



# Child Safe Complaints Handling Procedure

*March 2024*

Authorised by	Authorisation date	Effective date	Next Review

# Table of Contents

<b>1</b>	<b>Purpose.....</b>	<b>3</b>
<b>2</b>	<b>Scope .....</b>	<b>3</b>
<b>3</b>	<b>Terms and Definitions .....</b>	<b>3</b>
<b>4</b>	<b>Complaint Reporting Procedures .....</b>	<b>5</b>
4.1	Child Safety Complaints .....	5
4.2	Concerns about a Vulnerable Adult .....	5
<b>5</b>	<b>Child Safe Complaints Process .....</b>	<b>5</b>
5.1	Stages of the Complaints Process .....	5
5.2	Receiving Complaints .....	5
5.3	Responding to child-initiated complaints .....	6
5.4	Responding to adult-initiated complaints.....	6
5.5	Reporting child safety complaints .....	7
5.6	Investigate .....	7
5.7	Risk Evaluation and Safety Measures .....	7
5.8	Disciplinary Action.....	8
5.9	Debrief.....	8
5.10	Support and Protection for Affected Parties .....	9
<b>6</b>	<b>Additional Considerations .....</b>	<b>9</b>
<b>7</b>	<b>Related Policies and Procedures .....</b>	<b>10</b>
<b>8</b>	<b>Relevant Legislation .....</b>	<b>10</b>
	<b>Appendix A – Child Safe Complaints Flowchart.....</b>	<b>11</b>
	<b>Appendix B – Safeguarding Incident Report Form .....</b>	<b>13</b>
	<b>Appendix C – Child Safe Legal Obligations .....</b>	<b>16</b>
1.	Australian Capital Territory .....	17
2.	New South Wales .....	19
3.	Queensland.....	21
4.	Tasmania .....	23
5.	Victoria .....	25
6.	Western Australia .....	27
	<b>Appendix D – Vulnerable Adults Reporting Procedure.....</b>	<b>28</b>

# 1 Purpose

The *Child Safe Complaints Handling Procedure* (this Procedure) supports the implementation of AEPL's *Child Safe Policy*. This Procedure outlines AEPL's approach to responding, reporting, investigating and recording complaints relating to children and vulnerable adults.

AEPL is committed to supporting an open complaints culture, where individuals feel safe to raise concerns or make a report relating to the safety of children and vulnerable adults. AEPL takes all safeguarding complaints seriously and will aim to respond to them promptly, thoroughly and fairly.

# 2 Scope

This Procedure applies to Officers, Study Centre Managers, Leaders, Helpers, contractors, and sub-contractors engaged by AEPL to deliver services to children.

This Procedure extends to all aspects of educational activities and programs of AEPL, including those delivered in the physical and online environments.

# 3 Terms and Definitions

For the purposes of this Procedure:

**Table 1: Terms and Definitions**

<b>Term</b>	<b>Meaning</b>
<b>AEPL</b>	Association for Educational Projects Limited.
<b>CALD</b>	Culturally and Linguistically Diverse.
<b>Centre</b>	Refers to a study centre established by AEPL in which its educational activities are conducted.
<b>Child</b>	A person under the age of 18 years, unless under the law applicable to the child, majority is attained earlier.
<b>Child abuse</b>	Refers to acts or omissions (neglect) that result in, or have the likelihood to result in, harm to a child. The forms of child abuse are sexual abuse, emotional abuse, neglect, physical abuse, and exposure to family violence.
<b>Child grooming</b>	Child grooming is a form of sexual abuse. It refers to actions deliberately undertaken with the aim of befriending and establishing an emotional connection with a child, to lower the child's inhibitions in preparation for sexual activity.
<b>Child Safety Officer (CSO)</b>	Refers to the individual appointed by AEPL who is responsible for matters relating to child safety, including the management of child safety complaints.
<b>Complainant</b>	Refers to the person who is making a complaint.
<b>Emotional abuse/ psychological abuse</b>	Refers to inappropriate verbal or symbolic acts by an adult towards a child and/or a pattern of failure over time to provide a child with adequate non-physical nurturing and emotional availability.

<b>Exposure to family violence</b>	Refers to any form of abusive behaviour by a person towards another family member. The abuse can be physical, sexual, emotional, psychological, economical, threatening or coercive type behaviour. It is also a form of abuse when a child is exposed to, hears or witnesses any of the effects of the abusive behaviours.
<b>Helper</b>	A person less than 18 years old invited to help from time to time in a particular activity at a Centre.
<b>Leader</b>	An adult who has an ongoing role in the provision of services in a Centre.
<b>Neglect</b>	Refers to the failure to provide a child with conditions that are culturally accepted as being essential for their physical and emotional development and wellbeing, such as food, clothing, shelter, hygiene, medical attention, or adequate supervision. Neglectful behaviours are an act of omission, or by wilful choice.
<b>Officer</b>	Has the same meaning given by the <i>Corporations Act 2001</i> (Cth) and includes a director or secretary of AEPL.
<b>Physical abuse</b>	Refers to the use of deliberate physical force against a child that intentionally or unintentionally results in, or has the likelihood of resulting, in harm.
<b>Staff</b>	Refers to an individual at AEPL in a paid position. This may include Study Centre Managers.
<b>Study Centre Manager</b>	A person appointed by AEPL to direct activities at a Centre.
<b>Volunteer</b>	Refers to an unpaid employee of AEPL. This includes AEPL Officers, Leaders and Helpers, and may include Study Centre Managers. It also includes other individuals engaged by AEPL on a voluntary basis.
<b>Vulnerable Adult</b>	Refers to an individual aged 18 years and above who is, or may be, unable to take care of themselves, or is unable to protect themselves against harm or exploitation by reason of age, illness, cultural background, literacy levels, trauma or disability, or any other reason. <sup>1</sup>
<b>Working with Children Check (WWCC)</b>	Refers to the legislative requirement for individuals to obtain a WWCC (or equivalent) as applicable in any relevant State or Territory.

<sup>1</sup> Australian Charities and Not-for-profits Commission, *Governance Toolkit: Safeguarding Vulnerable People*, <https://www.acnc.gov.au/tools/topic-guides/vulnerable-people>.

## 4 Complaint Reporting Procedures

### 4.1 Child Safety Complaints

When responding to child safety complaints, staff and volunteers are expected to adhere to the steps outlined in the Procedure. The Centres should also refer to the:

- **Appendix A** - Complaint Handling Flowchart and Procedure
- **Appendix B** – Safeguarding Incident Report Form
- **Appendix C** – Child Safe Legal Obligations
  1. Australian Capital Territory
  2. New South Wales
  3. Queensland
  4. Tasmania
  5. Victoria
  6. Western Australia

### 4.2 Concerns about a Vulnerable Adult

When responding to concerns or complaints that involve a vulnerable adult, staff and volunteers should refer to:

- **Appendix B** – Safeguarding Incident Report Form
- **Appendix D** – Vulnerable Adults Reporting Procedure.

## 5 Child Safe Complaints Process

### 5.1 Stages of the Complaints Process

The complaints process involves the following five stages:

1. Receive
2. Respond
3. Report
4. Investigate
5. Debrief.

### 5.2 Receiving Complaints

A child safety complaint may include the following:

- A **suspicion** that child abuse may be occurring, or that a child may be at risk of abuse.
- A **concern** that has been raised about a child's safety or wellbeing.
- An **allegation** that has been made against an individual regarding their behaviour towards a child.
- A **disclosure** of abuse made by a child, or an adult on behalf of a child.
- A **breach** of AEPL's *Child Safe Policy*, *Child Safe Code of Conduct*, or supporting procedures.

After receiving a complaint, staff and volunteers should:

- Immediately contact the CSO and/or the Study Centre Manager for support and guidance on how to respond. If there is a conflict of interest, contact an AEPL Officer.
- Identify whether the complaint was initiated by a child or an adult (making a complaint on behalf of the child). An adult may include a parent/guardian, staff, volunteer, or another adult.
- Determine the most suitable approach to take when responding to the complaint (*refer to Sections 5.3. and 5.4.*).

### **5.3 Responding to child-initiated complaints**

When responding to a child who is making a complaint, the following process should be followed:

5.3.1. Listen to a child who is making a disclosure, ensure that you:

- Allow the child to use their own words
- Consider whether the child's parent/guardian should be present
- Remain calm, patient, and supportive.
- Ensure the environment is safe, comfortable, and respectful of the child's right to privacy.
- Do not ask suggestive or leading questions
- Do not interrogate the child. You should avoid asking too many questions that may overwhelm them
- Ask the child if the person is still present and if they can describe the person (*if the alleged incident happened on-site*). If the abuse happened at home, ask the child to provide more detailed information.

5.3.2. Reassure the child that:

- They have done the right thing by speaking up
- What has happened is not their fault, and validate their feelings
- You believe them and you are taking their concern seriously.

5.3.3. Respect the child and ensure that you:

- Allow the child to take their time to disclose information
- Explain what the next steps will be (using age-appropriate language)
- Avoid making promises that you cannot keep, for example that you will not tell anyone what they have just told you
- Explain that you may need to tell someone else to keep them safe
- Ask the child what kind of support they would like from you, the Centre and/or AEPL.

### **5.4 Responding to adult-initiated complaints**

When responding to an adult who is initiating a child safety complaint on behalf of a child, staff and volunteers should, if the child is present, adopt the LISTEN, REASSURE, and RESPECT process as outlined at *Section 5.3*.

If the affected child is not present at the time an adult-initiated complaint is made, AEPL should identify the following factors during the complaints process:

- Whether the child is aware that the complaint has been raised on their behalf.
- The nature of any communication between the complainant and the affected child.
- How involved the affected child would like to be in the complaints process.
- When to contact the child or their parent/guardian.
- How much information to provide the child about the next steps in the process.
- The level of engagement of the parent/guardian in the complaints process.

## **5.5 Reporting child safety complaints**

When dealing with child safety complaints, staff and volunteers should address the reporting requirements outlined in the Complaints Handling Flowchart and supporting procedure provided at **Appendix A**.

## **5.6 Investigate**

Prior to commencing an internal investigation, AEPL communicates with the relevant external authority (if the complaint was reported). This is to ensure that AEPL does not compromise or interfere with any criminal or child protection investigations.

During the investigation phase, the CSO, the Safeguarding Committee and AEPL Officers will provide assistance to, and co-operate with, Police and child protection authorities (as required).

The CSO is responsible for initiating AEPL's internal investigation process. The CSO (in consultation with the Safeguarding Committee and Officers) ensures the following during the investigation phase:

- Immediate risks to a child's safety are addressed
- Any affected child is offered continuous support, including having access to a support person at all times
- The investigation is planned, fair, proportionate and thorough with findings supported by the available evidence
- Principles of procedural fairness are adhered to
- All information and evidence collected is managed securely, with access only by persons approved by the CSO and AEPL Officers
- Affected parties are kept informed with relevant information throughout the process
- The investigation process, findings and outcome are documented clearly in an investigation report.

## **5.7 Risk Evaluation and Safety Measures**

When a child safety complaint is made, the CSO evaluates the level of risk a reported individual poses to children at AEPL.

After the level of risk and type of allegation is determined, the CSO and the Safeguarding Committee will ensure appropriate actions are implemented at the Centres to protect the safety of the child and other children at AEPL. Actions may include, but are not limited to:

- Immediate removal and/or ban of the alleged perpetrator from AEPL premises
- Removal of the individual from having any direct contact with children
- Restrictions against an individual e.g. removal from rostered duties or attendance at child-related activities
- Increased supervision of the individual
- Provision of ongoing monitoring of and support for the affected child
- Delivery of additional training to the staff member or volunteer.

A decision to implement a safety measure following a risk evaluation will not influence the final outcome of a child safety complaint. Until the investigation is complete and a determination is made, any action, such as the reassignment of a staff member or volunteer to alternate duties, should not be seen as an indication that the alleged conduct by the staff member or volunteer occurred.

## **5.8 Disciplinary Action**

After the required reporting steps are complete, AEPL may take the following disciplinary action:

- If the subject of the complaint is a staff member or volunteer, AEPL may:
  - Remove and/or ban the individual from AEPL premises
  - Suspend the individual or terminate their involvement with AEPL.
- If the subject of the complaint is a contractor or sub-contractor, AEPL will take appropriate disciplinary action in accordance with the particular circumstances.
- If the subject of the complaint is a parent, guardian, another child, or other person associated with AEPL, the following actions may be taken:
  - Immediate removal from AEPL premises
  - Temporary or permanent ban from AEPL premises.

## **5.9 Debrief**

At the conclusion of the complaints process, the CSO will debrief the affected parties on the final outcome and reasons for the decision.

- The affected child and their parent/guardian:
  - Follow up with the child and/or their parent/guardian and inform them of the outcome and resolution.
  - If appropriate, connect the child and/or their parent/guardian with support services.
  - Document all communications.
- The subject of the complaint:
  - Debrief with the subject of the complaint and inform them of the outcome and resolution.
  - Provide referrals to external agencies for additional and ongoing support such as counselling services (if required).
  - Document all communications.



- AEPL staff and volunteers:
  - Debrief with affected staff/volunteers and offer counselling services if required
  - Debrief all relevant staff/volunteers and provide relevant information
  - Document all communications.
- External Authorities:
  - AEPL may also be required to communicate with the external bodies including the Police, government bodies, or child protection authorities.

## 5.10 Support and Protection for Affected Parties

The CSO informs parents/guardians of the progress and actions taken throughout a complaint process. AEPL will also inform the affected child (where appropriate).

The CSO, the Study Centre Manager and/or AEPL Officer provides support to a child, or any other person who makes a complaint. Support may include assistance with the reporting process and pastoral and/or professional counselling.

AEPL will not penalise anyone who makes a complaint in the best interest of the child. Individuals are entitled to the protections outlined in State/Territory legislation applicable to the Centre (*refer to **Appendix C***).

## 6 Additional Considerations

### 6.1. Confidentiality and Information Sharing

AEPL keeps information relating to complaints confidential, to the extent permitted by law. All personal information obtained throughout the complaints process is recorded, stored, and managed in accordance with relevant privacy laws.

AEPL may be required to share information about incidents or complaints with external authorities (Police and/or child protection authorities) to comply with the law. AEPL may share relevant information obtained through a complaints process:

- To promote the safety of children, where it is appropriate and in their best interests.
- When required to do so in accordance with directions from external authorities
- To ensure relevant parties are kept appropriately informed throughout the complaints process.

### 6.2. Record Keeping

AEPL keeps complete and accurate physical and/or digital records of all serious child abuse matters for a period of **40 years**. All other documents are retained for a minimum of **7 years**. For further guidance, refer to AEPL's *Child Safe Policy*.

### 6.3. Referral and Support Services

The table below provides referral and support services.

**Table 2: National referral and support services**

<b>Kids Helpline</b>	Free 24/7, support and advice for children and young people aged 5 to 25 years.	<b>1800 55 1800</b>
<b>Lifeline</b>	Provides all Australians access to crisis support and suicide prevention services.	<b>13 11 14</b>
<b>1800 RESPECT</b>	Support if you, or someone you know, is experiencing sexual assault or domestic and family violence (all ages).	<b>1800 737 732</b>

## 7 Related Policies and Procedures

This Procedure should be read in conjunction with the following related documents:

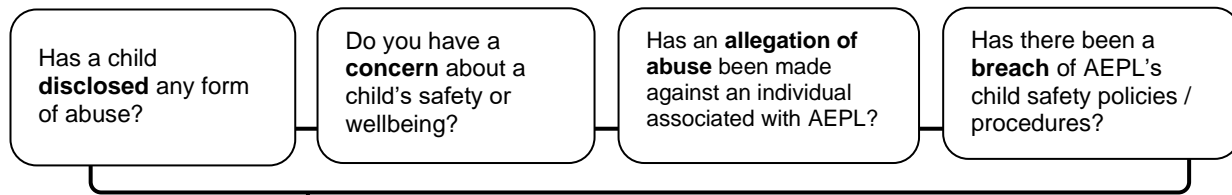
- *Child Safe Policy*
- *Child Safe Code of Conduct*
- *Child Safe Recruitment Procedure*
- *Child Safe Risk Management Procedure*

## 8 Relevant Legislation

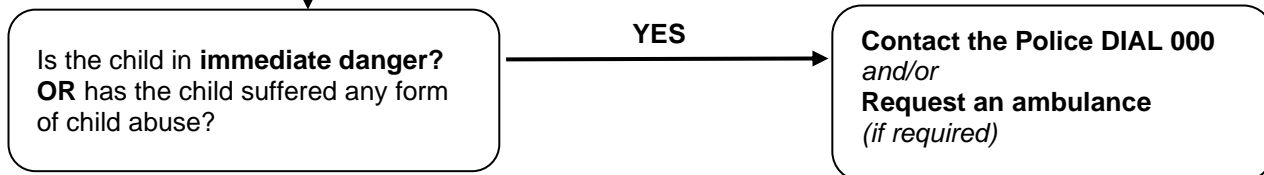
- *Child and Youth Safe Organisations Act 2023 (Tas)*
- *Children and Community Services Act 2004 (WA)*
- *Children and Young Persons (Care and Protection) Act 1998 (NSW)*
- *Children and Young Persons (Care and Protection) Regulation 2012 (NSW)*
- *Children, Young Persons and their Families Act 1997 (Tas)*
- *Children, Youth and Families Act 2005 (Vic)*
- *Child Wellbeing and Safety Act 2005 (Vic)*
- *Child Wellbeing and Safety Regulations 2017 (Vic)*
- *Child Protection Act 1999 (QLD)*
- *Child Protection Regulation 2011 (QLD)*
- *Children's Guardian Act 2019 (NSW)*
- *Civil Liability Act 2002 (NSW)*
- *Civil Liability Act 2002 (Tas)*
- *Civil Liability Act 2003 (QLD)*
- *Crimes Act 1900 (NSW)*
- *Crimes Act 1958 (Vic)*
- *Criminal Code Act 1899 (QLD)*
- *Criminal Code Act 1924 (Tas)*
- *Wrongs Act 1958 (Vic)*

# Appendix A – Child Safe Complaints Flowchart

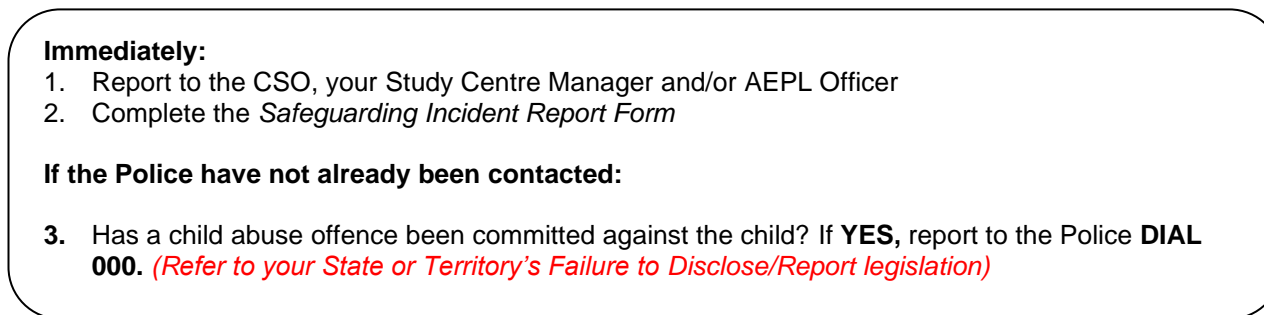
## 1. IDENTIFY AND RECEIVE



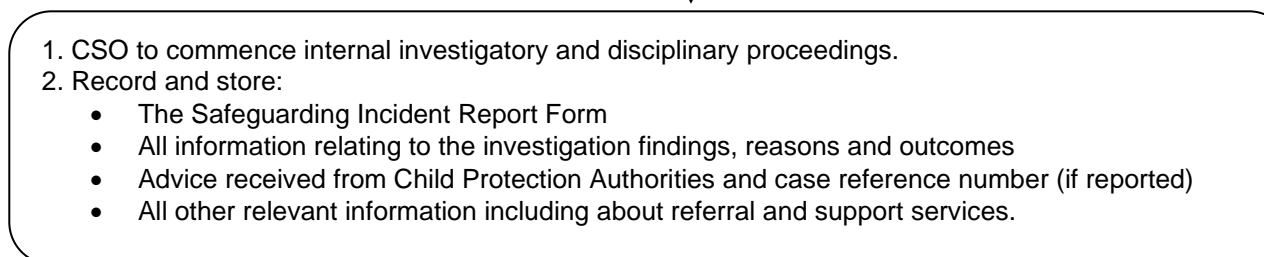
## 2. RESPOND



## 3. REPORT



## 4. INVESTIGATE AND RECORD



## 5. DEBRIEF

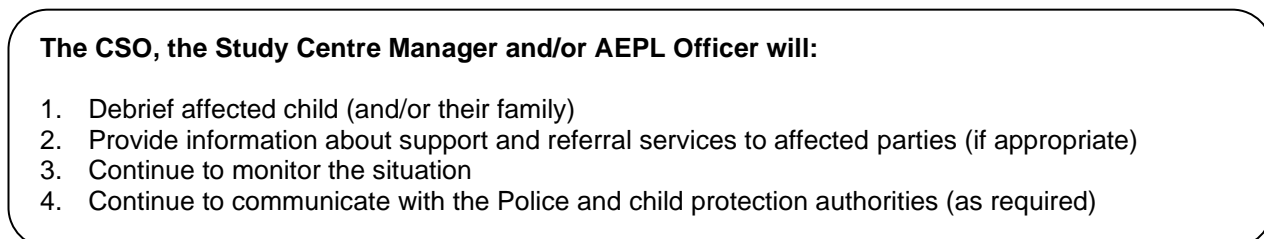


Table 3: Reporting requirements

Child Safe Complaints Procedure		
1	<b>Contact Police</b>	<p>Immediately contact the Police, <b>DIAL 000</b>, if:</p> <ul style="list-style-type: none"> <li>• A child is at immediate risk of abuse or harm</li> <li>• If you have a legal obligation to report. Staff and volunteers should contact the CSO if they are unsure of their legal reporting obligations.</li> <li>• The complaint involves an allegation or disclosure of any criminal conduct that requires Police involvement.</li> </ul> <p>For non-emergency related matters, contact the Police on <b>131 444</b>.</p>
2	<b>Notify the Child Safety Officer (CSO)</b>	<p>Regardless of whether the Police were contacted, staff and volunteers should immediately notify the CSO and the Study Centre Manager.</p> <p>If there is a conflict of interest, you should report to an AEPL Officer.</p>
3	<b>Record the Complaint</b>	<p>Record the complaint using the <i>Safeguarding Incident Report Form (Appendix B)</i>. When completing the form, staff and volunteers must:</p> <ul style="list-style-type: none"> <li>• Gather the child’s details and as much relevant information required to record the complaint objectively (including any witness accounts).</li> <li>• Ensure that all available information is recorded as soon after the incident as possible and on the same day as the complaint was received.</li> <li>• Consider whether information should be obtained directly from the child, or whether the parent/guardian should be involved. This may depend on the following factors: <ul style="list-style-type: none"> <li>○ The age and maturity of the child</li> <li>○ The physical and emotional development of the child</li> <li>○ Cultural barriers</li> <li>○ Cognitive impairment or communication difficulties</li> <li>○ The child’s level of understanding of what has happened and the potential consequences</li> <li>○ Whether the complaint involves the parent/guardian.</li> </ul> </li> <li>• All child safety complaints must be recorded regardless of whether the complaint meets the statutory reporting threshold.</li> </ul> <p>Provide the completed form to the CSO and/or Study Centre Manager. The CSO will ensure that all records of complaints are kept in accordance with AEPL’s confidentiality and record keeping obligations (<i>refer to AEPL’s Child Safe Policy</i>).</p>

## Appendix B – Safeguarding Incident Report Form

This form should be completed for all safeguarding complaints (i.e. complaints related to the safety of a child or vulnerable adult). Before completing this form, please ensure that all requirements outlined in the *Child Safe Complaints Handling Procedure* and supporting Appendices have been followed, and advice has been sought from external authorities where appropriate.

This record and any notes must be kept confidential and stored securely in accordance with record keeping guidelines outlined in the *Child Safe Policy*. The Child Safety Officer (CSO) and/or Study Centre Manager should provide records to the relevant external authorities if required.

Safeguarding Incident Report Form	
<b>Complainant's Details</b>	Name: Phone: Email Address:
<b>Classification of Complainant</b>  <i>E.g. Officer, Study Centre Manager, Leader, Helper, volunteer, contractor, member of the public etc.</i>	
<b>Date complaint received:</b>	
<b>Details of the child or vulnerable adult</b>	Name: Age: Address:
<b>Does the child or vulnerable adult identify as being from a First Nations background?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown
<b>Does the child or vulnerable adult have a disability?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes, please provide relevant details:..... ..... .....
<b>Does the child or vulnerable adult come from a Culturally and Linguistically Diverse (CALD) background?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes, please specify..... ..... .....
<b>Does the child or vulnerable adult require communication support?</b>  <i>Communication support may include an interpreter, a support person, family member etc.</i>	<input type="checkbox"/> No <input type="checkbox"/> Yes, please specify..... ..... .....  If yes, please provide any information relating to the preferred communication methods, support needs and involvement in the complaints process:

<b>Category of the Incident</b> <i>(select all that apply)</i>	<input type="checkbox"/> Sexual Abuse <input type="checkbox"/> Physical abuse <input type="checkbox"/> Emotional or psychological abuse <input type="checkbox"/> Neglect <input type="checkbox"/> Grooming <input type="checkbox"/> Exposure to family violence <input type="checkbox"/> Financial abuse <input type="checkbox"/> Systemic abuse <input type="checkbox"/> Breach of AEPL's Child Safe Policy/Code of Conduct. <input type="checkbox"/> Other inappropriate behaviour. Please detail: ..... ..... .....
<b>Name of person complained about</b> <i>(Respondent)</i>	
<b>Classification of Respondent</b>  <i>e.g. Officer, Study Centre Manager, Leader, Helper, member of the public, contractor etc.</i>	
<b>Date of incident</b>	
<b>Time of incident</b>	
<b>Location of incident</b>	
<b>Witnesses</b> <i>(if more than 3 witnesses, attach additional details to this form)</i>	Name (1):  Contact details:  Name (2):  Contact details:  Name (3):  Contact details:
<b>Details of complaint / reason for suspecting abuse</b>  <i>Use as much detail here as necessary including:</i> <ul style="list-style-type: none"> <li><i>what was said, (where possible, noting the exact words used by the person making the allegation);</i></li> <li><i>what you observed (e.g. injury, harm, disclosure) and any other details relevant to the incident.</i></li> </ul>	



## Appendix C – Child Safe Legal Obligations

The legislation governing child safe obligations varies across jurisdictions. Some of the key legal reporting obligations applicable to AEPL and its staff and volunteers are outlined in this section. Refer to the section relevant to your Centre's State/Territory of operation (or location of activity/program) for guidance:

1. Australian Capital Territory
2. New South Wales
3. Queensland
4. Tasmania
5. Victoria
6. Western Australia.

### Legal Obligations

The following child safe legal obligations are outlined in this section:

**Table 4: Child Safe Legal Obligations**

Legal Obligation	Description
<b>Failure to Report / Disclose offence</b>	The offence imposes a responsibility on adults to make a report to Police, if they have knowledge that a child abuse offence has been committed against a child.
<b>Failure to Protect offence</b>	The offence imposes responsibility on all adults engaged in child-related work to ensure that the children and young people under AEPL's care are protected from risks of harm and abuse.
<b>Duty to Prevent Harm to a Child</b>	A civil duty which requires child-related organisations to take reasonable precautions to prevent an individual associated with the organisation from perpetrating child abuse.



# 1. Australian Capital Territory

## 1.1. Voluntary reporting

Under the *Children and Young People Act 2008* (ACT), a person may make a report to Child Protection Authorities if they believe or suspect that a child or young person:

- Is being abused;
- Is being neglected; or
- Is at risk of abuse or neglect.

A person who makes a voluntary report and gives information honestly and without recklessness does not breach professional ethics and is protected from civil liability.

However, it is an offence if a person makes a voluntary report and:

- The report contains information or allegations that are false or misleading; and
- The person knows that the information or allegations are false or misleading or
- Omits anything without which the information or allegations are false or misleading.

## 1.2. Failure to Report Child Sexual Offence – *Crimes Act 1900* (ACT) s 66AA

An adult who has a reasonable belief that a sexual offence has been committed against a child (under 18 years of age) must make a report to the ACT Police (**DIAL 000**). This offence applies to **ALL** adults in the ACT. Failure to make a report is a criminal offence and has a maximum penalty of imprisonment for 2 years.

There are a range of sexual offences in the ACT, some of the common offences include:

- Sexual intercourse with a child or young person
- Grooming
- Committing an act of indecency on or in the presence of a child or young person
- Using children to produce child pornography.

A person who gives information to a police officer honestly and without recklessness, does not incur civil or criminal liability, and is not in breach of confidence, professional etiquette or ethics or a rule of professional conduct.

## 1.3. Failure by Person in Authority to Protect Child or Young Person from Sexual Offence - *Crimes Act 1900* (ACT) s 66A

The Failure to Protect offence applies to adults who work in institutions that engage in activities with or provide services to children ('relevant institution'). A **relevant institution** is one that operates facilities for, engages in activities with, or provides services to, children under the entity's care, supervision or control. Accordingly, this includes AEPL.

An adult in a relevant institution commits an offence if:

- The person is a person of authority in a relevant institution; and
- The person is aware that there is a substantial risk that a sexual offence will be committed:

- Against a child (under 16 years) in the institution's care, supervision or control by a person associated with the institution; or
- Against a young person (16 years or 17 years) in the institution's care, supervision or control by another person in authority in the institution; and
- They have the power to reduce or remove the risk
- They intentionally or negligently fail to reduce or remove the risk.

A **'person associated with the institution'** includes an adult who:

- Owns, manages, or controls the institution
- Is employed or engaged by the institution
- Works as a volunteer for the institution
- Engages in a regulated activity with or for the institution.

The maximum penalty is imprisonment for 5 years.

## 2. New South Wales

### 2.1. Voluntary Reporting

Under the *Children and Young Persons (Care and Protection) Act 1998* (NSW), a person who has reasonable grounds to suspect that a child or young person is at risk of significant harm may make a report to the Department of Communities and Justice (DCJ) by contacting the **Child Protection Helpline (132 111)**.

If you are unsure whether you have reasonable grounds to make a report, speak to the CSO, your Study Centre Manager, or contact the **Child Protection Helpline** and seek guidance.

### 2.2. Concealing child abuse offence – *Crimes Act 1900* (NSW) s 316A

The offence applies to **all adults** in NSW, including AEPL staff and volunteers. Under the legislation, an adult who:

- Knows, believes, or reasonably ought to know that a child abuse offence has been committed against a child
- Must report the information to the Police as soon as possible, unless there is a reasonable excuse for not reporting the information.

A reasonable excuse may include fear for safety or where the information has already been reported to Police. If found guilty of the offence, the maximum penalty is imprisonment for 5 years.

### 2.3. Failure to reduce or remove risk of child becoming victim of child abuse – *Crimes Act 1900* (NSW) s 43B

The offence applies to adults in NSW who carry out work for a child-related organisation. This includes AEPL staff, volunteers and contractors.

An adult will be guilty of an offence if:

- They know of a serious risk that another adult worker will commit a child abuse offence against a child who is, or may come, under the care, supervision, or authority of the organisation, and
- By reason of the person's position, they have the power or responsibility to reduce or remove that risk, and
- They negligently fail to reduce or remove that risk.

If found guilty of the offence, the maximum penalty is imprisonment for 2 years.

### 2.4. Duty of organisations to prevent child abuse - *Civil Liability Act 2002* (NSW) Part 1B

The duty to prevent applies to organisations that exercise care, supervision, or authority over a child (under 18 years). This includes AEPL and Centres in NSW.

Under the legislation, AEPL has a duty to take reasonable precautions, to prevent an individual associated with the organisation, from committing child abuse (sexual or physical abuse) against a child who is under AEPL's care.

An individual associated with an organisation includes an office holder, officer, employee, owner, volunteer, or contractor of the organisation.

The following factors may be considered to determine whether an organisation took reasonable precautions to prevent child abuse:

- The nature of the organisation
- The resources reasonably available to the organisation
- The relationship between the organisation and the child
- Whether the organisation has delegated in whole or in part the exercise of care, supervision, or authority over a child to another organisation
- The role in the organisation of the individual who perpetrated the child abuse
- The level of control the organisation had over the individual who committed the abuse
- Whether the organisation complied with any applicable standards (however described) in respect of child safety.

## 3. Queensland

### 3.1. Voluntary Reporting

Any person may make a report under the *Child Protection Act 1999* (QLD), if they reasonably suspect that:

- A child may be in need of protection; or
- An unborn child may be in need of protection after he or she is born.

A **child in need of protection** is a child who:

- Has suffered significant harm, is suffering significant harm, or is at unacceptable risk of suffering significant harm; and
- Does not have a parent able and willing to protect the child from the harm.

A reporter who acts honestly will not be liable under civil or criminal law, or under administrative process for making a report. It is also not a breach of any code of professional etiquette.

### 3.2. Failure to report belief of child sexual offence – *Criminal Code Act 1899 (QLD) s 229BC*

The offence applies to **all adults in QLD** (including AEPL staff and volunteers), if:

- The adult believes on reasonable grounds that a sexual offence is being or has been committed against a child by another adult; and
- The child either is or was under 16 years, or a person with an impairment of the mind; and
- Without reasonable excuse, the adult fails to report the information to the Police as soon as possible.

A reasonable excuse may include fear for safety or where the information has already been reported to Police. If found guilty of the offence, the maximum penalty is imprisonment for 3 years.

### 3.3. Failure to protect child from child sexual offence – *Criminal Code Act 1899 (QLD) s 229BB*

All adults who work in an organisation that provides services to children have obligations under the Failure to Protect offence. A person commits an offence if:

- the person knows there is a **significant risk** that another adult (alleged offender) will commit a child sexual offence against a child
- the alleged offender is associated with an institution or is a regulated volunteer; and
- the child is under the care, supervision, or control of an institution; and
- the child is either under 16 years, or a person with an impairment of the mind; and
- the person has the power or responsibility to reduce or remove the risk; and
- the person willfully or negligently fails to reduce or remove the risk.

A person guilty of an offence may be subject to a maximum penalty of 5 years imprisonment.

### **3.4. Liability of Institutions for Child Abuse – *Civil Liability Act 2003 (QLD) Part 2A***

The duty to prevent applies to institutions that provide an activity, program or service that enables a person to have contact with a child, including AEPL and its Centres in QLD.

Under the legislation, AEPL and Centres in QLD have a duty to take all reasonable steps to prevent a person associated with AEPL from committing abuse against a child, who is under AEPL's care, supervision, control, or authority.

A person is associated with an institution if they are an officer, office holder, representative, leader, owner, member, employee, agent, volunteer, or contractor of the institution.

## 4. Tasmania

### 4.1. Responsibility to prevent abuse or neglect or certain behaviour – *Children, Young Persons and their Families Act 1997 (Tas) s 13*

This responsibility applies to **all adults in Tasmania**. Under the legislation, an adult:

- Who knows, or believes or suspects on reasonable grounds
- That a child is suffering, has suffered or is likely to suffer abuse or neglect
- Has a responsibility to take steps to prevent the occurrence or further occurrence of the abuse or neglect.

One step the adult may take to prevent the occurrence of abuse or neglect of a child is to make a report to the Department for Education, Children and Young People's Advice and Referral Line (**1800 000 123**).

### 4.2. Failing to Report the Abuse of a Child – *Criminal Code Act 1924 (Tas) s105A*

In Tasmania, **all adults** must make a report to the Police if they have knowledge that a child abuse offence has been committed against a child (a person under 18 years).

A person is guilty of a crime if the person:

- Has information that leads the person to form a reasonable belief that an abuse offence has been committed against another person who was a child at the time of the alleged offence; and
- Fails without reasonable excuse to disclose that information to a police officer as soon as practicable.

A reasonable excuse includes if the person fears on reasonable grounds that reporting the information would endanger a person's safety (other than the accused), or that the information has already been reported to authorities.

### 4.3. Failure by a person in authority to protect a child from a sexual offence – *Criminal Code Act 1924 (Tas) s125E*

All adults who work in an organisation that exercises care, supervision or authority over children have obligations under the Failure to Protect offence.

A person commits an offence if the person:

- Has a reasonable belief that there is a **substantial risk** that another adult associated with the organisation may commit a sexual offence against a child who is under the care of the organisation
- Has the power or responsibility to reduce or remove the risk
- Fails to take all reasonable steps in the circumstances to reduce or remove the risk.

#### **4.4. Duty of Organisations to Prevent Child Abuse – *Civil Liability Act 2002 (Tas) Part 10C***

The duty to prevent applies to organisations that exercise care, supervision, or authority in respect to a child (under 18 years). The duty applies to AEPL and its Centres in Tasmania.

Under the legislation, AEPL has a duty to take reasonable precautions to prevent an individual associated with the organisation who has:

- Authority, power, or control over the child; or
- The trust of the child; or
- The ability to achieve intimacy with the child

from being able, by virtue of that authority, power, control, trust, or ability, to perpetrate child abuse on the child.

*Note: Child abuse includes sexual abuse, physical abuse, or any psychological abuse of the child that arises from the sexual abuse or physical abuse.*

An individual is associated with an organisation if they are an office holder, officer, employee, owner, volunteer, or contractor of the organisation.



## 5. Victoria

### 5.1. Voluntary Reporting

A person may make a report to the Department of Families, Fairness and Housing (DFFH) - Child Protection Department, if:

- They have formed a reasonable belief that a child has suffered or is likely to suffer significant harm as a result of abuse or neglect, and
- The child's parent has not protected or is unlikely to protect the child from that type of harm.

To make a report, you should contact the relevant office that covers the local government area (LGA) where the child normally resides. To make a report during business hours (8.45am to 5pm), Monday to Friday, contact:

- North Division: 1300 598 521
- South Division: 1300 555 526
- East Division: 1300 360 452
- West Division: 1300 360 462

If you are not sure which number to call, check the [Child protection contacts page](#) for details on the LGAs covered by each intake service.

- To report concerns that are life threatening, contact Victoria Police on 000.
- To report concerns about the immediate safety of a child after hours, call the **After Hours Child Protection Emergency Service** on **13 12 78**.

### 5.2. Referrals to The Orange Door

If you have a significant concern for the wellbeing of a child, but do not believe they are at risk of significant harm, a referral to The Orange Door may be appropriate. A referral would be appropriate where families:

- Are experiencing significant parenting problems that may be affecting the child's development
- Are experiencing family conflict, including family breakdown
- Are under pressure due to a family member's physical or mental illness, substance abuse, disability or bereavement
- Are young, isolated or unsupported
- Are experiencing significant social or economic disadvantage that may adversely impact on a child's care or development.

Contact numbers to make a referral in each local government area are listed on the [Family violence support and extra help for children and families \(orangedoor.vic.gov.au\)](#)

### 5.3. Failure to Disclose Sexual Offence Committed Against a Child – *Crimes Act 1958 (Vic) s 327*

An adult commits an offence if:

- The adult has information that leads them to form a reasonable belief
- That another adult has **sexually offended against a child** (under 16 years) in Victoria; and
- The adult fails to report the information to Police as soon as possible (unless they have a reasonable excuse for not reporting the information).

A reasonable excuse may include fear for safety or where the information has already been reported. The maximum penalty is three years imprisonment.

### 5.4. Failure by a person in authority to protect a child from a sexual offence – *Crimes Act 1958 (Vic) s 490*

An adult in child-related work in an organisation, will commit an offence if:

- They know another adult associated with the organisation poses a substantial risk of abusing a child (under 16 years), and
- They have the power or responsibility to reduce or remove the risk, and
- They negligently fail to do so.

A person negligently fails to reduce or remove a risk if that failure involves a great falling short of the standard of care that a reasonable person would exercise in the circumstances.

A person associated with the organisation may include, but is not limited to an officer, employee, manager, owner, volunteer, or contractor.

The maximum penalty is five years imprisonment.

### 5.5. Organisational Liability for Child Abuse - *Wrongs Act 1958 (Vic) s 88*

The duty to prevent applies to organisations that exercise care, supervision, or authority over children, including AEPL and Centres in Victoria.

Under the legislation, AEPL and the Centres owe a duty to:

- take the care that, in all the circumstances of the case, is reasonable to prevent the abuse of a child (**under 18 years**)

*Note: the abuse of a child includes physical abuse or sexual abuse.*

- by an individual associated with the organisation,
- while the child is under the care, supervision, or authority of the organisation.

An **individual is associated with an organisation** if they are an officer, office holder, employee, volunteer, or contractor of the organisation.

**Reasonable precautions** vary depending on factors including but not relevant to:

- The nature of the relevant organisation
- The resources that are reasonably available to the relevant organisation
- The relationship between the relevant organisation and the child
- Whether the relevant organisation has delegated the care, supervision, or authority over the child to another organisation
- The role in the organisation of the perpetrator of the abuse.

## 6. Western Australia

### 6.1. Voluntary reporting

Under the *Children and Community Services Act 2004* (WA), a voluntary report can be made to the Department of Child Protection and Family Support if the person has concerns about the wellbeing of a child.

- **For immediate concerns:** If you have a life-threatening concern about a child, contact the police on **000**.
- **Concern for a child's wellbeing:** If you are concerned about a child's wellbeing, please contact the Central Intake Team on **1800 273 889**.

# Appendix D – Vulnerable Adults Reporting Procedure

## 1. Definition of Vulnerable Adult

A vulnerable adult refers to an individual aged 18 years and above who is, or may be, unable to take care of themselves, or is unable to protect themselves against harm or exploitation by reason of age, illness, cultural background, literacy levels, trauma or disability, or any other reason.

A vulnerable adult may include:

- Seniors (elders)
- People with impaired intellectual or physical functioning
- People from a low socio-economic background
- People who are Aboriginal or Torres Strait Islanders
- Culturally and Linguistically Diverse (CALD) people
- People with low levels of literacy or education.<sup>2</sup>

## 2. Forms and Possible Signs of Abuse

**Sexual Abuse:** Refers to any sexual activity with the person if they lack the capacity to provide or withhold consent, or are threatened, coerced, or forced to engage in sexual behaviour.

### Possible Physical and Behavioural Signs

- Unexplained STD or incontinence (bladder or bowel)
- Injury and trauma e.g. scratches or bruises to face, neck, thighs or buttocks
- Trauma including bleeding around the genitals, chest, rectum or mouth
- Anxiety around the perpetrator and other psychological symptoms
- Sudden changes in behaviour or temperament, e.g. depression, anxiety attacks including crying, sweating and trembling, withdrawal, agitation, anger.

**Physical Abuse:** Refers to non-accidental injury or physical harm caused to the adult, by another person.

### Possible Physical and Behavioural Signs

- Fractures, dislocations, sprains, bruises or marks on the body
- Burns or scalds, e.g. cigarettes, matches, or hot water
- Explanation inconsistent with the injury
- Avoidance or fearfulness of a particular person or staff member
- Changes in behaviour e.g. out-of-character aggression, withdrawal, excessive compliance.

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<sup>2</sup> Australian Charities and Not-for-profits Commission, *Governance Toolkit: Safeguarding Vulnerable People*, <https://www.acnc.gov.au/tools/topic-guides/vulnerable-people>.

**Neglect:** refers to the failure to provide the basic physical and emotional necessities required for the adult's social, intellectual and emotional growth or wellbeing.

#### Possible Physical and Behavioural Signs

- Unexplained weight loss, dehydration, poor skin integrity, and malnutrition
- Poor hygiene, unkept appearance
- Lack of medical or dental care, or injuries that have not been properly cared for
- Requesting, begging, or stealing food
- Anxiety about being alone or abandoned
- Extreme longing for company.

**Psychological Abuse:** Refers to mistreatment that primarily targets an individual's mental and emotional wellbeing. It can involve threatening, controlling, pressuring, or intimidating a person.

#### Possible Physical and Behavioural Signs

- Depression, confusion or agitation
- Social isolation
- Worry or anxiety after a visit by a specific person or people
- Disrupted appetite or sleep patterns, such as insomnia
- Unexplained paranoia or excessive fear.

**Financial Abuse:** Refers to the improper use of another person's assets without permission. It can include limiting someone's access to their money and abusing power for financial gain.

#### Possible Physical and Behavioural Signs

- No records or incomplete records kept of expenditure and purchases
- Missing money, valuables, or property
- Forced changes to wills or other legal documents
- Unexplained disappearance of belongings
- No money to pay for essentials for the home including food, clothing, and utilities.

**Systemic Abuse:** Refers to a failure to recognise, provide, or attempt to provide, adequate or appropriate services that are appropriate to the (vulnerable) person's age, gender, culture, needs or preferences.

#### Possible Physical and Behavioural Signs

- A carer denying access to a phone, internet, or significant others, or a way to independently leave the home
- No program or inadequate program developed for the vulnerable person
- Not endeavouring to use staff of the same gender to perform personal duties for the vulnerable person
- Creating dependence on one carer or service for all support
- Providing staff with inadequate training on duty of care and policies and practices related to preventing harm and abuse to vulnerable persons.

### 3. Reporting Procedure

Table 4: Vulnerable Adults - Reporting Procedure

Vulnerable Adults - Reporting Procedure		
<b>1</b>	<b>Contact Police</b>	<p>Immediately contact the police, <b>DIAL 000</b>, if:</p> <ul style="list-style-type: none"> <li>• A vulnerable adult is at immediate risk of, or has experienced abuse or harm</li> <li>• The complaint involves an allegation or disclosure of any criminal conduct that requires Police involvement.</li> </ul> <p>For non-emergency related matters, contact the Police on <b>131 444</b>.</p>
<b>2</b>	<b>Notify the CSO and the Study Centre Manager</b>	<p>Regardless of whether the police were contacted, you should immediately notify the CSO and the Study Centre Manager. The CSO and/or Study Centre Manager will report to the relevant contact person at the third party organisation (for activities / programs off-site) and determine the appropriate next steps.</p>
<b>3</b>	<b>Record the Complaint</b>	<p>Record the complaint using the <i>Safeguarding Incident Report Form</i>. When completing the form, staff and volunteers are required to:</p> <ul style="list-style-type: none"> <li>• Gather as much relevant information required to record the complaint objectively (including any witness accounts).</li> <li>• Ensure that all available information is recorded as soon after the incident as possible and on the same day as the complaint was received.</li> <li>• Provide the completed form to the CSO and/or Study Centre Manager. The CSO will ensure that all records of complaints are kept in accordance with AEPL's confidentiality and record keeping obligations (<i>refer to AEPL's Child Safe Policy</i>).</li> </ul>
<b>4</b>	<b>External Authorities</b>	<p>If you have a concern about a vulnerable adult and require information, support or would like to make a report, contact the relevant authority:</p> <p><b>ACT</b></p> <ul style="list-style-type: none"> <li>• ACT Human Rights Commission - Online Complaints Form - <a href="https://www.act.gov.au/act/human-rights-commission/online-complaints-form">Make a Complaint (act.gov.au)</a> or phone (02) 6205 2222</li> </ul> <p><b>NSW</b></p> <ul style="list-style-type: none"> <li>• Ageing and Disability Abuse Helpline – 1800 628 221</li> </ul> <p><b>QLD</b></p> <ul style="list-style-type: none"> <li>• Office of the Public Guardian – 1300 653 187</li> </ul> <p><b>Tasmania</b></p> <ul style="list-style-type: none"> <li>• Elder Abuse Helpline – 1800 441 169</li> <li>• NDIS Quality and Safeguards Commission – 1800 035 544</li> </ul> <p><b>Victoria</b></p> <ul style="list-style-type: none"> <li>• Senior Rights Victoria – 1300 368 821</li> <li>• Disability Services Commissioner – 1800 677 342</li> </ul> <p><b>WA</b></p> <ul style="list-style-type: none"> <li>• Elder Abuse Helpline – 1300 724 679</li> <li>• National Disability Abuse and Neglect Hotline – 1800 880 052</li> </ul> <p>The CSO and Study Centre Manager will provide support and guidance to staff and volunteers if a report to external authorities is required.</p>