



Child Protection Policy

Sutherland Shire Council

Document review and approval

This document has been approved by

	Name	Minute No	Date approved
1	Directors Committee WKS162-05	1120	9 May, 2005
2			
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Revision history

Version	Author	Date	Revision
1	Manager – Childrens Services	26 April, 2005	Original Version
2	Manager – Childrens Services	17 May, 2012	<i>Reviewed by Manager under Annual review process, policy is current however adjustments may be necessary in the near future.</i>
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POLICY STATEMENT

Everyone in society has a moral and ethical responsibility to keep children safe and to protect them from harm. The complexity child abuse and neglect and the resultant trauma on children themselves requires a united response from government and non-government agencies, community welfare groups, various professionals and individual citizens.

Sutherland Shire Council, as one of these government agencies, has a place in ensuring that children are protected from harm and believes that all children have a right to be kept safe. Council can use a range of opportunities to educate the community about keeping children safe from harm.

Such opportunities to educate the community may include;

- Notices and brochures displayed at children's centre, community buildings and libraries.
- Advice in Council publications eg Mayoral Message, rate mail outs
- Staff representation on local Child Protection and Domestic Violence committee.

Sutherland Shire Council employs a number of staff who during the course of their duties works either directly or indirectly with children. There are groups of staff including staff working in childcare services, librarians, beaches, leisure centres, Hazlehurst, Youth workers, golf, entertainment centre, cultural planning and events who clearly throughout the course of their work day assist children. There is also opportunity for many other staff working in Council to meet children in the course of their work eg many outdoor workers.

Council acknowledges their responsibility both to protect children and to protect staff from allegations of child abuse. This document is designed to assist in this process and to ensure that all current legislative requirements are met.

Sutherland Shire Council recognises that abuse can take many forms, that these are sometimes hard to recognise and they occur across all socio-economic groups. Council has a responsibility to provide training for staff to assist them in recognising the indicators of abuse and in the mandatory reporting of child abuse (where applicable).

It is essential for staff to adopt and adhere to work practises that not only ensure the safety of children, but also minimise the possibility of allegations of child abuse and neglect being made against them, vexatious or otherwise. Where allegation against a staff person is made Council holds a responsibility to investigate these.

INTRODUCTION

New child protection legislation arose from the findings of the Woods Royal Commission which commenced its work in 1994.

The Commission identified a range of systematic failures by government and other agencies to protect children and to prosecute offenders. The report contained 140 recommendations. Recommendations relevant to childcare services include;

- Responsibility of agencies and organisations to put in place a system to ensure allegations are appropriately handled.
- An external system to monitor the internal investigations into allegations.
- Broadening of the mandatory reporting obligations and
- The creation of a Children's Commission to promote a more co-ordinated policy framework.

In response the NSW Government has adopted four Acts designed to better protect children. Each of these Acts requires Council to undertake specific procedures and processes in order to address the important issues below.

The Children and Young Persons (Care & Protection) Act 1998

The important issues are:

- The introduction of a broad concept of children "at risk of harm".
- That staff in child related employment, previously not required to do so, now have a mandatory duty to report if they suspect that a child is "at risk of harm".

Under third Act the Department of Community Services (DOCS) has wide ranging statutory powers to enable it to carry out its role in protecting children and young people from abuse and neglect on behalf of the community. DOCS has the mandate to co-ordinate responses and to ask other agencies to provide appropriate care and support to children, young people and their families.

Commission for Children and Young People Act 1998

The important issues are:

- The requirement to conduct employment screening of new staff recruits to be employed in child related employment.
- The notification of relevant disciplinary proceedings where reportable conduct or an act of violence has been committed in the presence of a child.

The role of the Commission for Children and Young People (CCYP) is to promote the interest and needs of vulnerable children and young people. The CCYP has a key role in monitoring the child related employment screening program for NSW and in conducting employment screening activities. It also promotes children's and young people participation in decision which affect them.

Child Protection (Prohibited Employment) Act 1998.

The important issues are:

- The introduction of declarations by persons in child-related positions that they are not a "prohibited person".
- It becomes an offence to employ a prohibited person or for a prohibited person to remain employed in or apply for a child-related position.

Ombudsman Act 1998.

The important issues are:

- The NSW Ombudsman must receive and assess notifications from designated agencies and public authorities concerning "reportable conduct".

- The NSW Ombudsman has wide powers to review services child protection systems and may directly investigate an allegation of reportable conduct against an employee.
- Under the Act family day carers registered under the Family Day Care Licence are considered “employees”.
-

On 3 December 2003, Parliament passed the Child Protection Legislation Amendment Act 2003.

The Act gives effect to the recommendations of Government review into the impact of the child related employment provisions of the Ombudsman Act 1974 and the Commission for Children and Young People Act 1998.

The Act clarifies the type of conduct that is reportable to the Commission and the NSW Ombudsman. For example, conduct that is reasonable for the purposes of the discipline, management or care of children will not be considered reportable conduct.

Reporting requirements to the Department of Community Services (DOCS) regarding possible risk of harm to children have not changed.

IMPACT OF THESE ACTS ON COUNCIL

The Acts require that Council address three major issues

These are

- Mandatory reporting by specific Council staff of any suspicion of “risk of harm” to a child.
- Undertaking Employment Screening of staff to be employed in child related employment
- Handling allegations of child abuse (now referred to in this legislation as “reportable conduct”) against members of staff.

It must be noted that every employee of Council is subject to all or some of these major issues. In brief the following applies;

Staff in child related employment are subject to;

- Mandatory reporting requirements
- Employment Screening requirements and
- Should allegation which constitutes reportable conduct occur in the course of their employment or in the course of their day to day life and Council becomes aware of this, a report to the NSW Ombudsman must be made.

Staff NOT involved in child related employment

- **Are not** subject to mandatory reporting requirements but can at any time make a report to DOCS regarding any child they feel is at risk of harm.
- **Are not** subject to Employment Screening however should they supervise work experience students under the age of 18 years a Working with Children Check **MUST** be conducted.
- **Are** subject to the reporting to the NSW Ombudsman should reportable conduct occur in the workplace.

Council must establish procedures that ensure that

- Council is meeting their legal responsibility under these Acts.
- That staff employed in Council understand their obligations.

The document makes it clear that employees are to be provided with support and treated fairly when such reports or investigations affect them directly or indirectly.

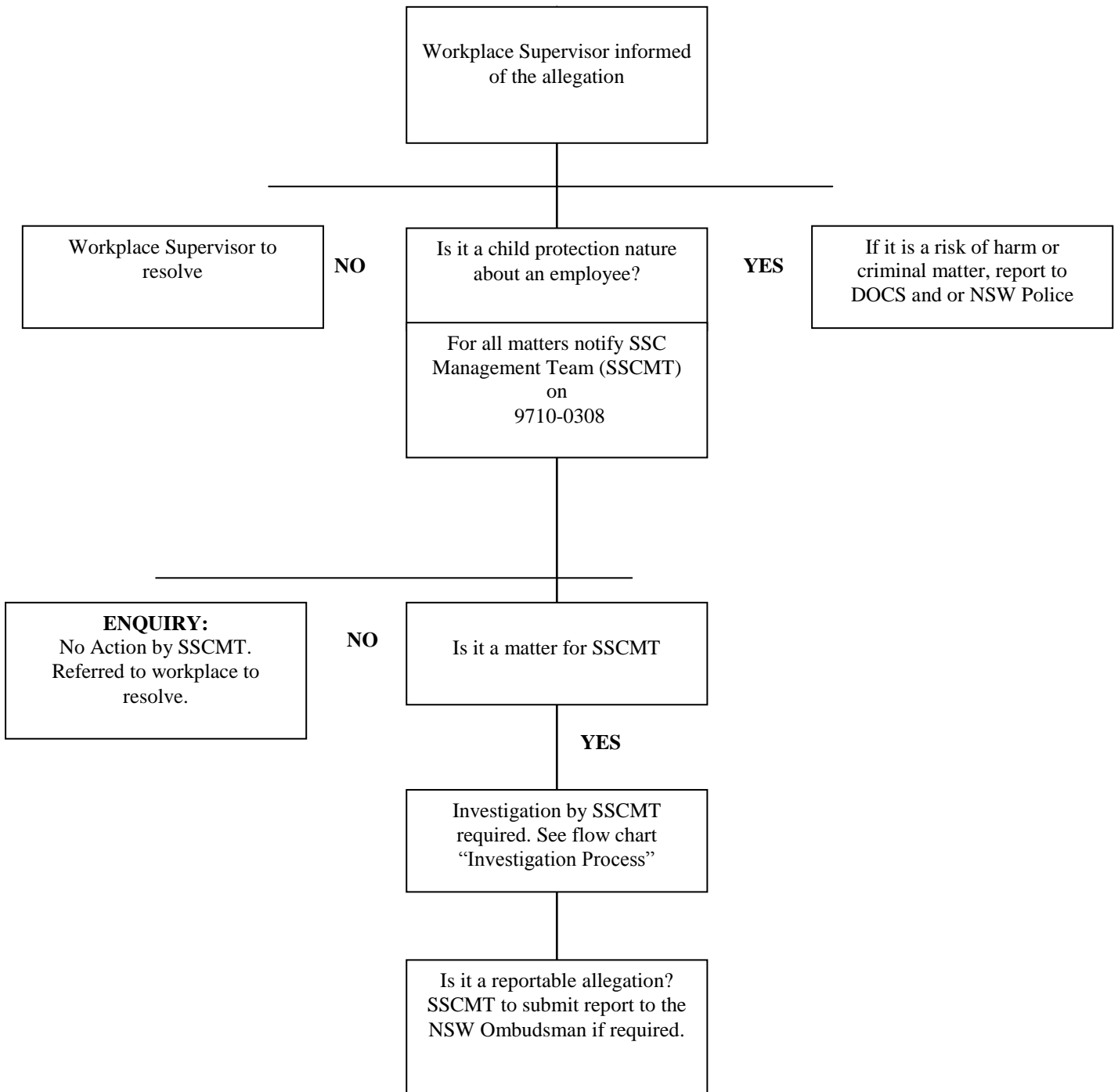
Please make this document available to all employees and other relevant stakeholders.

This policy will be reviewed within 12 months of implementation.

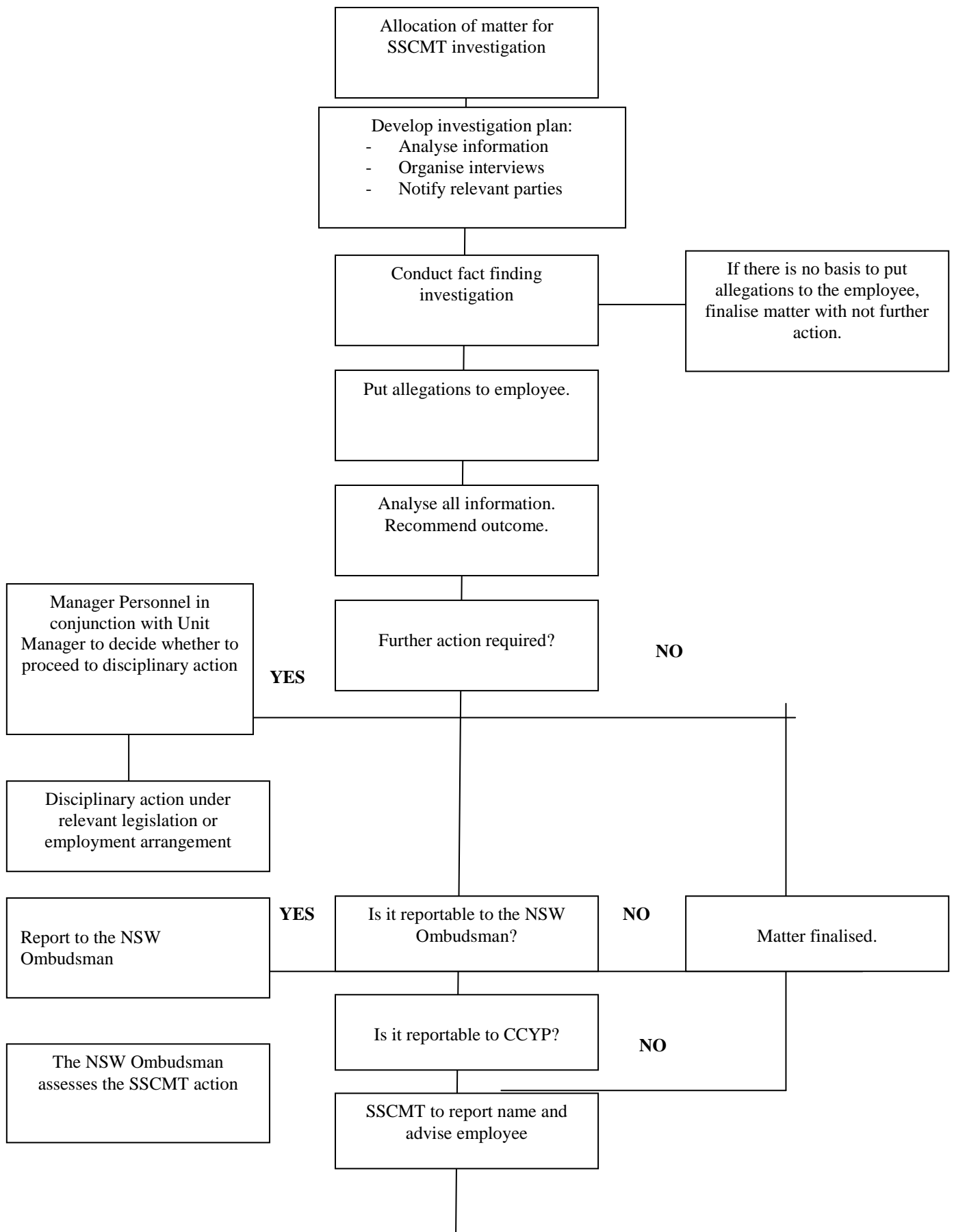
John Rayner
General Manager
Sutherland Shire Council
April, 2005.

Attachment 1. Flowchart

Procedure for notification of allegations of a child protection nature about an employee



Attachment 2. Flowchart
Sutherland Shire Council Management Team (SCMT) Investigation and Reporting Process



DEFINITIONS USED IN THIS DOCUMENT.

Common terms used throughout this document are clarified below

Child

For the purpose of these procedures, a child is a person under the age of 18 years. However, with respect to matters notifiable to NSW Department of Community Services (DOCS), a child is defined as a person under the age of 16 years.

Employee

For the purpose of these procedures an employee is defined as any of the following persons:

- Anyone employed by Sutherland Shire Council who receives a payment summary for taxation purposes.
- Any person engaged by Sutherland Shire Council, directly or indirectly, including but not limited to:
- Contractors including Family Day Care Carers
- subcontractors
- volunteers
- trainees, work experience and work placements participants (including school students)
- clergy, ministers of religion and members of religious orders
- TAFE teachers or tertiary students training in child care centres etc.

Workplace Manager – The Manager /Coordinator of the particular unit.
Manager,

Management Team –Unit Manager and Manager Personnel.

Ombudsman –NSW Ombudsman

JIRTeam – Joint Investigation Response Team -NSW Police and the Department of Community Services working together to investigate the more serious child protection cases.

Notifier

The person who notifies an allegation against an employee

Support Person

A person over 18 years who accompanies a witness, complainant or respondent to a meeting or interview to provide support or advice. This may be a union representative.

What is an allegation of a child protection nature?

An allegation of conduct of a child protection nature made against a Sutherland Shire Council employee towards a child or young person.

What is a reportable allegation?

Reportable allegation means an allegation or reportable conduct against a person or an allegation of misconduct that may involve reportable conduct. A reportable allegation must be reported to the Ombudsman and may result in an employee's name being forwarded to the CCYP following a completed employment proceeding.

What is reportable conduct?

Under the Child Protection Legislation Amendment Act 2003 reportable conduct means:

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

whether or not, in any case, with the consent of the child.

Examples of the types of conduct that may constitute reportable conduct include:

1. Sexual offence

Any sexual offence committed against a child or young person may include sexual intercourse as defined in section 61H (1) of the Crimes Act 1900, or acts of indecency and indecent assaults.

Sexual misconduct

Sexual misconduct describes a range of behaviours or a pattern of behaviour aimed at the involvement of children in sexual acts. Some of these behaviours include:

- Inappropriate conversations of a sexual nature;
- Comments that express a desire to act in a sexual manner,;
- Unwarranted and inappropriate touching,
- Sexual exhibitionism,
- Personal correspondence with a child or young person in suspect of the adults sexual feeling for a child or young person
- Deliberate exposure of children and young people to sexual behaviour of others including display or pornography
- Possession of child pornography in the workplace.
- Sexual misconduct can include ‘grooming behaviour’. Grooming behaviour is a process whereby sexual offenders ‘condition’ and build rapport with child or young persons in order to reduce their resistance to, and increase compliance with, sexual abuse.

Ill-treatment

Ill treatment of a child or young person may occur when a person such as a primary carer in the child care centre disciplines or corrects a child or young person in a manner that is not in accordance with the child care centre or Councils behaviour management policies.

Allegations of ill-treatment are not restricted to punishments involving physical contact, such as hitting. Any punishment administered by a person in authority that restricts a child or young person's freedom or requires additional physical or mental activity by a child amounts to ill-treatment if it is excessive or otherwise inappropriate.

Assault against a child or young person

Using common law principles, assault in this context must include all three of the following elements;

- It is an act committed on or towards a child or young person,

And

- It involves either the application of force to a child or young person or an act that causes a child or young person to think that immediate force will be used upon them

And

- It is either hostile or reckless (a reckless act is one where the person foresees the likelihood of inflicting injury or fear, and ignores the risk)

Neglect

Neglect occurs when a child or young person is harmed by the failure of a person who has care responsibilities towards a child, to provide basic physical and emotional necessities of life, including failure of such person to provide or arrange for the provision of adequate and proper food, nursing, clothing, medical attention or lodging for a child or young person that person's care.

Behaviour that causes psychological harm

Psychologically harmful behaviour is behaviour that causes demonstrated harm to a child or young person. A finding of psychological harm must establish three elements: inappropriate behaviour, harm, and a casual link between the behaviour and the harm.

Examples of psychological harm may include;

- Targeted and sustained criticism, belittling, teasing
- Excessive or unreasonable demands;
- Persistent hostility and severe verbal abuse, rejection and scapegoating;
- Using inappropriate locations or social isolation as punishment.

What conduct is not reportable to the NSW Ombudsman and Commission for Children and Young Persons (CCYP)?

- 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 conduct or professional standards, or
- 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 NSW Ombudsman under the Ombudsman Act 1974.

Note: Examples of conduct that would not constitute reportable conduct include touching a child in order to attract a child's attention, to guide a child or to comfort a distressed child; a child care work

raising their voice in order to attract attention or to restore order in the classroom; and conduct that is established to be accidental.

Factors to be considered when a Manager is making a determination if a matter is reportable conduct include:

- Age of child
- Maturity of child
- Health of child
- Other characteristics of the child
- Context in which the alleged conduct occurred.

PROTECTIVE PRACTICES FOR ALL STAFF.

All Managers should ensure that all staff that directly dealing with children or young persons are made aware of practices to protect themselves against child protection allegations by a child or young person. This may include training to ensure staff are aware of strategies to be used when dealing with children or a young person.