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| **Procedure** Family Day Care Responding to Risk of Harm Concerns  | C:\Users\dbmulligan\Desktop\24493 FDC and LMCC Co brand logo lockup.jpg |

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Procedure

**Purpose & Scope**

All people involved with providing or arranging education and care for Lake Macquarie Family Day Care have an individual mandatory responsibility to respond to risk of harm concerns for children and young people.

The Crimes Act 1900 now holds that it is an offence to reduce or remove risk of a child becoming victim of child abuse, if the person knows the risk exists (43B). Further, it is also an offence to conceal a child abuse offence (316A).

Eligibility for a statutory child protection service in NSW is assessed by two ‘Structured Decision Making’ (SDM) tools; The Mandatory Reporters Guide (MRG) used by mandatory reporters and the Screening and Response Priority Tool (SCRPT). The SCRPT is used by Child Protection Helpline staff to assess whether reported concerns meet the Risk of Significant Harm threshold for a statutory child protection intervention.

Not all concerns for risk of harm meet the threshold for reporting. Lake Macquarie Family Day Care staff and educators use the Mandatory Reporters Guide to determine risk of harm. Risk of significant harm can be reported by eReport through the ChildStory Reporter website, or by calling the Child Protection Helpline on 132 111.

When a report about concerns for a child or young person does not meet the threshold of significant harm, Lake Macquarie Family Day Care educators and staff have a role to play in monitoring and offering appropriate services to families. Educators and staff may refer the family to specific and appropriate support services. Lake Macquarie Family Day Care has a responsibility to ensure that all staff and educators receive training and information to recognise indicators that a child may be at risk of significant harm, and understand their mandatory reporting obligations.

Lake Macquarie Family Day Care may exchange and/or release information to other agencies involved with children, young people, and families under Chapter 16A of the Care Act. Agencies can only release information if the information directly relates to the safety, welfare, or well-being of children and young people.

**Process**

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| **Item** | **Responsibilities**  | **Support resource / documents** |
| Child Protection awareness | **Service Management will:** |  |
| 1. ensure prospective Educators have received preliminary information and advice to assist the educator to:
* Recognise the existence and application of current child protection law, and
* Understand any obligations they have under child protection law, and
* recognise indicators of risk of significant harm for children

before entering their name on the Lake Macquarie Family Day Care Register of Educators *(ECS Regulation 84)* | [what is mandatory reporting](https://reporter.childstory.nsw.gov.au/s/article/What-is-Mandatory-Reporting)[possible signs or indicators of risk of harm](https://www.facs.nsw.gov.au/families/Protecting-kids/reporting-child-at-risk/harm-and-neglect/chapters/signs-of-abuse) |
| 1. provide opportunity from time to time to access up to date information and /or training related to child protection to help educators and staff comply with their mandatory reporting requirements
 |  |
| **Educators will:** |  |
| 1. maintain an adequate knowledge and understanding of the provision of education and care to children, including awareness of child protection law and their obligations in relation to this
 |  |
| Reporting concerns | **Service Management and Educators will:** |  |
| 1. telephone 000 to report to Police any concern that a child is in immediate danger, and notify the Nominated Supervisor as soon as possible of this action.
 |  |
| 1. make and keep a record of indicators or event that lead to concern for a child’s wellbeing
 |  |
| 1. utilise the Mandatory Reporters Guideto determine whether the concern meets the reporting threshold of significant harm, and keep record of this confidentially.
 | [MRG (nsw.gov.au)](https://reporter.childstory.nsw.gov.au/s/mrg) |
| 1. seek assistance (from Co-ordination unit staff or Nominated Supervisor) if unable to access the Mandatory Reporters Guide and/or require support to complete
 |  |
| 1. make a report to the Child Protection Helpline if the decision outcome meets threshold of risk of significant harm (RoSH)
 | [how to make a child protection report](https://www.facs.nsw.gov.au/families/Protecting-kids/mandatory-reporters/how-to) - by eReport through the ChildStory Reporter website, or by calling the Child Protection Helpline on 132 111 |
| 1. notify the Nominated Supervisor, or delegated officer, immediately of any decision outcome following the use of the Mandatory Reporters Guide, to:
* initiate referral to appropriate support agencies and or strategies to assist the family/child/young person if possible or appropriate,
* ensure support is offered to the person making the report
 | [Human Services Network](https://www.facs.nsw.gov.au/providers/human-services-network) |
| 1. in the case of significant harm reports, advise the Nominated Supervisor of any instructions provided by an Intake Officer about further investigation of the matter
 |  |
| 1. document their actions, and provide a copy of this record in a timely manner to the Nominated Supervisor or delegate
 |  |
| Acting on complaints / allegations against staff, educator or household member | **Service Management will:** |  |
| 1. act on any complaint alleging risk of significant harm to a child by a staff member, educator, or household member according to Council’s ‘Protecting and supporting children and young people’ policy and procedure
 |  |
| 1. use the Mandatory Reporter Guide to assess if the complaint meets the reporting threshold of risk of significant harm, and act accordingly
 |  |
| 1. notify the regulatory authority of any complaint alleging the Education and Care Services Law or regulation has been contravened
 |  |
| 1. remove children from an educator’s residence or venue, and suspend the education and care service, until investigations are complete, if
* the complaint involves risk of significant harm for a child from the actions of an educator or an educator’s household member, and
* it is in the best interests of the children’s health, safety or wellbeing
 |  |
| 1. follow the instructions of relevant authorities regarding further investigation of any allegation, and if appropriate, carry out investigations according to Council internal policy and procedure – Protecting and Supporting Children and Young People
 |  |
| 1. notify the Children’s Guardian within 7 business days if the grounds for the Risk of Harm report include an allegation of reportable conduct
 |  |
| Support and consultation | **Service Management will:** |  |
| 1. provide the person making a report of risk of significant harm to a child, with information about support services available to them, if required.
 |  |
| 1. consult with the family, and agencies permitted by law to provide assessment, investigation, and case management of suspected risk of harm for children, to review the care and support needs of the child and family if appropriate.
 |  |

# Review and evaluation

This procedure will be reviewed at least every 3 years, or as prompted by changes to applicable legislative requirements or quality recommendations by recognised authorities.

Implementation of procedures will be evaluated during regular contact visits staff have with registered Educators.

WHS Management System Information

Record Keeping Requirements

Records associated with, and generated in compliance with this document include:-

All records will be managed in accordance with *WHS Module 10 - Records*.

Training Requirements

Specific training required to carry out the requirements of this document includes:-

Training requirements will be managed in accordance with ***WHS Module 12 – Training***.

Auditing Requirements

Auditing of this process will be managed in accordance with ***WHS Module 11 – Auditing***.

Corrective Actions

Corrective actions are to be managed in accordance with ***WHS Module 09 – Corrective Actions*** whenever it is identified that the requirements of this document and its references are not being met.

Review

This document will be reviewed in accordance with ***WHS Module 04 – Document Control*** and whenever there is a relevant change to applicable legislation, industry standards, Codes of Practice, the WHS Management System, or the process.

Responsibilities, Authorities & Accountabilities

Responsibility, authority, and accountabilities for all positions within Council are outlined in ***WHS Module 01 – WHS Responsibilities*** and in the **WHS Responsibilities, Authorities and Accountabilities (RAA) Table** associated with ***WHS Module 01***. The RAA table includes responsibility, authority, and accountabilities for employees, managers, supervisors, contractors, visitors, and persons with specialist roles within the organisation.

In addition to ***WHS Module 01 – WHS Responsibilities***, the following positions have responsibilities, authorities and accountabilities associated with this document:

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| --- | --- |
| **Position** | **Responsibilities, Authorities & Accountabilities** |
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Controlled Document Information

Authorisation Details

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| --- | --- | --- | --- |
| Folder No: | F2004/12276  | TRIM Record No: | D09440256 |
| Audience: | Departmental - Family Day Care Staff Educators and Stake Holders  |
| Department: | Community Planning  |
| Officer: | Service Manager Family Day Care - Kim Hartmann  |
| Review Timeframe:Max < 4 years  | 3 years | Next Scheduled Review Date: | 17 February 2024 |
| Authorisation: | Manager Community Partnerships - Andrew Bryant - 22 February 2021  |

Related Document Information, Standards & References

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| Related Legislation: | [Children (Education and Care Services) National Law](https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2010-104a)[Children (Education and Care Services) National Regulations](https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653)[Children and Young Persons (Care and Protection) Act](https://www.legislation.nsw.gov.au/view/html/inforce/current/act-1998-157)[Children's Guardian Act](https://legislation.nsw.gov.au/view/whole/html/inforce/current/act-2019-025)[Child Protection (Working with Children) Act](https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2012-051)[Child Protection (Working With Children) Regulation](https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2013-0156)Privacy & Personal Information Protection Act 1998Work Health & Safety Act 2011 | Suite of legislations to provide the framework for governing child wellbeing and providing child protection, employment screening, and reportable conduct  |
| Related Policies (Council & Internal): | Lake Macquarie City Council – Internal Policy & Procedure - Protecting and Supporting Children and Young People |  |
| Related Procedures, Guidelines, Forms, WHS Modules/PCD’s, Risk Assessments, Work Method Statements: | Lake Macquarie Family Day Care Confidentiality ProcedureLake Macquarie Family Day Care Complaint Handling Procedure |  |
| Standards COP’s & Other References | [NSW Interagency Guidelines](https://www.facs.nsw.gov.au/providers/children-families/interagency-guidelines)[Child Story website](https://www.facs.nsw.gov.au/families/childstory)[Human Services Network](https://www.facs.nsw.gov.au/providers/human-services-network) | Provides guidance for government and non-government agencies, including on legislation, roles and responsibilities, making reports, exchanging information, networking and supporting client referrals  |

Definitions

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| Term / Abbreviation | Definition |
| **Nominated Supervisor** | Authorised Supervisor of Lake Macquarie Family Day Care, Nominated Supervisor – responsible (along with the Approved Provider) for ensuring the scheme is following the Law and the Regulations, Certified Supervisor – a person with a supervisor certificate placed in day to day charge of an education and care service. |
| **Educator** | a) a person actually involved in educating, minding or caring for childrenat his or her residence or venue and whose name appears on a current Lake Macquarie Family Day Care Register of Educators (a primary educator) ; and(b) a person whose name appears on a current Lake Macquarie Family Day Care Register of Educators and who is engaged as a relief educator to educate, mind or care for childrenin the residence or venue of a primary educator(c) a person whose name appears on a current Lake Macquarie Family Day Care Register of Educators and who is engaged as an educator assistant to educate, mind or care for childrenin the residence or venue of a primary educator for no more than 4 hours |
| **Information Exchange** | The process of agencies exchanging information about children and families directly related to the safety, welfare or well-being of young people without their consent. This is permitted under Chapter 16A of the Care Act |
| **Approved Provider** | Lake Macquarie City Council, for the operation of the approved service, Lake Macquarie Family Day Care |
| **Mandatory reporting****Mandatory Reporting Guidance Tools** | A legal requirement, under Section 27 of the Children and Young Persons (Care and Protection) Act, for any person who as a consequence of their paid or unpaid work, has reasonable grounds to suspect a child is at risk of harm, to make a report to Community Services.An online tool accessible through [MRG (nsw.gov.au)](https://reporter.childstory.nsw.gov.au/s/mrg) to assist reporters determine whether or not the risk of harm is significant and requires a report to Community Services Helpline |
| **Policy and procedures** | Current Lake Macquarie Family Day Care policies and procedures |
| **Prospective educator** | A person who has made application to Lake Macquarie Family Day Care to be considered for registration as an educator, but whose name has not yet been entered on the Lake Macquarie Family Day Care Register of Educators |
| **Regulatory requirement** | State and Federal government regulations that are relevant to the provision of Family Day Care services in New South Wales |
| **Reportable conduct** | * any sexual offence, or sexual misconduct, committed against, with or in the presence of a child;
* any assault, ill-treatment or neglect of a child; or
* any behaviour that causes significant psychological harm to a child
* an offence under section 43B or 316A of the Crimes Act 1900
 |
| **Significant Harm** | **‘Significant harm** is defined as a concern about a child or young person that is sufficiently serious to warrant a response by a statutory authority irrespective of a family’s consentSignificant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse effect on the child or young person’s safety welfare or well-being.In the case of an unborn child, what is significant is not minor or trivial and may reasonably be expected to produce a substantial and demonstrably adverse effect on the child after the child’s birth‘Significance’ can result from a single act or omission or an accumulation of acts or omissions***any one or more*** of the following events:* a child or young person’s basic physical or psychological needs are not met (neglect);
* a parent or caregiver of a child or young person is unable or unwilling to arrange necessary medical care;
* the child or young person has been or is at risk of being physically or sexually abused or ill-treated;
* the child or young person is living in a household where there has been incidents of domestic violence and, as a consequence, the child or young person is at risk of physical or psychological harm;
* a parent or caregiver behaves in such a way that a child or young person has suffered, or is at risk of suffering, serious psychological harm
* when a parent or educator has not arranged (and unwilling to arrange) for their child to receive an education
* a series of acts or omissions when viewed together may establish a pattern of significant harm (cumulative harm)
 |
| **The National Quality Framework** | Includes:* a National Legislative Framework that consists of the Education and Care Services National Law Act 2010 and Education and Care Services National Regulations 2011
* a National Quality Standard
* an assessment and rating system
* a Regulatory Authority in each State and Territory who will have primary responsibility for the approval, monitoring and quality assessment of services in their jurisdiction in accordance with the national legislative framework and in relation to the National Quality Standard.
* The Australian Children’s Education and Care Quality Authority (ACECQA)
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| **Work Health and Safety** | Includes:Work Health and Safety Act 2011 No 10Work Health & Safety RegulationsLMCC WHS Information  |

Consultation (update for each version created)

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| **Key Departments, Teams, Positions, Meetings:** | Family Day Care staff, Educators and Stakeholders |

Version History

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| --- | --- | --- | --- |
| Version No | Date Changed | Modified By | Details and Comments |
| 2 | 16/5/2007 | J. Wade | Updated key resources and legislative requirements, update educator definition to include relief educator |
| 3 | 12/1/2009 | J. Wade | Update references, include staff reports by fax, include attachments |
| 4 | 25/08/2010 | J. Morgan | Update References, remove attachments, include changes to legislation based on Wood Royal Commission and reporting requirements including risk of significant harm and information exchange |
| 5 | 16/11/2011 | S. Vickers | Update reference of carer to educator, childcare to education and care, added reference and definitions to The National Quality Framework and Work Health & Safety, updated definition of Authorised Supervisor, updated term and definition of Licensee to Approved Provider |
| 6 | 02/08/2013 | J. Morgan | Updated references to include Children (Education and Care Services) Supplementary Provisions Act 2011 Children (Education and Care Services) Supplementary provisions Regulation 2012Child Protection (Working With Children) Act 2012 Child Protection (Working With Children) Regulation 2013Lake Macquarie City Council Protecting and Supporting Children & Young People in the Workplace Internal Policy & Procedure. Removed reference to Family Referral Service and Keep Them Safe Support line as services ceased operation on 28 June 2013 |
| 7 | 18/08/2014 | J Morgan | Updated legislation- Children (Education and Care Services) National Law Education and Care Services National Regulations Education and Care Services National Amendment Regulations 2014Child Wellbeing and Child Protection – NSW Interagency GuidelinesUpdate to include reference to Council’s Protecting and Supporting Children and Young People Policy and Procedure |
| 8 | 7/08/2016 | J Morgan | No changes  |
| 9 | 28/10/2016 | J Morgan | Updated to reflect removal of the Mandatory Reporters Guide from keepthemsafe website and include new Mandatory Reporters Guide accessible from childstory.nsw.gov.au websiteChange of mandatory reporters phone number to a single number which is used by all 132111 |
| 10 | 16/02/2021 | K Hartmann | Re-formatted to:- clearly identify responsibilities of Service management, and Educators- make actions clear in relation to different aspects of risk of harm.More clearly outline obligations in regard to notifications and reporting in the event of a complaint (against a staff, educator or household member) that implicates risk of significant harm to a child.Updated legislation details:* reference Crimes act offences (in introduction)
* replacement of the Ombudsman’s Act with the Children’s Guardian Act.

Review and update links. Review definitions. |