

OPS-003 Child Protection Policy & Code of Conduct

Authorised by: Board
Applies to: PWDA Board and employees including volunteers and contractors.
Effective from: 17 December 2022
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Policy Owner: Director, People Quality and Systems

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Purpose

To set out:

- People with Disability Australia Ltd (PWDA)'s commitment to promoting and protecting the rights, interests and safety of children and young people.
- Our legal obligations regarding child protection.
- Roles and responsibilities of all at PWDA regarding child protection.
- How PWDA works to protect children and young people from exploitation and abuse.
- Guidance for all at PWDA on detecting, reporting and managing situations/allegations of child abuse, neglect and exploitation.

Scope

This policy applies to all PWDA Board members and employees, including contractors and volunteers.

This policy should be read together with PWDA's Privacy Policy and Whistleblower Policy.

Policy statement

PWDA is committed to promoting and protecting the rights, best interests and safety of children and young people.

We recognise the right of all children and young people to live free from violence, abuse, neglect and exploitation.

We recognise the importance of maintaining a child's sense of cultural identity and community connectedness as part of managing child protection.

We recognise the importance of a child's gender identity as part of managing child protection.

PWDA follows all relevant legislation, including Australian Commonwealth, state and territory laws, to prevent abuse and to handle allegations of abuse.

We follow our procedures to protect children and young people our representatives may come into contact with. The best interests of each child or young person are our main focus.

Our procedures also protect the representatives themselves from being placed in a vulnerable position due to contact with children.

PWDA has a zero-tolerance approach to child abuse. We will investigate any actual or suspected breaches of this policy by any of our representatives. We will report offenders to the relevant authorities. This may result in criminal proceedings.

PWDA may also treat breaches of this policy as 'gross misconduct' under the terms of an employee's contract of employment. We will take appropriate action which may be to immediately terminate their employment.

We may also take relevant action against other PWDA representatives, including for breach of contract and other actions open to us by law.

We treat all reports about child protection issues and allegations of child abuse confidentially.

Our Whistleblower Policy can provide protections for eligible people who raise concerns about child safety.

People who are alleged to have breached this policy are entitled to natural justice. We make sure we follow the correct procedures in a fair way.

PWDA makes sure that everyone associated with PWDA understands and shares our commitment to this principle. This includes Board members, employees, volunteers, contractors, organisational partners and other representatives. We do this through training and the PWDA Child Protection Code of Conduct. All PWDA Board members and employees must agree to the PWDA Child Protection Code of Conduct.

Guiding principles

PWDA Guiding Principles: as set out in our Strategic Directions.

UN Convention on the Rights of the Child (CRC). Article 19 includes 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.'

National Principles for Child Safe Organisations:

<https://childsafety.pmc.gov.au/what-we-do/national-principles-child-safe-organisations>

Good governance: PWDA follows the Australian Council for International Development (ACFID)'s Code of Conduct.

Quality Management: PWDA is guided by the National Disability Services Standards regarding rights, safety and service management.

Risk management: We work to prevent, identify and manage threats to child safety at PWDA through our policies, procedures, systems and Child Protection Code of Conduct.

Privacy: We treat all reports about child protection issues and allegations of child abuse confidentially.

Continuous Improvement: We use feedback on implementing this Child Protection Policy and Code of Conduct, any breaches of the policy, the outcomes of these and

feedback from people involved, to improve how we manage child protection at PWDA.

Definitions

Child, in line with the United Nations Convention on the Rights of the Child, a child means a person under the age of 18.

Child or Young person. Note: Definitions of 'child' and 'young person' vary depending on state and territory legislation, as follows:

ACT: Child means a person who is under 12 years old. Young person means a person who is 12 years old or older, but not yet an adult.

NSW: Child means a person who is under the age of 16 years. Young person means a person who is aged 16 years or above but who is under the age of 18 years.

NT: Child means a person less than 18 years of age, or a person apparently less than 18 years of age if the person's age cannot be proved. No definition for young person.

QLD: Child is an individual under 18 years. No definition for young person.

SA: Child or young person means a person who is under 18 years of age.

TAS: Child means a person under 18 years of age. Young person means a child who is 16 or 17 years old.

VIC: Child means a person less than 18 years of age, or a person apparently less than 18 years of age if the person's age cannot be proved. No definition for young person.

WA: Child means a person who is under 18 years of age, and in the absence of positive evidence as to age, means a person who is apparently under 18 years of age.

Child Protection: the safeguarding of children from violence, exploitation, abuse, and neglect.

Child abuse is any behaviour that harms a child. It can take many forms, including physical, sexual and emotional abuse, as well as neglect and exploitation.

Physical abuse is 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.

Sexual abuse is 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, grooming and similar behaviours.

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.

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.

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

Neglect is 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 essential for their physical and emotional development and well-being.

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.

Contact with Children/Working with children means working on an activity or in a position that involves or may involve contact with children. This could be either part of the job or because of the type of work environment. This includes indirect contact with children in the community. Anyone working with children must have a Working with Children Check. These checks are covered by state legislation and administered in each state and territory. You can find more information here: https://www.nationalcrimecheck.com.au/resources/working_with_children_checks_in_australia

Duty of Care is a common law concept that refers to the responsibility of the organisation to provide children and young people 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.

Board, employees and/or other representatives includes PWDA permanent, fixed-term and casual 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 is not limited to contractors, consultants, National Ambassadors, Young Ambassadors, media personnel and donors visiting PWDA.

Background Information

About Australian Child Protection laws

In Australia, state and territory governments are responsible for administering and operating child protection services. Each has their own child protection legislation that govern the way these services are provided. Table A, below, lists the main child protection acts in each Australian state and territory along with links to find further information.

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 and Young People (Safety) Act 2017</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

There is also Commonwealth legislation relating to child sex offences. 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.

As a national organisation with Board members and employees in several states, PWDA needs to make sure it complies with the relevant child protection legislation. While they differ, the child protection laws across Australia do share some key principles. For example, legislation across Australia identifies the best interests of the child as the primary principle. All legislation also includes the need to maintain a child's sense of cultural identity and community connectedness.

The National Framework for Protecting Australia's Children 2009 – 2020 is a cooperative document developed by the Coalition of Australian Governments (COAG). It aims to resolve the differences between states and territories and provide a shared national agenda for managing child protection issues. For example, making OPS-003 Child Protection Policy and Code of Conduct

Working with Children Checks uniform across Australia is a priority of the Framework.

The National Child Protection Principles is a set of principles endorsed by COAG in 2018. The Principles were drawn from the work of the 2013 Royal Commission into Institutional Responses to Child Sexual Abuse, Australia's Children's Commissioners and Guardians and the 2005 National Framework for Creating Safe Environments for Children. They take a child-rights approach to build capacity and to deliver child safety and wellbeing in organisations, families and communities.

The National Principles collectively show that a child safe organisation is one that creates a culture, adopts strategies and takes action to promote child wellbeing and prevent harm to children and young people. A child safe organisation consciously and systematically:

- Creates an environment where children's safety and wellbeing is the centre of thought, values and actions.
- Places emphasis on genuine engagement with and valuing of children
- Creates conditions that reduce the likelihood of harm to children and young people.
- Creates conditions that increase the likelihood of identifying any harm.
- Responds to any concerns, disclosures, allegations or suspicions of harm.

<https://humanrights.gov.au/sites/default/files/National%20Principles%20for%20Child%20Safe%20Organisations.pdf>

Roles and Responsibilities

PWDA Board has ultimate responsibility for preventing and detecting child abuse. They make sure there are appropriate and effective internal systems, policies, procedures and a Child Protection Code of Conduct in place.

The Board is responsible for managing reports of child abuse that relate to the CEO or a Board member. The Board is also responsible for any strategic actions regarding child protection situations.

CEO is responsible for:

- Making sure reports of child abuse are managed and investigated appropriately.
- Making sure everyone at PWDA is aware of relevant laws, policies and procedures and the PWDA Child Protection Code of Conduct. This includes their obligation to report suspected abuse.
- Supporting everyone at PWDA to undertake their child protection responsibilities.

- Reporting to the Board on child protection measures, incidents and allegations including on progress and outcomes.
- Reporting to the Board on any actions taken to improve child protection at PWDA, and any strategic recommendations.

Director People Quality and Systems is responsible for:

- Making sure all appropriate governance mechanisms are followed.
- Keeping secure records of all breaches of this policy and all allegations and incidences of child abuse.

Managers are responsible for:

- Promoting child safety and educating employees about preventing and detecting child abuse.
- Assessing, managing and minimising risk of child abuse as much as possible within their area of control. They should be familiar with the types of abuse that might occur within their area of responsibility and be alert for any signs of abuse.
- Supporting employees to assess and report inappropriate behaviour or suspected abusive activities using relevant government tools.

Everyone at PWDA has shared responsibility for preventing, detecting and reporting child abuse.

They should be familiar with relevant laws, policies and procedures and follow this Child Protection Policy and Code of Conduct.

Procedures

Training and development

When people start work at PWDA, they are told about the PWDA Child Protection Policy and procedures. All staff take part in induction training carried out by the Director People Quality and Systems or their direct manager. Board members take part in induction training run by the Senior Leadership Team. Induction includes information on key PWDA policies and procedures and a copy of the PWDA Child Protection Policy.

Human Resources/Recruitment

PWDA is very careful when we are recruiting, selecting and screening all staff to make sure they are suitable to work at PWDA. This includes if they

are suitable to work with children and young people. The PWDA Recruitment Policy and procedures contains detailed recruitment guidelines.

PWDA uses the following procedures to make sure we carry out the proper recruitment and screening regarding child protection:

Job Advertisements

PWDA states in all job advertisements and application forms, that people applying for the job must be legally entitled to work in Australia. This also includes that they may be required to undergo background checks including, but not limited to, national police checks and Working with Children Checks.

Interviews

If a job has been identified as a working with children role, the interview will include at least two questions about child protection. The Director People Quality and Systems is responsible for providing the Hiring Manager with the child protection questions.

Screening Process

Reference checks

The Director People Quality and Systems or Hiring Manager will conduct at least one work-based verbal reference check on each employee before sending them a written employment offer.

National Police Check and Working with Children Check

All PWDA employees and Board members must undergo a National Police Check and Working with Children Check. Working for PWDA depends on PWDA being satisfied that the person's National Police Certificate shows that they are suitable to work, represent or engage with PWDA.

If the National Police Certificate shows the person has committed an offence, the Director People Quality and Systems will tell the Chief Executive Officer. Together they are responsible for deciding whether the person is suitable to work, represent or engage with PWDA.

PWDA Police Checks must be renewed every 3 years while working at PWDA. Working with Children Checks must be renewed before their expiry date in line with the relevant state legislation.

All new Board members and employees receive a copy of this policy and must read, sign and return a copy of the PWDA Child Protection Code of Conduct.

Employment Contracts

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

Use of images and personal information

PWDA follows Commonwealth Privacy law regarding the use of images and personal information. The *Privacy Act 1988* (Cth) regulates the publication of images and other personal information that reveals the identity of a person or allows their identity to be determined. Under the *Privacy Act 1988* (Cth) section 6, "personal information" refers to:

"Information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion."

PWDA does not publish images of children that would enable them to be identified - for example, in a school uniform, outside their house, or showing their name. PWDA does not publish images or information without the consent of both the child and their parent or guardian regardless of whether or not images contain identifying information about the child or young person.

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.

When PWDA is educating staff on this policy, we explain how they should receive reports of abuse or respond to disclosure in ways which affirm and support child victims; making sure the best interests of the child is the first consideration.

The PWDA Employee Assistance Scheme provides support for staff involved in the process.

Australian child protection laws cover child abuse in Australia and overseas. PWDA will follow the relevant reporting process depending on the location.

Australia

PWDA employees or Board members must follow mandatory reporting procedures in the child protection jurisdiction in the state of the alleged abuse.

(See Table A). This applies if:

A PWDA employee or Board member witnesses, or suspects 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, or

If a PWDA employee or Board member becomes aware that a client has perpetrated or is at risk of perpetrating child abuse, they must immediately notify the Chief Executive Officer.

Overseas

Overseas-related child abuse is covered by Commonwealth legislation. PWDA will report 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.

If a PWDA employee or Board member suspects or becomes aware of any overseas-related child abuse by anyone at PWDA, they must immediately notify the Chief Executive Officer.

Managing a situation/allegation of child abuse.

PWDA staff who become aware that child abuse is/may be happening will follow this process:

1. Make sure the immediate environment is safe for the affected child/children and other children, and for staff.
2. Make sure the affected child or children are safely separated from the person or people that have allegedly caused harm.
3. Make sure all children are safe and supervised by multiple PWDA staff or delegated carers/guardians.
4. Once the affected child/children are in a safe space, reassure them that they are safe.
5. Explain clearly to the child, that the incident is not their fault.
6. Assure the child that some people do the wrong thing, and that the perpetrator is responsible for their actions.
7. Reassure the child they have done the right thing if they told someone about the incident.
8. 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. Note: Except where the parent/guardian is the alleged perpetrator.

9. Explain that the incident reporting process is confidential. Explain, in simple terms, what confidentiality means. Use Plain English, child-friendly language and practical examples that relate to reporting an incident.
10. Ask the child whether they would like a parent/guardian or support person or friend to be present while PWDA documents the incident.
11. Decide who needs to be informed about the incident. Parents and guardians should always be advised as a priority regarding every incident that is documented.
12. Decide whether a matter should be referred to the police or to child protection authorities. To do this, consider the seriousness of the issue and whether a crime may have been committed. **By law, all physical assaults of children involving adults and, all alleged child sexual abuse must be reported to the police immediately.** The most senior staff member onsite will do this.
13. Decide whether emergency medical care, a medical examination or health support is required. Seek medical attention for the child if required which may include first aid, ambulance or medical practitioner. If a child is taken offsite the PWDA staffer should accompany the child to the doctor, hospital, police station etc.
14. 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.
15. Immediately and *confidentially* advise the most senior staff member onsite.
16. Immediately and *confidentially* advise the Director, People Quality and Systems, or a Child Protection Officer.
17. 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 and/or physical assault, only record minimal information and let police conduct further questioning.

Record keeping procedures

PWDA keeps records of all breaches of this policy and all allegations and incidences of child abuse.

The Director People Quality and Systems saves records to a secure drive that only they and the CEO can access.

Related documents

Relevant legislation, regulations and standards

- State and Territory Child Protection laws
- National Child Protection Principles

- Privacy Act
- National Disability Services Standards
- ACNC Standards

Relevant PWDA Policy

- Board Code of Conduct and Ethics
- Staff Code of Conduct and Ethics
- Preventing Sexual Exploitation, Abuse and Harassment Policy
- Privacy Policy
- Incident Reporting and Management Policy
- Whistleblower Policy
- Performance Management Policy
- Individual Advocacy Policies and Procedures
- Getting it Right: Disability Service Standards Policy (may be replaced/have different name)
- Risk Management Plan
- Continuous Improvement Plan

Supporting documents

Attachment A: PDWA Child Protection Incident Report Form

Attachment B: PWDA Child Protection Code of Conduct

Resources

National Child Protection Principles: <https://childsafety.pmc.gov.au/what-we-do/national-principles-child-safe-organisations>

CFCA Resource Sheet: [What is Child Abuse and Neglect?](#).

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 A: PWDA Child Protection Incident Report Form

Name of reporting staff/volunteer or other	
Name of Senior Staff member on site	
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: _____

Confidentiality

Confidentiality is crucial to a fair and effective reporting procedure. PWDA will handle reports of alleged abuse and neglect in a confidential manner, respecting the privacy of all parties. Confidentiality will only be broken in cases where reporting is mandatory. Penalties can apply for breaches of confidentiality. Conversations about

reports always occur in a private and confidential space and all Incident Reports are securely stored.

Investigation of complaints involving a staff or board member

PWDA will carry out Internal investigations using a confidential, thorough, impartial and prompt process. The Senior Leadership team will manage this process. 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 being conducted, the staff or board member will be prevented from carrying out duties that involve contact (direct or indirect) with children or other vulnerable people.

Attachment B: PWDA Child Protection Code of Conduct

All Board members and employees, including volunteers and contractors, are responsible for the safety and wellbeing of children and young people who engage with PWDA. All at PWDA are expected to follow this Code of Conduct in their physical and online interactions with children and young people under the age of 18 years.

Please read and sign this document.

In my work with PWDA,

I will:

- Follow PWDA's child safety and wellbeing policies and procedures at all times,
- Demonstrate appropriate personal and professional boundaries,
- Behave respectfully, courteously and ethically towards children and their families and towards other staff,
- Consider and respect the diverse backgrounds and needs of children,
- Treat children with respect regardless of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, gender, gender identity, birth or other status
- Use any computers, mobile phones, or video and digital cameras appropriately,
- Comply with all relevant Australian and local legislation,
- Wherever possible, ensure that another adult is present when I am working with or around children,
- Listen and respond to the views and concerns of children, particularly if they communicate (verbally or non-verbally) that they do not feel safe or well,
- Promote the human rights, safety and wellbeing of all children in my work at PWDA,
- Create an environment that promotes and enables children's participation and is welcoming, culturally safe and inclusive for all children and their families,
- Involve children in making decisions about activities, policies and processes that concern them wherever possible,
- Contribute, where appropriate, to PWDA's policies, discussions, learning and reviews about child safety and wellbeing,
- Identify and mitigate risks to children's safety and wellbeing as required by PWDA's risk assessment and management policy or process,
- Respond to any concerns or complaints of child harm or abuse promptly and in line with PWDA's policy and procedure for receiving and responding to complaints,
- Report all suspected or disclosed child harm or abuse as required by legislation and by PWDA's policy and procedure,
- Comply with PWDA's protocols on communicating with children,

- Comply with relevant legislation and PWDA's policies and procedures on record keeping and information sharing.

I will not:

- Engage in any unlawful activity with or in relation to a child,
- Engage in any activity that is likely to physically, sexually or emotionally harm a child,
- Give gifts to children,
- Engage in child labour,
- Inappropriately touch children,
- Unlawfully discriminate against any child or their family members,
- Be alone with a child unnecessarily,
- Arrange personal contact, including online contact, with children I am working with for a purpose unrelated to PWDA's activities,
- Disclose personal or sensitive information about a child, including images of a child, unless the child and their parent or legal guardian consent or unless I am required to do so by PWDA's policy and procedure on reporting,
- Use inappropriate language such as foul swearing in the presence of children or show or provide children with access to inappropriate images or material. Inappropriate includes swearing and images or material that is sexualised, exploitative or violent,
- Use language or behaviour towards children that is harassing, abusive, sexually provocative, demeaning or culturally inappropriate,
- Actively invite unaccompanied children into my home, unless they are at immediate risk of injury or in physical danger,
- Work with children while under the influence of alcohol or prohibited drugs,
- Access sexually exploitative materials through any medium,
- Ignore or disregard any suspected or disclosed child harm or abuse.

If I think another person in PWDA has breached this Code of Conduct I will:

- Act in the best interests of children,
- Take actions promptly to ensure that children are safe,
- Immediately report concerns or allegations of child abuse, following appropriate procedures,
- Promptly report any concerns to my manager, Director People Quality and Systems, or the Chief Executive Officer,
- Follow PWDA's policies and procedures for receiving and responding to complaints and concerns,
- Comply with legislative requirements on reporting if relevant and comply with PWDA's policy and procedure on reporting.

- I agree to abide by this Code of Conduct during my employment or other role with PWDA.

I understand that breaches of this Code of Conduct may lead to disciplinary action or termination of my employment or other role with PWDA.

Name (please print) _____

Signature _____ Date _____

Name of witness (please print) _____

Signature _____ Date _____