
Name:	Person at Risk Policy and Procedures
Endorsed by:	Continuous Improvement and Management Committee
Date approved:	August 2020
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PURPOSE

Benchmark College is committed to protect students and those at risk of harm (e.g. children, older people and or those with a disability) from abuse. We acknowledge that both staff and students come into contact with persons at risk through training, assessment and work practicum, and acknowledge that a duty of care exists to minimise potential risk and advocate accordingly.

This policy provides Benchmark College staff, students and other representatives a tool to assist in complying with the College's legal, moral and ethical responsibility to protect people at risk and take appropriate actions where required.

SCOPE

The Persons at Risk policy and procedure is applicable to all Benchmark College staff, management, students and contractors. Variations in implementation may occur between states and territories as a result of different underpinning legislative requirements.

RELEVANT STANDARDS, GUIDELINES, ACTS OR REGULATIONS

This Person at Risk Policy and Procedures addresses certain aspects of the Australian Skills Quality Authority (ASQA) "Fit and Proper Person Requirements" as well as Clause 7.1 and Schedule 3 from the Standards for Registered Training Organisations (RTOs) 2015.

ADDITIONAL REQUIREMENTS

Working With Children Check (WWCC)¹

A Working With Children Check is a requirement for people who work or volunteer in child-related work. It involves a national criminal history check and a review of findings of workplace misconduct.

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.

The Working With Children Check is fully portable so it can be used for any paid or unpaid child-related work in NSW for as long as the worker remains cleared.

Police Check

All staff (including volunteers) working in aged care homes who have supervised or unsupervised access to care recipients must obtain a police check called a 'police certificate'. All volunteers that are likely to have unsupervised access to care recipients must obtain a police check².

¹ <https://www.kidsguardian.nsw.gov.au/child-safe-organisations/working-with-children-check>

² <https://www.myagedcare.gov.au/legal-information/police-checks-aged-care-workers>

RELATED DOCUMENTS

- Fit and Proper Person Requirements declaration
- Staff Induction Policy
- Staff Induction Handbook
- Student Handbook
- Position Description
- Contract for Services
- Employee Checklist
- Staff Resume and Professional Development Portfolio

RELEVANT LEGISLATION

Due to the nature of the services we provide in delivering training nationally the following legislation outlined in Table 1 is used to inform policy and procedure.

Table 1: Legislation and Jurisdiction

Jurisdiction	Principal Act	Other relevant Acts/Legislation
Australian Capital Territory (Office for Children, Youth and Family Support, Department of Disability, Housing and Community Services) www.legislation.act.gov.au	<i>Children and Young People Act 2008 (ACT)</i> (NOTE: Not all provisions are in force)	<i>Adoption Act 1993 (ACT)</i> <i>Human Rights Act 2004 (ACT)</i> <i>Human Rights Commission Act 2005 (ACT)</i> <i>Public Advocate Act 2005 (ACT)</i> <i>Family Law Act 1975 (Cth)</i>
New South Wales (Department of Community Services) www.legislation.nsw.gov.au	<i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i>	<i>Children and Young Persons (Care and Protection) Amendment (Parental Responsibility Contracts) Act 2006 (NSW)</i> <i>Child Protection (Offenders Registration) Act 2000 (NSW)</i> <i>Crimes Act 1900 (NSW)</i> <i>Commission for Children and Young People Act 1998 (NSW)</i> <i>The Ombudsman Act 1974 (NSW)</i> <i>Family Law Act 1975 (Cth)</i>
Northern Territory (Children, Youth and Families, Department of Health and Families) http://www.austlii.edu.au/au/legis/nt/num_act/capoca200737o2007315/	<i>Care and Protection of Children Act 2007 (NT)</i>	<i>Information Act 2006 (NT)</i> <i>Disability Services Act 2004 (NT)</i> <i>Criminal Code Act 2006 (NT)</i> <i>Family Law Act 1975 (Cth)</i>
Queensland (Department of Communities) www.legislation.qld.gov.au	<i>Child Protection Act 1999 (QLD)</i>	<i>Commission for Children and Young People and Child Guardian Act 2000 (Qld)</i> <i>Education (General Provisions) Act 2006 (Qld)</i> <i>Public Health Act 2005 (Qld)</i> <i>Adoption of Children Act 1964 (Qld)</i> <i>Family Law Act 1975 (Cth)</i>

<p>South Australia (Families SA; Department for Families and Communities) www.legislation.sa.gov.au</p>	<p><i>Children’s Protection Act 1993 (SA)</i></p>	<p><i>Young Offenders Act 1994 (SA)</i> <i>Adoption Act 1988 (SA)</i> <i>Children’s Protection Regulations 2006 (SA)</i> <i>Family Law Act 1975 (Cth)</i> <i>Family and Community Services Act 1972 (SA)</i></p>
<p>Tasmania (Child Protection Services, Department of Health and Human Services) www.thelaw.tas.gov.au</p>	<p><i>Children, Young Persons and their Families Act 1997 (TAS)</i></p>	<p><i>The Family Violence Act 2004 (Tas)</i> <i>Family Law Act 1975 (Cth)</i></p>
<p>Victoria (Children Protection and Juvenile Justice Branch; Department of Human Services) www.legislation.vic.gov.au</p>	<p><i>Children, Youth and Families Act 2005 (VIC)</i></p>	<p><i>Working with Children Act 2005 (Vic)</i> <i>Child Wellbeing and Safety Act 2005 (Vic)</i> <i>The Charter of Human Rights and Responsibilities Act 2006 (Vic)</i> <i>Family Law Act 1975 (Cth)</i></p>
<p>Western Australia (Department for Child Protection) www.slp.wa.gov.au/statutes/wans.nsf</p>	<p><i>Children and Community Services Act 2004 (WA)</i></p>	<p><i>Working with Children (Criminal Record Checking) Act 2004 (WA)</i> <i>Family Court Act 1997 (WA)</i> <i>Adoption Act 1994 (WA)</i> <i>Family Law Act 1975 (Cth)</i></p>

DEFINITIONS (Source: Office of the Children’s Guardian, NSW)

Person at risk	Child, Older Person, Person with a Disability
Child	A person who is under the age of 18
WWCC	Working with Children Check which looks for relevant offences that indicate unsuitability to work with children. (State-based checks). These are called a “Clearance Notice” or “Ochre Card” in Northern Territory and a “Blue Card” in Queensland.
Police Check	Screening undertaken by the Australian Federal Police identifying all criminal offences a person may have committed.
Negative Notice	A prohibition to engage in child related work even when directly supervised.
Sexual Offence	<p>The term ‘sexual offence’ encompasses all criminal offences involving a sexual element that is ‘committed against, with or in the presence of a child’. All cases involving a sexual offence would also involve sexual misconduct. These offences include (but are not limited to) the following;</p> <ul style="list-style-type: none"> ▪ Indecent assault ▪ Sexual assault ▪ Aggravated sexual assault ▪ Sexual intercourse and attempted sexual intercourse ▪ Possession/ dissemination/ production of child pornography or child abuse material ▪ Using children to produce pornography ▪ Grooming or procuring children under the age of 16 years for unlawful sexual activity ▪ Deemed non-consensual sexual activity on the basis of special care relationships.
Sexual Misconduct	<p>The term ‘sexual misconduct’ includes conduct that does not necessarily equate to a criminal offence (for example, criminal proceedings may not have been commenced or preceded to a finding of guilt by a court). For sexual misconduct to be reportable to the Office of the Children's Guardian, the alleged conduct must have been committed against, with or in the presence of a child.</p> <p>There are three categories of sexual misconduct in addition to sexual offences;</p> <ul style="list-style-type: none"> • Crossing professional boundaries • Sexually explicit comments and other overtly sexual behaviour • Grooming behaviour <p><i>Crossing professional boundaries</i> Sexual misconduct includes behaviour that can reasonably be construed as involving an inappropriate and overly personal or intimate;</p> <ul style="list-style-type: none"> • relationship with • conduct towards or • focus on; a child or young person, or a group of children or young persons

<p>Grooming Behaviour</p>	<p>Grooming or procuring a child under the age of 16 years for unlawful sexual activity is a sexual offence. However, Schedule 1(2) of the Act also recognises grooming as a form of sexual misconduct. As grooming is a sexual offence if the alleged victim is under 16 years old, caution should be exercised before reaching a grooming finding (particularly in cases where the behaviour is directed towards a child under 16 years). As an alternative to grooming, in many cases it will be more appropriate to consider whether there has been a 'crossing of professional boundaries' (see above) and/or other more overt sexual behaviour. Furthermore, behaviour should only be seen as 'grooming' where there is evidence of a pattern of conduct that is consistent with grooming the alleged victim for sexual activity, and that there is no other reasonable explanation for it.</p> <p>The types of behaviours that may lead to such a conclusion include (but are not limited to) the following:</p> <ul style="list-style-type: none"> • Persuading a child or group of children that they have a 'special' relationship, for example by; <ul style="list-style-type: none"> ○ Spending inappropriate special time with a child ○ Inappropriately giving gifts ○ Inappropriately showing special favours to them but not other children ○ Inappropriately allowing the child to overstep rules ○ Asking the child to keep this relationship to themselves. • Testing boundaries, for example by; <ul style="list-style-type: none"> ○ Undressing in front of a child ○ Encouraging inappropriate physical contact (even where it is not overtly sexual) ○ Talking about sex ○ 'accidental' intimate touching • Inappropriately extending a relationship outside of work (except where it may be appropriate - for example where there was a pre-existing friendship with the child's family or as part of normal social interactions in the community). • Inappropriate personal communication (including emails, telephone calls, text messaging, social media and web forums) that explores sexual feelings or intimate personal feelings with a child. • An adult requesting that a child keep any aspect of their relationship secret or using tactics to keep any aspect of the relationship secret, would generally increase the likelihood that grooming is occurring.
<p>Sexually explicit comments and other overtly sexual behaviour</p>	<p>Sexual misconduct includes a broad range of sexualised behaviour with or towards children. While it is not possible to provide a complete and definitive list of unacceptable sexual conduct involving children, the following types of behaviour give strong guidance:</p> <ul style="list-style-type: none"> • sexualised behaviour with or towards a child (including sexual exhibitionism) • inappropriate conversations of a sexual nature • comments that express a desire to act in a sexual manner • unwarranted and inappropriate touching involving a child • personal correspondence and communications (including emails, social media and web forums) with a child or young person in relation to the adult's romantic, intimate or sexual feelings for a child or young person • exposure of children and young people to sexual behaviour of others including display of pornography • watching children undress in circumstances where supervision is not required, and it is clearly inappropriate.

POLICY/PROCEDURE

At Benchmark College we acknowledge that both staff and students come into contact with persons at risk through training/assessment and work practicum and acknowledge that a duty of care exists to minimise potential risk.

Our routine screening processes are supported by effective staff complaint management, investigation, disciplinary and reporting systems.

Staff recruitment and screening

As part of the recruitment and selection process and the ongoing conditions of employment, any person convicted of a sex offence is not permitted to either work or seek work in a position within the College (refer to the Benchmark College Staff Induction Policy) where that person's duties potentially involve direct contact with persons at risk and where that contact is unsupervised. Confirmation of the employment offer and commencement in the position is conditional upon receipt of a successful assessment notice or Working With Children Check.

Benchmark College ensures that all staff members or potential staff members comply with the appropriate screening requirements relevant to the State or Territory in which they work; through submission of a 'Working With Children Check' and/or 'Police Check'.

Whilst all Training and Assessment staff are required to undertake a Working with Children Check only those teaching Individual support (Aged Care) are required (in addition to their Working with Children Check) to undertake a Police Check.

If a staff member does not pass a check, they may make representations to their relevant State authority to explain why they should pass. If a staff member has been issued with a 'Negative Notice' they cannot undertake child related work. In such an event, Benchmark College will not offer opinions or advice and will immediately terminate employment.

Results of Working With Children Checks and Police Checks are stored in the personnel file of each employee.

Where staff are visiting organisations that have People at Risk (e.g. Early Childhood Services, Residential Care Facilities or Disability Services) Benchmark College ensures that staff current: Working With Children Checks (for Early Childhood trainers) or Police Checks (for Aged Care trainers).

Student screening

Students undertaking qualifications in areas such as early childhood education and aged care are required to undertake screening requirements as per the legislation/regulation requirements of each State.

All students who are completing a qualification related to aged care and are undertaking work practicum as part of their course requirements are required to complete a Police Check. Prior to application students are informed that if their check indicates previous offenses they may not be able to attend work practicum and complete course requirements.

All students completing an early childhood education and care qualification and who are undertaking work practicum as part of their course requirements are required to undertake a Working With Children Check at course commencement.

Child care centres accepting students on work experience are provided with a copy of the student's Working With Children Check.

Results of Working With Children Checks and Police Checks are stored in the students file. All results from checks are kept confidential and are not disclosed to another party without the student's written permission.

Preparing students for Work Practicum

Prior to work practicum, units of competency that relate to the identification of abuse and the required reporting of concern are scheduled. This enables students to recognise signs and symptoms of abuse and report/escalate accordingly.

Persons at Risk Protection - Behavioural Guidelines

Benchmark College staff, contractors and students;

- Treat every person with dignity and respect regardless of individual differences
- Conduct themselves in a manner consistent with their position as a representative of Benchmark College
- Listen to a person at risk, take their concerns seriously and allow them to have a say in the decisions that affect them
- Immediately raise any concerns for the safety or wellbeing of a person at risk in accordance with standard reporting procedures
- Where applicable avoid being alone with children and ensure that other adults are present when working around children.
- Avoid any activity which may be interpreted as 'grooming behaviour'.

Benchmark College staff do not:

- Use prejudice, oppressive behaviour or language with a person at risk
- Discriminate on the basis of age, gender, race, culture, vulnerability or sexuality
- Initiate unnecessary physical contact with a person at risk or do things of a personal nature that the person at risk can do for themselves
- Develop 'special' relationships with specific a person at risk for their own needs
- Show favouritism through the provision of gifts or inappropriate attention

Child Protection Procedures

In some jurisdictions, but not all, it is a legal requirement for Benchmark College representatives to report child abuse or victimisation if it is observed or suspected. The following procedure and guidelines are to be applied.

How to recognise abuse in children³

The following are the general indicators of child abuse and neglect that may be observed. It should be noted that the presence of one or more of these indicators does not by itself prove child abuse, but it may alert you to the possibility of child abuse.

- A child or young person tells you that he or she is being abused or hurt
- You notice sudden or unexplained changes in mood or behaviour of a child or young person
- You notice frequent or unexplained bruises or injuries on a child or young person
- You see a child or young person with low self-esteem
- You see a child or young person with poor hygiene
- You notice that a child or young person becomes withdrawn or unresponsive
- You notice a child or young person with a lot of exaggerated fears
- You notice that a child or young person seems to lack trust in familiar adults

³ www.stopchildabuse.com.au

- You notice that a child or young person has serious difficulties relating to peers and/or adult
- You see a child or young person who is always angry or aggressive
- You find out that a child or young person has difficulty sleeping and experiences nightmare
- You notice a child or young person experience a change in eating patterns

Initial response procedure (when child abuse is suspected)⁴

Anyone who has reasonable grounds to suspect a child or young person is at risk of significant harm and has current concerns about the safety, welfare or wellbeing of the child or your person should make a report⁵.

- Make notes - record what you observe. Date and sign the entry.
- Speak to the supervisor or person in charge about what you have observed. If you are a student, also advise your trainer/assessor. Gain an acknowledgement that your concerns have been taken seriously and record their response (e.g. diary note, email, etc). Follow-up with the supervisor or child care representative no longer than 24 hours later to monitor how your concerns have been dealt with. Be aware that any records must be kept in confidence.
- Each organisation/centre will have its own policies and reporting procedures – you should be familiar with these documents.
- If not satisfied with the organisation's response, consult your colleagues and get support and advice from your trainer/assessor or other persons in authority. Compare notes and brainstorm possible strategies.
- Develop action plans based on procedures - familiarise yourself with the legislative procedures and processes within the relevant jurisdiction and follow these accordingly.
- If you need further advice, contact the Child Protection Helpline in your state (these numbers are listed on the last page of this document).

Reporting procedure⁶

Call the appropriate child protection authorities. The child protection worker will ask you for certain information, including:

- Details - the child's or young person's name, age and where you encounter them
- Indicators of harm - the reason for believing that the injury or behaviour is the result of abuse or neglect
- Reason for reporting - the reason why the call is being made now
- Safety assessment - assessment of immediate danger to the child or children
- Description - description of the injury or behaviour observed
- Child's whereabouts - the current whereabouts of the child or young person if known
- Cultural characteristics - any specific cultural or other details which will help to care for the child - for example, Aboriginality, interpreter or disability needs

⁴ http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/child_abuse_reporting_procedures?opendocument

⁵ Child Wellbeing & Child Protection: NSW Interagency Guidelines

⁶ Ibid.

Please note - a notification should still be made, even if you don't have all the information listed above.

Reporting Procedure for suspected abuse for People at Risk

- Place the interests of the person first
- Make notes - record what you observe. Date and sign the entry
- Students speak to the Workplace Supervisor or Trainer/Assessor
- Staff – contact the CEO
- Raise your concern with the Service Provider
- Report using the relevant documentation
- Gain an acknowledgement that your concerns have been taken seriously and record their response
- If not satisfied with the Service representative's response, consult your colleagues and get support and advice from supervisors. Compare notes and brainstorm possible strategies
- Older people – The Aged Care Complaints Scheme, the State Guardianship and Administration Board or the ombudsman to discuss concerns
- Disability – contact the Complaints Resolution and Referral Service or the ombudsman to discuss concerns.

Important Contacts

- Child Protection Helpline: New South Wales - T: 132 111
- For information about Early Childhood Education services - investigation, feedback and complaints, go to <https://education.nsw.gov.au/early-childhood-education/investigation-feedback-and-complaints>
- If the complaint is about licensing or compliance, contact:
 - Early Childhood Education Directorate
Information and enquiries team
1800 619 113 (toll free)
ececd@det.nsw.edu.au
- Aged Care Complaints Commissioner T: 1800 550 552
- Complaints Resolution Referral Service: <http://www.crrs.net.au/> -T: 1800 880 052

Other Resources / Sources of Information

- Australian Childhood Foundation: www.childhood.org.au
- Kids Helpline: www.kidshelp.com.au
- Australian Institute of Family Studies: www.aifs.gov.au
- National Association for Prevention of Child Abuse and Neglect (NAPCAN): www.napcan.org.au
- Stop Child Abuse: www.stopchildabusenow.com.au
- My aged care <https://www.myagedcare.gov.au/financial-and-legal/protecting-consumer-rights> and <https://www.myagedcare.gov.au/quality-and-complaints/advocacy-services>