

Policy 1.8	<h2 style="margin: 0;">Child Protection and Reportable Incidents Policy</h2>
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**Policy Statement:**

ODEEP has a duty of care to children and takes all reasonable steps to keep children safe from harm and provide a safe environment. ODEEP has a zero tolerance policy to child abuse, harm and neglect. It is everyone's responsibility (staff, managing directors, volunteers and contractors and families), to ensure a child safe environment, taking every concern and allegation seriously, in line with the principles of procedural fairness and believe children when they raise a concern or make an allegation.

ODEEP staff, managing directors, volunteers and contractors have a responsibility to report any concerns where there are children at significant risk of harm.

ODEEP is committed to the safety of children with a disability and to the cultural safety of children from a CALD background and respects different cultural traditions and child rearing practices while keeping them safe.

**Responsibilities and delegations**

This policy applies to	ODEEP staff, Board, volunteers, contractors and families.
Specific responsibilities	This policy is developed by the CEO and reviewed by ODEEP staff and Board. It is communicated and implemented by the CEO and staff.
Policy approval	ODEEP CEO.

**Policy context – this policy relates to:**

Standards	NDIS Practice Standards and Quality Indicators 2018 Child Safety Standards
Legislation	NDIS Act 2013 NDIS Incident Management and Reportable Incidents Rules 2018 Family Law Act 1975 (Cth) Children and Young People Act 2008 (ACT) Ombudsman Act 1989 (ACT) Children and Young Persons (Care and Protection) Act 1998 (NSW) Child Protection (Working with Children) Act 2012 Crimes Act 1900 (NSW) Ombudsman Act 1974 (NSW) Children Legislation Amendment (Reportable Conduct) Act 2017 Keep Them Safe: <a href="http://www.keepthemsafe.nsw.gov.au">www.keepthemsafe.nsw.gov.au</a> Education and Care Services National Law Act 2010
Organisation policies	2 HR 1 Recruitment, Selection and Appointment of Staff 2 HR 2 Staff Support and Supervision

	2 HR 4 Staff Induction 2.4 Complaints and Feedback 2 WHS 1 Work Health and Safety 2 RM 3 Risk Management – Child Safe
Forms, record keeping, other documents	ODEEP Staff Code of Conduct ODEEP Staff Code of Behaviour ECIA Code of Conduct NDIS Code of Conduct WWCC Check documentation – Office of Children’s Guardian National Police Check documentation – NSW Police Website NDIS Worker Screening and risk assessment documentation Fact Sheet: Information for Reporting Bodies – Reporting certain misconduct involving children – Office of Children’s Guardian Child Protection Information Record Child Protection Information – Echidna CRMS Staff Job Descriptions and Appraisal document Office of the Children’s Guardian Compliance and Enforcement policy NDIS reportable incidents documentation Echidna CRMS

## Definitions

**Child:** A person under the age of 18 (unless otherwise specified in relevant legislation).

**Child abuse:** “All forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power<sup>1</sup>”

**Child protection:** Any measure taken to safeguard children from abuse or harm.

**Grooming:** Any act with the aim of befriending, building rapport, and gaining the trust of a child for the purpose of subjecting them to abuse. Signs of grooming include giving gifts or special attention, or inappropriate touching such as tickling or wrestling with a child.

**Online grooming:** Establishing a relationship with a child or young person online with the aim of meeting him/her in person for sexual activity. This can include online chat or sexting, and the abuser may lie about their age or identity.

**At Risk of Significant Harm: ‘At risk of significant harm’** - in relation to a child or young person means that there are current concerns for their safety, welfare or wellbeing because of the presence to a **significant extent** of any of the following circumstances (Any such circumstances may relate to a single act or omission or to series of acts or omissions):

- The child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met.
- The parents or other care givers have not arranged and are unable or unwilling to arrange for the child or young person to receive medical care.
- In the case of a child or young person who is required to attend school in accordance with the *Education Act 1990* – the parents or other care givers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Act.

<sup>1</sup> World Health Organization (2016), *Child abuse and neglect by parents and other caregivers*.

- The child or young person has been or is at risk of being physically or sexually abused or ill-treated.
- 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.
- 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; or
- The child was the subject of a pre-natal report under section 25 of the *Children and Young Persons Care and Protection Act 1998* and the birth mother of the child did not engage successfully with the support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report.

**Reasonable grounds for belief:** *“A belief based on reasonable grounds (see below) that child abuse has occurred when all known considerations or facts relevant to the formation of a belief are taken into account and these are objectively assessed. Circumstances or considerations may include the source of the allegation and how it was communicated, the nature of and details of the allegation, and whether there are any other related matters known regarding the alleged perpetrator.*

*A reasonable belief is formed if a reasonable person believes that:*

- the child is in need of protection,*
- the child has suffered or is likely to suffer “significant harm as a result of physical injury,” or*
- the parents are unable or unwilling to protect the child.*

*A ‘reasonable belief’ or a ‘belief on reasonable grounds’ is not the same as having proof, but is more than mere rumour or speculation.*

*A ‘reasonable belief’ is formed if a reasonable person in the same position would have formed the belief on the same grounds<sup>2</sup>.”*

**Sexual abuse:** Occurs when an adult or another child or young person uses power and authority to involve a child in sexual activity, and can be physical, verbal or emotional.

## Procedures

### Roles and responsibilities of governing body, staff and volunteers

All members of the governing body, management, staff, and volunteers must sign and act in accordance with the ODEEP Code of Conduct as part of their induction into the organisation, to commit to keeping children safe within the organisation and act in their best interests at all times.

### Governing body

The Board of Management has the ultimate responsibility for policies and procedures to ensuring that all staff and volunteers abide by these to prevent and respond to child abuse. They must also be aware of their legal liability for failure to disclose abuse or failure to reasonably protect based on known risks.

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<sup>2</sup> Our Community (2018) *Child Protection Policy*

<https://www.communitydirectors.com.au/files/policybank/ChildProtectionPolicy2018-02.doc>

## **Management**

ODEEP Management should be aware of all mandatory and voluntary reporting obligations which apply in the jurisdiction in which ODEEP operates and ensure that all staff and volunteers are made aware of the obligations that apply to them. ODEEP Management is also responsible for being aware of and managing any risks to children, and to facilitate internal and/or external reporting by any members of staff/volunteers.

## **Staff, Volunteers**

Staff and volunteers have a responsibility to act in accordance with the Code of Conduct, and be aware of and comply with their obligations relating to reporting concerns, allegations and incidents of child abuse, including internal and external reporting.

## **Staff Recruitment, Supervision and Training**

### **Advertising a position**

When advertising a position that is child-related, ODEEP outlines the requirements to undergo police, reference and Working with Children Checks during the recruitment process. If the staff member is working with children and families in the provision of NDIS services the advertisement will include a NDIS Worker Screening Check.

### **Worker screening**

The CEO will:

- Ensure that all staff members, Board of Directors, contractors and volunteers at ODEEP have a current *Working With Children and NDIS Worker Screening Check* prior to commencing employment/volunteer work.
- Orientate every working adult to this child protection policy, *Keep Them Safe* protocols and Mandatory Reporter responsibilities and ensuring their regular review of these.
- Ensure that ODEEP staff members complete the online child protection training provided by Department of Education and Training, annually.

### **Staff training and development**

During staff and volunteer induction processes a copy of the Child Protection Policy, ECIA and NDIS Code of Conduct and the Complaints and Feedback Policy is provided and induction staff, ODEEP CEO or ODEEP Practice Manager guides the staff member or volunteer through the application of these policies and procedures.

Continuous development and training around child safety occurs on a regular basis, this training includes staff mandatory and voluntary reporting and duty of care obligations, how to identify and minimise risks of child abuse, organisational policies and procedures relating to child safety, how to protect children with disability from abuse, promoting the cultural safety of Aboriginal and Torres Strait Islander children and CALD children, etc.

## **Reporting, handling and investigating child abuse concerns, complaints and allegations**

ODEEP staff members will:

- Develop trusting relationships with their key worker families.
- Make reports of current concerns for any child at risk of significant harm to the *Child Protection Helpline* for Mandatory Reporters; and

- Make appropriate responses to all disclosures of abuse and any allegation of abuse against staff members of the service.
- Provide each participant with information about the use of an advocate (including an independent advocate) and access to an advocate is facilitated where allegations of violence, abuse, neglect, exploitation or discrimination have been made.
- Undertake a reportable incident in conjunction with the ODEEP CEO/Practice Manager, as outlined in the incident management policy and procedure, to the NDIS commission.

### Documentation of current concerns

The CEO or Practice Manager will support staff members through the process of documenting and reporting current concerns of children at risk of significant harm.

Staff members will:

- Make a record of the indicators observed which have led to the belief that there is a current risk of harm to a child or young person, in the family file. Information on indicators of risk of harm are outlined in the *NSW Mandatory Reporters Guide* which is accessible at [www.keepthemsafe.nsw.gov.au/reporting\\_concerns/mandatory\\_reporterguide](http://www.keepthemsafe.nsw.gov.au/reporting_concerns/mandatory_reporterguide).
- Discuss the observations with the CEO or Practice Manager and use the Mandatory Reporter Guide to determine whether or not the child is at “significant risk of harm”.

### Mandatory reporting

The CEO will:

- Make available to all staff members working directly with children a copy of this *Child Protection Policy* and a copy of the *Mandatory Reporters Guide* to assist them in their reporting.
- Provide all staff members, working directly with children, with access to the *Child Wellbeing and Child Protection NSW Interagency Guidelines*; and
- Display the **Child Protection Helpline number (132 111)** on all phone lists of emergency contact numbers in the interests of timely reporting.

Staff members will:

1. In an emergency, where there are urgent concerns for a child's health or life, it is important to contact the police, using the emergency line '000'.
2. Using the **Mandatory Reporter Guide** ([www.keepthemsafe.nsw.gov.au](http://www.keepthemsafe.nsw.gov.au)) answer the questions relating to concerns about a child or young person. At the end of the process, a decision report will guide as to what action to take - report to the Helpline, consult with a professional or contact the Wellbeing unit. As a NGO, ODEEP does not have a wellbeing unit and may refer to the **Family Referral Service (Uniting Care Burnside 1300 339 016)** for further assistance. The Odeep manager or Practice Manager is available if staff require assistance to use this online tool.
3. If the Mandatory Reporter Guide determines that there are grounds to suspect a risk of significant harm to a child or young person, the staff member will phone the **Family and Community Services Helpline on 132 111** and a copy of the Mandatory Reporters Guide results will be placed in the family file and saved onto the Echidna CRMS.
4. Mandatory reporters should note that the legislation requires that they continue to respond to the needs of the child or young person (within the terms of their work role) even after a report to the **Child Protection Helpline** has been made.
5. If the Mandatory Reporter Guide determines that the staff member's concerns do not meet the risk of significant harm threshold s/he does not need to make report to the **Family and Community Services Helpline**, however, s/he should discuss the matter with the ODEEP

CEO or Practice Manager to determine future support options for the family to keep the children safe. ODEEP staff members will collaborate with other agencies to find the supports the family requires and will contact the **Family Referral Service (Uniting Care Burnside 1300 339 016)** for case management or for information about other supports as required.

6. The staff member should monitor the situation and if s/he believes there is additional information that could be taken into account, please repeat steps **1 to 5** as required.
7. The Family Referral Service works to support the family either directly, or through the case management at ODEEP so that the concerns do not escalate to the point of reporting. If the family is referred to the Family Referral Service it is best practice to let the family know about that service and the ODEEP referral to the service to assist the family.
8. ODEEP staff members will respond to requests for information from other service providers about ODEEP families and children regarding their safety, well being and protection. The conversation will be documented in the family file under the “other” tab.

**A Support Line for Mandatory Reporters is available 8am to 5pm Monday to Friday on 1800 772 479.**

### **Disclosures of abuse**

Staff members will:

- React calmly to child or carer making the disclosure.
- Listen attentively and later write down the exact words used.
  - Provide comfort to the individual.
  - Follow the steps for reporting as per the Mandatory Reporters Guide.
- Reassure the child or young person that:
  - It is not their fault.
  - It was right to tell.
  - It is not OK for adults to harm children – no matter what.
  - Explain what will happen now – that it is part of your job to tell people who can help the child or young person.

Staff members will not:

- Prompt the child for further details or ask leading questions which would make the child feel uncomfortable or has the potential to jeopardise any future legal proceedings that may arise as a result of any investigation.

**It is important to understand that our role is solely to support the wellbeing of the child at all times, not to investigate further any disclosure made by the child.**

### **Allegations of abuse against ODEEP staff members, contractors, volunteers or students**

The CEO will:

- Take all allegations of abuse seriously and clarify what is being alleged with the person who is making the allegation.
- In the case of an allegation of sexual misconduct the CEO or Practice Manager will immediately notify the police.
- Assess whether or not the child or young person is ‘at risk of significant harm’ and, if so, make a report to the **Child and Protection Helpline**.
- Determine whether or not the allegation is a reportable allegation, a reportable conviction, or reportable conduct. For determination, reference will be made to: [www.ombo.nsw.gov.au/publication/PDF/guidelines/Child%20Protection%20in%20the%20workplace.pdf](http://www.ombo.nsw.gov.au/publication/PDF/guidelines/Child%20Protection%20in%20the%20workplace.pdf).

- Report reportable allegations and reportable convictions to the Ombudsman within **30 days of receipt**.
- Consider whether or not the police need to be informed of the allegation and if so, make a report.
- Ensure confidentiality is maintained at all times and that systems are in place to deal with any breaches of confidentiality.
- Undertake a risk management approach after an allegation to ensure that the protection and safety of children, staff members, contractors and volunteers. Based on this risk assessment, decisions will be made in order to manage the risks that have been identified.
- Develop an investigational plan of the matter. Obtain relevant information from a range of sources. This may include a statement from the person against whom the allegation had been made and any other relevant documentation.
- If the allegation is being investigated by Family and Community Services or the Police, the service will be guided by their advice as to whether they should independently investigate the allegation.
- If the investigation is carried out by the service, the information that has been gathered will be assessed and a finding made as to whether the allegation is false, vexatious, misconceived, not reportable conduct, not sustained or sustained. The reasons for the finding will be clearly recorded to ensure that the decision making has been transparent.
- The staff member/contractor/volunteer or student will be advised of the outcome of the investigation in writing. Advice will be provided about the investigation finding and any follow up that may be required. Advice will also be provided about any rights of appeal and the person will be advised that the NSW Ombudsman has been notified and the Commission of Children and Young Persons also notified of any relevant employment proceeding.
- **Part B** of the *Ombudsman Notification Form* will be completed and sent to the Child Protection Division, NSW Ombudsman with all the supporting documentation gathered during the investigation.
- Family and Community Services will also be informed of the outcome of the investigation.
- Consider if the incident or allegation is reportable as per the Incident Management policy and procedure and is reportable to the NDIS Commission.

### **Informing the Staff member, contractor, volunteer or student**

The CEO or Practice Manager will:

- Treat the staff member/contractor/volunteer or student with fairness at all times and uphold their employee rights at all times.
- Depending on the nature of the allegation, arrange to inform the person immediately (though be guided by the advice of FaCS or the Police).
- Arrange for the person against whom the allegation has been made, to have a support person attend the meeting. This support person must not participate in the discussions throughout the meeting.
- Make accurate documentation of all conversations, and ensure that all records are being kept confidentially.
- Offer counselling or support to the person subject to the allegation.
- Depending on the nature of the allegation made, the person subject to the allegation may be suspended pending further investigation.
- After all investigations are completed, provide the staff member/contractor/volunteer/student with verbal and written notification of the outcome of the investigation.

### **Rights of all parties**

- The decision making process throughout the investigation will be based on the safety and wellbeing of the child/ren and staff/carers/carer's household members.
- Consideration will be taken in relation to actual or potential 'conflicts of interest' that may be held by the investigator.
- All reportable allegations will be notified to the Ombudsman. The person, against whom the allegation is made, will be notified of this and will also be notified of the investigation find and follow up action, including the notification to the Commission of Children and Young Persons, if relevant.
- The person, against whom the allegation has been made, will be notified of any appeal mechanisms if they are not satisfied with the investigation process or the outcome of the investigation.
- The Licensee, Authorised Supervisor, Manager or other nominated person who conducts the investigation, will ensure that they act without bias, without delay and without conflict of interest; and
- All parties can complain to the Ombudsman if they are not satisfied with the conduct of the investigation.

### **Further information on the Ombudsman can be obtained by:**

**Phoning: (02) 9286 1000**

**Or toll free (outside Sydney Metro): 1800 451 524**

**Emailing: [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)**

**Web: [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)**

### **Confidentiality**

- ODEEP will handle any allegation of child abuse in a confidential manner.(Refer to Privacy Policy).

### **Procedures for review of this policy**

This policy will be reviewed and updated if necessary annually by the ODEEP CEO. The policy will also be reviewed after any reportable incident, to ensure that it is up-to-date with current best practice in preventing and responding to child abuse incidents and allegations.

This policy will be communicated via regular information sessions with staff and volunteers, and be available on the staff intranet. All children and their families can access the policy, and the Code of Conduct on commencement of service, and after it is updated on the ODEEP Website or in person by contacting the ODEEP CEO.

### **Other resources available:**

- NSW Government Department of Human Services, Community Services, Resources for Mandatory Reporters, accessed from: [www.community.nsw.gov.au/preventing\\_child\\_abuse\\_and\\_neglect/resources\\_for\\_mandatory\\_reporters.html](http://www.community.nsw.gov.au/preventing_child_abuse_and_neglect/resources_for_mandatory_reporters.html).
- NSW Government, Department of Premier and Cabinet, Child Wellbeing & Child Protection: NSW Interagency Guidelines, accessed from: [www.keepthemsafe.nsw.gov.au](http://www.keepthemsafe.nsw.gov.au).
- NSW Government, 2009, Department of Premier and Cabinet, Child Wellbeing & Child Protection: NSW Interagency Guidelines: Mandatory Reporter Guide, accessed from: [www.sdm.community.nsw.gov.au/mrg/app/summary.page](http://www.sdm.community.nsw.gov.au/mrg/app/summary.page).



All policies are reviewed on a continual basis as gaps and need arises or otherwise on an annual basis.

<b>Record of policy development</b>		
<b>Version</b>	<b>Date approved</b>	<b>Date for review</b>
Version 3	17 March 2021	March 2022
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