

Protective practices

for staff in their interactions
with children and young people

Guidelines for staff working or volunteering
in education and care settings 2017
(2nd Edition, revised 2019)



Government of South Australia
Department for Education



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Foreword

These guidelines form part of child protection policies and procedures developed through collaboration between the South Australian Department for Education, Catholic Education South Australia and the Association of Independent Schools of South Australia.

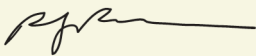
Both government and non-government education sectors are committed to consistent child protection standards across all South Australian education and care environments.

Protective practices for staff provide clear advice to adults about how to build positive, caring and respectful relationships with children and young people in education and care settings.

The main intent of this document is to safeguard the emotional and physical wellbeing of children and young people by helping adults to understand appropriate boundaries in relation to their professional role and all interactions with children and young people. By following these guidelines, staff can feel confident about meeting their responsibilities to children and young people as well as their professional ethics and conduct obligations.

Since their release in 2005, these guidelines have been positively received and used by education and care leaders across the government and non-government sectors. This fourth edition has revisions reflecting legislative and other reforms at state and national levels, mainly in connection with childcare, grooming behaviour and reporting obligations.

Following these guidelines will contribute to safer, happier and more successful education and care environments for all the people who learn and work in them.



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Glossary

For the purposes of this document the following definitions apply.

| | |
|----------------------------------|---|
| Staff | Employees, professional service providers, other paid education and care participants, tertiary students, pastoral care worker/chaplain, and volunteers (eg mentors) |
| Site | All schools and preschools and associated boarding facilities, alternative education centres or off-site learning programs, out of school hours care and vacation care services, the home of a family day care educator, children's centres and child care centres |
| Site leader | The individual who has responsibility for the welfare of children and young people on that site eg the principal, director, manager or family day care educator supported by their coordinator, or a delegate |
| Children and young people | All children and young people enrolled at or attending education and care sites |
| Parents | Adults who have the parenting responsibility for children and young people, including biological parents, step-parents, legal guardians and extended family members such as grandparents, foster and kinship carers |
| Disability | Disability includes physical, intellectual, psychiatric/psychological, sensory, neurological, learning disabilities, physical disfigurement, and the presence in the body of a disease-causing mechanism. The term covers a disability that a person has now, may have in the future or is believed to have |

Note: Family day care

When appropriate, family day care educators should use the discussions applying to 'staff' in this document to guide their actions and behaviour. References to 'site leader' should be understood to mean those circumstances where the family day care educator would consult with or report to and take direction from the family day care coordinator. References to 'volunteers' should also be understood to mean other adults residing in the home of the family day care educator.

Relevant convention, law and policy

| | |
|--|---|
| United Nations Convention on the Rights of the Child | The convention enshrines the entitlement of all children, regardless of race, colour, sex, religion or nationality, to be protected from sexual abuse, to receive special help if they are abused, to have their opinions heard about matters that affect them, to receive and share information, and to be treated with dignity if disciplined |
| Law | <p>Relevant legislation includes:</p> <ul style="list-style-type: none"> • <i>Children and Young People (Safety) Act 2017 (SA)</i>, which maintains the safety of children as paramount, increases the voice of children in decision making and builds a more collaborative approach to child protection. The Act provides greater recognition of risk factors that children may experience including persistent absenteeism from education and cumulative impact of harm • <i>Criminal Law Consolidation Act 1935 (SA)</i> defines illegal criminal behaviour • <i>Equal Opportunity Act 1984 (SA)</i>, which defines sexual harassment, prohibits other forms of unlawful discrimination including on the ground of disability and provides a complaint process through the Equal Opportunity Commission of South Australia • <i>Sex Discrimination Act 1984 (Cth)</i> as amended by the <i>Sex Discrimination Amendment (Sexual Orientation, Gender Identity and Intersex Status) Act 2013 (Cth)</i>, which defines sexual harassment and provides a complaint process through the Australian Human Rights Commission • <i>Teacher Registration and Standards Act 2004 (SA)</i>, which establishes and maintains a teacher registration system and professional standards for teachers such that the profession is represented by individuals who are competent educators and fit and proper persons to have the care of children • <i>Disability Discrimination Act 1992 (Cth)</i> and <i>Disability Standards for Education 2005 (Cth)</i>, which provide legal protection against disability discrimination in specified areas. The DSE states the legal obligations of service providers within the DDA and the rights of the learners with disability • <i>Education and Early Childhood Services (Registration and Standards) Act 2011</i> provides a national legislative scheme that regulates the provision of quality education services and registration of providers for the purpose of maintaining high standards of competence and conduct by providers |
| Information Sharing Guidelines | South Australia's operational framework for the sharing of information across government and relevant non-government organisations to promote the safety and wellbeing of children, young people and their families |
| Keeping Safe: Child Protection Curriculum | The sector/site-approved teaching program for learners from early to senior years that addresses, in an age-appropriate manner, the central ideas of respectful relationships, the right to be safe, protective strategies and recognising and reporting abuse |
| Responding to Problem Sexual Children and Young People | Guidelines for staff in education and care settings to help them respond effectively and consistently to incidents of problem sexual behaviour involving children and young people |
| Responding to Abuse and Neglect Education and Care training | A child protection training course in South Australia for staff working in education and care settings focusing on their role in responding to child abuse and neglect and its impact on the development and wellbeing of children, young people and their families |
| Australian Student Wellbeing framework | Supports Australian schools to promote positive relationships and the wellbeing of students and educators within safe, inclusive and connected learning environments |

National Quality Framework (NQF)

National agenda that describes and regulates the quality of early childhood education and school-age care through the *National Quality Framework for Early Childhood, Education and Care*. It operates under an applied law system, comprising the Education and Care Services National Law and Regulations

Education Standards Board

Regulates the provision of education and care services in South Australia, ensuring quality education services and maintaining high standards of competence and conduct by providers

Australian Professional Standards for Teachers/ Principals

The standards define the work of teachers and principals and make explicit the elements of high-quality, effective teaching, safe environments and professional standards that result in improved and educational outcomes for students.

TfEL and APST Standard 4 and 7

Legal issues and professional boundaries for adults working or volunteering with children and young people

Staff members who do not follow these guidelines may be subject to disciplinary action and/or an adverse finding about their suitability or fitness to work in an education or care setting.

Duty of care

In the education and care context, 'duty of care' is a Common Law concept that refers to the responsibility of staff to provide children and young people with an adequate level of protection against harm. It is usually expressed as a duty to take reasonable care to protect children and young people from all reasonably foreseeable risk of injury.

The question of what constitutes reasonable care in any given case will be determined objectively by a court and will depend on the individual circumstances of each case. The courts have found that the standard of care owed by education and care providers to children and young people is very high.

In their relationships with children and young people, staff must ensure that the physical and emotional wellbeing of children and young people is safeguarded, and that their own behaviour is guided by this duty of care both within and beyond the education and care setting.

Within the protective practices, this duty of care particularly relates to staff:

- expectations about their own conduct
- intervening in the inappropriate conduct of other adults
- reporting unprofessional behaviour of other adults if they observe or are informed of such behaviour.

Professional and role boundaries

Professional and role boundaries are parameters that describe limits of a relationship where one person entrusts their welfare and safety to a professional, often in circumstances where there is a power imbalance.

Education and care professions rely on the fostering of positive relationships between adults and children and young people. Learning and care settings are places where all staff can have significant influence in the lives of children and young people because the relationship involves regular contact over relatively long periods of time. These features of education and care professions make it extremely important that staff understand how to foster positive relationships in ways that do not compromise the welfare of children and young people, both in an education and care setting and in a personal capacity.

The professional boundaries outlined in these guidelines apply beyond specific education or care sites and beyond specific cohorts of children and young people. For example, where staff are participating or have participated in interschool sport events or combined school trips or camps, they are expected to respect professional boundaries with all the children and young people involved in those activities.

Professional boundary violations by a staff member represent a breach of trust, a failure to meet a duty of care to children and young people, and a failure to follow conduct requirements of the employer. When staff violate boundaries they risk:

- serious and harmful consequences for the child or young person
- seriously undermining the learning process
- seriously undermining their professional reputation and the confidence of the education or care community in their suitability to work with children and young people
- formal directions or other disciplinary action from their employer or the registering or regulating authority
- termination of employment
- criminal charges.

Any concern a staff member has about whether a situation may compromise or breach a professional relationship must be discussed with the site leader (or delegate). The site leader will develop an appropriate plan of action and ensure it is followed.

Failure to report a boundary violation may also be subject to disciplinary action.

The following examples will help staff to understand expected boundaries. This list is not exhaustive.

| Boundary | Example of violation |
|---|--|
| Communication | <ul style="list-style-type: none"> • Inappropriate comments about a child or young person's appearance, including excessive flattering comments • Inappropriate conversation or enquiries of a sexual nature (eg questions about a child or young person's sexuality or their sexual relationship with others) • Disrespectful or discriminatory treatment of, or manner towards, young people based on their perceived or actual sexual orientation • Use of inappropriate nicknames • Vilification or humiliation • Jokes or innuendo of a sexual nature • Obscene gestures and/or language • Facilitating/permitting access to pornographic material • Facilitating/permitting access to sexually explicit material that is not part of an endorsed curriculum • Failing to intervene in sexual harassment of children and young people • Correspondence of a personal nature via any medium (eg phone, text message, letters, email, social media, internet postings) that is unrelated to the staff member's role. This does not include class cards or bereavement cards • Introducing 'secrets' • Communication related to the role but carried out via private personal devices, eg communication to taxi drivers of student personal details, with parent or outside agencies and services |
| Personal disclosure | <ul style="list-style-type: none"> • Discussing personal lifestyle details or opinions of self, other staff or children and young people unless directly relevant to the learning topic and with the individual's consent |
| Physical contact | <ul style="list-style-type: none"> • Unwarranted or unwanted touching of a child or young person personally or with objects (eg pencil or ruler) • Corporal punishment (eg physical discipline or, smacking) • Initiating, permitting or requesting inappropriate or unnecessary physical contact with a child or young person (eg massage, kisses, tickling games) or facilitating situations that unnecessarily result in close physical contact with a child or young person • Inappropriate use of physical restraint/restrictive practices – may constitute assault (see p 17) |
| Place | <ul style="list-style-type: none"> • Inviting/allowing/encouraging children and young people to attend the staff member's home (see p 11 for country and local community considerations) • Attending children and young people's homes or their social gatherings • Being alone with a child or young person outside of a staff member's responsibilities • Entering change rooms or toilets occupied by children or young people when supervision is not required or appropriate • Transporting a child or young person unaccompanied • Using toilet facilities allocated to children and young people • Undressing using facilities set aside for children and young people, or in their presence (*without the site leader's authority) |
| Targeting individual children and young people | <ul style="list-style-type: none"> • Tutoring (outside education sector's directions or knowledge) • Giving personal gifts or special favours • Singling the same children and young people out for special duties or responsibilities • Offering overnight/weekend/holiday care of children and young people as respite to parents (unless a family day care educator, or employed by a respite organisation and with the site leader's knowledge) • Privately giving money and/or gifts to individual children/young people • Babysitting by the family day care educator or member of their household |

| Boundary | Example of violation |
|---------------------------|---|
| Role | <ul style="list-style-type: none"> • Adopting an ongoing welfare role that is beyond the scope of their position or that is the responsibility of another staff member (eg a student wellbeing leader) or an external professional, and that occurs without the permission of senior staff • Photographing, audio recording or filming children or young people via any medium when not authorised by the site leader to do so and without required parental consent • Using personal rather than school equipment for approved activities, unless authorised by the site leader to do so |
| Possessions | <ul style="list-style-type: none"> • Correspondence or communication (via any medium) to or from children and young people where a violation of professional boundaries is indicated and where the correspondence has not been provided to the site leader by the staff member • Still/moving images or audio recordings of children and young people on personal equipment or kept in personal locations such as car or home that have not been authorised by the site leader |
| Digital/electronic | <ul style="list-style-type: none"> • *Email, social media, internet postings that is unrelated to the staff member's role • *Allowing children and young people access to a staff member's personal internet locations (eg social networking sites) • Uploading or publishing still/moving images or audio recordings of children and young people to any location, without parental and site leader's consent • Correspondence of a personal nature via social media, internet postings • Creating/using private online chat rooms • *Filming/recording for the use of behaviour training/modification |

* Without site leader authority

Activities must be undertaken transparently and with the knowledge and consent of the site leader:

- Make it public
- Make it authorised
- Make it timely
- Make it purposeful.

The following questions may help staff to recognise when professional and/or legal boundaries are at risk of being breached:

- Am I dealing in a different manner with a particular child or young person than with others under the same circumstances?
- Is my dress/availability/language/demeanour different from the normal with a particular child or young person?
- Would I modify my behaviour with a child or young person if a colleague were present?
- Would I judge my conduct negatively if I observed it in another adult?
- Is it possible that the consequences of my actions will have negative outcomes for children and young people?
- Is it possible that the consequences of my actions will negatively affect people's confidence in my suitability to work with children and young people?

If an honest answer to any of the above questions is 'yes' then a staff member must alter their behaviour immediately and consider seeking professional support or counsel.

Legislation

Staff conduct that is a breach of legislation includes:

- failure to report suspicion on reasonable grounds that a child or young person is, or may be, at risk defined in the *Children and Young People (Safety) Act 2017* (SA)
- alleged breaches of the *Criminal Law Consolidation Act 1935* (SA)*
- sexual harassment defined in the *Equal Opportunity Act 1984* (SA) and *Sex Discrimination Act 1984 and Amendment Act 2013* (Cth)
- harassment or victimisation of a student with a disability, defined in the *Disability Standards in Education 2005* (Cth)
- unprofessional conduct pursuant to the *Teachers Registration and Standards Act 2004* (SA).

Grooming behaviour

Positive adult-child/young person relationships are essential to learning, however it is critical that staff understand how to foster these relationships without compromising student welfare.

The term 'grooming' refers to actions deliberately undertaken with the aim of befriending and influencing a child, and in some circumstances members of the child's family, for the purpose of sexual activity with the child.

These actions are designed to establish an emotional connection in order to lower the child's inhibitions and gain access to the intended victim. In this respect grooming involves psychological manipulation that is usually very subtle, drawn out, calculated, controlling and premeditated' (Victorian Parliamentary Inquiry into the Handling of Child Sexual Abuse by Religious and Other Non-Government Organisations, 2013).

Grooming can be conducted in person or online eg via interaction through social networking sites, chat rooms, digital forums or emails. Perpetrators gain trust by watching and gathering information about a child or young person, getting to know their needs and how to exploit them. They may also mix effortlessly with parents and carers because they seem warm, understanding and caring.

Vulnerable children or young people are most often targeted as they are seen as easy victims to manipulate. For example:

- age (too young to tell)
- disability (unable to tell, or to 'stand up' as a witness)
- emotional deprivation (already neglected or abused, low self-confidence, emotional neediness)
- isolation and disadvantage (children in care, kinship care refugees, new arrivals, non-English speaking, in a remote community, international exchange students).

Opportunistic or situational grooming may occur:

- when there are ambiguities over boundaries and roles
- where there is a lack of supervision which allows opportunities for inappropriate touch or conversations eg online, camps
- where the seriousness of the activity, or potential harm is discounted
- where the personal traits or actions of a person are tolerated or dismissed.

If a suspicion on reasonable grounds is formed regarding inappropriate adult behaviour, then staff members are obliged to take action and report the inappropriate behaviour. Refer to the section 'Staff responsibilities in responding to behaviour' for additional information p 14.

Sexual relationships between legally consenting adults where a staff-student relationship once existed

Staff should be aware that where a relationship develops with an ex-student, their employer is entitled to consider whether their actions suggest an abuse of their position as a staff member. Where there is a reasonable belief that the emotional intimacy of the relationship developed while the staff-student relationship existed, a judgment that abuse of their position has occurred is likely. What is significant in staff-student relationships are the differences in authority and power held by the staff member and levels of trust held by the student. These differences do not suddenly disappear at a specific point in time. They linger as an imbalance between the two individuals and as a potential impediment to their capacity to make decisions in their own and others' best interests.

Consequently, staff cannot assume they will be protected from disciplinary action taken by their employer or registering/regulating authority because a relationship is claimed to have begun after the school term concluded or after exams finished.

The length of time between the conclusion of the staff-student relationship and the beginning of an intimate relationship is only one of a number of critical factors employers or registering/regulating authorities will take into consideration when judging the appropriateness of a staff member's conduct. Other significant factors include:

- the age difference between the staff member and the ex-student
- the developmental capacity of the ex-student
- the vulnerability of the ex-student
- evidence of the nature of the relationship while the staff-student relationship existed
- other concerns or allegations about the staff member's conduct.

* Staff should be aware that unlawful sexual intercourse where an individual holds a position of authority over the other involves a higher age of consent (18 years) than where no authority relationship exists (17 years).

Guidance for staff in managing professional boundaries

Working in country and local communities

Staff working in country or local communities face additional challenges in managing professional boundaries. They are more likely to have social relationships with the families/parents of the children and young people with whom they work and are, therefore, more likely to share social and sporting events or membership at various community clubs or associations.

This means they will have legitimate reasons, on occasions, to attend social/cultural events with the children and young people with whom they work, to visit their homes or to be visited by them in the company of their parents.

These social/cultural engagements are an important part of community life and a positive contribution to the wellbeing of staff working in country and local communities.

Aboriginal employees across remote, regional and metropolitan settings may have family and social connections to the children and families that they are working with. They may also have cultural or family obligations that may present additional challenges and require support from site leaders to establish professional boundaries when working with some children/young people and their families.

Following the advice below will help staff members to enjoy these social engagements without compromising their professional responsibilities.

The guiding principles in managing these situations are that:

- social contact should be generated via the relationship the staff member has with the parents of children and young people or by an event (such as a sporting event)
- staff should avoid being alone with children and young people in these situations
- staff should conduct themselves in a way that will not give others reason to question their suitability to work with children and young people and that will not create discomfort for children and young people in their learning relationship with them. Consuming alcohol in these situations may lessen a staff member's capacity to judge when a professional boundary is at risk
- staff should politely refuse to discuss matters relating to the workplace and should not discuss children and young people's learning or social progress other than at times specifically set aside for that purpose

- any concern a staff member has about whether or not a situation may be compromising or breaching a professional relationship should be discussed with the site leader and an approved plan of action followed. For example, a staff member may want advice about transporting a friend's child to and from the site or how to manage their own child's enrolment at the site.

Using digital forums/social networking sites

There are many legitimate social media spaces that can be used effectively as part of teaching and learning programs to facilitate children and young people's learning. These digital forums need to be completely separate from staff personal virtual spaces and staff should consider the following questions before using them:

- how can I use these social media tools appropriately?
- what are the risks?
- what will be the benefits?
- what protocols or permission need to be considered?
- are these approved tools?
- have parents been informed?

Staff in education and care settings are expected to model responsible and respectful conduct. They need to consider the electronic social environments they use as part of this community and employer expectation.

The internet does not provide the privacy or control assumed by many users. Staff must appreciate that no matter what protections they place around access to their personal sites their digital postings are still at risk of reaching an unintended audience and being used in ways that could complicate or threaten their employment.

Staff should be aware of the following expectations in considering their use of social networking sites:

- they have considered the information and images of them available on their sites and are confident that these represent them in a light acceptable to their role in working with children and young people
- they do not have children or young people in their education community as 'friends' on their personal/private sites
- comments on their site about their workplace, work colleagues or children or young people, if published, would not cause hurt or embarrassment to others, risk claims of libel, or harm the reputation of the workplace, their colleagues or children and young people.

Working one-to-one with children and young people

The following summary of expectations applies to all situations where staff members are providing one-to-one support eg:

- learning assistance or feedback
- behaviour assistance/monitoring
- counselling
- testing or assessment
- toileting assistance.

Make it public

- The more visible, public and busy the location the better
- Use the site's authorised ICT systems. Do not use personal email, phones, social media, apps or websites to communicate with children and young people

Make it authorised

- Parents should be informed/give consent
- Activity must be authorised by the site leader

Make it timely

- The activity should be a legitimate part of your role
- As far as possible, provide support during normal work hours
- Sessions should be concise and not unnecessarily prolonged

Make it purposeful

- The activity addresses or should be linked to an identified wellbeing and/or learning need of the child or young person

Managing privacy expectations

Wellbeing leaders, pastoral care workers/ chaplains, health providers and various professional service providers rely in different ways on being able to provide a degree of privacy for children and young people. This may be to protect the child or young person's dignity, to provide an environment conducive to the service or assessment being provided or to respect the child or young person's desire for confidentiality.

Children and young people will often assume a high level of confidentiality when disclosing serious issues of a personal nature or reporting harassment or bullying. For these reasons, schools need to find a careful balance between, on the one hand, respecting the sensitive and private nature of counselling or service provision and, on the other hand, the professional's duty of care obligations for the safety and wellbeing of the child or young person (mandatory notification).

The following examples show good practice in managing these circumstances:

- health/physical care should be provided with respect for the child or young person's dignity and in a manner approved by the child or young person and their parents
- counselling should be provided in unlocked rooms with part-glass doors (where possible) that are located near staff traffic areas
- avoid out-of-hours contact
- while parental consent is often not applicable in many counselling situations, best practice for schools is to provide all parents with written information about the school's counselling and pastoral care services which outlines confidentiality and privacy issues
- ensure student appointments and counselling notes are documented appropriately.

Conducting home visits

Staff must ensure they follow the specific home visiting protocols that apply to their school, sector or service. The key principle is that a home visit should place no one at unreasonable risk and that identified minor risks are consciously managed. A summary of general expectations is provided below.

Inform

- Home visits or transport arrangements must be authorised and documented by the site leadership and the site must have information about when and where visits are being undertaken, the expected outcomes and return times

Prepare

- All available information about the safety of the proposed visit must be considered and risks managed
- Mobile phones must be taken, ID should be visible
- Inform parents of intended visit, where appropriate

Protect

- A colleague should accompany a staff member carrying out a home visit
- Do not enter the house if parents are not at home
- Speak with the student where the parent is present or clearly visible
- Document the visit

Family day care

The provision of family day care is unique. Unlike other education and care environments, the family day care educator does not have access to professional support or supervision on site. Given the relative isolation of family day care educators from immediate access to staff support, these guidelines play an important role in assisting them to recognise and avoid the circumstances that might place them, members of their own family or the children and young people they care for, at risk. The guidelines, therefore, contribute to family day care being a positive and productive experience for all involved—children, young people, parents and educators.

As outlined on p 6, family day care educators should interpret references to 'site leader' to be those circumstances where they would consult with or, under conditions of approval, report to and take direction from the family day care coordinator. The use of the term 'staff' is to be seen as inclusive of family day care educators.

Some guidance in this document, such as avoiding being alone with children and young people or restrictions when working one-to-one with them, is inapplicable in the family day care setting. However, the rest of the guidance is applicable, most notably the advice covering appropriate physical contact, responding to inappropriate behaviour in children and in adults, using social network sites, non-physical interventions and the examples of professional boundary violations.

Staff in education and care settings are responsible for taking action if they become aware that other adults are acting inappropriately with children and young people. The family day care educator carries this same responsibility to report to the family day care coordinator any inappropriate behaviour by other adults sharing or visiting the home environment while children and/or young people are in their care.

Boarding houses

Staff working in boarding houses face particular challenges in providing a 'home-like' environment for children and young people in ways that do not compromise their professional boundaries or the welfare of children and young people.

Boarding houses should be relatively informal environments and ones where children and young people can receive respectful guidance and support from the adults in whose care they are placed. While this clearly involves the development of caring, and sometimes close, friendships it does not remove the staff member's responsibility to work within all the professional boundaries outlined in these guidelines.

The guidance on managing privacy, working one-to-one, appropriate physical contact, responding to inappropriate sexual behaviour (in children or in adults), using digital forums/social network sites, non-physical interventions and the examples of professional boundary violations are all particularly pertinent to boarding house staff.

Following these guidelines will support the important role boarding house staff play in the wellbeing of children and young people and enhance the respectful relationships that should exist between children and young people and adults sharing a 'home away from home'.

Staff responsibilities in responding to behaviour

Behaviour of staff towards children and young people

Suspected child abuse

Staff in education and care settings are mandated notifiers and are, therefore, required under the *Children and Young People (Safety) Act 2017 (SA)* to report suspicion of risk or harm to the Child Abuse Report Line (CARL) on 13 14 78.

A report of suspected abuse must be made to CARL irrespective of who is implicated: a colleague, friend, senior staff member, volunteer, parent, visitor, family member or other child or young person. Staff are strongly encouraged, but not required, to advise the site leader before making a notification.

Site documentation must be completed in consultation with the site leader who signs the site's mandatory notification record and stores it securely. Working with the site leader ensures that appropriate procedures can be followed within the site and sector office. Such procedures are designed to ensure that children and young people's wellbeing is safeguarded and that staff members' rights are respected.

If the site leader is the subject of the suspicion, observation or allegation, staff must report to the site leader's line manager, employer or appropriate central office personnel.

The complexities of these situations are acknowledged. Nevertheless, staff must manage their sensitivities or discomforts because their duty of care to the child or young person remains their paramount legal, professional and moral responsibility.

Inappropriate behaviour

Staff may also observe behaviours in other adults that they view to be inappropriate rather than abusive or that sit on the border of violating a professional boundary.

Staff must ensure, through their site leader, that the adult concerned is made aware of the potential of their actions to impact negatively on children and young people, and on themselves. Professional advice of this kind may be particularly valuable to young or newly appointed staff.

The site leader should document what is discussed.

All staff must take action if children and young people disclose information about inappropriate behaviours of other adults on the site. It is not acceptable to minimise, ignore or delay responding to such information. For the wellbeing of all members of the education or care community, the site leader must be informed as a matter of urgency and a report made to the Child Abuse Report Line, if appropriate.

Behaviour of children and young people towards staff

If a child or young person engages in inappropriate behaviour of a sexual nature, then immediate respectful steps must be taken to discourage the behaviour by the child or young person. The matter should be reported and documented promptly with the site leader and a plan of action developed to support the child or young person and relevant staff member.

Depending on the age/developmental capacity of the child or young person and contextual information, this plan of support may involve:

- communication with parents
- referral to and liaison with specialist counselling
- formalised support within the site, which may include closer monitoring or supervision of the child or young person in his/her interactions with other children and young people
- referral to and liaison with an appropriate agency with disability-specific expertise.

Sometimes, the inappropriate sexual behaviour of younger children towards staff can elicit a suspicion that the child in question has been sexually abused. In these situations, staff must:

- make a mandatory notification to the Child Abuse Report Line on 13 14 78
- consider the safety of other children and young people with whom the child has contact
- develop and document a plan of action and communication with all relevant parties (including other agencies).

Some children and young people may actively seek a relationship with a staff member that would constitute an inappropriate relationship. In such circumstances, staff are advised to immediately report the information to the site leader and seek assistance from a senior staff member, student wellbeing leader or pastoral care coordinator to actively manage the situation in a way that respects the emotional wellbeing of the child or young person and provides support to the staff member.

Examples of child or young person's behaviours that should be reported and addressed are:

- receiving gifts of an inappropriate nature or at inappropriate times (eg not as part of end of the year gift giving that some children and families follow)
- flirtatious gestures and comments
- inappropriate social invitations
- inappropriate touching or invasions of personal space
- inappropriate postings using any medium
- correspondence or communication that suggests or invites an inappropriate relationship.

The staff member and site leader should document the incident that initially prompted the concern and the plan of action that has been established. Contact with parents is recommended unless there are reasonable grounds to believe that this will create serious risks for the child or young person.

Sexual harassment—via any medium* at any time or place—or assault of a staff member by a child or young person should be dealt with following normal behaviour management protocols, with the involvement of parents and, where appropriate, police. Along with this response, consideration must also be given to the most appropriate counselling and support that can be provided to the child or young person and family. It is important to use these incidents as opportunities to organise meaningful interventions that address early sexual and other offending behaviours.

Detailed guidance on managing problem sexual behaviours in children and young people is available in the document *Responding to Problem Sexual Behaviour in Children and Young People—Guidelines for staff in education and care settings* (Department for Education, 2010, revised 2019). Resources associated with the guidelines are available on the Department for Education website.

* Includes postings on websites, whether 'private' or not.

Appropriate physical contact

Appropriate physical contact by a staff member to assist or encourage a child or young person

At times, staff will be required to give practical assistance to a child or young person who is hurt or needs particular assistance or encouragement. Examples of appropriate physical contact are:

- giving first aid
- supporting children and young people who have hurt themselves
- assisting with the toileting and personal care needs of a disabled child or young person (an individual plan for children and young people with these needs must have been negotiated with parents)
- non-intrusive gestures to comfort a child or young person who is experiencing grief and loss or distress, such as a hand on the upper arm or upper back
- non-intrusive touch (eg congratulating a child or young person by shaking hands or a pat on the upper arm or back). Staff should remember the importance of accompanying such touch with positive and encouraging words.

Good practice with school-age children and young people

- Seek children and young people's permission to make physical contact (keeping in mind that a highly distressed child or young person may be incapable of expressing their wishes) eg first aid, a minimal gesture of comfort.
- Avoid being with a child or young person in a one-to-one, out of sight situation, and never touch a child or young person in such a situation.
- Do not presume that physical contact is acceptable to a particular child or young person. Even non-intrusive touch may be inappropriate if a child or young person indicates they do not wish to be touched.
- Respect and respond to signs that a child or young person is uncomfortable with touch.
- Use verbal and/or visual directions rather than touch (eg ask a child or young person to move in a particular way, rather than physically place the child or young person in the required position).

Use the above approach for demonstrations in dance, sport, music and drama. Where touch is essential for safety reasons (eg with aquatic or gymnastic instruction), always tell the child or young person that you need to hold them in a particular way and seek their permission to do so.

In some circumstances, staff may need to discourage younger children from inappropriate expectations of hugs or cuddles. This should be done gently and without embarrassment or offence to the child and offer a replacement gesture (eg 'high five').

Good practice with children, birth to school age

Staff working in preschools and care settings are often involved in toileting children, changing their clothes and comforting them for a range of distresses normal in the preschool age group. In providing such care, staff should be aware of the following good practice:

- When children indicate they want comfort, ensure that it is provided in a public setting and that it is in keeping with the guidelines provided above.
- Signs of discomfort in children such as stiffening, pulling away or walking away must be respected. In these situations the child must continue to be observed/monitored until their distress is managed.
- Children must not be left in states of high distress for long periods. Parents need to be contacted under these circumstances.
- Staff should follow the site's toileting and nappy changing policy and individual toileting plans where these have been documented with parents.
- In 'single staff and two-staff' settings, it is important that formalised plans for responding to critical toileting situations and other challenging behaviours are understood by staff and parents.

Physical contact between individuals must therefore be:

- discretionary
- careful
- consensual
- respectful
- age appropriate
- gender appropriate
- considerate of others who may be in the area.

Managing challenging behaviour

It is highly recommended that a support plan is developed for a child or young person with challenging behaviours that outlines the appropriate support and intervention. This plan should be completed in consultation with parents, staff and appropriate support staff. Strategies for Managing Abuse Related Trauma (SMART) training should be considered in this plan.

The filming of children/young people for the purpose of behaviour assessment/modification is not permitted unless authorised, as a single circumstance, by the relevant sector office (site leader – independent schools) and with informed parent consent.

Non-physical intervention

Non-physical intervention is the most acceptable way of managing the behaviour of children and young people. Where a problem with a child or young person's behaviour becomes apparent, non-physical interventions include:

- directing other children and young people to move away from the situation
- talking with the individual child or young person (asking the child or young person to stop the behaviour, and telling the child or young person what will happen if they do not stop)
- directing the child or young person to a safe place
- directing other children and young people to a safe place
- following the emergency plan in '1 and 2-staff' centres
- sending for assistance from other staff, or in extreme cases, the police.

Use of verbal directions is always preferred to physical intervention. It is not appropriate to make physical contact with a child or young person (eg pushing, grabbing, poking, pulling, blocking) in order to ensure they comply with directions. Staff working with preschool-age children must not hold children against their will (eg on their laps, between their legs or on the floor) to ensure attention at group time.

Under no circumstances should staff engage in any form of conduct which might cause physical or emotional harm to children and young people.

Physical restraint where a child or young person's or adult's safety is threatened

Staff may make legitimate use of physical restraint based on best practice (eg Non-Violent Crisis Intervention – NVCi) if all non-physical interventions have been exhausted or are impossible in the circumstances and a child or young person is:

- attacking another child or young person or adult
- posing an immediate danger to themselves or others.

Staff must only use physical restraint only as a last resort and not as a response to:

- property destruction
 - disruption to the education or care activity
 - refusal to comply
 - verbal threats
 - leaving an education care setting
 - a need to maintain good order
- unless someone's safety is clearly threatened.

Use of appropriate physical force may be permitted to ensure that the staff's duty of care to protect children and young people and staff from foreseeable risks of injury is met. Common law and statutory defences such as self-defence and defence of others remain legitimate reasons for the use of physical restraint. All people have the right to defend themselves against an attack provided they do not use a disproportionate degree of force to do so.

It may be a valid decision for staff not to use physical restraint in a situation involving several children and young people, or a physically larger child or young person, where staff believe that doing so would increase the likelihood of injury to themselves. In such cases, the staff member should guide other children and young people away from danger and seek immediate help from other staff or police.

Staff are not expected to place their own safety at risk when responding to violence or aggression in others and are supported by workplace health and safety legislation in making this judgment.

Safe practice when using physical restraint

The use of restraint/restrictive practices with a child or young person may only be used in situations where the safety of others is threatened or to prevent injury.

The restraint must be reasonable in the particular circumstances and must be in proportion to the circumstances of the incident. It must always be the minimum force needed to achieve the desired result, and take into account the age, stature, disability, understanding and gender of the child or young person. For example, if restraining a female, care should be taken to avoid contact with breasts.

Parents should be informed at enrolment of the site's policy on physical restraint/restrictive practices with children and young people and staff who may be expected to use physical restraint should access appropriate training.

Cultural considerations

Different cultures have different attitudes and traditions surrounding the concept of appropriate touch. Staff members have a responsibility to become as familiar as possible with the values of the various cultural groups enrolled in an education or care site.

Many culturally based community organisations are very keen to address staff about the values of their culture so as to establish optimum understanding and respect between parents, their children and staff at the site. It is critical that staff appreciate culturally specific expectations about touch so that embarrassment or offence can be avoided for everyone, and particularly for children and young people.

Many children and young people attending education and care sites are recently arrived in Australia or are under guardianship/kinship care. Some have backgrounds of severe trauma, ranging from the observation of extreme physical violence and abuse to being victims of such violence and abuse themselves. The needs of these children and young people and their families are acute and the issue of establishing what will be received as appropriate, helpful touch is, therefore, all the more essential.

Staff need to employ considerable diplomacy, care and effort in their interactions with the children and young people and families that are known or suspected to have escaped traumatic circumstances.

Managing staff health and safety

There are inherent risks that staff members face on a daily basis working with children and young people. The *Work Health and Safety Act 2012* requires the employer, as the person conducting business or undertakings to ensure that risks are identified and adequately controlled so far as is reasonably practicable.

Legal action against students

A staff member who undertakes criminal proceedings of any nature against children and young people (enrolled at a school in their sector) must:

- report the action to their site leader
- record the action as per their sector requirements (eg IRMS report in Department for Education) without identifying the child or young person.*

Site leaders are responsible for managing these circumstances in a way that respects their duty of care to children, young people and staff, and should seek advice from their sector office if these responsibilities appear to be in conflict.

* The *Young Offenders Act 1993* prohibits the publication of information that might identify an offender under the age of 18. While identifying information should not be recorded on school systems the legislation is not intended to prohibit private and confidential discussions between professionals so they can properly respond to a situation in an educational setting.

Do

- Seek a colleague's or leader's support.
- Have a differentiated risk management plan for students.
- Use conversation/negotiation to minimise or de-escalate aggression (eg take-up time, provision of a calm spot).
- Continue talking with the child or young person throughout the incident. Make clear that physical restraint will stop when it ceases to be necessary to protect the child or young person or others.
- Grip clothing rather than the body, whenever possible.
- Document incidents promptly and keep these records with the site leader. The record should include:
 - the name of involved children and young people
 - the location of incident
 - the name of witnesses (staff and/or children and young people)
 - an incident outline (including the child or young person's behaviour, what was said, steps taken, degree of force applied and how applied, reasoning for actions taken)
 - the child or young person's response and the outcome
 - details of any injury or damage to property.
- Inform parents promptly (within 24 hours) and fully of any incident involving the physical restraint of their child and provide them with the opportunity to discuss the matter at the time they are informed.
- Ensure sector specific guidelines regarding other forms of documentation are followed, for example critical incident forms.
- Provide/offer confidential debriefing, counselling support and Workplace Health and Safety documentation to all staff involved in incidents of restraint/restrictive practices.
 - **CESA/AISSA:** ACCESS—Confidential counselling 1300 667 700
 - **Department for Education:** Employee Assistance Program—Confidential counselling 1300 360 364

Don't

- Don't use restraint/restrictive practices that involves:
 - force applied to the head, neck, chest or genital area
 - restrictions to breathing
 - punching or kicking
 - holding by the hair or ear
 - confining a child or young person in a locked room or limited space
 - placing children under school age in 'time out' or 'time away'.

Working with children and young people with additional and complex needs

The category of 'additional and complex needs' includes students with disabilities and can be analysed as students whose behavioural presentation arises from:

- verified disabilities, including intergenerational disabilities
- trauma
- mental health
- neglect and deprivation (emotional and physical)
- learning difficulties
- different cultural expectations or practices.

All sections of this document require careful interpretation when applied to children and young people with additional needs and complex needs. For example, children and young people with intellectual disabilities may engage in a much wider range of physical and overtly sexual behaviours towards staff and other children and young people as a result of their disability. Similarly, staff will need to engage more often in physical contact and touch with these children and young people as a means of meeting their duty of care to them.

In fact, touch itself may be an agreed form of communication between a child or young person, their parent and staff where the child or young person has a communication disability. Children and young people with disorders causing violent and unpredictable behaviours are likely to have formalised restraint procedures agreed to by staff and parents and carers. Toileting assistance or processes for changing clothes will be necessities for some children and young people.

Because of these differences, staff need to be more vigilant and thoughtful in their physical interactions with children and young people with additional needs and complex needs. Children and young people with disabilities are over-represented in the child protection system. Their vulnerabilities mean they have an increased reliance on the adults providing their care to protect them from harm.

Immediately reporting any inappropriate behaviour towards children and young people from other adults is a critical obligation of staff and one that must not be delayed, minimised or delegated (see 'Staff responsibilities in responding to behaviour' on p 14).

Education and care staff support children and young people with additional needs and complex needs through various forms of individual plans. The common features of these plans are that they involve all people who deal with the child or young person on a regular basis, including other service providers, and they document the agreed strategies that are to be used in supporting the child or young person.

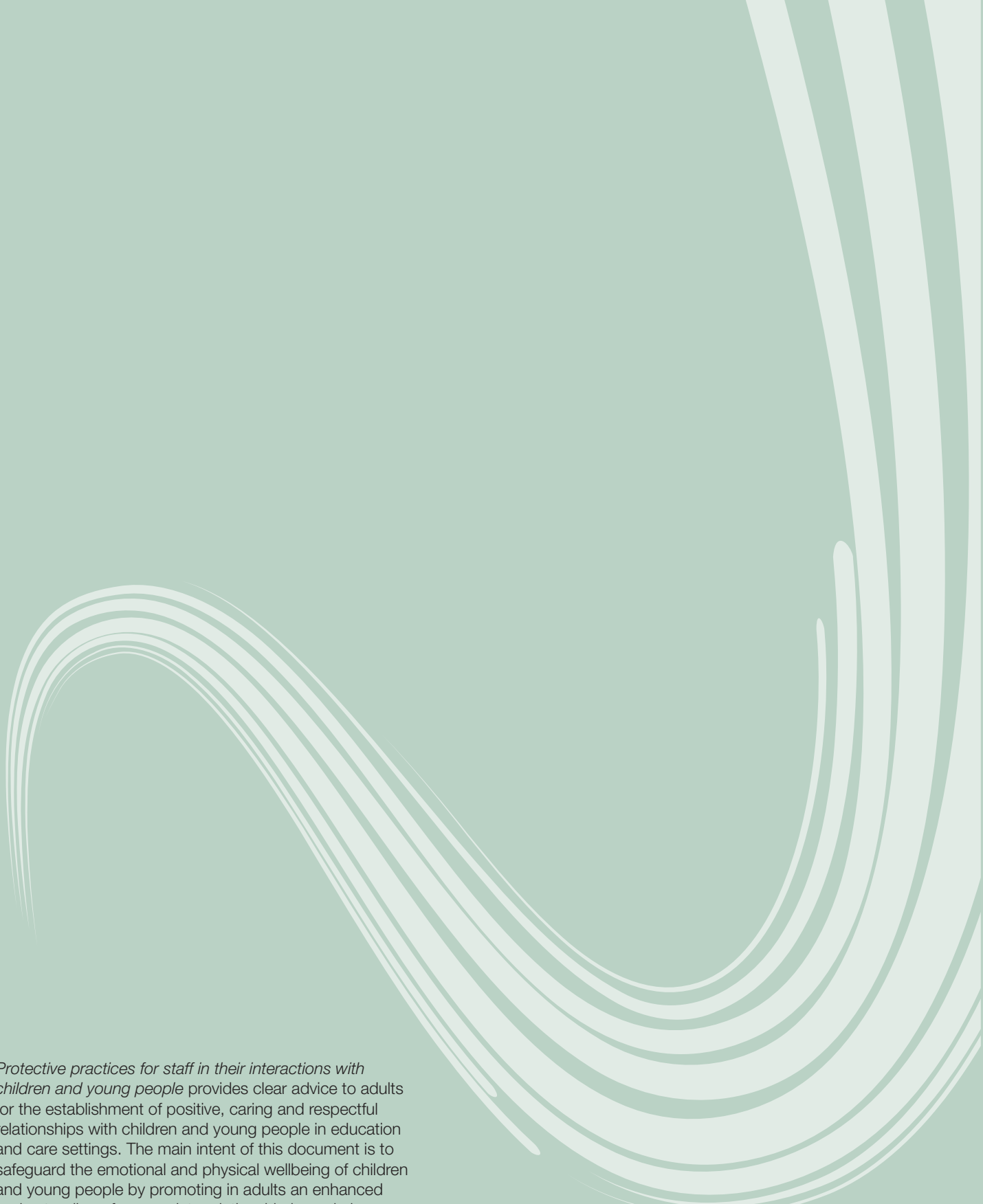
These plans are particularly important when challenging behaviours, personal care and hygiene and special physical considerations are an issue at the site (eg toileting, transport within and beyond the site environment, situations where physical restraint is occasionally required). The possibility of restraint and the nature of that restraint/restrictive practices for children and young people should be addressed in the individual plan as should alternative strategies for preventing harm to others. The plan process should involve the child or young person as far as possible. Staff likely to need to use physical restraint should access training specific to that requirement.

It is appropriate that different approaches are likely to be needed from staff in their interactions with children and young people with additional and complex needs. For this reason, site behaviour codes or behaviour management policies need regular reviewing to ensure they reflect the needs of the children and young people accessing the site at any one time.

Nevertheless, the basic principles outlined elsewhere in this document remain applicable to all children and young people. Staff members have a duty of care to protect children and young people from physical and emotional harm and, while the ways of meeting the duty may differ for different groups, the duty itself remains unqualified. Staff are expected to meet this duty in a manner that respects the dignity of all children and young people as well as their vulnerabilities.

Refer to each sector's disability website for additional information:

- AISSA: www.ais.sa.edu.au/teaching-learning/special-education
- CESA: www.cesa.catholic.edu.au/about/support-we-provide
- Department for Education: <https://myintranet.learnlink.sa.edu.au/child-and-student-support/disability-and-special-needs>



Protective practices for staff in their interactions with children and young people provides clear advice to adults for the establishment of positive, caring and respectful relationships with children and young people in education and care settings. The main intent of this document is to safeguard the emotional and physical wellbeing of children and young people by promoting in adults an enhanced understanding of appropriate relationship boundaries.

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