

MANDATORY REPORTING: RISK OF SIGNIFICANT HARM

BACKGROUND

Cumberland City Council supports and encourages all staff in responding to incidents, disclosures or suspicions of children and young people at risk of harm. Council supports the rights of children and young people and is committed to their care and protection. Council believes that the safety and wellbeing of children and young people is everybody's business. All Council staff, volunteers and representatives have a duty of care to appropriately respond to all concerns for the safety, welfare or wellbeing of children and young people. Council also employs staff that are mandatory reporters. In compliance with the Children and Young Persons (Care and Protection) Act 1998, where there are concerns that a child or young person is suspected to be at risk of harm, staff who are mandatory reporters must respond to and report these concerns. Mandatory reporting refers to the reporting of concerns for the safety and welfare of a child (0 – 15 years) or young person (16 – 17 years) relating to Section 23 and 27 of the Children and Young Persons (Care and Protection) Act 1998.

PURPOSE

The purpose of this Guideline is:

- To ensure that Council staff, volunteers and representatives take all measures to keep children and young people safe.
- To ensure Council is compliant with NSW child protection legislation on mandatory reporting and exchanging information.
- To articulate the professional and legal obligations of Council staff, volunteers and representatives in relation to child protection.
- To ensure that Council staff, volunteers and representatives have an accessible procedure for managing child protection concerns including reporting risk of significant harm in accordance with the *Children and Young Persons (Care and Protection) Act 1998*.
- To ensure that all Mandatory Reporters across Council record and respond to any incidents, disclosures or suspicions of a child or young person that may be at risk of harm.

DEFINITIONS

Abuse: A term used to refer to different types of harm or maltreatment. In this document it refers to types of harm or maltreatment that children and young people experience, including; physical harm, sexual assault, exposure to domestic violence, psychological harm and prenatal risks.

Child: A person who is under the age of 16 years.

Child Protection Team: Cumberland City Council's Team that is made up of representatives from across Council, who oversee the identification, implementation and creation of policies, procedures and actions that enables Council to meet its objectives as a Child-Safe Organisation.

Child Protection Concerns: Any suspicions, disclosures and/or incidents involving a child or young person who may be at risk of harm.

Child Protection Helpline: A state-wide call centre run by DCJ that is available 24/7 and is staffed by professionally qualified caseworkers to receive and screen all reports about suspected abuse or neglect of a child or young person or those at risk of harm from abuse or neglect. The Helpline can be contacted on 132 111.

Child-Safe Organisation: An organisation in which child safety is embedded in planning, policy and practices and where the voices of children and young people are valued and actioned.

Department of Communities and Justice (DCJ): DCJ is the NSW Government agency responsible for the care and protection of children and young people.

Mandatory Reporters: People who deliver services, wholly or partly, to children as part of their paid or professional work. This is regulated by the *Children and Young Persons (Care and Protection) Act 1998*. This includes, but is not limited to, professionals working in health care; welfare; education; children's services; residential services; and, law enforcement.

MRG: Mandatory Reporter Guide. The MRG is a decision-making tool to assist Mandatory Reporters to help determine how the suspected risk of significant harm of a child or young person is reported.

Neglect: A term used to refer to a pattern characterised when a parent or caregiver cannot regularly provide a child or young person the basic requirements for his or her growth and development such as food, clothing, shelter, medical and dental care, adequate supervision and adequate parenting and care.

Risk of Harm: Concern/s that a child or young person is likely to, or may suffer physical, psychological or emotional harm as a result of what is being done (physical, sexual or psychological abuse) or not done (neglect) by another person.

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Risk of Significant Harm: Concern/s about a child or young person that are sufficiently serious to warrant a response by a statutory authority irrespective of a family's consent. It is something that is not minor or trivial and that may be reasonably expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing. In addition, it can result from a single act or omission or an accumulation of these. Risk of significant harm is the NSW threshold to report child protection concerns to DCJ via the Child Protection Helpline.

WWCC: Working with Children Check. The WWCC is a requirement for anyone who works or volunteers in child-related work in NSW. The check provides either clearance to work with children for five years, or a bar against working with children.

Young Person: A young person can be defined in a variety of ways depending on the context. For the purpose of this Policy and noting the Children and Young Persons (Care and Protection) Act 1998, a young person is a person who is over the age of 16 years but under the age of 18 years.

SCOPE

This guideline applies to all mandatory reporters and is relevant to all Council staff, volunteers and representatives. All Council staff, volunteers and representatives have a duty of care to respond to and report all child protection concerns as a part of their role within Council. Council staff and representatives who are identified as mandatory reporters have a legal obligation to adhere to this guideline.

A mandatory reporter is a person who, in the course of their professional work or other paid employment delivers programs and services wholly or partly, to children and young people. Council identifies the following teams and roles as mandatory reporters:

- All Children, Youth and Families Staff
- Family Day Care Educators
- Community Centre Coordinators
- Community Development Team
- Place liaison officers
- Immunisation Clinic Staff
- Swim Centre Duty Supervisors
- Sports Club Liaison Officer
- Children and Youth Library Services
- Volunteer supervisors where they are engaged in child related work

GUIDING PRINCIPLES

- 1. Use the following procedure in conjunction with this guideline:**

[Cumberland City Council Mandatory Reporting of Risk of Significant Harm Procedure](#)

- 2. Key principles to adhere to throughout:**

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- Ensure that you keep the child or young person and their safety at the centre of your actions and don't allow separate factors to influence your decision to respond to and report any child protection concerns.
- Safety is of the utmost importance. Ensure that you, other Council staff, volunteers and representatives are safe as well as children, young people and the wider community.
- It is vital that if you see or hear something, you must do something.
- Documentation is fundamental and everything must be clearly and accurately recorded and stored. It is vital that all records in relation to a child or young person at risk of harm be kept and stored in a secure location.
- All staff, volunteers and representatives have a duty to consult and discuss child protection concerns with their line manager or supervisor.
- Following up is critical and documenting and reporting is only the minimum requirement. Offer support where safe and possible to do so.
- If you have child protection concerns, complete the Mandatory Reporter Guide (MRG) and consider following up regardless of if you believe the concerns are 'significant' or not.
- Mandatory Reporters have an individual responsibility to respond to child protection concerns. All staff members and representatives are required to document and take appropriate action as an individual mandatory reporter if they believe a child or young person is at risk of harm.
- Remember that it is better to be wrong about possible risk of harm of a child or young person than to potentially allow a situation to endure and cause further harm.
- Child protection does not neatly fit into clear categories and steps and if you require further assistance consult your supervisor or Council's Children and Youth Development Team.

Mandatory Reporting expectations:

1. Identifying Concerns

If a child or young person is at imminent risk of harm or danger, act immediately by ringing 000 and request the required emergency service.

In accordance with the *Children and Young Persons (Care and Protection) Act 1998*, a child or young person is at risk of significant harm if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence, to a significant extent, of any one or more of the following circumstances;

- a.** the child or young person's basic physical or psychological needs are not being met or are at risk of not being met;
- b.** the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care;
- c.** the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated;

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d. the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm;

e. a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm.

(Children and Young Persons (Care and Protection) Act 1998, s. 23. Available at <https://www.legislation.nsw.gov.au/acts/1998-157.pdf>. Accessed November 2018)

As child protection is extremely complex there is no simple or singular description of what a child or young person at risk of harm looks like. Often children and young people are experiencing more than one form of abuse. For example, a child exposed to domestic violence is likely to be psychologically harmed and is at risk of neglect if their needs cannot be met due to the violence. Below are some general categories of abuse or neglect:

- Physical Abuse
- Neglect – supervision, shelter/environment, food, hygiene/clothing, medical care, mental health care and/or education (not enrolled/ habitual absence)
- Sexual Abuse
- Psychological Harm
- If the child or young person is a danger to self and/or others
- Relinquishing care
- Parent/carer with substance abuse
- Parent/carer with mental health concerns
- Parent/carer perpetrating and/or experiencing domestic violence
- Risks to an unborn child

Always inform your supervisor or line manager of the concerns and your intended plan. Consider any immediate decisions that need to be made regarding the welfare of others, Work Health and Safety and if the program should continue without any modifications.

For further information on risk factors and signs of abuse and neglect, visit the DCJ webpage:

[Child at Risk of Harm and Neglect - Signs of Abuse](#)

2. Responding to Disclosures of Abuse

If a child or young person discloses abuse or neglect that is occurring or has occurred, you should support the child or young person by reassuring them that you believe them. It is important to remember that your role is to be a supportive listener and not to counsel the child or young person or investigate their claims. Some of the ways to listen to and reassure the child or young person include;

Listen

- Move to a suitable environment.
- Be calm and patient — allow for the child or young person to be heard.
- Let the child or young person use their own words — avoid asking leading questions.
- Avoid “quizzing” the child or young person about details of the abuse.

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Reassure

- Don't be afraid of saying the "wrong" thing. Listening supportively is more important than what you say.
- Reassure the child or young person that it is OK that they have told you what's been happening.
- Address any concerns about the child or young person's safety.
- Reassure the child or young person that they are *not* at fault, and *not* the cause of any distress you or they may feel.

Respect

- Respect that the child or young person may only reveal some details.
- Acknowledge the child or young person's bravery and strength.
- Avoid making promises you can't keep — manage the child or young person's expectations.
- Explain to the child or young person that in order for them to be safe you will need to report their experience to someone else.

It is important to keep information from the disclosure as confidential as possible and only those people who must know should be informed.

(Responding to children and young people's disclosures of abuse 2015. Available at <https://aifs.gov.au/cfca/publications/responding-children-and-young-people-s-disclosures-abu>. Accessed July 2018)

3. Reporting of Allegations Against Staff Involving Children or Young People

If the concern identified in relation to a child or young person also involves an allegation against staff such as a suspected concern or complaint involving a Council staff member, volunteer or representative involving children or young people (under 18 years), further steps must be taken which sit outside this Guideline. A child protection allegation is where the child or young person's care, safety or protection may have been compromised as a result. Complaints and allegations against staff involving a child or young person will be handled in accordance with the relevant legislation, specifically the Children's Guardian Act 2019, which mandates an explicit approach to the handling and reporting of complaints about staff involving children and young people.

If an allegation against a member of staff is received or identified, please refer to Council's *Child Protection Allegations Against Staff flowchart* which can be found on the Child Protection intranet page. Steps will include contacting the Child Protection Triage Team via Skype or on 8757 9015 and completing a *Child Protection – Allegations against staff form* on TechOne in the Forms section.

If the allegation is considered reportable conduct, it must be reported to the Office of the Children's Guardian. Council's Internal Ombudsman Shared Service will facilitate this process and may investigate or engage an external investigator in accordance with relevant legislation.

Matters which relate to allegations against staff may also involve children at risk of significant harm. This Guideline must also be adhered to when managing allegations against staff where children and young people are involved. Consult the Child Protection Triage Team for further guidance around this dual process.

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4. Mandatory Reporter Guide (MRG)

If a child or young person is at imminent risk of harm or danger, act immediately by ringing 000 and request the required emergency service.

Examples of imminent risk of harm or danger include;

- Serious physical injury to a child or young person requiring medical attention;
- Serious neglect to a child or young person of an immediate nature;
- Domestic violence involving serious injury and/or use of a weapon;
- Sexual harm involving serious current concerns;
- A high-risk prenatal report where the birth is imminent;
- Immediate safety issues.

(Child Wellbeing & Child Protection NSW Interagency Guidelines, 2010. Available at http://www.community.nsw.gov.au/__data/assets/pdf_file/0009/336357/reporting_section.pdf. Accessed January 2019)

In all other cases, you must use the MRG to help determine when and what should be reported. Staff, volunteers and representatives who are not mandatory reporters, as well as members of the community, can also use the MRG and report the suspected risk of significant harm to the DCJ Child Protection Helpline. The MRG can be accessed here – [Mandatory Reporter Guide](#). If it is the first time you have completed an MRG, you may be required to register with ChildStory. Do this by creating an account using your work details including Cumberland email address. All Cumberland email addresses can be registered, and registration will additionally give you access to eReports.

The MRG will ask you to select a specific issue to lead you down that decision tree. It is important to choose the most significant area of concern when there are multiple forms of abuse and neglect. From there you will be asked a series of 'yes' and 'no' questions which you should only answer based on information you are aware of or were able to ascertain. There is information within the MRG to help guide your responses including what a 'yes' response means and what a 'no' response means for that question. For further information on completing the MRG, visit the MRG webpage: [MRG - What to report and when](#).

An MRG needs to be completed for each incident or occasion that you have child protection concerns. This means for example, completing an MRG today due to concerns of neglect and emotional abuse, if these concerns or others were to reappear/reoccur in a weeks' time, a new MRG is to be completed. Once you have completed the MRG, ensure that you click 'generate PDF'.

5. Start the Documentation Form.

Access TechOne and under the 'Forms' section on the home page find the *Child Protection - Incident, Disclosure and / or Suspicion of Risk of Significant Harm Form*. Start to complete the Form to capture all of the information you know and have gathered as well as the steps you have taken in response so far. It is useful to start this form prior to contacting the Child Protection Helpline, if you are required to do so, because the form features the majority of questions you will be asked by the Child Protection Helpline.

6. Take the Action of the MRG Final Decision.

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There are five possible final decisions that the MRG will generate. These include;

- Immediate report to the Child Protection Helpline
- Report to the Child Protection Helpline
- Consult with a Professional
- Consult with your Referral Network
- Document and Continue Relationship

If you receive an **Immediate Report to Community Services** final decision this indicates an immediate response is required. You should contact the Child Protection Helpline immediately, following the instructions on the screen.

If you receive a **Report to Community Services** final decision you should contact the Helpline promptly, and definitely before you leave work that day. Follow the direction on the screen in relation to contacting the Helpline.

If a report to the helpline is required, it is important to consider;

- Timing (ASAP, especially if 'immediate' is the outcome)
- Forms of reporting – phone or eReport. The DCJ Child Protection Helpline receives reports via either telephone on *132 111* or via eReporting
- Information you will need to report or what information would assist in the report

A **Consult with a Professional** decision means that the concerns are close to the threshold for risk of significant harm, and you should consider what more you could do to address the child wellbeing concerns. In this regard it is important to be proactive. Consult with a professional may mean;

- Talking with your supervisor or line manager about options for referral or other strategies to be helpful.
- Talking to other practitioners who know family members, in particular children and young people, to ensuring you have accurate information about the family and to explore whether there are other strategies that could support the child or young person.
- Talking to a practitioner with specialist knowledge about concerns relevant to the child or young person and their family, for example, school counsellor, youth liaison or social worker. Refer to section 8 – Information Exchange for more information.

The **Consult with your Referral Network** final decision indicates that there is no risk of significant harm, but the family may benefit from a referral to additional services and has shown a willingness to accept services.

A **Document and Continue Relationship** final decision indicates that concerns don't meet the threshold for reporting. If it is not part of your usual role to continue service provision to the child, young person or their family, you do not need to continue contact. If it is part of your role to continue the relationship, you have the opportunity to be aware of additional information

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about the family and any deterioration in the family's circumstances, and to use that information to review the MRG.

7. Consider Work, Health and Safety (WHS)

Council recognises its obligation to ensure that all WHS incidents are reported, recorded and investigated. Given the service we provide to the community, child protection incidents are considered as WHS incidents within Council.

Due to the sensitive nature surrounding child protection matters and following the relevant legislative reporting requirements, if the incident has the potential to affect a staff member's physical or psychological state, an incident must also be reported as per Council's WHS Incident Reporting Procedure - [Cumberland City Council WHS Incident Reporting Procedure](#). It is advised that when reporting this incident, you ensure the event is identified as 'sensitive'.

8. Documentation and Record Keeping

Next you are required to finalise and submit the *Child Protection - Incident, Disclosure and / or Suspicion of Risk of Significant Harm Form* within TechOne. This includes attaching the MRG Final Decision PDF, the eReport (if you completed one), and any other supporting documents.

Records must be factual and using the child or young person's own words in cases where a disclosure is made. All records of child protection concerns are to be treated as sensitive information and should only be shared with those that must have access to it.

Some child protection concerns will only be identified when a number of observations are made, and a pattern of cumulative harm is observed. Often ongoing observations with children and young people will be vital in identifying significant harm. This further supports the need for documenting all concerns over time if you have ongoing contact with the child, young person or family.

9 . Follow up

Regardless of the outcome of the MRG, you must continue to monitor and document any new or ongoing concerns that you become aware of. With each incident, disclosure and/or suspicion, a new concern needs to be managed. If you are aware that the family are also linked to another service, consider if exchanging information with that service will help support the family and reduce risk to the children or young people. See sections below. A mandatory reporter's responsibilities regarding the safety, welfare or wellbeing of children and young people do not cease once an MRG has been completed or a report is made to the Child Protection Helpline. It is the responsibility of all staff to use their professional resources and capabilities to provide support appropriate to their role and continue to respond to any new or ongoing concerns for the child or young person. Follow up is vital if you have ongoing contact with the child or young person that you have concerns about.

Exchanging information with a prescribed body:

1. Information Exchange of the Children and Young Persons (Care and Protection) Act 1998

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Use this procedure in conjunction with the following content:

[Cumberland City Council Exchanging Information with Other Organisations Procedure](#)

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* allows information to be exchanged between prescribed bodies despite other laws that prohibit or restrict the disclosure of personal information, such as the *Privacy and Personal Information Protection Act 1998*, the *Health Records and Information Privacy Act 2002* and the *Commonwealth Privacy Act 1988*. Services and organisations that can participate in exchanging information for the purpose of child protection are referred to as 'prescribed bodies'.

Chapter 16A allows organisations to share information relating to the safety, welfare or wellbeing of children or young people without consent and prioritises safety over privacy with the consideration made to the following conditions:

- Deem that exchanging information with another organisation will assist you to make a decision, assessment or plan, provide a service or manage a risk in relation to the safety, welfare or wellbeing of the child or young person.
- Ensure that you have completed an MRG and made a report to the Child Protection Helpline.
- Consult and seek approval from your supervisor or line manager to exchange information with another organisation, service or agency.

The four key principles to consider are:

- a. Organisations that have responsibilities for children or young people should be able to provide and receive information that promotes the safety, welfare or wellbeing of children or young people.
- b. Organisations should work collaboratively and respect each other's functions and expertise.
- c. Organisations should be able to communicate with each other to facilitate the provision of services to children and young people and their families.
- d. The needs and interests of children and young people, and of their families, in receiving services relating to the care and protection of children or young people takes precedence over the protection of confidentiality or of an individual's privacy.

(Department of Communities and Justice, exchanging information related to child protection and wellbeing. Available at <https://www.facs.nsw.gov.au/providers/children-families/interagency-guidelines/exchanging-information>. Accessed November 2018)

2. Sharing information under Chapter 16A

Information can legally be shared between prescribed bodies if it relates to the safety, welfare or well-being of a child or young person. This includes information about:

- A parent or other family member.
- A child or young person's history or circumstances.
- Any person/s having a significant relationship or contact, with the child or young person.

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- Other agencies working with the child or young person, including past support or service arrangements.

Information should be exchanged in written format as this ensures that everything is recorded, and no information is lost. Information should only be shared in consultation with your supervisor or line manager and once the identity of the individual requesting the information can be confirmed. For reference, DCJ have designed a template document for exercising the information exchange which can be found using the following link –

[DCJ Requesting Information Under Chapter 16A](#)

3. Information Storage

Ensure that all documents are saved on ECM to the child or young person's file or, in cases where the child or young person does not have a file, inform your manager or supervisor and contact Senior Coordinator Children and Youth Development to discuss appropriate storage location options. If the content is particularly sensitive, additional security options should be considered here.

Council's Child Protection Team, who oversee child safe measures across Council, may consider deidentified data derived from the *Child Protection - Incident, Disclosure and / or Suspicion of Risk of Significant Harm Form* submitted within TechOne. The data collection is only for the purpose of monitoring any potential trends that present themselves across Cumberland. The following data is collected;

- Team or Department responding to the child protection concerns
- Date of incident, disclosure or concern
- Suburb of incident, disclosure or concern
- Age of child or young person
- Description/nature of incident, disclosure or concern
- Action taken e.g. a helpline report or an assumption of care
- Status e.g. ongoing monitoring

Note the Child Protection Team will not receive or discuss identifying details such as the child's name.

4. Staff Affected by Child Protection Concerns

Dealing with incidents, disclosures and/or suspicions of children and young people at risk of significant harm can have a lasting impact. If you have been affected by child protection concerns, Council wants to reinforce the value of self-care strategies and the availability of Council's Employee Assistance Program (EAP). EAP is a free service to all employees and family members who may need assistance or advice with work and/or personal issues. The EAP service provides counselling that is confidential, professional, supportive and convenient via a phone service on 1300 687 327.

ROLES & RESPONSIBILITIES

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All Council Staff and Representatives - All Council staff and representatives engaged with Council have a responsibility to comply with the Child Protection Policy, Guidelines and Procedures.

Volunteers - All volunteers engaged with Council have a responsibility to comply with the Child Protection Policy, Guidelines and Procedures and report to their line manager or supervisor if any child protection concerns arise. Volunteers in child-related work are required to have an additional awareness of mandatory reporting.

Person identifying concerns - All Council staff, volunteers and contractors that identify any child protection concerns are to ensure that they respond, and report all concerns accordingly. This individual is responsible for documenting and maintaining a record using the prescribed tools and forms detailed in this Guideline. They must inform their supervisor or line manager of the concerns and planned actions as well as any outcomes or follow up.

Mandatory Reporters - All Council identified mandatory reporters under the *Children and Young Persons (Care and Protection) Act 1998* must respond to suspicions, allegations or disclosures of a child or young person at risk of significant harm. These individuals must comply with the Child Protection Policy, Guidelines and Procedures, particularly the *Mandatory Reporting Risk of Significant Harm Guidelines* and associated procedures. Mandatory reporters must document and maintain a record of child protection concerns using the prescribed tools and forms detailed in this Guideline. They must inform their supervisor or line manager of the concerns and planned actions as well as any outcomes or follow up.

Supervisor/Line Manager - The Supervisors/Managers are responsible for ensuring that the Child Protection Policy, Guidelines and Procedures are implemented in their area of responsibility. Matters are to be escalated to Manager or Director level if they become high risk, complex or contentious.

Child Protection Team - The Child Protection Team is responsible for ensuring that statistics are collected representing child protection concerns (non-allegation against staff) identified within Council and to monitor themes, patterns and/or trends. The Team is to ensure that Council's Child Protection Policy, Guidelines and Procedures adequately support and inform staff around child protection.

RELATED LEGISLATION

- *Advocate for Children and Young People Act 2014*
- *Child Protection (Offenders Prohibition Orders) Act 2004*
- *Child Protection (Offenders Registration) Act 2000*
- *Child Protection (Working with Children) Act 2012*
- *Child Protection (Working with Children) Regulation 2013*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015*
- *Children and Young Persons (Care and Protection) Regulation 2012*
- *Children's Guardian Act 2019*
- *Education and Care Services National Law Act 2010*
- *Education and Care Services National Regulations 2011*

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RELATED DOCUMENTS AND COUNCIL POLICY

- Cumberland City Council Access and Equity Policy (2019)
- Cumberland City Council Allegations against staff guidelines
- Cumberland City Council Child-Safe Organisation guidelines
- Cumberland City Council Code of Conduct (2019)
- Cumberland City Council Compliments and Complaints Management Policy (2020)
- Cumberland City Council Compliments and Complaints Management Guidelines (2020)
- Cumberland City Council Mandatory Reporting risk of significant harm guidelines
- Cumberland City Council Recruitment & Selection Policy (2020)
- Cumberland City Council Volunteer Policy (2019)
- Internal Ombudsman Shared Service Governance Charter
- Mandatory Reporter Guide (MRG) 2010
- NSW Child Safe Standards
- Office of the Children’s Guardian’s Principles for Child Safe Organisations (2017)
- Royal Commission into Institutional Responses to Child Sexual Abuse (2017)
- The ChildStory Reporter Community
- The United Nations Convention on the Rights of the Child (1990)

AUTHORISATION & VERSION CONTROL

Procedure Owner	<i>Children and Youth Development</i>
Date Adopted	2019
Version No / Date last Reviewed	<i>Version 3.0</i> July 2021
Document Set ID Number	9079696
Next Review Date	July 2023