



ATSILS

Aboriginal and
Torres Strait Islander
Legal Service (Qld) Ltd

Working with Vulnerable People including Children

Chapter 2: Human Resources and Workplace Health and Safety

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1. Purpose

ATSILS is committed to promoting and protecting the interests and safety of vulnerable people, including children. A 'vulnerable person' in this context is defined as being:

"a child, being an individual under the age of 18 or an individual aged 18 years and above who may be unable to take care of themselves against harm or exploitation by reason of illness, trauma or disability or any other reason".

Consistent with the *Working with Children (Risk Management and Screening) Act 2000 (QLD)*; the 2017 Recommendations which arose out of the *Royal Commission into Institutional Responses to Child Sexual Abuse*; and the *National Principles for Child Safe Organisations*, the central focus of this Policy is upon working with children - although staff are required to be attentive to the interests and safety of all vulnerable clients.

ATSILS staff work with many vulnerable clients – and there will be zero tolerance for any non-compliance with this policy.

2. Principles

1. ATSILS is committed to creating a culture, adopting strategies and taking action to promote child wellbeing and prevent harm to children.
2. ATSILS aims to be a "child safe" organisation by deliberately and systematically:
 - Creating a working environment where children's safety and wellbeing is central to our mode of operations.
 - Placing emphasis upon a genuine engagement with and valuing of children - indeed, in a manner which reflects ATSILS central ethos of Care, Share and Respect.
 - Creating working conditions and protocols that reduce the likelihood of harm to children.
 - Creating work processes that increase the likelihood of identifying any harm.
 - Creating a working environment that responds to any concerns, disclosures, allegations or suspicions of harm relating to a child.
3. All children, regardless of their gender, race, religious beliefs, age, disability, sexual orientation, or family or social background, have equal rights to protection from harm.
4. Whilst legislation does not mandate the reporting by our staff of harm to a child – as a matter of organisational policy, such will ordinarily be the position adopted, subject only to where such would encroach upon legal professional privilege.

3. Procedures

Safe environments and practices do not happen by chance – hence a structures system of procedures are required. In terms of dealing with disclosures or suspicions of harm, including reporting guidelines, such will be considered under the following headings:

- Defining ‘harm’
- Identifying ‘harm’
- Managing and Recording a disclosure or suspicion of harm
- Reporting a disclosure or suspicion of harm.
- Reviewing (and possibly refining), policies and procedures following an incident

1. Defining ‘Harm’

What is harm? Section 9 Child Protection Act 1999 (QLD):

- (1) **Harm**, to a child, is any detrimental effect of a significant nature on the child’s physical, psychological or emotional wellbeing.
 - (2) It is immaterial how the harm is caused.
 - (3) Harm can be caused by—
 - (a) physical, psychological or emotional abuse or neglect; or
 - (b) sexual abuse or exploitation.
 - (4) Harm can be caused by—
 - (a) a single act, omission or circumstance; or
 - (b) a series or combination of acts, omissions or circumstances
- 2. Suspicion of harm:** A suspicion of harm is when someone has a reasonable suspicion that a child has suffered, is suffering, or is at an unacceptable risk of suffering, (significant) harm. This includes circumstances which relate to an unborn child who might be in need of protection after he or she is born. A child who has been, or might be experiencing, abuse might show behavioural, emotional or physical signs of stress and abuse.

Considerations when forming a reasonable suspicion about harm to a child include:

- whether there are detrimental effects on the child’s body or the psychological state or emotional state:
 - the person considers are likely to become evident in the future, and
 - in that are evident to the person, or
- that relation to any detrimental effects mentioned above:
 - their nature and severity, and
 - the likelihood that they will continue, and
- the child’s age (section 13C of the *Child Protection Act 1999*).

3. Identifying 'Harm'

GENERAL INDICATORS OF CHILD ABUSE

Some general indicators of child abuse include:

- showing wariness and distrust of adults
- rocking, sucking or biting excessively
- bedwetting or soiling
- demanding or aggressive behaviour
- sleeping difficulties, often being tired and falling asleep
- low self-esteem
- difficulty relating to adults and peers
- abusing alcohol or drugs
- being seemingly accident prone
- having broken bones or unexplained bruising, burns or welts in different stages of healing
- being unable to explain an injury, or providing explanations that are inconsistent, vague or unbelievable
- feeling suicidal or attempting suicide
- having difficulty concentrating
- being withdrawn or overly obedient
- being reluctant to go home
- creating stories, poems or artwork about abuse.

GENERAL INDICATORS OF NEGLECT

Some indicators of neglect include:

- malnutrition, begging, stealing or hoarding food
- poor hygiene, matted hair, dirty skin or body odour
- unattended physical or medical problems
- comments from a child that no one is home to provide care
- being constantly tired
- frequent lateness or absence from school
- inappropriate clothing, especially inadequate clothing in winter
- frequent illness, infections or sores
- being left unsupervised for long periods.

4. Managing and recording a disclosure or suspicion of harm

a. Disclosure of Harm

Staff should:

- remain calm and listen attentively, actively and non-judgementally;
- ensure there is a private place to talk;
- encourage the person to talk in their own words and ensure just enough open-ended questions are asked to act protectively (e.g. *'Can you tell me what happened'...* or *'Can you tell me more about that'*). Don't ask leading questions which tend to suggest an answer. Ensure the person is advised that the disclosure cannot remain a secret and it is necessary to tell someone in order to get help;
- reassure the person they have done the right thing by telling you;
- advise the child that you need to tell someone else who can help the child;
- document the disclosure clearly and accurately, including a detailed description of:
 - the relevant dates, times, locations and who was present
 - exactly what the person disclosing said, using "I said," "they said," statements
 - the questions you asked
 - any comments you made, and
 - your actions following the disclosure
- not attempt to investigate or mediate an outcome; and
- follow any relevant process for reporting a disclosure of harm (please see below) and consider whether there are requirements to report matters to the Queensland Police Service or Child Safety.

b. Suspicion of Harm

In relation to a 'suspicion' of harm, staff should:

- remain alert to any warning signs or indicators;
- pay close attention to changes in the child's behaviour, ideas, feelings and the words they use;
- make written notes of observations in a non-judgemental and accurate manner;
- assure a child that they can come to talk when they need to, and listen to them and believe them when they do, and
- follow any relevant process for reporting a suspicion of harm (please see below) and consider whether there are requirements to report matters to the Queensland Police Service or Child Safety, or consider what support services could be offered to the family if the concern does not meet the relevant threshold to make a report.

c. Contact Officer

Should a staff member be uncertain as to the course to adopt in any given situation, they should consult with the designated 'Working with Vulnerable People Contact Officer', who in this instance, is the organisation's Human Resources Manager.

d. Reporting a disclosure or suspicion of harm

Staff of ATSILS do not fall within those categories of employees who are mandated under legislation to report child harm to the Department of Child Safety, Youth and Women (e.g. as is the case for doctors, teachers, police officers etc). However, in conformity with upholding the underlying principle of wanting to actively assist in protecting the interests and safety of vulnerable people (in this instance, children), then as a matter of organisational policy, staff are required to take the steps outlined below where they hold a

reasonable suspicion that a child has suffered, is suffering, or is at an unacceptable risk of suffering, harm (remembering that within the definition of 'harm' such must be 'significant').

e. Legal Professional Privilege (sometimes referred to as lawyer/client privilege)

Whilst staff must not breach Legal Professional Privilege – it is to be remembered that one of the exceptions to the rule against disclosing client-confidential information, is where the information is disclosed for the purpose of preventing imminent serious physical harm to the client or to another person. Note: this exception refers to 'pending' 'physical' harm of a 'serious' nature. Further, the staff member must form a reasonable suspicion that the threatened harm is genuine (e.g. was the threat of harm disclosed made seriously or was it a seemingly stupid throw-away line in a moment of anger? That said, the threat being said 'in anger' does not preclude a conclusion that the threat is genuine).

Note: the ability to disclose in such a situation is not to be confined to threats against a child.

4.1. Where there is an Imminent or Immediate Danger:

If a staff member forms a reasonable suspicion that a child is in imminent or immediate danger of harm – they should immediately contact the Queensland Police Service by dialling 000 (unless it is more practical and expedient to contact a local police station).

As soon as reasonably practicable thereafter, a written report, outlining all relevant details is to be supplied to the Chief Executive Officer, with a copy also being supplied to the Human Resources Manager.

In the event that the Chief Executive Officer is away on leave at the material time – a further copy is to be supplied to the Principal Legal Officer.

4.2. Where the Danger is not Imminent or Immediate:

If a staff member forms a reasonable suspicion that a child has suffered, is suffering, or is at an unacceptable risk of suffering 'harm' – they are required, as soon as reasonably practicable to provide a written report outlining all relevant details to the Chief Executive Officer, with a copy also being supplied to the Human Resources Manager.

The same requirement applies to circumstances which relate to an unborn child who might be in need of protection after he or she is born.

In the event that the Chief Executive Officer is away on leave at the material time – a further copy is to be supplied to the Principal Legal Officer.

Upon receipt of the report, the Chief Executive Officer (or if away on leave, the Principal Legal Officer), is required to make any further enquires as might be considered necessary and then make as expedient a decision as is practicable in the circumstances as to whether the matter should be brought to the attention of the Department of Child Safety, Youth and Women (or in the alternative, the police service).

Whatever the decision in this regard, the staff member who provided the original written report is to be updated by the Human Resources Manager within five business days of the decision being made.

4.3. Reviewing current policies and procedures

Within a reasonable time period following-on from receipt of a report of harm as outlined in Part 3.4 above, the Human Resources Manager is required to:

- Consider the application of this Policy and whether any changes might be necessary, for example, whether they are suitable for:
 - responding to a child when a disclosure is made;
 - protecting children from harm; and

- assisting involved staff within the organisation.
- Identify any additional training requirements – either on an individual staff member basis or on a collective staffing basis.

The organisation will periodically review, evaluate and where necessary, improve child-safe practices.

Any complaints, concerns and safety incidents that impinge upon child-safe considerations, are to be analysed by the Human Resources Manager to identify causes and any potential systemic failures – in order to inform continuous improvement.

In terms of any suggested changes to this Policy (or related Procedures), the Human Resources Manager is to make recommendations to the Chief Executive Officer accordingly. Should the Chief Executive Officer decide that a change to this Policy would be of utility, he or she is to put forward a proposal to our Board of Directors, seeking their approval as soon as reasonably practicable.

2. Recruitment and Employment Procedures

ATSILS will undertake a comprehensive screening process for all new or prospective employees and students with the aim of:

- promoting and protecting the interests and safety of children; and
- preventing a person from working at ATSILS if they pose a risk to children.

ATSILS requires all prospective employees to pass through the organisation's recruitment and screening processes prior to commencing their engagement with ATSILS. Please see related organisational policies and procedures that relate to recruitment. Such incorporates amongst other screening tools: reference checks, Blue Card requirements (for applicable staff) and criminal history checks.

Children as students, workers or consultants:

- ATSILS will only approve a student placement for a student under the age of 18 with the explicit written consent of the parent/guardian of the student.
- Once placed, that student will take a one-hour break at the fourth hour in one day (for example, leave court and take a formal break).
- While the *Child Employment Act 2006* prohibits the employment of children generally below the age of 13, ATSILS will not permit a student under the age of 15 years in any of its workplaces for work-placement reasons.

3. Blue Card – Working with Children Checks

1. Who requires a Blue Card?

- **Legal Practitioners** are not required to hold a Blue Card in the carrying out of their professional duties (although they are required to hold a valid Practising Certificate).
- **Prisoner Through Care Officers** are required to hold a valid Blue Card. This is because the activities of our Prisoner Through Care staff fall within the ambit of being 'regulated' activities under the *Working with Children (Risk Management and Screening) Act 2000* (QLD).
- **Court Support or Field Officers, Law Clerks, Paralegal staff:** are not required to hold a Blue Card in carrying out their standard duties; for example, in advocating on behalf of a child within a legal assistance framework. In this context, 'advocating' incorporates the provision of legal assistance support services.
- **All staff (with the exception of Prisoner Through Care Staff):** must not provide a 'support service' to a child which falls outside the scope of the child's legal assistance framework. In

this context, 'support service' is defined as being the provision of emotional support, mentoring or pastoral care to a child which falls outside of the ambit of legal advice or legal advocacy.

2. Blue Card Applications and Renewals

For staff that require a Blue Card as a function of their employment with ATSILS, the organisation will pay for the cost of the initial Blue Card application and/or for the renewal of the Blue Card.

Blue Card Services ordinarily send a renewal application and reminder to the Blue Card holder 10 weeks before the Blue Card expires. Relevant staff are to complete the Form and then send it to the Human Resources Manager for compliance checking and formal lodgement (including payment). To be clear, staff are not to lodge the renewal/application Form themselves.

ATSILS will ensure it sights and verifies the Applicant's (or Renewal) identification documents and confirm that the details match those on the application Form including name, date of birth, and signature.

ATSILS is required to provide a verbal warning that it is an offence for a disqualified person to sign a Blue Card Application Form. **The warning for ATSILS staff members from the Human Resources Manager is:**

"I am required by the Working with Children (Risk Management and Screening) Act to provide you with a warning that it is an offence for a disqualified person to sign a blue card application form. If you are unsure whether you are a disqualified person, you should contact Blue Card Services for more information before signing the application form".

Relevant staff may continue in regulated child-related work as long as they submit a renewal form **before** their Blue Card expires; and

Students of long-standing with ATSILS on specific social work projects (Volunteer Card) must submit their renewal form at least **30 days before their blue card expires** in order to continue in regulated work after the expiry of their Blue Card, unless it is suspended or cancelled earlier.

3. Blue Card Register

A current Blue Card Register in relation to staff is to be maintained by the organisation's Human Resources Manager.

In accordance with the Blue Card regulations, ATSILS will keep current a central register of:

- Blue Card holders or applicants
- exemption card holders or applicants, and
- individuals who do not require Blue Cards.

The expiry date and renewal date of all Blue Cards in the ATSILS' Blue Card Register will be kept in a format that enables the Principal Legal Officer and the Human Resources Manager and a Chief Financial Officer-appointed Brisbane Finance & Administrative staff member to check that all Blue Cards remain current and that the requirements outlined above in relation to 'renewals' have been complied with.

4. Additional Employee Responsibilities

Employees must notify ATSILS and Blue Card Services online or in writing if there is a change in their police or disciplinary information during the application process (for paid employees who have already commenced working) or after a Blue Card has been issued.

- ATSILS is not permitted by law to continue to employ a person who must carry a Blue Card until a [Change in police information notification form](#) (PDF, 137KB) is uploaded to Blue Card Services.
- ATSILS employees are not required to disclose the specific nature of the change, only that a change has occurred to ATSILS.

- Blue Card Services will notify ATSILS of any suspension or cancellation of the employee's Blue Card.

Upon leaving ATSILS, former employees are required to advise the Blue Card Services by submitting a [No longer with organisation form](#) (PDF, 109KB). ATSILS will also submit an Employer advice within 30 days of the employee's final day of work.

4. Cancellation or suspension of a Blue Card

If an Employee or Student has had a blue Card cancelled or suspended or receives a negative notice after a change in police information, ATSILS must:

- ensure the employee (usually a Prisoner Through Care Officer) does not continue to undertake regulated child-related work within ATSILS, and
- if ATSILS continues to employ the person to perform work that is not child-related, ATSILS must manage any risks of harm to children and young people that may arise as a result of the person's ongoing employment with ATSILS.