

OPS-003 Child Protection Policy & Code of Conduct

Authorised by: CEO
Applies to: All PWDA Staff, Volunteers and Directors
Effective from: 22/10/20
Review date: 22/10/23
Policy Owner: Director- People, Quality and Systems

1.0 Policy statement

This policy statement expresses People with Disability Australia Ltd (PWDA) fundamental belief in and commitment to the principle contained Article 19 of the UN Convention on the Rights of the Child (CRC). This states that all children, wherever they may live and whatever may be their circumstances, have the right to be protected, nurtured and to be free from all forms of violence, abuse, neglect, maltreatment and exploitation.

In particular, PWDA recognises the right of all children and young people to live free from harm, abuse and exploitation as outlined in various CRC and CRPD articles. We support a prevention and early intervention approach to supporting children and their families and preventing child abuse and neglect

This policy sends a clear message that child exploitation and abuse is not tolerated and attracts disciplinary and commercial sanctions, as well as criminal penalties under Australian domestic and extra-territorial laws.

2.0 Guiding principles

- Affirm that all children in all circumstances have the right to feel, be safe and to live free from harm, exploitation and abuse.
- Ensure that all people associated with PWDA, including Directors, Board members, PWDA staff, volunteers, partners and other representatives understand and share our commitment to this principle.
- Ensure that PWDA has procedures in place which will protect both the children with whom its representatives may come into contact with, from any adverse consequences of that contact and the representatives themselves from being placed in a vulnerable position as a consequence of that contact.
- Clearly express the actions PWDA will take in the case of any breach of this policy and the consequences of such breach.

PWDA takes a zero tolerance approach to non-compliance with this child protection policy and will fully investigate any actual or suspected breach of this policy by any of its representatives and, where grounds are found to exist, will report the matter to the relevant authorities for possible criminal proceedings against the offender.

In case of employees and/or staff, such action may constitute “gross misconduct” under the terms of their contract and may result in the immediate termination of employment. In the case of other representatives, such action may constitute breach of contract and PWDA reserves its right to take whatever action may be open to it by law.

Legislative and Regulatory laws relevant to this policy including Australian Commonwealth, state and territory laws:

The Criminal Code Act 1995 contains legislation relating to child sex offenses outside Australia, child pornography material, and telecommunications offenses. Under these laws an Australian citizen or resident can be prosecuted for an offence committed against a child in another country under laws that have an extra-territorial application.

The Child Protection (Prohibited Employment) Act 1998 (NSW) CPPE Act) defines “child related employment” as “any employment of the following kind that primarily involves direct contact with children where that contact is not directly supervised...”. The CPPE Act requires employers to determine whether the duties of any positions within their organisations, whether paid or unpaid, come within the definition of “child related employment” and if so, places certain obligations on them in relation to employing or offering employment to persons in such positions.

Table A

State and Territory Child Protection Legislation

New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998</i>	www.legislation.nsw.gov.au
Victoria	<i>Children, Youth and Families Act 2005</i>	www.dms.dpc.vic.gov.au
Queensland	<i>Child Protection Act 1999</i>	www.legislation.qld.gov.au/OQPC/home.htm
Western Australia	<i>Children and Community Services Act 2004</i>	www.slp.wa.gov.au/legislation/statutes.nsf/default.html
South Australia	<i>Children’s Protection Act 1993</i>	www.legislation.sa.gov.au
Tasmania	<i>Children, Young Persons and their Families Act 1997</i>	www.thelaw.tas.gov.au
Australian Capital Territory	<i>Children and Young People Act 2008</i>	www.legislation.act.gov.au

3.0 Definitions

3.1 Physical abuse

The use of physical force against a child that results in harm to the child. Physically abusive behaviour includes shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling and poisoning.

3.2 Child / Children

In line with the United Nations Convention on the Rights of the Child, a child is defined as any person/s under the age of 18.

3.3 Sexual abuse

The use of a child for sexual gratification by an adult or significantly older child or adolescent. Sexually abusive behaviours can include fondling genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling breasts, voyeurism, exhibitionism.

Age of consent to sexual relations differs between states of Australia. The age of consent for homosexual and heterosexual sex is 16 years of age in the ACT, NSW, NT, Victoria and WA, and 17 years of age in South Australia and Tasmania. In Queensland the age of consent is 16 years old, except for anal sex where the age of consent is 18 years of age.

3.4 Emotional or psychological abuse

Refers to a parent or caregiver's inappropriate verbal or symbolic acts toward a child or a pattern of failure over time to provide a child with adequate non-physical nurture and emotional availability. Such acts have a high probability of damaging a child's self-esteem or social competence.

3.5 Exposure to Family Violence

Exposure to family violence is when a child is present (hearing or seeing) while a parent or sibling is subjected to physical abuse, sexual abuse or psychological maltreatment, or

¹ <http://plan-international.org/files/global/policies/global-child-protection-policy-2013-english.pdf>

is visually exposed to the damage caused to persons or property by a family member's violent behaviour.

3.6 Neglect

The failure by a parent or caregiver to provide a child (where they are in a position to do so) with the conditions that are culturally accepted as being essential for their physical and emotional development and well-being.

3.7 Exploitation

Commercial or other exploitation of a child refers to use of the child in work or other activities for the benefit of others. This includes, but is not limited to, child labour and child prostitution. These activities are to the detriment of the child's physical or mental health, education, or spiritual, moral or social-emotional development.

3.8 Contact with Children/Working with children

Contact with children means working on an activity or in a position that involves or may involve contact with children, either under the position description or due to the nature of the work environment. This includes indirect contact with children in the community. Working with children means being engaged in an activity. Working with Children Check is a pre-requisite for anyone working with children. It involves a national criminal history check and review findings of workplace misconduct and in NSW is conducted by the Office of the Children's Guardian. The result of a Working with Children Check is either a clearance to work with children for five years, or a bar against working with children. Cleared applicants are subject to ongoing monitoring and relevant new records may lead to the clearance being revoked.

3.9 Duty of Care

Duty of Care is a common law concept that refers to the responsibility of the organisation to provide children with an adequate level of protection against harm. It is the duty of the organisation to protect children from all reasonably foreseeable risk of harm.

3.10 Staff, Board and/or other representatives

Includes PWDA permanent and fixed staff, board members, interns, volunteers or any person or organisation that is contracted to conduct activities on behalf of PWDA, presents PWDA publicly, or visits PWDA programs at the invitation of PWDA. This may include but not limited to contractors, consultants, National Ambassadors, Young Ambassadors, media personnel and donors visiting PWDA.

4.0 Procedure

4.1 Training and development

At the commencement of their employment or engagement, all staff will be made aware of the PWDA Child Protection Policy and procedures. All staff will undertake induction training carried out by the HR Manager, their direct manager or, in the case of Board members, Senior Leadership Team. Induction includes information on key PWDA policies and procedures and a copy of the PWDA Child Protection Policy.

4.2 Human Resources/Recruitment

PWDA is vigilant in the recruitment, selection and screening of all staff to ensure they are suitable to be engaged, including suitability to work with children and young people. Detailed recruitment guidelines are outlined in the PWDA Recruitment Policy and procedures. In relation to child protection, PWDA ensures proper recruitment and screening through the following procedures:

4.3 Job Advertisements

PWDA states in all job advertisements and application forms, that applicants must be legally entitled to work in Australia and may be required to undergo background checks, including but not limited to, national police checks and for identified roles, Working with Children Checks.

4.4 Interview

For identified working with children roles, the interview will include a minimum of two child protection questions. The HR Manager is responsible for providing the Hiring Manager with the child protection questions.

4.5 Screening Process

Prior to the written employment offer, all employees must have a minimum of one work-based verbal reference check conducted by the HR Manager or Hiring Manager.

All PWDA staff members are required to undergo a National Police Check and Working with Children Check. Engagement with PWDA is conditional on the National Police Certificate demonstrating, to PWDA's satisfaction, that they are suitable to work, represent or engage with PWDA. Where the National Police Certificate is found to have an offence, the HR Manager, or in the case of volunteers and interns, the Hiring Manager is responsible for communicating this to the Chief Executive Officer. Together they are

responsible for determining if the individual is suitable to work, represent or engage with PWDA.

Prior to engagement, all staff members are given a copy of this policy and are required to sign the PWDA Child Protection Declaration and Agreement. All staff members are also asked to read, sign and return the PWDA Code of Conduct.

4.6 Employment Contracts

If an employee breaches this child protection code and presents an unacceptable risk to children, they will be dismissed or suspended. This provision will be outlined in the employees employment contract.

4.7 Privacy

All use of images and personal information for promotion, fundraising or any other activity will ensure the privacy and safeguarding of children.

4.8 Reporting concerns of child abuse

Disclosure of child abuse is a difficult and emotional experience for both child victims and for staff members who report or are involved in dealing with the issue. In orienting staff on this policy, PWDA will seek to equip staff to receive reports of abuse or responds to disclosure in ways which affirm and support child victims, and ensure the best interest of the child is the first consideration. Support for staff involved in the process will be provided through the Employee Assistance Scheme.

4.8.1 Australia

- If a PWDA staff or board person witnesses or has a suspicion or receives an allegation that a child is at risk of harm or is being abused (including by an employee or person engaged with PWDA); or
- A child or young person discloses that they have been abused, or if they are in a situation that places them at risk of harm, then
- The staff or board member is to follow mandatory reporting procedures in the child protection jurisdiction in the state of the alleged abuse. (See Table A).
- In cases where a PWDA staff or board member becomes aware that a client has perpetrated or at risk of perpetrating child abuse, the board member is to immediately notify the Co-Chief Executive Officer.

4.8.2 Overseas

Child abuse reports should be made to the line manager and referred to the Leadership team. Reports will be made to relevant child protection agency/ police or other law enforcement agency consistent with the laws of that country in which the report of abuse occurred.

5.0 Incident Reporting

5.1 PWDA should proceed in the following:

1. Identify the immediate environment is safe for the affected child/children and other children, and for staff.
2. Ensure that the affected child or children are safely separated from the person or people that have allegedly caused harm.
3. Ensure all children are safe and supervised by multiple PWDA staff or delegated carers/guardians.
4. Ensure that the affected child/children have an option to have a support person or friend to accompany them through the incident reporting process.
5. Consider what parties should be informed of the incident. Note that parents and guardians should be advised of every incident that is documented as a priority.
6. Determine whether a matter should be referred to the police or to child protection authorities (consider the seriousness of the issue and whether there is a potential criminal liability). All physical assaults of children involving adults and, all alleged child sexual abuse should be expediently reported to the police.
7. Determine whether emergency medical care, a medical examination or health support may be required.
8. If a child is an alleged perpetrator of an incident, PWDA also has a clear duty of care to that child. That is, to consider their best interests, human rights and legal entitlements.
9. Once the affected child/children are in a safe space, reassure them that they are safe.
10. Explain clearly, that the incident is not the child's fault.
11. Explain that the process is confidential – and explain, in simple terms, what confidentiality means. Use practical examples.
12. Reassure the child they have done the right thing if they disclosed the incident.
13. Assure the child that some people do the wrong thing and that the perpetrator is responsible for their actions.
14. Explain the next steps to the child, that PWDA will need to advise their parents/guardian and are able to contact local support services. If required explain that PWDA will need to contact the police
15. Seek medical attention for the child if required which may include first aid, ambulance or medical practitioner (where a child is taken

- offsite the PWDA staffer should accompany the child to the doctor, hospital, police station etc.)
16. Immediately and *confidentially* advise the most senior staff member onsite.
 17. Immediately and *confidentially* advise the HR Manager, PWDA or a Child Protection Officer.
 18. Ask the child whether they would like a parent/guardian or support person to be present while PWDA documents the critical incident. Where a child nominates to have a friend present, PWDA should explain the importance of confidentiality in plain English and child-friendly language.
 19. Complete the PWDA incident report form below detailing the incident in as much detail as possible and treat it as a confidential document.

If the incident involves alleged sexual abuse, physical assault, record minimal information and let police conduct questioning.

Attachment A

5.2 PDWA Child Protection Incident Report Form

Name of reporting staff/volunteer or other	
Name of Senior Staff member onsite	
Name of impacted child/ren or persons	
Date	
Time of incident	
Time of report	
Location	
Description of incident	
Name of witness/s	
Has this incident been reported to the Child Protection Officer?	Name of CPO: _____ Time reported: _____
Signature of reporting staff/volunteer or other:	_____ Date: _____
Signature of senior staff/volunteer or other:	_____ Date: _____
Signature of Child Protection Officer	_____ Date: _____

5.3 Confidentiality

Confidentiality is crucial to a fair and effective reporting procedure. Reports of alleged abuse and neglect are handled in a confidential manner, respecting the privacy of all parties. Confidentiality will only be broken in cases of mandatory reporting. Penalties can apply for breaches to confidentiality. Conversations about reports always occur in a private place and all Incident Reports are securely stored.

5.4 Investigation of complaints involving a staff or board member

Internal investigations will undertake a confidential, thorough, impartial and prompt

process. This process will be managed by the Senior Leadership team. PWDA will report any allegations of abuse or neglect of a child by a staff or board member to the relevant authorities for investigation (police and child protection agency). While an investigation is conducted the staff or board member will be prevented from carrying out duties that involves contact (direct or indirect) with children or other vulnerable people.

6.0 Related policies, procedures and forms

Individual Advocacy – Policies and procedures

Getting it Right: Disability Service Standards Policy

PWDA Staff Code of Conduct and Conflict of Interest Disclosure Statement

Complaints Resolution and Referral Service (CRRS) and National Disability Abuse and Neglect Hotline Policies and procedures 2009-2011, Section 5.6.2 “Action on urgent matters (Hotline and CRRS), ii) Child Abuse.

ATTACHMENT B

PWDA CHILD PROTECTION CODE OF CONDUCT

PWDA Staff and board members are responsible for maintaining professional boundaries when working with children, in order to protect everyone from harm and or abuse and neglect.

In relation to work conducted on behalf of PWDA, I will:

- treat children with respect regardless of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status
- not use drugs or alcohol in the presence of children
- not give gifts to children
- not engage in child labour
- not inappropriately touch children.
- not use language or behaviour towards children that is harassing, abusive, sexually provocative, demeaning or culturally inappropriate
- not engage in any sexual activity with children or access sexually exploitative materials through any medium
- wherever possible, ensure that another adult is present when working in the proximity of children
- not actively invite unaccompanied children into my home, unless they are at immediate risk of injury or in physical danger
- use any computers, mobile phones, or video and digital cameras appropriately,
- comply with all relevant Australian and local legislation,
- immediately report concerns or allegations of child abuse in accordance with appropriate procedures.

Name (please print) _____

Signature _____ Date _____

Name of witness (please print) _____

Signature _____ Date _____