



37 CHILD PROTECTION POLICY

Definitions in context of this Policy and Procedures:

“Child” – someone under the age of sixteen years.

“Child at risk”

A child at risk of harm is one whose

- Basic physical or psychological needs are not being met
- Necessary medical care has not been arranged
- The child has been, or is at risk of being, physically or sexually abused or ill-treated
- The child is living in environment of domestic violence and is at risk of serious physical or psychological harm
- Someone has behaved in such a way toward the child that the child has suffered or is at risk of suffering serious psychological harm.

“Child Related Employment”

Employment that primarily involves direct contact with children where that contact is not directly supervised and/or meets the specifications outlined in Section 1 of the Prohibited Employment Act 1998 (see attachment No. 4)

“Prohibited person” – someone who has been convicted of a serious sex offence as defined under the Child Protection (Prohibited Employment) Act, 1998.

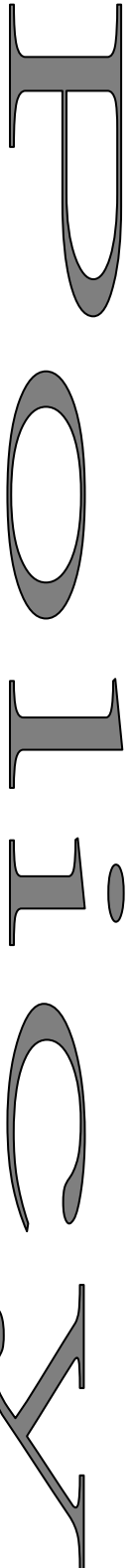
“Vexatious Complaints” – allegations of child abuse against staff members (by colleagues or members of the public) that are unfounded.

“Young Person” – someone over the age of sixteen years but under the age of eighteen.

“Child-related Services” – all areas of service which children are likely to access.

“Direct Supervision” - where a worker has contact with children in the presence of a staff supervisor.

“Unsupervised contact” – where an employee has contact with a child and/or children where no other staff member is present.





1. INTRODUCTION

The goal of the Berrigan Shire Council is to:

- Protect children and young people by providing a safe, caring and nurturing environment for children and young people using Council services.
- Comply with all obligations under the New South Wales Child Protection Legal Framework.
- The process being fair and just for all staff at all stages of the employment relationship.

The Community of the Berrigan Shire has a right to expect that when using any of the services of the Berrigan Shire Council that Council has made every reasonable attempt to provide a safe, caring and nurturing environment for their children and that these children will not be placed at risk of harm. Accordingly they will be protected from all forms of abuse, including sexual, physical, psychological abuse and neglect.

It also expects that the Council will take all possible precautions to ensure that persons employed in any capacity associated with the care of children have undergone appropriate probity checks and are not Prohibited Persons as described in the *Child Protection (Prohibited Employment) Act, 1998*.

Section 3 of the *Children and Young Person (Care and Protection) Act 1998* defines a Child, for the purposes of the Act, to mean a person who is under 16 years of age and a Young Person as a person aged less than 18 years of age.

2. SCOPE

- All Council employees, casuals, management committees, volunteers, work experience students undertaking vocational related training.
- Council buildings and facilities used by children and young persons.
- Council employed contractors working in known child related services.
- Refer to individual sections of the procedure for more details.

3. RELEVANT LEGISLATION

3.1 The Children and Young Persons (Care and Protection) Act 1998. This Act addresses a wide range of issues designed to ensure institutional services, responsible for the delivery of services to protect children, provide an environment which is not only free of violence and abuse but fosters an approach that recognises health, developmental needs, self-respect and dignity. For the local government councils the important issues from this legislation are:

- The reporting of a child or young person at risk of harm; and



- Change to mandatory reporting requirements. Council staff employed in childcare services are covered by the mandatory reporting requirements.

3.2 Commission for Children and Young People Act 1998

In order to coordinate the effort to protect children, the government has established a Commission with this responsibility. This Act sets out the role and responsibilities as well as the guiding principles to govern the work of the Commission. For local government councils, two major issues are employment screening and notification to the Commission of certain types of disciplinary proceedings involving staff.

This statute provides for the functions of this Commission – namely to provide for employment screening for child-related employment.

3.3 Child Protection (Prohibited Employment) Act 1998

This statute introduces employment screening for certain categories of persons who are involved in child related employment. Failure to comply with screening or to make a false disclosure is an offence. The statute also makes it an offence to employ a prohibited person and also for a prohibited person to remain in child-related employment.

3.4 Ombudsman Amendment (Child Protection and Community) 1998

Under the statute the Ombudsman has wide powers to review systems and internal investigations. This statute deals with notification to the Ombudsman of allegations of complaints of child abuse, and investigation of such complaints.

Council staff are potentially affected by this statute.

Other relevant legislation includes: The Crimes Act 1900; Freedom of Information Act 1989; Protected Disclosures Act 1994; and the Privacy and Personal Information Protection Act 1998.

4. RELATED BERRIGAN SHIRE COUNCIL POLICIES

- Code of Conduct for Councillors, Staff and Delegates
- Equal Employment Opportunity Policy
- Grievance Policy included in Salary Policy
- Privacy Management Plan

5. TARGET GROUPS

The target groups are children, young people and Council staff. The Council promotes a combined and co-ordinated approach between agencies having responsibility for the safety, welfare and well being of the target groups.

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Irrelevant aspects of culture, age, disability, language, religion and sexuality will not impinge on the decision making process.

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6. EVALUATION/REVIEW

The Council's Director of Corporate Services will be responsible for the annual review of this Policy and its associated Procedures. Specific legislative changes will be effected within 30 days of notification where possible.

7. ROLES AND RESPONSIBILITIES OF THE BERRIGAN SHIRE

The General Manager is responsible for ensuring appropriate Policies, procedures and staff training are implemented and monitored.

7.1 Children and Young Persons (Care and Protection) Act 1998

Staff who have direct contact with and who are trained to assess the welfare of children must assess children at risk of harm and are then obliged to report to the Department of Community Services under the mandatory reporting requirements.

7.2 Commission for Children and Young People Act 1998

Managers responsible for child-related positions must follow employment screening and probity procedures with regard to employment of new staff and advise the Commission with regard to disciplinary proceedings and rejection of employment.

Director Corporate Services is to provide advice and support.

7.3 Child Protection (Prohibited Employment) Act 1998

Managers must nominate positions that have direct supervision/contact with children.

Staff must declare their status when requested.

Managers must implement redeployment or termination procedures, if required.

7.4 Ombudsman amendment (Child Protection and Community Services) Act 1998

Director Corporate Services must receive, investigate and report to the Ombudsman any complaints against staff with regard to children.

Director Corporate Services will ensure staff are provided with training and development for staff in recognition and reporting of suspected risk of harm from child abuse and neglect.

Director Corporate Services will be prepared for managing vexatious complaints against staff.

Director Corporate Services will conduct employment screenings.

Director Corporate Services to provide advice and support.



8. AS INTERAGENCY PARTNERS

- Working with other agencies within agreed, coordinated procedures, to plan and provide services for the care and protection of children and to strengthen and support the family.
- Responding to requests for assistance from the Department of Community Services.
- Exchanging relevant information to progress investigations, assessments and case management as permitted by law.

9. DOCUMENTATION

Where required, there will be a separate confidential file created that is kept in a secure location which will be the responsibility of the Director of Corporate Services.

10. RIGHTS OF PARTIES

When an allegation is made it will be dealt with as follows:

- In a confidential manner
- Fairly, without bias or delay
- Outline the rights of each party

11. WELFARE NEEDS OF ALL PARTIES

During any investigation, the Council will offer support to all parties involved throughout the whole process.

12. PREVENTION AND EDUCATION

12.1 Prevention

Council will take a preventative approach to ensure that all appropriate staff understand the policy and procedures and are aware of their responsibilities.

12.2 Council Awareness

The Council will actively promote a safe, caring and nurturing environment for children and young people, in partnership with relevant government and community agencies.

12.3 Work Experience Students

Secondary school students who are undertaking work experience in a child related area at Council will not be left unsupervised with children and young persons at any time.

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Tertiary students undertaking work experience in a child related area at Council as part of their vocational education will not be left unsupervised with children and young persons where possible.

All vocational students working in a child related area of Council must complete the Prohibited Employment Declaration prior to the commencement of the work experience period.

All students undertaking official work experience at Council will receive information about the Council's Child Protection Policy as part of their induction to the Council on their first day.

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12.4 Volunteers

People undertaking volunteer activities on behalf of the Council, including those involved in section 355 committees will not be left unsupervised with children and young persons at any time, where possible.

If in particular circumstances it is deemed necessary for the volunteer to be left unsupervised with children and young persons, the supervisor must gain approval from the Manager and the volunteer will be required to sign a Prohibited Employment Declaration prior to the commencement of their volunteer work.

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12.5 Special Guests

Special guests of the Council will not be left unsupervised with children or young people at any time.

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12.6 Tenderers/Contractors/Lessees

Organisations providing contracted services for the Council in a child related area where contact with children and young persons may be unsupervised, must demonstrate they comply with the New South Wales Child Protection framework as it relates to their services.

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12.7 Council staff and/or volunteers should refuse admission to Council facilities to anyone who in their opinion fits a high risk category or is acting suspiciously.

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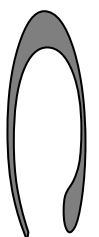
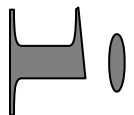
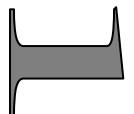
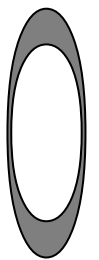
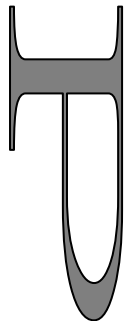


ADMINISTRATIVE PROCEDURES FOR GAINING A DECLARATION FOR EXISTING STAFF FOR COMPLYING WITH THE COMMISSION FOR CHILDREN AND YOUNG PEOPLE ACT 1998 AND CHILD PROTECTION (PROHIBITED EMPLOYMENT) ACT 1998

Under the Acts, steps for gaining a declaration from existing staff:

1. Advise Consultative Committee and receive endorsement of the process and timeline.
2. Advise the General Manager and receive endorsement of the process and timeline.
3. A brief with a Professional Councillor.
4. The Corporate Support Officer will process the declarations when they are returned by designated staff.
5. The Corporate Support Officer will advise all staff in the designated child related employment positions of the legislation and the requirement for a disclosure within a specified timeframe. This would be at an information session conducted by the Child Protection Working Party. The Counsellor will be present. A list of organisations and contact names that staff could contact for further information will be provided as well as the Councillor's contact details. The three month transitional arrangement from the 1st July will also be explained.
6. Provide a memo to each staff member in designated child related employment positions explaining the process, implications and the declaration asking that the declaration be signed and returned within one month.
7. Staff who are on leave will receive further advice that unless the declaration is signed they cannot return to paid duty.
8. Staff who declare they are not prohibited will continue in their role and the declaration will be placed on the confidential file kept in a secure location.
9. For any staff member who declares they are prohibited, the declaration will be placed on the confidential file kept in a secure location.
10. Under the Acts, any staff member who does not return the declaration within one month period will be advised that they are no longer able to remain in child related employment. They will be given the option of taking any accrued leave until the declaration is received. At the end of any accrued leave they will be terminated with the Award provisions of relevant notice and any remaining leave entitlements.
11. The Director and Corporate Support Officer will interview a declared prohibited person. A risk assessment will be undertaken as per the employment screening procedures.

Discussion with the employee will include the ramifications of a redeployment arrangement into a non child related position or termination.





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If the risk to children of continuing employment in Council is considered too great, a recommendation to the General Manager will be to terminate their employment with the Award provisions of relevant notice and leave entitlements. This would not be a redundancy situation, as the position is still required by the Council. The risk assessment may include advice from relevant external agencies including the Commission for Children and Young People, the Ombudsman and confidential legal advice.

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If the risk to children is considered to be at a low level, a recommendation to the General Manager may attempt redeployment if a suitable position in a non child related position is available. A skill assessment will be undertaken by the Council's Corporate Support Officer. If a suitable position can be found within one month the person will be redeployed to the new position and trained in the new position. If a suitable position is not available within one month, the person will be terminated with the Award provisions of relevant notice and any leave entitlements.

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12. Should any person declare they are a prohibited person the Council is to ensure that this person does not have unsupervised contact with children.

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A suitable redeployment arrangement may be provide during that period or the person may be stood down from duty on full pay for that period. Before the end of the three month transitional period, the options and process outlined in Point 12 apply.

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13. Employees to be advised that if they are a prohibited person they can apply to the Industrial Relations Commission or the Administrative Decisions Tribunal for an exemption in order to remain in child related employment. An application can be made to stay the operation of the Act while the IRC or ADT considers the application. During this stay the person cannot work unsupervised with children. They cannot be exempt from making a declaration.

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14. If an employee resigns without completing the declaration, a note explaining this will be put on their Personal file.
15. It is an offence for a person to fail to disclose within one month of receiving notice.
16. It is an offence to make a false disclosure.
17. Council must notify the Commission for Children and Young People of the name and identifying particulars of any employee against whom relevant disciplinary proceeding have been completed by the Council.



where there are completed disciplinary proceedings the employee will have access to documents relating to those proceedings as a result of their entitlements under the current Freedom of Information legislation.

18. Employees must notify the General Manager if at some future stage they are charged or convicted and become a “prohibited person”. This is to be a written notification.

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CHILD PROTECTION (PROHIBITED EMPLOYMENT) ACT, 1998

DECLARATION AS TO STATUS

It is an offence to apply for child related employment if you are a "prohibited person".

Under the Child Protection (Prohibited Employment) Act 1998. Persons making this declaration are advised to carefully read the definition of "prohibited person" on the bottom of this form and seek advice if in doubt as to their status.

I understand that it is an offence for me to seek or remain in child related employment if I have been convicted of a "serious sex offence" within the meaning of the Child Protection (Prohibited Employment) Act, 1998 (other than where there is an order in force declaring that the Act is not to apply to me in respect of the offence.).

I hereby declare **that I am not a person** prohibited by the Act from seeking, or remaining in child related employment.

Full Name

Signature

Date

Or

I hereby declare **that I am a person** prohibited by the Act from seeking, or remaining in child related employment.

Full Name

Signature

Date

Extract from Child Protection (Prohibited Employment) Act 1998

Section 5

1. For the purpose of this Act a prohibited person means a person convicted of a serious sex offence, whether before or after the commencement of this subsection.
2. For the purposes of this Act, a person is not a prohibited person in respect of an offence if an order in force under section 9 declares that this Act is not to apply to the person in respect of the offence.
3. In this section a serious sex offence means (subsections (4) and (5):
 - (a) An offence involving sexual activity or acts of indecency that was committed in NSW and that was punishable by penal servitude or imprisonment for 12 months or more, or
 - (b) An offence, involving sexual activity or acts of indecency, that was committed elsewhere and that would have been an offence



- punishable by penal servitude or imprisonment for twelve months or more if it had been committed in NSW, or
- (c) An offence under section 91D-91G of the Crimes Act 1900 (other than if committed by a child prostitute) or a similar offence under a law other than a law of NSW, or
 - (d) An offence under section 578B or 578 (2A) of the Crimes Act 1900 or a similar offence referred to in the preceding paragraphs, or
 - (e) Any other offence, whether under the law of NSW or elsewhere, prescribed by the regulations.
4. An offence that was a serious sex offence at the time of its commission is not a serious sex offence for the purposes of this Act if the conduct constituting the offence has ceased to be an offence in NSW.
 5. An offence involving sexual activity or an act of indecency is not a serious sex offence for the purposes of this Act if the conduct constituting the offence:
 - (a) occurred in a public place, and
 - (b) would not have constituted an offence in NSW if the place were not a public place.

RECEIVING REQUESTS FOR PROBITY INFORMATION FROM OTHER EMPLOYERS

The relevant manager of Council is to answer the questions from the employer in the first instance, then they will refer the employer to Council's Corporate Support Officer to provide any further information which may be available on Council's confidential Child Protection files.

FOR FURTHER INFORMATION AND CLARIFICATION REFER TO NSW 2000 DRAFT INTERAGENCY GUIDELINES FOR CHILD PROTECTION INTERVENTION

This draft document was compiled with information from the following references:

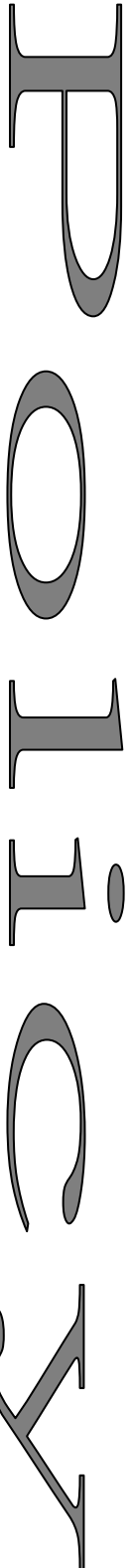
DOCS – Proposed CHILDREN AND YOUNG PERSONS CARE AND PROTECTION REGULATION 2000

NSW 2000 DRAFT INTERAGENCY GUIDELINES FOR CHILD PROTECTION INTERVENTION

NSW DEPARTMENT HEALTH – PROCEDURES FOR FRONT LINE HEALTH PROFESSIONALS

ALBURY CITY COUNCIL DRAFT POLICY

NSW COMMISSION FOR CHILDREN AND YOUNG PEOPLE





POSITIONS WITH BERRIGAN SHIRE COUNCIL IDENTIFIED AS CHILD RELATED EMPLOYMENT INVOLVING DIRECT CONTACT WITH CHILDREN WHERE THAT CONTACT IS NOT DIRECTLY SUPERVISED

The relevant questions are:

Is this a child related industry?

If yes, is there involvement or contact with children in carrying out the tasks or duties?

If yes, is the involvement or contact of a direct nature?

If yes, is there direct supervision of the person during the time of the direct contact with the children?

If no, then the position is covered by this Policy

The employment can include employees, casuals, volunteers, student placements for people who are undertaking a vocational course and contractors. Although in the case of contractors, the working party is considering that the procedure may be that Council asks the contractors as part of the tender process to specify how they will comply with the child protection legal framework.

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**BERRIGAN SHIRE COUNCIL ACTION PLAN FOR IMPLEMENTATION OF
THE CHILD PROTECTION POLICY**

ISSUE TO ADDRESS	ACTION REQUIRED	PERSON RESPONSIBLE PERSONS/S APPOINTED	DATE OF COMMENCEMENT	DUE
Organisation and implementation of Action Plan	Appoint Designated Officer/s	Early Intervention Officer	December	Dec
	Appoint Child Protection Working Party	Early Intervention Officer, Corporate Support Officer, Director Corporate Services, Library Manager, Payroll Officer	November	Nov
	Draft Action Plan and Present Action Plan to Council	Early Intervention Officer		
Screening of Staff	Implementation of screening procedure	Corporate Support Officer	December	Jan
	Screening of relevant existing employees			
	Screening of newly appointed staff prior to employment	Corporate Support Officer	Ongoing	
Staff Education	Education of relevant staff	Early Intervention Officer and working party	January	June
	Intensive education of relevant staff		Ongoing	
	Education of new staff	Corporate Support Officer	Ongoing	
Distribution of Policy	To all staff	Corporate Support Officer	December	Jan
	To all contractors, volunteers, lessees			
Policy accountability	Review and update as required bi-annually	Corporate Support Officer and Early Intervention Officer	Bi-annually	
Clarification of roles of Councillors	Accountable for own actions and ensuring policy is adopted	Councillors	Ongoing	
General Management	That policy is complied with	Director Corporate Services		
Investigations and supervision of Policy	Ensure all investigations are carried out	General Manager	Ongoing	

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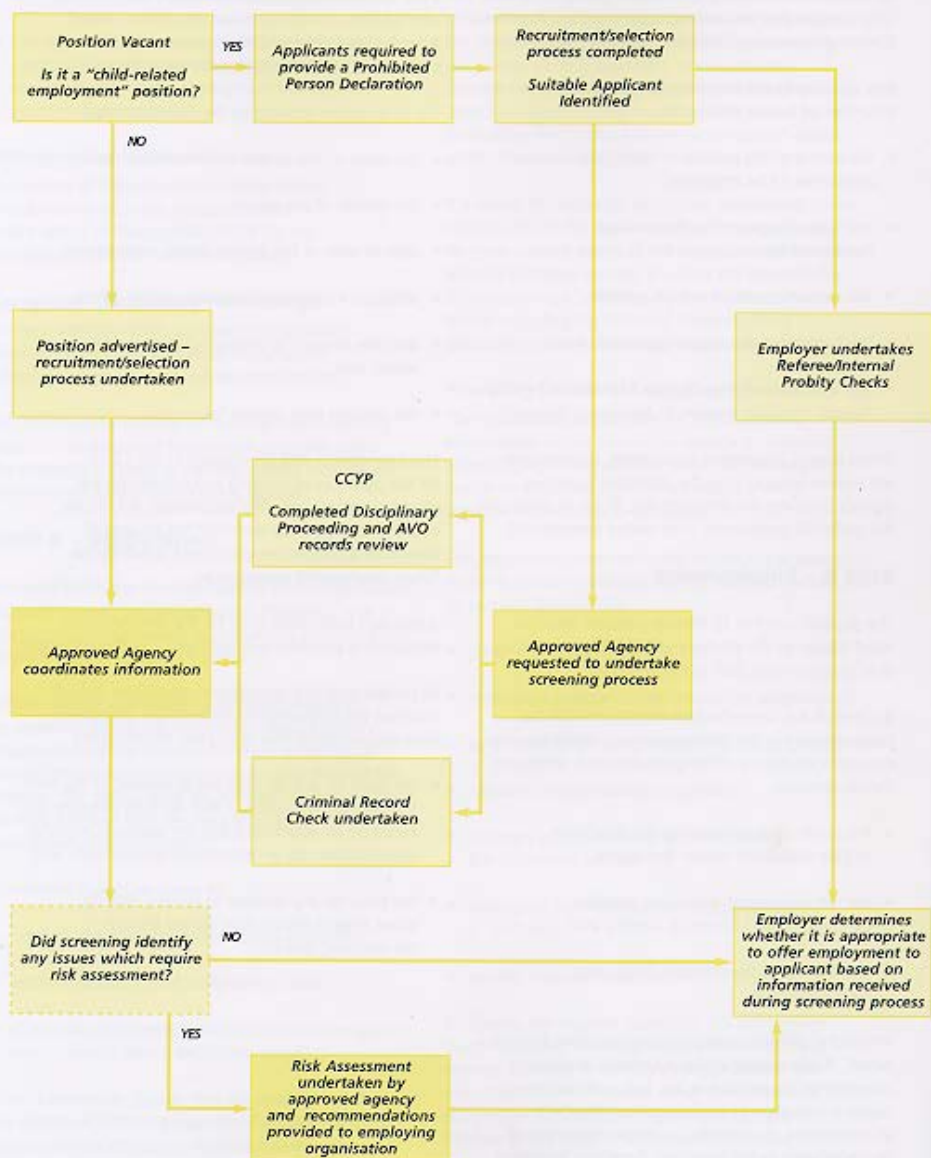
	promptly and professionally without prejudice			
	Obligations To Ombudsman Amended Act are carried out			
	That policy is complied with			
Adhering to Policy	Accountable for own actions and those of their workgroup. Notify any allegations to General Manager. Comply with Policy and education sessions	Managers and all employees	Ongoing	
Rights of all parties employees and families using shire services and any staff investigated	To be educated and updated. To be treated without fear or favour, with confidentiality and support to staff, child or children, and the families involved	General manager supervisors, Councillors, working party, Early Intervention Officer	ongoing	

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THE WORKING WITH CHILDREN CHECK FLOW CHART



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FORM FOR NOTIFICATION OF SUSPECTED CHILD ABUSE OR NEGLECT

Confidential

Name of child.....Date of Birth

Home Address

Home Phon No.

Parent's/Carer's Surname Mother Father

Notification made to the Department of Community Services or to the Police Station at..... (place, date and time) to.....

..... (full name and position)

Notification date: / / 200..

Grounds for concern (including alleged perpetrator/s)

.....
.....
.....
.....

Aboriginal() Torres Strait Islander () NESB () Deaf/Mute () Language

Do you consider the child's safety or wellbeing is at immediate risk? Why?

.....
Where is the child at the time of notification?

.....
Other relevant information including any known previous notifications and action – is an interpreter required and if so, in which language/or sign language.

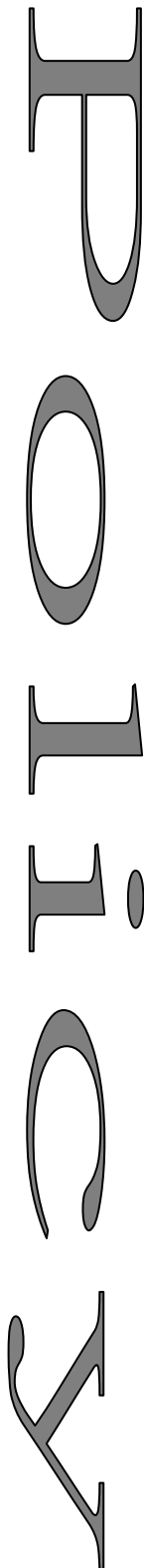
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Notifying Shire Manager's Name/delegated Officer

Signature

Name of notifying Shire Department..... Contact Person

Phone

School or Preschool attended by child.....





Phone Fax.....

Hours when child is available (if known)

Name and Position Signature and Date.....

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Response To A Written Authorised Request For Information On The Safety And Well Being Of A Child Or Young Person Who Is The Subject Of A Child Protection Notification (From DCS Or Police Department)

Confidential

Name of child or young person DOB

Child's Address

Relevant Information

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Is there a worker/service approved for future contact in relation to this matter?

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If Yes, name of Berrigan Shire worker/service

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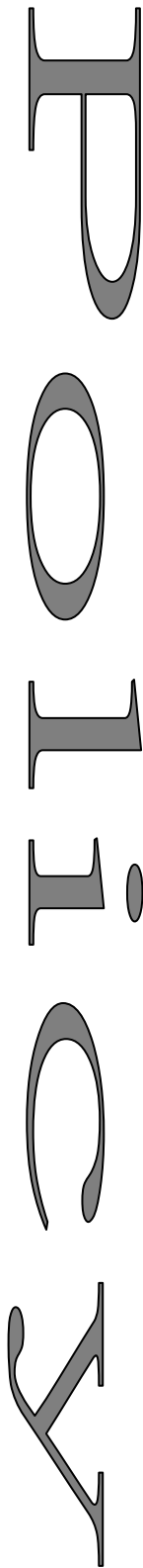
.....

Position Contact No. & Fax.....

Name of Shire Service Manager completing this form

Signature of Shire worker/Service manager

Date





POLICYS



If Shire is registering a report document who the report was registered with on the Notification Form of Suspected Abuse

TELEPHONE CONTACT LIST

DEPARTMENT OF COMMUNITY SERVICES (DOCS)

Business Hours:

After hours

Name

Name

Title

Title

Tel No.

Fax

Tel No

Fax

NSW HEALTH STAFF FOR CHILD SEXUAL ASSAULT

Business Hours:

After hours

Name

Name

Title

Title

Tel No.

Fax

Tel No

Fax

NSW POLICE SERVICE

Business Hours:

After hours

Name

Name

Title

Title

Tel No.

Fax

Tel No

Fax

NSW HEALTH STAFF CONTACT FOR PHYSICAL & EMOTIONAL ABUSE & NEGLECT OF CHILDREN

Business Hours:

After hours

Name

Name

Title

Title

Tel No.

Fax

Tel No

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Business Hours:

After hours

Name

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SEEKING ASSISTANCE

If you suspect a child may be involved in some form of abuse which appears to involve one or more children or young persons, don't attempt to explore the circumstances; report the matter immediately.

Where you are concerned about risk of harm to a child or young person and suspect that a work colleague may be involved, after reporting it to the Department of Community Services, report it to the senior management of the Shire and follow Shire procedures.

A child or young person with a disability has the same needs as any other child or young person for care and protection. However, some may be more vulnerable because of mobility constraints, dependence on others for personal care or physical care or communication and limitations in their ability to stop abuse or communicating what had happened. Workers should be alert to these circumstances when considering whether to make a report. Assist children, main stream children and those with a disability, by offering appropriate support. Workers can play an important role in advocating for the main stream child and children with a disability.

Developmental disability does not necessarily impede parenting.

LISTENING AND CLARIFYING

Be prepared to listen and to assist a child or young person when he or she tells you about an event or behaviours that indicate risk of harm. Offer support to the child and be honest about your responsibility for taking action to protect them and what is likely to happen.

The person reporting should seek to provide clear information but should not draw conclusions or engage others in discussion, for example, by asking probing questions, accusing parents or discussing the circumstances of the report with them.

Where appropriate, the family should be informed about the decision to report and the reason for making a report to the Department of Community Services. Openly communicating your concerns to the family may increase their willingness to accept services offered to protect the child or young person. In the case of a young person, the decision to make a report should be discussed with them. In cases of suspected sexual abuse, it is inappropriate to discuss with the family the nature of your concerns, particularly if it is suspected that a member of the household may be involved in the abuse. If other colleagues have also been involved with the child or young person, consult them and agree on what information will be shared with the family.



A guide to Indicators of Abuse and Neglect can be found on page 59 of the NSW 2000 Draft Interagency Guidelines for Child Protection Intervention booklet.

(adopted by Council 17/1/01)

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