

# Penrith Performing & Visual Arts Ltd

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## Purpose

Penrith Performing & Visual Arts Ltd (PP&VA) values the safety and well-being of children using its programs and services and supports the aims of Child Protection Legislation. PP&VA is committed to managing the risks associated with caring for children whether they are engaging with our business as students, employees, audience, visitors, artists or performers.

## Scope

This policy applies to all board members, managers and employees of PP&VA, including permanent, temporary, casual or seasonal staff. It will also apply to unpaid volunteers or paid contractors working with, or for PP&VA, whether engaged directly by PP&VA or through Penrith City Council.

This policy seeks to protect the safety of children who are engaging with our sites or venues as audience members, students, performers, visitors, volunteers or employees.

## Policy

This policy is designed:

- to ensure the requirements of relevant legislation are being met. Including but not limited to:
  - Ombudsman Act 1974
  - Ombudsman Amendment (Child Protection and Community Services) Act 1998
  - Commission for Children & Young People Act 1998
  - Children & Young Persons (Care & Protection) Act 1998
  - Child Protection (Prohibited Employment) Act 1998
  - Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009
  - to ensure that a system exists for the reporting of all reportable conduct allegations under the Ombudsman Act, 1974, and to encourage and facilitate the reporting of children and young persons at risk of significant harm as outlined in the Children Legislation Amendment (Wood Inquiry Recommendations) Act 2009 and the 'Keep Them Safe' (KTS) Mandatory Reporter Guide.
  - Protect all stakeholders by clearly stating the expectations of behaviour and process outlined in this policy.
- To establish practices to ensure any person engaged in child related employment is suitable for such employment.
- To build a workforce committed to child protection through a range of policies and work practices designed to ensure that services are provided to children in a healthy, happy and safe environment.

## Risk Management

### *Audit, Risk and Compliance Subcommittee*

PP&VA will ensure that child safety is a part of its overall risk management approach.

PP&VA, through the Audit, Risk and Compliance subcommittee are committed to identifying and managing risks at PP&VA. Risk and compliance sub-committee members will receive regular training in relation to child safety and discuss, resolve and recommend to the Board solutions to concerns raised throughout the conducting of business on any PP&VA site.

## Human Resources

### *Job Descriptions*

All job descriptions and job advertisements will carry a statement of commitment to child safety.

### *Recruitment*

PP&VA are committed to ensuring that only the most suitable people are selected to work as employees and volunteers to work with children across our organisation. In addition to the PP&VA recruitment process, the following must happen to specifically protect against the mistreatment of children:

- All PP&VA recruitment will be co-ordinated through Business Systems who will ensure that thorough vetting of selected job applicants is undertaken. This **MUST** include:
  - Adherence to the PP&VA Recruitment process
  - The registering of a Working With Children Check number and verification for all management, child related employees, **all** educators and volunteers, irrespective of employment status, **prior** to commencing duties within the organisation.
  - The design and maintenance by Business Systems of an organisation-wide Working With Children Check Register
- As a part of the recruitment process it will be communicated to all candidates that PP&VA support work practices that actively encourage the protection of children.
- Structured interviews are to be conducted, where appropriate, by a panel of interviewers rather than one person. This will allow for a broader diversity of viewpoints and opinions. Where possible, and for selection of roles that are directly interacting with children, at least one of the panel members will have some awareness of the dynamics of child abuse and the typical behaviours of child offenders.
- At least two verbal reference checks should be carried out when verifying the information provided by a candidate. Letters of reference, when the role is one that directly interacts with children, are not an acceptable method of verification and a verbal reference check will need to be undertaken.
- A Working With Children Check **must** be provided, verified (by Business Systems) and registered before a new recruit can commence working at PP&VA

### *Induction*

As a part of the PP&VA Induction Process, new staff members will be provided a copy of the PP&VA Child Protection Policy and the Code of Conduct. It is the responsibility of every staff member (including board members and volunteers) to familiarise themselves with these documents and behave in a manner that is in accord with them.

### *Training*

At PP&VA's expense, staff will be periodically provided with training around child protection issues. This training will assist in staff recognising and responding to child abuse.

### *Communication*

Changes to legislation, policy or procedure will be communicated to all staff via electronic communication and/or in team meetings. Business Systems will monitor and disseminate information as it comes to hand.

### *WWCC Register*

A Working With Children Check Register **must** be kept by Business Systems, up to date, and include:

- Name of employee
- Working with Children Check identification number
- Date of attainment of check
- Expiry date of Working With Children Check

Whilst it is the responsibility of each employee to maintain an up to date Working With Children Check, the Business Systems team should periodically review the register and ensure that the expiry dates for the Checks have not lapsed.

### **Reporting**

Any staff member, volunteer or contractor who has grounds to suspect abusive activity must immediately notify the appropriate child protection service or the police. They should also advise their supervisor about their concern.

In situations where the supervisor is suspected of involvement in the activity, or if the person having the suspicion does not believe that the matter is being appropriately addressed or dealt with, the matter should be reported to the next highest level of supervision.

Supervisors must report complaints of suspected abusive behaviour or misconduct to the CEO and also to any external regulatory body such as the police.

Whilst in a legal sense the obligations of mandatory and voluntary reporting are distinguished, PP&VA has taken the position that, by this policy, any concern or knowledge of the mistreatment of children **must** be reported

The table on the next page outlines the legal obligations for reporting in NSW that pertain to PP&VA:

# PP&VA CHILD PROTECTION POLICY

Version 0.1

Final

| <b>Mandatory Reporting</b>   |   |  |                             |
|--|---|--|-----------------------------|
| <b>Legislation</b>   | <b>Mandated Reporters</b>   | <b>When Must A Report Be Made?</b>   | <b>Who Is A Child?</b>      |
| <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> | A person who, in the course of his or her professional work or other paid employment, delivers health care, welfare, education, children's services, residential services or law enforcement, wholly or partly, to children   | A mandated reporter must make a report if:   | A person under 16 years old |
|  | A person who holds a management position in an organisation, the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services or law enforcement, wholly or partly, to children | They have reasonable grounds to suspect that a child is "at risk of significant harm"; and<br>Those grounds arise during the course of or from the person's work       |                             |
|  |   | NB: exceptions may apply.  |                             |
| <i>Crimes Act 1900 (NSW)</i>   | Any person  | A mandated reporter must make a report if:   | A person under 18 years old |
|  |   | <ul style="list-style-type: none"> <li>• The person knows or believes that an offence has been committed (i.e child abuse); and</li> </ul>                             |                             |
|  |   | <ul style="list-style-type: none"> <li>• Their information might be of assistance to police in apprehending, prosecuting or convicting the offender.</li> </ul>        |                             |
| <b>Voluntary Reporting</b>   |   |  |                             |
| <i>Children and Young Persons (Care and Protection) Act 1998 (NSW)</i> | Any person  | A voluntary reporter may make a report if the person has reasonable grounds to suspect that a child or young person (i.e. 17 year old) is at risk of significant harm. | A person under 16 years old |

**Responding To A Report**

In the event that a complaint is made the first priority is to provide support to the child and raise the complaint with an appropriate supervisor.

From there PP&VA will fully investigate the complaint. PP&VA will undertake to:

- Obtain the specific allegation/s from the complainant
- Determine if it is appropriate to undertake an internal investigation at this time
- Appoint an investigator
- Collect all relevant information
- Produce a comprehensive report

PP&VA will immediately report any suspicion of criminal activity to the police.

## Definitions

### Child Protection

Any responsibility, measure or activity undertaken to safeguard children from harm.

### Child Abuse

All forms of physical abuse, emotional ill-treatment, sexual abuse and exploitation, neglect or negligent treatment, commercial (e.g. for financial gain) or other exploitation of a child and includes any actions that results in actual or potential harm to a child.

### Child Related Employment

is “any employment that involves direct contact with children where the contact is not directly supervised” (Prohibited Employment Act 1998, Section 3 and Commission for Children and Young People Act, Section 33).

### Direct supervision

A person is present at all times. The supervisor is observing and is capable of directing, if required, the contact by the person under supervision with any child. The contact with children is part of the duties performed by the person under supervision or can reasonably be expected to occur during the performance of those duties.

### Employee

Any person who is engaged in a child related employment role in the following capacities:

- Paid employment
- Sub-contractors
- Volunteers
- Training as part of an educational or vocational course

### Child

A person under the age of 18 years.

### At risk of harm

Section 23 of the Children and Young Persons (Care and Protection) Act 1998 (the Care Act) defines a child or young person to be at risk of harm if current concerns exist for the safety, welfare or well-being of the child or young person because of the presence of any one or more of a number of circumstances.

A child/young person at risk of harm is one whose:

- Basic physical or psychological needs are not being met; or
- Necessary medical care has not been arranged/or
- Has been, or is at risk of being physically or sexually abused or ill-treated; or
- Is living in an environment of domestic violence and is at risk of serious physical or psychological harm; or
- Someone has behaved in such a way toward the child/young person that they have suffered serious psychological harm.

### At risk of significant harm

From January 2010, the statutory threshold – the point at which a concern should be reported to Community Services Helpline (ph: 132 111) – changed from ‘risk of harm’ to ‘risk of **significant** harm’.

A child or young person is at risk of significant harm if the circumstances that are causing concern for the safety, welfare or wellbeing of the child or young person are present to a significant extent.

What is meant by ‘significant’ in the phrase ‘to a significant extent’?

- Sufficiently serious to warrant a response by a statutory authority **irrespective of a family’s consent**.
- Not minor or trivial
- May be reasonably expected to produce a **substantial and demonstrably adverse impact** on the child or young person’s safety, welfare or wellbeing.
- Can result from a **single act or omission or an accumulation of these**.

Section 23 of the Children and Young Persons (Care and Protection) Act 1998 (the Care Act) outlines the grounds for reporting to Community Services which include:

- Physical abuse
- Sexual abuse
- Psychological harm
- Neglect
- Exposure to domestic violence
- Parental substance abuse and
- Parental mental health concerns

In addition, the Act now contains an additional two grounds for reporting. They are:

- Parents or carers have not made proper arrangements and are unable or unwilling to arrange for their child to receive an education.
- A series of acts or omissions when viewed together may establish a pattern of significant harm (cumulative impact).

### **Reportable Allegation**

Includes an allegation of reportable conduct, and an allegation of misconduct that may involve reportable conduct. An allegation may be written, verbal or anonymous. However, the allegation should provide sufficient information. An allegation must have the following three elements:

1. The person who is the subject of the allegation must be a current employee or have been an employee at the time the allegation was made and must be clearly identifiable. This does not necessarily mean identified by name, as a person may be identifiable by other information including their description and work schedules of the agency;
2. It must refer to a description of behaviour that may constitute reportable conduct;
3. The alleged victim must have been a child under the age of 18 years at the time of the alleged incident or behaviour. The alleged victim may be an adult now and the alleged incident or behaviour may have occurred years before.

It is important that this information is collected to ensure that the requirements of the Ombudsman's Checklist are met.