

## REPORTABLE CONDUCT AND CHILD PROTECTION POLICY

|     |   |   |
|-----|---|---|
| 1.  | National Quality Standard.....              | 1 |
| 2.  | Purpose .....                               | 1 |
| 3.  | Scope.....                                  | 1 |
| 4.  | Policy Statement.....                       | 2 |
| 5.  | Notifications to Regulatory Authority ..... | 2 |
| 6.  | Reportable Conduct Scheme .....             | 2 |
| 7.  | Roles and Responsibilities .....            | 4 |
| 8.  | Mandatory Reporting .....                   | 4 |
| 9.  | Related Legislation and Documents.....      | 5 |
| 10. | Feedback.....                               | 5 |
| 11. | Approval and Review Details.....            | 6 |

### 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.                         |
| 2.2.2  | Incident and emergency management | Plans to effectively manage incidents and emergencies are developed in consultation with relevant authorities, practiced and implemented. |
| 2.2.3  | Child Protection                  | Management 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 Baringa is 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, visitors, students, or contractors.
- 2.2 It is therefore imperative that all staff have a thorough knowledge and understanding of the requirements of the Regulatory Authority and ACT Reportable Conduct Scheme (the Scheme), which seek 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, Management, Educators staff, students, volunteers, contractors or volunteers. 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. 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.

#### 5. Notifications to Regulatory Authority

5.1 Under the National Law and Regulations, the Approved Provider must notify the Regulatory Authority of any:

- a) serious incidents
- b) complaints
- c) circumstances at the service which pose a risk to the health, safety or wellbeing of children
- d) any incident or allegation that physical or sexual abuse of a child or children has occurred or is occurring while the child or children are being educated and cared for by the service.

5.2 Refer to the Incidents, Illness, Accident and Trauma Policy.

#### 6. Reportable Conduct Scheme

6.1 On 1 July 2017, the Reportable Conduct Scheme commenced in the ACT. Reportable conduct is defined in s17E of the [Ombudsman Act \(1989\)](#) which covers allegations or convictions of child abuse or child-related misconduct.

6.2 Organisations including 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
- 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.

6.3 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.

6.4 If there is a reportable conduct, any persons may make the report to the Ombudsman.

6.5 Where practicable, it is recommended to inform the Nominated Supervisor, a Responsible Person or Management, to ensure support can be provided to the person/s reporting, as well as to person/s alleged to have acted in misconduct. Management will then progress with governance processes including reporting to the Board as the Approved Provider.

6.6 The process for reporting to the Ombudsman is outlined below:

- a) contact the [ACT Ombudsman](#) as soon as possible. For early consultation, this can be done by phone (6276 33773) or email ([act@ombudsman.gov.au](mailto: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.
- 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).

- 6.7 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.
- 6.8 After a [s 17G Notification](#) is filed, Baringa will continue to assist the Ombudsman in their response or investigation as required. This may include requests for relevant documents and information to be provided to the Ombudsman. 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**

- 6.9 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, Responsible Person or Management must consider:
- a) Whether the child requires protective intervention. Depending on the level of risk identified, a report may need to be made to CYPS.
  - b) Would the allegation, if true, be a criminal offence? If so, ACT Policing must be contacted, and advice sought from the Police on Baringa should proceed with a response/investigation
  - c) Whether action should be taken to prevent further reportable conduct.
  - d) Identifying if there are other risks to the child.
  - e) Support for other children involved.
- 6.10 The Nominated Supervisor, Responsible Person or Management must act on supporting the employee who is the subject of the allegation. This includes considering:
- a) Is appropriate support for the employee who is the subject of the allegation provided, including access to the employer-funded Employment Assistance Program (counselling)
  - b) Should the employee remain in the current position pending response or an investigation or be moved to another area or stood down? This decision can 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 or the employee's disciplinary history
    - other possible risks to the employee and to the investigation or response
  - c) 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.
  - d) It may also be appropriate to discuss any proposed changes to the employee's duties.
- 6.11 The Nominated Supervisor or Management must ensure that confidentiality is maintained by:
- a) 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**

- 6.12 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 will be made on what action, if any, is required in relation to the employee, child/ren involved and any other parties.

- 6.13 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
  - d) Reviewing policies and procedures

## 7. Roles and Responsibilities

7.1 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.

7.2 Management, the Nominated Supervisor and Responsible Persons will ensure:

- a) Report to the Board at a timely manner of any allegations or convictions of child abuse or child-related misconduct.
- b) That 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) That they, and all educators and staff maintain a current Working with Children Check.
- f) That 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.
- h) That they will notify the Commission of any alleged Reportable Conduct if the Head of the organisation fails to do so for any reason.

7.3 Staff will ensure:

- a) That they have a thorough understanding of their duty of care in relation to Child Protection.
- 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.
- g) That they understand that failure to comply with the Reportable Conduct Scheme requirements may lead to their Working with Children Check being revoked.

## 8. Mandatory Reporting

8.1 Mandatory reporting is the legislative requirement for selected classes of people to report suspected child abuse and neglect to government authorities. In the ACT, mandatory reporting is regulated by the Children and Young People Act 2008.

8.2 If a person suspects or believes on reasonable grounds that a child or young person is experiencing abuse or neglect or they wish to discuss concerns about a child or young person, they are obligated to progress the matter. Please refer to [Child and Youth Protection Services \(CYPS\)](#).

## Confidentiality

- 8.3 It is important that any notification remains confidential, as it is vitally important to remember that no confirmation of any allegation can be made until the matter is investigated. The individual who makes the notification should not inform the suspected perpetrator (if known). This ensures the matter can be investigated without contamination of evidence or pre-rehearsed statements. It also minimises the risk of retaliation on the child for disclosing.
- 8.4 All reporters are protected against retribution for making or proposing to make a report under amendments to the Children and Young People Act 2008 effective 9 April 2021. The identity of the reporter is protected by law from being disclosed, except in certain exceptional circumstances. Provided the report is made in good faith:
- the report will not breach standards of professional conduct
  - the report cannot lead to defamation and civil and criminal liability
  - the report is not admissible in any proceedings as evidence against the person who made the report
  - a person cannot be compelled by a court to provide the report or disclose its contents
  - the identity of the person making the report is protected.
  - A report is also an exempt document under the Freedom of Information Act 1989.

## 9. Related Legislation and Documents

| Legislation  | Related Policies  |
|--|---|
| Children and Young People Act 2008<br>Working with Vulnerable People<br>(Background Checking) Act 2011 | Code of Conduct Policy<br>Incident, Illness, Accident and Trauma Policy<br>Staff Grievance Policy |

## Related Education and Care Services National Regulations

| Regulations |  |
|-------------|--|
| 84          | Awareness of child protection law  |
| 86          | Notification to parents of incident, injury, trauma and illness                          |
| 87          | Incident, injury, trauma and illness record  |
| 147         | Staff records  |
| 155         | Interactions with children   |
| 168         | Education and care service must have policies and procedures                             |
| 175         | Prescribed information to be notified to Regulatory Authority                            |
| 176         | Time to notify certain information to Regulatory Authority                               |
| S162 (A)    | Persons in day-to-day charge and nominated supervisors to have child protection training |
| S165        | Offence to inadequately supervise children   |
| S167        | Offence relating to protection of children from harm and hazard                          |

## 10. Feedback

Families and staff may provide feedback about this document via [admin@baringa.org.au](mailto:admin@baringa.org.au).

11. **Approval and Review Details**

| <b>Approval and Review</b> | <b>Details</b>   |
|----------------------------|------------------|
| Approval Authority         | Management       |
| Administrator              | Centre Director  |
| Next Review Date           | 31 December 2026 |

  

| <b>Amendment History</b> | <b>Details</b>   |
|--------------------------|--|
| Amendments               | 24 November 2023: Policy was updated as part of the policy review cycle. |
| Original Policy          | 1 August 2019  |