

Draft Child Safety Policy

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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approval of the Draft Child Safety Policy (2020), noting that the 2018 Policy approved by the City's Executive will be rescinded and replaced with the 2020 Policy adopted by Council.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- (B) Council note that the 2018 Child Protection Policy as shown at Attachment B adopted by the Executive will be rescinded and replaced with the 2020 Policy adopted by Council;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

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