

1.0 PURPOSE

The purpose of this Policy is to:

- demonstrate Autism Queensland's (AQ) commitment to the safety and welfare of children and young people;
- minimise the risk of abuse, misconduct and misuse of positional power;
- inform all staff and volunteers of their obligations and responsibilities in keeping children safe.

2.0 SCOPE

This Policy applies to all people in the AQ community, including employees, clients, students, volunteers, contractors, external providers, parents/carers and other family members and visitors. This policy applies in all AQ environments, physical, on-line and off site (e.g. Community Access or excursions).

The protections included in this Policy apply to all children and young people under 18 years of age on AQ premises, accessing services provided by AQ at other locations, and children unconnected with AQ if AQ employees, in the course of their AQ role, become aware of or reasonably suspect harm.

3.0 POLICY STATEMENT

AQ is committed to promoting and protecting the safety of children and young people and does not tolerate any form of harm against children or young people including neglect, physical, sexual or psychological abuse.

All AQ employees, volunteers, carers, and the community will:

- Always act in the best interest of children and young people.
- Actively encourage children, young people and their families to have a say about things that are important to them.
- Act quickly on any child safety concerns or allegations of abuse.

The United Nations Convention on the Rights of the Child emphasises that children have their own rights and entitlements, and because of their youth they require extra protection.

AQ supports the active participation of children in our organisation. We want children and young people who participate in our programs and services to have a safe and happy experience. We listen to children and young people's views, respect what they say and involve them when we make decisions, especially about matters that will directly affect them.

AQ is committed to ensuring all children and young people engaged in our services, facilities or activities are protected from harm and abuse. AQ has written processes in place to enable it to comply with the requirements of the *Work Health and Safety Act 2011 (Qld)* and the *Working with Children (Risk Management and Screening) Act 2000 (Qld)*.

All people visiting or representing AQ must ensure their behaviour towards and relationships with children reflects proper standards of care in accordance with AQ policies and procedures.

The AQ *Child Safety Code of Conduct* outlines AQ's commitment, responsibilities, and expected behaviours in relation to Child Safety, including identifying behaviours that are unacceptable when interacting with children and young people.

When AQ receives any information alleging harm to a child or young person, we will deal with the situation compassionately and fairly to minimise any likely harm.

AQ will ensure all employees are trained and supplied with appropriate resources to support children through the prevention and detection of harm, abuse and neglect, and meet the legal obligation to report any such allegations.

All employees will participate in Child Protection and Workplace Health & Safety training at induction and annually¹. All employees working with children will be informed of relevant processes on induction and throughout the year for dedicated professional development sessions.

School students and parents will be notified of the School's processes relating to the health, safety and conduct of staff and students via the AQ Website.

4.0 PRINCIPLES

AQ is committed to the safety and wellbeing of all children and young people and has made the commitment to be a Child Safe Organisation abiding by the ten Child Safe National Principles (see *Child Safe Organisation Principles Booklet*):

1. Child safety and wellbeing is embedded in organisational leadership, governance and culture.
2. Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
3. Families and communities are informed and involved in promoting child safety and wellbeing.
4. Equity is upheld and diverse needs respected in policy and practice.
5. People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
6. Processes to respond to complaints and concerns are child focused.
7. Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
8. Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
9. Implementation of the national child safe principles is regularly reviewed and improved.
10. Policies and procedures document how the organisation is safe for children and young people.

5.0 DEFINITIONS

5.1 Harm (to a child)

is any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing (Section 9 of the *Child Protection Act 1999*).

It is immaterial how the harm is caused. Harm can be caused by:

- physical, psychological or emotional abuse or neglect; or
- sexual abuse or exploitation;
- a single act, omission or circumstance; or
- a series or combination of acts, omissions or circumstances.

5.2 Child Abuse

A single incident or a number of incidents that take place over time. The *Child Protection Act 1999* considers whether a child:

- has suffered harm, is suffering harm, or is at risk of harm;
- has a parent or guardian able and willing to protect the child from harm.

¹ Education (Accreditation of Non-State Schools) Regulation 2017 (Qld) s.16(4)(c)

There are four different types of child abuse that lead to harm:

- physical abuse;
- sexual abuse;
- emotional abuse;
- neglect.

5.3 Physical Abuse

occurs when a child has suffered, or is at risk of suffering, non-accidental physical trauma or injury. Physical abuse can include:

- Hitting
- Shaking
- Choking
- Smothering
- Throwing
- Burning
- Biting
- Poisoning
- Using physical restraints.

Physical abuse does not always leave visible marks or injuries. Regardless of marks or injuries, the act itself causes trauma to the child.

5.4 Sexual Abuse

Child sexual abuse occurs when an adult, adolescent or child use their power or authority to involve a child in sexual activity. Child sexual abuse can cause physical and emotional harm to a child. Sexual abuse can be physical, verbal or emotional and can include but is not limited to the following kissing or holding, or touching a child in a sexual manner;

- exposing a sexual body part to a child;
- having sexual relations with a child;
- talking in a sexually explicit way that is not age or developmentally appropriate;
- making obscene phone calls or remarks to a child;
- sending obscene mobile text messages or emails to a child;
- fondling a child in a sexual manner;
- persistently intruding on a child's privacy;
- penetrating the child's vagina or anus by either the penis, finger or any other object;
- oral sex; rape;
- incest;
- showing pornographic films, magazines, internet sites or photographs to a child;
- having a child pose or perform in a sexual manner;
- forcing a child to watch a sexual act;
- child prostitution.

5.5 Sexual Abuse

(Section 364 of the *Education (General Provisions) Act 2006*) in relation to a relevant person, includes sexual behaviour involving the relevant person and another person in the following circumstances:

- the other person bribes, coerces, exploits, threatens or is violent toward the relevant person;
- the relevant person has less power than the other person;
- there is a significant disparity between the relevant person and the other person in intellectual capacity or maturity.

5.6 Grooming

refers to the way some offenders form relationships and build trust with parents, carers, teachers and other children in order to get close to a child and create the opportunity for sexual abuse. Examples of grooming include:

- regularly offering to babysit a child for free or take a child on overnight outings alone;
- actively excluding a child from other adults or children;
- insisting on physical affection, such as kissing, hugging, wrestling or tickling even when the child clearly doesn't want it;
- being overly interested in a child's sexual development;
- insisting on being alone with a child without interruption;
- taking lots of pictures of children;
- using sexually explicit language with a child;
- sharing alcohol or drugs with a child;
- maintaining overall control of the child once sexual abuse has occurred, for example using secrets, blame and threats.

5.7 Emotional/Psychological Abuse

occurs when abuse impairs or threatens a child's social, emotional, cognitive or intellectual development. It can include:

- emotional deprivation due to persistent rejection;
- hostility and threats;
- teasing;
- bullying;
- yelling;
- criticism;
- exposure to domestic and/or family violence.

5.8 Neglect

occurs when a child's needs are not met, affecting their health and development. Basic needs include:

- food;
- housing;
- health care;
- clothing;
- personal hygiene;
- adequate supervision.

5.9 Child in Need of Protection

is a child who: has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm; and does not have a parent or guardian able and willing to protect the child from the harm. (Section 10 of the *Child Protection Act 1999*)

5.10 QLD Department of Child Safety, Seniors and Disability Services (Child Safety Services)

The Department dedicated to protecting children and young people who have been harmed or are at risk of harm. It is immaterial how harm to a child or young person is caused. What is important, in terms of whether a child is in need of protection, is whether a child or young person:

- has suffered significant harm, is suffering significant harm, or is at risk of suffering significant harm;
- does not have a parent or carer able and willing to protect the child from harm.

The department's role in protecting children and young people is to:

- investigate concerns that a child or young person has been harmed or is at risk of significant harm;
- provide ongoing services to children and young people who are experiencing or are at risk of experiencing significant harm.

Information on how to report can be found on the [QLD Department of Child Safety, Seniors and Disability Services website](#).

5.11 Reportable Suspicion (about a child)

A reasonable suspicion that the child: has suffered, is suffering, or is at unacceptable risk of suffering harm caused by physical, sexual or emotional abuse or neglect; and does not have a parent able and willing to protect the child from the harm.

5.12 National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission

An independent government agency established to improve the quality and safety of NDIS supports and services, including the implementation of Positive Behaviour Support and the use of Restrictive Practices.

5.13 NDIS Quality and Safeguards Commission Reportable Incident

Registered NDIS providers are required to record and manage all incidents that happen in the delivery of NDIS supports and services in their internal incident management systems and **notify the NDIS Commission of reportable incidents**.

Registered NDIS providers must notify the NDIS Commission, via the NDIS Commission Portal, of all reportable incidents (including allegations), even where the provider has recorded and responded within their own incident management system.

For an incident to be reportable a certain act or event needs to have happened (or alleged to have happened) **in connection with the provision of supports or services by the registered NDIS provider**. This includes:

- The death of a person with disability;
- Serious injury of a person with disability;
- Abuse or neglect of a person with disability;
- Unlawful sexual or physical contact with, or assault of, a person with disability;
- Sexual misconduct, committed against, or in the presence of, a person with disability, including grooming of the person with disability for sexual activity;
- Unauthorised use of restrictive practices in relation to a person with disability.

6.0 REPORTING ABUSE

Section 13E (3) of the Child Protection Act 1999:

Under Section 13E (3) of the *Child Protection Act 1999*, if a doctor, registered nurse, teacher or early education and care professional forms a 'reportable suspicion' about a child "in the course of their engagement in their profession", they must make a written report.

Please note: AQ consider all employees mandatory reporters when there is a suspected reportable suspicion regardless of role.

- The AQ staff member must complete an internal incident report;
- report in writing to the Chief Executive of the Department of Child Safety, Seniors and Disability Services ('the Department') (or other department administering the *Child Protection Act 1999*); and
- give a copy of the report to the Line Manager or School Principal.

A report under this section must include the following particulars:

- a. the child's name and sex descriptor;
- b. the child's age;
- c. details of how to contact the child;

Examples:

- the address at which the child usually lives
 - the name and address of the school the child attends
- d. details of the harm to which the reportable suspicion relates;
 - e. particulars of the identity of the person suspected of causing the child to have suffered, suffer, or be at risk of suffering, the harm to which the reportable suspicion relates;
 - f. particulars of the identity of any other person who may be able to give information about the harm to which the reportable suspicion relates.

7.0 REPORTING SEXUAL ABUSE

Please note: AQ consider all employees mandatory reporters when there is a suspected reportable suspicion regardless of role.

- The AQ staff member must complete an internal incident report;
- report in writing to the Chief Executive of the Department (or other department administering the *Child Protection Act 1999*); and
- give a copy of the report to the Line Manager or School Principal

Section 366 of the ***Education (General Provisions) Act 2006*** states that if a staff member becomes aware, or reasonably suspects, in the course of their employment at the School, that any of the following has been sexually abused by another person:

- a student under 18 years attending the School;
- a kindergarten aged child registered in a kindergarten learning program at the School;
- a person with a disability who:
 - under section 420(2) of the *Education (General Provisions) Act 2006* is being provided with special education at the School; and
 - is not enrolled in the preparatory year at the School,

then the staff member must give a written report about the abuse or suspected abuse to the School Principal or to a Director of the School's governing body immediately.

The School Principal or the Director must immediately give a copy of the report to a police officer.

If the first person who becomes aware of or reasonably suspects sexual abuse is the School Principal, the Principal must give a written report about the abuse, or suspected abuse to a police officer immediately and must also give a copy of the report to a Director of the School's governing body immediately.

A report under this section must include the following particulars:

- the name of the person giving the report (the first person);
- the child's name and sex descriptor;
- details of the basis for the first person becoming aware, or reasonably suspecting, that the child has been sexually abused by another person;
- details of the abuse or suspected abuse;
- any of the following information of which the first person is aware:
 - the child's age;
 - the identity of the person who has abused, or is suspected to have abused, the child;
 - the identity of anyone else who may have information about the abuse or suspected abuse.

8.0 REPORTING LIKELY SEXUAL ABUSE

Please note: AQ consider all employees mandatory reporters when there is a suspected reportable suspicion regardless of role.

- The AQ staff member must complete an internal incident report;
- report in writing to the Chief Executive of the Department (or other department administering the Child Protection Act 1999); and
- give a copy of the report to the Line Manager or School Principal.

Section 366A of the **Education (General Provisions) Act 2006** states that if a staff member reasonably suspects, in the course of their employment at the School, that any of the following is likely to be sexually abused by another person:

- a student under 18 years attending the School;
- a kindergarten aged child registered in a kindergarten learning program at the School;
- a person with a disability who:
 - under section 420(2) of the *Education (General Provisions) Act 2006* is being provided with special education at the School, and
 - is not enrolled in the preparatory year at the School,

then the staff member must give a written report about the suspicion to the Principal or to a Director of the School's governing body immediately.

The School Principal or the Director must immediately give a copy of the report to a police officer.

If the first person who reasonably suspects likely sexual abuse is the School Principal, the Principal must give a written report about the suspicion to a police officer immediately and must also give a copy of the report to a Director of the School's governing body immediately.

A report under this section must include the following particulars:

- the name of the person giving the report (the first person);

- the child's name and sex descriptor;
- details of the basis for the first person reasonably suspecting that the child is likely to be sexually abused by another person;
- any of the following information of which the first person is aware:
 - the child's age;
 - the identity of the person who is suspected to be likely to sexually abuse the student
 - the identity of anyone else who may have information about the abuse or suspected abuse.

9.0 RESPONSIBILITIES UNDER CRIMINAL CODE ACT 1899

The *Criminal Code Act 1899* includes two offences that pertain to the failure to report a child sexual offence and the failure to protect a child against a child sexual offence. A child sexual offence is an offence of a sexual nature by an adult against a child or under 16 years or a person with an impairment of the mind. This offence applies to all adults inclusive of students or clients 18 years or older, as well as parents/guardians and volunteers.

9.1 Failure to Report

Under section 229BC of the *Criminal Code Act 1899*, all adults must report sexual offences against a child by another adult to police as soon as reasonably practicable after the belief is, or ought reasonably to have been, formed.

Failure to make a report, without a reasonable excuse, is a criminal offence. A reasonable excuse not to make a report under the *Criminal Code Act 1899* includes that a report has already been made under the *Education (General Provisions) Act 2006* (reporting sexual abuse or likely sexual abuse) and the *Child Protection Act 1999* (reporting significant harm or risk of significant harm) as per this policy.

9.2 Failure to Protect

Under section 229BB of the *Criminal Code Act 1899*

An accountable person commits a crime if—

- a) the person knows there is a significant risk that another adult (the alleged offender) will commit a child sexual offence in relation to a child; and
- b) the alleged offender—
 - i. is associated with an institution; or
 - ii. is a regulated volunteer; and
- c) the child is under the care, supervision or control of an institution; and the child is either—
 - i. under 16 years; or
 - ii. a person with an impairment of the mind; and
- d) the person has the power or responsibility to reduce or remove the risk; and
- e) the person wilfully or negligently fails to reduce or remove the risk.

An adult is associated with an institution if the adult—

- a) owns, or is involved in the management or control of, the institution; or
- b) is employed or engaged by the institution; or
- c) works as a volunteer for the institution; or
- d) engages in an activity in relation to the institution for which a working with children authority under the *Working with Children (Risk Management and Screening) Act 2000* is required; or
- e) engages in the delivery of a service to a child who is under the care, supervision or control of the institution.

An accountable person means an adult who is associated with an institution, other than a regulated volunteer.
Institution means an entity, other than an individual, that—

- a) provides services to children; or
- b) operates a facility for, or engages in activities with, children under the entity's care, supervision or control.

10.0 COMPLAINTS

Reports of non-compliance with this Policy will be managed in accordance with AQ's *Complaints & Feedback Management Policy* and/or *Child Safety Code of Conduct* and *Code of Conduct*.

11.0 PROCEDURES

For procedures relating to child protection, refer to:

- Child Protection (School) Procedure
- Child Protection (Non School) Procedure

12.0 RELATED DOCUMENTS

Legislation

Australian Human Rights Commission Act 1986 (Cth)
Child Protection Act 1999 (Qld)
Corporations Act 2001 (Cth)
Criminal Code Act 1899 (Qld)
Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020
Disability Discrimination Act 1992 (Cth)
Disability Discrimination and Other Human Rights Legislation Amendment Act 2009 (Cth)
Disability Services Act 2006 (Qld)
Education (Accreditation of Non-State Schools) Act 2017 (Qld)
Human Rights Act 2019 (Qld)
National Disability Insurance Scheme Act 2013 (Cth)
Privacy Act 1988 (Cth)
Guardianship and Administration Act 2000 (Qld)
Public Guardian Act 2014 (Qld)
Public Trustee Act 1978 (Qld)
Work Health and Safety Act 2011 (Qld)
Working with Children (Risk Management and Screening) Act 2000 (Qld)

Standards and Principles

Australian Privacy Principles
Human Services Quality Standards
National Disability Standards (Cth)
NDIS Quality & Safeguarding Framework
National Principles for a Child Safe Organisation

NDIS Modules and Practice Standards

Core 1: Rights and Responsibilities

- 10 Violence, Abuse, Neglect, Exploitation and Discrimination

Core 2: Governance and Operational Management

- 11 Governance and Operational Management
- 12 Risk Management

Module 3: Early Childhood Supports

- 56 The Child

Internal

Child and Youth Risk Management Strategy

Child Protection (Non-School) Procedure

Child Protection (School) Procedure

Child Safety Code of Conduct

Child Safe Organisation Principles Booklet

Client Protection (Adult) Procedure

Client Safety Management Guidelines

Clients' Rights Policy

Code of Conduct

Complaints & Feedback Management Policy

Incident Management Policy and Procedures

Privacy Policy

Reportable Incident Investigation Form – NDIS Participants Only

Restrictive Practices Policy & Procedure

Risk Management Policy & Framework

Work Health & Safety Policy

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