



Child Protection Policy

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1. Aim

For Breakaway, the safety, welfare and wellbeing of children are paramount. Breakaway employees, and all those who work with the agency in a paid or voluntary capacity are obliged to take reasonable care to protect children and young people against risks of harm that can and should be foreseen.

In our policies, programs and all other aspects of operation Breakaway has a philosophy that incorporates a preventative as well as a responsive approach to child protection. Ensuring a safe environment for children at Breakaway as well as engaging with families and communities to promote and support safety for children from abuse and neglect are key principles of our philosophy and duty of care.

Breakaway adheres to the key child protection principles in the ADHC Child Protection Policy (2010). These are:

- Support the fundamental right of children and young people to be safe from harm.
- Promote a safe environment
- Adopt a child centred and strength based approach.
- Support a prevention and early intervention approach
- Recognise that child protection is a whole of government and community responsibility
- Respect the values, culture and heritage of Aboriginal and Torres Strait Islander people
- Recognise and uphold the rights of people from culturally and linguistically diverse backgrounds who have a disability and their carers.
- Exchange information about the safety welfare and wellbeing of children and young people

This policy provides a clear and comprehensive child protection framework for Breakaway. It outlines;

- The expectations and duty of care for all those employed or associated with Breakaway
- The reporting and investigative processes in place to address child protection issues within the agency
- The rights of children and families to whom Breakaway provides services
- Accountabilities for reporting and monitoring regarding child protection at Breakaway
- Obligations of Breakaway employees and board members under child protection legislation
- An instrument for ensuring child protection is a central component of all operations at Breakaway.
- Responsibilities of the Board and GENERAL MANAGER in accordance with the Breakaway Delegations Policy

2. Scope

This policy applies to all employees of Breakaway, including permanent, temporary and casual employees. The policy also applies to members of committees, members of working groups, members

of advisory bodies, consultants and contractors who are working at Breakaway, volunteers, work experience students and student placements.

3. Policy

This policy provides a framework for Breakaway to:

1. Adopt a prevention and early intervention approach to child protection in all its planning and operations
2. Outline a clear and comprehensive pathway for responding in a respectful, timely and appropriate manner to any allegations or concerns raised in relation to child protection within the organisation's scope of responsibilities.
3. Demonstrate how the agency will report, monitor and address child protection issues and who is responsible for these processes.
4. Provide clear and accessible information to children and families who use Breakaway services about their rights and the roles and responsibilities of the organisation for the protection of children.

3.1 Legislative Requirements

The main provisions of the *Children Legislation Amendment (Wood Recommendations) Act 2009* were proclaimed as amendments to the *Children and Young Persons (Care and Protection) Act 1998*.

Breakaway is a prescribed body and as such has the following responsibilities under the *Ombudsman Act 1974*, *Child Protection (Prohibited Employment) Act 1998*, *Commission for Children & Young People Act 1998* and *Children and Young Persons (Care and Protection) Act 1998*.

Ombudsman Act 1974

Under the Ombudsman Act 1974:

The GENERAL MANAGER or delegate required to report to the Ombudsman, within 30 days of becoming aware, any allegations or convictions of child abuse made against employees.

The Breakaway GENERAL MANAGER or delegate are required to conduct investigations (which can include preliminary or other inquiries and assessment) into child abuse allegations or convictions and to take appropriate action as a result.

Employees of Breakaway are obliged to inform their GENERAL MANAGER of any child abuse allegation or conviction against them, which occurred either within or outside the work place.

Child Protection (Prohibited Employment) Act 1998

Under the Child Protection (Prohibited Employment) Act 1998:

The Breakaway GENERAL MANAGER must establish existing employees are not 'prohibited' persons.

Breakaway must only employ a person who is not a 'prohibited' person.

Employees are required to complete a 'Prohibited Employment Declaration' and to declare if he/she is a 'prohibited person'.

Employees must disclose to the GENERAL MANAGER or delegate his/her status relating to the definition of a 'prohibited' person.

A person must not apply for or remain in child-related employment if a 'prohibited' employee.

Commission for Children & Young People Act 1998

Under the Commission for Children & Young People Act 1998, the GENERAL MANAGER or delegate must:

- Conduct employment screening approved by the NSW Commission for Children and Young People
- Notify the Commission of relevant disciplinary proceedings taken as a result of an allegation/conviction of abuse by an employee.

- Notify the Commission of applicants who have not been offered child-related employment as a result of assessment by NSW Commission for Children and Young People.
- Securely retain relevant records.

Children and Young Persons (Care And Protection) Act 1998

Under the Children and Young Persons (Care and Protection) Act 1998 the Breakaway GENERAL MANAGER will ensure that relevant employees are aware of their obligation to report, to the Department of Community Services, a child or young person who are considered to be at risk of significant harm.

The GENERAL MANAGER will ensure that agency policies, procedures and practices are in line with the Act in relation to child protection.

Employees will ensure practice is consistent with the principles, objectives and provisions of the Act.

Employees will report concerns that a child or young person is at risk of significant harm.

Breakaway will comply with Chapter 16A of the Act which provides for the sharing of information that relates to the safety, welfare or wellbeing of a child or young person with other prescribed agencies. This information can be provided without the consent of the family.

3.2 Policy Implementation and Procedures

Included in this policy are a range of preventative strategies which provide for the implementation of the Breakaway Child Protection Policy. These include:

- Guidelines for appropriate behaviour and strategies for responding to inappropriate behaviour.
- Clearly defined roles for people within the organisation
- Pre-employment screening procedures
- Information provided to families and the community about child protection strategies adopted by Breakaway.
- Training provided for employees on best practices to ensure a safe environment for children
- Information and awareness raising provided in brochures, posters and other forms of communication published or distributed by Breakaway.

In developing these strategies and procedures, Breakaway adheres to the Australian Council for Children and Youth Organisations "Safeguarding Children Program Standards". These are outlined below:

A commitment to safeguarding children

Through its 'Child Protection Policy' our organisation documents its clear commitment to safeguarding children and young people from abuse and neglect.

Personnel roles and conduct

Our organisation ensures that each person involved in our delivery of services to children and young people understands their role, and the behaviour we expect in safeguarding children and young people from abuse and neglect.

Recruitment and screening practices

Our organisation has appropriate measures in place to minimise the likelihood that we will recruit a person who is unsuitable to work with children or young people.

Personnel induction and training

Our organisation's induction, education and training programs are a vital part of our commitment to safeguarding children and young people from abuse and neglect.

Involving children and parents

In developing a safe, inclusive and supportive environment our organisation involves and communicates with children, young people and their parents. We encourage parental involvement and behaviour that helps to protect children and young people.

Child abuse reports and allegations

Our organisation has measures in place to ensure that all our people who work with children and young people understand their responsibility to report possible abuse or neglect and understand our reporting procedures.

Supporting a child-safe culture

Our organisation has measures in place to ensure that all our people who work with children and young people understand their responsibility to report possible abuse or neglect and understand our reporting procedures.

(www.accyo.org.au)

3.2.1 Reporting and Procedures in Relation to Children and Families Accessing Breakaway Services

Breakaway staff will be familiar with the NSW Interagency Guidelines for Child Protection and Intervention revised 2005 and will abide by these principles.

Breakaway staff will comply with Section 23 of the Act and report to Community Services any indications, symptoms or signs of:

- Physical abuse
- Sexual abuse
- Psychological Harm
- Neglect
- Exposure to domestic violence
- Parental Substance Abuse
- Parental Mental Health Concerns
- Educational Neglect
- Cumulative Harm

Breakaway staff should, in addition, inform their immediate supervisor of all concerns regarding child abuse or neglect.

In the case of a concern or allegation relation to family members or carers of a child using Breakaway services the following principles and procedures are to be followed:

Principles

- Where there is a reportable concern or allegation, clear and consistent communication with families and carers with regard to the matter and the reporting responsibilities of Breakaway staff and the processes being followed by Breakaway is to be undertaken.
- Where possible families and carers should be informed promptly of the allegation or concern and the action being taken in response. Staff should always inform and discuss all allegations or concerns with the GENERAL MANAGER as a matter of the highest priority.
- All staff will follow the procedure outlined below.

Procedure

1. Document the concern raised or allegation made immediately.
2. Visit the NSW Department of Community Services Mandatory Reporter Guide (<http://sdm.community.nsw.gov.au/mrg/app/summary.page>) and complete the on line decision making guide. Staff will keep this documentation and record their actions and processes from the time of the allegation or when the concern came to their attention.
3. Discuss the concern/allegation with the GENERAL MANAGER.
4. Report the concern or allegation to the Department of Community Services where required, including where staff concerns remain irrespective of the outcome of the Mandatory Reporter Guide.

3.2.2 Pre-Employment Checks for Children's Services

Breakaway will develop policies and strategies to minimise reportable conduct occurring. Policies will be reviewed annually and/or as required.

All employees and those seeking employment with Breakaway in the area of children's services are subject to the Working with Children Check.

The Working with Children Check is a prerequisite for paid and unpaid child-related work. Under Part 2, section 6 of the [Child Protection \(Working with Children\) Act 2012](#), child-related work is defined as work in a specific, child-related role or face-to-face contact with children in a child-related sector.

The result of a Working with Children Check is either a clearance to work with children for five years, or a bar against working with children. The Check is fully portable which means it can be used for any paid or unpaid child-related work in NSW for as long as the worker remains cleared.

When deciding to offer an applicant a position, Breakaway must take into account the result of the Working with Children Check, including the risk assessment in cases where a relevant record is found, and any other information gained.

The GENERAL MANAGER must ensure that a Working with Children Check is completed before employment is confirmed. Where it is not practical to complete screening prior to employment commencing, the screening will be completed as soon as possible after the person has commenced. In these cases the GENERAL MANAGER must advise the employee that his/her ongoing employment is conditional upon the satisfactory outcome of the screening and the probationary employee will work under the direct supervision of other staff.

Once Breakaway receives the staff member's unique verification number, Breakaway will undertake 6 monthly checks on that member of staff.

The GENERAL MANAGER must notify the Commission for Children and Young People of any person whose application for employment with Breakaway has been rejected primarily because of an adverse risk assessment in the Working with Children Check even if they have been offered an alternative position.

The GENERAL MANAGER must advise a person if their application was rejected primarily because of an adverse risk assessment in the Working with Children Check.

The GENERAL MANAGER is required to provide details to the Commission for Children and Young People of any employee (either paid or unpaid) who has been subject to relevant employment proceedings completed since 3rd July, 1995. The employment proceedings that are considered relevant are all disciplinary proceedings involving reportable conduct by an employee or an act of violence in the course of employment and in the presence of a child.

The privacy of any person who is checked and the confidentiality of any information obtained through the checking process will be protected.

Upon being employed by Breakaway all staff, workers and volunteers will have the Breakaway code of conduct and the Child Protection policy made available to them and will be required to sign off their acknowledgement and understanding of the Child Protection policy.

3.2.3 Standard Procedures for Staff and Volunteers

All staff employed to work with children will be required to undergo a national criminal record check and Working with Children Check.

All staff must be aware of their obligations under the Child Protection Act 1998.

All Authorised Supervisors, in accordance with Community Services regulations are required to complete an Identifying and Responding to Risk of Harm Child Protection Course.

All volunteers will complete the appropriate Child Protection documentation working with Children Checks before commencing placement with children.

Volunteers will remain in the company of a Primary Contact Staff member at all times.

All new staff and volunteers will undertake the on-line Keep Them Safe training as part of their

induction process.

All staff and volunteers will receive annual refresher training in child protection.

Staff will be familiar with the NSW Interagency Guidelines for Child Protection and Intervention revised 2005 and will abide by these principles

Any indications, symptoms or signs of sexual, physical, emotional or psychological abuse in a child will be reported to the Child Protection Helpline.

Any direct witnessing of sexual, physical or emotional abuse will be reported to the Child Protection Helpline.

3.2.4 Responding to Allegations Against Staff – Reporting Allegations

A “reportable allegation” means an allegation of reportable conduct against an employee or an allegation of misconduct that may involve reportable conduct. (See definitions section of this policy)

When an allegation against a staff member is made the GENERAL MANAGER needs to:

- be notified immediately of the allegation;
- record the allegation in writing and clarify as to whether a notification to the NSW Ombudsman is necessary (as per appendix 8F in the Ombudsman’s Guidelines- available on www.ombo.nsw.gov.au)
- Ensure the confidentiality of all persons involved.

3.2.4.1 Self-reporting

The *Child Protection (Prohibited Employment) Act* requires all employees in child-related employment to disclose to their employer any previous convictions for a serious sex offence.

The GENERAL MANAGER has an obligation to notify the Ombudsman of any reportable allegation or conviction of which they become aware. One way the GENERAL MANAGER may become aware of a conviction is by an employee declaring themselves as a ‘prohibited person’.

3.2.4.2 Principles guiding the response to Reportable Allegations and Convictions

Breakaway will in relation to all reportable allegations, investigations and convictions:

- act fairly and without bias
- conduct an investigation without undue delay
- ensure the case is not investigated or determined by someone with a conflict of interest
- ensure the outcome is supported by evidence

Breakaway will offer care and support to all parties involved in an allegation (see 2.4.8).

Breakaway employees will be afforded procedural fairness in the investigation of any allegations against them.

Breakaway employees and parents have a right to complain to the Ombudsman if they are unhappy with the conduct of the agency investigation.

All reportable allegations or convictions against an employee will be notified to the Ombudsman.

3.2.4.3 Procedures with regard to Reportable Allegations and Convictions

When an allegation is reportable the GENERAL MANAGER needs to follow the reporting and investigation procedures outlined in the Child Protection Policy Framework for

Children's Services - NSW Ombudsman's Office, October 2005 (hereafter referred to as 'the Framework'). The following tasks need to be completed:

- Complete Part A of the Ombudsman's Notification Form and send a copy to the Ombudsman within 30 days;
- Conduct and document a risk assessment in accordance with the Framework 5(c) and take relevant action;
- Investigate the allegation in accordance with the Framework 5(d);
- Record the investigation findings, including the decision making process and outcomes;
- Notify the relevant staff member(s) in writing that the Ombudsman has been notified of the outcomes of the investigation and of any follow up action to be taken and courses of appeal if appropriate;
- Complete Part B of the Ombudsman's Notification Form and send it by Registered Mail with all supporting documentation that was obtained during the investigation;
- Ensure that the confidentiality of all parties is maintained.

3.2.4.4 Employment related issues

When an allegation is received, the GENERAL MANAGER or delegate needs to consider the following issues whether the employee will remain in their current position, be moved to another area or be suspended. This decision is based on the assessed level of risk and the likelihood of the alleged behaviour recurring.

If the employee's duties are to be changed, and if Community Services and/or Police are involved, the GENERAL MANAGER will check with them to see if this will interfere with their investigations. It might also be appropriate to discuss the proposed change of duties with the employee and seek their comments.

If the employee remains in the workplace, the GENERAL MANAGER needs to consider, (in consultation with the employee) what duties that employee can undertake and who will monitor and assess the risks associated with the employee having access to children in the care of Breakaway.

Factors to be considered include:

- the nature and seriousness of the allegation
- vulnerability of children the employee would be in contact with at work e.g. ages, verbal skills, disability
- the nature of the position occupied by the employee, e.g. their level of interaction with children singly or in groups
- the level of supervision of the employee
- Support for the employee on a day to day basis if their duties are unchanged e.g. managing children with challenging behaviours in a classroom or living in 'out of home care'.

The employee's disciplinary history or safety and the possible risks to the investigation may also be factors to consider when deciding whether or not to leave the employee in position while the investigation is conducted. Appropriate support for the employee who has had the allegation made against them should also be provided.

3.2.4.5 Protecting Children

The immediate response to an allegation should be one that protects the child or other children from the possibility of further allegations. Consideration therefore needs to be given to the following issues:

- Assess any risks posed by the employee to children in the agency's care and take any necessary interim action to ensure the safety and well-being of the children including whether the employee's duties need to be changed during the investigation process.

- ensure confidentiality and procedural fairness, consider what to tell people who are not involved but are aware of the allegation (e.g. other employees or parents), or who ask what has happened in relation to the employee (It is important to remind the person who makes such inquiries of the sensitive and confidential nature of such a matter and that you are therefore unable to discuss, confirm or deny the allegation).

If a child is 'at risk of significant harm' (ROSH) a report to the Child Protection Helpline on 133627 should be made and advice obtained about what action (if any) Community Services intends to take and when, regarding the child and the employee.

Where possible, the child's daily circumstances should remain unchanged. Exceptions might be where the child is considered to be at risk of victimisation by peers or employees as a result of the allegations or when the alleged conduct has occurred in a context that makes it difficult to ensure a child's safety because of the agency's inability to directly supervise the child and the employee, for example, in out of home care situations. Support for the child (ren) involved should also be considered.

3.2.4.6 Risk Assessment

The GENERAL MANAGER is responsible for assessing the risk that an employee poses to a child (ren) once an allegation is made, during an investigation and at the end of the investigation so that a final decision can be made regarding what action if any needs to be taken regarding the employee in addressing that risk.

A decision to take action on the basis of an initial risk assessment does not impact on the findings of the matter. Until the investigation is completed and a finding is made, any action, such as moving an employee to alternate duties, is not to be considered to be an indication that the alleged conduct by the employee did in fact occur.

It is important to record the reasons why decisions are made to take, or not take, any action as a result of a risk assessment.

3.2.4.7 Initial risk assessment

One of the first steps after a reportable allegation is made against an employee is to conduct a risk assessment. The purpose of this initial risk assessment is to identify and minimise the risks to:

- the child(ren) who are the subject of the allegation
- other children with whom the employee may have contact
- the employee against whom the allegation has been made
- Breakaway, and
- The proper investigation of the allegation.

When an allegation is made, limited information may be available to adequately inform this risk assessment. For example, the initial complaint or allegation may have been made anonymously or little detail about the allegation may have been provided. It is therefore important to review this initial risk assessment as further information comes to light during the investigation.

When taking action to address any identified risks, the GENERAL MANAGER or delegate must take into consideration both the needs of the child and the employee against whom the allegation is made.

Note: A conflict of interest, or the perception of such, if not properly dealt with in an investigation of an allegation can compromise that investigation and adversely affect all parties. If a potential or actual conflict of interest is identified it is important to develop strategies to address this.

3.2.4.8 Care and Support

The GENERAL MANAGER or delegate should offer and organise support and professional counselling if required for children, the subject of an allegation of reportable conduct, family members and, if appropriate any witnesses. Witnesses may be particularly distressed by their involvement in the process and should be offered opportunities for debriefing and ongoing support from Breakaway. If appropriate, this could be provided by an external counselling agency.

3.2.4.9 Community Services and Police Involvement

Where Community Services and the Police are involved it is still the responsibility of Breakaway to investigate the allegation and to decide what action, if any, to take regarding an employee. When Community Services or the Police are involved, consult with them before interviewing the child or the employee who is the subject of the allegation. Breakaway is aware that whenever possible, it is advisable to avoid re-interviewing children.

When Community Services has been involved (e.g. Community Services workers have interviewed the child (ren) and/or the employee), the GENERAL MANAGER may be entitled to request information from Community Services if it is likely to assist the agency to decide the risk to children posed by the employee, as well as any other information that may be relevant to the investigation.

When the Police have been involved, requests for information should be made to the Police unit investigating the matter, which is either the Local Area Command or the Child Protection Sex Crime Squad.

3.2.4.10 Report to the Ombudsman

The GENERAL MANAGER is responsible for preparing a final report to the Ombudsman which includes findings in relation to each reportable allegation, the reasons for those findings and action taken or intended to be taken as a result of the investigation. The information provided to the Ombudsman should also include sufficient information to provide an understanding of the actions the GENERAL MANAGER took during the investigation. If the investigation results in disciplinary action against the employee, such as termination of employment, the agency needs to provide sufficient information to support this action.

Copies of the following documentation should accompany the final report:

- details of the planning process for the investigation (e.g. investigation plan, notes regarding the allegations, who was responsible for investigating them, timeframe, the list of people to be interviewed, the list of actions required, objectives)
- records documenting the assessment of the risk the employee the subject of the allegation might pose to children (both the alleged victim and any other children they may have contact with), together with details of any action taken to manage this risk during and after the investigation
- Details of any information provided to the employee, child, carers or family regarding support available while the investigation was underway.
- Records or notes of any interviews conducted, including details of questions and responses as close as possible to the actual words used. These records should be signed by the interviewee, the interviewer and any witnesses, and dated. Notes of any other conversations representatives of the agency had with the employee should also be provided
- any statements received, including any written submissions made by the employee
- the findings regarding each allegation; that is, whether the allegation is sustained or not and the factors taken into account in making these findings
- any action that is to be taken, or has been taken, as a result of the investigation

- a copy of final correspondence to the employee the subject of the allegation
- any other documents relied upon when making the final decision regarding the allegation
- Whether or not CCYP has been notified, including any reasons for not doing so.

Any handwritten notes (e.g. diary notes of telephone calls) relevant to the investigation will be photocopied (ensuring that the originals are legible, signed and dated) and forwarded to the Ombudsman.

In assessing the investigation, the Ombudsman will assume that all relevant documentation has been provided. However, if new information comes to light, it may be necessary to forward further information in addition to that already provided.

3.2.4.11 Informing the CCYP

The GENERAL MANAGER is required to notify the Commission for Children and Young People when an employment proceeding against an employee involving reportable conduct or an act of violence committed in the course of employment and in the presence of a child, is completed.

Any person for whom relevant employment proceedings have been undertaken is entitled, under the Freedom of Information Act 1989, to access any documents containing relevant employment proceedings information about them.

3.3 Record Keeping and Documentation

Breakaway staff is responsible for maintaining accurate records of the details of an allegation, the subsequent risk assessments, the investigation and the action taken. These records need to be treated as highly confidential, kept securely and must be kept permanently.

Records relating to information concerning allegations against an employee should be kept on a file separate to the employee's personnel file.

Records must be retained when the CCYP has been notified. The name and other identifying particulars of an employee against whom relevant employment proceedings have been completed must be kept.

3.4 Roles and Responsibilities of Other Agencies

A number of external agencies and government departments play critical roles in the reporting, investigation and outcomes of child protection issues and these are outlined below to support the implementation of the Breakaway Child Protection Policy.

The NSW Ombudsman

Part 3A of the *Ombudsman Act (1974)* provides that the NSW Ombudsman (the Ombudsman) is required to oversee and/or monitor investigations of a child protection nature where there has been an allegation against an employee of certain agencies. The *Ombudsman Act (1974)* refers to allegations of a child protection nature as allegations of "reportable conduct". The Ombudsman's child protection role is to:

- Scrutinise systems – e.g. audit agencies to ensure they have systems in place to prevent reduce the risk of, and respond to, allegations and convictions of reportable
- conduct against employees;
- Monitor and undertake direct investigations, e.g. monitor an agency's investigation of an allegation of reportable conduct against an employee, or if necessary, become
- directly involved in an investigation of a matter; and
- Respond to complaints – about any inappropriate handling of or response to an allegation or conviction of reportable conduct against an employee.

A number of agencies, including Breakaway, have a responsibility to report to their supervisor any allegation of reportable conduct or reportable conviction against employees arising in the course of work or outside the workplace. Breakaway must also provide information relating to the action taken as a result of the allegation and the outcomes of these actions.

Some agencies such as Breakaway have an additional responsibility to report allegations of reportable conduct or reportable convictions against employees regardless of whether the conduct arose in the course of their employment. This responsibility arises because Breakaway is a 'designated agency' for the purposes of the *Ombudsman Act (1974)*. This means that allegations of a child protection nature made against Breakaway employees in their private life are also required to be notified to the Ombudsman. Breakaway may also be notified of these allegations by Community Services or the NSW Police Force.

Police Force

The role of the NSW Police Service in child protection is to:

- Recognise, report and investigate child abuse and neglect, and
- Initiate legal proceedings for child abuse and neglect offences under the *Crimes Act 1900* and the *Children & Young Persons (Care & Protection) Act 1998*.

Where appropriate, the NSW Police Force may also initiate apprehended violence orders.

Community Services

As of 24 January 2010, the Child Protection Helpline accepts only matters that are considered to be suspected Risk of Significant Harm (ROSH). This new threshold allows Community Services to focus resources on those most serious cases, where children and families need a statutory response.

Where a report of suspected ROSH has been determined by the Child Protection Helpline as reaching the statutory threshold, the matter will be referred to either a Community Services Centre (CSC) for investigation and assessment.

Community Services is the lead government agency responsible for child protection in NSW. The role of Community Services in child protection is prescribed by the *Children and Young Persons (Care & Protection) Act (1998)* and the *Children Legislation Amendment (Wood Inquiry Recommendations) Act (2009)*. The role includes:

- Providing or arranging services to children, young people and parents when a request for assistance is received;
- Receiving and assessing reports of child abuse and neglect;
- Investigating those reports where there is a likelihood of risk of significant harm to the child or young person;
- Acting to maintain the safety of children and young people;
- Monitoring the safety of the child when serious harm has been identified;
- Developing case plans;
- Ensuring the provision of quality out-of-home care and support services for
- children and young people unable to live with their family;
- Initiating action to protect children through alternative dispute resolution or care proceedings in the Children's Court; and
- Providing and arranging support services to children, young people and their families.

The Child Protection Helpline will provide feedback to mandatory reporters on all reports it receives. Where the statutory threshold is not met, this will prompt mandatory reporters to consider (along with their supervisor and other professionals who may be working with the child, young person or family) local services and supports which may be appropriate for them.

Commission for Children and Young People (CCYP)

The NSW Commission for Children and Young People (the CCYP) is responsible for employment screening for child related employment. The screening service provided by the CCYP, which is called the Working with Children Check, assists agencies in making informed decisions about whether prospective staff is suitable to work with children.

The Policy and Procedures for Pre-employment Criminal and Working with Children Checks outlines the circumstances in which Breakaway requests the CCYP to conduct Working with Children Checks on prospective employees.

3.5 Advocacy/legal advice/independent support

Breakaway welcomes the inclusion of support for families which is external to the organisation, to assist families in their interactions with Breakaway. Assistance may be provided by a friend, family member, staff member, translator, community visitor, advocate or anyone else who is acceptable to the family / person. Where necessary Breakaway will offer assistance to a family by making a referral to an advocacy service with the consent of the family.

4 References

This policy outlines the responsibilities of Breakaway under the following legislation and policy guidelines:

- *NSW child protection legislation, Child Wellbeing and Child Protection: NSW Interagency Guidelines* - the policy provides a specific child protection framework for Breakaway, It should be read in conjunction with *Keep Them Safe: A Shared Approach to Child Wellbeing 2009-2014*
- *Keep Them Safe: A Shared Approach to Child Wellbeing 2009-2014 (Keep Them Safe)* - this is the NSW Government's response to the Report of the Special Commission of Inquiry into Child Protection Services in NSW (the Wood Inquiry). *Keep Them Safe* is a five year plan to reform the NSW child protection system to ensure that "all children in NSW are healthy, happy and safe, and grow up belonging in families and communities, where they have opportunities to reach their full potential" (ADHC 2010).
- *NSW Ombudsman Act (1974)*
- *NSW Children and Young Person's (Care and Protection) Act (1998)*
- *Children Legislation Amendment (Wood Inquiry Recommendations) Act (2009)*
- [*Child Protection \(Working With Children\) Act 2012*](#)
- Disability Service Standard 1

Related Policies

Privacy and Confidentiality Policy
Record Keeping and Retention Policy
Physical Environments (resources, cleaning, water safety and safety checks) Policy
Death of a Child/Young Person Policy
Tobacco, Alcohol and other Drugs Policy

5 Persons Responsible

The GENERAL MANAGER and Board are responsible for ensuring that this policy is reviewed annually.

Roles and responsibilities with regard to documentation are outlined in the procedure in the previous section of the document. The GENERAL MANAGER has the final responsibility for sign off on all documentation with regard to reportable allegations and convictions.

The Breakaway Child Protection Policy is to be read and signed off along with the agency Code of Conduct by all employees.

All documentation relating to allegations, investigations and convictions outlined within this policy will be stored in accordance with Breakaway record keeping policy and will comply with all relevant legislation.

Definitions

Aboriginal and Torres Strait Islander/Indigenous - The term 'Aboriginal' refers to an Aboriginal and/or Torres Strait Islander person, defined in Section 5 of the Children and Young Persons (Care and Protection) Act 1998 as:

- Aboriginal means a person who is a member of the Aboriginal race of Australia, identifies as an Aboriginal and is accepted by the Aboriginal community as an Aboriginal
- Torres Strait Islander means a person who is descended from a Torres Strait Islander and identifies as a Torres Strait Islander and is accepted by the Torres Strait Islander community

Agency Investigation - this refers to a formal investigation carried out within the agency guidelines and policies.

CALD (Culturally and Linguistically Diverse) - refers to people from culturally diverse backgrounds, particularly people who are immigrants or the descendants of immigrants and who define their own cultural, linguistic and religious identity partly or wholly on this basis. For correct terminology to describe particular target groups for the provision of services, such as people who need interpreters, or have skills in languages other than English, refer to the EAPS (Ethnic Affairs Priorities Statement) section on the Community Relations Commission website at: <http://www.crc.nsw.gov.au>.

Child refers to a person under the age of 16 years.

Child abuse is defined as different types of maltreatment inflicted on a child or young person. It includes assault (including sexual assault), ill treatment, neglect and exposing the child or young person to behaviour that might cause psychological harm (NSW Interagency Guidelines).

Cumulative Harm is defined as a series of acts or omissions when viewed together may establish a pattern of significant harm.

Disability is defined according to Section 5 of the Disability Services Act (1993). A disability (however arising and whether or not of a chronic or episodic nature):

- Is attributable to an intellectual, psychiatric, sensory, physical or like impairment or to a combination of such impairments, and
- Is permanent or is likely to be permanent, and results in:
 - i) A significantly reduced capacity in one or more major life activities, such as communication, learning, mobility, decision-making or self-care, and
 - ii) The need for support, whether or not of an ongoing nature.

Domestic violence is violence, abuse and intimidating behaviour that one person uses against another person when they are in a personal, intimate relationship. It is a partnership violence that includes violence perpetrated when couples are separated or divorced. Domestic violence occurs between two people where one has power over the other causing fear, physical and/or psychological harm. Children and young people may experience harm by being in the presence of or by being exposed to violence in the parental relationship, by becoming victims of violence or a combination of the two.

Exposure to domestic violence includes: letting children near violence/letting children see violence, letting children witness the results of violence. Children are adversely affected when they live with violent behaviour. They feel frightened for their abused parent and their own safety and can sometimes get caught up in the physical violence and are injured.

Educational Neglect is defined as where a Parent or Carer has not arranged (and is unable or unwilling to arrange) for their child to receive an education. Educational neglect applies to children 6 years or older until they have completed Year 10 or reached 17 years, whichever occurs first.

Employee is any person Breakaway employs, whether or not they are employed to work directly with children, as well as anyone from outside the agency who is engaged to provide services to children such as contractors, carers, volunteers, students on placement.

Head of the Agency for the purpose of fulfilling the agency responsibilities under the Ombudsman Act 1974 - this is the GENERAL MANAGER of Breakaway.

Mandatory reporters – are defined under s.27 of the Children and Young Persons (Care and Protection) Act (1998), these are categories of staff that have a special responsibility to report concerns that a child may be at suspected ROSH. Mandatory reporters are those who deliver the following services wholly or partly to children as part of their paid or professional work:

- Health care (e.g. doctors, nurses, dentists and other health workers)
- Welfare (e.g. psychologists, social workers and youth workers)
- Education (e.g. teachers)
- Children's Services (e.g. child care workers, family day carers and home based carers)
- Residential Services (e.g. refuge workers)
- Law enforcement (e.g. police)

Managers, including both paid employees and volunteers, who supervise those providing direct services to children and young people are also mandated to report.

Neglect - is the continued failure by a parent or caregiver to provide the basic necessities of life needed for his or her proper growth and development such as food, clothing, shelter, medical and /or mental health and dental care, education and adequate supervision.

Physical abuse - is a non-accidental injury or pattern of injuries to a child caused by a parent, caregiver or any other person. It includes but is not limited to injuries which are caused by excessive discipline, severe beatings or shakings, cigarette burns, attempted strangulation and female genital mutilation. Injuries include bruising, lacerations or welts, burns, fractures or dislocation of joints. Hitting a child around the head or neck and/or using a stick, belt or other object to discipline or punish a child (in a non-trivial way) is a crime.

Prescribed body – is any organisation specified in section 248(6), Children and Young Persons (Care and Protection) Act (1998) or in clause 7, Children and Young Persons (Care and Protection) Regulation (2000). 'Prescribed bodies' under the legislation are:

- NSW Police]
- A government department or a public authority
- A public health organisation or a private hospital
- A private fostering agency or a private adoption agency
- Agencies that provide residential child care centre or a child care service under the Act
- Any other organisations that have direct responsibility for, or supervision of, the provision of +healthcare, welfare, education, children's services, residential services, or law enforcement, to children
- The Family Court of Australia (for the purposes of section 248 but not Chapter 16A)
- Centrelink (for the purposes of section 248 but not Chapter 16A)
- The Commonwealth Department of Immigration and Multicultural and Aboriginal Affairs (for the purposes of section 248 but not Chapter 16A)

Psychological harm - can occur where the behaviour of a parent or caregiver of the child or young person damages their confidence and self-esteem, resulting in serious emotional deprivation or trauma. Although it is possible for 'one-off' incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child. This can include a range of behaviours such as excessive criticism, withholding affection, not showing love or warmth or attention to a child, yelling at and/or picking on a child (ren), being emotionally unavailable to a child (ren), exposure to domestic violence, intimidation or threatening behaviour.

Risk of Significant Harm (ROSH) - according to Community Services: "A child or young person is at "risk of significant harm" if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person, are present to a 'significant' extent. "Significant" is that which is sufficiently serious to warrant a response by a statutory authority, irrespective of a family's consent.

What is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child or young person's safety, welfare or wellbeing.

In the case of an unborn child, what is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse impact on the child after the child's birth. Significance can result from a single act or omission, or an accumulation of these.

Reportable allegation - under Part 3A of the Ombudsman Act 1974, reportable allegation or conviction means a reportable allegation against a person or an allegation of misconduct that may involve reportable conduct. For an allegation to be reportable to the Ombudsman, the following components are necessary:

- 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
- 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 under 18 years at the time of the alleged incident or behaviour.

Reportable conduct - under Part 3A of the Ombudsman Act 1974, 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

Reportable conduct does not extend to:

- conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children, and to any relevant codes of conductor professional standards,
- the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or
- Conduct of a class or kind exempted from being reportable conduct by the Ombudsman under Section 25CA.

Reportable conviction - under Part 3A of the Ombudsman Act 1974, reportable conviction means a conviction (including a finding of guilt without the court proceeding to a conviction), in this State or elsewhere, of an offence involving reportable conduct.

Report, risk of harm - a report made to the Department of Community Services, usually via the Helpline, to convey a concern about a child or young person who may be at risk of harm due to the circumstances outlined in Sections 23, 24, 25 and 27 of the Act. The homelessness provisions in Sections 120, 121 and 122 of the Act also provide for specific reporting responsibilities.

Sexual abuse is when someone involves a child or young person in a sexual activity by using their power over them or taking advantage of their trust. Often children are bribed or threatened physically and psychologically to make them participate in the activity. Child sexual abuse is a crime. It includes incest, rape, fondling, flashing, pornography and any sexual activity with children.

Unborn child/pre-natal reports must be made by an employee if they have reasonable grounds to suspect, before the birth of a child, that the child may be at risk of harm after their birth (s.25, Children and Young Persons (Care and Protection) Act (1998).

Working with Children Check – is the process developed to support the application of the Child Protection (Prohibited Employment) Act 1998 and Part 7 of the Commission for Children and Young People Act (1998) in employment screening.

Young person refers to a person who is aged 16 or 17 years.

Document review history

<i>Date</i>	<i>Section</i>	<i>Change</i>