

Child Protection

Implementation Guide to NSW PD2013_007 Child Wellbeing and Child Protection Policies and Procedures for NSW Health

Policy Number 5.015

Policy Function Safe Practice and Environment

Issue Date 20 December 2019

Summary This implementation guide provides staff with guidance and direction to protect the safety and wellbeing of children in accordance with Ministry of Health policy PD2013_007 *Child Wellbeing and Child Protection Policies and Procedures for NSW Health*

Responsible Officer Executive Director Clinical Operations

Applicable Sites

- Administration Centres
- Community Sites (e.g. Court Liaison Service, Community Integration Team, etc.)
- Health Centres (Adult Correctional Centres or Police Cells)
- Health Centres (Youth Justice NSW)
- Long Bay Hospital
- Forensic Hospital

Previous Issue(s) Policy 5.015 (May 2008; Oct 2013; Dec 2017)

Change Summary

- Additional information regarding mandatory requirements
- Update of Helpline phone number
- Update regarding Ministry of Health Policy Directives and Legislation

HPRM Reference POLJH/5015

Authorised by Chief Executive, Justice Health and Forensic Mental Health Network

1. Preface

Justice Health and Forensic Mental Health Network (The Network) is committed to supporting the NSW Government's coordinated and comprehensive response to promote the care and protection of children and young people. This is achieved through a comprehensive communication, training and education strategy.

Health workers have a professional and legal responsibility to promote the health, safety, welfare and wellbeing of children and young people, working collaboratively with interagency partners in the shared care system of child protection in NSW. These responsibilities apply whether workers are providing health care directly to children and young people or to adults who are pregnant, parents or carers.

This implementation guide provides staff with guidance and direction to protect the safety, welfare and wellbeing of children and young people in accordance with Ministry of Health policy [PD2013_007](#) *Child Wellbeing and Child Protection Policies and Procedures for NSW Health*. It informs Network staff about the tools and resources available and the interagency arrangements in place to assist them to meet their responsibilities and provide a consistent NSW Health response to child protection and wellbeing.

2. Policy Content

2.1 Mandatory Requirements

- All Network staff have a responsibility to protect the health, safety, welfare and wellbeing of children and young people with whom they have contact in accordance with NSW Health policy [directives PD2013_007](#) *Child Wellbeing and Child Protection Policies and Procedures for NSW Health* and [PD2016_025](#) *Child Related Allegations, Charges and Convictions*.
- Staff should be aware of their responsibilities as a Mandatory Reporter and be aware of the key principles for child protection intervention that are set out in the [Child Wellbeing and Child Protection – NSW Interagency Guidelines](#).
- The legal responsibilities of health workers in relation to mandatory reporting are identified in the *Children and Young Persons (Care and Protection) Act 1998*
- In accordance with Chapter 16A of the [Children and Young Persons \(Care and Protection\) Act 1998](#) all staff are to collaborate with interagency partners and comply with information exchange provisions to promote the safety, welfare and wellbeing of children and young people, including taking reasonable steps to coordinate the provision of services with other agencies.
- On commencement of employment, all staff must sign a Declaration of Association form and have a criminal record check, as per Network recruitment procedure. All staff working with children or young people also require a “Working with Children” background check. See [Section 3.1](#) for further details.
- All Network staff must complete the online, mandatory Child Wellbeing and Child Protection training via My Health Learning. All staff working directly with children and/or young people

must participate in mandatory face to face [Child Protection: Identify & Respond to Children & Young People at Risk](#) training.

2.2 Implementation - Roles & Responsibilities

The Chief Executive is required to:

Ensure that NSW Health policy [PD2013_007 Child Wellbeing and Child Protection Policies and Procedures for NSW Health](#), the associated *Child Wellbeing and Child Protection Fact Sheet for NSW Health Workers* and the NSW Health policy [PD2016_025 Child Related Allegations, Charges and Conviction](#) are understood and implemented by staff.

Managers / Supervisors are required to:

- Support staff in sharing of information with other health workers or prescribed bodies regarding the safety, welfare and wellbeing of young people in accordance with Chapter 16A provisions of the [Children and Young Persons \(Care and Protection\) Act 1998](#) (hereafter referred to as the Care Act). The information shared must be relevant, factual and accurate pertaining to the safety, welfare and wellbeing of the children and young people.
- Support staff attendance at mandatory and other child protection training.

Staff are responsible for:

- Assessing the level of risk to a child, young person or unborn child as a Mandatory Reporter, using the – the online NSW Mandatory Reporter Guide (MRG). See [Section 3.3.1](#) for further details.
- Contacting the NSW Child Wellbeing Unit to discuss and seek advice on whether concerns need to be reported to the Child Protection Helpline and on other appropriate interventions, referrals or services in response to the concerns. See [Section 3.3.2](#) for further details.
- Dependant on the outcomes of the MRG, making reports to the NSW Child Protection Helpline as well as receiving, responding and following up on Child Protection Helpline feedback on child protection reports. See [Section 3.3.2](#) for further details.
- Participate in case coordination and case management interagency meetings and service responses consistent with the worker's professional roles and responsibilities.
- Document reporting of children and young people suspected at risk of harm and associated information as well as details of reports made on the client's health record.
- Notify their line manager, supervisor or other delegated position if they become aware of any child related allegations, charges or convictions involving a NSW Health staff member.

3. Procedure Content

3.1 Working with Children Checks

A Working with Children Check (WWCC) is a NSW legislative requirement for anyone in child-related work.

All staff working in Adolescent Health or the Forensic Hospital must have a valid WWCC clearance

before commencing work and must maintain a valid WWCC clearance to continue working in these areas.

Refer to the current NSW Health Policy on [PD2019_003 Working with Children Checks](#) for further information about who is required to have a WWCC to work in NSW Health and action to take if a staff member fails to maintain a valid WWCC clearance.

3.2 Child Protection Training

The Network is responsible for providing mandatory child protection training to all staff that commence employment with the Network, and more extensive training to those in child related work.

Child protection training (two hours online) is a requirement for all staff commencing employment with the Network. This training will provide staff with information around child protection legislation, responsibilities and policies.

Staff working directly with children and young people, or with adults who have children in their care require more detailed training; the one day face to face course: “Child Protection: Identify and Respond to Children and Young People at Risk” must be undertaken by Adolescent Health and Forensic Hospital staff. This training is coordinated by the Education and Training Unit. The NSW Health and Education Centre against Violence (ECAV) offer similar comprehensive training around child protection, and this is recognised as prior learning within the Network. Staff must provide evidence that this prior learning has occurred within the last five years. All Network Adolescent Health staff are to attend the one day course: “Child Protection: Identify and Respond to Children and Young People at Risk every five years to maintain competency.

3.3 Reporting

In the course of their work, staff may see or hear something about a child, young person or adult patient that raises concerns about the possible safety, welfare and wellbeing of a child or young person. As per the [Children and Young Persons \(Care and Protection\) Act 1998](#), all Network staff are responsible for meeting the requirements for mandatory reporting of children and young people who may be at risk of significant harm.

Section 7, “Recognising Child Abuse and Neglect” of [PD2013_007 Child Wellbeing and Child Protection Policies and Procedures for NSW Health](#) should be referred to for guidance on recognising if a child/young person is at risk of significant harm from abuse or neglect.

In addition, NSW Health staff are required to notify their supervisor or line manager if they become aware of any child related allegations, charges or convictions against a NSW Health staff member.

Executive Director Clinical Operations should be notified via direct line management who will discuss the allegations and further reporting and/or investigation requirements with the Workforce Director to determine if the matter constitutes a child related allegation or conviction requiring notification to the Chief Executive and to the Ombudsman.

For the reporting of Child related allegations and convictions please refer to section 3.6.

3.3.1 Mandatory Reporter Guide

When a Network staff member has concerns about the safety, welfare or wellbeing of a child/young person or class of children/young people, they are to use the Mandatory Reporter Guide (MRG)

which is available at <https://reporter.childstory.nsw.gov.au/s/> or under 'Child Protection Online Mandatory Reporting on the [Useful Links](#)' page of the Network's intranet. The MRG is a structured decision making tool to assist in determining the level of risk to a child, young person or unborn child and what action should be taken. The MRG will assist the health worker to determine: That the concern is identified as being a suspected risk of significant harm and a report should be made to the **Child Protection Helpline** on **132 111** or via eReporting directly through the [Reporter](#) website. It should be noted that in line with the MRG there are 2 outcomes for Helpline reporting. One is for an immediate report (which cannot be e-reported), the other is within a 24hr period.

That the concern is not identified as a risk of significant harm but risks are present and the **Health Child Wellbeing Unit (CWU)** should be contacted on **1300 480 420**.

That the concern is not identified as a suspected risk of significant harm and low risk is present. Staff should document their concerns in the health record, and liaise with other interagency partners involved in the child/young person's care. Referrals should be made to appropriate services that can support the child/young person or their family, such as a referral to [Families NSW or Family Referral Services](#).

It should be noted that the MRG does not replace critical thinking or prohibit a Mandatory Reporter from a course of action he/she believes is appropriate. In a situation where the outcome of the MRG is not to report, but the staff member's professional judgement is that a report is required at that time, the staff member should consult with CWU prior to making a report to the Child Protection Helpline..

The MRG outcome and any additional supports identified by the staff member that may be required or to which the child/young person is referred should be documented within the health record. The MRG Decision Report must be printed and scanned into JHeHS under 'Clinical Correspondence'.

Note that the MRG does not currently address suspected risk of significant harm that is the result of excessive use of force (for example, where suspected excessive use of force by a Youth Justice Officer has resulted in a physical injury to a young person). If a Network staff member has concerns for the safety, welfare or wellbeing of a child or young person due to a potential use of excessive force, they should contact the Health Child Wellbeing Unit (CWU) on 1300 480 420 for further advice.

3.3.2 Child Protection Helpline

The MRG will advise the staff member if a report should be made to the Child Protection Helpline on 132 111. In general, the Child Protection Helpline should be contacted within 24 hours when concerns constitute suspected risk of significant harm, but if the staff member believes the child/young person is at immediate risk of significant harm, the Child Protection Helpline should be contacted for immediate intervention.

Further information about legal provisions, information required when making a report, and details of what should be documented in the progress notes of the health record when making a report to the Child Protection Helpline can be found in Chapter 9 'Responding to Children and Young People at Risk of Significant Harm' in [PD2013 007 Child Wellbeing and Child Protection Policies and Procedures for NSW Health](#).

3.3.3 Child Wellbeing Units

Child Wellbeing Units (CWUs) operate in the three government agencies responsible for the largest number of child protection reports: NSW Health, NSW Police Force, and Department of Education. CWUs help staff to collaborate in assessing the level of risk, detecting patterns of neglect and/or

cumulative harm, intervening early before matters escalate, and building a case for statutory intervention when early intervention and prevention are no longer a safe option for a child or young person.

When the MRG outcome/decision point is to contact the CWU, workers are to contact the Health CWU as soon as possible but no longer than the next business day on 1300 480 420. The CWU will discuss and record the concerns, and will follow CWU protocol to assist in determining what actions might need to be taken.

3.3.4 Documentation

A report to the Child Protection Helpline or the Health CWU, as well as any concerns regarding a child/young person's wellbeing must be documented in the client's health record. Documentation of a report should be made as a separate entry in the progress notes of the health record. In relation to young people in custody, this should be in addition to any notes written on the *Adolescent Health Initial Assessment Form* in JHeHS) 'Young Person at Risk Assessment' section where a risk of significant harm may first be identified.

Actions a health worker has taken to identify and respond to wellbeing concerns should be documented in the health record including:

- The identified risk factors for the child or young person;
- The identified preventative factors that mitigate against risk;
- Whether the staff member undertook the MRG and subsequently contacted the Child Protection Helpline, CWU or another relevant service; ;
- The date and time the report was made;
- The name of the worker spoken to at the Child Protection Helpline, CWU or other service;
- The nature of concerns reported;
- Any reference number provided;
- The response of the worker spoken to;
- Any outcomes from the discussion, and
- Any future actions required.

Documentation can be in the form of:

- A printout of the summary page or the decision report from the online MRG; or
- A printout of the full eReport.

All reported injuries to a young person in custody are to be investigated and a Serious Incident Report is to be completed, with the CWU compliance documented and forwarded to the Nurse Manager Adolescent Health with 48 hours

The NSW Department of Communities and Justice (DCJ) (formally NSW Department of Family and Community Services (FaCS)) confirmation letter that will be sent to the mandatory reporter should also be placed in JHeHS under 'Clinical Correspondence'.

3.4 Information Sharing

Chapter 16A of the [Children and Young Persons \(Care and Protection\) Act 1998](#) allows agencies working with children and families to provide, receive or request information that promotes or is relevant to a child or young person's safety, welfare and/or wellbeing. Information can be provided to another agency with or without a request being made.

The exchange of information under Chapter 16A must be between organisations that are prescribed bodies. It cannot be used to obtain information from a person unless that person is part of an organisation.

3.4.1 Prescribed Body

A prescribed body is any organisation specified in section 248(6) of the [Children and Young Persons \(Care and Protection\) Act 1998](#) or in clause 8 of the Children and Young Persons (Care and Protection) Regulation 2012. Generally prescribed bodies are:

- NSW Police Force
- a State government department or a public authority
- a government school or a registered non-government school or a TAFE
- a public health organisation or a private health facility
- an accredited adoption service provider
- a registered community housing provider
- a designated agency
- a registered agency
- a children's service
- any other organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly to children.

3.4.2 Providing, Receiving and Requesting Information

The legislation provides that an organisation that is a prescribed body may provide information relating to a child or young person to assist another organisation to:

- make a decision, assessment or plan relating to the safety, welfare or wellbeing of the child or young person, or
- initiate or conduct any investigation relating to the safety, welfare or wellbeing of the child or young person, or
- provide any service relating to the safety, welfare or wellbeing of the child or young person, or
- manage any risk to a child or young person that might arise in the recipient's capacity as an employer or designated agency.

Information should be provided only if the provider reasonably believes it may assist the receiving organisation for the purposes above. This means the person providing the information has well founded reasons for his or her belief. The legislation makes it clear that information may be provided

with or without a request being made.

Chapter 16A requests can be made verbally or in writing depending on the clinical situation. Staff should use their professional judgement to determine whether a form is the preferred method for exchanging or providing information.

Staff exchanging or providing verbal information should have knowledge of the person about whom the information is to be exchanged or provided to ensure the information provided is relevant and understood in the current context of the child, young person and their family. Verbal information is most likely to be sought when the request is straightforward or needed urgently. A common example of verbal exchange would be at a case conference or telephone call about a shared client.

Written exchanges of information under Chapter 16A are encouraged where they occur outside the context of an existing professional relationship between agency representatives or where the information to be exchanged is complex. Written requests should be forwarded to the Health Information and Record Service (HIRS) Manager for processing. The required health information is collated and the information exchanged on the form SMR805.500 *Exchange of Information Chapter 16A*.

3.4.3 Consent

Consent is not necessary for exchange of information under Chapter 16A provided that the information exchanged relates to the safety, welfare wellbeing of a child and fulfils the objects and principles of the legislation. Although consent is not necessary, it should be sought where possible, safe and appropriate.

3.4.4 Exemption

Chapter 16A does not apply to certain Commonwealth bodies, information exchange under section 248 for these organisations still applies. Section 248 requests are processed by the HIRS Medico-Legal team.

3.4.5 Further Resources on Information Sharing

It is important for staff to know when and how information can be shared under Chapter 16A and when seeking the consent of a child or young person or their family is advisable. Further information can be found in Section 6 'Information Sharing' of [PD2013_007 Child Wellbeing and Child Protection Policies and Procedures for NSW Health](#) and the *Child Wellbeing and [Child Wellbeing and Child Protection – NSW Interagency Guidelines](#)*.

3.5 Responding to Young People with Diverse Needs

Staff should be sensitive when working with Aboriginal children and young people, particularly if there may be issues relating to family violence and/or concerns about Aboriginal children and young people who may be at risk of significant harm.

Working sensitively with culturally and linguistically diverse communities, including refugees, is a core responsibility of all health workers and staff should be aware of the multicultural health principles outlined in Section 4.2 of NSW Ministry of Health policy directive [PD2012_020 NSW Health Policy and Implementation Plan for Culturally Diverse Communities 2012-2016](#).

Further information can be found in Section 5, 'Responding to Children and Young People with Diverse Needs' of NSW Ministry of Health policy directive [PD2013_007 Child Wellbeing and Child](#)

Protection Policies and Procedures for NSW Health.

3.6 Child Related Allegations, Charges and Convictions against a Staff Member

The NSW Health policy on [Child Related Allegations, Charges and Convictions](#) sets out the mandatory requirements for identifying and managing child related allegations, charges and convictions involving NSW Health staff.

Staff must immediately notify their line manager if they become aware of any child related allegations, charges or convictions involving another staff member. Once any immediate risk has been managed, the Executive Director Clinical Operations should be notified via direct line management who will discuss the allegations and further reporting and/or investigation requirements with the Workforce Director to determine if the matter constitutes a child related allegation or conviction requiring notification to the Chief Executive and to the Ombudsman.

Early notification may also need to be made to the Child Protection Helpline and/or NSW Police.

See Network Policy [3.020 Managing Misconduct](#) and [PD2016_025 Child Related Allegations, Charges and Convictions against NSW Health Staff](#) for guidance on managing allegations, charges and convictions against staff.

3.7 Allegations against a YJNSW Staff Member

Where a child/young person makes an allegation or raises concerns of misconduct against a Youth Justice NSW (YJNSW) staff member, an immediate notification must be made to the NUM (or delegate) who will promptly inform the Nurse Manager Adolescent Health or the After Hours Nurse Manager.

The NUM (or delegate) is then responsible for reporting the allegation (verbally and then in writing) to the Centre Manager who will implement YJNSW internal processes for handling allegations whilst ensuring that safety mechanisms are put in place to protect the child/young person.

The Executive Director Clinical Operations must be notified via direct line management who will notify the Chief Executive of the allegations to determine if the matter constitutes a child related allegation or conviction requiring notification to the Chief Executive and to the Ombudsman. Notification to the NSW Health CWU is required, unless the matter is suspected risk of significant harm, then Mandatory Reporting is required to the Child Protection Helpline. All allegations and reports must be documented in the child/young person's health record.

4. Definitions

Child

For the purpose of mandatory reporting to the Helpline a child is a person who is under the age of 16 years, as per section 3 of the [Children and Young Persons \(Care and Protection\) Act 1998](#). This includes a newborn child. Health workers should be aware that under other NSW legislation, a child is defined differently:

For the purpose of workplace child protection, including child related allegations, charges and

convictions, and the WWCC, a child is defined as a person under the age of 18 years.

Mandatory reporter

A person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children. This also includes managers of these services.

Must

Indicates a mandatory action to be complied with.

Should

Indicates a recommended action to be complied with unless there are sound reasons for taking a different course of action.

Young person

A person who is aged 16 years or above but who is under the age of 18 years, as per section 3 of the [Children and Young Persons \(Care and Protection\) Act 1998](#).

5. Legislation and Related Documents

NSW Health Policy Documents

[PD2012_020](#) *NSW Health Policy and Implementation Plan for Culturally Diverse Communities 2012-2016*

[PD2013_007](#) *Child Wellbeing and Child Protection Policies and Procedures for NSW Health*

[PD2016_025](#) *Child Related Allegations, Charges and Convictions against NSW Health Staff*

[PD2019_003](#) *Working with Children Checks and Other Police Checks*

[PD2018_031](#) *Managing Misconduct*

[PD2018_032](#) *Managing Complaints and Concerns about Clinicians*

Network Policies and Procedures

[4.030](#) *Requesting and Disclosing Health Information*

[3.020](#) *Managing Misconduct*

External Resources

[Child Wellbeing and Child Protection – NSW Interagency Guidelines](#)

[Case for Change: Integrated prevention and response to violence, abuse and neglect in NSW Health Making A Child Protection Report Factsheet](#)

[Office of Children's Guardian \(Working With Children Check clearance\)](#)