

Child Protection

Implementation Guide – Ministry of Health PD2013_007

Policy Number 5.015

Policy Function Safe Practice and Environment

Issue Date 8 December 2017

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 (Juvenile Justice Centres)
- Long Bay Hospital
- Forensic Hospital

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

Change Summary

- Additional information pertaining to the application of Chapter 16A.
- Addition of PD2016_025 *Child Related Allegations, Charges or Convictions Against NSW Health Staff Policy*.
- Addition of information pertaining to allegations made against JJNSW staff members.

TRIM Reference POLJH/5015

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

1. Preface

Justice Health & Forensic Mental Health Network (JH&FMHN) (hereafter referred to as 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 JH&FMHN 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 JH&FMHN staff have a responsibility to protect the health, safety, welfare and wellbeing of children or young people with whom they have contact in accordance with Ministry of Health policy [PD2013_007](#) *Child Wellbeing and Child Protection Policies and Procedures for NSW Health*.
- 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](#). Compliance with these guidelines is mandatory.
- 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 prohibited employment declaration and have a criminal record check. All staff working with children or young people also require a "Working with Children" background check. See [Section 3.1](#) for further details.
- All staff working with children or young people must participate in mandatory and/or other child protection 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* and the associated *Child Wellbeing and Child Protection Fact Sheet for NSW Health Workers* 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 *Standard Decision Making® Tool - Mandatory Reporter Guide (MRG)*. See [Section 3.3.1](#) for further details.
- Investigate, document and act appropriately on the outcomes of health assessments of children and young people who present to JH&FMHN with possible risk of harm.
- Make reports to the Child Protection Helpline as well as receive, respond and follow up Child Protection Helpline feedback on child protection reports. See [Section 3.3.2](#) for further details.
- Contacting the Health Child Wellbeing Unit to discuss and seek advice regarding further action. 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.

3. Procedure Content

3.1 Working with Children Checks

A Working with Children Check (WWCC) is a prerequisite for anyone in child-related employment. At present, all employees who undertake any work within adolescent health or the Forensic Hospital must have a valid WWCC clearance before commencing employment with JH&FMHN.

The [Child Protection \(Working with Children\) Act 2012](#) governs requirements around obtaining a WWCC.

Under this Act:

- WWCCs are only available from the Office of Children's Guardian. JH&FMHN are not able to provide WWCC as part of the recruitment process.
- Before being able to commence child related employment, individuals will have to apply online for their check and attend a NSW Motor Registry, Government Access Centre, or Service NSW office with proof of identification to activate the application.
- A WWCC will be valid for five years and is portable between workplaces.
- Employers are required to verify WWCC online.
- Everyone with a clearance will be continuously monitored by the Office of Children's Guardian for serious sex or violence offences committed in NSW.

A *National Criminal Record Check* and a *Prohibited Employment Declaration* must also be completed by all staff before commencing in child related employment.

3.2 Child Protection Training

JH&FMHN 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 employment.

Child protection training (two hours) is a requirement for all staff commencing employment with JH&FMHN and is undertaken as part of the JH&FMHN Orientation Program facilitated by the Organisational Development Unit (ODU). 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 course: "Child Protection: Identify and Respond to Children and Young People at Risk must be undertaken by staff as determined necessary (locally targeted) by the Network for e.g. Adolescent Health and Forensic Hospital staff." This training is coordinated by ODU in line with the Network's Orientation Program. The NSW Health and Education Centre against Violence (ECAV) offer comprehensive training around child protection, and this is recognised as prior learning within JH&FMHN. Staff must provide evidence that this prior learning has occurred within the last five years. All JH&FMHN 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 which raises concerns about the possible safety, welfare and wellbeing of a child or young person. As per the *Care Act*, all JH&FMHN staff are responsible for meeting the requirements for mandatory reporting of children and young people who may be at risk.

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.

3.3.1 Mandatory Reporters Guide

When a JH&FMHN staff member has concerns about the safety, welfare or wellbeing of a child/young person they are to use the Mandatory Reporter Guide (MRG) which is available at <http://sdm.community.nsw.gov.au/mrg/> or under 'Child Protection Online Mandatory Reporting on the [Useful Links](#)' page of the JH&FMHN 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 decision tool should be used prior to utilising any of these three possible outcomes:

1. That the concern is identified as being suspected risk of significant harm and a report should be made to the **Child Protection Helpline** on **133 627**.
2. That the concern is not identified as risk of significant harm but risks are present and the **Health Child Wellbeing Unit (CWU)** should be contacted on **1300 480 420**.
3. That the concern is not identified as 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](#).

4. Report on the use of force where an injury is sustained to the CWU.

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 make a report** to the Child Protection Helpline or consult with the CWU.

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'.

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 133 627. 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 and Communities. 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 Child Protection Helpline, CWU or another service was contacted;

- 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 is 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 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

The *Care Act* allows agencies working with children and families to exchange information that promotes a child or young person's safety, welfare and/or wellbeing, whether or not the child or young person has been reported to the Child Protection Helpline. Staff may provide, request and receive information under Chapter 16A and Section 248. It is particularly important from an interagency collaboration perspective that organisations should be able to provide information they believe is relevant to the safety, welfare or wellbeing of a child or young person without having received a request.

- **Chapter 16A** establishes a scheme for sharing information that is relevant, factual and accurate pertaining to the safety, welfare or wellbeing of children and young people between prescribed bodies. Chapter 16A requests can be made verbally or in writing depending on the clinical circumstance. Staff should use their professional judgement to determine whether a form is the preferred method for exchanging information.

It is preferable that the staff exchanging verbal information have a relationship with, or knowledge of the person about whom the information is to be exchanged. This is to ensure the information provided is relevant and understood in the current context of the child, young person and their family. Verbal information will most likely be sought when the request is straightforward or when it is 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*.

- **Section 248** governs the exchange of information relating to the safety, welfare and wellbeing of children and young people between the Director-General of the Department of Family and Community Services and prescribed bodies. Section 248 allows information relevant to the progress of investigations, assessments and case management to be shared in exceptional circumstances.

Section 248 requests are processed by the HIRS Medico-Legal team. If the patient is in custody at the time of the application, the request is forwarded to the Health Centre NUM where the patient is currently accommodated. The NUM or delegate will collate the required information and forward the information directly to Community Services. Health clerks are not qualified to collate this information.

Consent is not necessary for exchange of information under Chapter 16A or section 248 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.

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 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 that need to be reported to FaCS. Health CWUs are required to ensure appropriate referral pathways are put in place to link Aboriginal children and their families with culturally responsive human and justice services.

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

Child related allegations and convictions include any alleged behaviour or criminal charges or convictions against NSW Health staff that may constitute reportable conduct, as specified under Part 3A of the Ombudsman Act 1974, where the alleged victim was under the age of 18 years at the time of the alleged behaviour; this extends to child pornography, non-work related and historical matters.

Staff must immediately notify their line manager if they become aware of any child related allegations, charges or convictions involving another staff member. Once action has been taken to address any immediate risks, managers must promptly investigate allegations or complaints made against their staff. The reported circumstances will determine how detailed the preliminary investigation needs to be. The Executive Director Clinical Operations should be notified via direct line management who will discuss the allegations

and further 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.

See JH&FMHN 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 JJNSW Staff Member

Where a child/young person makes an allegation or raises concerns of misconduct against a JJNSW 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 JJNSW 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. Mandatory reporting to the CWU is required, unless significant risk, 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

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:

[The NSW Crimes Act 1900](#) alters classification of the age range of a child in different sections of the Act.

The NSW Commission for [Children and Young Persons \(Care and Protection\) Act 1998](#) and the [NSW Ombudsman Act 1974](#) define children as persons under 18 years. There is no distinction between the responsibilities to a person under 16 years and a person under 18 years in relation to employee conduct.

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

Legislation

[Child Protection \(Working with Children\) Act 2012](#)

[Children \(Detention Centres\) Act 1987](#)

[Children \(Detention Centres\) Regulation 2015](#)

[Children and Young Persons \(Care and Protection\) Act 1998](#)

[Children and Young Persons \(Care and Protection\) Regulation 2000](#)

JH&FMHN Policies and Guidelines

[4.030 Requesting and Disclosing Health Information](#)

[3.020 Managing Misconduct](#)

Ministry of Health

[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](#)

External Resources

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

[Making A Child Protection Report Factsheet](#)

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