



**DATE ADOPTED: 23 August 2016**

**VERSION: 4.0**

## **POLICY OBJECTIVES**

The overall objective of this Policy is to ensure compliance with current State and Federal Government child protection legislation and to protect children and young people in the workplace.

Objectives of this Policy include:

- Ensuring all workers engaged with Council in a child-related role have a valid Working With Children Check clearance number
- Endeavour to ensure that all workers undertaking child related services or who are in child related roles are aware of their obligations in relation to the various child protection legislation and Council's policy and associated protocol
- Placing a duty of mandatory reporting on staff in a child-related role when they have reasonable grounds to suspect that a child or young person is at risk of harm
- To ensure Council promptly implements procedures which are confidential and transparent when investigating and responding to allegations of "reportable conduct" as defined under Section 25A of the Ombudsman Act 1974.

All workers at Council should be aware of and sensitive to children with culturally diverse or indigenous backgrounds and their cultural practices without deviating from this policy; in line with the Anti-Discrimination Act 1977 and the principles of Equal Employment Opportunity.

## **POLICY SCOPE**

This policy applies to all employees of Council and any individual engaged by Council (in any paid or unpaid capacity).

Any reference to 'worker' for the purpose of this policy includes employees, councillors, contractors or sub-contractors, work experience participants, facility hirers, labour hire, volunteers and student placements who are in a child-related role. Child related roles are to be in accordance with legislation and regulatory requirements.

## **POLICY STATEMENT**

Maitland City Council aims to provide a safe environment for children and young people who use or access Council's services. Council is committed to fulfilling its duty of care by endeavouring to ensure that all workers act in the best interests of a child and take all responsible steps to ensure a child's safety. Child protection legislation prohibits anyone working in a child-related role who does not have a valid Working With Children Check clearance or who has a Working With Children Check bar.

The Child Protection (Working With Children) Act 2012 stipulates that employers should not employ new workers, or continue to employ existing workers, in a child-related role if they do not hold a **valid** Working With Children Check clearance.

Maitland City Council will ensure all workers engaged by Council in a child-related role have a valid Working With Children Check clearance number.

## **1. DESIGNATED GOVERNMENT AGENCY**

Maitland City Council is considered a designated government agency under the definitions of the Ombudsman Act 1974. Section 25A of the Ombudsman Act defines a designated government agency as:

“...(c) any other public authority prescribed by the regulations for the purposes of this definition”.

Section 5 of the Ombudsman Act 1974 states that a public authority is a local government authority.

## **2. RESPONSIBILITY**

The General Manager is the Head of Agency (i.e. Head of Council) under Section 25A of the Ombudsman Act 1974. The General Manager's delegate, with respect to this role, will be the Executive Manager Human Resources.

### **2.1 Head of agency and delegate are accountable for:**

- Ensuring there are systems for preventing, handling and responding to allegations or convictions of reportable conduct against a worker of Council
- Providing, when requested by the Ombudsman, information about the type and operation of those systems
- Notifying the Ombudsman of any reportable allegation or conviction against a worker of Council within 30 days of the Head of Agency becoming aware of the allegation or conviction
- Notifying the Ombudsman, whether or not the Head of Agency plans to take any disciplinary or other action, in relation to a worker who is the subject of an allegation or conviction and the reasons for taking or not taking any such action
- Reporting convictions or allegations against workers to the Ombudsman regardless of Council's opinion as to the seriousness or accuracy of the allegation
- Investigating all reportable allegations against workers regardless of whether the Department of Family and Community Services or police choose to investigate or not. Council is required to undertake its own independent investigation in relation to reportable allegations made against workers
- Responsible for determining what disciplinary action, if any, will be taken against the employee after the initial investigation has been completed.

### **2.2 Group/executive managers, managers, coordinators and team leaders are accountable for:**

- Modelling appropriate workplace behaviours and monitoring the work environment to ensure acceptable standards of conduct are observed at all times
- Endeavour to ensure workers are aware of and understand Council's Child Protection Policy and Protocol
- Treating all complaints seriously, equitably and confidentially, taking immediate action to investigate and resolve allegations
- Notifying the Executive Manager Human Resources of any reportable allegation
- Determining child-related roles within the organisation and for the ongoing management of the process, supported by Human Resources
- Notifying Human Resources prior to the engagement of any non-Council employee involved in child-related work so the appropriate verification check can be undertaken.



### 2.3 Human Resources are accountable for:

- Informing and consulting with staff regarding Working With Children requirements
- Supporting Managers to determine child-related roles within the organisation and for the ongoing management of the process
- Verifying the workers Working With Children Check number
- Keeping a record of the workers clearances including Working With Children Check number, its expiry date and the date of the employer's verification
- Notifying the Head of Agency of allegations.

### 2.4 Workers are accountable for:

- Acting in accordance with the Child Protection (Working With Children) Act 2012
- Applying for a Working With Children Check clearance number and providing it to Human Resources if the role is deemed child-related
- Applying for a Working With Children Check clearance number, when they are not employed by Council, and providing the clearance number to the person who engaged them in child-related work
- Complying with Council's policies and procedures
- Notifying Human Resources of any reportable allegation or conviction of which they become aware.

## 3. BARRED STATUS OF WORKERS EMPLOYED BY COUNCIL

Should the check or continuous monitoring result in a barred status the worker, if currently working in a child-related role, will be removed from that role. Should the worker be an employee of Council then the matter will be referred to the General Manager for determination; which depending on the circumstances may also result in termination of employment.



## POLICY DEFINITIONS

<b>Children:</b>	Persons under the age of 18 years.
<b>Child-related Work:</b>	Face-to-face contact with children in a child-related sector, or work in a stipulated, child-related role.
<b>Head of Agency:</b>	The chief executive officer or other principal officer of the agency for the purposes of fulfilling the Council's responsibilities as a public authority under the Ombudsman Act 1974.
<b>Reportable Conduct:</b>	<p>(a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence or an individual offence involving child abuse material (within the meaning of Division 15A of Part 3 of the <i>Crimes Act 1900</i>)), or</p> <p>(b) any assault, ill-treatment or neglect of a child, or</p> <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. Reportable conduct 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 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.</p>
<b>Worker:</b>	Any person who is engaged in work as an employee, councillor, contractor or sub-contractor, work experience participant, facility hirer, labour hire or volunteer. This also includes professional placements over the ages of 18 years.
<b>Working with Children Check:</b>	Includes a national police check and review of finding of misconduct involving children. The result is either a clearance or a bar.
<b>Working with Children Check Bar:</b>	The result of a Working With Children Check that does not allow an employer to engage the person in a child-related role.
<b>Working with Children Check Clearance:</b>	An authorisation to engage in child-related work.



## POLICY ADMINISTRATION

BUSINESS GROUP:	Human Resources
RESPONSIBLE OFFICER:	Executive Manager Human Resources
COUNCIL REFERENCE:	Ordinary Council Meeting 23 August 2016 – Item 11.5
POLICY REVIEW DATE:	Three (3) years from date of adoption
FILE NUMBER:	130/1
RELEVANT LEGISLATION:	Child Protection (Working With Children) Act 2012 (NSW) Child Protection (Working With Children) Regulation 2013 (NSW) Local Government (State) Award 2014 Ombudsman Act 1974 (NSW)
RELATED POLICIES / PROTOCOLS/ PROCEDURES	Attraction and Engagement Protocol Code of Conduct Child Protection Protocol EEO Harassment & Bullying Grievance Protocol Equity, Diversity & Respect Policy

## POLICY HISTORY

VERSION	DATE APPROVED	DESCRIPTION OF CHANGES
1	12/4/2005	Child Protection Policy
2	14/8/2012	Update of legislation
3	13/8/2013	Update policy statement, objective, scope, legislation and relevant policies Addition responsibilities Addition barred status of existing employees
4	23/08/2016	Update objectives, scope, addition of designated government agency information, addition to responsibilities, addition of policy definitions, change of group title from People and Performance to Human Resources