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Communications
and Media Authority



eSafety Commissioner

Child Safety Policy

MAY 2022

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Chair and Commissioner's message

The Australian Communications and Media Authority (ACMA) and the eSafety Commissioner (eSafety) are committed to keeping children and young people free from abuse or harm and ensuring our interactions with them uphold their rights. Part of our remit is to help safeguard all Australians, including children and young people, from abuse or harm that may occur across the communications and media environments for which the ACMA and eSafety has regulatory responsibility.

In response to recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse, the Australian Government developed the Commonwealth Child Safe Framework and the National Principles for Child Safe Organisations, which all Australian Government agencies must implement.

Our Child Safety Policy is a key part of how we have implemented the Framework and the National Principles, and clearly outlines our approach as a child-safe organisation. It also supports our international responsibilities under the United Nations [Convention on the Rights of the Child](#).

This policy informs our leaders and workers about their obligation to act legally and ethically towards children and young people.

Members of the public, children, young people, parents, carers, guardians, families, and communities should feel confident that the ACMA and eSafety, when working with children or young people, will provide a safe environment in which their rights, needs and interests are upheld.

Nerida O'Loughlin PSM
Chair and Agency Head
Australian Communications
and Media Authority

Julie Inman Grant
Commissioner
eSafety Commissioner

Introduction

The ACMA and eSafety are committed to ensuring our workplaces do not permit or tolerate any form of abuse or harm.

Under section 184 of the *Online Safety Act 2021*, the ACMA makes its employees available to assist the eSafety Commissioner to perform the Commissioner's functions and exercise the Commissioner's powers. All employees assisting the eSafety Commissioner are employees of the ACMA and are covered by ACMA entitlements, protections, and obligations.

This policy applies to 'workers', meaning Australian Public Service (APS) employees and others, as described in the section 'Scope of this policy'. The term 'employee' is used where the policy only applies to APS employees engaged under the *Public Service Act 1999* and 'worker' where it applies to all.

This is the primary policy articulating the expectations for all workers in the management of child safety, risks, abuse and harm. This policy adopts a risk-based approach to minimise the likelihood of abuse or harm occurring. It provides clear and practical guidelines for workers when responding to concerns of abuse or harm and when managing feedback and complaints from any party.

This policy enables the ACMA and eSafety to meet community expectations and obligations under the Online Safety Act, the Public Service Act, the APS Code of Conduct, the ACMA values, the Commonwealth Child Safe Framework (the Framework), and relevant Commonwealth, state and territory legislation. This policy also upholds the United Nations Convention on the Rights of the Child, to which Australia is a signatory.

This policy informs all management and workers of their obligation to act legally and ethically in the best interests of children and young people, and to provide for the safety of children and young people within Australian jurisdictions.

The policy implements the [National Principles for Child Safe Organisations](#), agreed by the Council of Australian Governments on 1 February 2019, and is consistent with the Framework that was part of the Australian Government's response to the Royal Commission into Institutional Responses to Child Sexual Abuse (the Royal Commission).

eSafety's business functions, structures and objectives are very different to those of the ACMA. Part of eSafety's role is to provide education and specialist support to children and young people to prevent and address online harms, such as cyberbullying and image-based abuse. Given the nature of this work, eSafety workers are likely to be considered mandatory reporters under some state and territory child protection laws. These workers also have an increased chance of encountering child abuse offences that are required to be reported to police under some state and territory criminal laws.

To address the specialist nature of eSafety's work, Operational Guidance has been issued that outlines internal procedures on the legal requirements. Workers performing duties for eSafety should refer to and read the guidance in conjunction with this primary policy.

Reporting requirements

All workers who are mandatory reporters must comply with the legal requirements as set out in the Operational Guidance, which contains our instructions for reportable offences for all workers.

Workers not covered by the more specific mandatory reporting requirements set out in the Operational Guidance also have reporting obligations in support of the ACMA and eSafety's zero tolerance approach to abuse or harm of children and young people. If a worker is satisfied, on reasonable grounds, in connection with their APS employment that an identifiable child or young person¹ is at risk of significant harm, the worker must promptly report the matter to the police and/or the child protection authority in the state or territory in which the child is located.

At all times, if any worker believes a child or young person is in immediate danger, call '000'

This procedure is to be followed even if the worker is in a different jurisdiction to the location of the identified child or young person. All states and territories have protocols for managing reports across borders. These protocols contain assistance (decision trees) to navigate the complexities that can exist in different reporting criteria and procedures between states and territories.

Failure to comply with this obligation may result in action under the APS Code of Conduct.

If the circumstances of risk of abuse or harm also include a reportable offence (in some states or territories), the matter must also be reported to the police. Failure to do so may result in fines or criminal prosecution. See the 'Reportable offences' section in this policy.

We encourage all workers to also report any child safety concerns to childsafety@acma.gov.au. Support and advice can be provided to workers if child safety concerns arise.

All information provided will be treated in accordance with relevant Commonwealth, state, and territory legislation, including the *Privacy Act 1988*. Details of what to report appear at the 'Reportable offences' section of this policy.

¹ See the definition of child or young person in Appendix A for the purposes of this policy. Note however that the age of a person for the purposes of the mandatory reporting requirements in each state and territory may differ and workers should familiarise themselves with the requirements in the state or territory in which they work.

Our policy at a glance

| | |
|---------------------------|--|
| Purpose | <p>This policy sets out how the ACMA and eSafety will meet their obligations under the Framework and ensure workers understand their responsibility for the safety and wellbeing of children and young people through their work.</p> <p>The policy takes a risk-based approach to the management of work involving children and young people.</p> <p>This policy recognises that child safety is a corporate responsibility which all workers are obliged to acquit in their duties.</p> <p>It also recognises all workers' responsibility to know what is in the best interests of children and young people in any operational environment, to keep them safe from abuse or harm.</p> |
| Application | <p>This policy applies to all persons who undertake work (workers) for the ACMA and eSafety, including contracted staff.</p> |
| Relevant authority | <p>Commonwealth Child Safe Framework (second edition)</p> |
| Related documents | <ul style="list-style-type: none">> Accountable Authority Instructions> ACMA and eSafety Child Safety Operational Guidance> <i>Online Safety Act 2021</i>> National Principles for Child Safe Organisations> <i>Public Service Act 1999</i> and APS Code of Conduct> ACMA and eSafety Child Safety Policy Guidance Notes> ACMA and eSafety Child Safety Code of Conduct> ACMA Grants Checklist and Procurement Planning templates> People Management Instructions> Risk Management Policy and Guide> ICT use policy> Record keeping, information sharing and reporting policy> Complaints handling guides or policies> Relevant state and territory legislation> Other agency documents that may be developed in the future that relate to child safety |
| Policy statement | <p>The ACMA and eSafety are committed to ensuring children and young people are safe from abuse or harm and that concerns are reported. This commitment is upheld by ensuring:</p> <ul style="list-style-type: none">> risks to children and young people are identified and managed, and reported to the relevant authority in accordance with relevant guidelines> the interests of children and young people are protected> all workers understand their obligations under the Framework and relevant legislation> all workers undertaking child related work, are appropriately screened and comply with relevant legislation |

> the National Principles for Child Safe Organisations are adopted and implemented.

Approved by The Accountable Authority of the ACMA (the Chair of the ACMA), following consultation with the eSafety Commissioner

Document contacts Manager, People Operations and HR Manager, eSafety

Review date December 2021 and every 12 months thereafter

Policy owners Executive Manager, People, Communications and Governance, ACMA and Executive Manager, eSafety

Date issued, version control 14 January 2021, Version 1.0
25 May 2022, Version 2.0

Scope of this policy

This policy applies to all 'workers', as defined in section 7 of the *Workplace Health and Safety Act 2011*, who undertake work for the ACMA and eSafety.

This includes:

- > all APS employees engaged under the *Public Service Act 1999* (ongoing, non-ongoing, secondees, irregular and intermittent (casual)) who work for the ACMA and/or eSafety
- > all ACMA Authority Members (including the Chair, Deputy Chair and associate members)
- > the eSafety Commissioner
- > ACMA and eSafety external service providers, including contractors, consultants, advisors, and sub-contractors
- > labour hire contractors
- > secondees from APS agencies and non-APS agencies
- > interns and work experience students
- > grant recipients
- > any other worker not listed above.

Where aspects of the policy only apply to APS employees engaged under the Public Service Act, the term 'employee' is used.

This policy applies to all activities conducted by the ACMA and eSafety that involve, result in, or relate to contact with children and young people unless otherwise stated in the exemptions and exclusions section of this policy.

Policy principles

This policy is based on the following guiding principles:

- > building and maintaining a child safe culture and environment
- > maintaining zero tolerance for the abuse or harm to children and young people
- > recognising and promoting the best interests of children and young people
- > promoting the empowerment and participation of children and young people in connection with our services
- > using a risk management approach to prevent the abuse or harm to children and young people
- > reporting and responding to all concerns of abuse or harm using fair and proper procedures
- > understanding and meeting our obligations under the Framework.

Nothing contained in this policy overrides the law of the Commonwealth, or any state or territory.

Risk management

This policy takes a risk-based approach so that all ACMA and eSafety business activities are child-safe and meet their obligations under the Framework.

The relevant line area will undertake risk management assessments for any function or activity that may involve contact with children or young people. All relevant risk and decision-making processes and documents reflect the assessment and level of child-safety risk and how risks are mitigated and managed if they arise.

Assessing risk

If an event, activity or program is identified as involving contact with, impact on, or working with children or young people, workers will consider:

1. the contact (with children and young people) and levels of direct supervision
2. risk factors
3. mitigation factors
4. management strategies.

Further detail on the risk management process can be found in the ACMA Risk Management Policy and Guide.

Exclusions and limitations

Children and young people in Australia have rights. These are articulated in the United Nations Convention on the Rights of the Child, to which Australia is a signatory, and the National Principles for Child Safe Organisations as endorsed by the Council of Australian Governments. These rights are supported by multiple Australian laws.

eSafety promotes children’s rights by removing child sexual abuse material from the internet as soon as possible, and by preventing and addressing image-based abuse and cyberbullying targeting children. Specific guidance for these workers is available in the Operational Guidance document.

Responsibilities under the policy

All ACMA and eSafety workers are responsible for the safety and wellbeing of children and young people if they have contact with them as part of their work. Workers should be aware of and comply with legislative requirements that support child safety in the Policy and Operational Guidance.

Table 1: Key responsibilities

| Role | Responsibilities |
|--|---|
| Accountable authority of the ACMA (the Chair of the ACMA) | <ul style="list-style-type: none"> > Approve the policy |
| eSafety Commissioner | <ul style="list-style-type: none"> > Provide input to the policy as it pertains to eSafety |
| Executive Manager, People, Communications and Governance Head of Corporate, Corporate Branch, eSafety | <ul style="list-style-type: none"> > Own the policy and monitor compliance > Oversee the implementation and review of the policy and Operational Guidance. > Oversee and support the identification, mitigation, and management of risks to child safety > Ensure child safety risks are considered and managed in accordance with our risk management practices > Audit annually the child safety-related training undertaken by workers > Monitor and report on compliance with the Commonwealth Child Safe Framework > Liaise with the National Office for Child Safety on annual compliance reporting and information sharing |
| Child Safety Champions – SES-level officers (1 x eSafety, 1 x ACMA) | <ul style="list-style-type: none"> > Oversee and respond to child safety reporting > Raise awareness of and advocate for child safety in the agency > Act as a source of support, advice and expertise to workers on child safety issues > Ensure child safety risks are considered and managed in accordance with our risk |

| Role | Responsibilities |
|---|--|
| | <p>management practices and the best interests of the child</p> <ul style="list-style-type: none"> > Provide oversight of the annual child safety risk assessment > Promote and participate in child safety training opportunities for workers |
| ACMA Audit and Risk Committee and eSafety Risk and Compliance Committee | <p>Review the:</p> <ul style="list-style-type: none"> > ACMA and eSafety risks regularly and update the risk registers, as necessary > Commonwealth Child Safe Framework and Child Safety Policy annually |
| Executive Manager, Finance, Reporting and Operations | <ul style="list-style-type: none"> > Manage procurement and contract management to align with the policy |
| Legal Services Division | <ul style="list-style-type: none"> > Provide advice on legal obligations and responsibilities, including under the Online Safety Act, the Public Service Act and other relevant Commonwealth legislation |
| Managers/Supervisors | <ul style="list-style-type: none"> > Be aware of obligations and ensure workers are aware of their obligations > Assist workers to meet their obligations > Support staff to complete child safety training relevant to their role > Support staff to access the Employee Assistance Program if required > Ensure child safety risks are considered and managed in accordance with our risk management practices > Provide immediate feedback and take immediate action when an employee may not be meeting their obligations under this policy |
| All workers involved in contract and grant design or management | <ul style="list-style-type: none"> > Identify the child safety obligations of funded partners of the ACMA and eSafety in requests for tender, as well as contracts, funding and other agreements for activities likely to have child safety impacts. > Ensure child safety risks are considered and managed in accordance with our risk management practices and the best interests of the child > Ensure the appropriate child safety clause is included in grant agreement templates and procurement documents where relevant > Ensure third-party providers comply with child safety obligations by including appropriate clauses in contracts and grant agreements |

| Role | Responsibilities |
|---|--|
| All workers occupying positions designated as working with children or young people | <ul style="list-style-type: none"> > Hold and maintain a Working with Children Check (or equivalent) > Attend any required training on child safety for their role, and provide evidence of the completed training to their manager within 7 days of undertaking it > Report matters of abuse or harm to children or young people in accordance with the legislation applying to them and the Operational Guidance |
| All workers (including those otherwise covered by this table) | <ul style="list-style-type: none"> > Comply with this policy > Comply with applicable Commonwealth, state, and territory legislation > Complete child safety training as directed > Implement the National Principles for Child Safe Organisations set out in this policy and the Operational Guidance > Ensure child safety risks are considered and managed in accordance with our risk management practices and the best interests of the child |

Working with our providers

ACMA and eSafety requires that all their workers who deliver services involving children, act in accordance with the principles outlined in this policy. To achieve this, we will include requirements that all our contractors, consultants, and grant or procurement recipients will:

- > undertake their own risk assessment of each funded activity to ensure they identify and manage any risks to children and young people appropriately and in a manner consistent with this policy. This should be incorporated into existing planning and risk management practices of the provider
- > ensure all their workers are trained in child safety awareness and understand their obligation to protect children when carrying out their work
- > have clear internal reporting mechanisms or procedures for their workers to report concerns as part of contractual requirements supplied to the ACMA or eSafety.

Compliance mechanisms

The ACMA and eSafety aims to uphold and implement the National Principles for Child Safe Organisations (Appendix B). Our commitment to child safety is reflected in the following:

- > ACMA Child Safety Code of Conduct (Appendix D)
- > risk assessment and management procedures
- > grants and procurement procedures
- > child safe recruitment screening procedures and employment contracts
- > internal communications and awareness campaigns
- > training and skills development provided to workers
- > performance management procedures
- > record keeping, information sharing and external reporting procedures.

The Child Safety Policy and Child Safety Code of Conduct is available to the public on the ACMA and eSafety websites.

The ACMA and eSafety acknowledge some states and territories have reportable conduct schemes that monitor how organisations investigate and report on child abuse allegations made against their workers. While those schemes do not apply to our workers, similar obligations apply through the APS Code of Conduct and the above compliance mechanisms.

Child Safety Code of Conduct

The diverse and intersectional needs, vulnerabilities and strengths of children and young people place a responsibility on the ACMA and eSafety to engage in a way that empowers them to interact more effectively with us. This intent is embedded in this policy and all workers must comply with this and other internal guidance.

Those workers who will or may have in-person engagement with children and young people must formally agree in writing to the Child Safety Code of Conduct in Appendix D before they undertake this work.

Risk assessment and management process

Annual risk assessments will be conducted to ensure this policy is delivering on its purpose. Any complaints, concerns or safety incidents will be analysed as part of this process.

The appointed Child Safety Champions, together with the ACMA's Corporate and Research Division, will coordinate the annual risk assessment process. Oversight will be provided by the ACMA Audit and Risk Committee and the eSafety Risk and Compliance Committee.

Grants and procurement procedures

Workers must consider the requirements of the Framework and ensure all projects or activities funded by ACMA or eSafety comply with the child safety clauses outlined in the [Commonwealth Simple and Standard Grant Agreement templates](#). This is particularly relevant if the grant is for direct services to children and/or for activities that involve contact with children that is a usual part of, and more than incidental to, the funded activity. Relevant contracts should also include a requirement to comply with

the ACMA and eSafety Child Safety Policy. Additional information and guidance is provided in the [ACMA procurement guidelines](#) if child safety policy clauses are to be included in relevant contracts.

Position management

All ACMA and eSafety role profiles that involve contact with children or young people have been identified. All new roles will be assessed for any child safety requirements at the time of their creation. All roles will be recorded in a central location.

Workers who undertake tasks and duties in roles identified as working with children or young people must hold and maintain a valid Working with Children Check (WWCC) (or equivalent) for the state or territory where they live and their office is physically located. This includes ensuring they apply for a new WWCC before the current one expires. WWCC will be funded by the ACMA or eSafety.

Recruitment and selection

The ACMA's recruitment and selection processes, including advertising, selection criteria, referee checks and pre-employment screening, will emphasise child safety requirements where relevant and it will be treated as mandatory. If a worker no longer holds a mandatory WWCC, they will be reassigned.

Screening and background checks

Workers in positions identified as working with children or young people will be subject to relevant screening and background checks.

All workers (described on page 6 of this policy) undertaking roles or tasks identified as requiring a WWCC will be required by the terms of their contracts and agreements to provide a certified copy of their current registration to the Procurement Section. Their registration must be maintained while contracted to the ACMA or eSafety.

Those who fail to obtain or retain a current WWCC in a state or territory where it is a requirement of the contracted task or funding grant may have their contract or funding withdrawn in accordance with the terms of the contract or funding grant.

Training and other information

All workers who undertake duties that involve contact with children and/or young people, or are likely to have a direct impact on them, must:

- > complete training on child safety-related matters as agreed with their manager/supervisor, based on their level and nature of contact with children and young people
- > familiarise themselves with this policy and related information.

Performance management

All employees who undertake assigned duties identified as having regular contact with children and/or young people must have performance and development plans with behaviours and measures that directly reflect their obligations under this policy. Other workers will have this reflected the relevant agreement covering their engagement.

Carer's rooms

Workers with accompanying children and/or young people in an ACMA or eSafety office, who wish to use a carer's room in an ACMA or eSafety work area, are

responsible for the direct supervision and care of that child or young person at all times.

Record keeping

It is important that relevant records are identified and retained under the ACMA Information Management Framework. ACMA and eSafety will follow the September 2019 [Council of Australasian Archives and Records Authorities](#) guide for government and non-government institutions on identifying records that may become relevant to an actual or alleged incident of child sexual abuse, so that victims and survivors of child sexual abuse are able to identify, create, manage and maintain records relevant to incidents of child sexual abuse.

ACMA and eSafety will create and keep records of complaints of abuse or harm to a child or young person, whether the individual is identifiable or not, in accordance with the ACMA and eSafety record-keeping rules and the [National Archives of Australia General Records Authority No. 41](#). We will manage access to these records as appropriate and protect these records according to law.

When the reporter or victim does not want to be identified to authorities, the receiver of the report must comply with the relevant Commonwealth, state, or territory legislation in relation to protecting the identity of the reporter or victim.

If a program, event or activity is identified as having contact with children or young people, the risk assessment must be conducted, recorded, and stored in accordance with the ACMA record-keeping rules, with access restricted to those who have a legitimate 'need to know'.

Mandatory reporting

If you believe a child or young person is in immediate danger or there is another emergency, please call '000' immediately.

Mandatory reporting is the legislative requirement for selected classes of people to report suspected child abuse, harm or neglect to government authorities (generally child protection agencies). All states and territories have their own legislation for mandatory reporting, with some having legislation that requires all adults within their jurisdiction to report suspected abuse or harm to children or young people. All workers should familiarise themselves with the relevant legislation.

Workers (and their managers or supervisors) who undertake work involving children or young people must be familiar with the specific mandatory reporting requirements in the state or territory in which they live and undertake their work, and comply with these legislative requirements. For links to further information, refer to the Operational Guidance.

All workers who are mandatory reporters as defined under the relevant legislation must report suspected abuse or harm to children or young people to the child protection authority in the state or territory in which the child is located at the time it occurred. This procedure is to be followed even if the jurisdiction the worker is in is different to the location of the child or young person. All states and territories have protocols for managing reports across borders if necessary. For guidance on our internal procedures, please see the Operational Guidance document.

Failure to comply with this obligation could constitute a criminal offence and may also be a breach of the APS Code of Conduct that could result in a sanction.

Obligation to report even if the worker is not a mandatory reporter

Workers who are not mandatory reporters can (voluntarily) report suspected abuse, harm or neglect in accordance with relevant state or territory legislation.

It is ACMA and eSafety policy that workers have a responsibility to report any concerns relating to the safety or welfare of a child or young person.

Under the Child Safety Policy, if a worker who is not a mandatory reporter develops a belief or suspicion, on reasonable grounds, in connection with their role, that a child or young person has been harmed or is at risk of being harmed, the worker must promptly report the matter to the police or the child protection authority in the state or territory in which the child is located.

This requirement is consistent with the various APS Code of Conduct obligations that apply to APS employees, as contained in section 13 of the Public Service Act. ACMA Child Safety Policy Guidance Notes will assist workers to understand what forms a 'reasonable belief'. Workers may also seek assistance from the Manager, People Operations by emailing childsafety@acma.gov.au, but the responsibility to make a report lies with the worker who has formed the belief or suspicion that a child has been harmed or is at risk and cannot be delegated.

Reportable offences

The Royal Commission found that, unlike other categories of crime, child abuse is often not reported to law enforcement, enabling perpetrators to continue to harm children.

In response, several states and territories have created new offences to criminalise the failure to report specified child abuse offences to the police. This is in addition to the mandatory reporting schemes in place in each state and territory. These reporting requirements apply to all adults – and, therefore, all our workers – who develop a reasonable belief that 'specified child or young person abuse offences' have been committed, unless they have a reasonable excuse for not reporting. Under the laws, a 'reasonable excuse' includes a reasonable belief that the information is already known to police and/or the relevant child protection authority, reasonable grounds to fear for the safety of the victim or another person (other than the perpetrator) if the information is reported to police, or if the victim is now an adult and does not want the information to be reported to the police.

'Specified child abuse offences' include extreme conduct such as murder, rape, and grievous bodily injury, as well as conduct that eSafety investigative workers are more likely to encounter, such as the production and sharing of sexual images involving children. A full list of the reportable child abuse offences specified in relevant state or territory laws, as well as guidance on our internal procedures on reporting, can be found in the Operational Guidance document.

Internal reporting

Workers who have reported or are planning to report child abuse offences or significant risks of harm to external authorities may seek general advice and assistance from the Manager, People Operations by emailing childsafety@acma.gov.au. This must be done without disclosing the identity of the individuals concerned or jeopardising any further investigation by external authorities.

Dealing with matters of child safety can be very difficult and may bring up strong feelings. Employees are encouraged to contact the Employee Assistance Program for confidential support and assistance.

The complaints process

Members of the public and workers may make a complaint about the conduct of workers, or non-compliance with this policy, by anyone who is required to comply.

The ACMA and eSafety complaint process will:

- > prioritise the safety and wellbeing of the children and young people
- > respond to immediate risk or harm and mitigate against other unacceptable risks
- > ensure anyone can make complaints in different ways and through different mediums
- > meet all record-keeping and reporting obligations to external authorities.

For complaints that raise child safety issues, we will adopt a trauma-informed approach during the complaints process. This means we will be sensitive to the child or young person's trauma history, needs, preferences, safety and vulnerabilities, and recognise that their experience may make them susceptible to certain triggers that may lead to re-traumatisation and re-victimisation. We will develop and enhance the access points, guidance, and procedures where necessary to facilitate children and young people to make reports or a complaint, and for workers to respond to the initial contact from children and young people.

Members of the public should send complaints to childsafety@acma.gov.au. All complaints will be acknowledged within one business day of receipt. The complainant will be contacted within 5 business days of receipt with information about how their complaint will be processed.

Complaints about workers

The ACMA and eSafety will manage any worker who is not an employee of the ACMA or eSafety and is the subject of a current child safety concern, report, or investigation in accordance with the relevant terms of the contract or funding grant under which the worker is engaged. A Child Safety Champion will consider and determine each matter on a case-by-case basis after considering the risk assessment and other information available. Options available to the Child Safety Champions include removing the relevant worker from working for ACMA or eSafety.

Where a child safety concern, report, complaint, or investigation is in progress against a worker who is an employee of the ACMA or eSafety, appropriate action will be taken in accordance with the Public Service Act (where applicable), other relevant legislation and the relevant ACMA People Management Instruction. This may include but is not limited to:

- > temporary reassignment of duties and/or
- > suspension from duties if a code of conduct investigation is being undertaken.

If the complainant is an ACMA employee disclosing abuse or risk of abuse, the ACMA will ensure the ongoing safety of the complainant is considered and support provided. This may include counselling, reassignment of duties, approving leave or another action deemed appropriate to protect the complainant's safety.

ACMA or eSafety funded, accredited or endorsed organisations

If a complaint is made against a person who receives funding from, or is accredited or endorsed by the ACMA or eSafety, we may report the complaint to the appropriate law enforcement agency and/or take such action as is permitted under arrangements with the person. This may include removing funding or terminating the accreditation or endorsement.

Implementation support

In addition to the 'Related documents' listed at the beginning of this policy, the following documents, guidance, and tools provide the mechanisms for implementation of the policy:

- > online learning modules via Learnhub, and the Australian Human Rights Commission for training on the National Principles for Child Safe Organisations
- > ACMA and eSafety complaints-handling guidelines for suspected and reported child abuse and neglect
- > a range of laws and information included at Appendix C.

Appendix A: Definitions

| Term | Definition |
|-----------------------------|---|
| At risk | Encompasses a number of circumstances, including where the child or young person has suffered, or there is a likelihood that they will suffer, harm (being harm of a kind against which a child or young person is ordinarily protected); removal from the state for illegal purposes; neglect; truancy; and homelessness. |
| Best interests of the child | <p>'Best interests' is a principle framed by Article 3 of the United Nations Convention on the Rights of the Child, which requires member states to observe the 'best interests of the child' as a primary consideration in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. This concept includes considering a child's physical, emotional, psychological, social, moral, and spiritual needs.</p> <p>Subsequent articles in the Convention provide further clarification and guidance on how this principle should be interpreted and applied. Article 12 of the Convention provides the right of the individual child to express their opinions in all matters affecting them. Together, these principles need to be applied in consideration of how a child's rights and interests are or will be affected by another person's decisions and actions.</p> <p>Whenever a decision is to be taken that will affect a specific child or young person, the decision-making process must carefully consider the possible impacts, both positive and negative, of the decision on the child concerned, and must give this impact primary consideration when weighing the different interests at stake.</p> |
| Child or young person | A child or young person is a person under 18 years of age or a person apparently less than 18 years of age if the person's age cannot be proven, consistent with the Commonwealth Child Safe Framework definition. If there is doubt, refer to the legislation in the jurisdiction of the worker. |
| Abuse | <p>All forms of abuse of a child or young person including²:</p> <ul style="list-style-type: none"> > Physical abuse: refers to the non-accidental physical injury of a child by an adult. An injury may be caused by a single act or repeated acts. Physically abusive behaviour includes shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling, attempted suffocation, and poisoning. It is important to consider, however, behaviour that constitutes reasonable parental discipline, in line with current legislation. > Sexual abuse: refers to 'the use of a child for sexual gratification by an adult or significantly older child/adolescent' or 'any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community |

² Child Family Community Australia (CFCA), [What is child abuse and neglect?](#) (CAFCA Resource Sheet) Australian Institute of Family Studies website, 2018, accessed 1 June 2022.

| Term | Definition |
|------|---|
| | <p>standards'. Sexual abuse may be caused by a single act or repeated acts.</p> <p>Sexually abusive behaviours can include the fondling of genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger, or any other object, fondling of breasts, voyeurism, exhibitionism, and exposing the child to, or involving the child in pornography.</p> <p>It also includes child grooming, which refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child or young person, to lower their inhibitions in preparation for sexual activity with the child.</p> <p>The production, consumption, dissemination, and exchange of child sexual exploitation material in any form, including images, is also considered to be child sexual abuse. Child sexual abuse is often accompanied by other forms of maltreatment, including physical abuse, emotional abuse, and neglect'.³</p> <ul style="list-style-type: none"> > Emotional abuse: refers to inappropriate verbal or symbolic acts toward a child or a pattern of behaviour over time that fails to provide a child with adequate nurture and emotional availability. Emotional abuse includes rejecting, isolating, terrorising, ignoring, yelling, belittling, corrupting and ridiculing. Emotional abuse also occurs when a child or young person has been, or is being exposed to, family violence and that exposure has, is, or would cause them significant harm (see 'Exposure to family violence' below). > Neglect: occurs when a person with parental responsibility fails to provide a child with the necessities of life and causes significant harm to the child's wellbeing or social, psychological, educational and physical development. Neglect may be episodic and related to an event in a family's life, acute or chronic where the parent persistently and repeatedly fails to meet the child's needs and to protect them from harm. Examples include failure to provide food, shelter, clothing, medical treatment, supervision, care, or nurture to such an extent that their development is damaged, or they are injured. > Exposure to family violence: occurs when a child is present, hearing or seeing while a parent or sibling is subjected to (often sustained) physical or emotional abuse, sexual abuse or psychological maltreatment, or is visually exposed to the damage caused to persons or property by a family member's violent behaviour. > Child exploitation: occurs when a child or young person is used (usually by an adult or significantly older person), for their own personal benefit or interest. Behaviours indicative of child exploitation include: |

³ Royal Commission into Institutional Responses to Child Sexual Abuse, [Final report, Volume 2: Nature and cause](#), Royal Commission into Institutional Responses to Child Sexual Abuse website, 2017, accessed 1 June 2022, p. 9.

| Term | Definition |
|---------------------------|---|
| | <ul style="list-style-type: none"> > the possession, production, control, and distribution of child exploitation material > exploiting children or young people for prostitution > coercion of a child or young person to perform an inappropriate act > commission of abuse against a child or young person > grooming of a child or young person for future abuse. > abduction and trafficking of a child or young person for the purposes of slavery or prostitution.⁴ |
| Complaint | An expression of dissatisfaction made to or about an organisation, related to matters such as its services, the conduct of its workers or the handling of an earlier complaint. |
| Contact | Refers to contact in person, over the telephone, or online. |
| Employee | An APS employee engaged under the <i>Public Service Act 1999</i> . |
| Exploitation | Includes 'sexual abuse' and 'involving the child as a participant or spectator' in 'an act of a sexual nature' or 'a pornographic performance'. |
| Harm | Significant detriment to a child's physical, psychological or emotional wellbeing or emotional development. Harm may be caused by physical, psychological, or emotional abuse or neglect, sexual abuse or other exploitation, or exposure to physical violence. |
| Significant harm | <p>Any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing.</p> <p>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, or in the case of an unborn child, after the child's birth.</p> <p>The significance can result from a single act or omission or an accumulation of these.</p> |
| Mandatory reporters | Mandatory reporting legislation generally contains lists of particular occupations that are mandated to report cases of suspected child abuse and neglect. The groups of people mandated to report range from an explicit list (Vic and WA), to a very extensive list (ACT, NSW, SA and Tas), through to every adult (Qld and NT). The occupations most commonly named as mandated reporters are those that deal frequently with children in the course of their work such as teachers, early childhood education and care practitioners, doctors, nurses and police. |
| Reasonable belief/grounds | A belief that a child or young person has experienced or is experiencing abuse or neglect may be formed when the abuse is disclosed, someone advises you, or your own observations of the physical condition, or observations of the behaviour of the child or young person, or someone who has responsibility for the child or young person indicates abuse may have occurred or is occurring. |

⁴ Royal Commission into Institutional Responses to Child Sexual Abuse, [Final report, Volume 2: Nature and cause](#).

| Term | Definition |
|---------------------------------------|---|
| Subject of complaint | The person whose alleged conduct is the focus of a complaint, allegation, or incident. |
| Trauma | Individual trauma resulting from an event, series of events or set of circumstances experienced by an individual as physically or emotionally harmful or life threatening and has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual wellbeing. ⁵ |
| Trauma informed | A trauma-informed approach to interacting with others is based on knowledge and understanding of how trauma affects people's lives, their responses to events and circumstances, and meets the individual's service needs without doing further harm to the individual. ⁶ |
| Unacceptable risk | The portion of identified risk that cannot be tolerated, and that must either be eliminated or controlled. |
| Worker | The word 'worker' is defined in section 7 of the <i>Workplace Health and Safety Act 2011</i> . A person is a worker if the person carries out work in any capacity for a person conducting a business or undertaking, including work as: <ul style="list-style-type: none"> > an employee > a contractor or subcontractor > an employee of a contractor or subcontractor > an employee of a labour hire company who has been assigned to work in a person's business or undertaking > an outworker > an apprentice or trainee > a student gaining work experience > a volunteer > a person of a prescribed class. |
| Working with children or young people | Working in an activity or in a position that involves or may involve contact with children or young people, either under the position description or due to the nature of the work environment. |
| Working with Children Check (WWCC) | An assessment of whether a person poses an unacceptable risk to children. As part of this process, the applicant's criminal history, child protection information and other information is checked. A WWCC may also be known by other names, including Working with Vulnerable People (WWVP), a Blue Card, Working with Children Clearance, or Ochre Card. |

⁵ Substance Abuse and Mental Health Services Administration (SAMHSA), [SAMHSA's concept of trauma and guidance for a trauma-informed approach \[PDF 789 KB\]](#), SAMSHA website, 2014, accessed 1 June 2022; Wall L, Higgins D and Hunter C, [Trauma-informed care in child/family welfare services](#) (CFCA Paper no. 37), Australian Institute of Family Studies website, 2016, accessed 1 June 2022.

⁶ Tucci J and Mitchell J, [9 Plain English Principles of Trauma Informed Care](#), Australian Childhood Foundation website, 2015, accessed 1 June 2022; Wall L, Higgins D and Hunter C, [Trauma-informed care in child/family welfare services](#) (CFCA Paper no. 37), Australian Institute of Family Studies website, 2016, accessed 1 June 2022.

Appendix B: National Principles for Child Safe Organisations

National Principles for Child Safe Organisations



1 Child safety and wellbeing is embedded in organisational **leadership, governance and culture.**



2 Children and young people are informed about their **rights, participate** in decisions affecting them and are taken seriously.



3 Families and communities are **informed and involved** in promoting child safety and wellbeing.



4 **Equity** is upheld and **diverse needs** respected in policy and practice.



5 People working with children and young people are suitable and **supported** to reflect child safety and wellbeing values in practice.



6 Processes to respond to **complaints and concerns** are child focused.



7 **Staff and volunteers** are equipped with the knowledge, skills and awareness to keep children and young people safe through **ongoing education and training.**



8 **Physical and online environments** promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.



9 Implementation of the national child safe principles is **regularly reviewed and improved.**



10 **Policies and procedures** document how the organisation is safe for children and young people.



Australian Government

For more information, please visit
<https://pmc.gov.au/child-safety>
<https://childsafe.humanrights.gov.au/>

Appendix C: Commonwealth, state and territory child safety legislation

| Jurisdiction | Primary legislation | WWCC/WWVP legislation | WWCC/WWVP registration |
|------------------------------|--|--|---|
| Commonwealth | Online Safety Act 2021 Crimes Act 1914 Criminal Code Act 1995 Telecommunications (Interception and Access) Act 1979 | | |
| Australian Capital Territory | Children and Young People Act 2008 Crimes Act 1900 | Working with Vulnerable People (Background Checking) Act 2011 | ACT Working with Vulnerable People |
| New South Wales | Children and Young Persons (Care and Protection) Act 1998 Crimes Act 1900 | Child Protection (Working with Children) Act 2012 | NSW Office of the Children's Guardian |
| Northern Territory | Care and Protection of Children Act 2007 Care and Protection of Children Act 2012 Criminal Code Act 1983 | Care and Protection of Children Act 2007 | Working with Children Clearance |
| Queensland | Child Protection Act 1999 Criminal Code Act 1899 | Working with Children (Risk Management and Screening) Act 2000 | Working with Children and Young People |
| South Australia | Children and Young People (Safety) Act 2017 Criminal Law Consolidation Act 1935 | Child Safety (Prohibited Persons) Act 2016 | Working with Children Check |
| Tasmania | Children, Young Persons and Their Families Act 1997 Criminal Code Act 1924 | Registration to Work with Vulnerable People Act 2013 | Working with Children Registration Form |
| Victoria | Children, Youth and Families Act 2005 Crimes Act 1958 | Worker Screening Act 2020 | Victoria Working with Children Check |
| Western Australia | Children and Community Services Act 2004 Criminal Code Act Compilation Act 1913 | Working with Children (Criminal Record Checking) Act 2004 | Working with Children Check |

Appendix D: Child Safety Code of Conduct

All workers, as defined in the ACMA and eSafety Child Safety Policy, are responsible for the safety and wellbeing of children and young people who engage with the ACMA and/or eSafety.

All workers are expected to act in accordance with this Code of Conduct in their in-person, telephone and online interactions with children and young people.

Where the Code of Conduct refers to ACMA employees, it includes employees supporting the eSafety Commissioner.

This Code of Conduct should be read in conjunction with the [ACMA's Child Safety Policy](#) and eSafety's Child Safety Policy (Operational Guidance).

I will:

- > be familiar with and always act in accordance with the [ACMA's Child Safety Policy](#) and eSafety's Child Safety Policy (Operational Guidance)
- > behave respectfully, courteously, and ethically towards children and young people and their families
- > take the views and concerns of children and young people seriously, particularly if they communicate (verbally or non-verbally) that they do not feel safe or well and respond promptly and thoroughly
- > recognise, respect and protect the human rights, safety and wellbeing of all children and young people in our practices and decisions affecting them
- > maintain professional boundaries with all children and young people with whom I engage in the course of my duties
- > consider and respect the diverse backgrounds and needs of children and young people
- > create an environment that promotes and enables children and young people's participation and is welcoming, culturally safe and inclusive
- > involve children and young people in making decisions about activities, policies and processes that concern them, wherever possible
- > contribute, where appropriate, to the ACMA and eSafety policies, discussions, learning and reviews about children's safety and wellbeing
- > identify and respond to safety and wellbeing concerns for children and young people and inform my workplace supervisor of these in accordance with the [ACMA's Child Safety Policy](#) and eSafety's Child Safety Policy (Operational Guidance)
- > report all suspected child abuse or harm as required by the state or territory in which I am employed and in accordance with the [ACMA's Child Safety Policy](#) and eSafety's Child Safety Policy (Operational Guidance)
- > comply with all relevant legislation and the ACMA and eSafety's policies and procedures on record keeping and information sharing

- > when photographing or filming a child or using children’s images for work-related purposes:
 - > obtain informed consent from the child, young person and their parent or guardian before photographing or filming a child or young person. An explanation of how the photograph or film will be used must be provided
 - > take care to ensure local traditions or restrictions for reproducing personal images are adhered to before photographing or filming a child or young person
 - > ensure any imagery presents children and young people in a dignified and respectful manner and not in a vulnerable or submissive manner. Children and young people should be adequately dressed and not in poses that could be sexually suggestive
 - > ensure images are honest representations of the context and the facts
 - > ensure information contained in the image (for example, school uniforms and location identifiers), file labels, meta data or text descriptions do not reveal identifying information about a child or young person when sending images electronically or publishing images in any form and that any images are securely stored.

I will not:

- > engage in any unlawful activity with or in relation to a child or young person
- > engage in sexual conduct towards any child or young person. This includes making sexual comments, asking questions about a child’s sexual experience, referring to sexual matters or images when there is no legitimate, relevant ACMA or eSafety purpose
- > intentionally physically touch or cause physical harm to a child or young person in the course of my professional duties, engage in conduct that is intentional, reckless, or very clearly unreasonable and that results in significant psychological or emotional harm to a child
- > unlawfully discriminate against any child, young person, or their family members
- > be alone in-person with a child or young person
- > arrange personal contact, including online contact, with children or young people I am working with for a purpose unrelated to the ACMA and eSafety’s activities
- > disclose personal or sensitive information about a child or young person, including images, unless the child’s parent or legal guardians have provided consent or unless it is determined disclosure is warranted under the *Online Safety Act 2021* by the ACMA and eSafety’s framework and procedure on reporting
- > use inappropriate language in the presence of children or young people
- > show or provide children or young people with access to inappropriate images or material
- > work with children or young people while under the influence of alcohol or prohibited drugs
- > ignore or disregard any suspected or disclosed child harm or abuse.

If I think this Code of Conduct has been breached by another worker, I will:

- > act in the best interests of children and young people
- > respond by immediately protecting children at risk of harm
- > promptly report any concerns to my manager or the ACMA or eSafety Child Safety Champions.

I agree to abide by this Code of Conduct during my employment with ACMA or eSafety.

I understand that any breach of this Code of Conduct may lead to disciplinary action.

.....
Signature

.....
Full name

.....
Date