



## 1. Intent of Policy

Oberon Council's Child Protection Policy aims to ensure that:

- Council's commitment to protecting children is clearly spelt out.
- Council has a consistent and effective response to reportable conduct and/or reportable convictions against employees in a way that protects the children as well as upholding the rights of the employee who has had a reportable allegation made against them.
- New and current employees are advised of their child protection role and responsibilities.
- The importance of confidentiality and the consequences of any breaches are highlighted.

## 2. Scope of Policy

Child protection is a broad responsibility. It involves more than responding once an allegation has been made. It involves minimising the possibility of reportable conduct occurring in the first place. Council is committed to:

- a) Developing and reviewing strategies to minimise reportable conduct occurring.
- b) Staff training on child protection issues.
- c) Raising community awareness of child protection through brochures, posters or other means of communication.

## 3. Guidelines

### a) Principles

As a result of the Wood Royal Commission inquiry into paedophilia, Oberon Council supports the following Acts in relation to the care and protection of children and young persons under the age of 18 years.

*Ombudsman Act, 2009, Ombudsman Amendment (Child Legislation Amendment (Wood Inquiry Recommendations))*

This Act gives the NSW Ombudsman jurisdiction to oversee and monitor systems for:

- Preventing reportable conduct by employees of designated agencies, including local councils
- Handling and responding to reportable allegations or reportable convictions involving employees of public authorities.

*Child Protection Legislation Amendment Act 2003*

This Act improves the operation of the following child protection legislation by clarifying the reportable conduct of employees under that legislation:

- Part 3A of the *Ombudsman Act 1974* (which relates to notification to and monitoring by the Ombudsman of disciplinary proceedings against employees of government and certain non-government agencies),
- Part 7 of the *Commission for Children and Young People Act 1998* (which relates to employment screening for child-related employment).

*Child Protection (Prohibited Employment) Act 1998*

This Act makes it an offence to employ, or keep in employment, a person who has been convicted of a serious sex offence where that person's employment:

- Primarily involves direct contact with children and young people under the age of 18 years, and
- Where the contact is not directly supervised.

*Commission for Children and Young People Act 1998*

This Act requires employment screening of the preferred applicant before employing that person in child-related employment.

*Child and Young Persons (Care and Protection) Act 1998*

This Act places a duty of mandatory reporting on a number of groups of council employees when they have reasonable grounds to suspect that a child or young person is at risk of harm. These groups include those employed in the following activities, as listed in the legislation:

- Family Day Care and Child Care centres
- Before, after school and vacation care
- Baby health centres
- Libraries
- Swimming pools, e.g. water safety instruction, learn to swim instruction
- Youth centres
- Museums
- Art galleries
- Community transport
- Facility maintenance
- Law enforcement

**b) Definitions**

A “**child**” is defined under the *Children and Young Persons (Care and Protection) Act 1998* as anyone under 16 years and a ‘young person’ is a person aged 16 to 18 years. Under the *Ombudsman Act 1974* a ‘child’ is a person under 18 years of age.

“**Head of Agency**” means the General Manager.

An “**employee**” of Oberon Council is defined as:

- Anyone who receives a group certificate for taxation from the Council, whether or not their position requires them to work with children.
- Anyone engaged by the Council to provide services to children, including:
  - Contractors
  - Sub-contractors

- Foster carers
- Volunteers
- Ministers of religion
- Work experience participants
- Student placements, e.g. TAFE or tertiary students, and
- Instructors of religion

A **“Prohibited Person”** is someone who has been convicted of a serious sex offence as defined under the *Child Protection (Prohibited Employment) Act 1998*.

**“Child-related employment”** means any employment that involves direct contact with children where the contact is not directly supervised.

**“Relevant disciplinary proceedings”** include completed proceedings involving child abuse, sexual misconduct or acts of violence committed by the employee in the course of employment where these acts:

- Involve children,
- Are directed at children, or
- Take place in the presence of children.

**“Reportable conduct”** means:

- any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence); or
- any assault, ill treatment or neglect of a child; or
- any behaviour that causes psychological harm to a child;

whether or not, in any case, with the consent of the child (Section 33, *Commission for Children and Young People Act 1998*).

A **“Reportable Allegation”** means an allegation of reportable conduct against a person or an allegation of misconduct that may involve reportable conduct. A **“reportable conviction”** generally means a conviction of an offence involving reportable conduct.

For an allegation to be notified to the Ombudsman, the following components are necessary:

- The person who is the subject of the allegation must be a current employee of a designated agency or public authority or have been an employee at the time the allegation was made and must be identifiable. This does not necessarily mean identified by name, as a person may be identifiable by other information including their description and work schedules and location of the agency.
- The allegation must contain a description of behaviour that may constitute reportable conduct
- The child or young person who was alleged to have been involved in reportable conduct by an employee, must have been aged under 18 years at the time of the alleged incident or behaviour.
- **Councillors** are deemed to be employees of Council for the purposes of the application of the following Acts:
  - 5.1 *Child and Young Persons (Care and Protection) Act 1998*
  - 5.2 *Commission for Children and Young People Act 1998*
  - 5.3 *Child Protection (Prohibited Employment) Act 1998*
  - 5.4 *Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009*

A person is considered to be **“engaged”** by the Council if the Council:

- 7.1 Provides the person with work that involves the provision of services to children
- 7.2 Provides the person with general directions (i.e. a brief) about the services the Council wants them to provide, and
- 7.3 Is able to terminate their contract or involvement with Council if their work is unsatisfactory or for any other reason.

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