

14 September 2020

At the conclusion of the Environment Committee

Cultural and Community Committee

Agenda

1. **Disclosures of Interest**

Cultural and Creative Sub-Committee

2. **Ad Hoc Grants and Sponsorship - Festivals and Events - Eora NAIDOC**

Healthy Communities Sub-Committee

3. **Draft Child Safety Policy**

Disclaimer, Terms and Guidelines for Speakers at Council Committees

As part of our democratic process, the City invites members of the community to speak directly to Councillors during Committee meetings about items on the agenda.

Webcast

In accordance with the *City of Sydney Code of Meeting Practice*, Committee meetings are recorded and webcast live on the City of Sydney website at www.cityofsydney.nsw.gov.au.

Members of the public attending a council or committee meeting may have their image, voice and personal information (including name and address) recorded, publicly broadcast and archived for up to 12 months.

Consent

By attending a council or committee meeting, members of the public consent to this use of their image, voice and personal information.

Disclaimer

Statements made by individuals at a council or committee meeting, and which may be contained in a live stream or recording of the meeting are those of the individuals making them, and not of the City. To be clear, unless set out in a resolution of council, the City does not endorse or support such statements.

The City does not accept any liability for statements made or actions taken by individuals during a Council or Committee meeting that may be contrary to law, including discriminatory, defamatory or offensive comments. Such statements or actions are not protected by privilege and may be the subject of legal proceedings and potential liability, for which the City takes no responsibility.

Guidelines

To enable the Committee to hear a wide range of views and concerns within the limited time available, we encourage people interested in speaking at Committee to:

1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am on the day of the meeting.
2. Check the recommendation in the Committee report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker (with a warning bell at two minutes) and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the Committee may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

Committee meetings can continue until very late, particularly when there is a long agenda and a large number of speakers. This impacts on speakers who have to wait until very late, as well as City staff and Councillors who are required to remain focused and alert until very late. At the start of each Committee meeting, the Committee Chair may reorder agenda items so that those items with speakers can be dealt with first.

Committee reports are available at www.cityofsydney.nsw.gov.au

Item 1.

Disclosures of Interest

Pursuant to the provisions of the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Councillors are required to disclose pecuniary interests in any matter on the agenda for this meeting.

Councillors are also required to disclose any non-pecuniary interests in any matter on the agenda for this meeting.

This will include receipt of reportable political donations over the previous four years.

In both cases, the nature of the interest must be disclosed.

Item 2.

Ad Hoc Grants and Sponsorship - Festivals and Events - Eora NAIDOC

File No: X024575

Summary

The City of Sydney's Grants and Sponsorship Program supports initiatives and projects that build the social, cultural, environmental and economic life of the city. To achieve the objectives of Sustainable Sydney 2030 requires genuine partnership between government, business and the community.

The provision of grants and sponsorships is a mechanism to further the aims identified in the City's social, economic and environmental policies. Applications are assessed against these policies and against broad City objectives and plans. In this way, the City and the community act collaboratively to bring to life Sustainable Sydney 2030 and the City of Villages it envisions.

A multi-year application for \$30,000 (excluding GST) per year for 2020, 2021 and 2022, has been received out of round under the Festivals and Events (Village and Community) program from the Eora NAIDOC Community Group under the auspices of the Sydney University Settlement also known as the Settlement Neighbourhood Centre. The Eora NAIDOC community group comprises individual community members and representatives from numerous inner city Indigenous and non-Indigenous organisations including Metropolitan Local Aboriginal Land Council, Mudgin-Gal Aboriginal Women's Centre, Kinchela Boys Home Aboriginal Corporation, Warringa Baiya Aboriginal Women's Legal Centre, The Settlement Neighbourhood Centre, Sydney Local Health District, Counterpoint Community Services, Inner Sydney Voice, Financial Rights Legal Centre, Camperdown Headspace and TAFE NSW.

The Eora NAIDOC Community Group previously received City sponsorship of \$20,000 (excluding GST) for the inaugural event in July 2019. Following a successful first year, the group see the need to continue in delivering a free, collaborative and community-led festival for Aboriginal and non-Aboriginal community to engage in NAIDOC Week celebrations in Redfern. The event will showcase Aboriginal arts and culture as well as promoting Aboriginal and non-Aboriginal led organisations, businesses and services relevant to the local community.

The City currently sponsors two community run NAIDOC Week events in Woolloomooloo and Glebe through the Festivals and Events (Village and Community) program. The City also holds its own NAIDOC Week celebrations in Hyde Park each year, 'NAIDOC in the City'.

This report recommends multi-year cash sponsorship of \$30,000 (excluding GST) each year for 2020, 2021 and 2022 through the Festivals and Events Sponsorship (Village and Community) program for the Eora Inner City NAIDOC Event due to be held on Sunday 8 November 2020. Due to the Covid-19 pandemic, this year's NAIDOC Week has been rescheduled by the National NAIDOC Committee to take place from 8 to 15 November 2020.

Recommendation

It is resolved that:

- (A) Council approve a cash sponsorship of \$30,000 (excluding GST) per year for 2020, 2021 and 2022 to the Eora NAIDOC Community Group under the auspices of Sydney University Settlement for the Eora Inner City NAIDOC Event; and
- (B) authority be delegated to the Chief Executive Officer to negotiate, execute and administer a sponsorship agreement with Sydney University Settlement in respect of the sponsorship referred to in (A) above.

Attachments

Nil.

Background

1. In 2019, the Eora NAIDOC Community Group requested assistance from the City of Sydney to host the inaugural Eora Inner City NAIDOC Family Fun Day. The City sponsored this event for \$20,000 (excluding GST) which took place on Friday 12 July 2019. This event went ahead in Redfern Park and attracted over 2000 people throughout the day.
2. This application is for \$30,000 (excluding GST) each year for 2020, 20221 and 2022. The increase in funds being sought reflect a clearer budget following delivery of the first event in 2019. The City's sponsorship will support paid coordination of the event, survey and evaluation, promotion, artists and performers, and production costs.
3. The aim of the Eora Inner City NAIDOC Event is to acknowledge the legacy of NAIDOC Week's origins, and to honour the leadership and courage of Elders past, present and emerging. This will include promoting understanding, compassion and empathy for the social, cultural, economic, political and environmental status of Aboriginal and Torres Strait Islander peoples. The group is highly collaborative with like-minded Aboriginal and non-Aboriginal organisations raising the profile of local Aboriginal community needs and to further the self-determination of Aboriginal and Torres Strait Islander people.
4. The event will feature cultural performances, information stalls, sporting activities and food. The event will feature dedicated spaces for Elders, jarjums (children) for art & craft and storytelling, and youth space featuring art and sport activities. The event will also be preceded by a flag-raising ceremony in the morning at the Redfern Aboriginal Medical Service after which attendees will march down George Street to Redfern Park.
5. The event will take place at Redfern Park which is an accessible site for the whole community. This location is also chosen for its historic significance to Aboriginal and Torres Strait Islander peoples as noted in its 2018 listing on the NSW heritage register.
6. Due to current restrictions on public gatherings, the organisers are developing their Covid safety plan for the proposed event to align with the changing rulings from NSW Government for any Covid-19 related restrictions.
7. The organisers will also be required to review the project plans four weeks prior to the event with the City of Sydney to ensure it complies with the current rulings of the NSW Government. This review will include potential options for alternate plans such as pivoting to online or indoor event/s, or a combination of online, indoor and outdoor events.

Key Implications

Strategic Alignment - Sustainable Sydney 2030

8. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This grant is aligned with the following strategic directions and objectives:
 - (a) Direction 6 - Vibrant Local Communities and Economies - ensuring all communities have opportunities to participate.

Risks

9. Due to current restrictions on public gatherings, the organisers have a Covid safety plan for the proposed event and includes contingencies for Covid-19 related restrictions.

Social / Cultural / Community

10. This proposal supports the self-determination and aspirations of the local Aboriginal and Torres Strait Islander community in the acknowledgement and celebration of NAIDOC Week.

Financial Implications

11. This report recommends a total sponsorship amount of \$90,000 (excluding GST) cash. There are sufficient funds allocated within the current Grants and Sponsorship Budget and provisions will be made available for future years as follows:
 - (a) 2020/21 - \$30,000
 - (b) 2021/22 - \$30,000
 - (c) 2022/23 - \$30,000.

Relevant Legislation

12. Section 356 of the Local Government Act 1993 provides that a council may, in accordance with a resolution of the council, contribute money or otherwise grant financial assistance to persons for the purpose of exercising its functions.

Critical Dates / Time Frames

13. Subject to Council approval, the Eora Inner City NAIDOC event for this first year is currently scheduled to take place on 8 November 2020. The remaining events will be held during NAIDOC Week in 2021 and 2022.
14. Given the evolving nature of the Covid-19 pandemic, the proposed timeframes for this event may alter as all parties seek to ensure a safe and successful event.

KIM WOODBURY

Chief Operating Officer

Preston Peachey, Community Engagement Coordinator

Item 3.

Draft Child Safety Policy

File No: X027508.012

Summary

The City's Child Protection Policy has been in place since 2014. The Policy outlines the City's obligations under child protection legislation and provides guidance for City employees. The City has also implemented a range of systems and processes to monitor compliance with legislation, as well as a robust training program for all City employees.

Following the release of the Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse in December 2017, the Australian and NSW Governments have introduced significant reforms through new or modified regulatory and legislative requirements that have broad implications for the City. Key reforms include:

- changes to the definition of employee in a range of child safety and protection legislation to include councillors, volunteers and some contractors;
- new criminal penalties and civil liabilities applicable to City employees and the City as an organisation;
- strengthened reporting requirements under the Reportable Conduct Scheme;
- requirement for councils to participate in the National Redress Scheme; and
- the forthcoming introduction of mandatory Child Safe Standards for councils in NSW.

The reforms are designed to make organisations more accountable for child safety and drive cultural change within organisations so that child safety is embedded within organisational leadership and governance.

The draft Child Safety Policy as shown in Attachment A has been updated in light of these reforms. The Policy has been elevated from a Corporate Policy to a Council Policy in recognition that the Lord Mayor and Councillors have new responsibilities as City employees under the Draft Child Safety Policy.

This report seeks Council's approval of the Draft Child Safety Policy (2020), noting that the 2018 Policy approved by the City's Executive will be rescinded and replaced with the 2020 Policy adopted by Council.

Recommendation

It is resolved that:

- (A) Council approve the Draft Child Safety Policy as shown at Attachment A to the subject report;
- (B) Council note that the 2018 Child Protection Policy as shown at Attachment B adopted by the Executive will be rescinded and replaced with the 2020 Policy adopted by Council;
- (C) Council note the obligations of Councillors, as "City Employees", to:
 - (a) conduct themselves appropriately around children while performing duties of their role; and
 - (b) report known or suspected instances of child abuse; and
 - (c) report inappropriate behaviour by any City employee; and
- (D) the Lord Mayor note that under the National Redress Scheme the Lord Mayor may be requested to provide a direct personal response if this is requested by a survivor.

Attachments

Attachment A. Draft Child Safety Policy 2020

Attachment B. Child Protection Policy (Corporate) 2018

Background

1. The City's Child Protection Policy has been in place since 2014. Applicable to all City employees, the policy outlines the City's obligations in regard to child safety.
2. Through its recruitment systems, the City has established effective employee screening practices and record keeping systems to manage the verification and monitoring of Working With Children Check clearances, and to ensure relevant City employees have completed training requirements associated with their role.
3. The Audit Risk and Compliance Committee has undertaken several audits of child protection practices at the City, to assess compliance with current City policies and procedures and inform continuous improvement.

Reform following the Royal Commission into Institutional Responses to Child Sexual Abuse

4. The Final Report of the Royal Commission into Institutional Responses to Child Sexual Abuse was released in December 2017. In response the Australian and NSW Governments have introduced significant reforms through new or modified regulatory and legislative requirements that have broad implications for the City. Key reforms include:
 - (a) revised definitions of "employee" to include Councillors, volunteers and contractors in some pieces of child protection legislation;
 - (b) new criminal and civil liabilities for organisations who fail to take appropriate measures to prevent and report child abuse. These include:
 - (i) failure to report offence: All adults in NSW are now required to report information to police if they know, believe or reasonably ought to know that a child has been abused. Failing to report information to police without a reasonable excuse will be an offence punishable by up to two years imprisonment. The penalty will be five years if the person has accepted any benefit in exchange for failing to report;
 - (ii) failure to protect offence: City employees will commit an offence if they know another adult working at the City poses a serious risk of abusing a child under 18 years of age, they have the power or responsibility to reduce or remove the risk, and they fail to do so. The offence will be punishable by up to two years' imprisonment;
 - (iii) executive liability offence: The Children's Guardian Act 2019 makes the Chief Executive Officer liable for the failure of the City to have systems and processes, policies and procedures, and codes of conduct in place to prevent, detect and respond to abuse of children and young people. There are a range of financial penalties applicable depending on the nature of the failure; and
 - (iv) the Civil Liability Amendment (Organisational Child Abuse Liability) Act 2018 extends the concept of vicarious liability so that the City will now be vicariously liable for child abuse perpetrated by an employee (including volunteers, Councillors, and some contractors) if the City placed the employee in a role that provided the occasion for the abuse. The City may be found financially liable for abuse of children by City employees.

- (c) broadening of the Reportable Conduct Scheme and stronger requirements on organisations related to how they notify and investigate allegations;
 - (d) requirement of NSW councils to participate in the National Redress Scheme; and
 - (e) the forthcoming introduction of mandatory NSW Child Safe Standards which, over time, all NSW councils (as well as numerous other organisations) will need to demonstrate they meet.
5. The reforms are designed to make organisations more accountable for child safety and drive cultural change within organisations so that child safety is embedded within organisational leadership and governance.
 6. The draft Child Safety Policy, as shown in Attachment A, meets current compliance requirements and will enable the City to manage risks associated with new criminal and civil penalties outlined in paragraphs 4 (a) to (d).

Implications for the Lord Mayor and Councillors

7. For the purposes of the draft Child Safety Policy, Councillors are defined as City employees in line with changes to the definition of employee in the Civil Liability Amendment (Organisational Child Abuse Liability) Act 2018.
8. As "City Employees", the Lord Mayor and Councillors have obligations to;
 - (a) conduct themselves appropriately around children while performing duties of their role;
 - (b) report known or suspected instances of child abuse; and
 - (c) report inappropriate behaviour by any City employee (including the Lord Mayor and other Councillors).

Participating institution in the National Redress Scheme

9. The Australian Government introduced the National Redress Scheme for Institutional Child Sexual Abuse Act 2018, in response to recommendations from the Royal Commission. The scheme will run for 10 years from 2018 to 2027. The scheme seeks to acknowledge the life-long impact of institutional child sexual abuse by providing eligible survivors with a redress payment of up to \$150,000, access to counselling and a direct personal response from the responsible participating institution.
10. The NSW Government has included all local councils as participating institutions and will cover the costs of the redress payments and counselling.
11. Advice from Local Government NSW and the Office of Local Government is that the Lord Mayor, on behalf of the Council, may be asked to participate in a face-to-face meeting or write a letter of apology as part of the redress process.
12. Should a survivor seek redress in relation to relevant City services, and where a direct personal response is requested, the Chief Executive Officer will, in consultation with the Lord Mayor determine the appropriate representative to offer the direct personal response.

Becoming a child safe organisation

13. The aim of the standards is to ensure organisations work towards creating a culture of child safety within their organisation. The NSW Child Safe Standards are;
 - (a) Child safety is embedded in institutional leadership, governance and culture;
 - (b) Children participate in decisions affecting them and are taken seriously;
 - (c) Families and communities are informed and involved;
 - (d) Equity is upheld, and diverse needs are taken in to account;
 - (e) People working with children are suitable and supported;
 - (f) Processes to respond to complaints of child sexual abuse are child focused;
 - (g) Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training;
 - (h) Physical and online environments minimise the opportunity for abuse to occur;
 - (i) Implementation of the Child Safe Standards is continuously reviewed and improved; and
 - (j) Policies and procedures document how the institution is child safe.
14. The NSW Office of the Children's Guardian has indicated that the NSW Child Safe Standards will become mandatory for local government in NSW. They expect it will take up to 10 years for the approximately 30,000 organisations who will be impacted by these changes to become fully compliant. The compliance and regulatory framework was expected to be released in mid-2020 but has not yet been confirmed.
15. The City is in a strong position to work towards meeting these standards. A comprehensive self-assessment of the City's practice against the NSW Child Safe Standards will be conducted in the coming months, and the City's Child Safety Policy reviewed again.
16. The City will develop a public facing Child Safe City strategy or framework that communicates to the community how the City meets the Child Safe Standards, and what further actions we will take to strengthen our approach to child safety. It is proposed that the City engage with children and families when the strategy or framework is drafted to seek their input on the City's approach.

Key Implications

Strategic Alignment - Sustainable Sydney 2030

17. Sustainable Sydney 2030 is a vision for the sustainable development of the City to 2030 and beyond. It includes 10 strategic directions to guide the future of the City, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic directions and objectives:
 - (a) Direction 6 - Vibrant Local Communities and Economies - The City of Sydney Child Safety Policy outlines how the City meets its commitment and obligations to prevent abuse and ensure the safety, welfare and well-being of the children and young people for whom the City provides a service, and with whom the organisation has contact.
 - (b) Direction 10 - Implementation through Effective Governance and Partnerships - The NSW Child Safe Standards require that the City ensure Child Safety is embedded in corporate leadership, governance and culture.

Organisational Impact

18. Meeting the NSW Child Safe Standards will require a whole of organisation commitment. A Child Safety Program Control Group has been established. The group comprises senior staff across numerous areas including corporate functions such as Corporate Human Resources, Risk and Governance, Legal Services and Procurement and the Grants and Sponsorship unit, and program and service delivery areas in City Life and City Greening and Leisure.
19. The Child Safe Program Control Group will oversee a program of work to implement the NSW Child Safe Standards, monitor compliance with training requirements and currency of working with children checks held by relevant employees, and foster a culture of continuous improvement for the City's child safety practices within the organisation.

Risks

20. Failure to ensure an ongoing commitment to child safety presents an organisational risk for the City, given the new criminal and civil liabilities and penalties outlined in paragraph 4. Approval of the Draft Child Safety Policy, and subsequent implementation will allow the City to manage these risks.

Social / Cultural / Community

21. The City of Sydney recognises the importance of the wellbeing of all children and young people, and the significant lifelong impact abuse can have on children and young people. Children and young people are an important part of our society and it is essential that children and young people are safe while taking part in community life. The Draft Child Safety Policy outlines the City's commitment and obligation to ensure the safety of children with whom the City has contact.

Financial Implications

22. Implementation of the Draft Child Safety Policy will be managed within existing staff resources and operating budget.
23. Any additional costs associated with the implementation of the NSW Child Safe Standards will be subject to the annual operational budget process, and Council approval.

Relevant Legislation

24. Child Protection (Working with Children) Act 2012
25. Child Protection (Working with Children) Regulation 2013
26. Children and Young Persons (Care and Protection) Act 1998
27. Children's Guardian Act 2019
28. Civil Liability Amendment (Organisational Child Abuse Liability) Act 2018
29. Crimes Act 1900
30. Local Government Act 1993
31. National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth)
32. NSW Children (Education and Care Services National Law Application) Act 2010
33. Privacy and Personal Information Protection Act 1998
34. State Records Act 1998

EMMA RIGNEY

Director City Life

Anna Rigg, Manager Social Policy

Attachment A

Draft Child Safety Policy 2020

Child Safety Policy

Purpose

The City of Sydney (the City) recognises the importance of the wellbeing of all children and young people, and the significant lifelong impact abuse can have on children and young people. Children and young people are an important part of our society and it is essential that children are safe while taking part in community life.

The City of Sydney Child Safety Policy (Policy) and Child Safety Procedures outline how the City meets its commitment and obligations to prevent abuse and ensure the safety, welfare and well-being of the children and young people for whom the City provides a service, and with whom the organisation has contact.

Scope

This Policy applies to all full-time, part-time, casual, temporary and fixed term City employees (and includes agency staff, students on placement, volunteers, and councillors).

The Policy also applies to the management of contracted services providers (see Definitions) and grant and sponsorship recipients delivering services involving child-related work, either on behalf of or in conjunction with the City.

Contents

| | |
|---|----|
| Definitions | 3 |
| Policy Statement | 6 |
| Operational Procedures | 6 |
| Recruitment, Employee Conduct and training | 7 |
| Child safety risk management plans | 8 |
| Reporting and responding to child safety concerns | 8 |
| Confidentiality and records management | 9 |
| Grants and contracts involving Child-Related Work | 9 |
| National Redress Scheme | 9 |
| Responsibilities | 9 |
| Consultation | 10 |
| References | 10 |
| Review period | 11 |
| Approval Status | 11 |
| Approval History | 11 |
| Ownership and approval | 12 |

Definitions

| Term | Meaning |
|------------------------------------|--|
| Agency Staff | Temporary staff engaged by the City through a labour hire agency. For the purpose of this policy agency staff are considered City employees. |
| Allegation | Includes an allegation which involves behaviour that is reportable conduct, as well as behaviour that is exempt from notification to the NSW Office of the Children’s Guardian, but which is required to be investigated by the City. |
| Child/ Children | A child is a person aged 0-16 years. |
| Child- Related Work | <p>Work which involves direct contact by the worker with a child or children where that contact is a usual part of and more than incidental to the work. It also includes work that is likely to involve contact with a child in connection with at least one of the 20 legislated categories of child-related work, which include:</p> <ul style="list-style-type: none"> • education and care and child minding services • clubs or other bodies providing programs and services for children • entertainment for children – includes sporting, cultural or other entertainment venues used primarily by children and entertainment services for children • transport services for children - including school bus services, taxi services for children with a disability and supervision of school road crossings <p>It may also include a worker who has access to confidential records or information about children.</p> |
| City Employee | <p>Any person engaged in work for the City of Sydney in any of the following capacities:</p> <ul style="list-style-type: none"> • full-time, part-time, casual, temporary and fixed term employees • agency staff • volunteers • students on placement, and • for the purposes of this policy, Councillors. |
| Contracted Service Provider | An organisation or entity contracted to provide goods, services or programs involving child-related work on behalf of or in conjunction with the City, where that entity has been engaged as a result of informal and formal procurement processes such as Request for Quotations (RFQs), Tenders, Expressions of Interest (EOIs), and one-off or standing purchase orders. |
| Direct Contact | Means physical or face-to-face contact and contact on-line. |

| Term | Meaning |
|---|---|
| Hiring Manager | A City employee who plans, assesses and appoints candidates to vacant positions in line with the City Recruitment and Selection Policy. |
| Ill-treatment of a Child | <p>Means conduct towards a child that is unreasonable and seriously inappropriate, improper, inhumane or cruel.</p> <p>Ill-treatment includes:</p> <ol style="list-style-type: none"> 1. making excessive or degrading demands of a child 2. a pattern of hostile or degrading comments or behaviour towards a child 3. using inappropriate forms of behaviour management towards a child |
| Investigation (of Reportable Allegations or Conduct) | <p>The process in which the City of Sydney:</p> <ul style="list-style-type: none"> • gathers all relevant facts • manages risks to children, employees and the organisation during an investigation • makes an assessment as to whether an allegation is reportable under the Reportable Conduct Scheme • notifies the Children’s Guardian of the Reportable Allegation or conduct • makes a finding of Reportable Conduct including whether an allegation is sustained or not, and • provides information to assist any relevant employment proceedings. |
| Reportable Allegation | <p>A reportable allegation in relation to an employee of the City, means:</p> <ol style="list-style-type: none"> a. if the employee holds, or is required to hold, a Working With Children Check clearance for the purpose of employment with the public authority—an allegation that the employee has engaged in conduct that may be Reportable Conduct, whether or not the conduct is alleged to have occurred in the course of the employee’s employment, or b. if the employee is not required to hold a working with children check clearance for the purpose of employment with the public authority—an allegation that the employee has engaged in conduct that may be Reportable Conduct, unless the conduct is alleged to have occurred outside the course of the employee’s employment with the public authority. |
| Reportable Conduct | <p>Reportable Conduct means the following conduct, whether or not a criminal proceeding in relation to the conduct has been commenced or concluded:</p> <ol style="list-style-type: none"> a. a sexual offence, b. sexual misconduct, c. Ill-treatment of a child, d. Neglect of a child, |

| Term | Meaning |
|------------------------------|--|
| | <p>e. an assault against a child, f. failure to reduce or remove the risk of a child becoming a victim of abuse or concealing child abuse, g. behaviour that causes significant emotional or psychological harm to a child.</p> <p>Examples of indicators of significant emotional or psychological harm in respect of paragraph (g) include :</p> <ol style="list-style-type: none"> 1. displaying behaviour patterns that are out of character, 2. regressive behaviour, 3. anxiety or self-harm. |
| Students on Placement | Any person undertaking practical training as part of an educational or vocational course (other than as a high-school student undertaking work experience). |
| Survivor | A person who has suffered sexual abuse that is within the scope of the National Redress Scheme. |
| Young Person / People | A person who is aged 16 years or above but who is under the age of 18 years. |

Policy Statement

The City of Sydney caters for the needs of children and young people by providing parks and playgrounds, recreation facilities, early education and care services, outside school hours care services, libraries, cycle paths and skate facilities.

The City also provides a diverse array of services which may be used by children and young people including community programs and facilities, delivering community events, contracting services through external operators, and providing funding to support community organisations through its grants and sponsorship programs.

The City is committed to:

1. Upholding the United Nations Convention on the Rights of the Child (1990)
2. Building a culture of child safety within its organisation and communities by embedding the NSW Child Safe Standards into practice over time
3. Meeting its responsibilities to ensure the safety and welfare of children, and taking reasonable measures to prevent abuse of children under its care in line with child safety and protection legislation, including:
 - Ensuring that City employees working with children are suitable and supported through fit for purpose recruitment and selection processes
 - appropriate Working With Children Checks are in place and verified
 - the provision of a regular program of child safety training and inductions that ensure all City employees are aware of their legal responsibilities and are confident in reporting known, suspected or alleged child abuse, misconduct or inappropriate behaviour
 - Actively promoting safety and working towards reducing all environmental and situational risk factors that lead to risk of children and young people being harmed, by ensuring appropriate child safety risk management plans and systems are in place
 - Actively promoting safety and working towards reducing all environmental and situational risk factors that lead to risk of children and young people being harmed.
4. Timely reporting and investigation of concerns of possible abuse, harm or neglect of a child by appropriately independent and skilled investigators
5. Storing and maintaining records in line with relevant child safety and protection legislation, and
6. Participating in the National Redress Scheme.

Operational Procedures

This Policy should be read in conjunction with the following operational procedures:

- Child Safety Procedure - Recruitment, Employee Conduct, and Training
 - Appendix A: Child Safe Code of Conduct - Employees
 - Appendix B: Child Safety - Training and Induction Program
- Child Safety Procedure - Reporting child safety concerns
- Child Safety Procedure - Notifying and investigating child safety concerns
- Child Safety Procedure - National Redress Scheme
- Child Safety Procedure - Contract and Grant Management – *in development*
- Child Safety Guideline - Child Safe Environments - *in development*

Recruitment, Employee Conduct and training

City employee conduct

All City employees have a responsibility to adhere to this Policy and associated guidance procedures, the City's Code of Conduct and the Child Safe Code of Conduct - Employees (which outline acceptable and unacceptable behaviour).

City Employees who are required to hold a Working With Children Check for the purposes of their work, must adhere to the Child Safe Code of Conduct at all times, both while at work and when not at work.

Breaches of The Child Safe Code of Conduct - Employees can lead to disciplinary action up to and including termination of employment.

Assigning categories to roles

Every role within the City of Sydney will be categorised using the City's Child Safety Procedure – Recruitment, Employee Conduct and Training, including newly created, re-profiled positions and existing roles where there has been a change in duties.

These categories determine whether the role requires a Working With Children Check, and what type of child safety training must be completed in order to meet the responsibilities of the role.

Recruitment and employment

The City will meet legal requirements to ensure that only people with valid Working With Children Checks are engaged in Child-Related Work. The Working With Children Check is an essential part of the City's recruitment process to prevent people who pose a risk to the safety of a Child or Young Person from being employed or engaged in Child-Related Work.

The Director People, Performance and Technology, the relevant Divisional Director and the Hiring Manager are responsible for ensuring that all recruitment and employment procedures are carried out in accordance with the Child Protection (Working with Children) Act 2012, the Child Protection (Working with Children) Regulation 2013 and the Child Safety Procedure – Recruitment, Employee Conduct and Training.

The Manager Recruitment, together with relevant Directors and Hiring Managers are responsible for:

- ensuring Working with Children Checks have been carried out for designated roles before hiring a prospective employee, and
- not continuing to employ, in Child-Related Work, a person that has been identified as disqualified as a result of failing to qualify for a Working with Children Check renewal.

Training requirements

Training and induction is important to ensure that all City Employees understand that the safety of Children and Young People is the responsibility of everyone.

City Employees will be provided appropriate training to ensure that they understand the City's commitment to the safety of Children and Young People, and that everyone has a role to play in protecting them from abuse.

The City's aim is that all City Employees (in addition to parents/carers and children or young people) feel confident and comfortable in discussing any allegations of child abuse or child safety concerns. Relevant workforce areas are trained to identify, assess, and minimise risks of abuse and to detect potential signs of abuse to Children and Young People.

All City Employees will be provided an induction to the Child Safe Code of Conduct and the City's Child Safety Policy and Procedures, and, where relevant, an induction to local child safety practices.

All City Employees must undertake training that has been identified as required for their role. Training requirements for each of the Categories are set out in Appendix B: Child Safety - Training and Induction Program.

Child safety risk management plans

Identifying risks to Children and Young People and implementing controls to mitigate these risks is an essential factor in keeping Children safe. Child Safety Risk Management Plans will document how the safety and welfare of Children and Young People participating in events, programs and services delivered by the City are managed.

Child Safety Risk Management Plans are required for:

- each individual City staffed facility where Children and Young People attend, and
- each unique service offered to Children and Young People where numerous services operate out of the same facility (regardless of whether or not the service is exclusively for Children), and
- each event, program or service provided by City Employees delivered outside of a staffed City facility, where Children and Young People are expected to attend or be present.

Reporting and responding to child safety concerns

Information outlining how a child, parent or family member, or community member can make a complaint will be provided in all of the City's staffed community facilities and on the City's website.

All City Employees must comply with legal requirements and adopted procedures and report known, suspected or alleged child abuse, misconduct or inappropriate behaviour.

Requirements and processes are outlined in the Child Safety Procedure – Reporting Child Safety concerns.

If an Allegation of abuse, inappropriate behaviour, misconduct or a safety concern is raised, the City will:

- ensure that processes for responding to alleged abuse and misconduct are fair and focus on child safety
- in the event that a City Employee poses a serious risk of abusing a Child and /or Young Person, remove or reduce the risk to the Child and/or Young Person
- provide reports and/ or progress updates to the relevant authorities and where appropriate people involved in any incident
- provide support or make referrals for support to alleged victims, their families and affected City Employees, such as helping them understand their rights and the process that will be followed in responding to Allegations of Reportable Conduct, and assistance in accessing counselling or other support as required, and
- undertake timely reviews of organisational child safety policies, procedures and/or relevant child safety risk management plans following an incident to help drive continuous improvement.

Confidentiality and records management

Confidentiality will be maintained for all records and information relating to child safety and protection matters. All child safety and protection records will be maintained in secure electronic files and access will be strictly controlled.

Directors and managers are responsible for ensuring that City Employees are aware of procedures relating to record management and that appropriate City Employees understand where files are required to be stored within their business units.

Records will be stored in accordance with the requirements of the relevant child safety and protection legislation and the City's Records Management Policy.

Grants and contracts involving Child-Related Work

The City has lease, licence and service agreements with a number of commercial sporting/recreational organisations and/or community organisations that provide services for the benefit of the community on behalf of the City including aquatic and leisure centres, child care, recreation facilities and tennis courts.

The City also provides grant funding and/or subsidised accommodation to a range of organisations that use this funding and/or accommodation to delivery programs and services.

Where any relevant contractual agreements include the delivery of Child-Related Work on behalf of or in conjunction with the City, the agreement must contain clauses outlining the organisation's responsibilities under all applicable child safety and protection legislation and City child safety policies.

Performance measures, compliance, monitoring and reporting systems related to child safety will be established in relevant agreements and through contract management processes.

Further guidance is contained in the Child Safety Procedure – Contract and Grant Management.

National Redress Scheme

The City acknowledges the life-long impact of institutional child sexual abuse on Survivors and is a participating organisation in the National Redress Scheme.

As a participating organisation, if a Survivor of child sexual abuse seeks access to the National Redress Scheme, the City will act with discretion, in good faith and use its best endeavours to assist people applying for redress by providing information.

Responsibilities

Detailed responsibilities are outlined in the relevant Child Safety Procedures.

All City Employees must:

- act in accordance with the City's Child Safe Code of Conduct – Employees
- be aware of, and comply with, their responsibilities under the Child Safety Policy and Procedures

Chief Executive Officer as Head of Entity must:

- ensure adequate systems and processes, policies and procedures, and codes of conduct are in place to prevent, detect and respond to abuse of Children and Young People

Director City Life and Director People Performance and Technology:

- will ensure that the City has child safety policies and procedures which comply with relevant regulations and legislation

- will ensure recruitment and screening practices are conducted in line with relevant child safety and protection legislation and the City's Child Safety Procedures
- will ensure specified systems are in place for detecting and responding to reports of child safety concerns
- must ensure that strict confidentiality is maintained for all records and information relating to child safety and protection matters and that records are maintained and disposed of in accordance with the *State Records Act 1998*, City record keeping policies and any other relevant legislative requirements

Director Legal and Governance

- will ensure that a platform exists to manage environmental and situational risks to child safety. All Directors will ensure that relevant business units have in place local child safety risk management plans, and that these are regularly reviewed
- will ensure tools and resources are available to managers to develop and implement local child safety risk management plans

Consultation

This Policy has been developed in consultation with City Life, City Greening and Leisure, People, Performance and Technology and Legal and Governance.

In adopting this Policy, it is recognised that there are specific legislative and procedural requirements to be met by the City and City Employees.

References

Laws and Standards

- Child Protection (Working with Children) Act 2012
- Child Protection (Working with Children) Regulation 2013
- Children and Young Persons (Care and Protection) Act 1998
- Children's Guardian Act 2019
- Civil Liability Amendment (Organisational Child Abuse Liability) Act 2018
- Crimes Act 1900
- Local Government Act 1993
- National Redress Scheme for Institutional Child Sexual Abuse Act 2018 (Cth).
- NSW Child Safe Standards
- NSW Children (Education and Care Services National Law Application) Act 2010
- Privacy and Personal Information Protection Act 1998
- State Records Act 1998
- United Nations Convention on the Rights of the Child (1990)

Policies and Procedures

- Child Safety Procedure - Recruitment, Employee Conduct, and Training
 - Appendix A: Child Safe Code of Conduct - Employees
 - Appendix B: Child Safety - Training and Induction Program
- Child Safety Procedure - Reporting

Laws and Standards

- Child Safety Procedure – Reporting child safety concerns
- Child Safety Procedure - Notifying and investigating child safety concerns
- Child Safety Procedure – Contract and Grant Management - *in development*
- Child Safety Guideline- Child Safe Environments – *in development*
- Disciplinary Policy
- Privacy Management Plan
- Records Management Policy
- Volunteer Policy
- Volunteer Procedures
- Code of Conduct

Review period

This policy will be reviewed every four years, or upon changes in child safety and protection legislation.

Approval Status

The Council approved this policy on [XXX].

Approval History

| Stage | Date | Comment | TRIM Reference |
|----------------------|------------------|--|---------------------------------------|
| Original Policy | 30 November 2015 | Endorsed by the Executive | 2014/462654-01 |
| Review | November 2017 | Endorsed by the Executive | 2018/014725-01 |
| Review | August 2020 | • Endorsed by Council | 2020/XXXXXX Governance to Populate |
| Commence Review Date | June 2021 | Full review, to consider: <ul style="list-style-type: none"> • the implications of the Mandatory Child Safe Standards in NSW; and • the City’s obligations as an employer of children. | |

Ownership and approval

| Responsibility | Role |
|----------------|--------------------------------------|
| Author | Manager Social Policy |
| Owner | Manager Social Programs and Services |
| Endorser | City of Sydney Executive |
| Approver | City of Sydney Council |

Attachment B

**Child Protection Policy (Corporate)
September 2018**

Child Protection Policy

PURPOSE

The City recognises the importance of the wellbeing of all children and young people. Children and young people are an important part of our society and it is important that children are safe while taking part in community life.

The City of Sydney Child Protection Policy and Child Protection Procedure have been established to assist in meeting the City's commitment and obligations to protect children and young people for whom the City provides a service, and with whom the organisation has contact. Ensuring the welfare and well-being of children and young people we engage with is a requirement under legislation and a moral obligation.

This document has been formulated to ensure that all employees and contractors of the City are aware of their obligations and commitments to ensure the protection of children from harm. This responsibility extends to the identification and timely response to concerns regarding the possible abuse or neglect of a child and the provision of a fair and just process in instances where City employees are involved in child-related investigations.

SCOPE

This policy applies to all full-time, part-time, casual, temporary and fixed term employees of the City, as well as consultants, agency staff, contractors, students and volunteers.

This policy should be read and applied in conjunction with:

- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Government Sector Employment Act 2013*
- *Child Protection (Working with Children) Act 2012*
- *Child Protection (Working with Children) Regulation 2013*
- *Child Protection (Working with Children) Amendment (Statutory Review) Act 2018 No 14*
- *Advocate for Children and Young People Act 2014*
- *NSW Children (Education and Care Services National Law Application) Act 2010*
- Child Protection Procedure – Staff
- Child Protection Procedure – Contract and Grant Management
- *Ombudsman Act 1974 (NSW)*
- The City of Sydney Code of Conduct
- City of Sydney Disciplinary Policy
- City of Sydney Privacy Management Plan
- *Local Government Act 1993*
- The City's Values

- City of Sydney Safety Management System, Operational Procedures: Fatigue Management.

POLICY STATEMENT

The City of Sydney caters for the needs of children and young people by providing parks and playgrounds, recreation facilities, early education and care services, outside school hours care services, libraries, cycle paths and skate facilities. Furthermore, the City engages in a diverse array of work: we directly operate services and run community programs; we deliver community events; we contract services through external operators; and we provide funding to support community organisations through our grants and sponsorship programs.

This policy aims to ensure that:

- The City of Sydney meets its responsibilities for the safety, welfare and wellbeing of children and young people in accordance with legislative requirements and the City's organisational values of Collaboration, Courage, Integrity, Innovation, Quality and Respect.
- Business Units identify risks to children and young people and implement local practices and procedures that safeguard children and young people's wellbeing.
- The management of the recruitment and selection processes for all child-related employment positions is carried out in accordance with the *Child Protection (Working With Children) Act 2012 (NSW)*.
- Everyone in our organisation is confident in reporting inappropriate behaviour around children and young people.
- The risk of significant harm to children and young people is reported and responded to in accordance with Section 24 of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.
- Relevant staff are aware of their legal responsibilities as 'mandatory reporters' of harm to children and young people under Section 27 of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.
- Reportable conduct, allegations and convictions made against employees are reported and responded to in accordance with the *Ombudsman Act 1974 (NSW)*.
- Details are provided to the NSW Office of the Children's Guardian of any worker, volunteer or student who has been the subject of employment proceedings involving reportable conduct or acts of violence committed by them in the presence of a child or young person.
- Records kept in relation to child protection matters are maintained in secure storage, and that access to such records is strictly limited and controlled.
- Information exchanged with prescribed bodies is in accordance with the Child Wellbeing and Child Protection NSW Interagency Guidelines.
- City staff who are responsible for awarding and managing contracts or assessing or managing grants, are aware of the City's, the contractor's and grant recipient's legal and ethical obligations to protect children and young people.
- Contractors of the City of Sydney are aware of child protection legislation and have appropriate policies in place to ensure the safety and well-being of children and young people.

The City of Sydney supports child protection in the workplace. The City of Sydney will:

- drive a culture of care and protection of children and young people by providing the tools required to support staff in understanding their responsibilities in relation to child protection and what this entails. Tools will include the Child Protection Policy and Procedure, ongoing training, and the City's Code of Conduct and risk management
- have in place a comprehensive child protection policy and procedures that are regularly reviewed to direct prevention activities
- require all staff who work with children and young people, both mandatory reporters and those who work with children and young people where parents and guardians are required to be present, to sign off their acknowledgment and understanding of the Child Protection Policy
- ensure Working With Children Checks are carried out and managed in accordance with the Office of the Children's Guardian Guidelines
- provide information to families and the community regarding the child protection strategies that have been adopted by the City
- raise awareness in the general community about child protection
- seek to listen to children and young people, value their participation in our organisation and involve them, where appropriate, in decision making in matters that directly affect them
- provide ongoing child protection training on the implementation of the Child Protection Policy and Procedures, protective behaviours, and how to identify and respond to children and young people at risk of significant harm, and
- ensure contract managers receive adequate training in auditing organisations which deliver City services or receive City grants to ensure compliance with the organisation's child protection policies.

The City has identified 4 categories of employees and contractors, as defined in this policy, in relation to child protection.

Category 1

- a) This category includes Employees and Contractors who work in Child and Family Services or undertake youth work.

Employees and contractors who work in Child and Family Services or undertake youth work have unsupervised access to children and young people and access to sensitive information relating to children and young people. Education and Care Services and youth work are identified as 'children's sectors' in the *Child Protection (Working with Children) Act 2012*. Roles within these sectors have been identified as child-related roles.

A list of roles that fit into this category can be found at [Appendix B](#).

Employees and Contractors working in these roles:

- must hold a Working With Children Check as determined by the Office of the Children's Guardian

- are mandated by Section 27 of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)* to report to NSW Family and Community Services, children who they suspect are at risk of significant harm
- must have a good understanding of the City's Child Protection Policy and Procedures and know how to apply them
- must undertake child protection training as required for this category on a regular basis, to maintain current knowledge and understanding of child protection legislation and their responsibilities and accountabilities in relation to child protection.

Category 2

This category includes Employees and Contractors:

- a) who have access to children and young people because of the nature of services they provide or location of their work
- b) who provide transport, library, recreational activity programs, cultural activity programs and entertainment to children
- c) in identified child related roles that do not work in Child and Family Services or undertake youth work
- d) who are line managers of employees or others in Category 1 or 2, and who come into contact with children or young people as part of their usual duties.

This category encompasses a wide range of City employees and contractors including staff working in community facilities, who come into contact with children or young people, as well as those delivering community programs, events or services for children and young people either regularly or from time to time. Examples may include an event officer, community centre employee or a librarian. This category includes roles that may not previously have had contact with children or young people as part of their usual role, but may now come under this category as a result of a new or changed program of work, for example commencing a new program for children, or undertaking consultation with young people.

A list of roles who fit into this category can be found in [Appendix B](#), however line managers must be aware any change in duties within a role may result in an employee or other person becoming Category 2.

Employees and Contractors working in these roles:

- will be required to hold a Working With Children Check
- can report cases of children who may be at risk of significant harm to NSW Family and Community Services
- must have a good understanding of the City's Child Protection Policy and Procedures and know how to apply them, and
- must undertake child protection training required for this category on a regular basis, to maintain current knowledge and understanding of child protection.

Category 3

This category includes Employees and Contractors:

- a) in roles that investigate allegations of reportable conduct against staff

- b) in roles in the line of management of employees in Category 1 and Category 2 who do not come into contact with children or young people as part of their usual duties.

This category encompasses roles within Workforce and Information Services and Legal and Governance who undertake formal reviews and reporting in line with child protection legislative requirements.

This category also includes roles within other Business Units who manage Category 1 and 2 roles and would assist in investigating allegations of reportable conduct against staff.

Employees and Contractors in these roles are not required to have a Working With Children Check however:

- They must understand the City's obligations in relation to Child Protection, Working With Children Checks and other related legislation.
- They must understand the City's Child Protection Policy and Procedure and know how to apply them.
- They can report cases of children who may be at risk of significant harm to NSW Department Family and Community Services.
- They must undertake child protection training required for this category on a regular basis, to maintain current knowledge and understanding of child protection.

A list of roles which fit into this category can be found at [Appendix B](#).

Category 4

This category includes Employees and Contractors:

- a) who are unlikely to have contact with children while performing work related duties and are not included in the categories above.

The majority of roles fit into this category. Any role that is not listed in [Appendix A](#) will be counted in this category.

Employees working in these roles:

- do not require a Working With Children Check
- must have an awareness of the City's Child Protection Policy and Procedure and know how to apply them, should the need arise
- must undertake child protection training required for this category; and
- can report suspected cases of children at risk of significant harm to NSW Family and Community Services, should they observe a situation that potentially puts children at risk of significant harm

Training requirements for each of the categories, will be set out in a City of Sydney Child Protection Training Plan.

Assigning categories to roles

Every role within the organisation will be categorised using the City's Child Protection role category system. Newly created positions and re-profiled positions will also be assessed against this category system.

Directors and Business Unit Managers will liaise with the Manager Corporate Human Resources and the HR Recruitment Manager to assess newly created and re-profiled roles and categorise.

Once categorised, Business Unit Managers will ensure that employees in those roles, hold the necessary certification and attend the training required for the category.

A change in duties that results in the employee having contact with children or young people may also change the category of a role. Managers, employees and others should be aware of and monitor any changes in duties that may result in a category change. When such changes occur the Business Unit and Section Managers are to liaise with the Manager Corporate Human Resources and HR Recruitment Manager and arrange for any necessary checks and training to be undertaken.

Additionally, all contractors' staff, including consultants and temporary consultants, will be categorised at the time of procurement and volunteers and students will be categorised as part of the engagement process. Please refer to [Appendix A](#), [Appendix B](#) and [Appendix C](#) of the Child Protection Procedure – Staff for further guidance on assigning categories to roles.

DEFINITIONS

| Term | Meaning |
|------------------------------|---|
| Allegation | An allegation against an employee which involves behaviour that is reportable conduct, or behaviour that is exempt from notification to the Ombudsman, but is required to be investigated by the City. |
| Child | As defined by the <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> a child is a person under the age of 16 years. |
| Contractor | All those engaged by agreement to provide a service to the City, including agency staff. |
| Child-related work | Child related work has a specific definition in Working with Children Legislation. "Work" is child-related if the usual duties of the work involve, or are likely to involve contact with a child in connection with at least one of the 19 categories of child-related work. Further information can be found here: http://www.austlii.edu.au/au/legis/nsw/consol_act/cpwca2012388/s6.html |
| Reportable conviction | A conviction (including a finding of guilt without the court proceeding to a conviction), in NSW or elsewhere, of an offence involving reportable conduct as defined by Section 25A of the <i>Ombudsman Act 1974</i> . |
| Disqualified person | A person convicted of, or subject to proceedings relating to, any offence(s) prescribed in Schedule 2 to the <i>Child Protection (Working With Children) Act 2012 (NSW) Act</i> . |
| Employee | Any person employed by the City of Sydney including volunteers and students. |
| Head of Agency | The Chief Executive Officer of the City of Sydney. |
| Formal Review | The process in which the City of Sydney: <ul style="list-style-type: none"> gathers all relevant facts makes a decision regarding whether an allegation is sustained or not, and provides information to assist any relevant employment proceedings. |

| Term | Meaning |
|------------------------------|--|
| Mandatory Reporter | As defined in Section 27 of the <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> , a mandatory reporter is: <ul style="list-style-type: none"> (a) a person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and (b) a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children. |
| Mandatory Reporting | Is the act of a person mandated under Section 27 of the <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> , reporting to Community Services that they suspect a child is at risk of significant harm. |
| Prescribed bodies | As defined in Section 248 of the <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> as being the NSW Police Force, a government department or a public authority, a government school or a registered non-government school or TAFE, a public health organisation or a private hospital, and as defined in Clause 8 of the <i>Children and Young Persons (Care and Protection) Regulation 2012 (NSW)</i> a private fostering agency or a private adoption agency, a designated agency which is a department of the Public Service or an organisation that arranges out of home care, any agencies that conducts a residential child care centre or a child care service under the <i>Children (Care and Protection) 1987 Act</i> , any other organisations that have direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly to children. |
| Reasonable grounds | Refers to the need to have an objective basis for suspecting that a child or young person may be at risk of significant harm based on: <ul style="list-style-type: none"> • first hand observation of the child or family • what the child, parent or another person has disclosed, and • what can reasonably be inferred based on professional training and/or experience. |
| Reportable allegation | An allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct as defined by the <i>Ombudsman Act 1974</i> and which includes: <ul style="list-style-type: none"> • identification of a person who is a current employee of the City, including contractors and volunteers • an alleged offence or description of offending behaviour that meets the definition of reportable conduct, and • a person who was a child at the time of the alleged offence or behaviour described. |
| Reportable conduct | As defined by Section 25A of the <i>Ombudsman Act 1974 (NSW)</i> means: <ul style="list-style-type: none"> (a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or offence involving child abuse material, or (b) any assault, ill-treatment or neglect of a child, or |

| Term | Meaning |
|---------------------------------|---|
| | <p>(c) any behaviour that causes psychological harm to a child</p> <p>whether or not, in any case, with the consent of the child but does not extend to:</p> <p>(a) conduct that is reasonable for the purposes of discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children and to any relevant codes of conduct or professional standards, or</p> <p>(b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or</p> <p>(c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under Section 25CA of the <i>Ombudsman Act 1974 (NSW)</i>.</p> |
| Risk of significant harm | <p>As defined by Section 23 of the <i>Children and Young Persons (Care and Protection Act) 1998 (NSW)</i> risk of significant harm is present 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 of one or more of the following circumstances:</p> <p>(a) the child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met</p> <p>(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</p> <p>(b1) in the case of a child or young person who is required to attend school in accordance with <i>the Education Act 1990 (NSW)</i> – the parents or other caregivers 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</p> <p>(c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated</p> <p>(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</p> <p>(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, and/or</p> <p>(f) the child was the subject of a pre-natal report under Section 25 of the <i>Children and Young Persons (Care and Protection Act) 1998 (NSW)</i> and the birth mother of the child did not engage successfully with support services to eliminate, or minimise to the lowest level reasonably practical, the risk factors that gave rise to the report. (This information would only be obtained through an information sharing process with a child health related agency).</p> |

| Term | Meaning |
|----------------------------|---|
| Staff member | Any person employed by the City of Sydney, whether or not they are employed to work directly with children, as well as individuals engaged by the City of Sydney to provide services to children such as contractors, volunteers and students on placement. |
| Unsupervised access | Access to, or supervision of children without the child's parents or another adult supervisor being present. |
| Young person | As defined by the <i>Children and Young Persons (Care and Protection Act) 1998</i> (NSW) a person who is aged 16 years or above but who is under the age of 18 years. |

Recruitment and employment

The Director Workforce and Information Services, the relevant Divisional Director and the hiring manager are responsible for ensuring that all recruitment and employment procedures are carried out in accordance with child protection legislative requirements and City policy.

The Manager Recruitment, together with relevant Directors and hiring managers will be responsible for ensuring that all Category 1 and Category 2 positions will:

- not commence employing a person in a child-related position without verifying a prospective employee's Working With Children Check, through the NSW Office of the Children's Guardian, and
- not continue to employ, in child-related work, a person that has been identified as disqualified as a result of failing to qualify for a Working With Children Check renewal.

Please refer to the Child Protection Procedure - Staff for further guidance.

Notification of reportable conduct, allegations or convictions against staff

All staff members have a responsibility to adhere to this policy and associated guidance procedures and the City's Code of Conduct (which outlines acceptable and unacceptable behaviour).

If a staff member becomes aware of an allegation or conviction concerning another staff member of reportable conduct, he/she must report the matter to his/her immediate supervisor. Subsequently, the matter will be reported upward through the hierarchy of management to the Director of Workforce & Information Services and the Chief Executive Officer. Where a staff member becomes aware of an allegation or conviction of reportable conduct concerning his/her immediate manager, he/she must report the matter to the manager above his/her own manager or directly to the Director of Workforce & Information Services.

Please refer to the Child Protection Procedure – Staff for further guidance.

All reportable conduct allegations or convictions against staff members will be referred to the Chief Executive Officer through the Director of Workforce and Information Services and the Director of the Division where the reportable conduct has occurred and subsequently to the NSW Ombudsman under the *Ombudsman Act 1974*, and potentially also to NSW Family and Community Services. Completed relevant employment proceedings are to be reported to the NSW Office of the Children's Guardian under the *Child Protection (Working with Children) Act 2012*.

All reportable conduct, allegations or convictions will be investigated by an appropriately skilled person appointed by the Chief Executive Officer in consultation with the Director of Workforce & Information Services.

Assessing and Reporting Children and Young People at Risk of Significant Harm

Certain employees and contractors working in child-related work roles, are classified in Section 27 of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)* as 'mandatory reporters'. As 'mandatory reporters', these staff members have a duty under the Act to report to the NSW Family and Community Services the name or a description of the child and the grounds for suspecting the child is at risk of 'significant harm'. In these cases, a report must also be made to the business unit manager. Please refer to the Child Protection Procedures – Staff for further guidance.

Staff in child-related work roles must familiarise themselves with information provided by [NSW Family and Community Services](#) regarding their responsibilities, through regular training, refresher courses and/or information sharing in team meetings.

Additional information for mandatory and non-mandatory reporters is provided in the Child Protection Procedures and in the [Mandatory Reporter Guide](#) available on the [Child Story Reporter](#) website.

The City is committed to developing a culture of care and protection for children therefore *any staff member*, regardless of their role, who has reasonable grounds to believe that a child is at risk of significant harm should contact the Child Protection Helpline on 132 111 and report their concerns.

Information exchange (only relevant to Mandatory Reporters)

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)* allows 'prescribed bodies' to exchange information relating to a child or young person's safety, welfare or wellbeing, whether or not the child or young person is known to NSW Family and Community Services. Only staff working in child and family services and youth workers and their supervisors, business unit managers and directors, have been identified as 'prescribed bodies'. Employees in these roles will manage and exchange information in accordance with the *Children and Young Persons (Care and Protection) Act 1998 (NSW)*.

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998 (NSW)* provides guidance about how information can be shared in relation to the safety, welfare and wellbeing of a child or young person. The care and protection of children and young people is dependent upon shared information and access to accurate, relevant information which will assist organisations working with children and young people to assess risks, make decisions and identify and deliver appropriate services.

The legal framework for information exchange allows organisations to share information relating to the safety, welfare or wellbeing of children or young people. The legislation clearly states at Section 245A that the need to provide services relating to the care and protection of children and young persons, and the needs and interests of children and young persons, and of their families, in receiving those services, take precedence over the protection of confidentiality or of an individual's privacy. Business unit managers will ensure documentation relating to information sharing in relation to the safety, welfare and wellbeing of a child or young person is carried out in accordance with legislation. Please refer to the Child Protection Procedure – Staff for further guidance.

Confidentiality and records management

Confidentiality will be maintained for all records and information relating to child protection matters. All child protection records will be maintained in secure electronic files and access will be strictly controlled. Directors and managers are responsible for ensuring that staff members are aware of procedures relating to record management and where files will be stored within their business units.

Records will be maintained and disposed of in accordance with the *State Records Act 1998*.

City owned facilities managed under lease, licence or service arrangement by commercial or community providers and grant recipients

The City of Sydney has lease, licence and service agreements with a number of sporting, recreational, and community organisations that provide services for the benefit of the community on behalf of the City including aquatic and leisure centres, recreation facilities and tennis courts. The agreements between the City and these organisations contain clauses that these organisations must comply with all applicable child protection legislation and the City's Child Protection Policy,

including but not limited to, obtaining any checks required under the *Child Protection (Working with Children) Act 2012 (NSW)*.

Contract managers of commercially contracted services or facilities of the types outlined above are required to ensure these organisations are committed to safeguarding children by conducting regular reviews throughout the life of the contract and enforcing compliance as specified in the contractual agreement between the City and the relevant organisation.

The City also provides grant funding or subsidised accommodation to a range of community organisations that deliver programs and services to children and young people that might involve unsupervised access. When developing a grant funding agreement with an organisation who will be delivering a program or service to children and young people as a result of funding provided by the City, the Manager Grants will seek advice from the Manager Child and Family Services and where necessary the Legal Services Division about the need to include specific provisions in relation to Working With Children Checks or child protection policies and procedures. If clauses requiring the inclusion of Working With Children Checks or child protection policies and procedures are deemed necessary, then a monitoring process to ensure compliance will be developed between the organisation and the City.

Please refer to the Child Protection Procedure – Staff for further guidance.

RESPONSIBILITIES

The Chief Executive Officer will:

- drive a culture, within the organisation, where children’s rights are upheld and valued as citizens of our community by ensuring employees are equipped with the resources, tools, systems and skills required to support children’s and young people’s safety and wellbeing
- notify the NSW Ombudsman of reportable allegations, conduct or convictions within 30 days of becoming aware of the allegation, via submission of the NSW Ombudsman’s Workplace Child Protection Notification form, and
- consider recommendations made by the Director Workforce and Information Services at the conclusion of a formal review of an allegation.

The Director of Workforce & Information Services will:

- ensure that the City has a Child Protection Policy and Procedure that complies with relevant regulations and legislation
- ensure that the Child Protection Training Program, developed to support the implementation of the City’s Child Protection Policy and associated procedures, is available for City employees to undertake
- ensure that each position that requires a Working With Children Check is identified and the information is made available on the City’s Intranet
- ensure that a current NSW Working With Children Check is held by recommended applicants prior to approving employment for relevant positions
- consider the findings of any formal review, consult with the relevant Director as appropriate and make recommendations to the Chief Executive Officer
- when made aware of a reportable allegation, conduct or conviction concerning another staff member arising from that person’s employment with the City of Sydney, report this to the Chief Executive Officer immediately

- ensure that a register of Working With Children Checks is regularly updated and that all relevant staff undertake an updated Working With Children Check every five years
- ensure that strict confidentiality is maintained for all records and information relating to child protection matters and that records are maintained and disposed of in accordance with the *State Records Act 1998* and other legislative requirements
- ensure that information regarding notifications to the NSW Ombudsman are kept indefinitely and are stored in a secure and controlled location separate to the employee's file, and
- ensure that documentation is kept for any incident or suspected risk of significant harm until the child involved reaches the age of 25 years.

Directors will:

- provide the Child Protection Policy and Procedures to M3 managers and ensure managers are aware of their responsibilities under this Policy
- in collaboration with the Manager Corporate Human Resources, HR Recruitment Manager and business unit managers, assess and categorise newly created and re-profiled roles
- in collaboration with the Director, Workforce and Information Services, Manager Corporate Human Resources and business unit managers, identify any positions within their division that require Working With Children Checks, review these positions in line with the review of this Policy
- be aware of positions in their Divisions that require Working With Children Checks and ensure recommended applicants hold current NSW Working with Children's Checks prior to approving appointment, and
- when made aware of a reportable allegation, conduct or conviction concerning another staff member arising from that person's employment with the City of Sydney, report this allegation, conduct or conviction to the Director Workforce & Information Services or the Chief Executive Officer immediately.

The Manager Corporate Human Resources will:

- in collaboration with the Directors and HR Recruitment Manager, assess and categorise newly created and re-profiled roles
- ensure accurate compliance reports on Working With Children Checks and Child Protection training are made available to Directors, Business Unit Managers and Section Managers
- ensure systems are in place to report on compliance with Child Protection Training and Working With Children Checks
- determine the appropriate staff to conduct a formal review into allegations of misconduct, in accordance with the NSW Ombudsman Guidelines and the City's Policies & Procedures
- present findings and recommendations to the Director, Workforce and Information Services, and
- complete all relevant paperwork in line with the formal review and keep records in line with the *State Records Act (NSW) 1998*.

Business Unit (M3) and Section Managers (M4) will:

- be aware of their responsibilities in line with the Child Protection Policy and implement these through process and practice

- be aware of the category each position in their team falls under and ensure that employees attend the required child protection training and are aware of their child protection responsibilities
- identify any changes in roles and responsibilities that may change the category associated with a particular role and liaise with the Manager Corporate Human Services and the Recruitment Manager to advise any category changes needing to be made to a role
- ensure that employees and contractors in newly categorised roles apply for any clearances and attend any training required
- provide information to relevant staff about regular child protection related training including identifying and responding to children and young people at risk of significant harm, reporting, information exchange and protective behaviours
- be aware of the positions in their unit that require Working With Children Checks and only recommend applicants to those positions that hold current Working With Children Checks
- ensure that all staff who have current Working With Children Checks are aware of the legal requirements to update their personal details on the Office of the Children's Guardian website and to renew their Working With Children Check number every five years
- identify any risks associated with child protection within their business unit and implement controls to minimise risk
- when made aware of what they suspect may be a reportable allegation, conduct or conviction concerning another staff member arising from that person's employment with the City of Sydney, report this through the line managers, to the Director Workforce & Information Services immediately, and
- assess requests for information under information exchange provisions from other relevant agencies before information is released by Category 1 employees within their business unit.

The City's Contract Managers must:

- categorise contractors' staff and ensure that the contractors' agreement requires compliance with Legislation and the City's Child Protection Policy
- ensure that organisations who provide services to children and young people the City engages, have a commitment to keeping children safe in their environments
- ensure that all organisations contracted to deliver services on behalf of the City have in place up to date child protection policies and procedures
- carry out regular audits throughout the life of the contract, and
- consider any breach of the Child Protection Policy by contractors as a breach of contract and take appropriate action.

In relation to grant funded organisations the Manager Grants, Manager Child and Family Services and Grant Contract Managers will:

- in consultation with each other, determine whether an organisation that is the recipient of the grant from the City in either the form of accommodation, cash or value in kind should have Working With Children Checks and child protection policies and procedures in place
- where appropriate include clauses in funding agreements between the City and a recipient organisation that specifies requirements in relation to child protection and develop mechanisms to monitor compliance with these provisions, and

- consider any breach of the conditions relating to child protection, as specified in the relevant funding agreement, by a grant recipient organisation as a breach of contract and take appropriate action.

Category 1, 2 3 and 4 employees must:

- be aware of their responsibilities within the Child Protection Policy and Procedure and implement them when undertaking the duties of their role
- undertake training required for their category level
- hold a Working With Children Check if required by the position, maintain currency of the Working With Children Check and regularly update their contact details with the Office of the Children’s Guardian, and
- inform their manager if they ever become a disqualified person.

Consultation

This policy has been developed in consultation with City Life, Procurement, Legal and Governance and Workforce and Information Services.

In adopting this policy, it is recognised that there are specific legislative requirements to be met by the Council and employees:

References

| | |
|---------------------------|--|
| Laws and standards | <ul style="list-style-type: none"> • Ombudsman Act 1974 (NSW) • Children and Young Persons (Care and Protection) Act 1998 (NSW) • State Records Act 1998 (NSW) • Government Sector Employment Act 2013 • Privacy and Personal Information Protection Act 1998 (NSW) • Child Protection (Working with Children) Act 2012 • Child Protection (Working with Children) Regulation 2013 • Child Protection (Working with Children) Amendment (Statutory Review) Act 2018 No 14 • Advocate for Children and Young People Act 2014 • NSW Children (Education and Care Services National Law Application) Act 2010 |
| Procedures | <ul style="list-style-type: none"> • City of Sydney Child Protection Procedure – Staff • City of Sydney Child Protection Procedure – Contract and Grant Management • Appendix A – Categorising a role • Appendix B - Child Protection Employee Categories and List • Appendix C – Child Protection Training Program and Sub Categories • City of Sydney Disciplinary Policy |



Approval

The Chief Executive Officer approved this policy on 14 September 2018.



Kim Woodbury
Acting Chief Executive Officer

Approval history

| Stage | Date | Comment | TRIM Reference |
|--------------------|---------------------------|---|----------------|
| Original Procedure | 30 November 2015 | Endorsed by the Executive | 2014/462654-01 |
| Review | November 2017 | Endorsed by the Executive. Full review. Key amendments included: <ul style="list-style-type: none">• updated relevant legislation• included a process for notifying the Department of Education of serious incidents relating to child protection• included a process for categorising a role• Introduction of a sub category job role system to support the training plan and reporting• introduced responsibilities for the Manager Corporate Human Resources role• updated to provide clarity about privacy management and responsibilities for reporting. | 2018/014725-01 |
| Review | Commencing September 2018 | To consider implications of changes to the definition of 'child related work', and relevant recommendations from the <i>Royal Commission into Institutional Responses to Child Sexual Abuse</i> and the implications for the City and its legislative responsibilities. | |
| Next Review | February 2022 | | |

Ownership and approval

| Responsibility | Role |
|----------------|--------------------------------------|
| Author | Manager Child and Family Services |
| Owner | Manager Social Programs and Services |
| Endorser | City of Sydney Executive |
| Approver | Chief Executive Officer |