

Child Safety and Wellbeing

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I Purpose

- This policy outlines the professional and legal responsibilities, including mandatory requirements of all Department of Health workers (including employees, contractors, students and volunteers) who must, whether directly or indirectly involved with children and young people, contribute to a child safe culture where children and young people feel safe and are safe, and are able to actively participate in the health decisions that affect their lives.
- This policy reinforces the commitment of the Department of Health (the Department) to embed the *National Principles for Child Safe Organisations (National Principles)* and the *Tasmanian Child and Youth Safe Standards (the Standards)* in the *Tasmanian Child and Youth Safe Organisations Act 2023*. It supports the implementation of the Department's *Child Safety and Wellbeing Framework (the Framework)* and describes the Department's commitment to promote and safeguard the wellbeing of children and young people and the actions required to protect them from harm.

Background

- The Department is committed to implementing the Framework which embeds the ten National Principles and The Standards ([Appendix A](#)). The Standards are legally mandated through the *Tasmanian Child and Youth Safe Organisations Act*.
- The Standards encompass all the National Principles and include the Universal Principle which ensures that the right to cultural safety of children who identify as Aboriginal or Torres Strait Islander, is respected at all times.
- The Standards create a benchmark for organisations that engage with children and young people. They promote safety and wellbeing and contribute to the prevention of abuse and harm of children and young people by embedding strategies in day-to-day practice.
- The Standards require that the child and young person be provided with adequate information and explanation in a manner that they can understand and should be provided with the opportunities and assistance to express their views freely.

2 Mandatory Requirements

- This policy is informed by and must be read and implemented parallel to the national and best-practice standards, regulatory, legislative, and statutory requirements, including but not limited to those mentioned throughout this Policy.
- This is a Department of Health Statewide policy and must not be re-interpreted so that subordinate policies exist. Should discrete operational differences exist, these should be expressed in the form of an operating procedure or protocol.
- **Failure to comply with this Policy**, without providing a good reason for doing so, may lead to disciplinary action.

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Legal and Professional Requirements

The legal and professional requirements of health services and health workers are detailed in the following legislation and documents:

- **The Child and Youth Safe Organisations Act** establishes *The Standards* for the safety and wellbeing of children and young people in Tasmania. It also provides mandatory responsibilities for certain entities, including the Department of Health, in relation to *The Standards* and establishes a The Reportable Conduct Scheme (RCS) that aims to enhance oversight of agencies' investigations into workers' conduct.
- **The Children, Young Persons and their Families Act 1997 (The Act)** provides for the care and protection of children and young people. It establishes the importance of protecting the best interests of children and young people by respecting and facilitating the role of family and caregivers to provide care and support to children and young people. Promoting, empowering, supporting and encouraging children, young people and their families/caregivers to express their views freely and participate in decisions affecting them, accounting for the child/young person's maturity and understanding.
- **The United Nations Convention on the Rights of the Child 1989 (The Convention)** emphasises the right of each child to be involved and to participate in decision-making on matters that affect their interests. The Department is committed to ensuring that all children and young people have their rights respected without discrimination and to be consistent with the cultural, ethnic and religious values and traditions relevant to them.
- **The Australian Charter of Healthcare Rights and the Charter on the Rights of Children and Young People in Healthcare Services** specify the importance of promoting the rights of children and young people, patients and consumers using Healthcare Services in Australia to access, safety, respect, partnership, information, privacy and feedback.

Informed Consent for Children and Young People

Under the *Family Law Act 1975*, each parent of a child or young person aged under 18 years has parental responsibility for that child or young person, unless a court has ordered otherwise. All Department of Health workers have a duty to ensure that informed consent is obtained prior to undertaking any medical treatment or examination of a child or young person under the age of 18 years.

Consent to medical treatment of a patient younger than 18 years of age may be provided by either the:

- patient (must be assessed as having capacity to fully understand the treatment, risks and wider consequences)
- parent or legal guardian
- court
- other agencies (The Act) states that in such circumstances whereby a child or young person is in the custody of the Secretary under Section 21 of The Act, the child or young person may have their health examined or assessed without the consent of the child's guardian).

- Department of Health workers must check and document in the medical record that adults presenting with children have parental responsibility and are able to consent to the child's medical treatment, unless emergency treatment is required, and it is not possible to obtain consent beforehand.
- Consent to medical treatment for children or young people are defined under the Act as Assessment Orders (s 22) or Care and Protection Orders (s 42) and must be clarified and documented in the medical record.
- For further information refer to the Clinical Informed Consent Statewide Policy P2010/0769-001

Mandatory Reporting of child abuse, harm or neglect

Under The Act, people who are legally obliged to report child abuse, harm or neglect are called 'mandatory reporters' or 'prescribed persons'.

- **All** Department of Health workers (including employees, contractors, students and volunteers) are mandatory reporters. It is the worker's legal obligation under the Act that if they believe, suspect or know that a **child or young person** is at risk of or has been, or is being abused or neglected, to report their concern as soon as possible.
 - If a child or young person is at **immediate risk of harm**, you must call 000 to access emergency medical and/or Tasmania Police Assistance.
 - You must report all concerns to Strong Families, Safe Kids, Advice and Referral Line (ARL) by calling ARL on 1800 000 123.
 - If you believe or suspect historic or existing harm or abuse, you must also notify the Police Assistance Line 131 444.
- All Department of Health workers, under The Act, have a responsibility to report their concerns about **unborn children**. Specifically, if a worker has a suspicion or a belief that an unborn child, once born, is:
 - reasonably likely to suffer abuse and/or neglect, or
 - is reasonably likely to require medical treatment or other intervention as a result of the behaviour of the birth parent, or another person (with whom the woman resides or is likely to reside),
 - they have a legal responsibility to report concerns to ARL.
- **All** Department of Health workers have a duty to protect children and young people who are affected within the meaning of the *Family Violence Act 2004* (Tas). If a worker believes, suspects or knows that a child is being abused or is an affected child within the meaning of the *Family Violence Act 2004* (Tas) the worker has a responsibility to report concerns as soon as possible to Strong Families, Safe Kids, Advice and Referral Line (ARL) on 1800 000 123 and Police Assistance Line on 131 444.
- Abuse, harm or neglect means:
 - sexual abuse
 - grooming
 - physical or emotional injury or other abuse, or neglect to the extent that:

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- the injured, abused or neglected person has suffered, or is likely to suffer, physical or psychological harm detrimental to the persons wellbeing or their physical and/or psychological development is at risk.
- For detailed descriptions see the statewide [Recognising the signs of harm to children and young people](#) practice guidance.
- It is an offence under Section 91 of The Act to intentionally fail to take action to protect a child or young person from harm.
- The Act protects the reporter’s identity from disclosure and, if the report is made in good faith, the reporter cannot be liable in any civil, criminal or administrative proceeding.
- It is also an offence under Section 105A of *The Criminal Code Act 1924 (Tas)* to fail to report to a police officer, without reasonable excuse, if you have reasonable belief that abuse, or harm has been committed against a child or young person.

Other reporting requirements

- If a Department of Health worker has concerns about the behaviour of another employee, volunteer, student or contractor or delivery of services in a child safe way, there are several reporting requirements. These include:
 - Using the Department of Health ‘Reporting Concerns of Inappropriate Behaviour’ online form [Reporting Concerns of Inappropriate Behaviour Form \(health.tas.gov.au\)](#)
 - Submitting a report via the Department’s Safety Reporting and Learning System (SRLS) - Child Safeguarding Event Type. This may include concerns relating to behaviour and language, respect and inclusion, interactions and relationships, physical interactions, privacy and confidentiality, sexual misconduct, staffing, facilities and environment.
 - Notification to the Australian Health Practitioner Regulation Agency (AHPRA) if there are concerns about a Department of Health worker, who is a registered health practitioner, behaving in a way that could present a significant risk to staff, patients or other members of the public.
 - Notification to the Registration to Work with Vulnerable People (RWVP) Risk Assessment Team (Risk.Assessment@justice.tas.gov.au), if there are concerns about another Department of Health worker behaving in a way that could present a risk to children or vulnerable members of the public.

The Statewide Complaints Management Oversight Unit (SCMOU) can also be contacted directly via doh.complaints@health.tas.gov.au to discuss any concerns around reporting requirements.

The Reportable Conduct Scheme

- The Reportable Conduct Scheme (RCS), established by the *Child and Youth Safe Organisations Act 2023*, aims to enhance oversight of agencies’ investigations into workers’ conduct. Reportable conduct is defined as criminal and non-criminal behaviour relating to child abuse and includes:
 - significant emotional or psychological harm
 - significant neglect
 - physical violence

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- a sexual offence
 - sexual misconduct
 - grooming
 - relevant offences such as failing to report child abuse and female genital mutilation
- As required under the RCS, SCMOU will report to the Independent Regulator within 3 days when concerns about a worker's conduct relating to child abuse are raised and commence an investigation. The Department (SCMOU) must share information about the investigation and report its outcomes to the Independent Regulator within set timeframes.

Mandatory Safeguarding Training

- **All** Department of Health workers (staff, volunteers, contractors and students) have a responsibility to safeguard and promote the wellbeing of children and young people, including how to recognise safeguarding concerns and respond to them.
- **All** Department of Health workers (staff, volunteers, contractors and students) are required to complete mandatory training in safeguarding children and young people on commencement and then annually.

3 Responsibilities

The commitment to child safety and wellbeing is an obligation of both the individual and the organisation and is a shared responsibility throughout all levels of the organisation.

All workers have a responsibility to:

- protect the rights, safety and wellbeing of children and young people and contribute to a culture of child safety and wellbeing.
- act in accordance with their legal obligations and relevant statutory directions, and the Department's child safe policies, safeguarding training, frameworks, guidelines, and procedures.

Managers have a responsibility to:

- Monitor staff compliance with the Department's child safe policies, safeguarding training, frameworks, guidelines and procedures and ensure action appropriate to the individual circumstance is taken to address non-compliance.

Statewide Complaints Management Oversight Unit (SCMOU) have a responsibility to:

- Provide oversight and guidance for monitoring and managing statewide complaints within the Department

Executive and Senior Leaders have a responsibility to:

- champion a child safe culture through modelling and reinforcing behaviour that encourages the respectful and positive engagement of the Department's staff with children, young people, their families, and caregivers.

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- monitor departmental compliance with the Departments child safe policies, safeguarding training, frameworks, guidelines and procedures.

Child Safety and Wellbeing Service has a responsibility to:

- support the implementation of *the Framework* across the Department.

The Delegated Authority and Custodian have a responsibility to:

- monitor and review this policy.

Other specific roles and responsibilities are named in the Department's other child safe policies, protocols, frameworks, guidelines, and procedures.

4 Risk Implications

- All DoH Statewide risks will be treated in accordance with the DoH Risk Management Framework.
- Non-compliance with this Policy may constitute a breach of employment or contractual obligations, misconduct, harassment, discrimination, or some other contravention of the law.

5 Training

- This is an approved Department of Health statewide policy that describes the principles that all workers must adhere, to promote and safeguard the safety and wellbeing of all children and young people.
- The Department is required to make all workers aware of and comply with the requirements of this Policy and ensure that workers receive Department of Health approved training, guidance, and support so that they can meet these requirements.
- The Department will actively promote the dissemination of information about child safe practice to all workers and work in collaboration with services to provide resources to support child safety and wellbeing in practice in accordance with the *National Principles* and *The Standards*.

6 Legislation

- *Child and Youth Safe Organisation Act 2023*. Available at: <https://www.legislation.tas.gov.au/view/pdf/asmade/act-2023-006>
- *Children, Young Persons and their Families Act 1997*. Available at: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1997-028>
- *Civil Liability Act 2002 (Tas)*. Available at: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2002-054>
- *Commissioner for Children and Young People Act 2016 (Tas)*. Available at: <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-2016-002> [Convention on the Rights of the Child. UNICEF Australia. Available at: Convention on the Rights of the Child | OHCHR](#)

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- *Criminal Code Act 1924*. Available at: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1924-069>
- *Family Law Act 1975*. Available at: [Federal Register of Legislation - Family Law Act 1975](#)
- *Family Violence Act 2004*. Available at: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2004-067>
- *State Service Act 2000*. Available at: <https://www.legislation.tas.gov.au/view/whole/html/inforce/current/act-2000-085>
- *Status of Children Act 1974 (Tas)*. Available at: <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1974-036>

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7 Related Documents

- [Australian Charter of Healthcare Rights.](#)
- [Charter on The Rights of Children and Young People in Healthcare Services in Australia:](#)
- [Child and Youth Safe Standards | carcru \(justice.tas.gov.au\)](#)
- [Child Safety and Wellbeing: Disclosures of Harm to Children and Young People. DoH Practice Guidance.](#)
- [Child Safety and Wellbeing: Recognising the Signs of Harm to Children and Young People. DoH Practice Guidance.](#)
- [Child Safety and Wellbeing Framework. Tasmanian DoH.](#)
- Clinical Informed Consent - DoH Statewide Policy – 20240207. Available at: [Strategic Document Management System \(health.local\)](#)
- [Enterprise Risk Management Statewide Policy.](#)
- [It Takes a Tasmanian Village](#) (Child and Youth Wellbeing Strategy)
- [National Principles for Child Safe Organisations.](#)
- [Royal Commission into Institutional Responses to Child Sexual Abuse](#)
- [Statewide Complaints Management Framework \(health.tas.gov.au\)](#)
- [Support Person Statewide Policy.](#)
- [Tasmanian Child and Youth Wellbeing Framework](#)
- [United Nations Convention on the Rights of the Child](#)
- *World Health Organisation (WHO)* [Child maltreatment \(who.int\)](#)

8 Appendices

- I National Principles for Child Safe Organisations

Appendix I – National Principles for Child Safe Organisations

The National Principles reflect ten child safe standards recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse. The National Principles were developed in 2017-2018 through a consultation process that included Australian governments, national peak bodies from sectors that work with children and young people, national advocacy and research organisations, and children and young people.

The National Principles have a broader scope that goes beyond child sexual abuse to cover other forms of potential harm to children and young people.

The principles aim to provide a nationally consistent approach to creating organisational cultures that foster child safety and wellbeing. They are underpinned by a child rights, strengths-based approach and are designed to allow for flexibility in implementation across all sectors engaging with children and young people, and in organisations of various sizes.

The National Principles are:

- 1 Child safety and wellbeing is embedded in organisational leadership, governance and culture.
- 2 Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.
- 3 Families and communities are informed and involved in promoting child safety and wellbeing.
- 4 Equity is upheld and diverse needs respected in policy and practice.
- 5 People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.
- 6 Processes to respond to complaints and concerns are child focused.
- 7 Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.
- 8 Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.
- 9 Implementation of the national child safe principles is regularly reviewed and improved.
- 10 Policies and procedures document how the organisation is safe for children and young people.

Child and Youth Safe Standards

Royal Assent was given to the Tasmanian Child and Youth Safe Organisation Act in July 2023. This Act establishes the Child and Youth Safe Organisation Framework and the Child and Youth Safe Standards for the safety and wellbeing of children and young people in Tasmania.

The *Standards* create a benchmark for organisations that engage with children and young people. They promote safety and wellbeing and contribute to the prevention of abuse and harm of children and young people by embedding strategies in day-to-day practice.

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The Child and Youth Safe Standards are:

Standard 1: Child safety and wellbeing is embedded in organisational leadership, governance and culture.

This means all people in the organisation care about children and young people's safety and wellbeing above everything else, and make sure they act that way and lead others to act that way.

Standard 2: Children and young people are informed about their rights, participate in decisions affecting them and are taken seriously.

This means children and young people are told about their human rights, have a say in decisions and are taken seriously.

Standard 3: Families and communities are informed and involved in promoting child safety and wellbeing.

This means families and communities know about and are involved in the organisation's child and safety and wellbeing activities.

Standard 4: Equity is upheld and diverse needs respected in policy and practice.

This means the rights of every child and young person are being met, and children and young people are treated with dignity, respect and fairness.

Standard 5: People working with children and young people are suitable and supported to reflect child safety and wellbeing values in practice.

This means people working with children and young people are safe to work with children and young people and respectful of them. They are taught how to keep children safe and well.

Standard 6: Processes to respond to complaints and concerns are child focused.

This means children, young people, families, staff and volunteers are listened to and can share problems and concerns.

Standard 7: Staff and volunteers are equipped with the knowledge, skills and awareness to keep children and young people safe through ongoing education and training.

This means staff and volunteers keep learning all the time so they know how to keep children and young people safe and well.

Standard 8: Physical and online environments promote safety and wellbeing while minimising the opportunity for children and young people to be harmed.

This means children and young people are safe in online and physical spaces.

Standard 9: Implementation of the Child and Youth Safe Standards is regularly reviewed and improved.

This means the organisation keeps reviewing and improving its child safety and wellbeing practices.

Standard 10: Policies and procedures document how the organisation is safe for children and young people.

This means organisation writes down how it keeps children and young people safe and well and makes sure that everyone can see these documents.

The Universal Principle. In putting all ten Standards into practice, organisations must also give effect to the *Universal Principle* for Aboriginal Cultural Safety. The *Universal Principle* ensures that in complying with the Child and Youth Safe Standards, an organisation must provide an environment that ensures that the right to cultural safety of children who identify as Aboriginal or Torres Strait Islander, is respected at all times.

The Tasmanian *Child and Youth Safe Standards* encompass all the requirements of the *National Principles for Child Safe Organisations*.