

Risk Alert

APRIL 2023



Safeguarding to Prevent Physical and Sexual Abuse

This guideline provides risk management advice on safeguarding to prevent physical and sexual abuse.

“**Safeguarding**” refers to the responsibilities, measures and activities undertaken by an organisation to safeguard children and vulnerable adults from harm, abuse and exploitation.

If an organisation provides services to children and/or vulnerable people, it must have a formal safeguarding strategy.

These organisations typically include:

- Child Care and Family Day Care
- Disability Care
- Community Groups and Sporting Clubs
- Faith Groups
- Aged Care
- Education and Training

SAFEGUARDING

Safeguarding in an organisation does not just happen; it requires an active approach to increasing awareness, adoption of strategies, good governance and risk management practices that together create a culture where the best interests and safety of children and vulnerable adults are the first priority.



Accountabilities
are communicated
and managed

+



Awareness
of the framework
is enabled and
encouraged

+



Attitudes
towards safeguarding
lead to it being
“everyone’s responsibility”

=



Behaviour

An organisations safeguarding strategy must be led by the Governing Body who foster a culture of accountability and transparency for safeguarding, ensuring everyone in the organisation understands what they need to do.

The Strategy must include:

- a **policy on safeguarding people** from physical and sexual abuse that describes how every part of organisation and its operations are designed to produce that outcome
- a **Code of Conduct** that describes what behaviors are acceptable and what will not be tolerated.
- **recruitment, induction and training** practices that prioritise the safety and wellbeing of the people in the organisation with particular focus on the protection of children and vulnerable adults
- robust **systems and procedures** for identifying, recording and reporting behaviours of concern, breaches of the code of conduct and responding to disclosures including obligations to report sexual abuse to the police



Ansvar’s Physical and Sexual Abuse (PSA) policy provides cover to select organisations to respond to allegations of these forms of abuse and to manage claims that may arise. This cover is provided on the basis that organisations demonstrate effective risk management, have a clear and embedded policy and plan for safeguarding and have strong commitment and leadership from board and management to protect children and vulnerable people.

PART 1: WHAT ARE THE RISKS OF NOT GETTING SAFEGUARDING RIGHT?

1

Further abuse will go undetected – although organisations are establishing better approaches to safeguarding, incidents of physical and sexual abuse still continue and will continue. In the absence of effectively led approaches, the likelihood of abuse will rise. The impact of these harms is often devastating and with widespread and long lasting effects.

2

Fail to accept the problem of abuse – “that sort of thing doesn’t happen here” is a view that still permeates sectors at high risk. Leadership must tackle the culture of complacency and blind sightedness and to raise this as a problem that must be addressed.

3

Environments create opportunities for abuse – Inadvertently, spaces and online environments (particularly chat rooms) become easy access for offenders. Creating and monitoring safe space is a critical risk strategy; organisations should have auditing approaches in place and eliminate environmental concerns.

4

Governance failures – safeguarding is often left to a “person in the organisation” to lead. It must form part of the strategy and governance arrangements of boards and have the appropriate oversight and continuous improvement commitment.

5

Risk management fails to keep pace – frameworks often focus on traditional aspects of risk; failing to identify risks to critical safeguarding objectives; organisations should not be comforted that they have a risk framework, but should be asking “how effective is it and how do we know?”.

6

Significant Director and Officer exposures – criminal penalties may now apply to directors if they do not meet requirements for governance and risk management to prevent abuse. For example, criminal penalties apply in Victoria, New South Wales and Tasmania for failure to report allegations of child sexual abuse.

7

Insurability – many insurers have reset their appetites for this type of risk-transfer and cover may become more challenging. Going forward, organisations will need to demonstrate effective governance, risk management and safeguarding plans to receive cover.

8

Leadership and Culture – All inquiries, reviews and royal commissions have stated that the two key aspects of success for safeguarding are leadership and culture. All the processes, documents and systems assist to manage the risk; however, nothing is more critical than these two elements. On that basis, safeguarding to prevent abuse is everyone’s business and the culture of an organisation must set a zero tolerance tone.

PART 1: WHAT ARE THE RISKS OF NOT GETTING SAFEGUARDING RIGHT?

(Continued)

Directors and Officers: Complex Regulatory Time

Australia's legislative landscape after several Royal Commissions and Inquiries has changed and will change further. Although awareness of the requirements for governing for vulnerable people is increasing, some organisations still struggle to engage their Board on safety matters, such as sexual abuse. Some directors consider safety to be an operational issue; yet, the Royal Commission into Institutional Responses to Child Sexual Abuse identified that poor leadership was a major risk for child abuse and that a safe culture begins with the board.

Criminal penalties may apply to directors if they do not meet requirements for governance and risk management to prevent abuse. For example, criminal penalties apply in Victoria, New South Wales, Queensland and Tasmania for failure to report allegations of child sexual abuse or for concealing child abuse. These laws are likely to be expanded to vulnerable adults as a result of Royal Commissions in Aged Care and Disability.

Grooming is also a criminal offence in most States and Territories in Australia. The offence of grooming concerns predatory conduct undertaken to prepare a child for sexual activity at a later time.

PART 2: KEY GOVERNANCE ACTIONS



Ansvar has developed a range of safeguarding guidelines and resources for organisations to improve their safeguarding approach and prevent harm. See page 7

Key Actions:

1. Develop a Safeguarding Framework
2. Review Adequacy of Governance and Risk
3. Assess Reporting Systems, Processes and Culture

PART 3: BOARD QUESTIONS TO EXPLORE

- ✓ Has board reviewed the effectiveness of the organisation's safeguarding policies, procedures and a code of conduct in the last 12 months?
- ✓ Does board have a full understanding of the Safeguarding risks relating to preventing physical and sexual abuse in the organisation?
- ✓ Do board members understand their and the organisation's governance and reporting obligations?
- ✓ Has board communicated its commitment to zero tolerance of physical and sexual abuse in the organisation?

PART 4: RISK MANAGEMENT PRACTICES

Safeguarding is not an isolated area of risk for organisations. It should be managed as part of an enterprise Risk Management Framework.

For more information on risk management frameworks and advice contact info@ansvarrisk.com.au

Effective risk management is critical to prevent abuse, and is a major underwriting factor.

Risk management must also be effective in striking the balance between preventative controls with autonomy and choice; to allow for care and services that protect against harm while still respecting human rights and the promotion of well-being.

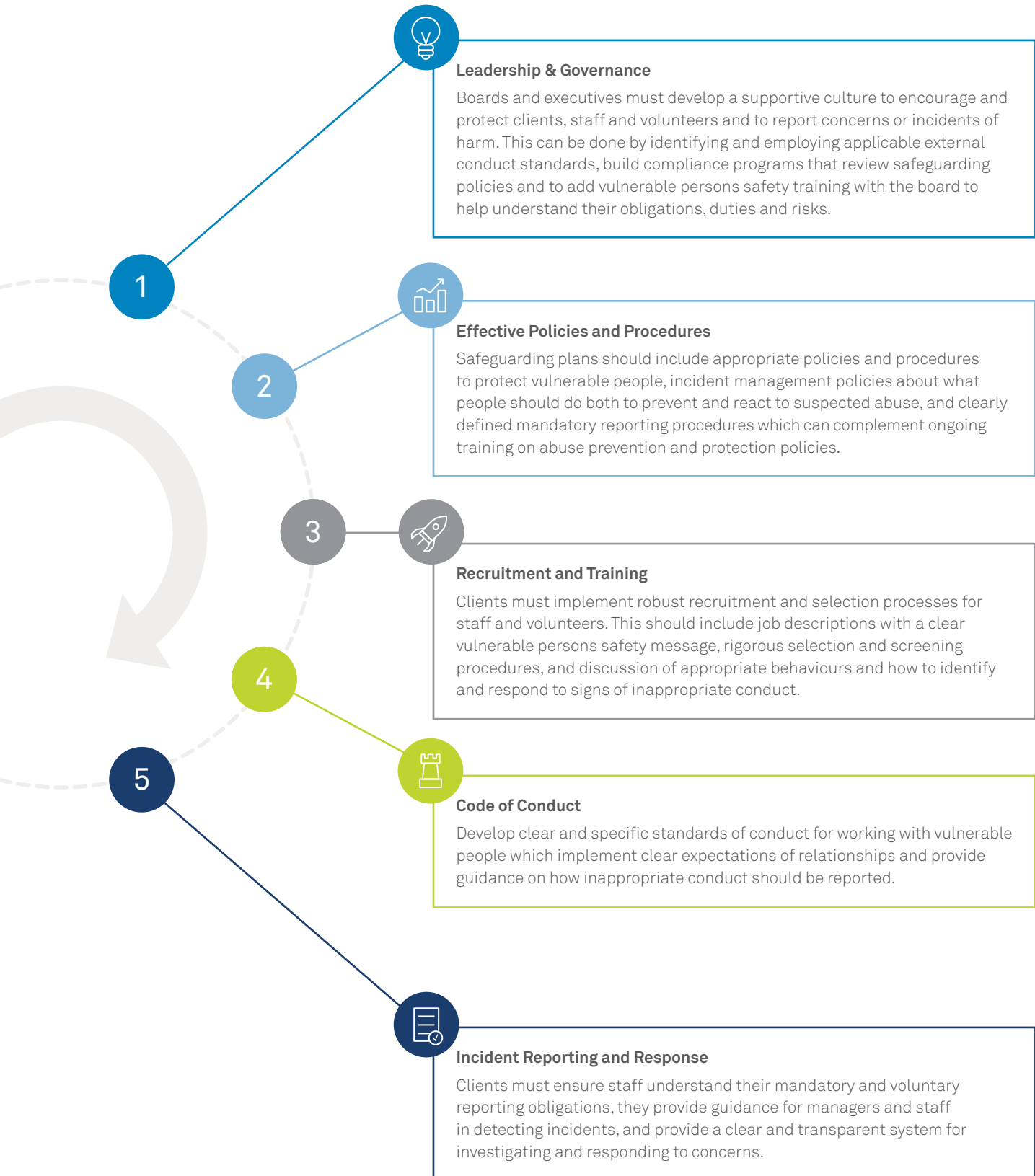
Ansvar PSA policy holders must demonstrate a commitment to embedding and continuously improving an organisation wide Risk Management Framework.



PART 5: CRITICAL RISK CONTROLS

Incorporate these in your Safeguarding Framework

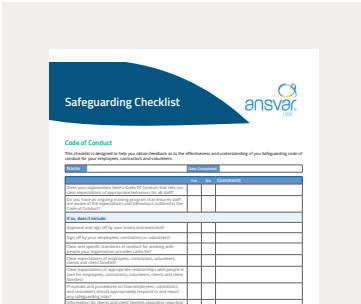
These risk controls will contribute to reducing the risk of abuse and harms as low as reasonably possible.



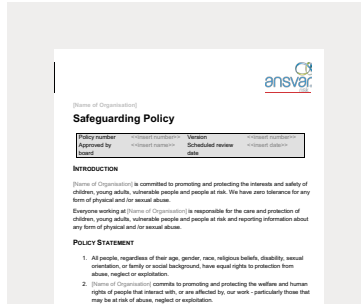


PART 6: RESOURCE AND TOOLS

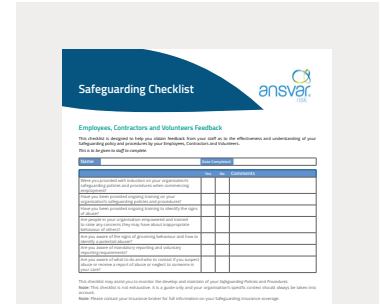
Click arrow to download



Safeguarding Code of Conduct



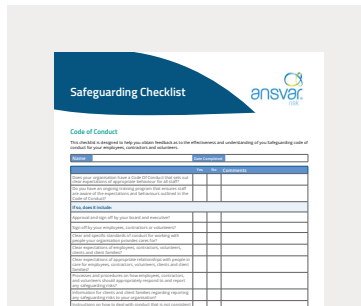
Safeguarding Policy



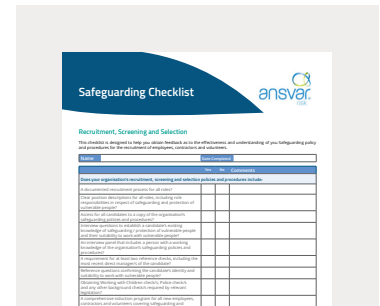
Safeguarding Checklist: Employees, Contractors and Volunteers



Safeguarding Checklist: Policies and Procedures



Safeguarding Checklist: Code of Conduct



Safeguarding Checklist: Recruitment, Screening and Selection



Safeguarding Checklist: Reporting, Response and Record Keeping



Look out for what's coming:

- Safeguarding Forums
- Broker Webinars
- Client Webinars
- Risk Advice Hotline for Brokers



For more information

The Risk Solutions team are here to provide a range of consultancy services to assist clients to review and enhance their systems, processes and practices and the time to act is now.

For further advice, email us at info@ansvarrisk.com.au



Anthony Black
GENERAL MANAGER –
RISK SOLUTIONS
0402 239 149
ablack@ansvarrisk.com.au



Diana Borgmeyer
SAFEGUARDING PRACTICE
EXPERT LEAD
0413 730 839
dborgmeyer@ansvarrisk.com.au

© 2022 Ansva Insurance Limited (ABN 21 007 216 506 AFSL No 237826) of Level 5, 1 Southbank Boulevard, Southbank VIC 3006 (Ansva). Ansva is a member of the Benefact Group in the UK (formally known as Ecclesiastical Group). All rights reserved, except as permitted by the Copyright Act 1968, no reproduction or communication of any of the content of this document may occur without the permission of Ansva.

The content contained in this document is of general nature and does not constitute legal, financial or personal advice. Before using this information, you should consider the appropriateness of it having regard to your own business objectives, needs and individual circumstances. To the extent permitted by applicable law Ansva expressly disclaims all liability howsoever arising from this publication whether in contract, tort or otherwise (including, but not limited to, liability for any negligent act or omission) to any person in respect of any claims or losses of any nature including direct, indirect, incidental or consequential loss, punitive damages, penalties or costs.