



Families SA

Child Safe Environments: Principles of Good Practice

**Standards of conduct and care for adults in dealing with children
and for ensuring the safety of children**

**Issued by the Chief Executive,
Department for Families and Communities
(Section 8A, *Children's Protection Act 1993 (SA)*)**

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Introduction

Every child¹ has a right to be safe from harm at all times. The wellbeing and best interests of children are the responsibility of the entire community. As members of the wider community, we must act to ensure that every environment where children are present is safe.

The *Children's Protection Act 1993* aims to ensure that all children are safe from harm and are cared for in a way that allows them to reach their full potential. Under the amendments to the *Children's Protection Act 1993*, the Chief Executive, Department for Families and Communities, is responsible for:

- providing guidance on appropriate standards of conduct for adults in dealing with children
- defining appropriate standards of care for ensuring the safety of children
- providing guidance on the recruitment and supervision of employees of government and non-government organisations who may have contact with children in the course of their employment
- developing and issuing standards to be observed in dealing with information obtained about the *criminal history* of *employees* and *volunteers* who work with children in government or *non-government organisations*.

These good practice principles are issued pursuant to section 8A of the *Children's Protection Act 1993* by the Chief Executive of the Department for Families and Communities. The *Children's Protection Act 1993* requires (at section 8C(1)) that all *government organisations* and certain *non-government organisations* develop appropriate policies and procedures to establish and maintain child safe environments. These policies and procedures must reflect the standards and principles of good practice developed by the Chief Executive, Department for Families and Communities.

Many organisations already have policies and procedures in place that reflect and address these good practice principles.

The Chief Executive, Department for Families and Communities, is also responsible for monitoring progress towards child safe environments in the government and non-government sectors and reporting regularly to the Minister on that subject.

Organisations that do not establish appropriate policies and procedures for ensuring the establishment and maintenance of child safe environments may face a fine of up to \$10,000.

¹ Child means a person under 18 years of age.



Creating child safe environments

A child safe organisation:

- 'takes a preventative, proactive and participatory stance on child protection issues'.² The safety and wellbeing of children is a paramount consideration when developing activities, policies and management practices
- is one that values and embraces the opinions and views of children
- encourages and assists children to build skills that will assist them to participate in society
- takes action to protect children from physical, sexual, emotional and psychological abuse and neglect.

Creating child safe environments is a dynamic process that involves active participation and responsibility by all sectors of the community – individuals, families, government and non-government organisations and community groups. Sharing responsibility for the care and protection of children helps to develop a stronger, more child-focused community. A child safe community can: care for all children; identify vulnerable children; support children who have been abused and neglected; and prevent further harm to children.

The focus of a child safe organisation is not simply to create an environment free from risk or danger. Rather it is about building an environment which is both child-safe and child-friendly, where children feel respected, valued and encouraged to reach their full potential.

A child safe environment is the product of a range of strategies and initiatives. In addition to child safe policies and appropriate codes of conduct and behaviour for employees, volunteers and members, organisations must foster cultures of openness. Children need to know what to do if they believe they have been subject to inappropriate behaviour or have experienced abuse. Equally, organisations need to have very clear procedures to assist employees/volunteers in identifying suspected abuse and neglect. Employees and volunteers must also be aware of their duty to report suspected abuse and neglect to the Child Abuse Report Line (Families SA) and take other measures to establish, promote and maintain child safe and child friendly environments.

This commitment to protecting children should be embedded in an organisation's culture such that everyone is aware of their responsibility for taking action.

² Child Wise *Choose with Care*[®]: *A handbook to build safer organisations for children*. Child Wise, Melbourne 2004, p. 18.



General Principles

The principles and philosophy that underpin child protection work within Australia are based on the United Nations Convention on the Rights on the Child.³ The Convention provides the foundations for both the *Children's Protection Act 1993* and these standards and principles of good practice. More specifically, the Convention emphasises that:

- All children have equal rights to protection from abuse and neglect.
- All children should be encouraged to fulfil their potential and inequalities should be challenged.
 - All children should be encouraged to participate fully in cultural and artistic life and appropriate and equal opportunities should be provided for cultural, artistic, recreational and leisure activity.
- Everybody has a responsibility to support the care and protection of children.
- Organisations shall take all appropriate legislative, administrative, social and educational measures to protect children from all forms of abuse, neglect or negligent treatment, while in their care.
- Organisations have a duty of care to children with whom they work and with whom their agents, contractors and subcontractors work.
 - If organisations work through partners (e.g. contractors, subcontractors or agents), they have a responsibility to meet minimum standards of protection for the children in their partners' programs.

The *National Framework for Creating Child Safe Environments* states that organisations have a moral and legal responsibility to ensure that children in their care are safe. Community service organisations have additional obligations because of the particular vulnerability of many children and young people in their care or utilising their services.⁴ This document reflects the rationale of the *National Framework Schedule: An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking*,⁵ which emphasises that:

- The paramount consideration is the rights, interests and wellbeing of children and their protection from harm.

³ United Nations Office of the High Commissioner for Human Rights *Convention on the Rights of the Child: Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989*. At: <http://www.unhchr.ch/html/menu3/b/k2crc.htm> Accessed 3 July 2007.

⁴ Community and Disability Services Ministers Conference, *National Framework for Creating Child Safe Environments*, 2005, p. 3.

⁵ *Ibid*, p. 2



- The organisation has a duty of care to take all reasonable, necessary and appropriate steps to protect children and young people from risk of harm while they are under the care or supervision of employees or volunteers.

The child safe environments framework

To assist organisations to establish and maintain child safe environments, the Chief Executive, Department for Families and Communities has developed these principles of good practice which incorporate standards of conduct for adults in dealing with children and standards of care for ensuring the safety of children. They are part of an integrated package of measures aimed at establishing and maintaining *child safe environments* and ensuring that the safety and wellbeing of children remains of paramount consideration for all organisations that provide services for children.

Good practice principles

Child safe organisations require a policy framework that addresses specific requirements outlined in the *Children's Protection Act 1993*. These include:

- the organisation's commitment to the safety and protection of children
- how volunteers and employees recognise and respond to suspicions of child abuse and neglect
- standards of care for ensuring the safety of children including standards for addressing bullying by children within the organisation
- codes of conduct for employees and volunteers within the organisation
- standards of care for employees and volunteers within the organisation that reflect the organisation's duty of care to children.

These good practice principles are designed to assist organisations to make clear their commitment to establishing and maintaining child safe environments. The principles are coupled with indicators of compliance which provide organisations with clear examples of steps that they can take to ensure that they have complied with their requirements under the legislation. These principles of good practice are not intended to be wholly prescriptive but to assist organisations in establishing and maintaining child safe environments. By providing indicators of compliance, these principles can be used to measure and audit the child-safe practices of organisations. They can also assist organisations in reviewing and evaluating current practice and



identifying goals for development. The principles also provide a basis for accountability and challenge if practice falls below the specified standards.⁶

Although no policy or procedure can guarantee child safe environments, by implementing the standards embedded in these good practice principles, organisations may promote child safety and wellbeing while minimising the risk of harm to children. By putting these standards into practice, everyone will have clear guidance on their own behaviour around children and on what to do if they notice or are told about inappropriate behaviour on the part of others. In addition, by establishing child-safe practices, organisations may deter those who would wish to abuse children from joining the organisation.

In writing these good practice principles, the aim has been to make them relevant and achievable while also recognising that different organisational contexts will at times pose challenges.⁷ While provisions within organisations' policies and practices must reflect these principles when establishing and maintaining child safe environments, the *Children's Protection Act 1993* acknowledges that provisions to achieve this may vary according to the size, nature and resources of each organisation.

Further information regarding obtaining criminal history reports and screening of employees and volunteers can be found in the *Child Safe Environments: Dealing with information obtained about the criminal history of employees and volunteers who work with children* document.

Legislation

These principles of good practice have been developed in accordance with the requirements of the *Children's Protection Act 1993*, in particular section 8A and section 8C. Under the amendments to the *Children's Protection Act 1993* which were introduced in December 2006, certain organisations that provide services wholly or partly for children must, as soon as practicable following the formation of the organisation, or as soon as possible following the prescribed date (1 January 2008) for existing organisations, establish appropriate policies and procedures for ensuring:

- that appropriate reports of abuse or neglect are made by mandated notifiers
- that child safe environments are established and maintained within the organisation.

⁶ Tearfund & NSPCC 'Setting the Standard': A common approach to Child Protection for international NGOs. Tearfund & NSPCC, Middlesex, 2003, p. 6.

⁷ Ibid.



Mandated notification and reporting suspected abuse and neglect

Anyone who suspects, on reasonable grounds, that a child or young person is being abused or neglected, should report it to Families SA's Child Abuse Report Line (ph. 13 14 78).

Under section 11 of the *Children's Protection Act 1993*, certain groups of people are required to report to Families SA if they suspect on reasonable grounds that a child is being abused or neglected and this suspicion is formed in the course of their work. This is a legal obligation which carries a penalty if the individual fails to comply. These people are referred to as mandated notifiers, and include:

- medical practitioners
- pharmacists
- registered or enrolled nurses
- dentists
- psychologists
- police officers
- community corrections officers (an officer or employee of an administrative unit of the Public Service whose duties include the supervision of young or adult offenders in the community)
- social workers
- ministers of religion
- employees or volunteers of organisations formed for religious or spiritual purposes
- teachers in educational institutions (including kindergartens)
- approved family day care providers
- any other people who are employees of, or volunteer in, a Government department, agency or instrumentality, or a local government or
- non-government organisation, that provides health, welfare, education, sporting or recreational, child care or residential services wholly or partly for children, being a person who either:
 - is engaged in the actual delivery of those services to children
 - holds a management position in the relevant organisation the duties of which include direct responsibility for, or direct supervision of, the provision of those services to children.



A reasonable suspicion must be based on facts, for example:

- a disclosure of abuse from a child
- professional judgment, based on the notifier's experience and observations
- disclosure by a child or an adult that a child is being abused.

Keeping children and young people safe involves more than just reporting concerns to Families SA or responding once an allegation of abuse or neglect is made. By promoting a whole of community responsibility for the care and protection of children, amendments to the *Children's Protection Act 1993* help to challenge the unrealistic expectation that one agency, namely Families SA, can effectively respond to all child protection concerns. The Act now states that mandated notifiers may have a duty of care, beyond making a notification, to take further steps to assist a child and ensure their safety and wellbeing (section 11(5)).

Dealing with information obtained about the criminal history of employees and volunteers who work with children

Organisations that provide services to children are obliged, under the Regulations of the *Children's Protection Act 1993*, to establish policies and procedures that:

- take into account the guidance provided by the Chief Executive, Department for Families and Communities, on appropriate standards of conduct for adults in dealing with children
- reflect the appropriate standards of care for ensuring the safety of children as defined by the Chief Executive, Department for Families and Communities.

In addition, organisations or their responsible authorities (e.g. the Chief Executive or managing authority) must ensure that if a criminal history report has been obtained for employees and volunteers who work with children, the criminal history information is dealt with in a manner that reflects the standards developed and issued by the Chief Executive to be observed in dealing with information obtained about the criminal history of employees and volunteers.

The standards to be observed in dealing with information obtained about criminal history of employees and volunteers are available in a separate document entitled: *Child Safe Environments: Dealing with information obtained about the criminal history of employees and volunteers who work with children*. This document is available from the Families SA website.

Many organisations already have some or all of the above elements written into their policies and practices. The legislation does not require that organisations re-write or



reproduce the above elements. It simply requires that the policy framework that is in place is of the standard set by Department for Families and Communities.

Establishing and maintaining child safe environments: appropriate policies and procedures

If an organisation is established after 31 December 2006 but prior to 1 January 2008, and provides services wholly or partly for children as specified under section 8C, it will be required to establish a child safe environment as soon as practicable after its establishment.

It is important to recognise that to establish and maintain a child safe organisation requires ongoing commitment. Throughout this document we have provided indicators of compliance which may be used as a measure to determine how child-safe an organisation is.

Under the Act, the Chief Executive is responsible for monitoring progress towards child safe environments. Organisations may be required to provide evidence of their progress in establishing and maintaining child safe environments to the Chief Executive, Department for Families and Communities. To meet this obligation, organisations may decide to document their progress towards establishing and maintaining child safe environments in an Annual Report. In addition, to check the overall progress of an organisation, a number of other indicators might be used. For example an organisation may measure:

- children's self-reported level of perceived safety through a purpose-designed questionnaire
- employees' and volunteers' understanding of the child safe policy, related procedures and code of conduct
- employees' and volunteers' awareness of reporting and response procedures when dealing with suspected abuse or neglect
- written records of the advice and support provided by the Child Safety Officer to children, parents, employees and volunteers (where applicable).

Another measure of an organisation's commitment is its information sharing guidelines to protect and promote the wellbeing of children. The *Information Sharing Guidelines for people who protect or promote the wellbeing of children, young people and their families*⁸ requires that organisations develop an appendix that outlines how the organisation will ensure that information is appropriately shared to promote child safety and wellbeing. An organisation's appendix to these Information Sharing

⁸ Currently being developed by the Department of Education and Children's Services.



Guidelines is one way that the organisation can demonstrate its progress towards establishing and maintaining child safe environments.

Organisations that do not act to establish a child safe environment by 1 January 2008 may face a fine of up to \$10 000.



The purpose of the risk management strategy is to ensure the wellbeing of children and young people in contact with organisations, and protect them from harm. In establishing and maintaining child safe environments, organisations are required to manage and minimise the risk of harm their practices, employees/volunteers and procedures may cause to children. Risk management does not have to be hard or complicated.

In this context, a *risk* is anything that can cause harm or loss to a *child*. *Risk of harm* is the likelihood of inflicting harm to children (either directly or as a consequence of other actions) and the severity of that harm. In the child protection context, a child would be considered to be *at risk* if they are in a situation where there is a high likelihood that the child's safety and/or wellbeing will be severely compromised.

Harm in the child protection context is defined as the detrimental impact on the physical, psychological, emotional or social safety, wellbeing and development of a child as a result of the actions or inactions of another person.

Risk management is identifying and assessing all potential sources of *harm*, and taking steps to decrease the likelihood that harm will occur.⁹

Seven stages of risk management

1. *Establish the goals and objectives (scope and setting) – clarify objectives and areas of operation where risks may occur*
2. *Identify risks – including how they may happen*
3. *Analyse risks – determine likelihood and magnitude of consequences*
4. *Evaluate risks (e.g. low, medium, high) – which risks are acceptable based on cost-benefit analysis*
5. *Implement strategies to minimise and prevent risk – actions to be taken and who is responsible*
6. *Review and revise risks and preventative measures – detect and manage new risks*
7. *Communicate and consult – to build commitment and increase compliance*

(Child Wise, 2004: 45; AS/NZS 4360: 2004)

⁹ Graff, Linda *Better Safe ... Risk management in Volunteer Programs and Community Service*. Linda Graff and Associates Inc, Ontario, 2003.



Risk of harm is the likelihood of inflicting *harm* (either directly or as a consequence of other actions or inactions) and the severity of that *harm*. It is important for organisations to be able to identify and analyse the types of *risks* that need to be addressed by the organisation. This process will help identify who is responsible for each area of work where *risks of harm* to children have to be managed. Some areas of *risk* may include:

- *Employees and volunteers* (e.g. lack of proper screening in recruitment and supervision, management systems, training on how to interact with and respond to children)
- Place / physical environment (e.g. fire exits, recreational areas, cooking facilities, sleeping arrangements)
- Activities and programs (e.g. education, health, community outreach, vocational training, outings, exchange visits)
- Information (e.g. storage of children's personal information, recording of allegations of abuse, dissemination of information on where to get help)
- Organisational culture (e.g. consultation, communication systems, hierarchy, attitudes to organisational learning).¹⁰

Risk and safety assessments need to be integrated into practice at every stage of intervention with a child or young person. Risk management strategies will vary in scope and detail depending on the complexity and size of the organisation, the type of activities or services provided for children and the age and maturity of the children and young people involved.

To best identify and respond to risk, it is important that employees and volunteers have a basic understanding of child development and child abuse (refer Principle 5). In this way, positive steps can be taken to keep children safe and promote their wellbeing.

¹⁰ Jackson, Elanor & Wernham, Marie, *Child Protection Policies and Procedures Toolkit: How to make a child-safe organisation*. ChildHope UK, London, 2005, p. 29.





A policy is a statement of intent that demonstrates an organisation's commitment to safeguard children from harm and makes clear to all what is required in relation to the protection of children. It helps to create a safe and positive environment for children to promote children's wellbeing and to show that the organisation is taking its duty of care seriously.¹¹

Principle 1 outlined how to identify and manage *risk*. In developing a child-safe policy and supporting procedures, the *risks* that have been identified should be specifically addressed in the organisation's policy. In addition, child safe organisations require a policy framework that addresses:

- a statement of the organisation's commitment to the safety and wellbeing of children and the protection of children from harm
- how volunteers and employees respond to and report their suspicions of child abuse and neglect
- codes of conduct and standards of care for employees and volunteers within the organisation
- recruitment and training of volunteers and employees
- standards for addressing bullying by children within the organisation.

Sample Child Safe Policy Statement

The organisation (insert name) is committed to the safety and wellbeing of all children and young people accessing our service. We support the rights of the child and will act without hesitation to ensure a child safe environment is maintained at all times. We also support the rights and wellbeing of our staff and volunteers and encourage their active participation in building and maintaining a secure environment for all participants.

(Child Wise, 2004: 59)

Everyone, including children, need to know who they can approach to disclose and discuss abuse or to seek support and advice. A good practice that the organisation may adopt is to appoint an individual (e.g. Child Safety Officer) as the first point of contact to provide advice and support to children, parents and employees/volunteers regarding the safety and wellbeing of children when dealing with the organisation.

¹¹ Tearfund & NSPCC, 2003 above n. 6, p. 1.



Policies and procedures require collaborative effort and ongoing review and improvement. A child-safe policy will only be effective if people are aware of them, have some ownership of them and have the opportunity to express their views on how they are working.



¹² It is recommended that the policy is reviewed as a minimum every three years and/or is adapted whenever there is a significant change in the organisation or in relevant legislation.



A code of conduct 'is a straightforward guide of dos and don'ts to assist staff and volunteers to conduct their work professionally and effectively'.¹³

All organisations that provide services to children should have codes of conduct. Codes of conduct require employers and others specified in the code to adopt the standards of conduct and practice set out in the code. Codes of conduct help prevent abuse of trust, where a party is in a position of power or influence over the other by virtue of their work or the nature of their activity. Care is always needed when such a relationship potentially exists.

By setting a clear benchmark of acceptable standards of conduct and care, a code of conduct can promote safe, positive and encouraging environments. A code of conduct can minimise opportunities for abuse and help to prevent unfounded allegations. In this way, codes of conduct help protect children and young people as well as employees and volunteers. This dual purpose is typically made clear in a preamble (for example, the code of conduct could be linked with the organisation's child safe policy, with an opening statement similar to the *sample child safe policy statement* referred to in Principle 2).

Codes of conduct may be independent or written into existing policies or codes of behaviour to provide safeguards and prevent abuse. The code of conduct is a brief, clear document that covers issues such as:

- Physical contact
- Confidentiality
- Toilet and bathing arrangements
- Favouritism and 'special' relationships

¹³ Child Wise, 2004 above n. 2, p. 62.



- Training

A code of conduct aims to minimise risk by ensuring that employees/volunteers spend minimal time alone with one child or outline appropriate codes of behaviour when employees/volunteers are required to be alone with children (e.g. counselling). Risk minimisation practices may include supervision or one-off checks etc. High-risk situations or relationships are specifically addressed in a code of conduct or code of behaviour. Two examples of high risk situations include some forms of sports coaching, which may involve non-sexual physical contact, and domiciliary care where toileting and bathing arrangements may need to be performed for children or young people.

In addition, standards of conduct should also be specified for children to outline appropriate behaviour and address bullying. Bullying occurs when somebody who is less powerful than another person or a group is deliberately and (typically) repeatedly harmed.¹⁴

It is up to each organisation, profession or occupation to develop its own codes of conduct to suit individual circumstances and roles, based on these principles of good practice.

Example of a Code of Conduct

Do:

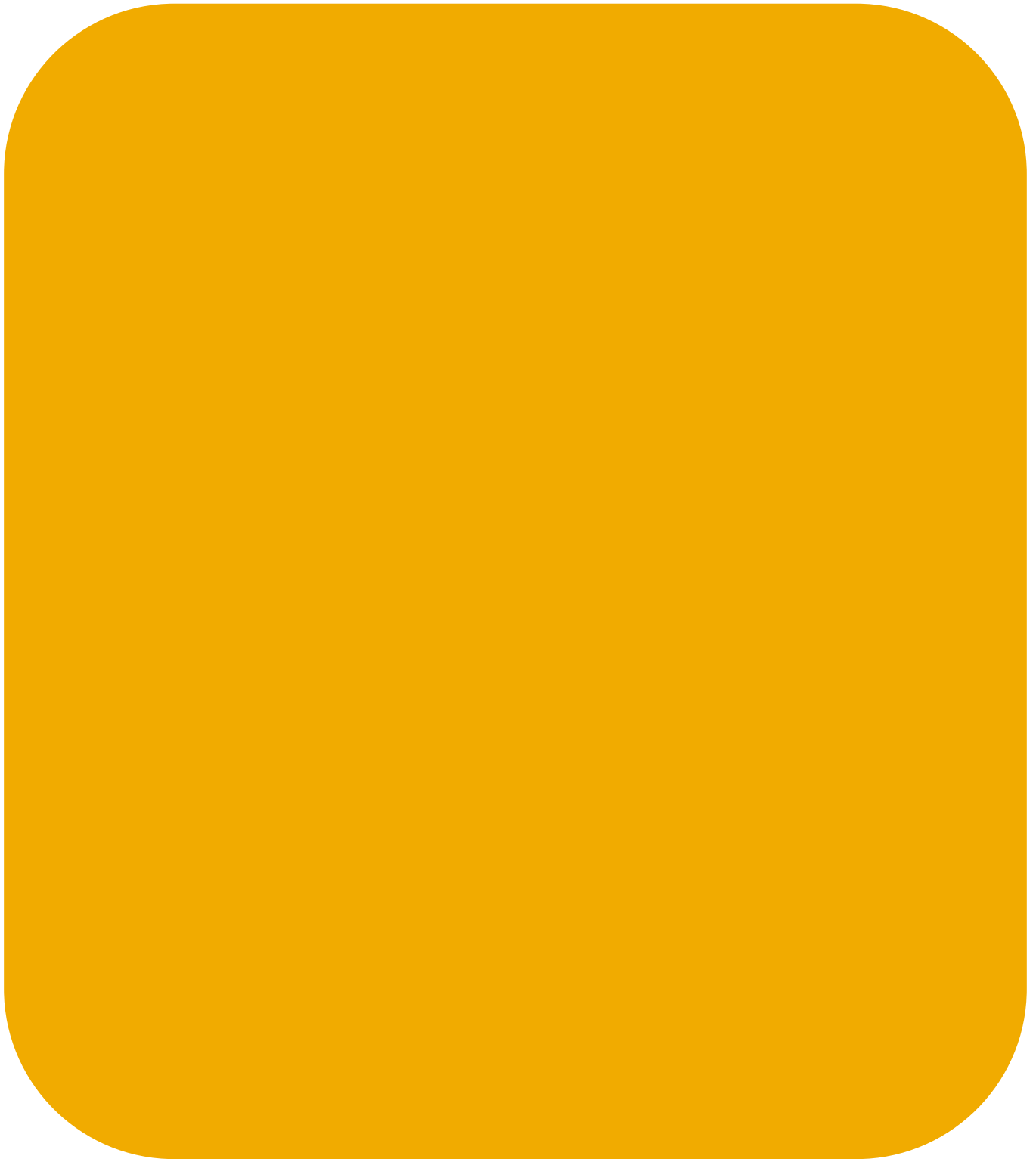
- *Treat everyone with respect and honesty (this includes staff, volunteers, students, children, young people and parents).*
- *Remember to be a positive role model to kids in all your conduct with them.*
- *Set clear boundaries about appropriate behaviour between yourself and the kids in your organisation – boundaries help everyone to carry out their roles well.*
- *Follow organisational policy and guidelines for the safety of children as outlined in your Child Safe Organisations Policy.*
- *Always have another adult present or in sight when conducting one to one coaching, instruction etc.*
- *Raise any concerns, problems or issues with management as soon as possible.*
- *Record and act on serious complaints of abuse.*

Do not:

- *Engage in rough physical games, including horseplay.*
- *Develop any 'special' relationships with children that could be seen as favouritism such as the offering of gifts or special treatment.*
- *Do things of a personal nature that a child can do for themselves, such as going to the toilet or changing clothes.*

(Child Wise, 2004; NSW Commission for Children and Young People, 2006)

¹⁴ Rigby, Ken *Bullying among young children: A guide for parents. An Australian Government Initiative Crime Prevention Branch, Australian Government Attorney-General's Department, Commonwealth of Australia, Canberra, 2003, p. 3.*



¹⁵ Codes of Conduct may also address behaviour and interaction between children and young people.





The organisation has a duty of care to take all reasonable steps to protect children from harm. Choosing suitable employees and volunteers is part of fulfilling the duty of an organisation to act diligently and prudently to prevent actions and behaviour that would be harmful to children. It is important that the organisation engages the best possible people to work with children who are suited to the specific role they are undertaking.

The *Children's Protection Act 1993* refers to people who work with children as working in 'prescribed positions' which includes positions that require or involve 'prescribed functions'. Prescribed functions are those involving any of the following:

- regular contact with children or working in close proximity to children on a regular basis
- supervision or management of persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis
- access to records relating to children
- functions of a type prescribed by regulation. As at 1 July 2007, the *Children's Protection Act 1993* did not specify any further functions in the regulations.

People who work with children may be either employees or volunteers. South Australia has the highest volunteer participation rate in Australia. Volunteers play a major role in many organisations, providing services and strengthening communities. Most volunteers are genuine, caring, helping people who want to do the best for children and their communities. A small number of people who seek to work with children in a paid or voluntary capacity pose a *risk of harm* to children. It is possible

¹⁶ Department for Families and Communities *Child Safe Environments: Dealing with information obtained about the criminal history of employees and volunteers who work with children* Government of South Australia, Adelaide, 2007.



to minimise the risks and to prevent *harm* by putting safeguards in place. This will deter unsuitable applicants/child abusers from applying and ensure that they are not recruited into the organisation.¹⁷

Background checking, screening and risk assessment during the recruitment of employees and volunteers are important measures within organisations' policies and practices for developing child safe organisations. The three key terms – background checking, screening and risk-assessment – are often used interchangeably but refer to different concepts and processes.

Screening 'in the context of minimising the risk of harm to children in their dealings with organisations is generally understood to refer to the combined process of background checking, risk assessment and decision-making concerning acceptance/exclusion of persons in areas of child related employment/volunteering'.¹⁸ In order to *screen* and assess employees and volunteers, organisations may:

- undertake face-to-face interviews
- confirm educational status
- request referee reports and obtain reference checks
- obtain criminal history reports
- undertake other background checks (e.g. psychological testing, on the job observation).

Basic Screening

Basic screening may be sufficient in cases where:

- it is not practicable to undertake comprehensive screening for all applicants who are seeking to work or volunteer in **prescribed positions**. (e.g. small non-government organisations with limited resources)
- the position to be filled is low risk (e.g. constantly supervised by individuals who have been comprehensively screened)

Basic screening includes:

- a comprehensive application form with a signed statement
- a thorough personal interview
- professional and personal reference checks/referee reports with telephone contact
- confirmation of education (appropriate for some positions).

(Office of Juvenile Justice and Delinquency Prevention, 1998: 15).

Background Checking involves obtaining information about potential employees and volunteers, on the basis that the information is deemed relevant to working in a child-related area. The information gathered may include details concerning previous employment and relevant experience; verification of qualifications and professional

¹⁷ Jackson & Wernham 2005, above n. 9, p. 55.

¹⁸ Community and Disability Services Ministers Conference, *Guidelines for Information Sharing Across Jurisdictions*, 2007, p. 6



registration; criminal history information; thorough reference checks; and work history reports'.¹⁹

In the area of child protection, *risk assessment* 'refers to a process of evaluating the information received to reach a decision about the risk of harm a person may pose to children'.²⁰ Some roles present higher levels of risk to children, based on the nature of the work.

Some screening practices may also be used for ongoing monitoring purposes of existing employees and volunteers (e.g. obtaining criminal history reports or on the job observation). Another measure to reduce risk of harm to children is to use probationary periods for new employees and volunteers, to assess their suitability for specific positions, roles or duties.

Face-to-face interviews

Interviews may include behaviour-based questions and open questions that invite explanations rather than a yes/no response (e.g. why do you want to work with children?).²¹ It is recommended that one of the interviewers is a Child Safety Officer (refer Principle 2) or someone who has undergone training/is familiar with issues of child protection.

Referee reports and undertake reference checks

Relevant referee reports/references can help determine when individuals present a risk of harm to children or are unsuitable to work with children. A structured referee check is to be undertaken as part of any selection process for recommended applicants who are not currently employees or volunteers of the organisation. It is recommended that information on the applicant's suitability to work with children is sought from a minimum of two referees. This is in line with international good practices. One referee should be the applicant's current supervisor, unless acceptable reasons are provided for not nominating that person. If the applicant is not working, the applicant's most recent supervisor should be nominated as the referee. If the applicant has never been employed, the applicant may provide the contact details of persons who are able to provide reliable character references.

A suggested question to be asked of referees for the structured referee check regarding working with children is: 'to your knowledge is there any aspect of the applicant's behaviour, actions or activities that would make them unsuitable for working with children?'

¹⁹ Community and Disability Services Ministers Conference, *An Evidence-based Guide for Risk Assessment and Decision-making when Undertaking Background Checking*, 2006, p. 2

²⁰ Ibid, p. 2

²¹ Simcock, Anthea *Safe, not sorry: A handbook for selecting suitable people to work with children*. The Institute for Child Protection Studies Inc, Hamilton, 2000, p. 13.



In some cases it may be necessary for organisations to undertake follow up with referees in order to establish confidence in the applicant.

Criminal history reports

Under the *Children's Protection Act 1993*, government organisations and specified non-government organisations²² (including agents, contractors and subcontractors) are required to obtain criminal history reports of employees or volunteers who work in *prescribed positions* (i.e. with children and/or their records). In addition, any government or non-government organisation that obtains criminal history reports as part of their screening process are obliged to deal with the criminal history information as specified in standards developed by the Chief Executive, Department for Families and Communities.²³

In order to prevent unnecessary intrusion, *criminal history reports* should only be obtained on new applicants who have been short-listed for a *prescribed position*. It is important to first interview applicants and undertake referee checks. This will minimise the costly undertaking of unnecessary criminal history checks for applicants who are unsuccessful in meeting the selection criteria or who are unsuccessful in completing the early stages of the screening process.

In some cases, obtaining a criminal history report is neither practicable nor proportionate to the resources of an organisation. In these cases, it is recommended that the organisation requires the applicant/employee/volunteer sign a statutory declaration stating that the individual has no relevant criminal history. While a statutory declaration cannot replace an official criminal history report, it can go some way towards mitigating risk and may assist in screening as a useful measure of an individual's integrity.

Other background checks

An organisation may decide to undertake other screening measures such as psychological testing and on the job observation.

The screening measures used by an organisation to screen and assess potential and existing employees and volunteers will depend on both:

- the size, nature and resources of the organisation
- the level of risk attributed to the prescribed position or role [refer Principle 1].

²² As at 1 July 2007, legislative requirements only specified that non-government schools are required to obtain a criminal history report for all employees and volunteers who work in prescribed positions.

²³ More information is available in Department for Families and Communities *Child Safe Environments: Dealing with information obtained about the criminal history of employees and volunteers who work with children* Government of South Australia, Adelaide, 2007.





The organisation fosters a supportive environment which encourages everyone to work towards continuous improvement and accountability.

To achieve this, the organisation should ensure that there are opportunities for employees and volunteers to develop and maintain the necessary skills and understanding to promote child safe environments. This will ensure that everyone understands the importance of child safety and wellbeing and child protection and enable employees and volunteers to ensure that the policies and procedures are implemented to a consistently high standard.²⁴

Training and education is important to ensure that everyone in the organisation understands that child safety is everyone's responsibility. Employees and volunteers (in addition to parents/guardians and children) should feel confident and comfortable in discussing child protection issues.²⁵

Training and support also promotes an awareness of the appropriate standards of care required to be met by employees and volunteers to ensure that the organisation meets its duty of care when providing services to children. Employees and volunteers of an organisation may be supported through the appointment of an individual e.g. Child Safety Officer (as referred to in Principle 2), with specified 'child-safe' duties in their job description, the organisation can ensure that child safety and wellbeing is prioritised. A designated Child Safe Officer also provides a single contact for children, parents and

Strategies for Managing Abuse Related Trauma (SMART) Program

A good practice example of training is the SMART Program which may be undertaken by employees and volunteers. The SMART program has been funded by the Department of Education and Children's Services (DECS), as part of the *Keeping Them Safe* child protection reform agenda. It can enhance the capacity of employees and volunteers to understand child development and effectively respond to the needs of children and young people who have experienced abuse and trauma.

The SMART Program consists of integrated professional development opportunities including a free, interactive online learning package.

(Refer to:
<http://www.childhood.org.au/smart/default.asp> and the online learning package:
<http://www.childhood.org.au/smart/learn-new.asp>)

²⁴ Jackson & Wernham 2005, above n. 9, p. 55.

²⁵ Ibid, p. 59.



employees/volunteers to seek advice and support regarding the safety and wellbeing of children when dealing with the organisation.





In ensuring that the best interests of the child remain paramount in the decision-making and practices of the organisation, a child rights-based approach should be used. Such an approach views 'each and every child, without discrimination, as an individual human being, deserving of rights and capable of participating in the process of achieving them in a supportive and adequately resourced environment'.²⁶

The organisation needs to ensure that children know what behaviour is considered appropriate and when and how to speak out if they feel uncomfortable.²⁷ The organisational culture should encourage and empower children to be able to raise and discuss their concerns or issues.

Five Steps to promoting a child safe environment

1. *Listen to children*
2. *Believe children*
3. *Learn about child abuse and protective behaviour for children*
4. *Teach children about their rights and protective behaviour strategies*
5. *Instill a culture of safety and awareness*

(Child Wise, 2004: 41)



²⁶ Ibid, p. 43.
²⁷ Ibid, p. 59.



²⁸ At: <http://www.parenting.sa.gov.au/pegs/>



Suspected abuse or neglect must be reported to the Child Abuse Report Line (ph. 13 14 78). The purpose of imposing a legal obligation on certain people who work with children in our community is simply to protect children from harm. By making it a legal requirement for more people to act as mandatory notifiers, the safety net against abuse and neglect has expanded for our children. Early identification of abuse and neglect can ensure that families are assisted in meeting their responsibility for children's safety. When a family cannot protect its children, Families SA has the statutory mandate to assist with the provision of care and protection, or to seek alternative care for children.

Although not obligatory, mandated notifiers may undergo training to assist them in recognising and responding to suspected abuse and neglect. South Australia has been offering state wide training of Mandated Notifiers since 1989. A seven-hour training program in reporting and responding to child abuse and neglect is offered, and in addition a Train-the-Trainer program is facilitated by the Department for Families and Communities to train people in how to deliver the seven-hour program.

Reporting suspected abuse and neglect

Anyone who suspects, on reasonable grounds, that a child or young person is being abused or neglected, should report it to the Child Abuse Report Line on 13 14 78.

It is the role of Families SA to assess the notification and determine whether departmental action is warranted.

It is important to remember that child protection is everyone's responsibility and that even if you have made a report, you may still have a role in supporting the child or young person.

The law imposes liability on mandated notifiers who fail to report suspected child abuse. If a mandated notifier fails to notify the Child Abuse Report Line of suspected abuse and neglect, they may be found to have committed an offence under the *Children's Protection Act 1993* and may be fined up to \$10,000.

The organisation must take proactive steps to ensure that both mandatory and voluntary notifiers know how to report and respond to allegations of suspected abuse and neglect. Clear procedures, guidance and training (refer Principle 5) can all help



individuals recognise *harm* in addition to the particular *risks* faced by some children and the extra barriers they may face to obtaining help, because of their race, gender, age, religion or disability, sexual orientation, social background and culture.

Keeping children and young people safe involves more than just reporting concerns to Families SA or responding once an allegation of abuse or neglect is made. It means minimising the possibility of child abuse occurring in the first place, working to reduce the impact of child abuse and neglect after it has occurred, and doing everything possible to ensure it does not occur again and providing ongoing support and services to children, young people and adults as appropriate. Therefore, the organisation should also establish procedures that include clear, step-by-step guidance on what to do in different circumstances, including reporting and reacting to witnessed, suspected or alleged child abuse and/or a breach of the child safe policy. Standard, transparent reporting procedures and response mechanisms clarify roles and responsibilities and lines of communication. They also embody principles of confidentiality and thereby encourage concerns to be raised.

Systems for recording information and for dealing with complaints are also needed, to ensure implementation and compliance. Clear, written guidelines for employees and volunteers when a child makes an allegation can ensure:

- a relationship of trust is established
- the trauma experienced by the child is minimised in the telling of the abuse
- the incident is reported with the greatest possible factual accuracy
- the child understands that the issue may need to be taken further.²⁹

Under the *Children's Protection Act 1993*, a mandated notifier may not have exhausted their duty of care by reporting suspected abuse or neglect to the Child Abuse Report Line (Families SA). There may be cases of suspected abuse or neglect which identify a child who has needs that can be addressed by the organisation rather than requiring a more significant response by Families SA.

In many cases, a multiagency response will be appropriate. Organisations are guided by the *Information Sharing Guidelines for people who protect or promote the wellbeing of children, young people and their families*³⁰ and *Working Together to Protect Children: South Australian Interagency Child Protection Information Book Volume 1*.³¹

Sometimes an individual may suspect a child has been abused by an employee or volunteer of the organisation. As stated in Principle 3, members of the organisation

²⁹ Jackson & Wernham 2005, above n. 9, p. 62.

³⁰ Currently under development by the Department of Education and Children's Services (DECS).

³¹ To be released by the Department for Families and Communities (DFC).



must be made aware of their duty to raise concerns about the behaviour of employees, managers, volunteers, children or others which may be harmful to children, without prejudice to their own position. This duty exists even if they are not mandated notifiers under the *Children's Protection Act 1993*.

In many cases, when a notifier makes the decision to report suspected abuse or neglect to the Child Abuse Report Line, neither the organisation nor the child who is the subject of the report will be aware that a notification has been made. However this does not negate an organisation's obligation to have established practices and procedures that support and assist everyone involved (both adults and children). The organisation should ensure that all employees and volunteers are aware of the supports available to:

- children
 - both at the time of reporting and after a report has been made
 - in relation to any specific cultural needs
 - during an investigation by Families SA or the South Australia Police
 - in providing ongoing services to children
- the person making the report (the notifier)
 - both at the time of reporting and after a report has been made
 - after a report has been made including seeking feedback from Families SA
 - when the organisation provides ongoing services to the child and the family
 - in relation to any secondary or vicarious trauma the person may have suffered (e.g. through the provision of or referral to counselling services)
 - when notifiers and or the children or adults who are the subject of the notification are members of Aboriginal, Torres Strait Islander or culturally and linguistically diverse communities
 - to ensure their safety in their continuing work with families after they have reported a concern to the Child Abuse Report Line

With such a framework in place, organisations can ensure that immediate and ongoing appropriate action will be taken that reflects the best interests of the child and protects the child from any further *harm*. In some cases where a *risk of harm* is present but there is no suspected abuse or neglect, the organisation will be required to respond to, and manage the *risk* itself.



³² A notifier is not specifically legally required to inform their organisation that a report has been made to the Child Abuse Report Line although in many cases this will be the most appropriate practice.



Glossary of terms

Abuse or neglect, in relation to a child, means:

- sexual abuse of the child or
- physical or emotional abuse of the child, or neglect of the child, to the extent that either:
 - the child has suffered, or is likely to suffer, physical or psychological injury detrimental to the child's wellbeing
 - the child's physical or psychological development is in jeopardy.

Background Checking in the context of working with children 'involves obtaining information about potential employees and volunteers, on the basis that the information is deemed relevant to working in a child-related area. The information gathered may include details concerning previous employment and relevant experience; verification of qualifications and professional registration; criminal history information; thorough reference checks; and work history reports'.³³

Background checking includes, but is not limited to the assessment of a *criminal history report*.

Bullying occurs when somebody who is less powerful than another person or a group is deliberately and (typically) repeatedly harmed.³⁴

Checks of criminal history reports (also known as a *National Police Certificate* or a *National Criminal History Record Check*) are checks of the records of all police services that discloses evidence of whether a person:

- has any recorded convictions or
- has been convicted of an offence or
- has been charged with, and found guilty of, an offence but discharged without conviction or
- is the subject of any criminal charge still pending before a Court.

Individuals seeking to obtain a criminal history report through South Australia Police are provided with a *National Police Certificate* (NPC). Checks undertaken through a CrimTrac accredited agency are referred to as a *National Criminal History Record Check* (NCHRC). Checks of criminal history reveal and record convictions across all jurisdictions in Australia (subject to each jurisdiction's spent convictions scheme).

³³ Community and Disability Services Ministers Conference, 2006, above n.18, p. 2.

³⁴ Rigby, 2003, above n. 13, p. 3.



Child means a person under 18 years of age

Conviction means either a summary or indictable conviction and includes a situation where a person has been charged with an offence and found guilty, but discharged without conviction, and where a person has not been found guilty of an offence but a court has taken it into account in passing sentence on the person for another offence.³⁵

Criminal History Information means information relating to *disclosable court outcomes*, or other information regarding the name provided by the *applicant* to a police service and included within a *National Criminal History Record Check*. This information will only be released subject to relevant spent convictions/non-disclosure legislation and/or information release policies

Disclosable Court Outcomes mean the records of court convictions and findings of guilt, which may include *spent convictions* and findings of guilt that have not been recorded as convictions or deemed to be convictions by the court.

Criminal History Report is a report from South Australia Police or CrimTrac containing any *criminal history information* about an individual.

Duty of Care is a common law concept that refers to the responsibility of *employees* and *volunteers* to provide children with an adequate level of protection against *harm*. It is usually expressed as a duty to take reasonable care to protect children from all reasonably foreseeable *risk of harm*. The question of what constitutes reasonable care in any given case will be determined objectively by a court and will depend on the individual circumstances of each case. In their relationships with children, employees and volunteers are required to ensure that the physical and emotional welfare of students is safeguarded, and that their own behaviour with children is always regulated by this duty of care.³⁶

Emotional abuse is a chronic attitude or behaviour directed at a child whereby a child's self esteem and social competence is undermined or eroded over time or the creation of an emotional environment which is detrimental to or impairs the child's psychological and/or physical development. Behaviours may include:

- devaluing
- ignoring
- rejecting

³⁵ *Crimes Act (Cth) 1914 s 85ZM.*

³⁶ Department of Education and Children's Services, Association of Independent Schools of South Australia & Catholic Education SA *Protection Practices for Staff in their Interactions with Students: Guidelines for Schools, Preschools and Out of School Hours Care*. DECS: Adelaide, 2005.



- corrupting
- isolating
- terrorising
- chronic or extreme spousal abuse in the child's presence.

Employee means a person employed for remuneration under a contract of employment.³⁷

Government organisation means a government department, agency or instrumentality.

Harm means physical, sexual, emotional or psychological abuse and neglect of children. *Harm* is any detrimental effect of a significant nature on a child's physical, psychological or emotional wellbeing.

Informed consent means that the *applicant* has signed a consent form that sets out:

- what a *criminal history report* is and how it will be obtained
- the purposes for which the *criminal history information* is being collected
- any person to whom, or agency to which, the *criminal history information* will be disclosed
- any law which requires that their personal information be collected and the consequences of not complying.

Merit³⁸ in the context of selection processes as:

- The extent to which each of the applicants has abilities, aptitude, skills, qualifications, knowledge, experience (including community experience) and personal qualities relevant to the carrying out of the duties in question.
- If relevant:
 - the manner in which each of the applicants carried out any previous employment or occupational duties or functions
 - the extent to which each of the applicants has potential for development.

³⁷ Fair Work Act 1994 (SA).

³⁸ As per the *Public Sector Management Act 1995* (SA)



Natural justice³⁹ requires that:

- people are entitled to be informed of allegations made against them
- all persons affected by a decision should be given the relevant information to enable an informed submission to be made to the decision-maker or person subsequently reviewing a decision
- during the review of a decision, all persons affected by a decision should have an opportunity to put their case, relevant arguments should be heard, and relevant information should be accessible to all parties
- decision-makers act fairly and impartially.

National Criminal History Record Check (NCHRC) is a check of the *criminal history* of an individual carried out by South Australia Police or CrimTrac in accordance with the appropriate standards.

Neglect is any serious omission or commission by a person which jeopardises or impairs a child's psychological, intellectual or physical development. *Neglect* is characterised by the failure to provide for the child's basic needs. Behaviours may include:

- inadequate supervision of young children for long periods of time
- failure to provide adequate nutrition, clothing or personal hygiene
- failure to provide needed or appropriate health care/medical treatment
- disregard for potential hazards in the home
- forcing the child to leave home early
- allowing children to engage in chronic truancy.

Non-government organisation (NGO) means an organisation that is not a government organisation and includes a local government organisation.

Organisation means all groups of persons organised for some end or work. This includes: voluntary or otherwise; an association whether incorporated or not; a non-profit organisation; a society, club, institution or body.

Currently under the *Children's Protection Act 1993* and relevant Regulations, the only non-government organisations that are mandated to undertake *criminal history checks* are non-government schools. Employees and volunteers of non-government organisations that are agents, contractors and subcontractors of government organisations may also be directed by the

³⁹ The Commissioner for Public Employment *Guideline for the South Australian Public Service for the Protection of Merit and Equity*, South Australia Government, Adelaide, 2001, p. 3.



responsible authority for the government organisation to undertake a *criminal history check*.

Physical abuse is any non-accidental act inflicted upon a child which results in physical injury to the child. *Physical abuse* results from practices such as:

- hitting, punching, kicking (indicators: marks from belt buckles, irons, fingers, cigarettes)
- shaking (particularly young babies)
- burning, biting, pulling out hair
- alcohol or other drug administration.

A **prescribed position** is a position in an organisation that requires or involves *prescribed functions*.

Prescribed functions mean:

- regular contact with children or working in close proximity to children on a regular basis or
- supervision or management of persons in positions requiring or involving regular contact with children or working in close proximity to children on a regular basis or
- access to records relating to children or
- functions of a type prescribed by regulations (none currently prescribed).

Regular contact implies contact that has a constant or definite pattern, or which recurs at short uniform intervals or on several occasions during short periods of time such as a week. Ultimately it will be up to the courts to decide what it means in the context of the Act.

Responsible authority means:

- the Chief Executive for a government organisation
- for a non-government organisation to which section 8B applies:
 - the managing authority of the organisation or
 - if the managing authority has delegated its responsibilities under this section to a body approved by regulation for the purposes of this definition—that body.

Risk is the likelihood of anything occurring that can cause harm or loss to a *child*.



Risk assessment in the context of child protection ‘refers to a process of evaluating the information received to reach a decision about the risk of harm a person may pose to children’.⁴⁰

Risk management is identifying and assessing all potential sources of *harm*, and taking steps to decrease the likelihood that *harm* will occur.⁴¹

Risk of harm is the likelihood of inflicting harm to children (either directly or as a consequence of other actions) and the severity of that harm.

Screening ‘in the context of minimising the risk of harm to children in their dealings with organisations is generally understood to refer to the combined process of background checking, risk assessment and decision-making concerning acceptance/exclusion of persons in areas of child related employment/volunteering’.⁴²

Sexual abuse is any sexual behaviour imposed on a child. The child concerned is considered to be unable to alter and/or understand the perpetrator’s behaviour due to his or her early stage of development and/or powerlessness in the situation. *Sexual abuse* occurs when someone in a position of power to the child uses her/his power to involve the child in sexual activity. Behaviour can include:

- sexual suggestion
- exhibitionism, mutual masturbation, oral sex
- showing pornographic material e.g. DVDs, internet
- using children in the production of pornographic material
- penile or other penetration of the genital or anal region
- child prostitution.

A suitability assessment ‘may refer to a wide range of factors including attitude to physical discipline and acknowledgement of children’s developmental status and needs. A person may be deemed “not suitable” to work with children without automatically implying that the person poses a risk of harm to children’.⁴³

⁴⁰ Community and Disability Services Ministers Conference, 2006, above n. 18, p. 2

⁴¹ Graff, 2003, above n 8.

⁴² Community and Disability Services Ministers Conference, 2007, above, n.17, p. 6.

⁴³ Community and Disability Services Ministers Conference, 2006, above, n. 18, p. 2.



Volunteer means a person who carries out community work on a voluntary basis.⁴⁴

A person works on a *voluntary basis* if the person:

- receives no remuneration for the work or
- is remunerated for the work but within limits fixed by regulation under the *Volunteers Protection Act 2001*.

A person who carries out community work under the order of a court or a condition of a bond is not to be regarded as working on a *voluntary basis*.

⁴⁴ *Volunteers Protection Act 2001 (SA)*