**ECFKI MANDATORY REPORTING POLICY & PROCEDURE**

**RATIONALE**

ECFKI is committed to the welfare, well-being, and protection of every child in its care. This commitment is to be reflected in all aspects of service operation including policies & procedures, staffing and program development.

The purpose of this policy & procedure is to ensure:

• a safe, caring, and nurturing environment for all children and young people in our care

• team member or other worker compliance with the requirements of the Children and Young Persons (Care and Protection) Act 1998 and Children Legislation Amendment (Wood Enquiry Recommendations) Act 2009

• that team members or other workers minimise opportunities for abuse and provide children with maximum protection, and

• team members and other workers are aware of indicators of child abuse and neglect, and of procedures for notification through orientation and ongoing training.

**SCOPE**

This procedure applies to all current or potential team members or other workers delivering a service to children or in management of a service for children. These team members are legally required to report concerns for a child at risk of harm. All team members and other workers who work with children are responsible to act as an advocate for children and create a community that respects children as a priority.

**Please note:** Failure to protect- It is an offence under S43B of the Crimes Act 1900 if an adult in child-related work in an organisation knows of another adult there that poses a serious risk of abusing a child (under 18 years), and they have the power to reduce or remove the risk, and they negligently fail to do so.

Failure to report: It is an offence under S316A of the Crimes Act 1900 if any adult in NSW:

• knows, believes or reasonably ought to know that a child (under 18 years) has been abused (including sexual abuse, serious physical abuse, and extreme neglect).

• has information that might assist in apprehending, prosecuting, or convicting the offender.

• fails without reasonable excuse to bring that information to the attention of a member of the NSW Police Force as soon as it is practicable to do so.

**TERMS & DEFINITIONS**

***Child*** means a person under the age of 16 years. (Under this legislation, a child is aged under 16 and a person between the age of 16 and 18 years is described as a “young person”.)

***Child at Risk*** means a child at risk of harm is one whose:

• basic physical or psychological needs are not being met

• necessary medical care has not been arranged

• educational needs are not being met

• the child has been, or is at risk of being physically or sexually abused or ill-treated

• the child is living in an environment of domestic violence and is at risk of serious physical or psychological harm

• someone has behaved in such a way toward the child that the child has suffered or is at risk of suffering serious psychological harm

• pregnant mother whose lifestyle is not being improved to protect the unborn child

Any such circumstances may relate to a single act or omission or to a series of acts or omissions.

***Department of Communities and Justice (DCJ)*** means the agency in NSW with statutory responsibility for protecting children and young people from risk of significant harm.

***Mandatory Reporter*** means

(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, and

***Other Workers*** are considered to be, for the purpose of this policy:

a) Contractors, contracted service provider (such as Request for Quotation, Tenders, Expressions of Interest (EOIs), and one-off or standing purchase orders) or subcontractors engaged to provide a service on behalf of ECFKI to children

b) Students gaining work experience

c) Volunteers

Team member is considered to be, for the purposes of this policy any employee of ECFKI.

**TYPES OF ABUSE**

**Grooming** is defined as behaviours that are intended to manipulate and control a child, their family and other support networks with the intent of gaining access to the child and obtaining their compliance and silence in order to avoid abuse being discovered. It does so by building trust and favouring some children over others in order to isolate and manipulate them. It may involve giving gifts, special attention, close physical contact or exposure to sexual content.

**Neglect** is the failure to provide the basic necessities of life, such as food, shelter, supervision, clothing, and hygiene, as well as necessary medical care or education. This includes leaving a child alone in a car for any period of time or leaving a child/young person alone anywhere for a certain period of time and under particular circumstances, providing no safe place to stay, withholding food, not providing necessary or recommended medical care or mental health care, and not enrolling a child in school or allowing habitual absences.

**Physical abuse** is a non-accidental injury inflicted on a child/young person. This includes children being deliberately shaken (babies) or hurt by excessive discipline. It can include welts, cuts, burns, fractures, dislocations, bruising, internal injuries, attempted strangulation, and genital mutilation, as well as injuries caused during an incident of domestic violence.

**Psychological harm** occurs where a parent's behaviours are persistent, repetitive and have a negative impact on a child/young person’s development, social needs, self-worth, or self-esteem. This can involve criticising, punishing, demeaning, and scapegoating. Psychological harm also includes parental behaviours related to deliberate exposure to traumatic events, criminal or corrupting behaviour, severe parental mental health, or substance abuse, and chronic or severe domestic violence.

**Sexual abuse** involves assaulting, mistreating, or exposing a child/young person to sexual activities with an adult, or older person. This includes a range of adult contact behaviours (e.g., touching in sexual manner, penetration, or oral sex) and non-contact behaviours (e.g., exposing self to child, exposing child to pornographic material or acts), and child prostitution. Young person means a person between the age of 16 and 18 years.

**STATEMENT**

ECFFKI will ensure that all children and young people attending our centre are safe from neglect, and from physical, psychological, or sexual abuse by team members, other workers or other adults while using these services. Management and all educators will treat children and young people with respect, and we will support them in developing trusting and safe relationships with adults. ECFKI will support families in their parenting role as required. All team members will have a Working with Children Check clearance prior to commencing work and will be required to update their Working with Children Check before the expiry/due date. Team members will participate in ongoing training, help children learn about self-protection, and remain up to date with their own obligations regarding child protection matters.

**PRINCIPLES TO PROTECT CHILDREN AND YOUNG PEOPLE**

* Each child is observed for signs of illness/injury that could affect participation in activities.
* Any signs of abuse or neglect are noted in the child’s file and dated. These files will be kept securely in a locked filing cabinet.
* All team members are provided with opportunities to develop skills in identifying indicators of harm and responding to children at risk of significant harm through ongoing training.
* Team members assist children to understand and develop protective behaviours, including the ability to:
* identify and discuss their feelings
* be aware of physiological signs of not feeling safe (e.g., fast heartbeat, sick in tummy)
* talk about situations where they feel safe and unsafe
* know what they can say when they feel uncomfortable, that they can leave an unsafe situation, and they can tell someone they trust
* use correct terminology for body parts
* identify adults that they can trust and go to if feeling unsafe.
* Team members keep parents informed about protective behaviour programs for children.
* Team members use the correct terminology for all body parts & understand that it is a natural part of development for children to be curious about their bodies.
* Team members provide an open and supportive environment to discuss gender, modesty, and sexuality as this helps develop positive attitudes about themselves and respect for each other’s bodies. Team members aim to empower children to protect themselves.
* Team members and other workers reassure children that they will be listened to.

**RESPONDING TO CONCERNS**

If team members or other workers have concerns for the safety, welfare, or wellbeing of a child, and believe that the child is at risk of significant harm, they must consult the Mandatory Reporter Guide on the Child Story Reporter website (https://reporter.childstory.nsw.gov.au/s/) and call the Child Protection Helpline on 13 21 11. If they have concerns for the safety of a young person, they must also report for them.

If a child makes a disclosure of abuse or neglect, team members and other workers follow guidelines for responding to a disclosure and report to Child Protection Helpline.

**MANDATORY REPORITNG PROCESS**

A report is made when a person contacts the Child Protection Helpline to inform them of concerns for the safety, welfare or well-being of a child or young person. You must make a report to the Helpline if you suspect a child is at risk of significant harm – that is you have current concerns about the safety, welfare or wellbeing of a child or young person and those concerns are for significant risk of harm. You don’t need to be certain; you only need to make sure your concerns are well founded and based on information you know or have from a reliable source.

Reports may also be made online at reporter.childstory.nsw.gov.au.

Follow the below process to determine whether a child is at risk of significant harm, and to make a report if necessary.

**Procedures for Determining and Reporting a Child at Risk of Significant Harm:**

1. Document your concerns and/or the allegation

2. Inform your service Director/Coordinator/Team Leader

3. Consult the NSW Mandatory Reporter Guide on Child Story Reporter website and use the decision trees to help determine significance of risk of harm.

4. Centre Director/Coordinator to inform relevant Manager and Director

5. If significant risk is determined, then team member or Centre Director/Coordinator report to the Child Protection help line (132 111) or reporter.childstory.nsw.gov.au. Be prepared with details regarding the child and family.

6. If the risk is deemed less than significant, continue to monitor, and support the child and family. Plans to support children and families should be developed with the Centre Manager and Manager Children’s Services, and where necessary should include making referrals to relevant agencies or organisations.

7. If there is uncertainty regarding the significance of the risk, contact the Child Protection Helpline for advice.

8. Centre Director/Coordinator to provide a written report of the incident to relevant Manager

9. Families of children involved in a report may or may not be informed. This will depend on each individual situation and the safety, welfare and well-being of the child is the most important determining factor. Sound professional judgement needs to be used in this process and the final decision whether to inform family members will be made in consultation with the centre director/coordinator and the relevant Manager.

Throughout this process team members or other workers should also ensure that they:

• Maintain confidential file of information regarding the child, the incident, your concerns, and reports made. These are to be stored in a locked filing cabinet.

* Maintain confidentiality of all parties at all times.

Where a person makes an allegation but says they don’t want it to go any further, they should be advised that you are legally obliged to act on certain information. If you receive an allegation, you are required to report this to DCJ if you believe the child is at risk of significant harm.

Should the allegation relate to another team member or other worker, please refer to the Reportable Conduct Policy & Procedure.

Families and other members of the community must also report concerns regarding a child’s welfare to the NSW Police. The help line number for all reporters is 132 111.

**INFORMATION EXCHANGE**

In order to provide effective support and referral it may be necessary to exchange information with other prescribed bodies including government agencies or non-government organisations and services.

* The NSW Children and Young Persons (Care and Protection) Act 1998 has been amended (2009) to include chapter 16A Information Exchange
* Chapter 16A requires prescribed bodies to take reasonable steps to coordinate decision making and the delivery of services regarding children and young people
* Under Chapter 16 NSW Children and Young Persons (Care and Protection) Act 1998, Staff will exchange information that relates to a child or young person’s safety, welfare, or wellbeing, whether or not the child or young person is known to Community Services and whether or not the child or young person consents to the information exchange.
* The information requested or provided **must** relate to the safety, welfare, or wellbeing of the child. Information includes:
	+ A child or young person’s history or circumstances
	+ A parent or other family member, significant or relevant relationship
	+ The agency’s work now and in the past
* Where information is provided in good faith and according to legal provisions, under section 29 & section 245G NSW Children and Young Persons (Care and Protection) Act 1998; reporters cannot be seen as breaching professional etiquette or ethics or as a breach of professional standards. There can be no liability for court action.
* ECFKI will undertake a process of authenticating a prescribed body’s legitimacy prior to sharing information. This may include (but not be limited to) - asking for contact names & details; requesting an email that asks for relevant information; checking records of the agency or body &/or calling the agency back to ensure they are correctly identified.

### ***Where a complaint is made about a staff member, or someone in the service***

* Should an incident occur that involves a child being put at risk of harm from a member of staff, volunteer, trainee, or person visiting the service, this is regarded as **‘reportable conduct’** and necessitates such conduct being reported to the NSW Ombudsman within 30 days.
* Where the allegation is made to a staff member or member of management the facts as stated will be recorded in writing, using an Incident Report template that includes dates, times, names of person/s involved, name of person making allegation and the person making the report. This report should be kept on record and treated as strictly confidential.
* If the Director or Nominated Supervisor is suspected, then the chairperson on management committee should be informed. The relevant forms together with information and assistance are available online at [www.nswombudsman.nsw.gov.au](http://www.nswombudsman.nsw.gov.au)
* The person making the report should follow the advice of the Ombudsman’s Departmental Officers.
* Management will also follow this advice.
* The matter will be treated with strict confidentiality.
* For the protection of both the children and the staff member involved, the staff member should be encouraged to take special leave or removed from duties involving direct care and contact with children, until the situation is resolved.
* Support should be provided to all involved. This support can be given in the form of counselling or referral to an appropriate agency.

# CONSIDERATIONS

National Quality Standard: 2.2.1, 2.2.2, 2.2.3

Education and Care Services National Regulation 2013: Regulation 84, 86, 87, 147, 155, 168, 170, 171, 175, 176, S162(A), S165 & S167.

Other-

* Children’s Guardian Act 2019
* NSW Children and Young Person’s (Care and Protection) Act 1998
* Commission for Children and Young People Act 1998
* Child Protection (Prohibited Employment) Act 1998
* Ombudsman Act 197m4 (with relevant Child Protection Amendments)
* NSW Department of Community Services Mandatory Reporting Guidelines
* NSW Child Protection Interagency Guidelines (2006)
* Legislation Amendment (Wood Inquiry Recommendations) Act 2009 No 13
* The Royal Commission into Institutional Responses to Child Sexual Abuse 2017

##### For further information-

* Child Story www.reporter.childstory.nsw.gov.au
* NSW Communities & Justice <https://dcj.nsw.gov.au/>
* Ombudsman NSW [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)
* Community Services [www.community.nsw.gov.au](http://www.community.nsw.gov.au)

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**Appendix 1:**

**RESPONDING TO A DISCLOSURE**

• Find a private place to talk

• Listen carefully & use a calm reassuring tone

• Allow them to tell their story in their own way

• Be open and non-judgmental

• Support them in telling their experience

• Provide appropriate comfort

• Assess whether they will be at risk by informing them or their parent/s that you will be making a report

Convey the following messages…

• It is not their fault

• It was right to tell AND you believe them

• It is not OK for adults to harm children - no matter what

• If appropriate, explain that it is part of your job to inform people who can assist when a child or young person has been harmed or is at risk of harm

• If appropriate, explain what will happen now

• Acknowledge any concerns about ‘what will happen next’ and ‘what will happen to the perpetrator’

**Don’t…**

• Express disbelief, shock or disapproval

• Probe for additional information they are unwilling to provide

• Ask leading questions

• Investigate the allegations

• Make the child or young person tell others

• Make promises you can’t keep

• Try to ‘close down’ the conversation

• Make negative comments or pass judgement about the alleged perpetrator

**Appendix 2:**

**REMOVAL OF CHILDREN**

***Objective*** The purpose of this procedure is to provide guidance for team members or other workers when responding to a Department of Communities and Justice request for removing a child or young person at immediate risk of significant harm, with or without a search warrant or Children’s Court order.

***Overview*** The Department of Communities and Justice (DCJ) and NSW Police have the legal authority to remove children from their parents’ or usual carer’s responsibility where:

• there are reasonable grounds to believe that the child or young person is at risk of significant harm; and

• the risk is immediate, and less intrusive actions insufficiently reduce the risk of harm.

DCJ also has authority to assume the care of a child while they attend a children’s service (that is, where it is not in the best interests of the child to be removed from the premises where they are currently living/located), if the child is assessed as needing care and protection on returning to the care of parents or carers.

Section 34 of the Children and Young Persons (Care and Protection) Act 1998 (the Act) authorises Community Services to take whatever action is necessary to safeguard or promote the safety, welfare and well-being of a child or young person who needs care or protection.

DCJ must ensure that the child’s parents/carers are kept informed of the whereabouts of the child:

• by disclosing the whereabouts of the child where the disclosure would not prejudice the child’s safety, welfare, wellbeing, or interests, or

• by not disclosing high level identification information (including name and address of the carer; information that may identify the placement; or contact information) where the disclosure would prejudice the child’s safety, welfare, wellbeing, or interests Section 234 (1) of the Act requires the person conducting the removal to provide the following information to the child (where over 10 years old):

• the person’s name and authority to conduct the removal

• the reasons why the child or young person is being removed

• that the law authorises the person to conduct the removal

• what is likely to happen to the child or young person after they have been removed This information may be provided verbally at the time, however, must be provided in writing as soon as practicable in a language and manner the child or young person can understand. The child (10+ years) must be informed they may contact any person and be assisted to contact that person. DCJ is responsible for arranging a placement for the child, where required. DCJ will not ordinarily return the child(ren) to their parents or carers until it assesses that it is safe to do so or the Children’s Court orders it.

**Procedure**

If DCJ representatives arrive at the service to remove or assume the care responsibility of a child, please ensure this procedure is followed:

1. DCJ will contact the service to seek approval from the Director/Nominated Supervisor/Responsible Person or the most senior team member on shift to collect the child and advise about the need to remove or assume the child from the service, including the names of the representatives and the proposed arrival time (DCJ may be assisted by Police).

2. In preparation for the attendance of DCJ staff, a team member or other worker should sit with the child in a comfortable area, e.g., office or staff room (to assist in reducing distress to other children). Ensure that the other children at the centre will still be adequately supervised.

3. Do not contact the child’s parent/s to advise them about the impending removal of the child.

4. Contact the Nominated Supervisor (if not present) or executive member of the Management Committee immediately to advise that your service will have a child removed from care by DCJ representatives and the approximate time.

5. If there has not been a prior call from DCJ or the representatives do not advise their names upon arrival the Director/Nominated Supervisor/Responsible Person should:

a) confirm the identification of the representatives (formal ID)

b) record the names and contact details of the representatives and the names of any Police in attendance

c) request that they sign the visitor book or office diary

6. If there is any doubt about the identity of DCJ representatives the Director/Nominated Supervisor/Responsible Person should contact the relevant DCJ Centre for verification or, if the removal is taking place outside office hours, contact the Child Protection Helpline on 132 111.

7. Where there is a Children’s Court Order or a search warrant, DCJ representatives will serve an Order on the person at the service who appears to have the care and protection of the child and provide them with an information booklet about the removal (a child or young person may be removed with or without a search warrant or Children’s Court order depending on the circumstances).

8. Ensure a representative sign the child out and that parents have been informed. An official must remain at the service until it is confirmed that the parent has been informed of the child’s removal from the centre.

**Team member and other worker safety**- If the parent or carer contacts and/or arrives at the service for information they should be directed to contact the Community Services Centre, or to call the Child Protection Helpline on 132 111. Where possible a Community Services caseworker should remain at the centre to inform the parent.

**Complaints**- Team members, other workers or parents can also contact the DCJ if they have a complaint in relation to the removal.