

Child Safety and Child Protection Policy



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People who make
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1.0 Definitions

Aboriginal child or children refers to anyone under the age of 18 who identifies as Aboriginal and or Torres Strait Islander.

Child abuse is inclusive of all forms of abuse, harm and neglect (specific forms of abuse are identified where relevant or as required).

Child or children is inclusive of anyone under 18 years of age, including the unborn child. It is not intended to diminish any emphasis on risks to adolescents by not using the term 'young people'.

Child or children with a disability refers to any physical, sensory, neurological disability, acquired brain injury, intellectual disability or developmental delay that affects a child's ability to undertake everyday activities.

Child in need of protection refers to the legal definition of a child in need of protection as defined in the *Children Youth and Families Act 2005*.

Child safety in the context of this policy means measures to protect a child from abuse.

Child Safety Advisors are subject experts who can provide advice on child safety and child protection related matters and refers to the Manager Community Services, Coordinator Maternal and Child Health, Coordinator Child Care Services, and Coordinator Youth Services.

Child safe organisation is defined by the Commission for Children and Young People as one that recognises cultural differences and does not reduce a child's right to be safe, or the organisation's responsibility to protect the child from harm.

Child sexual abuse is used to delineate this type of abuse from others and is used in the context of criminal offences and reporting duties specifically related to child sexual abuse.

Council officers refers to all people acting as representatives of Council including: full time, part time, casual and agency staff, contractors, volunteers and students.

Culturally and/or linguistically diverse child or children means a child or children who identify as having particular cultural or linguistic affiliations by virtue of their place of birth, ancestry or ethnic origin, religion, preferred language, language spoken at home, or because their parents identification on a similar basis.

Direct contact refers to either physical contact, face-to-face-contact, written, oral and/or electronic communication with children.

Mandated reporters refers to Council's Maternal and Child Health (MCH) Nurses and Early Childhood Educators who are legally required to report concerns for a child's safety to Child Protection Services (DHHS).

Non-mandated reporters refers to all other Council officers who form a *reasonable belief* that a child has suffered, or is likely to suffer abuse or harm by their parents, has an *ethical and professional duty* to report their concerns to the appropriate authorities.

Reasonable belief is not the same as having proof, but is formed if a reasonable person in the same position would have formed a belief on the same grounds, for example:

- a child states that they have been abused
- a child states that they know someone who has been abused (they might be referring to themselves)
- someone who knows a child states that the child has been abused
- professional observations of a child's behaviour or development leads that person to form the belief that the child has been abused
- signs or indicators of abuse leads to a belief that the child has been abused.

Supervisor refers to a staff member's immediate line manager within the organisational structure.

2.0 Council Plan Reference

This policy reflects Council's vision that Stonnington will be an inclusive, healthy, creative, sustainable and smart community. It aligns with the following pillar of the Council Plan 2017 – 2021: Community – an inclusive City that enhances the health and wellbeing of all residents, where all people can feel safe, socially connected and engaged.

3.0 Scope

This policy applies to all Council officers (including full time, part time and casual employees, agency staff, relevant contractors, volunteers and students), irrespective of whether or not they work with or have direct contact with children.

4.0 Purpose

All Council officers have a duty of care to protect children from abuse. This policy outlines the reporting requirements and procedures all Council officers must adhere to in order to ensure allegations or suspicions of child abuse are responded to effectively, responsibly and consistently.

This policy replaces Council's previous Child Protection Policy. It consolidates existing mandatory reporting (child protection) obligations with additional reporting requirements imposed through recent criminal law reform, and the introduction of the Victorian Child Safe Standards and Reportable Conduct Scheme.

Council officers are not expected to become child safety experts if it is not their field of work, or to have all the answers to the child safety issues they may encounter. However, they are expected to have an awareness of child abuse, to understand their own reporting obligations, and to seek support when determining when to report/not report an allegation or suspicion of child abuse.

5.0 Policy Objectives

1. Protect all children in Council's care from abuse by having practices in place to prevent, remove or reduce potential risk of child abuse in our services.
2. Address allegations or suspicions of child abuse when they do occur in a timely and appropriate manner, and uphold consistency, transparency and accountability in Council's response to and management of allegations of child abuse.
3. Ensure Council officers are clear about their legal, ethical and professional obligations to protect children from abuse, and know how to report their child safety concerns.
4. Meet Council's legislative responsibilities and achieve its organisational goals.
5. Foster a culture of openness and transparency where all persons (including children) feel they can safely disclose child abuse and harm.

6.0 Human Rights Considerations

Both the *United Nations Convention on the Rights of the Child* (CROC) and the *Charter of Human Rights and Responsibilities Act 2006* (the Charter) have been considered in developing this policy.

Universal child safe procedures are founded on CROC which recognises that children have a right to be protected from physical and mental harm and neglect; and to enjoy the full range of civil, cultural, economic, political and social rights. The Charter outlines the basic human rights of all people and necessitates that governments, councils and other public authorities not act inconsistently with the Charter and consider relevant rights when making decisions.

7.0 Statement of Commitment to Child Safety

City of Stonnington has a zero tolerance to child abuse. All Council officers, including employees, contractors, volunteers and Councillors have a legal and moral obligation to keep children safe and promote their best interests. All children regardless of their age, gender identity, sexual orientation, ethnicity, religious beliefs, ability and family background have the right to be protected from harm and to be treated with dignity, respect and integrity.

As a child safe organisation we are committed to providing welcoming, safe and accessible environments where children feel valued, listened to and considered in decisions that affect their lives. The need to remove or reduce the risk of child abuse informs our decision making concerning children in our care. We have specific policies, procedures and practices in place to support our people to achieve these commitments.

8.0 Background

New laws have been introduced in Victoria to make communities safer for children, strengthen how organisations prevent and respond to child abuse, and improve access to justice for survivors.

These laws apply to all Council officers even if their work does not directly relate to children.

8.1 Criminal Law Reform

Three new criminal offences have been introduced to improve responses to child sexual abuse within organisations and the community. These new laws impose a clear legal duty upon all adults to protect children from sexual abuse and to report their concerns to police.

These offences relate specifically to *sexual* abuse of children under 16 years of age which reflects the general age of consent (16 years) recognised by the criminal law in relation to sexual offences. They do not relate to other forms of abuse, harm or neglect which are reported under existing mandatory reporting (child protection) laws, and the new Reportable Conduct Scheme.

8.1.1 Grooming Offence

This offence targets predatory conduct undertaken by someone aged 18 years and over to prepare a child under 16 years of age for later sexual activity.

The offence applies where an adult communicates, by words or conduct, with a child, or with a person who has care, supervision or authority for the child, with the intention of facilitating a child's involvement in sexual conduct, either with the groomer or another adult.

Grooming does not necessarily involve any sexual activity or even discussion of sexual activity – for example, it may only involve establishing a relationship with the child, parent or carer for the purpose of facilitating sexual activity at a later time.

The maximum penalty for this offence is ten years imprisonment.

8.1.2 Failure to Disclose Offence

Any adult (18 years old and over) who forms a *reasonable belief* that a sexual offence has been committed by an adult against a child (under the age of 16), has a legal duty to disclose that information to the police.

A person will not be guilty of the offence if they have a *reasonable excuse* for not disclosing the information. A *reasonable excuse* includes where a person:

- has a subjectively reasonable fear for their own safety or the safety of another person, such as a child or family member
- believes on reasonable grounds that the information has already been disclosed to police and they have no further information to add, i.e. a report has already been made to Child Protection who are then required to report this information to police.

A person does not have a reasonable excuse for failing to disclose sexual abuse if they are only concerned for the perceived interests (reputation, legal liability or financial status) of the perpetrator, themselves, or the organisation.

Several exemptions apply to this offence, however these should be considered on a case-by-case basis in consultation with your Supervisor or a Child Safety Advisor:

- victim requests confidentiality – is 16+ years and has capacity to make an informed decision
- person is a child when they formed a reasonable belief
- information would be privileged – i.e. client legal, journalist, religious confessions
- information is confidential – i.e. obtained during medical/psychological treatment
- the information is obtained solely through the public domain – i.e. television reports.

The maximum penalty for this offence is three years imprisonment.

8.1.3 Failure to Protect Offence

This offence applies where there is a substantial risk that a child under the care, supervision or authority of Council will become a victim of a sexual offence by a person associated with Council.

A **person associated with Council** includes, but is not limited to:

- CEO and Councillors
- Council officers, including employees, contractors, volunteers and placement students
- Service users (only if engaged as a volunteer/placement student).

As soon as a Council officer becomes aware of a risk of child sexual abuse, they have a legal duty to take steps to remove/reduce that risk, or to inform someone else who has the authority to do so.

A **person in a position of authority** within Council:

- is not restricted to managers and leaders; but
- applies to any Council officer who by reason of the position he or she occupies within Council has the power, responsibility or extent of authority to identify, reduce or remove a risk posed.

Any Council officer who falls short of the standard of care that a reasonable person would exercise in those circumstances will be found guilty if they:

- knew of a substantial risk that a person associated with Council may commit a sexual offence against a child within Council's care; and
- they had the capacity to remove or reduce that risk; but
- negligently failed to do so.

The maximum penalty is five years imprisonment.

8.2 Creating Child Safe Organisations

The Victorian Government has introduced minimum Child Safe Standards and a Reportable Conduct Scheme for organisations regulated or funded by government. Both schemes apply to the whole organisation even though only some areas of Council provide services for children. These complementary schemes are established by the *Child Wellbeing and Safety Act 2005*, and are administered by the Commission for Children and Young People (the Commission) who oversee and monitor compliance with the schemes. Both schemes take into account the sexual, physical, emotional, and psychological abuse, as well as serious neglect of children under the age of 18.

8.2.1 Child Safe Standards

The Child Safe Standards aim to create and maintain child safe environments. Council is required to implement and comply with the following seven Standards:

Standard 1	Strategies to embed an organisational culture of child safety, through effective leadership arrangements
Standard 2	A Child Safety Policy or Statement of Commitment to Child Safety
Standard 3	A Code of Conduct that establishes clear expectations for appropriate behaviour with children
Standard 4	Screening, supervision, training and other human resource practices that reduce the risk of child abuse by new and existing personnel
Standard 5	Processes for responding to and reporting suspected child abuse
Standard 6	Strategies to identify and reduce or remove risks of child abuse
Standard 7	Strategies to promote the participation and empowerment of children

8.2.2 Reportable Conduct Scheme

The Reportable Scheme aims to improve organisations' responses to allegations of certain types of misconduct involving children committed by their workers and volunteers. It imposes new legal obligations on heads of organisations to have systems in place to prevent child abuse, and if child abuse is alleged, to ensure allegations are brought to the attention of appropriate persons for investigation and response. The Commission must be notified and given periodic updates on the organisation's response to an allegation. The legislation also allows the Commission to appropriately share information with the Working with Children Check Unit, relevant regulators, and Victoria Police to better prevent and protect children from abuse, and to trigger an assessment of whether that person is suitable to continue to work or volunteer with children.

These new initiatives complement, but do not replace, existing mandatory reporting (child protection) requirements (*Children Youth and Families Act 2005*).

9.0 Mandatory Reporting (Child Protection)

Mandatory reporting describes the *legal obligation* of certain professionals and community members, or mandated reporters, to report incidences of child abuse and neglect to Child Protection Services with the Department of Health and Human Services (DHHS).

Mandatory reporters must make a report if, in the course of practising their profession or carrying out their duties, they form a belief on reasonable grounds that a child is in need of protection and the child's parents are unable or unwilling to protect the child. Mandatory reporters must make a report to Child Protection without delay, cannot outsource their legal responsibility to another person, and must make a report each time they become aware of any further grounds for their belief. They can be fined and/or incarcerated if they fail to make a report to Child Protection.

9.1 Mandated Reporters

Under Section 182 (1) of the *Children Youth and Families Act 2005*, mandatory reporters within Council include:

- Maternal and Child Health Nurses and Midwives
- Early Childhood Educators

9.2 Non-mandated Reporters

All other Council officers who form a *reasonable belief* that a child has suffered, or is likely to suffer abuse or harm by their parents/carers, have an *ethical and professional duty* to report their concerns to Child Protection. Action must commence as soon as a concern has been identified.

10.0 Reporting Principles

The reporting procedures adopted by Council have been developed to ensure that:

- the right of the child to be listened to, protected and supported remains paramount
- the trust of the victim-survivor or person making the allegation is maintained
- the privacy and confidentiality of all parties involved is respected
- concerns are dealt with promptly and in a consistent manner
- the right of the alleged perpetrator to a fair process is adhered to
- reporters are provided with appropriate supports to assess their concerns objectively; report appropriately; address any feelings of discomfort/other emotional responses; and to further support the alleged victim-survivor where required.

11.0 Reporting Child Abuse, Harm and Neglect to Child Protection (DHHS)

A report to Child Protection (DHHS) must be made in any of the following circumstances:

- physical abuse of, or non-accidental or unexplained injury to a child
- disclosure of sexual abuse by a child or witness, or a combination of factors suggesting the likelihood of sexual abuse
- emotional abuse and ill treatment impacting the child's stability and healthy development
- persistent neglect, poor care or lack of appropriate supervision where there is a likelihood of significant harm to the child, or the child's stability and development
- persistent family violence or parental substance misuse, psychiatric illness or intellectual disability; where significant harm to the child, or child's stability and development is likely
- where a child's actions or behaviour may place them at risk of significant harm and the parents are unwilling or unable to protect the child
- where a child appears to have been abandoned, or where the child's parents are dead or incapacitated, and no other person is caring properly for the child.

When making a child protection report, the initial information the attending officer will require is:

- the name, age and address of the child
- the reasons you suspect the child may have experienced or is at risk of experiencing harm
- assessment of the immediate danger to the child, i.e. whereabouts of alleged abuser
- knowledge of other services involved with the family
- any other information about the family, including specific cultural details
- your contact details.

Even if you are unsure, or do not have all of the required information, if you believe that abuse or neglect is occurring, you must report this to Child Protection.

Child Protection (DHHS) Reporting Details

If a child is at immediate risk call **Triple Zero (000)** without delay.

If there is no immediate risk, but you believe a child may require protection from abuse, harm or neglect, contact:

Child Protection South Division Intake: 1300 655 795 between 8.45am – 5.00pm.

After Hours Child Protection Emergency Services: 131 278 between 5.00pm – 9.00am (Monday – Friday) and 24hrs on weekends and public holidays*.

Child Protection Emergency Services receives new reports and reports concerning existing child protection clients who are at immediate risk and require urgent after hours service. Non-urgent cases will be referred to the relevant region the following working day for follow-up.

12.0 Reporting Child Sexual Abuse to Police

A report to Police must be made in any of the following circumstances:

- A child is in immediate danger/requires immediate protection from child abuse.
- A Council officer forms a *reasonable belief* that an adult (18+) has committed a *sexual* offence against a child under 16 years of age.
- A Council officer forms a *reasonable belief* that child has committed a sexual offence against another child.
 - Children with harmful sexual behaviours are different to adults who commit child sexual abuse. They require specific responses that take into account the nature of their behaviours, different contributing factors and the child's particular situation.
 - Child-on-child sexual abuse is a serious and complex issue that does require police and/or Child Protection (DHHS) intervention.
- Council officers must report allegations or suspicions of child sexual abuse to police regardless of how much information they have about the offender or the crime.

Police Reporting Details

If a child is at immediate risk of sexual abuse, call **Triple Zero (000)** without delay.

If there is no immediate risk but you have concerns about sexual abuse, contact

Moorabbin Sexual Offences and Child Abuse Investigation Team (S.O.C.I.T): 9556 6128 between 7am – 11pm (7 days a week)

If a person has experienced child sexual abuse in an institutional context, you are encouraged to also contact Victoria Police's **SANO Task Force via email at: sanotaskforce@police.vic.gov.au**

The SANO Task Force investigates historic and new allegations that have emerged from the Inquiry into Child Sex Abuse Involving Religious and Non-Government Organisations and the Royal Commission into Institutional Responses to Child Sexual Abuse.

13.0 The Orange Door (Family Services) Referrals

The Orange Door (formerly Child FIRST) is the new access point for women, children and young people who are experiencing family violence, or families who need assistance with the care and wellbeing of children to access the services they need to be safe and supported.

Family Services aim to promote the safety, stability and development of vulnerable children, young people and their families, from birth to 17 years of age, by providing case work service and linking families with relevant support services in the community.

Child FIRST/The Orange Door Referral Details

Relevant staff who are working with a child and/or their family and have concerns about a child's wellbeing or believe a family requires support, can refer the family to:

Stonnington's Child FIRST/The Orange Door Referral Service: 1800 319 353

Child FIRST/The Orange Door is a free and voluntary service and families do not have to accept their involvement or support.

SPECIALIST SUPPORT SERVICES & REFERRALS

Cultural identity is fundamental to a child's overall wellbeing and affects both how they see themselves in relation to others, and how the environment impacts their sense of safety.

When allegations or suspicions of child abuse involve Aboriginal, CALD and children with a disability, it may be necessary to consult with specialist services to ensure that culturally appropriate supports are put in place once a report is made. This may include services such as Aboriginal Child and Family Welfare Organisations, CALD Support or Advocacy Services and Disability Support Services. Additionally, it may be appropriate to refer the child and/or their family to a specialist Family Violence or Sexual Assault Counselling and Support Service.

Not all staff will have an ongoing support role to play with the child and/or their family, but for those that do, additional support needs and referrals should be considered on a case-by-case basis in consultation with your Supervisor and/or a Child Safety Advisor.

Information about these services can be found on the Stonnington corporate website and extranet - Stonnington's Child Safe Standards\Useful Information and Links.

14.0 Child Safety & Child Protection Reporting Process

WHO should report?

Employees

Contractors

Students

Volunteers

WHAT to report?

Any child safety concerns, including:

- Direct or indirect disclosure of child abuse
- Allegation, suspicion or observation of child abuse
- Breach of Child Safety Code of Conduct, reportable conduct, and/or related criminal offences
- Environmental risks that could increase the likelihood of abuse occurring

Child abuse: sexual, physical, emotional, psychological, neglect, grooming and exposure to family violence

HOW to report?

Call 000 without delay if child is in immediate danger

AND

Notify your Supervisor as soon as possible*.

Incidences involving suspected sexual or physical abuse should be discussed with your Supervisor immediately.

If your Supervisor is unavailable, or if you and/or your Supervisor require advice about whether to report/not report please:

Call Customer Service on **8290 1333** and ask to be put through to a **Child Safety Advisor**.

Child Safety Advisors are suitably trained and experienced staff who can provide advice on child safety and child protection matters and can assist you in determining if there is a case for reportable child abuse. At Council, the Child Safety Advisors are:

Coordinator Maternal and Child Health
Coordinator Childcare Services

Coordinator Youth Services
Manager Community Services

*If the incident/concern involves your Supervisor, contact the next highest level of management in your work area.

THEN

WHO to report to?

Together with your Supervisor and/or Council Advisor, **make the decision to (1) report or (2) decide there is nothing to report.**

Report Incident

As soon as possible
No later than 5pm on day incident was identified

Nothing to report

Document concerns and decision not to report in Incident Report

Contact Police
000

Contact Child Protection
1300 360 391
13 12 78 (After Hrs)

THEN

WHAT next?

Complete a Child Safety & Child Protection Incident Report
(via link on SolvSafety portal page on the intranet)
YOU MUST make the report – this duty cannot be outsourced to someone else to do
Keep your Supervisor updated
Support the child and their family as required/where appropriate

15.0 Council Officer Responsibilities

Council officers must treat all allegations and suspicions of child abuse seriously and respond consistently with this policy. It is the express role of Council officers to identify and report child abuse to the relevant authorities, not to establish proof or investigate the matter.

It is acknowledged that it may be difficult to discuss concerns about a child at risk so it is important to seek advice where needed. Support will be provided to Council officers throughout the process.

16.0 Supervisor Responsibilities

- In circumstances where the child is not in immediate risk, the Supervisor will help the Council officer make a decision to report/not report, who to report to, and will support the Council officer through the process of making the report if required.
- In some cases, the Supervisor may discuss the allegation or suspicion of child abuse with a Child Safety Advisor, who will assist the Supervisor to determine if there is a case for reportable child abuse.
- Where appropriate, the Supervisor will support the Council officer to discuss their protective concerns with a parent(s) prior to/after making a report, unless they suspect that doing so may place the child at further risk, or place the Council officer or another person at risk.
- Where a response or outcome is unsatisfactory, the Supervisor may make contact with the relevant authority to discuss the concerns further, and/or lodge a formal complaint.
- The Supervisor will offer the Council officer the opportunity to debrief about the incident and/or reporting process. Support will also be offered through Council's Employee Assistance Program and/or through access to clinical supervision (as required).
- The Supervisor may initiate a review or investigation after a report has been made, or where a Council officer failed to make a report, to determine if there were any practice related, risk management or systemic issues that need to be addressed.
- Where a dispute or difference of professional opinion occurs, the case will be referred to the Manager Community Services who will determine the best course of action.
- Where the incident involves the misconduct or reportable conduct of a Council officer, the Supervisor will immediately notify the Manager of their area. Together with the Manager People & Culture, and the Manager Risk, Safety & Assurance, appropriate disciplinary action will be determined and incidences of reportable conduct will be reported to the Commission.

17.0 Documenting Allegations and Suspicions of Child Abuse

- All Council officers (excluding MCH Nurses/Midwives) must document any allegations or suspicions of child abuse by completing the Child Safety & Child Protection Incident Report (via the link on the SolvSafety portal page).
- *Guidelines for Writing a Child Safety & Child Protection Report* are available on the SolvSafety page and on the intranet.
- All reports must be completed by the Council officer who identified the child abuse or child safety concern on the same day of the initial identification.
- As legislated, Maternal and Child Health Nurses/Midwives will continue to report child safety and child protection concerns via the DHHS electronic client data management system.

- A Register of Allegations involving the reportable conduct of Council officers will be maintained by the Manager, Risk Safety & Assurance. This will provide a detailed and confidential record of the allegations made, the evidence held, the investigation and reporting process undertaken, and the progress of the matter to date.
- All records will be retained in accordance with Council's record keeping requirements under the *Public Records Act 1973* and privacy requirements under the *Privacy and Data Protection Act 2014* and Council's Privacy Policy.

18.0 Informed Consent and Information Sharing

- In order to achieve the best outcomes for children and families, it will sometimes be necessary for a Council officer to share certain information with other professionals. In such cases the Council officer should:
 - consult with their Supervisor and/or a Child Safety Advisor to assess what information can be shared and with whom
 - gain informed consent from the child (16+ years) or their parents/guardians
 - document the details of the information shared, who the information was shared with, and if consent was gained.
- Relevant authorities can also contact any person they believe holds information relevant to the protection and development of a child to share information about a child or family without the consent of the child or family.

19.0 Disciplinary Procedures

- Council officers who make a report in good faith cannot be held legally liable and will not face disciplinary action, even if the allegation or suspicion proves to be unfounded on investigation.
- Council officers who make false and/or malicious accusations may be held legally liable and will face disciplinary action.
- Council officers who intentionally or negligently fail to meet their reporting obligations will face disciplinary action.
- Disciplinary measures may result in a range of actions up to and including:
 - training and education
 - restricted duties, suspension, or termination of employment
 - termination of a partnership or contract with a third party provider
 - other legal action; and/or
 - criminal investigation and prosecution.

20.0 Legislative Framework

- *Charter of Human Rights and Responsibilities 2006*
- *Children's Services Act 1996*
- *Children Youth and Families Act 2005*
- *Child Wellbeing and Safety Act 2005*
- *Crimes Act 1958*
- *Human Rights and Equal Opportunity Act 1986*
- *Working with Children Act 2005*

21.0 Further Information, Useful Links & Practice Resources

Further information, useful links and a range of resources are available on the intranet. This includes various practice guidelines for Council officers who engage in direct child-related work, and/or who exercise a high degree of care for children as part of their duties.

22.0 Related Council Policies

This policy forms part of Council's approach to child safety and should be read in conjunction with:

- Child-Related Reportable Conduct Policy
- Child Safety Code of Conduct
- Disciplinary Procedure
- Employee Code of Conduct
- Equal Opportunity and Respect in the Workplace Policy
- Recruitment and Selection Policy
- Security Check Policy

23.0 Monitoring and Review

Monitoring application of the policy is the responsibility of Direct Supervisors.

This policy will be reviewed every 2 years by Community Services. It may be reviewed more frequently if there are significant changes to legislation, or in the event that a review of the management of a child safety concern identifies systemic failings that need to be addressed.

DOCUMENT CONTROL				
Version	1.0	Date	Oct 2018	
Author	Child Safety Project Officer	QA	People & Culture	
Owner	Community Services	Review Period	Biannual	
REVISION DETAILS				
Version	Change	Reviewed	QA	Date
1.0	New Policy	Community Services	People & Culture	Adopted 23/10/18