

Growing Early Minds Child Protection and Mandatory Reporting Guidelines

1. GUIDELINE STATEMENT:

- 1.1. These guidelines should be read together with the Growing Early Minds Child Protection and Mandatory Reporting Procedure.
- 1.2. GEM is committed to providing an environment fostering health, development, self-respect and dignity, free from violence, intimidation and exploitation. *The Children and Young Persons (Care and Protection) Act 1998* provides that children and young people must receive the care and protection required to ensure their safety, welfare and wellbeing.
- 1.3. **All GEM staff are Mandatory Reporters**, and are therefore required to report to the **Child Protection Helpline: 132 111** where on reasonable grounds it is suspected a child or young person is at harm of significant risk and have current concerns about the safety, welfare or wellbeing of a child or young person where the concerns arise during or from their work.
- 1.4. We are committed to ensuring all educators and staff have a full understanding of their responsibilities as a Mandatory Reporter and are supported in fulfilling these.

2. SCOPE:

- 2.1. These guidelines apply to all children, families and carers, visitor, managers and staff of the GEM service, including those staff employed on a permanent, casual or contractual basis and volunteers.

3. RELEVANT LEGISLATION:

3.1 These child protection and mandatory guidelines will adhere to the listed legislative instruments:

- *Child Protection (Working with Children) Act 2012*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Education Act 1990*
- *National Standards for Disability Services*
- *National Disability Insurance Scheme Act 2013*
- *National Disability Insurance Scheme (Provider Registration and Practice Standards) Rules 2018*
- *National Disability Insurance Scheme (Quality Indicators) Guidelines 2018*

- *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018*

Related Information Sources:

- Child Protection Helpline – 132 111
- ChildStory Reporter: NSW Mandatory Reporting Guide and ChildStory Reporter: Mandatory Reporter Guide Decision Tree (<https://reporter.childstory.nsw.gov.au/s/mrg>)

4. DEFINITIONS:

- **Abuse:** Includes any form of physical, sexual and emotional abuse, and neglect
- **At Risk of significant harm (ROSH):** Refers to circumstances which staff believe on reasonable grounds that there is potential for psychological or physical harm that may be inflicted upon a child that may cause negative consequences to the young person’s safety, welfare or wellbeing that is not considered to be trivial or minor.¹
- **Carer:** An individual who provides personal care, support and assistance to another individual who needs it because that other individual is a person with a disability.²
- **GPL:** Growing Potential
- **Incident:** An event or circumstance that occurred as a result of providing supports or services to a person with a disability resulting or could have resulted in unintended and/or unnecessary harm to a person including loss or damage.³
- **Investigation:** A generic term to describe a fact-finding process.⁴
- **Key Personnel:** Those responsible for executive decisions and any other person who has authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the registered provide.⁵ For GEM, the ‘Key Personnel’ is the Senior Operations Manager (SOM), if not available, the Executive General Manager.
- **Mandatory Child Protection Report:** A report made by a mandatory reporter to Family & Community Services via the Child Protection Helpline

¹ *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 23.

² ‘National Disability Insurance Scheme Act’, (Cth Department of Social Security, 17 July 2013) s 9.

³ *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) s 9.

⁴ ‘NDIS Quality and Safeguards Commission: Reportable Incidents Guidance’, Version 1, 2018.

⁵ ‘National Disability Insurance Scheme Act’.

- **Mandatory Reporter:** A person who is bound by a legal obligation to report instances of child abuse and mistreatment under the *Children and Young Persons (Care and Protection) Act 1998 (the Care Act)*.
- **Mandatory Reporting:** Applies to a person who in the course of their professional work or other paid employment delivers health care, welfare, education, children’s services wholly or partly to children.⁶
- **Mandatory Reporting Decision Tree:** An web-based tool on the [ChildStory](#) Reporter website that assists Mandatory Reporters in deciding whether they should make a Mandatory Report.⁷
- **Mistreatment:** Includes any form of non-accidental behaviour toward a child that presents a substantial risk of harm to the physical and/or emotional wellbeing of that child.
- **NDIS Commission Incident Report:** A report made to the National Disability Insurance Scheme Quality & Safeguard Commission regarding an NDIS Commission Reportable Incident
- **Participant:** A person becomes a *NDIS participant* on the day the NDIA decides that the person meets the access criteria.⁸
- **Reasonable grounds:** Refers to circumstances where a ‘reasonable person’ would determine that there is sufficient evidence that a risk of significant harm to a child exists. This means that the evidence is not trivial, or minor. **Suspicions do not need to be confirmed to make a report.**
- **Reportable Incident:** Two requirements must be satisfied for an incident to be deemed reportable:
 1. An incident is considered reportable where an act or failure to act occurs as described in s 73Z(4) of the *NDIS Act* and s 16 of the *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018 (the Rules)*. Those acts or omissions include, but are not limited to; the death, serious injury, abuse or neglect, unlawful sexual or physical contact with, sexual grooming behaviour or the unauthorised use of restrictive practice in relation to a person a person with a disability.
 2. The incident must have occurred or alleged to have occurred in connection with the provision of supports or services by GEM as a registered NDIS provider.

Where contact with or impact on the person with a disability is negligible, that incident is NOT classified

⁶ *Children and Young Persons (Care and Protection) Act 1998* (NSW) s 27.

⁷ <https://reporter.childstory.nsw.gov.au/s/mrg>

⁸ ‘National Disability Insurance Scheme Act’, (Cth Department of Social Security, 17 July 2013).

a 'Reportable Incident'.⁹

- **SOM:** Senior Operations Manager
- **Sufficient evidence:**
 - May be based on:
 - First hand observation of the child or family
 - Disclosure by the child, parent or other person connected with the family directly to the staff member

5. MANDATORY REQUIREMENTS FOR CHILD-RELATED WORK:

- 5.1. All GEM employees must not engage in work unless they hold a current children's check clearance and criminal record check
- 5.2. Employees must not engage in child-related work at any time if subject to an interim bar order.¹⁰
- 5.3. GEM is responsible for verifying and recording clearance details.¹¹

6. MANDATORY REPORTING:

6.1. GEM Staff:

6.1.1. Must ensure the immediate safety and wellbeing of the participant

6.1.2. In an emergency, where there are urgent concerns for a child's health or life, it is important to contact the police on **000**.

6.1.3. All GEM staff and clinicians are mandatory reporters and must fulfil mandatory reporting requirements as regulated by the *Children and Young Persons (Care and Protection) Act 1998* (the *Care Act*).¹² Additionally, mandatory reporters are guided by the *NSW Mandatory Reporter Guide*.¹³

6.1.4. Will answer the questions relating to concerns about the child or young person in the [Mandatory Reporting Guide](#) (MRG).¹⁴ On completion, a decision report will be generated and a guide regarding action to be taken. The Nominated Supervisor will provide assistance in using this tool.

6.1.5. If the MRG determines that grounds exist to suspect a risk of significant harm to a child or young person, the staff member will notify the Nominated Supervisor and call the **Child Protection Helpline: 132 111**.

⁹ *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) s 16(2).

¹⁰ *Child Protection (Working with Children) Act 2012* (NSW) s 8(2).

¹¹ *Ibid* ss 9-9A.

¹² *Children and Young Persons (Care and Protection) Act 1998* (NSW).

¹³ <https://reporter.childstory.nsw.gov.au/s/mrg>

¹⁴ <https://reporter.childstory.nsw.gov.au/s/mrg>

- 6.1.6.** If the criteria are not met for the risk of significant harm threshold, as determined by the MRG; a report to the **Child Protection Helpline** is unnecessary. However, the staff member is still required to discuss the matter with the Nominated Supervisor to determine if any further assistance can be provided to the child or family.
- 6.1.7.** Staff are record each concern in the child’s Echidna file; the report generated from the MRG must also be attached to the Echidna file and retained as evidence.
- 6.1.8.** If the Mandatory Reporter guide determines the child is **NOT** at Risk of Significant Harm, but concerns remain, the staff member can contact the **Child Protection Helpline: 132 111** for advice.

6.2. The SOM or Nominated Supervisor will:

- 6.2.1.** Provide all staff working directly with children with a copy of these Child Protection Guidelines and direct them to the MRG, [ChildStory](#) website.
- 6.2.2.** In the interests of timely reporting, the **Child Protection Helpline number: 132 111** will be displayed on all telephone lists.
- 6.2.3.** Report to the NDIS Commission if the Is incident or allegation is deemed reportable.¹⁵ Failure to notify is a breach of a GEM’s conditions of registration and may lead to compliance and enforcement action by the NDIS Commission.¹⁶
- 6.2.4.** Ensure confidentiality is maintained at all times and that systems are in place to deal with any breaches of confidentiality

6.3. DISCLOSURES OF ABUSE TO A GEM staff member; GEM staff will:

- React calmly to the child making the disclosure;
- Listen attentively and later note what the child has said;
- Provide comfort and care to the child.
 - Reassure the child or young person that: It is not their fault;
 - It was right to tell;
 - It is not OK for adults to harm children – no matter what;
 - Explain what will happen now – that it is part of your job to tell people who can help the child or young person.
 - Follow the steps for reporting as per the Mandatory Reporter Guide.

¹⁵ *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) s 18.

¹⁶ 'National Disability Insurance Scheme Act', (Cth Department of Social Security, 17 July 2013).

- GEM staff members will not prompt the child for further details or ask leading questions which would make the child feel uncomfortable or has the potential to jeopardise any future legal proceedings that may arise as a result of any investigation.
- A GEM staff member's role is to support the wellbeing of the child, not to investigate disclosures made by the child

6.4 If allegations of ABUSE AGAINST A GEM STAFF MEMBER:

6.4.1 The SOM will report to a Senior Manager at GPL but will provide a framework to

- Develop and maintain a system of appropriate record keeping for all allegations to ensure detailed documentation is made and stored as required
- Take all allegations of abuse seriously and clarify what is being alleged with the person who is making the allegation;
- Assess whether or not a child or young person is 'at risk of significant harm' and, if so, make a report to the **Child Protection Helpline: 132 111**
- Determine whether the allegation is reportable
- If the child is a NDIS Participant, reportable allegations are to be reported to both the NDIS Commission and Commission for Children and Young People. In the case of a FFS client, a report will be submitted to the Commission for Children and Young People.
- Report to police where applicable
- Ensure confidentiality is maintained at all times and that systems are in place to deal with any breaches of confidentiality
- Undertake a risk management approach following an allegation to ensure the protection and safety of children, staff and visitors to the service. Based on this risk assessment, a decision will be made to manage the risks that have been identified

6.4.1 Investigation

- The SOM will develop a plan and arrange for investigation of the allegation.
- The delegated investigator will obtain relevant information from a range of sources: this may include a statement from the complainant, statements from witnesses and a statement from the person against whom the allegation has been made, as well as any other relevant documentation
 - **Police investigations take priority** and GEM will be guided by their advice as to whether the allegation should be investigated further

- The information that has been gathered will be assessed and a finding made as to whether the allegation is false, vexatious, misconceived, is not reportable conduct, or not sustained. The reasons for the finding will be clearly recorded to ensure transparent decision-making
- The staff member will be notified of the outcome in writing. Advice will be provided about the investigation finding and any follow up action that may be required. Advice will also be provided about any rights of appeal and the person will be advised that the NDIS Commission and/or the Commission for Children and Young People

6.5 Rights of all parties:

- Throughout the investigation, the decision-making process will be based on the safety and wellbeing of all involved: child, staff member, carer and household members.
- Consideration will be taken in relation to actual or potential 'conflicts of interest' that may be held by the investigator
- All reportable allegations will be reported to the NDIS Commission and Commission for Children and Young People, as relevant. The person against whom the allegation has been raised, will be notified of this, subject to police advice where the police are involved. The person will also be informed of the outcome of the investigation and the follow-up action;
- The person, against whom the allegation has been made, will be notified of any appeal mechanisms if they are not satisfied with the investigation process or the outcome of the investigation;
- Whomever conducts the investigation, will ensure that they act without bias, without delay and without conflict of interest.

7. GENERALLY:

7.1 Growing Early Minds staff will provide the participant or carer with information regarding any investigations in to alleged or actual incidents/reportable incidents

7.2 In the event of an incident, Growing Early Minds will provide any persons with disability who are affected by the incident with the opportunity to provide feedback on any investigations, complaints handling, and/or corrective actions proposed or undertaken by Growing Early Minds

8. RECORD KEEPING

Once the SOM becomes aware that a reportable incident has occurred in connection with the provision of support or services, GEM must keep a record of the incident.¹⁷ The record must be kept for 7 years from the day of notification of the reportable incident.¹⁸

9. APPROVALS:

Executive Approval:

Executive Name	Position	Signature	Date of Approval
Dylan Reynolds	Executive General Manager		

Review History

Procedure Review Date	Modifications	Next Scheduled Review Date
June 2019	Procedure Created	June 2020

¹⁷ *National Disability Insurance Scheme (Incident Management and Reportable Incidents) Rules 2018* (Cth) ss 12(4) and 25(1).

¹⁸ *Ibid* s 25(2).