegation regarding the health, safety and/or welfare of a child at the service
- maintaining confidentiality at all times (refer to *BKS Privacy and Confidentiality Policy*)
- implementing and reviewing this policy in consultation with staff, volunteers, parents/guardians, and children
- identifying and providing appropriate resources and training to assist staff, contractors, volunteers and students to implement this policy
- protecting the rights of children and families, and encouraging their participation in decision-making
- keeping staff, contractors, parents/guardian, volunteers and students informed of any relevant changes in legislation and practices in relation to this policy
- ensuring all staff, students, contractors, parents/guardians, volunteers and visitors abide by the *Code of Conduct Policy*
- ensuring an explicit BKS statement of commitment to child safety is included in all advertising promotion for the organisation.

**The Nominated Supervisor is responsible for:**

- keeping up to date and complying with any relevant changes in legislation and practices in relation to this policy
- supporting the implementation of the Child Safe Standards at BKS
- promoting the development of an organisational culture of accountability for child safety which is open to scrutiny and is continuously reviewed and improved
- identifying the potential for child abuse at BKS, and developing and implementing effective prevention strategies in consultation with the Approved Provider and staff
- developing programs and supporting the implementation of the Child Safe Standards in consultation with the Approved Provider and other staff at the service
- identifying and providing appropriate resources and training to assist staff, contractors, volunteers and students to implement this policy
- implementing reporting procedures where there are reasonable grounds (refer to *Definitions*) for believing that a child is at risk of child abuse
- notifying the Approved Provider immediately on becoming aware of a concern, complaint or allegation regarding the health, safety and welfare of a child at BKS
- offering support to the child and their family, and to educators and staff in response to concerns or reports relating to the health, safety and wellbeing of a child attending a BKS service
- making all staff aware of this policy, the Code of Conduct Policy and the Interactions with Children Policy and holding them to account for the behavioural expectations identified.
- implementing and reviewing this policy in consultation with the Approved Provider, educators, staff, contractors and parents/guardians and children
- planning so that no child is left alone (or is out of sight) with a contractor, volunteer, student, parent/guardian or visitor, at the service.

**All staff are responsible for:**

- fulfilling their legal responsibilities and duty of care to protect children, keep them safe and to maintain children's rights

- keeping up to date and complying with any relevant changes in legislation and practices in relation to this policy
- contributing to an organisational culture of child safety
- developing and implementing effective prevention strategies in consultation with the Approved Provider and the Nominated Supervisor
- following processes for responding and reporting suspected child abuse
- undertaking appropriate training on child protection, including recognising the signs and symptoms of child abuse (refer to *Definitions*), knowing how to respond, and understanding responsibilities and processes for reporting
- identifying and implementing appropriate programs and practices to support the implementation of Child Safe Standards in consultation with the Approved Provider and Nominated Supervisor at the service
- notifying the Nominated Supervisor or the Approved Provider immediately on becoming aware of any concerns, complaints or allegations regarding the health, safety and welfare of a child at a BKS service
- offering support to the child and their family in response to concerns or reports relating to the health, safety and wellbeing of a child at BKS
- co-operating with other services and/or professionals (including Child FIRST) in the best interests of children and their families
- informing families of support services available to them (such as Child FIRST), and of the assistance these services can provide
- conducting activities so that no child is left alone (or is out of sight) with a contractor, visitor, volunteer, student or parent/guardian at the service
- following BKS processes where the service has been notified of a court order prohibiting an adult from contacting an enrolled child
- maintaining confidentiality at all times (refer to *BKS Privacy and Confidentiality Policy*)
- implementing and reviewing this policy in consultation with the Approved Provider and Nominated Supervisor
- educating and empowering children to talk about events and situations that make them feel uncomfortable
- ensuring that children at the service are not subjected to any form of corporal punishment, or any discipline that is unreasonable or excessive in the circumstances
- using appropriate resources and undertaking training to assist with the implementation of this policy
- abiding by the *BKS Code of Conduct Policy* and *Interactions with Children Policy*.

**Parents/guardians are responsible for:**

- reading and complying with this policy
- reporting any concerns, including in relation to potential child abuse, to the appropriate child protection authorities or the police if immediate police attention is required
- abiding by the parent *Code of Conduct*.