

REPORTABLE CONDUCT POLICY

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1. National Quality Standard

Quality Area 2: Children's Health and Safety		
Area	Concept	Descriptor
2.2	Safety	Each child is respected.
2.2.1	Supervision	At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard.
2.2.3	Child Protection	Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect.

2. Purpose

- 2.1 The Board, Centre Management, Educators, and staff are committed to identifying possible risk and significant risk of harm to children and young people at the Service. We understand our duty of care to protect children from all types of abuse, including protecting them from potential abuse that could occur within the Centre by employees, volunteers, visitors, students, or contractors.
- 2.2 It is therefore imperative that all staff have a thorough knowledge and understanding of the requirements of the ACT Reportable Conduct Scheme, which seeks to improve the responses of organisations to allegations of child abuse and neglect by their employees or volunteers.

3. Scope

- 3.1 This policy applies to the Board, Centre Management, Educators staff, students, volunteers, contractors, and support staff of the Centre.
- 3.2 All employees under a contract of employment with Baringa are included in the Reportable Conduct Scheme. This includes employees that do not provide services directly to children and the conduct of a volunteer in a professional or personal capacity.
- 3.3 Volunteers, contractors or employees of other organisations engaged by Baringa are considered to be employees under the scheme, but only if they are engaged to provide services to children.

4. Policy Statement

- 4.1 Baringa is committed to the safety, wellbeing, and support of all children in our care.
- 4.2 We comply with the Reportable Conduct Scheme that commenced in the Australian Capital Territory (ACT) from 1 July 2017.
- 4.3 Reportable conduct is defined in s17E of the [Ombudsman Act \(1989\)](#) which covers allegations or convictions of child abuse or child-related misconduct.
- 4.4 Organisations including childcare services and, education and care services must report to the ACT Ombudsman, allegations or convictions concerning child abuse and child-related misconduct by an employee, including:
- a) ill-treatment of a child (including emotional abuse, and hostile use of force)
 - b) neglect
 - c) psychological harm
 - d) misconduct of a sexual nature
 - e) sexual or physical offences and convictions where a child is a victim or is present, and
 - f) inappropriate discipline or offences relating to protecting children from harm in accordance with the provisions of the Education and Care Service National Law (ACT) Act 2011.
- 4.5 Reportable conduct covers a broader range of conduct compared to the types of child abuse which must be reported to Child and Youth Protection Services (CYPS). This means Baringa may become aware of an allegation or conviction that is reportable to the Ombudsman but is not conduct which must be mandatorily reported to CYPS.

5. Implementation

Internal Review

- 5.1 As part of normal practice, the Centre will notify the ACT Regulatory Authority regarding incidents in accordance to *s175-176 of the Education and Care Services National Regulation*. This is reported by persons such as, but not limited to, the Nominated Supervisor or Responsible Persons. Reportable incidents are provided to the Board.
- 5.2 Incidents which may fall within the definition of "Serious Misconduct" must be reviewed by Centre Management in consultation with the Board Chair. This must be reviewed as defined in *Regulation 1.07 of the Fair Work Regulation 2009 (Cth)* in relation to serious misconduct that that causes serious or imminent risk to the health and safety of a person, or the reputation, viability or profitability of the employee business.
- 5.3 Following the internal review, the Board Chair will provide a recommendation to the Board in regards to reportable conduct.

Reporting

- 5.4 If there is a reportable conduct, Centre Management, such as but not limited to the Nominated Supervisor or Responsible Person as the head of a designated entity, must:
- a) contact the [ACT Ombudsman](#) as soon as possible. For early consultation, this can be done by phone (6276 3773) or email (act@ombudsman.gov.au)
 - b) notify the Ombudsman about any reportable conduct allegations or convictions involving an employee by submitting a [s 17G Notification](#) as soon as possible, but no later than 30 days after they become aware of the allegation
 - c) provide details of the reportable allegation or conviction and what they propose to do or have done
 - d) provide copies of relevant material available at the time of notification
 - e) investigate any allegations of reportable conduct and provide a final report to the Ombudsman, and
 - f) report to other entities as required (for example, ACT Policing, CYPS, Access Canberra, Teacher Quality Institute, Children's Education and Care Assurance, Human Rights Commission, Australian Health Practitioner Regulation Agency).

- 5.5 The Ombudsman must still be notified of the allegation even if CYPS and/or ACT Policing are already investigating a reportable allegation against an employee.
- 5.6 After a [s 17G Notification](#) is filed, Baringa will continue in their response to, or investigation of, an allegation under the oversight of the Ombudsman. The Ombudsman may ask for updates as to the progress of an investigation and may confer with the people conducting the investigation about the nature, conduct or progress of the investigation. This may include requests for relevant documents and information to be provided to the Ombudsman. The Ombudsman may ask for updates as to the progress of an investigation and may confer with the people conducting the investigation about the nature, conduct or progress of the investigation. This may include requests for relevant documents and information to be provided to the Ombudsman.
- 5.7 In some cases, the Ombudsman may decide to attend any interviews conducted by, or on behalf of, Baringa. The Ombudsman may share this information with ACT Policing and other key organisations to better protect children from abuse.

Support

- 5.8 The immediate response to an allegation must prioritise the safety of the child who is the alleged victim or other children at risk. The Nominated Supervisor or Responsible Person must consider:
- whether the child requires protective intervention. Depending on the level of risk identified, a report may need to be made to CYPS
 - would the allegation, if true, be a criminal offence? If so, ACT Policing must be contacted, and advice sought from the Police on how Baringa should proceed with a response/investigation
 - whether action should be taken to prevent further reportable conduct
 - identifying if there are other risks to the child, and
 - support for other children involved.
- 5.9 The Nominated Supervisor or Responsible Person must also act on supporting the employee who is the subject of the allegation. This includes considering:
- Appropriate support for the employee who is the subject of the allegation provided, including access to the employer-funded Employment Assistance Program (counselling)?
 - when being interviewed by management in regard to the reportable conduct incident, consideration of the appropriateness of on-site or off-site venues should be considered and the employee offered the option to have a support person of their choice accompany them to interviews and meetings.
 - If the employee should remain in the current position, pending response or an investigation, or be moved to another area or stood down. This decision should consider:
 - the nature and seriousness of the allegations
 - the vulnerability of the child/ren the employee is in contact with in the workplace. For example, the age of the child/ren, their communication skills and the impact of any disabilities
 - the nature of the work done by the employee and their level of interaction with children
 - the level of supervision available for the employee
 - the availability of support for the employee on a day-to-day basis if their duties are changed. For example, if they are managing children with challenging behaviours the employee's disciplinary history
 - other possible risks to the employee and to the investigation or response
 - If the employee remains in the workplace, what duties will they undertake and who will monitor and assess the risks associated with the employee? If CYPS and/or ACT Policing are involved. Advice is to be sought from CYPS and/or ACT Policing as to whether it is advisable for Baringa to take action or whether it will interfere with their investigations.
 - It may also be appropriate to discuss any proposed changes to the employee's duties.
- 5.10 Centre Management, such as but not limited to the Nominated Supervisor or Responsible Person must ensure that confidentiality is maintained by:
- advising all parties of the need for confidentiality during the response to, or investigation of, an allegation

- b) having systems in place to deal with any breaches of confidentiality. This may include a process for reporting any breaches to the employer and the appropriate employer response if media becomes aware of an allegation against an employee

Risk Assessment

- 5.11 Risk management means identifying the potential for an incident or harm to occur and taking steps to reduce the likelihood or severity of its occurrence. Throughout the process, the Nominated Supervisor or Responsible Person will manage any new risks that emerge. At the completion of an investigation, a finding should be made, and a decision made on what action, if any, is required in relation to the employee, child/ren involved and any other parties.
- 5.12 The policy on Reportable Conduct and related policies and processes will be reviewed and if necessary amended in light of learning from the incident process.
- 5.13 There will be a review of the response to, or investigation of, an allegation to ensure all relevant risks to Baringa's entire operations are considered. This might include looking at environmental factors and work practices to minimise any further risks to children, such as:
 - a) further training for Educators and staff
 - b) changing work practices in certain situations
 - c) changes to the physical environment, and
 - d) reviewing policies and procedures especially Reportable Conduct and related policies as per 5.9.

6. Roles and Responsibilities

- 6.1 The Board, as the Approved Provider are responsible for:
 - a) advocating and promoting child rights, empower and engage children and young people in support of this policy and its expectations
 - b) ensure appropriate policies and best practices are regularly reviewed to minimise the risk of child abuse, and appropriately respond to suspected allegations
 - c) in conjunction with Centre Management, ensure safeguarding children and young people-related policies and practices are regularly reviewed, and
 - d) in conjunction with Centre Management ensure appropriate employee training and induction processes are conducted to enable staff to be aware of policies, processes and practices related to Reportable Conduct and the avoidance of inappropriate behaviour towards children and managing inappropriate behaviour of children.
- 6.2 Centre Management, such as but not limited to the Nominated Supervisor or Responsible Person will ensure that:
 - a) they report to the Board in a timely manner of any allegations or convictions of child abuse or child-related misconduct
 - b) they, and all employees have an in-depth understanding of the Reportable Conduct Scheme
 - c) all employees are aware of who holds the position of 'head of organisation'
 - d) there are systems in place to prevent child abuse
 - e) they and all educators and staff maintain a current Working with Children Check
 - f) they, and all educators and staff follow policies and procedures concerning Child Protection, Child Safe Environments, and Reportable Conduct
 - g) allegations are immediately brought to the attention of the Head of the organisation, and
 - h) they will notify the Commission of any alleged Reportable Conduct if the Head of the organisation fails to do so for any reason.
- 6.3 Educators will ensure:
 - a) that they have a thorough understanding of their duty of care in relation to Child Protection and fully understanding of the policies, processes and practices related to the avoidance of inappropriate behaviour towards children and managing inappropriate behaviour of children
 - b) that they maintain a current Working with Children Check
 - c) that they have an in-depth understanding of the Reportable Conduct Scheme
 - d) they have a thorough understanding, and follow all policies and procedures concerning Child Protection, Child Safe Environments, and Reportable Conduct

- e) all allegations are immediately brought to the attention of the Nominated Supervisor and/or Responsible Person
- f) that they will notify the Ombudsman of any alleged Reportable Conduct if the Nominated Supervisor and/or Responsible Person fails to do so for any reason, and
- g) that they understand that failure to comply with the Reportable Conduct Scheme requirements may lead to their Working with Children Check being revoked.

7. Related Legislation and Documents

Legislation	Related Policies
Education and Care Services National Regulations 84. <i>Awareness of child protection law</i> Children and Young People Act 2008	Child Protection Policy Staff Conduct and Performance Policy Staff Complaints and Grievances Policy

8. Feedback

- 8.1 Families and staff may provide feedback about this document via admin@baringachildcare.com.

9. Approval and Review Details

Approval and Review	Details
Approval Authority	Baringa Board
Administrator	Centre Director
Next Review Date	30 July 2020
Notes	
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