

## E.17 Protection of Children from Abuse and Neglect

### 1.0 INTRODUCTION/BACKGROUND

The Children's and Young Persons (Care and Protection) Act, 1998 (NSW) requires of some health and community service workers the mandatory reporting of suspected abuse/neglect of children/young people. Within Mercy Services the following positions are defined as mandatory reporters:

- a) a person whose Mercy Services employment delivers health care, welfare, education, children's services, wholly or partly, to children (namely: McAuley Alcohol & Other Drugs Outreach Service and McAuley Parenting Programs), and
- b) a person who holds a management position at Mercy Services.

The Values of Mercy Services require other Mercy Services staff to take an active role in reporting suspected/actual abuse/neglect of children/young people.

Also Towards Healing

The NSW Interagency Guidelines for Child Protection Intervention 2006 edition requires organisations such as Mercy Services to:

- notify the Commission for Children and Young People of any employee against whom relevant employment proceedings have been completed since 3 July 1995
- provide appropriate information to Approved Screening Agencies, when it is requested, about employees who have been subject to relevant employment proceedings
- notify the Ombudsman within 30 days of any reportable allegations against employees arising in the course of the person's employment
- report allegations, even if the head of the agency believes they are false, vexatious or misconceived. The test for this notification is lower than that required for making a risk of harm report to the Department of Community Services
- investigate reportable allegations and convictions against their employees, and taking appropriate action as a result of the investigation.

In addition where employees in child-related employment (as defined in the Commission for Children and Young People Act 1998) Mercy Services is required to:

- register with one of the following Approved Screening Agencies:
  - Catholic Commission for Employment Relations (CCER)
- obtain a Prohibited Employment Declaration from all preferred applicants for any child-related position. Prohibited persons must not be allowed to work in a child-related position
  - ask preferred applicants for positions in paid child-related employment, or for positions as foster carers or ministers of religion, to sign a Working With Children Check consent form
  - request a Working With Children Check from the Approved Screening Agency

- decide whether to employ the applicant, taking into account the result of the Working With Children Check, and any other relevant information
- notify the Commission for Children and Young People of any person whose application is rejected primarily.

## **2.0 SCOPE**

This Policy aims to clarify how Mercy Services will protect children and young people from abuse/neglect. The Policy sets out Management's role in preventing abuse/neglect of children/young people from Mercy Services staff/volunteers. The Policy also sets out the role of Mercy Services staff in identifying and responding to suspected/real abuse/neglect of children/young people.

## **3.0 POLICY STATEMENT**

Mercy Services accepts its role in ensuring the safety, welfare and well-being of children and young people in our society. Central to this role is that all Mercy Services staff will report to the appropriate authorities any actual or allegations of abuse/neglect of which they become aware. Management of Mercy Services will ensure that any allegations that may require changes to Mercy Services staffing and/or programs are investigated and appropriate action taken. In fulfilling this role Mercy Services will follow the guidelines for non-government organisations as set out in the NSW Interagency Guidelines for Child Protection Intervention" (2006).

## **4.0 PROCEDURES**

### **4.01 Prevention of abuse/neglect**

- a. Mercy Services will undertake a criminal record screen on all new employee/volunteers. If the person's employment involves contact with children, Mercy Services will request a Working with Children check be completed by CCER.
- b. Where it is found that a person has a prior conviction for child abuse/neglect Mercy Services will decide whether that person will have their duties modified in such a way that they do not work with children or other vulnerable persons or will not appoint the person.
- c. Their Coordinator/Manager will outline the responsibilities in regard suspected/actual abuse/neglect to their new/existing employees/volunteers.
- d. Staff will receive appropriate training in the detection, prevention, investigation and intervention of child/young person abuse/neglect.

### **4.02 Identification of Abuse/Neglect**

All staff will inform client's that normal rights to privacy/confidentiality do not apply when actual or suspected abuse/neglect of children/young people is disclosed. Clients will be informed of this situation when they begin with our organisation and when required on other occasions.

The NSW Interagency Guidelines for Child Protection Intervention (2006 Chapter 2 pg 6) says “general indicators of abuse or neglect include:

- a child or young person tells you of their abuse or neglect;
- someone else tells you of the abuse or neglect of a child or young person;
- a history of previous abuse or neglect to the child, young person or a sibling;
- unexplained and marked changes in a child or young person’s behaviour or mood;
- the parents’ or caregivers’ misuse of alcohol or drugs is affecting their ability to care for the child or young person;
- ongoing or sporadic violence between the parents in the presence of the child or young person;
- the parents or caregivers are experiencing significant problems in managing their child, which is incongruent with the child’s or young person’s behaviour or special needs; and/or
- a deficiency in functional parenting skills required to provide for the safety, welfare and wellbeing of the child or young person.”

The suspected perpetrator may be a client of Mercy Services, a carer/family of a Mercy Services client, a staff/volunteer of Mercy Services or a visitor to Mercy Services. Where staff obtain information outside of their employment about actual or suspected abuse/neglect allegedly committed by a staff/volunteer of Mercy Services they must also report this information to the General Manager.

#### 4.03 Procedures for Interaction with Clients

If a staff member has reason to believe that harm has occurred, or is likely to occur, the following procedures should be followed:

- i. In situations in which a child is at immediate risk the worker should take immediate action e.g., call Department of Community Services (DoCS) Helpline and, if appropriate, the Police Service.
- ii. Discuss the issues with the client and work with the client towards addressing the issues, if appropriate
- iii. Ensure that medical aid is sought (if required)
- iv. Encourage the client(s) to contact the DoCS for assistance and guidance (Phone: 13 21 11 for the public) Assist the client to access the Helpline if applicable.
- v. Indicate to the client(s) that you are also obliged to contact DoCS and/or other appropriate authorities – where possible and safe to do so.
- vi. Wherever possible, discuss any case in which you have any concerns about possible abuse or neglect with the Coordinator/Manager or, in the absence of the Coordinator, one or more other staff member(s) or - if applicable - the Clinical Consultant.
- vii. If you are not able to discuss the report with the Coordinator/Manager advise him/her at the first available opportunity
- viii. DoCS Helpline should be contacted as soon as possible on the same day as any reportable situation is indicated
- ix. Follow the reporting procedure set out below, if applicable

**NB: The well-being of the child or young person must have priority**

#### 4.04 Procedure for Consultation/Reporting

If a staff member is unsure about whether to make a report, she or he can phone the DoCS Helpline (13 21 11) and discuss any issues/concerns.

If a formal report is to proceed:

- i. Fill in the DoCS "Reporting Risk of Harm" form (available on the internet at [http://www.community.nsw.gov.au/docswr/assets/main/documents/riskofharm\\_fax\\_report.doc](http://www.community.nsw.gov.au/docswr/assets/main/documents/riskofharm_fax_report.doc))
- ii. FAX a copy of the form to DoCS (FAX no. 9633 7666) – if a phone report was initially made include the reference number by DoCS at the time.
- iii. Record that a report was made in the Client File notes (or Care Notes in TCM)
- iv. Attach the faxed report form in a plastic sleeve at the back of the paper client file.
- v. If you have had no follow up from DoCS after one month, phone the Helpline. You may also request written feedback from DoCS who have a form for this purpose. If written acknowledgement is received it should be included in the plastic sleeve with the faxed report.

**NB:** *The same procedure i) to iv) can be used when reporting to the Police*

#### 4.05 Allegations of abuse/neglect by Mercy Services staff/volunteers or at Mercy Services activities

##### 1. Ensuring immediate safety of all children/young people

- an initial risk assessment is carried out where an incident is alleged to have occurred at a Mercy Services program or been perpetrated by a Mercy Services staff/volunteer or client (see Appendix 1). This assessment is in addition to the DoCS investigation as it is a way of Mercy Services ensuring that no child/young person can come to harm during the investigation of the allegation. The risk assessment will consider the nature of the allegation; the vulnerability of any child/young person; the nature of the duties of the alleged perpetrators - if they are a staff/volunteer; the level of supervision that can be provided of the alleged perpetrator (be they staff/volunteer/client); the safety of the staff/volunteer and the risk to the investigation. When DoCS or the Police are involved, Mercy Services will consult with them before interviewing the child/young person or staff/volunteer who are involved in the allegation. The initial risk assessment must be completed as soon as possible to ensure that no child/young person can come to harm during the investigation of the allegation
- having gathered information in the initial risk assessment the Co-ordinator/Manager will discuss their suggested response with the General Manager before taking action.
- if required the program or person(s) involved will be changed to ensure that no child/young person is at risk while a thorough investigation occurs. Paid staff may need to be assigned different duties or be placed on Leave

With Pay during this period. A decision to investigate an allegation or to require a temporary alteration to a staff's duties during an investigation is not an indication of guilt. Compliance with these actions demonstrates that Mercy Services and its staff place the protection children/young people from potential harm above their own convenience and status.

- that the OHS Coordinator and General Manager are notified and an Incident Report form is completed.

## 2. Ensuring ongoing safety of all children/young people

- The General Manager will take responsibility for the thorough investigation of allegations of child abuse/neglect at Mercy Services activities/venues and/or by Mercy Services staff/volunteers:
- This investigation will re-assess the initial risk assessment and/or respond to the results of the Police/DoCS investigation. In a serious criminal matter, an investigation by Mercy Services will not take place until after the police investigation or prosecution is completed.
- The aim of the investigation is to:
  - a) Elicit the facts
  - b) Provide an opportunity for all parties to be interviewed
  - c) Determine whether the allegation is true or false
  - d) Determine the nature of any disciplinary action, if necessary
- The investigation will follow principles of natural justice/procedural fairness:
  - the alleged perpetrator will be aware of the investigation,
  - all relevant witnesses will be interviewed
  - the alleged perpetrator will have an opportunity to present their case,
  - the alleged perpetrator will have a chance to answer the case against them and
  - the person making the final decision will be free of conflict of interest/bias (*the investigator cannot also be the sole decision maker*)
  - the final decision will only be based on the information collected
- The General Manager will only carry out the investigation if he/she can confidently be fair, objective and free from a conflict of interest. If these conditions cannot be assured s/he will appoint someone to progress the internal investigation.
- As far as possible, knowledge of the investigation will be kept confidential amongst the persons directly involved. People should understand that they cannot discuss statements with other staff/volunteers or clients/carers. Strategies will be put in place to protect the identity of the notifier of the allegation, the witnesses who may have provided information, the child/young person involved, and the alleged perpetrator.

- The investigator will ensure that any staff who are subject to the allegation have an opportunity to hear the complaint against them and for them to have the opportunity to put forward their version. The staff will be advised that they may make contact with their union, legal representative or other support person. However no such person has a right to impede the investigation. The employee will be informed that they are not compelled to answer any questions.
- The investigation will involve:
  - i. conducting interviews (*as detailed below*);
  - ii. fully documenting all material gathered (including telephone conversations)
  - iii. any necessary examination of all relevant records, diary entries, premises (*The investigator cannot enter the house of a client or carer against the will of the owner or occupier*)
  - iv. seeking appropriate reports e.g. medical records,
  - v. consulting relevant experts;
  - vi. reviewing relevant Mercy Services policies;
  - vii. recommending a finding and any action deemed appropriate
- Before the investigator interviews a person s/he will explain to this person the purpose of the interview. In the normal course of events, the order of persons to be interviewed will be:
  - a) The complainant (this person must provide sufficient facts or the facts must be of sufficient substance to warrant further action)
  - b) The child/young person or family, only if appropriate and only after consultation with DoCS and/or Police
  - c) Witnesses (*with the same proviso as above*)
  - d) Persons involved in the incident (*with the same proviso as above*)
  - e) Employee subject of the complaint/allegation

If possible people will be interviewed away from their workplace.

All formal interviews will be properly recorded. Witnesses and the alleged offender will be provided with a copy of their statement which they will be asked to sign. They are entitled to keep a copy of their statement.

- The investigator will write a report with subheadings of (1) process of investigation; (2) findings and (3) recommendations. All records relating to the investigation are to be attached to the report.
- The final decision on the validity of the allegation and of any action to be taken will be made by the General Manager. This decision must be clearly based on the evidence provided. A report including the action taken and the reasons for this action will then be considered to be part of a Critical

Incident Report and will be treated in the same confidential manner as other Critical Incident Reports.

- At the conclusion of the investigation the General Manager will send the NSW Ombudsman a copy of the report, copies of statements and other documents on which the report is based and inform the Ombudsman of the action to be taken. The NSW Ombudsman has a role to oversee child protection practices and will assess the investigative practices of an agency.

Any allegation of child abuse made against a staff, irrespective of whether the agency believes the allegation to be unfounded, malicious or vexatious, must be reported to the NSW Ombudsman (Toll free: 1800 451 524). The test for making a report of an allegation of child abuse to the Ombudsman is significantly lower than that required to be made to DoCS under the Children and Young Persons (Care and Protection) Act 1998.

The Ombudsman may conduct an investigation concerning any child abuse allegation or conviction. The Ombudsman may also conduct an investigation concerning any inappropriate handling of or response to any such child abuse allegation or conviction.

#### **4.06 Procedure when information is requested from DoCS**

If we are contacted by DoCS case workers by phone we may provide information if one of the following applies:

- i. The client has signed a "release of information" form
- ii. The contact is in response to a current report we have made to DoCS
- iii. We receive a section 248 from DoCS requesting specific information
- iv. Our files/information are subpoenaed

Should the DoCS require information about a client family for child protection related purposes, they will send us a "Request for information on the safety and well being of a child who is subject of a notification" form. We will respond by providing the requested information to DoCS as soon as possible.

#### **4.07 Consultation with other Agencies regarding Child Protection Issues**

Mercy Services Privacy Policy stipulates that no information be given to individuals or agencies without written consent from the client - other than to DoCS and NSW Police as already discussed. The only exception to this would be the sharing of information at Protection Planning Meetings - convened by DoCS – in which other agencies are involved.

#### **4.08 Safeguards for Reporters**

The Interagency Guidelines for Child Protection Intervention (2006) indicates that non-government organisations must provide to any person who makes a notification (in good faith) the following protections:

- i. The report shall not be held to be a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct.
- ii. No liability for defamation is incurred because of the making of the notification

- iii. The report is not admissible in evidence in any court proceedings except in care proceedings before a Children's Court.
- iv. A person cannot be compelled by a court to produce the notification or give any evidence as to its contents.

#### 4.09 Record Keeping

Well kept records are essential to good child protection practice. All relevant information should be recorded in a systematic, accurate way and be regularly updated. Copies of all relevant documents should also be kept in the Client File.

#### 4.10 Media involvement

If required, the General Manager will respond to requests from the media regarding the allegation/conviction. The General Manager will explain the Mercy Services process for responding to allegations/convictions, reassure the media that the appropriate authorities will be informed and state that Mercy Services takes seriously its role in ensuring the safety, welfare and well-being of children and young people in our society. The General Manager will respond to the media according to confidentiality requirements listed above.

### 5.0 REFERENCES

<b>1. Australian Standards</b>	a) AS/NZS 4360:1999 - Risk Management
<b>2. Legislation</b>	a) Children's and Young Persons (Care and Protection) Act, 1998 (NSW) and subsequent amendments. b) Child Protection (Offenders Registration) Act 2000 (NSW) c) Ombudsman Act 1974 (NSW)
<b>3. Professional guidelines</b>	a) Towards Healing <a href="http://www.tjhcouncil.org.au/media/1002/towards-healing-2010-27032013-final-v2013.pdf">http://www.tjhcouncil.org.au/media/1002/towards-healing-2010-27032013-final-v2013.pdf</a>
<b>4. Codes of Practice</b>	a) NSW Interagency Guidelines for Child Protection Intervention 2006
<b>5. Codes of Ethics</b>	a) Australian Association of Social Workers Code of Ethics <a href="http://www.aasw.asn.au/adobe/about/AASW_Code_of_Ethics-2004.pdf">http://www.aasw.asn.au/adobe/about/AASW_Code_of_Ethics-2004.pdf</a> b) Australian Psychological Association Code of Ethics <a href="http://www.psychology.org.au/Assets/Files/Code_Ethics_2007.pdf">http://www.psychology.org.au/Assets/Files/Code_Ethics_2007.pdf</a> a) Code of Ethics for Nurses in Australia <a href="http://www.anmc.org.au/docs/ANMC_Code_of_Ethics.pdf">http://www.anmc.org.au/docs/ANMC_Code_of_Ethics.pdf</a>
<b>6. Evidence</b>	a) nil
<b>7. Mercy Services Values</b>	a) Justice, Respect, Care, Unity, Service



## 6.0 OTHER RELATED POLICIES AND PROCEDURES

- A.2 Code of Conduct
- E.7 Client Rights and Responsibilities
- E.8 Complaints
- E.9 Client Records
- E.11 Coordination with other services
- E.14 Duty of Care
- F.2 Performance Management
- F.6 Volunteers
- G.5 Risk Management
- G.17 Incident Investigation
- G.23 Client Risk Management

## 7.0 RELATIONSHIP WITH STANDARDS

<b>Community Care Common Standards</b>	<b>Disability Standards</b>	<b>EQUIP Standards</b>
1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 2.1, 2.2, 2.3, 2.4, 2.5, 3.1, 3.2, 3.3, 3.4, 3.5	4.1.a, 10.1, 10.2	1.1.8, 1.6.2, 2.1.2, 2.1.3, 3.1.3, 3.2.1

## 8.0 DOCUMENT CHANGES RECORD

<b>Dates of change</b>	<b>Section altered</b>	<b>Natures of changes made</b>
17/09/1997	All sections	First record of Policy
07/10/1998		Record of Policy revision
01/09/2002		Record of Policy revision
09/02/2010	a) 1.0 Introduction/Background b) 2.0 Purpose c) 3.0 Policy Statement d) 4.01 e) 4.02 f) 4.03 g) 4.04 h) 4.05 i) 4.06 j) 4.07 k) 4.08 l) 4.09 m) 4.10 n) 5.0 References o) 6.0 Related Policy p) Relationship to standards q) 8.0 Document changes record	a) Section added b) Minor rewording of previous "Role" section c) New section d) New section e) Additional points on previous Policy f) Minor rewording g) Use of DoCS form rather than Mercy Services form and minor rewording h) New section i) Additional information on section 248 and subpoenas j) Minor rewording k) Update year of Interagency Guidelines l) Delete superfluous words m) New section n) New section o) New section p) New section q) Requires info on nature of changes
25/03/2011	7.0 Relationship to Standards	Replace HACC Standards and CACP Standards with Community Care Common Standards and update to EQUIP 5 Standards
27/11/2012	All Sections	Organisation name updated

Review due 27/11/2015		
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**Initial Risk Assessment of Suspected Child Abuse/Neglect**

*(You must read the Mercy Services Protection of Children from Abuse and Neglect Policy before proceeding with an Initial Risk Assessment)*

Name of Child/Young person .....

Date of Birth or approximate age .....  Male  Female

Notification made to the Department of Community Services Helpline 13 36 27

to..... (name) Date: .../...../..... Time ..... Ref # .....

Action Department of Community Services said they will undertake.....

.....

Name and relationship of alleged perpetrator/s.....

What harm is the alleged to have done?.....

.....

When is it alleged to have occurred (*date and time*)? .....

Where is it alleged to have occurred? .....

Who are the witnesses and what is their relationship with victim (*parent, Mercy Services employee, member, public etc*)

Name.....Relationship.....Phone No.....

Name.....Relationship.....Phone No.....

Name.....Relationship.....Phone No.....

Other relevant information, including any known previous notifications and action

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If the alleged perpetrator is a Mercy Services (Mercy Services) employee/volunteer or client what current/future opportunities do they have to harm a child/young person at a Mercy Services activity/venue?

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If so, what steps could be taken to prevent harm a child/young person at a Mercy Services activity/venue?

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What action is needed to protect the reputation and safety of the alleged perpetrator?

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Risk Assessment completed by:

Name ..... Position .....

Signature ..... Date .....

**Decision on Initial Risk Assessment**

What amendments to the suggested action is needed to prevent harm to a child/young person at a Mercy Services activity/venue

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What amendments to the suggested action are needed to protect the reputation and safety of the alleged perpetrator?

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If a further investigation is required, who will conduct it? .....

Management approval given by:

Name ..... Position .....

Signature ..... Date .....