

Department of Foreign Affairs and Trade

Minute

File no:

Date: 12 December 2014

TO. Scott Dawson, FAS ACD

CC.

Through. s 22(1)(a)(ii) A/g AS FRB

FM. s 22(1)(a)(ii) Director CPCS

*over 200 minutes
discussions*

DFAT Child Protection Policy 2013 Review – First Draft

Purpose

To update you on work being undertaken to revise DFAT's Child Protection Policy 2013 (Policy) and seek your advice on key issues arising from the recent request for comments from internal and external stakeholders.

Recommendations

2. It is recommended that you:

- a. Note the responses received from stakeholders,
- b. Note 'Other Implementation Issues' previously identified for inclusion with the review,
- c. Note the Policy review project plan,
- d. Advise/Comment on the draft DFAT Child Protection Policy 2015.

Background

DFAT commenced a review process of the Policy on 1 September 2014. The rationale for doing so was partially in response to integration of the aid program into DFAT, recognising the need to harmonise approaches and also to formally capture feedback from external stakeholders on implementation challenges - much of which has been expressed by external stakeholders since the release of the Policy early 2013 in training workshops and through correspondence.

The DFAT Ethics Committee was briefed on the progress of the review on December 9 2014 and has requested an inter-sessional distribution to committee members of an early draft of the new Policy prior to discussing at the next Ethics Committee meeting in March 2015 (date TBC).

Summary of stakeholder feedback

Twenty (20) internal stakeholders and Twenty one (21) external stakeholders provided formal feedback as part of the review process. Feedback reviewed is set-out in Attachment A, not included - out of scope

The stakeholder feedback has been categorised into 14 broad themes – these are set out in Attachment B.

Implementation issues identified by stakeholders outside of the review process have been summarised at **Attachment C – Other Implementation Issues**.

A project timeline has been prepared and includes a number of hard-gates such as consideration and approval by the Ethics Committee (as recommended by Conduct and Ethics Unit), approval by Executive and regular 'check-in' points with FAS ACD. This is at **Attachment D** not included - out of scope

Issues – DFAT Child Protection Policy 2015 – DRAFT

A first draft of the Policy has been prepared taking into account issues identified as part of the formal review process and issues previously banked.

The draft Policy identifies, where possible, how each of the fourteen broad themes impacts on the Policy and contains a recommended change.

Where a change is not recommended or is subject to further discussion this has also been identified.

The draft policy is at **Attachment E**.

s 22(1)(a)(ii)

A directions discussion has been scheduled with you on Wednesday 17 December 2014 with a view to further refining the draft policy.

s 22(1)(a)(ii)

Director CPCS

FRB/ACD

s 22(1)(a)(ii)

DFAT Child Protection Policy (2013) Review

Directions Meeting – FAS ACD

Wednesday 7 January 2015, 2pm

Attendees

Scott Dawson FAS ACD
s 22(1)(a)(ii) a/g AS FRB
s 22(1)(a)(ii) Director CPC
s 22(1)(a)(ii) Assistant Director CPC

Agenda

- 1) First Draft – Minute 12/12/14 – Discussion
- 2) Ethics Committee (DRAFT) minutes – Discussion
- 3) 2011 Independent Review and associated recommendations - Discussion

THEME	OVERALL ASSESSMENT BY CPCS	RELEVANT DOCUMENT/ ENGAGEMENT
The child protection policy should cover all of DFAT	Agreed this policy should cover all DFAT staff and implementing partners. This will align with the Whole of Govt Child Safe Policy that is currently being finalised and implemented by APSC	Policy - scope
Code of Conduct. Age of child/age of consent <i>CROSS not with DFAT CoC. Age of consent 18 (highlight issues)</i>	Age of a child and subsequent acceptable age re: sexual intercourse to be consistent across the agency. Child to be anyone under 18. There were arguments for and against/but the arguments to raise the DFAT code of conduct were more compelling. And linking this to the recommendations coming out of the 1997 parliamentary enquiry into paedophilia in the foreign affairs portfolio is also a strong factor.	Code of Conduct - suggest update DFAT OS code of conduct but also have CP code of conduct to apply to all staff and individual contractors
Risk Guidance confusing in places and why isn't it in the policy? <i>+ indirect + indirect</i>	Agree to clear up confusion in the guidance note but disagree that humanitarian responses are not high risk. <i>is a good example</i> They had not done any CP risk assessment and I found a number of very high risks (likelihood and consequences) within half an hour. s 22(1)(a)(ii) will review risk section of policy and determine how much information we can provide. We are wary of mixing policy with guidance.	CP Risk Guidance Policy - expand on risk section
Contact with children vs. working with children <i>children don't work with a contract with</i>	s 22(1)(a)(ii) It may be beneficial to include a third category (contact - direct, contact - indirect, working with.) Regardless of how many categories, this comes back to training. We need to engage with partners to discuss what we're trying to do and how they may do it best locally.	CP Risk Guidance Policy - definitions and child safe recruitment section training
Activity design risk (safeguards) vs. organisational risk. The policy is silent on the activity design aspects of child protection. Why is this?	Our Policy is deliberately focussing on child protection in an organisational context. Activity risks are meant to be identified at concept and design stage and monitored throughout the activity. There are too many variables to do a policy on child protection safeguarding, sector focussed guidance notes may be beneficial, but this is resource intensive and will still require activity managers to take into account the local context and possible risk controls.	<i>Design Concept</i> Guidance <i>CPC kind of context</i>
Social media and photography - request for more guidance on the risks (current and emerging) in this area	This would be best dealt with in a guidance note given the emerging risks associated with social media. It should be published electronically and updated whenever required.	Guidance
It is recommended to develop a CPP statement to clearly articulate advice on working with organisations that provide residential care (whether this is directly funded or not), and on identifying, assessing and managing risks. A comprehensive child protection audit of CP standards, practices should be a pre-condition of funding, with periodic monitoring (including spot checks) by a CP specialist throughout the funding period. DFAT more clearly articulate its position with respect to "voluntourism", particularly in relation to orphanage tourism.	CPCS agrees - when CPCS is asked to comment on concepts and designs, we do address these issues - but CPCS not always asked to input. s 22(1)(a)(ii)	Policy - Activity Management Decision Guidance
Lack of access to a pot of funds for child protection programming in the agency	Agreed. This is one of the major criticisms. This is a management issue and was something to be reviewed when the thematic strategy was written. s 22(1)(a)(ii)	Management Decision <i>No 8</i> <i>Subsidiary</i>
Lack of access to technical expertise	Agreed. This is one of the major criticisms. This is a management issue and was something to be reviewed when the thematic strategy was written. s 22(1)(a)(ii) This also comes back to training, delegates and activity managers need to recognise when they need to build in budget to obtain technical expertise on designs etc.	Management Decision Guidance
Reporting - what happens next? How do we ensure the best interests of the child are taken into account if we don't support capacity development of local partner / child protection systems? <i>local partner / child protection systems</i>	Agreed. This is one of the major criticisms. This is a management issue and was something to be reviewed when the thematic strategy was written. s 22(1)(a)(ii)	Management Decision Guidance
Downstream partners - and compliance	DFAT Partners should assess THEIR implementing partner for CP compliance and their CAPACITY to assess their sub-partners. Directly funded partners should not be doing the assessing of the downstream partner. Do they assess their downstream partners for fraud, terrorism or corruption? It is the same mechanism. CP is not the only downstream requirement. Strengthen this in the Policy	Policy - Section 2.5
Time required to implement and embed the policy with partners - it needs to be recognised this can take anywhere from 6 months to 3 years	agree - this is how we work internally with our implementing partners. Exemptions are not given, but an understanding that that risks have been assessed and appropriate interim measures are put in place while policy implementation is undertaken is acceptable - always based on the risk. Strengthen this messaging in the new risk section of the policy	Policy - Section 2.5 and in the expanded risk section <i>Responsible implementation</i>
Suggestion include other options where a criminal record check is not able to be obtained. E.g. Working with Children Check, Statutory declarations, etc.	This is already available in the current policy move to more prominent position in policy and follow up with specific background check guidance - which has already been written and was with Abstar for clearance	Policy - move wording to more prominent position. Potentially in the 9 compliance standards and maybe the expanded risk section

improving process

THEME	OVERALL ASSESSMENT BY CPCS	RELEVANT DOCUMENT/ ENGAGEMENT
The 9 compliance standards are appropriate and relevant to Australia but not always relevant to local partners and some in-country activities.	agree. Looking at how to restructure the nine compliance standards. Will focus on risk/control rather than compliance wording to allow for local context. Eg. Require criminal record checks, but for those countries where checks are not reliable or require a bribe, use of stat dec or local legal equivalent is better. Control Options * Check: preventing someone unsuitable from being employed (best) * Stat Dec: remove/terminate someone employed who lied abt previous convictions or allegations using stat dec because they lied. (Next best)	policy - rework 9 standards table <i>subversion</i>
Code of Conduct. Photography	CPCS has never requested written consent be obtained. It is acceptable for informed consent to be recorded on an official record, by the officer taking the photo. There are too many areas we work in where low levels of literacy are common, and other local concerns about signing 'official documents'. This is a training issue, the more staff discuss the issues the more they can come up with workable solutions. ensuring the reason behind the policy is adhered to but in a manner that doesn't interfere with business.	training Alignment with communications policy in the Department Reinstating some of the tools used by AusAID to obtain informed consent

*Best interests
of the state*

Attachment C

Other Implementation Issues

Reviewing stakeholder feedback over the past 18 months has identified further internal consideration and discussion:

1. Recognise the need for DFAT to increase the level of capacity development support that CPCS is able to provide to DFAT staff and partner organisations, subject to overcoming resource constraints. This could be done through:
 - a. a suite of guidance materials that complement the Policy to be distributed to staff and partner networks, ranging from advice on conducting criminal record checks through to identifying and responding to child labour issues;
 - b. a foundational level e-learning program for staff, which would allow greater opportunity for deeper, tailored face-to-face training for staff and select partner organisations and select partner organisations, linking in with other areas of ACD;
 - c. e-learning modules for partner organisations on strengthening organisational capacity;
 - d. SES messaging to program areas on the need to integrate child protection technical assistance into program design and the sustainability benefits of doing so.
2. Work closely with other internal areas, particularly the Conduct and Ethics Unit, Transnational Crime Section, FOI and Privacy Law Section and Communications Branch to harmonise existing DFAT processes and the Policy, and identify whether to extend the Policy to all DFAT staff and some non-aid program areas of engagement, such as Consular Services and cultural exchange programs.
3. Partners have advised that in some situations greater flexibility is needed in the application of the nine compliance standards. Issues to consider are as follows:
 - a. Can we determine compliance requirements based on the size of an organisation? Based on our experience, small, local organisations have the potential to be high to very high risk organisations because of the lack of governance practices in place and engagement in activities with vulnerable children.
 - b. Should we instead assess compliance requirements based on the risk profile of an organisation? If so, who makes that assessment?
 - c. Should all downstream partners within the scope of the Policy be required to fully meet the nine compliance standards? If not, what requirements should apply?
 - d. Given compliance with the Policy requires organisations to adopt child safe practices that effectively apply to the organisation as a whole as opposed to a particular activity, are there situations where we should require a lesser standard of compliance? For example, should we only require full compliance if an organisation receives more than a certain percentage of funding from the Australian aid program?
4. We need to consider the distinction between 'working with children' positions and 'personnel in contact with children' and develop supporting guidance materials or make significant changes to this approach, which could instead include applying categories of primary, secondary and tertiary contact with children.s 22(1)(a)(ii)

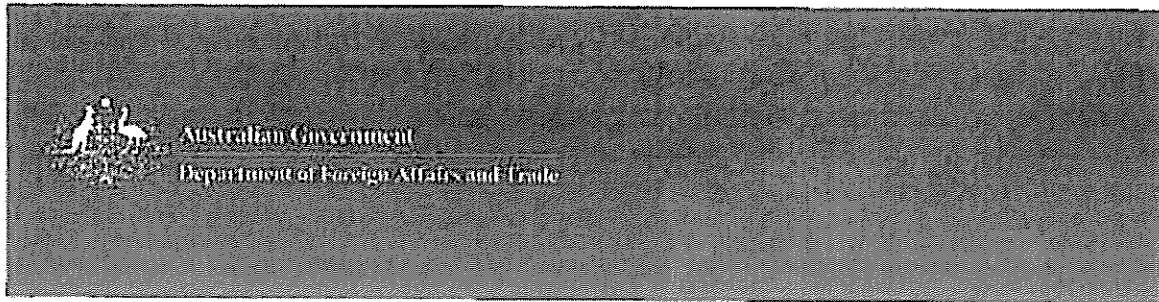
5. Other recommendations s 22(1)(a)(ii) include amending the Policy to require organisations to conduct an upfront Child Protection Risk Assessment; requiring organisations to maintain attendance records in relation to Child Protection training and that CPCS ramp up its spot check and compliance check program.
6. Feedback from partner organisations that are civil society organisations and contractors about the disparity in Policy requirements that applies to their organisations versus multilateral agencies and bilateral donors. Other than continuing to strategically engage at a senior level and through a bilateral donor working group there is limited opportunity to redress that imbalance. Adjusting Policy wording especially at Clauses 2.2 and 2.6 would help with the ambiguity. However, irrespective of the organisational practices of those agencies, we can require an adequate risk management approach to be taken at the activity/program level. It is recommended that clause 2.6 of the Policy be revisited through the review process, a clear message sent from SES to program areas requiring a risk management approach to be taken which supports current aid quality safeguards processes and additional guidance material prepared for DFAT staff on applying the Policy to multilateral agencies and bilateral donor organisations.
7. We need to consider whether to extend or clarify the application of the Policy to the following:
 - a. All DFAT staff members this is supported by the Conduct and Ethics Unit.
 - b. The Direct Action Program.
 - c. The Australia Awards program – the Policy is silent on its application to the Australia Awards program. This has caused confusion in the past and should be addressed in this version of the Policy, particularly given risks to children either accompanying their families as part of the program and risks to Australian children posed by scholars visiting Australia s 22(1)(a)(ii)
s 42(1)
 - d. Deeper engagement is needed with colleagues in the Humanitarian Division on the application of the Policy to humanitarian engagement and clause 2.4 of the Policy may require strengthening.
 - e. Non-aid program areas of engagement – consular services and cultural exchange programs are areas of potentially high risk to children. There are also opportunities to support aid program efforts through working more closely with consular services, for example by issuing travel advice on child exploitation associated with 'orphan tourism' and 'volun tourism'.



Australian Government
Department of Foreign Affairs and Trade

Child Protection Policy

for the Australian Government's Security Force and



Child Protection Policy

for the Australian Government's foreign policy,
aid and trade portfolio program

[xx] 2015 Originally released January 2013 and reprinted June 2014

1. The challenge

The need to protect children from exploitation and abuse

The need to protect children is an issue for all communities. Children across the world are subjected to exploitation and abuse and experience sexual, physical and psychological violation. Many are forced into exploitative work, including commercial sexual exploitation.

There are many factors that increase children's vulnerability to exploitation and abuse, including disability or being orphaned, displaced, homeless or abandoned.¹ During emergency and disaster situations, children are more likely to experience exploitation and abuse as a result of being separated from their parents and other caregivers who would normally protect them from such harm.²

Child exploitation and abuse traumatises children and adversely affects their development and well-being. Children who are exploited and abused experience a greater likelihood of long-term consequences, including mental health issues, reduced educational outcomes, drug and alcohol abuse and increased likelihood of coming into contact with the law. At its core, child exploitation and abuse undermines a child's right to grow up safely.

Rationale for a DFAT Child Protection Policy

There is international recognition that adults who have a formal role in working with or supporting children are in positions of trust and authority. The relationship between an adult and child is not a relationship between equals. Children are dependent on adults to care for and protect them.

It is a shared and collective responsibility of all adults to prevent child exploitation and abuse. DFAT has adopted this policy in recognition of its responsibilities as the Australian Government's foreign policy, trade and overseas aid agency (department), and is committed to working with its partners to prevent and respond to child exploitation and abuse.

Comment (A1): To be updated once scope of policy determined

Child sex offenders often seek employment or volunteer placements in organisations that work with children in Australia or overseas. They might be attracted to working in developing countries to access vulnerable children and to avoid tougher laws.

This policy sends a clear message that child exploitation and abuse is not tolerated and attracts disciplinary and commercial sanctions, as well as criminal penalties under Australian domestic and extra-territorial laws.

2. The policy

2.1 Goal and objective

The goal of this policy is:

To protect children from exploitation and abuse of all kinds in the delivery of Australia's overseas foreign policy, trade and aid program.

Objective:

To create and maintain protective environments for children in the delivery of Australia's overseas foreign policy, trade and aid program.

2.2 Scope

This policy applies to:

- > All DFAT staff members
- > all contractor and civil society organisations funded under [administered funding phase] by DFAT, including:
 - individual contractors
 - partners or organisations subcontracted by DFAT-funded contractors or civil society organisations
 - personnel of DFAT-funded contractors and civil society organisations
 - Australian Volunteers for International Development Program participants and partners
 - Scholarships awardees and implementing partners, including under the Australia Awards program
 - the Direct Aid Program
 - [consular services]
 - [cultural exchange programs]
- > multilateral organisations and bilateral donor partners funded by DFAT.

Comment [A2]: Do we need a definition of staff member? Eg: A-based, O-based, on-going, non-on-going etc.

Comment [A3]: Are we excluding departmental budget funded contractors e.g. service providers to Embassies? Pros and cons need to be reflected in an issues document.

Comment [A4]: Need to reflect 2.6 - remove the ambiguity.

Comment [A5]: Does this apply to non-aid program multilaterals e.g. WTO?

2.3 Guiding principles

The policy is guided by the following principles:

Zero tolerance of child exploitation and abuse

DFAT does not tolerate child exploitation and abuse. Such action attracts criminal, civil and disciplinary sanctions. DFAT works to reduce the risks of child exploitation and abuse in connection associated with the foreign affairs, aid and trade and aid portfolio delivering aid activities and trains its staff on their obligations. DFAT will not knowingly engage—directly or indirectly—anyone who poses an unacceptable risk to children. DFAT will not fund any individual or organisation that does not meet DFAT's child protection compliance standards in their operations and activities within a specified time period.

Comment [A6]: Need to exclude some departmental budget funded services

Recognition of the best interest of the child

Australia is a signatory to the United Nations Convention on the Rights of the Child, and DFAT is committed to upholding the rights and obligations under this convention. DFAT recognises that some children, such as those with disability and children living in areas impacted by disasters, are particularly vulnerable.

Comment [A7]: Expand? Tie in with the challenge and re balance

Sharing responsibility for child protection

To effectively manage risks to children, DFAT requires the commitment, support and cooperation of contractors and civil society organisations. They must meet the terms of this policy and will be held accountable, through contracts, and Compliance will be assessed through audits and spot checks, ~~for complying with it.~~

Risk management approach

While it is not possible to eliminate all risks of child exploitation and abuse, careful management can reduce the risks to children that may be associated with the work of the foreign affairs, aid and trade and aid portfolio aid activities. These are identified during initial risk assessments and are managed for the duration of the aid activity.

Procedural fairness

DFAT uses fair and proper procedures when making decisions that affect a person's rights or interests. Our partners are expected to adhere to this principle when responding to concerns or allegations of child exploitation and abuse.³

2.4 Implementation within DFAT

Ensuring coordinated policy implementation

DFAT's Child Protection Compliance Section is responsible for:

- > responding to reports of child exploitation and abuse, and policy non-compliance
- > conducting child protection audits and spot checks and audits to monitor the child protection systems of contractors and civil society organisations
- > monitoring internal and external compliance with the policy
- > providing child protection training for DFAT staff
- > engaging with multilateral organisations and bilateral donors
- > reviewing the policy every three years.

Comment [A8]: Is CPCS involved in allegations involving DFAT staff or will these go directly to Conduct & Ethics?

Comment [A9]: Admin Circ P1197 applies

Increasing staff awareness of child protection obligations under the policy

- > DFAT staff receive regular training on child protection issues and on their obligations under this policy, including mandatory reporting of concerns or allegations of child exploitation and abuse. Training is compulsory for all staff and included in courses delivered at induction and before staff are deployed overseas.
- > DFAT staff must:
 - immediately report any concerns or allegations of child exploitation and abuse, and policy non-compliance, by anyone covered by the policy
 - complete child protection training and as part of that, acknowledge their responsibilities by signing DFAT's Child Protection Code of Conduct. They must comply with the code of conduct during the course of their employment
 - consider child protection as part of the initial risk assessment for aid activities and throughout the aid management cycle.

Comment [A10]: Should we say mandatory for all staff involved in delivering the aid program and 'recommended' for everyone else? Mandatory for all staff going on posting or are we happy with a blanket 'all staff'?

Comment [A11]: As a policy of the commonwealth this will not be required. Suggest changing to 'acknowledge their responsibilities according to the DFAT Child Protection Code of Conduct.'

Comment [A12]: Should we have another dot point 'consider child protection as part of initial risk assessment for procurement and contractor engagements'?

Internal recruitment and screening processes

DFAT's internal recruitment processes include stringent screening measures to ensure that inappropriate people are not employed by the department/agency. These include criminal record checks and background checks on all successful candidates before they begin work. Additional screening measures are incorporated into the selection processes for positions that involve working with children.

Comment [A13]: What requirements apply to consular staff that work with children?

Internal procedures for handling reports related to child exploitation and abuse

DFAT has internal procedures for handling reports related to child exploitation and abuse and notifies relevant law enforcement agencies as appropriate. These procedures outline obligations and responsibilities for reporting on and managing concerns about inappropriate behaviour. DFAT is also working with the Australian Federal Police to strengthen inter-agency responses to child exploitation and abuse allegations.

Ensuring appropriate use of communications systems

DFAT's guidelines on appropriate use of its communications systems apply to child exploitation material. Using the ~~department~~ agency's systems to access child exploitation material or to engage in online grooming is unacceptable and is dealt with promptly, including, as appropriate, reporting to relevant law enforcement agencies.

Incorporating child protection strategies into risk management procedures

Risk management procedures are integrated into a comprehensive set of compliance and control systems embedded in DFAT business processes. Risks to children are identified during initial risk assessments and are managed for the duration of the aid activity.¹

Comment [A14]: Add in text from risk guidance note. What applies to non-aid activities?

Ensuring risks to children are managed in humanitarian disaster responses

DFAT recognises that children living in areas impacted by disasters are particularly vulnerable. All organisations implementing DFAT humanitarian disaster response activities must comply with the policy's child protection compliance standards (see section 2.5). Risks to children must always be considered when developing humanitarian disaster response activities.

Child Protection Code of Conduct

All DFAT staff must comply with DFAT's Child Protection Code of Conduct which sets stringent standards for personal behaviour. DFAT expects staff to be aware of their behaviour, use common-sense and avoid actions or behaviours that could be construed as breaches of the child protection code of conduct (see Attachment 2) child exploitation and abuse in the course of their association with DFAT.

Whether working in Australia or overseas, Australian public servants must also comply with the Australian Public Service Code of Conduct (www.apsc.gov.au/aps-employment-policy-and-advice/aps-values-and-code-of-conduct/code-of-conduct).

Reviewing the child protection policy regularly

This policy will be reviewed every three years, and lessons learnt will be incorporated into subsequent versions.

2.5 DFAT's expectations of contractors and civil society organisations

DFAT has mandatory child protection compliance standards to ensure that contractor and civil society organisations, individual contractors and Australian Volunteers for International Development (AVID) program participants and partners, understand and act on their obligations for managing risks to children.

All organisations and individual contractors are expected to immediately notify DFAT's Child Protection Compliance Section if any DFAT-funded personnel, or DFAT partner personnel, are accused of, charged with, arrested for, or convicted of criminal offences relating to child exploitation and abuse.

Contractor and civil society organisations

Contractor and civil society organisations play an important role in protecting children. DFAT-funded contractors and civil society organisations are required to develop and implement a child safeguarding approach to manage risks to children. This includes a DFAT-compliant child protection policy and child safe practices, Attachment 1 which consists of nine standards. Attachment 1 outlines nine risk management controls and accompanying compliance standards that provide a framework for managing and reducing the risks of child exploitation and abuse. These include a DFAT-compliant child protection policy and organisational child safe practices. Attachment 1 outlines nine risk management controls and accompanying compliance standards

The organisation's child protection policy must apply to all personnel, partners and subcontractors who are engaged by a contractor or civil society organisation to perform any part of a DFAT-funded activity. Those using DFAT funds to engage an organisation or individual subcontractor must ensure the organisation or individual subcontractor complies with the relevant child protection standards.

Individual contractors

Individual contractors who are in contact with children are required to sign the funding organisation's child protection code of conduct and ensure they comply with this during their employment. Individual contractors must obtain a criminal record check or checks before they are contracted. Those using DFAT funds to engage an organisation or individual subcontractor must ensure the organisation or individual subcontractor complies with the relevant child protection standards.

Australian Volunteers for International Development program

DFAT requires core partners to develop and implement a DFAT-compliant child protection policy (Attachment 1). The policy must apply to all personnel, volunteers, host organisations and subcontractors who are engaged by a core partner to perform any part of an activity under the AVID program. Core partners must ensure that AVID program

Comment (A15): Do we want to add in more specific detail about downstream responsibilities? Or prepare guidance material?

participants and partners comply with the relevant child protection standards, including ensuring host organisations have a DFAT-compliant child protection policy.

Comment [A16]: Add in wording on risk management.

Australia Awards/Scholarships

Add in explicit wording about application of the policy to the Australia Awards/Scholarships. If to be excluded, seek management decision.

Humanitarian

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Add in explicit wording about approaches that could be used to manage risks e.g. use of protocols, reporting mechanisms for children and communities. Alternatively, create in a guidance note.

Figure 1: DFAT expectations of contractors and civil society organisations

Partner type		DFAT-compliant child protection policy	Sign and abide by funding organisation's child protection policy, including obtaining a criminal record check ¹
Contractor and civil society organisations		✓	
Partners	Individual contractor		✓
	Contractor or civil society organisation	✓	
Individual contractor			✓
Partners	Individual subcontractor		✓
	Contractor or civil society organisation	✓	
Volunteer core partners		✓	
Partners	Volunteers		✓
	Volunteer host organisations	✓	

DFAT child protection standards follow DFAT funding lines.

DFAT's compliance mechanisms

Our due diligence framework requires all potential partners to be assessed for risks and strengths before agreements are entered into, and to ensure they are compliant with our policy and standards. Compliance is monitored through performance assessments, reviews, civil society organisation accreditation and a program of random audits and spot checks. Documentary evidence is also required to demonstrate these standards are being met.

Comment (A17): Check current status and wording

Under current contracts, DFAT can require individuals to be removed from working on an activity, and can also require anyone under formal investigation to be suspended from duty or transferred to other duties during an investigation. This right is exercised when an individual has been convicted of a criminal offence relating to child exploitation and abuse, or when it is considered that an individual poses an unacceptable risk to a child's safety or well-being.

In line with procedural fairness principles, DFAT reserves the right to terminate contract negotiations if appropriate criminal record checks are not provided. DFAT will not engage an individual, or will require an individual to be replaced, if there is an unacceptable risk to a child's safety or well-being.

Reporting

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Add in specific information about the requirement for reporting, rationale for requirement and how to report, linking to Attachment 3.

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2.6 Standards for multilateral organisations and bilateral donors

We are committed to supporting and advocating for stronger risk management mechanisms within multilateral organisations and bilateral donors.

Our due diligence framework requires all multilateral organisations and bilateral donors to be assessed against our Child Protection Policy and standards, and includes a review of an organisation's capacity, systems, policies and processes to determine its child protection strengths and risks. Multilateral organisations and bilateral donors are expected to act in accordance with the principles set out in our policy, and abide by other relevant international declarations, conventions and agreements.

We reserve the right to suspend or terminate an agreement or activity in whole or in part if an organisation does not take appropriate steps to manage and resolve an allegation of child exploitation and abuse.

Comment [A18]: This needs to be more clearly defined as the scope clearly states Bilateral's and Multi's - but really, how can we enforce it? Is it at the contract level? Should we have motherhood statements? Or is it best applied at the program or activity level?

Comment [A19]: Check current status and wording

2.7 Further information

DFAT Child Protection Compliance Section

Email: childprotection@dfat.gov.au

Telephone: +61 2 6178 5100

Mail: Child Protection Compliance Section
DFAT
GPO Box 887 Canberra
ACT 2601 Australia

Our website

Supporting documents to this policy and useful links are available at
<http://aid.dfat.gov.au/aidissues/childprotection/Pages/home.aspx>

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Attachment 1

[Child safe practices] ~~DFAT-compliant child protection policy~~

	Why this is required	evidenced by
1. The organisation has a child protection policy that applies to all personnel, partners and subcontractors that are engaged by a contractor or civil society organisation to perform any part of a DFAT-funded activity.	<ul style="list-style-type: none"> - A child protection policy provides clear guidance and demonstrates how the organisation, across its operations, will ensure that children are protected from child exploitation and abuse in the delivery of Australian aid. 	<ul style="list-style-type: none"> - Child protection policy. - Personnel are aware of the organisation's child protection policy (e.g. through internal communication and training). - Documented plan for ensuring DFAT-funded implementing partners are meeting the minimum standards set out in 2.5 of this policy.
2. The organisation has robust recruitment screening processes for all personnel in contact with children. These recruitment procedures include: <ul style="list-style-type: none"> - criminal record checks before engagement - verbal referee checks - Interview plans that incorporate behavioural-based interview questions. These are to be used when candidates are applying for positions that involve working with children. 	<ul style="list-style-type: none"> - Child-safe recruitment and screening processes are essential to enable an organisation to choose the most appropriate person for a position that involves contact with children. 	<ul style="list-style-type: none"> - Documented criminal record checks for personnel in contact with children. - Documented verbal referee checks. - Interview plans incorporating behavioural-based interview questions that are specific to positions that involve working with children. - Documented request for an applicant to disclose whether they have been charged with child exploitation offences and their response.
3. The organisation's child protection policy includes a documented reporting procedure for child exploitation and abuse allegations and policy non-compliance, including available sanctions for breaches.	<ul style="list-style-type: none"> - An effective child protection policy requires a report handling procedure. One of the biggest hurdles to personnel reporting child exploitation and abuse is that there is no formal system in place to do so, or that personnel are not aware of a formal system to report concerns or allegations. - Reporting systems must respect the rights of the alleged victim and alleged offender. 	<ul style="list-style-type: none"> - Organisation's guidelines for managing concerns or allegations of child exploitation and abuse, and policy non-compliance. - Documentary evidence that personnel can raise concerns about a child's safety or well-being or unacceptable behaviour by personnel. - Documentary evidence outlining the organisation's details of available sanctions for breaches of the code of conduct.
4. The organisation provides child protection training for personnel.	<ul style="list-style-type: none"> - Personnel must be fully aware of their responsibilities to protect children and how to report concerns or allegations about child exploitation and abuse. 	<ul style="list-style-type: none"> - Training agendas and timeframes for training. - Materials used in training.

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Compliance standard	Why this is required	Evidenced by
5. The organisation has a child protection code of conduct that meets the minimum standard set by DFAT (see Attachment 2-DFAT's Child Protection Code of Conduct).	<ul style="list-style-type: none"> A code of conduct protects children and personnel. It makes clear the organisation's standards for acceptable/unacceptable behaviour in relation to children and must be signed by all personnel. It protects personnel by providing guidance on how to avoid situations that may be perceived as harmful to children. It also provides employers with a sound basis on which to conduct disciplinary action. 	<ul style="list-style-type: none"> A child protection code of conduct based on DFAT's Child Protection Code of Conduct. Signed codes of conduct or a register documenting details of personnel who have signed the code of conduct.
6. The organisation's child protection policy commits it to preventing a person from working with children if they pose an unacceptable risk to children.	<ul style="list-style-type: none"> Provides the organisation with clear grounds as an employer to determine whether a person is the most appropriate to work with children. 	<ul style="list-style-type: none"> Referenced in relevant documentation, including policies, contracts and human resource guidelines.
7. The organisation's employment contracts contain provisions for dismissal, suspension or transfer to other duties for any employee who breaches the child protection code of conduct.	<ul style="list-style-type: none"> Reinforces the importance of the organisation's policy to personnel. Ensures the organisation has legal recourse to remove or transfer personnel who pose an unacceptable risk to children. 	<ul style="list-style-type: none"> Contract with personnel.
8. The organisation's child protection policy is subject to regular review—at least every five years or earlier if warranted.	<ul style="list-style-type: none"> Contexts change, particularly in the development sector. There must be a commitment to review and update the policy as required. Given that child protection policies are relatively new for many organisations, it is important that an organisation can learn and adapt from its experiences in implementing its child protection policy. 	<ul style="list-style-type: none"> Timetable/Timeframe for review. Policy review report at least every five years. Records of consultation with DFAT on policy review.
9. The organisation undertakes a risk assessment that covers all DFAT-funded activities that have contact with children. The assessment should identify risks, classify any high risk activities, and document steps being taken to reduce or remove these risks.	<ul style="list-style-type: none"> Some activities are higher risk than others. This may be due to the nature of the activity or the location. For example, working with children with disability or in an emergency situation. 	<ul style="list-style-type: none"> Risk log identifying high risk activities and measures to reduce or remove the risk to children. Evidence that risk assessments are reviewed/updated throughout the lifecycle of the activities.

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Attachment 2
DFAT Child Protection Code of Conduct

I, _____ (insert name), acknowledge that I have read and understand DFAT's Child Protection Policy, January 2013, and agree that in the course of my association with DFAT, I must:

- > treat children with respect regardless of race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status
- > not use language or behaviour towards children that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate
- > not engage children under the age of 18 in any form of sexual intercourse⁶ or sexual activity,⁷ including paying for sexual services or acts
- > wherever possible, ensure that another adult is present when working in the proximity of children
- > not invite unaccompanied children into my home, unless they are at immediate risk of injury or in physical danger
- > not sleep close to unsupervised children unless absolutely necessary, in which case I must obtain my supervisor's permission, and ensure that another adult is present if possible
- > use any computers, mobile phones, video cameras, cameras or social media appropriately, and never to exploit or harass children or access child exploitation material through any medium
- > not use physical punishment on children
- > not hire children for domestic or other labour which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at significant risk of injury
- > comply with all relevant Australian and local legislation, including labour laws in relation to child labour
- > immediately report concerns or allegations of child exploitation and abuse and policy non-compliance in accordance with appropriate procedures
- > immediately disclose all charges, convictions and other outcomes of an offence, which occurred before or occurs during my association with DFAT that relate to child exploitation and abuse

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When photographing or filming a child or using children's images for work-related purposes, I must:

- > assess and endeavour to comply with local traditions or restrictions for reproducing personal images before photographing or filming a child
- > obtain informed consent from the child and parent or guardian of the child before photographing or filming a child. As part of this I must explain how the photograph or film will be used
- > ensure photographs, films, videos and DVDs present children in a dignified and respectful manner and not in a vulnerable or submissive manner. Children should be adequately clothed and not in poses that could be seen as sexually suggestive
- > ensure images are honest representations of the context and the facts
- > ensure file labels, meta data or text descriptions do not reveal identifying information about a child when sending images electronically or publishing images in any form.
- > I understand that the onus is on me, as a person associated with DFAT, to be aware of their behaviour/use common sense and avoid actions or behaviours that could be construed as child exploitation and abuse.

Signed:

Date:

Attachment 3

Mandatory reporting process for DFAT staff and DFAT-funded individual contractors

What should I report?

You should report:

- > any behaviour that you suspect may be child exploitation and abuse, including possession of child exploitation material, or policy non-compliance by:
 - a DFAT staff member
 - a personnel of a DFAT funded contractor or civil society organisation
 - a DFAT-funded volunteer
 - a whole-of-government employee (at Post only)
- > any report made to you by anyone relating to child exploitation and abuse or policy non-compliance by a DFAT staff or DFAT partners.

Comment (A20): Note: If report made by a DFAT staff member and it's an extra-territorial offence need to link to Admin Circular P1197

What if I am not sure what I have seen is child exploitation and abuse?

Contact the Child Protection Compliance Section for confidential advice and further information about what constitutes child exploitation and abuse or policy non-compliance.

How do I make a report?

Reports can be made by:

Email: childprotection@dfat.gov.au
Telephone: +61 2 6178 5100
Mail: Child Protection Compliance Section

DFAT
GPO Box 887 Canberra
ACT 2601 Australia

What information do I need to provide in the report?

You should provide as much information as possible, including:

- date(s) of incident(s)
- name of organisation(s) involved, including any AVID program partner
- alleged offender's details, including name, nationality and occupation
- details of alleged incident(s)
- whether local law enforcement authorities or Australian Federal Police have been informed
- if it is a DFAT-funded activity, the name of the activity (if known)
- details of what the organisation(s) proposes to do
- any other relevant information.

What happens to the information I provide?

All information provided to the Child Protection Compliance Section will be treated confidentially in accordance with relevant Commonwealth legislation, including the Privacy Act 1988.

Attachment 4

Legislation relevant to child protection

A range of laws are relevant to this policy, including Australian Commonwealth, state and territory laws and local laws in countries where DFAT works. A number of international child protection instruments also apply.

1. Relevant Australian legislation

Under Commonwealth law an Australian citizen or resident can be prosecuted for an offence committed against a child in another country under laws that have an extra-territorial application.

Commonwealth legislation

Criminal Code Act 1995		
Legislation	Examples of offences	Maximum penalty
Division 272 (child sex offences outside Australia)	Engaging in sexual intercourse outside of Australia with a child under 16 years of age	20 years imprisonment
	Engaging in sexual activity outside of Australia with a child under 16 years of age	15 years imprisonment
	Engaging in sexual intercourse or sexual activity outside of Australia with a child under 16 years of age and the child has a mental impairment or is under the care, supervision or authority of the defendant	25 years imprisonment
	Engaging in sexual intercourse outside of Australia with a young person aged 16 or 17 years and the defendant is in a position of trust or authority	10 years imprisonment
	Engaging in sexual activity outside of Australia with a young person aged 16 or 17 years and the defendant is in a position of trust or authority	7 years imprisonment
	Grooming a child under 16 years of age to engage in sexual activity outside of Australia	12 years imprisonment
Division 273 (offences involving child pornography material or child abuse material outside Australia)	Possessing, controlling, producing, distributing or obtaining child pornography or child abuse material outside Australia	15 years imprisonment
Division 474 (telecommunications offences, subdivision C)	Accessing, soliciting or transmitting child pornography or child abuse material using a carriage service	15 years imprisonment
	Engaging in sexual activity with a child under 16 years of age using a carriage service	15 years imprisonment
	Online grooming of a child under 16 years of age	15 years imprisonment
Crimes Act 1914		
The Crimes Act 1914 sets out the laws that govern the way legal proceedings under the Criminal Code Act 1995 are conducted, including the conduct of investigations and the protection of children involved in proceedings for sexual offences (under Part 1AD).		

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State and territory child protection legislation

State and territory laws provide legal protection to children and families that are affected by child exploitation and abuse that occurs in Australia.

State or territory	Legislation	Source
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998</i>	www.legislation.nsw.gov.au
Victoria	<i>Children, Youth and Families Act 2005</i>	www.legislation.vic.gov.au
Queensland	<i>Child Protection Act 1999</i>	www.legislation.qld.gov.au/QOPChome.htm
Western Australia	<i>Children and Community Services Act 2004</i>	www.slp.wa.gov.au/legislation/statutes.ms/default.html
South Australia	<i>Children's Protection Act 1993</i>	www.legislation.sa.gov.au
Tasmania	<i>Children, Young Persons and their Families Act 1997</i>	www.thelaw.tas.gov.au
Australian Capital Territory	<i>Children and Young People Act 2008</i>	www.legislation.act.gov.au
Northern Territory	<i>Care and Protection of Children Act 2007</i>	www.nt.gov.au/dcm/legislation/current.html

2. Local legislation

Most countries in which DFAT works have legislation relating to child exploitation and abuse.

When working in-country, DFAT staff and the personnel of contractors and civil society organisations implementing aid program activities are required to abide by local legislation, including labour laws with regard to child labour.

3. International child protection instruments that Australia is a signatory to

Instrument	Source
The United Nations Convention on the Rights of the Child	www.unicef.org/crc/
Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	www.unhcr.org/refworld/docid/50b35923.html
Optional Protocol to the United Nations Convention on the Rights of the Child on the involvement of children in armed conflict	www.unhcr.org/refworld/docid/3d0c4476.html
Geneva Declaration of the Rights of the Child	www.un-documents.net/gen1924.htm
International Labour Organization Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	www.ilo.org/ilox/english/convention1.htm

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Glossary

Abuse	<p>Includes:</p> <ul style="list-style-type: none"> - physical abuse—the use of physical force against a child that results in harm to the child. Physically abusive behaviour includes shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling and poisoning - neglect—the failure by a parent or caregiver to provide a child (where they are in a position to do so) with the conditions that are culturally accepted as being essential for their physical and emotional development and well-being - emotional abuse—refers to a parent or caregiver's inappropriate verbal or symbolic acts toward a child or a pattern of failure over time to provide a child with adequate non-physical nurture and emotional availability. Such acts have a high probability of damaging a child's self-esteem or social competence - sexual abuse—the use of a child for sexual gratification by an adult or significantly older child or adolescent. Sexually abusive behaviours can include fondling genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling breasts, voyeurism, exhibitionism and exposing the child to, or involving the child in, pornography.⁸
DFAT staff	People employed by DFAT on a permanent or temporary basis in Australia or overseas.
Behavioural-based interview questions	Interview questions that probe the applicant's past behaviour in specific situations relevant to the position. Behavioural-based questions give interviewers additional information as to the applicant's suitability to work with children.
Changes in circumstances	<p>Personnel should report the following changes in circumstances to management:</p> <ul style="list-style-type: none"> - involvement in criminal activity - disciplinary procedures and criminal or civil court proceedings relating to child exploitation and abuse.
Child or children	In accordance with the United Nations Convention on the Rights of the Child, 'child' means every human being under the age of 18 unless under the law applicable to the child, majority is attained earlier. For the purposes of this policy, DFAT considers a child to be a person under the age of 18 years.
Child abuse material	Material that depicts (expressly or implicitly) a child under 18 years of age as a victim of torture, cruelty or physical abuse.

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Child exploitation and abuse	One or more of the following: <ul style="list-style-type: none"> - committing or coercing another person to commit an act or acts of abuse against a child - possessing, controlling, producing, distributing, obtaining or transmitting child exploitation material - committing or coercing another person to commit an act or acts of grooming or online grooming.
Child exploitation	Definition to be included: need to determine how to address child labour
Child exploitation material	Material, irrespective of its form, which is classified as child abuse material or child pornography material.
Child pornography	In accordance with the Optional Protocol to the Convention on the Rights of the Child, 'child pornography' means 'any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.' For further information regarding child pornography offences, refer to the <i>Criminal Code Act 1995</i> .
Child pornography material	Material that depicts a person, or is a representation of a person, who is, or appears to be, under 18 years of age and is engaged in, or appears to be engaged in, a sexual pose or sexual activity, or is in the presence of a person who is engaged in, or appears to be engaged in, a sexual pose or activity, and does this in a way that a reasonable person would regard as being, in all the circumstances, offensive. ⁹
Child protection	An activity or initiative designed to protect children from any form of harm, particularly arising from child exploitation and abuse.
Contact with children	Working on an activity or in a position that involves or may involve contact with children, either under the position description or due to the nature of the work environment.
Criminal record check	A check of an individual's criminal history record. In Australia, national criminal record checks are available through state and territory police departments. They take around 20 working days. The type of employment should be specified as 'overseas employment.' Overseas, different checking procedures apply in each country and may take six weeks or longer. Individuals need to consent to a criminal record check and should be informed of the purpose for which the resulting police clearance certificate will be used, including sighting by DFAT.
Grooming	Generally refers to behaviour that makes it easier for an offender to procure a child for sexual activity. For example, an offender might build a relationship of trust with the child, and then seek to sexualise that relationship (for example by encouraging romantic feelings or exposing the child to sexual concepts through pornography).
Online grooming	The act of sending an electronic message with indecent content to a recipient who the sender believes to be under 16 years of age, with the intention of procuring the recipient to engage in or submit to sexual activity with another person, including but not necessarily the sender. For further details, refer to the <i>Criminal Code Act 1995</i> , Division 474 (telecommunications offences, subdivision C).

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Personnel	Personnel are either employed by an organisation, engaged by an organisation on a subcontract basis, or engaged by an organisation on a voluntary or unpaid basis.
Police clearance certificate	The certificate showing the results of a criminal record check, which is issued by the police or other authority responsible for conducting such checks.
Policy non-compliance	The failure to abide by DFAT's policy.
Unacceptable risk	The portion of identified risk that cannot be tolerated, and that must be either eliminated or controlled. For people deemed an unacceptable risk, control mechanisms are not considered appropriate.
Working with children	Definition required consistent with Child Protection Risk Assessment Guidance - linked to definition of 'Contact with Children' and Attachment 1 Child Safe Compliance Standards

Comment (A21): We need to find a way of doing/defining this.

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Endnotes

- 1 World Health Organization 2005, *World report on violence against children*.
- 2 Paulo Sergio Pinheiro 2006, *Report of the independent expert for the United Nations study on violence against children*.
- 3 Australian Government Attorney-General's Department 2010, *Procedural fairness guidelines*.
- 4 DFAT adheres to *Handling misconduct: a human resources practitioner's guide to the reporting and handling of suspected and determined breaches of the APS Code of Conduct* <http://www.apsc.gov.au/publications-and-media/current-publications/handling-misconduct>
- 5 When criminal record checks are required under these child protection compliance standards, checks must be conducted for each country in which the individual has lived for 12 months or longer over the last five years, and for the individual's country of citizenship. Individuals need to provide their consent to a criminal record check and should be informed of the purpose for which the resulting police clearance certificate should be used, including being sighted by DFAT. DFAT recognises that in limited instances it may prove impossible to obtain a reliable criminal record check. A statutory declaration, or local legal equivalent, outlining efforts made to obtain a foreign police check, and disclosing any charges and spent convictions related to child exploitation, may be accepted in lieu.
- 6 As defined under the *Criminal Code Act 1995*.
- 7 As defined under the *Criminal Code Act 1995*.
- 8 Fact Sheet No. 12 *What is child abuse and neglect?* National Children's Clearinghouse, Australian Institute of Family Studies.
- 9 This definition has been extracted from the *Criminal Code Act 1995*. See Part 10.6 of the criminal code for the full definition.

Comment [A22]: Move into Attachment 1

Department of Foreign Affairs and Trade

Minute

File no: 14/51586

Date: 20 February 2015

TO. Scott Dawson, FAS ACD
CC. s 22(1)(a)(ii) A/g AS FRB
Through.
FM. s 22(1)(a)(ii) Director CPCS

DFAT Child Protection Policy 2013 Review – Second Draft

Purpose

To update you on work being undertaken to revise DFAT's Child Protection Policy 2013 (Policy) and to seek your approval to progress to the next level of consultations.

Recommendations

2. It is recommended that you:

- a. Note the refinements to the draft DFAT Child Protection Policy 2015 as requested – Attachment A,
- b. Note the 'Table of Changes' at Attachment B,
- c. Note the 'Issues' requiring further progress within DFAT at Attachment C, found on p. 6
- d. s 22(1)(a)(ii)
- e. s 22(1)(a)(ii)
- f. Note the draft 'Peer Review Plan' at Attachment E.
- g. s 22(1)(a)(ii)

Background

DFAT commenced a review process of the Policy on 1 September 2014. The rationale for doing so was partially in response to integration of the aid program into DFAT, recognising the need to harmonise approaches and also to formally capture feedback from external stakeholders on implementation challenges - much of which has been expressed by external stakeholders since the release of the Policy early 2013 in training workshops and through correspondence.

The DFAT Ethics Committee was briefed on the progress of the review on December 9 2014 and has requested an inter-sessional distribution to committee members of an early draft of the new Policy prior to discussing at the next Ethics Committee meeting in March 2015 (date TBC).

A directions meeting was held with s 22(1)(a)(ii) (a/g AS FRB), s 22(1)(a)(iii) (Director CPC) and s 22(1)(a)(ii) (Assistant Director CPC) and yourself on 7 January to further refine a "first draft" of the Policy for initial consideration by the Ethics Committee.

Further commentary was received from yourself via email and handwritten notes on January 9, 2015.

Issues

Since the first draft provided under cover of minute date 12 December 2014 further refinements have been made to the Policy text in line with the commentary received from you. CPC has adjusted the wording to clearly delineate lines of responsibility within DFAT and address ambiguities where Policy coverage was unclear.

Key issues from your commentary have been addressed as follows:

- 1) The notion of progressive alignment with the Policy for new partners has been built into the Policy with wording adjusted to reflect the notion that 'funded organisations as required to meet the standards...' New wording has been included recognising that new partners will require time to become compliant or 'aligned' with the Policy.
- 2) CPC recommends retaining specific mention of humanitarian program to encourage application of the Policy. Deeper engagement is required to include explicit wording about approaches required to manage risks, use of protocols and reporting mechanisms for children and communities. Policy advice would also be support with a guidance note.
- 3) CPC recommends retaining specific mention of scholarships program. The current Policy is silent on its application to the Australia Awards program. This has caused confusion in the past and should be addressed in the new Policy, particularly given risks to children either accompanying their families as part of the program and risks to Australian children posed by scholars visiting Australia. s 22(1)(a)(ii)
s 42(1)
'Critical Incident' reporting would still be managed by Australia Awards however it would be treated as a notification under the Policy.
- 4) Risk management has been strengthened through the Policy with new wording and greater clarity around the terms - and managing the risks - when engaging in activities that involve 'contact with children' or 'working with children' this also includes enhanced glossary definitions.
- 5) Division of responsibility within DFAT - including the Conduct and Ethics Unit - has been specifically addressed in a new section of the Policy '2.4 Areas of Responsibility within DFAT.
- 6) CPC recommends retaining a Child Protection Code of Conduct within the Policy as it clearly and concisely outlines acceptable/unacceptable behaviour. It will ensure those 'in scope' of the Policy are required to meet the code, not just 'overseas staff' as with the current overseas code of conduct which is more general. The Child Protection code cannot be general as it is a tool used to identify and manage concerning behaviour. DFAT will be seen by external partners as complying with its own policy - providing a model for partners to follow and enable consistent messaging through Child Protection training - one organisational position on child safe practices - and draw attention to child safe issues. It is also current best practice.
- 7) The Policy has been re-oriented towards partners being required to implement a child safe approach - which includes nine mandatory minimum standards - and the Policy wording has been adjusted to reflect this.

- 8) The name of the Child Protection Compliance Section has been changed to Child Protection Section (check) in the Policy and will become effective once the new Policy is published.
- 9) Additional emphasis has been placed in the Policy wording to more clearly delineate areas of responsibility within DFAT.

A draft DFAT Child Protection Policy 2015 is at Attachment A.

Policy adjustments in line with stakeholder feedback received as part of the formal consultation along with residual changes as a result of the 2011 Independent review have also been incorporated in the draft Policy. A 'Table of Changes' is at Attachment B

Critical Issue – Engagement within DFAT

High level direction is required from key Divisions particularly the Corporate Management Division (Conduct and Ethics Unit, Transnational Crime Section, FOI and Privacy Law Section and Communications Branch) to harmonise existing DFAT processes and the Policy. Some non-aid program areas of engagement, such as Consular Services and cultural exchange programs are areas of potentially high risk to children. There are also opportunities to support aid program efforts through working more closely with Consular Services, for example, by issuing travel advice on child exploitation associated with 'orphan tourism' and 'volun-tourism'.

CPC strongly recommends that a consistent approach is taken by DFAT by adhering to the age of consent stipulated in the International Convention on the Rights of the Child (CRC) which defines children as anyone under the age of 18. Australia is a signatory to the CRC and as such should adopt the age of consent specified in the CRC which the draft Policy maintains. As a best practice Commonwealth agency leader in this area, CPC advises that DFAT codes of conduct and conditions of service must ensure alignment with age of consent in accordance with CPP Policy and the CRC. This was one of the principal recommendations from the *'Management Response to Allegations of Paedophile Activity within the Foreign Affairs Portfolio (1997)'* which the former AusAID agreed to implement.

Internal issues requiring further engagement are detailed at Attachment C.

s 22(1)(a)(ii)

Critical Issue - Training and Capacity Development

Recognising the need for DFAT to increase the level of capacity development support that CPCS is able to provide to DFAT staff and partner organisations it is recommended that a suite of guidance

materials that complements the Policy is developed. These would be distributed to staff and partner networks and range from advice on conducting criminal record checks through to identifying and responding to child labour issues. It is envisaged that such a suite would be available upon publication of the new Policy. A proposed suite is at **Attachment D**.

CPCS recommends a foundational level e-learning program is developed for staff, which would allow greater opportunity for deeper, tailored face-to-face training for staff and select partner organisations and select partner organisations, linking in with other areas of ACD and DFAT. Additionally, e-learning modules for partner organisations on strengthening organisational capacity could also be developed.

It would be highly beneficial to increase or implement SES messaging to program areas on the need to integrate child protection technical assistance into program design and the sustainability benefits of doing so.

Next Steps

CPC recommends progressing to the next step of seeking input from the Ethics Committee (EC). This is seen as a crucial point of contact given the issues to be progressed as key members of the committee are in Sections where direct engagement is required.

An explanatory cover note will accompany the draft Policy distributed to the EC to explain the main changes that have been made and why. This cover note will be prepared in consultation with you prior to distribution.

CPC also recommends undertaking a select peer review (written comments only) – a proposed peer review plan is at **Attachment E**. If approved, consultations would not begin until after the draft Policy has been considered by the EC.

A project/timeline has been updated for your information. This is at **Attachment F**.
s 22(1)(a)(ii)

✓
Director CPCS

FRB/ACD

s 22(1)(a)(ii)



Australian Government
Department of Foreign Affairs and Trade



Child Protection Policy

[xxx] 2015

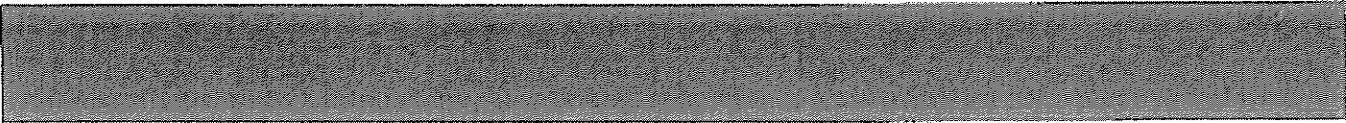


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Child Safe Policy

[xx] 2015



Note on reprinting

The DFAT Child Safe Policy was first published for the Australian Government's aid program in 2008 and updated in January 2013. The policy has been updated and expanded to reflect integration of the aid program into the Department of Foreign Affairs and Trade in 2013-14.

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1. The challenge

The need to protect children from exploitation and abuse

The need to protect children is an issue for all communities. Children across the world are subjected to exploitation and abuse and experience sexual, physical and psychological violation. Many are forced into exploitative work, including commercial sexual exploitation and hazardous labour.

There are many factors that increase children's vulnerability to exploitation and abuse, including disability, being orphaned, displaced, homeless or abandoned.¹ During emergency and disaster situations, children are more likely to experience exploitation and abuse as a result of being separated from their parents and other caregivers who would normally protect them from such harm.²

Child exploitation and abuse traumatises children and adversely affects their development and well-being. Children who are exploited and abused experience a greater likelihood of long-term consequences, including mental health issues, reduced educational outcomes, drug and alcohol abuse and increased likelihood of coming into contact with the law. At its core, child exploitation and abuse undermines a child's right to grow up safely and be protected from harm.

Rationale for a DFAT Child Safe Policy

There is international recognition that adults who have a formal role working with or supporting children are in positions of trust and authority. The relationship between an adult and child is not a relationship between equals. Children are dependent on adults to care for and protect them.

It is a shared and collective responsibility of all adults to prevent child exploitation and abuse. DFAT has adopted this policy in recognition of its responsibilities and functions, including in relation to Australia's overseas aid program, and is committed to working with its partners to prevent and respond to child exploitation and abuse.

Adults intent on abusing and exploiting children, including child sex offenders, often seek employment or volunteer placements in organisations that work with children in Australia or overseas. They might be attracted to working in developing countries to access vulnerable children and to avoid tougher laws.

¹ World Health Organization 2006, *World report on violence against children*.

² Paulo Sergio Pinheiro 2006, *Report of the independent expert for the United Nations study on violence against children*.

This policy sends a clear message that child exploitation and abuse is not tolerated and attracts disciplinary and commercial sanctions, as well as criminal penalties under Australian domestic and extra-territorial laws.

2. The policy

2.1 Goal and objective

The goal of this policy is:

To protect children from exploitation and abuse of all kinds in the delivery of DFAT's functions and programs, including Australia's overseas aid program.

Objective:

To create and maintain protective environments for children in the delivery of DFAT's functions and programs, including Australia's overseas aid program.

2.2 Scope

This policy applies to:

- > all DFAT staff
- > all DFAT Australian and overseas mission enabling functions that directly impact children or have contact with children, including children of DFAT staff
- > all DFAT programs, including Australia's overseas aid program
- > multilateral organisations and bilateral partners funded by DFAT
- > all individuals and organisations funded under programs administered by DFAT, including:
 - consultants and contracted individuals
 - civil society and contractor organisations
 - partners or organisations subcontracted by DFAT-funded consultants, civil society or contractor organisations
 - personnel of DFAT-funded consultants, civil society and contractor organisations
 - Australian Volunteers for International Development Program participants and partners
 - awardees, including under the Australia Awards program

2.3 Guiding principles

The policy is guided by the following principles:

Zero tolerance of child exploitation and abuse

DFAT does not tolerate child exploitation and abuse. Such action attracts criminal, civil and disciplinary sanctions. DFAT works to reduce the risks of child exploitation and abuse associated with its functions and programs, and trains its staff on their obligations. DFAT will not knowingly engage—directly or indirectly—anyone who poses an unacceptable risk to children. Individuals or organisations funded under programs administered by DFAT, and who have contact with children, are required to undertake a risk assessment and implement appropriate child safe practices in their operations and activities. This includes the incorporation of the DFAT required minimum child safe practices (refer Attachment 1).

Recognition of the best interest of the child

Australia is a signatory to the United Nations Convention on the Rights of the Child, and DFAT is committed to upholding the rights and obligations under this convention. DFAT recognises that some children are particularly vulnerable.³ This includes children who are marginalised because of gender, race, ethnicity, socio-economic status, children with disabilities, those who are orphaned, abandoned or displaced.

Sharing responsibility for child protection

To effectively manage risks to children, DFAT requires the commitment, support and cooperation of partner organisations and individuals who help to deliver programs administered by DFAT, including under Australia's overseas aid program.

Risk management approach⁴

While it is not possible to eliminate all risks of child exploitation and abuse, careful management can identify, mitigate, manage or reduce the risks to children that may be associated with DFAT functions and programs.

Procedural fairness

DFAT will apply procedural fairness when making decisions that affect a person's rights or interests. Our partners are expected to adhere to this principle when responding to concerns or allegations of child exploitation and abuse.⁵

³ Refer to the DFAT guidance for establishing the child protection risk context of organisations and activities for more information on assessing the vulnerability of children.

⁴ DFAT follows the International Standard on Risk Management (ISO 31000:2009)

⁵ Australian Government Attorney-General's Department 2010, *Procedural fairness guidelines*.

2.4 Areas of responsibility within DFAT

DFAT's Child Protection Section is responsible for:

- > responding to reports of child exploitation and abuse, policy non-compliance and code of conduct breaches by personnel within implementing organisations, consultants and contracted individuals
- > monitoring of partner investigations and the outcomes
- > liaising with the Australian Federal Police and other relevant law enforcement bodies
- > conducting child protection spot checks and audits to monitor the child safe systems of contractors and civil society organisations
- > monitoring internal and external
 - compliance with the policy, legislative requirements and Australian Government child protection policies and procedures
 - adequacy and effectiveness of organisational systems and controls to manage risks to children
- > providing child safe training for DFAT staff
- > engaging with multilateral organisations and bilateral donors
- > providing child protection advice and peer review services to departmental staff
- > reviewing the policy every three years

DFAT's Corporate Management Division is responsible for:

- > responding to reports of child exploitation and abuse, policy non-compliance and child safe code of conduct breaches by Australian Government/DFAT staff through the Conduct and Ethics unit
- > ensuring DFAT only engages the most suitable people to work with children through the use of child safe recruitment procedures, including ensuring all officers dealing with children apply for and hold a current working with children check in accordance with relevant State and Territory legislative requirements and ensuring appropriate training requirements are identified and mandated for relevant positions
- > incorporating child safe training into training policies and training plans

DFAT's Public Diplomacy and Communications Division is responsible for:

- > Inclusion of child safe messaging in media and communications guidelines, including use of social media, capture and use of third party photographs and videos and use of children's images.

DFAT's Information Management and Technology Division is responsible for:

- > ensuring IT Security policy and guidelines specifically reference child exploitation material and online grooming, and the possible criminal penalties
- > ensuring IT Security monitors the network for any child exploitation or abuse material, and report allegations to the Child Protection Section immediately

DFAT's Transnational Crime Section is responsible for:

- > providing legal advice in relation to transnational crime and terrorism and in liaison with the Child Protection Section, reporting to the Australian Federal Police in relation to the alleged commission abroad of Australian offences with extraterritorial effect

DFAT Heads of Mission are responsible for:

- > ensuring all DFAT related child protection concerns are forwarded to the Child Protection Section, who will liaise with the Heads of Mission on the appropriate management of concerns at Post

DFAT staff are responsible for:

- > applying the policy to all relevant administered programs and implementing partners
- > completing child safe training and as part of that, acknowledge their responsibilities under DFAT's Child Safe Code of Conduct. They must comply with the code of conduct during the course of their employment
- > applying the policy to all overseas mission enabling services that directly impact children or have contact with children, including children of DFAT staff
- > consider children as part of the initial risk assessment for DFAT administered programs, including for aid activities and throughout the aid management cycle
- > monitoring any new or emerging risks to children in activities
- > ensure risks to children are identified and addressed early, at concept stage or activity design, this is required for all partner types including partner governments and multilateral organisations
- > immediately report any concerns or allegations of child exploitation and abuse, and policy non-compliance, by anyone covered by the policy

2.5 Child Safe practices - implementation within DFAT

The task of protecting children is multi-faceted and, to be effective, all elements of the system need to be integrated⁶. No single element should be seen as more important than the others. DFAT strives to implement child safe practices in the workplace using the following model.

Governance

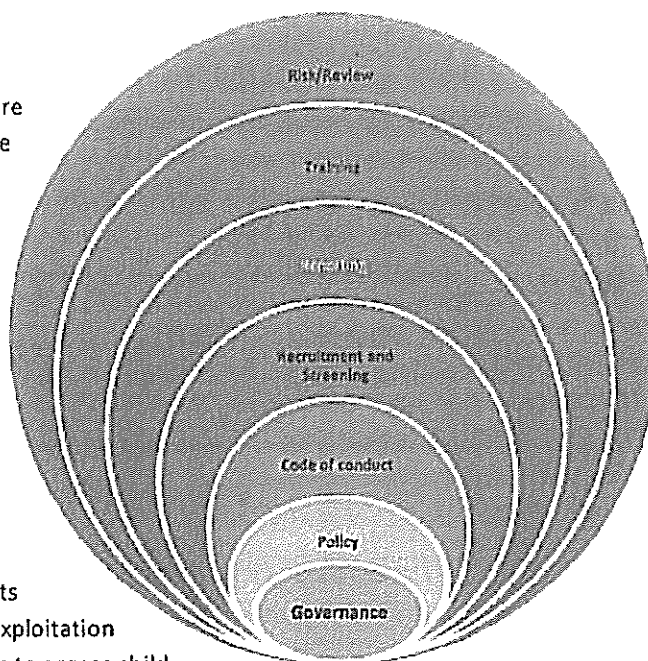
DFAT actively addresses risks to children through its governance practices. Building a child safe organisational culture requires a systemic approach. DFAT business areas are continually working together to ensure effective implementation of the Department's child safe system.

Policy implementation

A child safe policy clearly articulates the expectations of staff and partners to ensure the creation and maintenance of child safe environments. DFAT policies are coordinated and reviewed, ensuring child protection issues are dealt with in a consistent manner.

DFAT's media and communications policies, including guidelines on ethical photography, social media and appropriate use of images (photos and videos) ensure the best interests of the child are paramount.

DFAT's guidelines on appropriate use of its communications systems apply to child exploitation material. Using the department's systems to access child exploitation material or to engage in online grooming is unacceptable and is dealt with promptly. This includes reporting allegations to relevant law enforcement agencies, as appropriate.



⁶ Australian Human Rights Commission, Response to Royal Commission into Institutional Responses to Child Sexual Abuse, Issues Paper 3: October 2013.

Child Protection Code of Conduct

A code of conduct outlines expectations about appropriate behaviour, relationships & responsibilities of employees, volunteers, children, parents and carers in an organisation.

All DFAT staff must comply with DFAT's Child Protection Code of Conduct which sets stringent standards for personal behaviour. DFAT expects staff to be aware of their behaviour and avoid actions or behaviours that could be construed as breaches of the child safe code of conduct (see Attachment 2) in the course of their association with DFAT.

Whether working in Australia or overseas, Australian public servants must also comply with the Australian Public Service Code of Conduct (www.apsc.gov.au/aps-employment-policy-and-advice/aps-values-and-code-of-conduct/code-of-conduct).

Internal recruitment and screening processes

DFAT's recruitment processes include stringent screening measures to ensure that people who pose an unacceptable risk to children are not employed by the department. These include criminal record checks and background checks on all successful candidates before they begin work. Additional screening measures are incorporated into the selection processes for positions classified as working with children, in line with relevant state and territory legislation. For staff classified as working with children in positions located overseas, staff will obtain and hold an ACT Working with Vulnerable People check.

DFAT implements the following child safe recruitment practices:

- Recruitment advertisements clearly state DFAT's commitment to child safety
- Working with Children Checks or police checks are conducted, determined by an assessment of the position, and will be included in position descriptions
- Candidates are required to disclose whether they have been charged with child exploitation offences before appointment
- Interviewing processes highlight the priority of child safety through appropriate questioning and the use of verbal referee checks
- Comprehensive Job Descriptions and Duty Statements that provide a clear understanding of responsibilities and accountabilities
- Staff support, supervision and performance management – including ongoing training & education of staff in child safe practices and child awareness.

Internal procedures for handling reports related to child exploitation and abuse

DFAT makes a clear distinction between complaints management and disciplinary proceedings. DFAT will seek independent expert human resource and legal advice, when required

DFAT has internal procedures for handling reports related to child exploitation and abuse⁷ and notifies relevant law enforcement agencies as appropriate. These procedures outline obligations and responsibilities for reporting and managing concerns about suspected criminal conduct and inappropriate behaviour.

Increasing staff awareness of child protection obligations under the policy

DFAT staff receive regular training on child protection issues and on their obligations under this policy, including mandatory reporting of concerns or allegations of child exploitation and abuse. Training is compulsory for all staff deploying overseas or involved in the delivery of the aid program. Training is included in courses delivered at induction and before staff are deployed overseas.

Training includes any responsibilities in respect of mandatory and other reporting. One of the greatest risk factors for harm and abuse of children is the lack of awareness of employees and volunteers. In relation to sexual abuse, educating employees and volunteers about early warning signs, including grooming behaviour, indicators of child abuse, and knowing what to look for can engender individual responsibility for creating and maintaining protective environments for children and support child safe practices within organisations.

Risk identification, management and review

Regular reviews reassess and analyse risks to children in current and new activities, processes and system controls. This includes a review of existing child protection policies and practices to determine how child safe and child friendly the organisation is and the development of strategies to minimise and prevent risks to children.

Risk management procedures are integrated into a comprehensive set of compliance and control systems embedded in DFAT business processes. Risks to children are required to be identified during initial risk assessments and throughout the life of an activity. These risks require management for the duration of the activity.

This policy will be reviewed every three years, and lessons identified will be incorporated into subsequent versions.

⁷ DFAT adheres to *Handling misconduct: a human resources practitioner's guide to the reporting and handling of suspected and determined breaches of the APS Code of Conduct*
<http://www.apsc.gov.au/publications-and-media/current-publications/handling-misconduct>

2.6 DFAT's expectations of implementing partners

DFAT has mandatory minimum child safe standards to ensure that contractor and civil society organisations, individual contractors and Australian Volunteers for International Development (AVID) program participants and partners, understand and act on their obligations to manage risks to children. DFAT's delivery partners will be held accountable, through contracts, audits and spot checks, for complying with the mandatory requirements. (Refer Attachment 1)

DFAT recognises that it may take time for new partner organisations to establish processes which comply fully with the policy requirements to develop and implement a child safe approach. DFAT will work with new partner organisations to agree an implementation plan to progressively implement a child safe approach and bring the partner organisation into compliance with this policy as quickly as possible.

All activities and implementation plans need to take a risk based approach. Risks must be managed in line with their level of risk. Where risk is assessed as higher, such as for activities that are working directly with children, more effort will be required to put in place appropriate mitigations to manage those risks. Activities that only have indirect contact with children still need to manage the risks to children, but the level of effort may not necessarily be equivalent. This policy articulates the minimum child safe practices required of implementing partners. They are expected to identify and apply appropriate risk based practices for their organisation and activities.

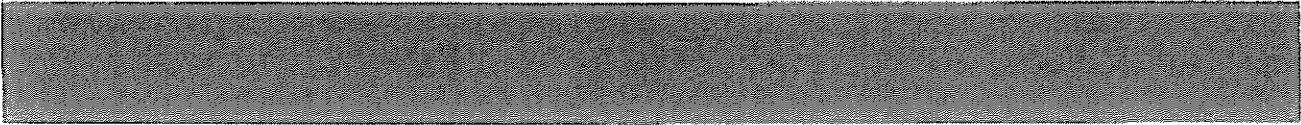
DFAT understands that local context can mean that risk controls are modified to ensure their effectiveness in practice. This should always be taken into account when assessing risks and the effectiveness of risk controls.

The requirement to develop and implement a child safe approach applies to all personnel, partners and subcontractors who are engaged by a contractor or civil society organisation to perform any part of a DFAT- administered activity. Those using DFAT funds to engage an organisation or individual subcontractor must ensure the organisation or individual subcontractor complies with the relevant child safe standards.

Consultants and contracted individuals who are in contact with children are required to sign the funding organisation's child safe code of conduct and ensure they comply with this during their employment. Consultants and contracted individuals must obtain a criminal record check or submit to other agreed checks before they are contracted. Those using DFAT funds to engage an organisation or

Example of working with risk controls in the local context:

Criminal record checks are required under these child safe standards. This means checks must be conducted for each country in which the individual has lived for 12 months or longer over the last five years, and for each of the individual's countries of citizenship. Individuals need to provide their consent to a criminal record check and should be informed of the purpose for which the resulting police clearance certificate should be used, including being sighted by DFAT. DFAT recognises that in limited instances it may prove impossible to obtain a reliable criminal record check. A statutory declaration, or local legal equivalent, outlining efforts made to obtain a foreign police check, and disclosing any charges and spent convictions related to child exploitation and abuse, may be accepted in lieu.



individual subcontractor must ensure the organisation or individual subcontractor complies with the relevant child safe standards.

All organisations and individual contractors are expected to immediately notify DFAT's Child Protection Section if they become aware of any allegations or suspicions of child abuse and exploitation, misconduct or code of conduct breaches (including accessing child exploitation material such as child pornography) by anyone within scope of this policy. (Refer to Attachment 3)

Australian Volunteers for International Development program

DFAT requires core partners to develop and implement a DFAT-compliant child safe approach. The child safe approach must apply to all personnel, volunteers, host organisations and subcontractors who are engaged by a core partner to perform any part of an activity under the AVID program. Core partners must ensure that AVID program participants and partners comply with the relevant child safe standards; including ensuring host organisations have a DFAT-compliant child safe/child protection policy and have implemented child safe practices.

Australia Awards/Scholarships

DFAT requires implementing partners managing Australia Award awardees to comply with the mandatory minimum child safe standards, including ensuring awardees sign up to a child protection code of conduct as part of their agreement.

Humanitarian

DFAT recognises that children living in areas impacted by disasters are particularly vulnerable. All organisations implementing DFAT humanitarian disaster response activities must comply with the policy's minimum child safe standards (see section 2.5 and attachment 1). Risks to children must always be considered when developing humanitarian response activities. DFAT expects partners responding to humanitarian events will follow international best practice to ensure the safety of children and enable a coordinated response is provided with other international responders, including the communication of reporting mechanisms for children and communities of any adverse events, activities or individuals.

Figure 1. DFAT expectations of contractors and civil society organisations

Partner type		DFAT-compliant child safe practices	Sign and abide by funding organisation's child safe policy, including obtaining a criminal record check
Contractor and civil society organisations		✓	
Partners	Individual contractor		✓
	Contractor or civil society organisation	✓	
Individual contractor			✓
Partners	Individual subcontractor		✓
	Contractor or civil society organisation	✓	
Volunteer core partners		✓	
Partners	Volunteers		✓
	Volunteer host organisations	✓	

DFAT child safe standards follow DFAT funding lines.

DFAT's compliance mechanisms

The DFAT due diligence approach requires all potential partners to be assessed for risks and strengths before agreements are entered into, and to ensure they are compliant with our policy and standards. Compliance is monitored through performance assessments, reviews, civil society organisation accreditation and a program of random audits and spot checks. Documentary evidence is also required to demonstrate these standards are being met.

Under current DFAT-administered activity contracts, DFAT can require individuals to be removed from working on an activity when an individual has been convicted of a criminal offence relating to child exploitation and abuse, or when it is considered that an individual poses an unacceptable risk to a child's safety or well-being. DFAT also requires anyone under formal investigation to be suspended from duty or transferred to other duties during an investigation.

DFAT reserves the right to terminate contract negotiations, refuse to engage an individual or require an individual to be replaced if appropriate criminal record checks are not undertaken.

Reporting

Any suspected case of child exploitation or abuse must be reported immediately, in accordance with the processes detailed in Attachment 3.

2.7 Standards for multilateral organisations and bilateral donors

We are committed to supporting and advocating for stronger risk management mechanisms within multilateral organisations and bilateral donors.

The DFAT due diligence approach requires all multilateral organisations and bilateral donors to be assessed against our Child Safe Policy and standards. This includes a review of an organisation's capacity, systems, policies and processes to determine its strengths and risks in managing risks to children. Multilateral organisations and bilateral donors are expected to act in accordance with the principles set out in our policy, and abide by other relevant international declarations, conventions and agreements. This requirement is stipulated in DFAT funding arrangements.

We reserve the right to suspend or terminate an agreement or activity in whole or in part if an organisation does not take appropriate steps to manage risks to children and manage and resolve an allegation of child exploitation and abuse.

2.8 Further information

DFAT Child Protection Section

Email: childprotection@dfat.gov.au

Telephone: +61 2 6178 5100

Mail: Child Protection Section
DFAT
GPO Box 887 Canberra
ACT 2601 Australia

Our website

Supporting documents to this policy and useful links are available at
PUT IN CORRECT URL ONCE KNOWN CAN WE GET A STATIC URL?

Attachment 1

[DFAT required minimum child safe practices]

	RISK	Child Safe standards	Why this is required	Minimum standard -evidence
1.	An organisation is unaware of the risks to children within their organisation and the activities they manage and/or implement.	The organisation has a child safe/child protection policy that applies to all personnel, partners and subcontractors that are engaged by a contractor or civil society organisation to perform any part of a DFAT-administered activity.	<ul style="list-style-type: none"> A child safe/child protection policy provides clear guidance and demonstrates how the organisation, across its operations, will ensure that children are protected from child exploitation and abuse in the delivery of DFAT-administered funded programs. 	<ul style="list-style-type: none"> Child safe/child protection policy. Personnel are aware of the organisation's child safe policy (e.g. through internal communication and training). Documented plan for ensuring DFAT-funded implementing partners are meeting the minimum standards set out below. Initial risk assessment of organisation and activities to inform policy development
2.	Adults target organisations that will provide opportunities to be in contact with children. Risk that a person who represents an unacceptable risk of harm to children (as indicated by their background and is unknowingly) appointed to a position within the organisation.	<p>Contact with children positions</p> <p>The organisation has robust recruitment screening processes for all personnel in contact with children. These recruitment procedures include:</p> <ul style="list-style-type: none"> criminal record checks before engagement verbal referee checks <p>Working with children positions</p> <ul style="list-style-type: none"> additional screening measures, such as interview plans that incorporate behavioural based interview questions must be used when candidates are applying for positions that involve working with children. 	<ul style="list-style-type: none"> Child safe recruitment and screening processes are essential to enable an organisation to choose the most appropriate person for a position that involves contact with children. Recruitment and selection can strengthen external inhibitors by preventing access to children by those with a known history of harming children. Recruitment and selection can discourage individuals from applying for positions who are an unacceptable risk to children. 	<ul style="list-style-type: none"> Documented criminal record checks for personnel in contact with children. Documented verbal referee checks. Documented request for an applicant to disclose whether they have been charged with child exploitation offences and their response. Interview plans incorporating behavioural based interview questions that are specific to positions that involve working with children.

	RISK	Child Safe standards	Why this is required	Minimum standard -evidence
D.	Personnel are unaware how to report concerning behaviour.	The organisation's child safe policy includes a documented reporting procedure for child exploitation and abuse allegations and policy non-compliance, including available sanctions for breaches.	<ul style="list-style-type: none"> - An effective child safe policy requires a report handling procedure. One of the biggest hurdles to personnel reporting child exploitation and abuse is that there is no formal system in place to do so, or that personnel are not aware of a formal system to report concerns or allegations. - Reporting systems must respect the rights of the alleged victim and alleged offender. 	<ul style="list-style-type: none"> - Organisation's guidelines for managing concerns or allegations of child exploitation and abuse, and policy non-compliance. - Documentary evidence that personnel can raise concerns about a child's safety or well-being or unacceptable behaviour by personnel. - Documentary evidence outlining the organisation's details of available sanctions for breaches of the code of conduct.
H.	Personnel are unaware of behaviour that indicates concern and are unaware of how to build child safe practices into their work.	The organisation provides child safe training for personnel.	<ul style="list-style-type: none"> - Personnel must be fully aware of their responsibilities to protect children and how to report concerns or allegations about child exploitation and abuse. 	<ul style="list-style-type: none"> - Training agendas and timeframes for training. - Materials used in training. - Training attendance records
P.	Lack of clear, well advertised rules allows concerning behaviour to go unchallenged.	The organisation has a child safe code of conduct that meets the minimum standard set by DFAT (see Attachment 2-DFAT's Child safe Code of Conduct).	<ul style="list-style-type: none"> - A code of conduct protects children and personnel. It makes clear the organisation's standards for acceptable/unacceptable behaviour in relation to children and must be signed by all personnel. It protects personnel by providing guidance on how to avoid situations that may be perceived as harmful to children. It also provides employers with a sound basis on which to conduct disciplinary action. 	<ul style="list-style-type: none"> - A child safe code of conduct based on DFAT's Child safe Code of Conduct. - Signed codes of conduct or a register documenting details of personnel who have signed the code of conduct.
B.	A lack of leadership and governance, and the right culture undermines staff efforts to implement a child safe environment.	The organisation's child safe policy commits it to preventing a person from working with children if they pose an unacceptable risk to children.	<ul style="list-style-type: none"> - Provides the organisation with clear grounds as an employer to determine whether a person is the most appropriate to work with children. 	<ul style="list-style-type: none"> - Referenced in relevant documentation, including policies, contracts and human resource guidelines,

	RISK	Child Safe standards	Why this is required	Minimum standard - evidence
A.	Staff that pose unacceptable risks to children are unable to be removed (suspended, transferred or terminated) without a criminal conviction, where contracts are in place.	The organisation's employment contracts contain provisions for suspension or transfer to other duties for any employee who is under investigation for breaching the child safe code of conduct and provisions to dismiss any employee post investigation.	<ul style="list-style-type: none"> - Reinforces the importance of the organisation's policy to personnel. - Ensures the organisation has legal recourse to remove or transfer personnel who pose an unacceptable risk to children. 	<ul style="list-style-type: none"> - Contract with personnel.
B.	Lessons learned from previous incidents are not taken into account, increasing the likelihood that realised risks will be repeated.	The organisation's child safe policy is subject to regular review—at least every five years or earlier if warranted.	<ul style="list-style-type: none"> - Contexts change, particularly in the development sector. There must be a commitment to review and update the policy as required. - Given that child safe policies are relatively new for many organisations, it is important that an organisation can learn and adapt from its experiences in implementing its child safe policy. 	<ul style="list-style-type: none"> - Timetable/timeframe for review. - Policy review report at least every five years. - Records of consultation with DFAT on policy review.
C.	Risks to children are missed during activity design because it is not considered a child-focused activity.	The organisation undertakes a risk assessment to reduce the risk of any child being harmed as a result of the operations or activities of DFAT that have contact with children. The assessment should identify risks, classify any high-risk activities, and document steps being taken to reduce or remove those risks.	<ul style="list-style-type: none"> - Some activities are higher risk than others. This may be due to the nature of the activity or the location. For example, working with children with disability or in an emergency situation. 	<ul style="list-style-type: none"> - Risk log identifying activity risks and appropriate measures to reduce or remove the risk to children. - Risk assessment of positions involved in the activity from positions likely to be in contact with children through to those working directly with children, and includes appropriate controls. - Evidence that risk assessments are reviewed/updated throughout the lifecycle of the activities.

Attachment 2

DFAT Child Safe Code of Conduct

I, _____ (insert name), acknowledge that I have read and understand DFAT's *Child Safe Policy, January 2013*, and agree that in the course of my association with DFAT, I must:

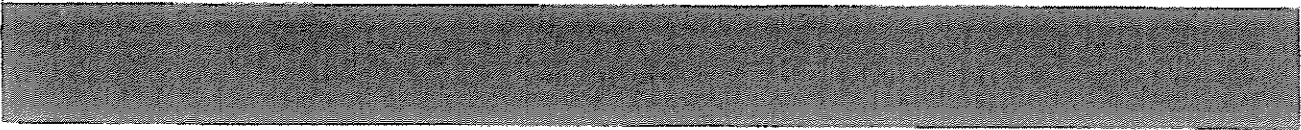
- > treat children with respect regardless of race, colour, gender, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status
- > not use language or behaviour towards children that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate
- > not engage children under the age of 18⁸ in any form of sexual intercourse⁹ or sexual activity,¹⁰ including paying for sexual services.
- > wherever possible, ensure that another adult is present when working in the proximity of children
- > not invite unaccompanied children into my home, unless they are at immediate risk of injury or in physical danger
- > not sleep close to unsupervised children unless absolutely necessary, in which case I must obtain my supervisor's permission, and ensure that another adult is present if possible (noting that this does not apply to my own children)
- > use any computers, mobile phones, video cameras, cameras or social media appropriately, and never to exploit or harass children or access child exploitation material through any medium
- > not use physical punishment on children
- > not hire children for domestic or other labour which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at significant risk of injury
- > comply with all relevant Australian and local legislation, including labour laws in relation to child labour
- > immediately report concerns or allegations of child exploitation and abuse and policy non-compliance in accordance with appropriate procedures
- > immediately disclose all charges, convictions and other outcomes of an offence, which occurred before or occurs during my association with DFAT that relate to child exploitation and abuse.

•

⁸ Where the child is 16 years or older and the other party is not more than 2 years older; and it can be established that the child consented to the relationship, an exception can be recorded promptly on personnel files.

⁹ As defined under the *Criminal Code Act 1995*.

¹⁰ As defined under the *Criminal Code Act 1995*.



When photographing or filming a child or using children's images for work-related purposes, I must:

- > assess and endeavour to comply with local traditions or restrictions for reproducing personal images before photographing or filming a child
- > obtain informed consent from the child and parent or guardian of the child before photographing or filming a child. As part of this I must explain how the photograph or film will be used
- > ensure photographs, films, videos and DVDs present children in a dignified and respectful manner and not in a vulnerable or submissive manner. Children should be adequately clothed and not in poses that could be seen as sexually suggestive
- > ensure images are honest representations of the context and the facts
- > ensure file labels, meta data or text descriptions do not reveal identifying information about a child when sending images electronically or publishing images in any form.
- > I understand that the onus is on me, as a person associated with DFAT, to beware of my behaviour and avoid actions or behaviours that could be construed as child exploitation and abuse.

Signed:

Date:

Attachment 3

Reporting Processes

If you have been exploited or abused or have any concerns relating to the abuse or exploitation of children, report it immediately.

If you or a child is in immediate danger, contact your local police.

Community Members

Anyone can report concerns related to DFAT functions and programs directly to the DFAT Child Protection Section. Community members do not need to be concerned that they must be an implementing partner to report. Any community member who wishes to report can do so using the details under the section titled How do I make a report?

Mandatory Reporting

All DFAT staff, individual contractors and implementing partners are required to report to DFAT.

DFAT staff

DFAT staff in Canberra who become aware of allegations or suspicions of child abuse and exploitation, misconduct or code of conduct breaches (including accessing child exploitation material such as child pornography) must:

- a. report the matter immediately to the Child Protection Section at childprotection@dfat.gov.au. If the information also concerns the possible or attempted commission of a serious extraterritorial offence, officers should copy in the Director, TNC and the SLA. If the allegation involves a DFAT staff member, the Child Protection Section will pass the information on to the Conduct and Ethics Unit (CEU).

DFAT staff at post who become aware of allegations or suspicions of child abuse and exploitation, misconduct or code of conduct breaches (including accessing child exploitation material such as child pornography) must:

- a. Report the matter immediately to the Head of Mission (HOM), and
- b. report the matter immediately to the Child Protection Section at childprotection@dfat.gov.au. If the information also concerns the possible or attempted commission of a serious extraterritorial offence, officers should copy in the Director, TNC and the SLA

DFAT funded individual contractors

Allegations or suspicions of child abuse and exploitation, misconduct or code of conduct breaches (including accessing child exploitation material such as child pornography) must be reported immediately to the Child Protection Section at childprotection@dfat.gov.au.

DFAT funded Organisations

Organisations are required to report to the DFAT Child Protection Section immediately any allegations or suspicions of child abuse and exploitation, misconduct or code of conduct breaches (including accessing child exploitation material such as child pornography).

Reporting through organisations internal processes must ensure that the DFAT Child Protection section is advised immediately.

What should I report?

You should report:

- > any behaviour that you suspect may be child exploitation or abuse, including possession of child exploitation material, misconduct or policy non-compliance by:
 - a DFAT staff member
 - personnel of a DFAT-funded contractor or civil society organisation
 - personnel of a DFAT funded multilateral organisation
 - a DFAT-funded volunteer
 - a whole-of-government employee (at Post only)
 - any report made to you by anyone relating to child exploitation and abuse or policy non-compliance by a DFAT staff or DFAT partners.

The obligation to report is ongoing. Where an individual or organisation has already reported information which they suspect relates to allegations or suspicions of child abuse and exploitation, misconduct or code of conduct breaches (including accessing child exploitation material such as child pornography), but becomes aware of additional information, the individual or organisation must report that information

What if I am not sure what I have seen is child exploitation and abuse?

Contact the Child Protection Section for confidential advice and further information about what constitutes child exploitation and abuse or policy non-compliance.

How do I make a report?

Reports can be made by:

Email: childprotection@dfat.gov.au
Telephone: +61 2 6178 5100
Mail: Child Protection Section
DFAT
GPO Box 887 Canberra
ACT 2601 Australia

What information do I need to provide in the report?

You should provide as much information as possible. The report can include:

- date(s) of incident(s)
- name of organisation(s) involved
- alleged offender's details, including name, nationality and occupation
- details of alleged incident(s)
- whether local law enforcement authorities or Australian Federal Police have been informed
- if it is a DFAT-funded activity, the name of the activity (if known)
- details of what the organisation(s) proposes to do or has done in response to the report
- any other relevant information.

What happens to the information I provide?

Once this report has been received by the department, a request will be sent for more detailed information.

All information provided to the Child Protection Section will be treated confidentially in accordance with relevant Commonwealth legislation, including the Privacy Act 1988.

Attachment 4

Legislation relevant to child protection

A range of laws are relevant to this policy, including Australian Commonwealth, state and territory laws and local laws in countries where DFAI works. A number of international child protection instruments also apply.

1. Commonwealth legislation

Under Commonwealth law an Australian citizen or resident can be prosecuted for an offence committed against a child in another country under laws that have an extra-territorial application.

Commonwealth legislation

Criminal Code Act 1995		
Legislation	Examples of offences	Maximum penalty
Division 272 (child sex offences outside Australia)	Engaging in sexual intercourse outside of Australia with a child under 16 years of age	20 years imprisonment
	Engaging in sexual activity outside of Australia with a child under 16 years of age	15 years imprisonment
	Engaging in sexual intercourse or sexual activity outside of Australia with a child under 16 years of age and the child has a mental impairment or is under the care, supervision or authority of the defendant	25 years imprisonment
	Engaging in sexual intercourse outside of Australia with a young person aged 16 or 17 years and the defendant is in a position of trust or authority	10 years imprisonment
	Engaging in sexual activity outside of Australia with a young person aged 16 or 17 years and the defendant is in a position of trust or authority	7 years imprisonment
	Grooming a child under 16 years of age to engage in sexual activity outside of Australia	12 years imprisonment
Division 273 (offences involving child pornography material or child abuse material outside Australia)	Possessing, controlling, producing, distributing or obtaining child pornography or child abuse material outside Australia	15 years imprisonment
Division 474 (telecommunications offences, subdivision C)	Accessing, soliciting or transmitting child pornography or child abuse material using a carriage service	15 years imprisonment
	Engaging in sexual activity with a child under 16 years of age using a carriage service	15 years imprisonment
	Online grooming of a child under 16 years of age	15 years imprisonment

Crimes Act 1914

The Crimes Act 1914 sets out the laws that govern the way legal proceedings under the Criminal Code Act 1995 are conducted including the conduct of investigations and the protection of children involved in proceedings for sexual offences (under Part 1AB).

State and territory child protection legislation

State and territory laws provide legal protection to children and families that are affected by child exploitation and abuse that occurs in Australia.

State or territory	Legislation	Source
New South Wales	Child Protection (Working with Children) Act 2012	www.legislation.nsw.gov.au
Victoria	Working With Children Act 2005	www.legislation.vic.gov.au
Queensland	Commission for Children and Young People and Child Guardian Act 2000	www.legislation.qld.gov.au/CCPYC/home.htm
Western Australia	Working with Children (Criminal Record Checking) Act 2004	www.slp.wa.gov.au/legislation/statutes.nsf/default.html
South Australia	Children's Protection Act 1993	www.legislation.sa.gov.au
Tasmania	Education and Care Services National Regulations 2011; Education and Care Services National Law (Tas) (See s 4 of Education and Care Services National Law (Application) Act 2011 (Tas))	www.thelaw.tas.gov.au
Australian Capital Territory	Working with Vulnerable People (Background Checking) Act 2011	www.legislation.act.gov.au
Northern Territory	Care and Protection of Children Act	www.nt.gov.au/dcm/legislation/current.html

Working with Children Positions

DFAT has officers in all Australian States and Territories. DFAT will continually foster an environment that recognises and responds to child abuse and exploitation appropriately. One way that DFAT will do this is to comply with enforceable requirements including mandatory reporting and working with children checks in all States and Territories.

There is no accepted definition for what constitutes a working with children position and no one system of working with children checks. In Australia, each State and Territory defines their definition in legislation. This can determine whether an individual is required to undergo specific employment screening (often referred to as a Working with Children check) and whether the individual occupying the position is considered a mandatory reporter under legislation.

DFAT will assess relevant local, State and Country legislation to determine which DFAT positions are working with children positions and require employment screening checks. Further to that, DFAT will do a risk assessment of each position to determine whether additional child safe recruitment screening practices are required.

State or territory	Working with Children and mandatory reporting legislation	Working with Children Position
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998</i>	
Victoria	<i>Children, Youth and Families Act 2005</i>	
Queensland	<i>Child Protection Act 1999</i>	
Western Australia	<i>Children and Community Services Act 2004</i>	
South Australia	<i>Children's Protection Act 1993</i>	
Tasmania	<i>Children, Young Persons and their Families Act 1997</i>	
Australian Capital Territory	<i>Children and Young People Act 2008</i>	
Northern Territory	<i>Care and Protection of Children Act 2007</i>	

Mandatory reporting requirements

Below is a very quick overview of some relevant State/Territory legislation. This is not an exhaustive list of legislation relating to mandatory reporting. This is to be used as a guide only. DFAT staff will receive training on their reporting obligations. If staff are concerned or unsure of their obligations, they are to call the Child Protection Section in Canberra or the relevant State/Territory body.

State or Territory	Relevant legislation	What is to be reported
All States and Territories	Family Law Act 1975 (Cth)	(the detail is at the end of the document. It's too long and doesn't flow. Need another idea....)
New South Wales	Children and Young Persons (Care and Protection) Act 1998	
Victoria	Children, Youth and Families Act 2005	
Queensland	Child Protection Act 1999	
Western Australia	Children and Community Services Act 2004	
South Australia	Children's Protection Act 1993	
Tasmania	Children, Young Persons and their Families Act 1997	
Australian Capital Territory	Children and Young People Act 2008	
Northern Territory	Care and Protection of Children Act 2007	

2. Local legislation

Most countries in which DFAT works have legislation relating to child exploitation and abuse.

When working in-country, DFAT staff and the personnel of contractors and civil society organisations implementing DFAT funded program activities are required to abide by local legislation, including labour laws with regard to child labour.

3. International child protection instruments that Australia is a signatory to

Instrument	Source
The United Nations Convention on the Rights of the Child	www.unicef.org/irc
Optional Protocol to the United Nations Convention on the Rights of the Child on the sale of children, child prostitution and child pornography	www.unhcr.org/refworld/docid/50b353232.html
Optional Protocol to the United Nations Convention on the Rights of the Child on the involvement of children in armed conflict	www.unhcr.org/refworld/docid/47fd6180.html
Geneva Declaration of the Rights of the Child	www.un-documents.net/gdr1924.htm
International Labour Organization Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	www.ilo.org/dbs/eng/convt182.htm

Glossary

Abuse	<p>Includes:</p> <ul style="list-style-type: none">- physical abuse—the use of physical force against a child that results in harm to the child. Physically abusive behaviour includes shoving, hitting, slapping, shaking, throwing, punching, kicking, biting, burning, strangling and poisoning- neglect—the failure by a parent or caregiver to provide a child (where they are in a position to do so) with the conditions that are culturally accepted as being essential for their physical and emotional development and well-being- emotional abuse—refers to a parent or caregiver's inappropriate verbal or symbolic acts toward a child or a pattern of failure over time to provide a child with adequate non-physical nurture and emotional availability. Such acts have a high probability of damaging a child's self-esteem or social competence- sexual abuse—the use of a child for sexual gratification by an adult or significantly older child or adolescent. Sexually abusive behaviours can include fondling genitals, masturbation, oral sex, vaginal or anal penetration by a penis, finger or any other object, fondling breasts, voyeurism, exhibitionism and exposing the child to, or involving the child in, pornography.¹¹
Awardee	Awardee includes recipients of an Australia awards Scholarship or fellowship
Behavioural-based interview questions	Interview questions that probe the applicant's past behaviour in specific situations relevant to the position. Behavioural-based questions give interviewers additional information as to the applicant's suitability to work with children.
Changes in circumstances	<p>Personnel should report the following changes in circumstances to management:</p> <ul style="list-style-type: none">- involvement in criminal activity- disciplinary procedures and criminal or civil court proceedings relating to child exploitation and abuse.
Child or children	In accordance with the United Nations Convention on the Rights of the Child, 'child' means every human being under the age of 18 unless under the law applicable to the child, majority is attained earlier. For the purposes of this policy, DFAT considers a child to be a person under the age of 18 years.
Child abuse material	Material that depicts (expressly or implicitly) a child under 18 years of age as a victim of torture, cruelty or physical abuse.

¹¹ Fact Sheet No. 12 *What is child abuse and neglect?* National Children's Clearinghouse, Australian Institute of Family Studies.

Child exploitation and abuse	One or more of the following: <ul style="list-style-type: none"> - committing or coercing another person to commit an act or acts of abuse against a child - possessing, controlling, producing, distributing, obtaining or transmitting child exploitation material - committing or coercing another person to commit an act or acts of grooming or online grooming.
Child exploitation	Definition to be included: need to determine how to address child labour
Child exploitation material	Material, irrespective of its form, which is classified as child abuse material or child pornography material.
Child pornography	In accordance with the Optional Protocol to the Convention on the Rights of the Child, 'child pornography' means 'any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.' For further information regarding child pornography offences, refer to the <i>Criminal Code Act 1995</i> .
Child pornography material	Material that depicts a person, or is a representation of a person, who is, or appears to be, under 18 years of age and is engaged in, or appears to be engaged in, a sexual pose or sexual activity, or is in the presence of a person who is engaged in, or appears to be engaged in, a sexual pose or activity, and does this in a way that a reasonable person would regard as being, in all the circumstances, offensive. ¹²
Child protection	An activity or initiative designed to protect children from any form of harm, particularly arising from child exploitation and abuse.
Contact with children	Working on an activity or in a position that involves or may involve contact with children, either under the position description or due to the nature of the work environment. (also see <i>Working with children</i> definition)
Criminal record check	A check of an individual's criminal history record. In Australia, national criminal record checks are available through state and territory police departments. They take around 20 working days. The type of employment should be specified as 'overseas employment.' Overseas, different checking procedures apply in each country and may take six weeks or longer. Individuals need to consent to a criminal record check and should be informed of the purpose for which the resulting police clearance certificate will be used, including sighting by DFAT.
DFAT staff	People employed by DFAT on a permanent or temporary basis in Australia or overseas.
Grooming	Generally refers to behaviour that makes it easier for an offender to procure a child for sexual activity. For example, an offender might build a relationship of trust with the child, and then seek to sexualise that relationship (for example by encouraging romantic feelings or exposing the child to sexual concepts through pornography).

¹² This definition has been extracted from the *Criminal Code Act 1995*. See Part 10.6 of the criminal code for the full definition.

Online grooming	The act of sending an electronic message with indecent content to a recipient who the sender believes to be under 16 years of age, with the intention of procuring the recipient to engage in or submit to sexual activity with another person, including but not necessarily the sender. For further details, refer to the <i>Criminal Code Act 1995</i> , Division 474 (telecommunications offences, subdivision C).
Personnel	Personnel are either employed by an organisation, engaged by an organisation on a subcontract basis, or engaged by an organisation on a voluntary or unpaid basis. Personnel can include paid staff, volunteers, interns, trustees, board members etc.
Police clearance certificate	The certificate showing the results of a criminal record check, which is issued by the police or other authority responsible for conducting such checks.
Policy non-compliance	The failure to abide by DFAT's policy.
Unacceptable risk	The portion of identified risk that cannot be tolerated, and that must be either eliminated or controlled. For people deemed an unacceptable risk, control mechanisms are not considered appropriate.
Working with children	Definition required consistent with Child Protection Risk Assessment Guidance – linked to definition of 'Contact with Children' and Attachment 1 Child Safe Compliance Standards (also see <i>contact with children</i> definition)

Table of changes
AusAID Child Protection Policy 2015

2012	2015	Rationale
The policy Decision to retain 'child protection policy' as the name rather than adopt 'child safe' as recommended in the 2011 Independent review	Decision to adopt title 'child safe'	<ul style="list-style-type: none"> Recommended in the 2011 Independent review, and to align with the draft Commonwealth Child Safe Policy.
2.2 Scope <i>the delivery of Australia's overseas aid program.</i>	<i>the delivery of DFAT's functions and programs, including Australia's overseas aid program.</i>	<ul style="list-style-type: none"> Scope expanded to include DFAT programs and functions, including overseas mission enabling services In line with wording of the draft Cth child safe policy.
2.4 Implementation within AusAID Outlined a plan of implementation	2.4 Areas of responsibility within DFAT Split into two, areas of responsibility at 2.4 and implementation within DFAT at 2.5. Meets best practice and to clearly articulate how DFAT will implement and by whom it will be implemented.	<ul style="list-style-type: none"> This part has been updated to clearly identify other areas within DFAT that have responsibility for implementation of procedures linked to areas within the Child Safe Policy Removes ambiguity around who is the process owner for areas affected by the policy. Clearly articulates DFAT staff responsibilities.
2.4 Implementation within AusAID Outlined a plan of implementation	2.5 Implementation within DFAT Changed from part 2.4 to part 2.5. Updated to reflect all child safe system processes within DFAT, not just a small number. s 22(1)(a)(ii)	<ul style="list-style-type: none"> This part has been updated to clearly identify other areas within DFAT that have responsibility for implementation of procedures within the 22(1)(a)(ii) In particular, strengthened the Risk

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2012	2015	Rationale
	<p>s 22(1)(a)(ii)</p> <p>Split into two, areas of responsibility at 2.4 and implementation within DFAT 2.5 to meet best practice and to clearly articulate how DFAT will implement and by whom it will be implemented.</p> <p>Inclusion of the 'system' approach.</p>	<p>management section to address safeguards/design issues.</p> <ul style="list-style-type: none"> Removes ambiguity around who is the process owner for areas affected by the policy. Clearly articulates DFAT staff responsibilities.
<p>2.5 Child protection compliance standards for contractor and civil society organisations funded by AusAID</p> <p>Partner expectations</p>	<p>2.6 Child protection compliance standards for contractor and civil society organisations funded by AusAID</p> <p>Clarification around 'mandatory' vs. 'minimum' standards.</p> <p>Inclusion of implementation practices for new partners</p> <p>Moved criminal record check information from end note into the body of the policy</p>	<p>The policy now clearly states that these are minimum requirements, meaning organisations must implement appropriate, risk based controls.</p> <p>The standard practice of new partners moving towards compliance has been specifically stated in the policy for clarity.</p> <p>Many partners failed to see the end note and complained that the criminal record check requirement was unworkable. Moving the information on what to do when criminal checks are not reliable or available should remove this issue.</p>
<p>Attachment 1 AusAID Child Protection Policy Compliance Standards</p> <p>Child Protection standards for AusAID partners</p>	<p>Attachment 1 DFAT required minimum child safe practices</p> <p>Inclusion of a risk column to help demonstrate how the standard can work in practice – the standard is actually a risk control.</p>	<ul style="list-style-type: none"> Moves the policy away from a strict compliance focus to a risk focus, meaning partners are required to implement an appropriate policy and procedures, not the minimum outlined in the policy.
<p>Attachment 3 Making a report of child</p>		

2012	2015	Rationale
exploitation and abuse or policy non-compliance		
Guidelines on how to make a report – centralising the reporting process	Clarified reporting process for DFAT funded organisations Expanded reporting scope for clarity	<ul style="list-style-type: none"> Gives organisations a framework when reporting, rather than just stating 'must report' with no structure. Previously only provided information to AusAID staff and contracted individuals.
Attachment 4 Legislation relevant to child protection		
	To be expanded to include key legislation for each State	<ul style="list-style-type: none"> With the inclusion of State office staff under the policy, clarity around WWCC and mandatory reporting requirements need to be included. This is to ensure the policy is in line with the Draft Cth Child Safe policy.
2012	2015	Rationale
Glossary updated	<p>Glossary updated to reflect changes in legislation and to improve language/terms used in the 2012 Policy.</p> <p>Definitions</p> <p>NEW</p> <ul style="list-style-type: none"> Child Exploitation Working with children <p>IMPROVED</p> <ul style="list-style-type: none"> Personnel 	<ul style="list-style-type: none"> Clarify definitions to minimise requests for information from partners.

Child Protection Policy Review

Peer Review Plan, 20 February 2015

As part of the Child Protection Policy Review process, it is proposed to peer review the draft Policy document with a select group of internal and external stakeholders. A similar approach was followed in 2012 during the preparation of the current Policy version, which produced valuable feedback.

Internal stakeholders

Australian Passports Office

Consular and Crisis Management Services

Corporate Management Division

Country programs (those asked to provide stakeholder feedback as part of the Review)

Development Policy Division (Poverty and Social Transfers Section (previously developing a child protection thematic strategy) and Environment Section (from a safeguards perspective))

Humanitarian Division

Information Management and Technology Division

Legal Division

Multilateral Development and Partnerships Division (Banks and Funds Branch, NGOs and Volunteers Branch)

Multilateral Policy Division

Public Diplomacy and Communications Division (covering communications and Scholarships)

Trade and Economic Diplomacy Division (particularly the Economic Engagement Branch, Displacement and Resettlement team -from a safeguards perspective)

External stakeholders

s 22(1)(a)(ii)

Department of Foreign Affairs and Trade

Minute

File no:

Date: 21 February 2014

TO. Richard Moore, FAS, CAD

Through. s 22(1)(a)(ii)

FM. s 22(1)(a)(ii) Director, CPCS

This is a good initiative which I want to see implemented asap. By the same token we must be able to demonstrate that it does not mean we are reducing the emphasis on

AID PROGRAM CHILD PROTECTION POLICY AND IMPLEMENTATION - INTERNAL ASSESSMENT AND REVIEW

Purpose

To inform you of work underway to review and refine the DFAT Child Protection Policy (CPP) and its implementation.

that we have more efficient and effective ways of delivery on our policies. [Signature] 25/2/14

Recommendations

2. It is recommended that you agree to the Child Protection Compliance Section (CPCS) progressing this work with a view to streamlining the CPP.

Agreed/
Not agreed

Background

3. The CPP aims to protect children from abuse of all kinds in the delivery of Australia's overseas aid program. The Policy was introduced by AusAID in 2008 and a strengthened, updated policy was released in February 2013. Its focus is AusAID staff and delivery partners and integrity in their work to deliver the aid program.

s 22(1)(a)(ii)

5. Further, as a result of the merger between the former AusAID and the Department of Foreign Affairs and Trade (DFAT), work is underway to simplify aid guidance and processes to reduce unnecessary administrative burdens and clarify mandatory requirements for decision makers. The proposed review of the CPP aligns with this agenda.

6. In addition, the proposed review is responding to feedback from partners and aid program staff concerning the need to help them calibrate the level of effort required to achieve compliance with the CPP and ultimately, the most effective protection of children. There is a risk that policies and implementation approaches can be too burdensome, are damaging to relationships with some NGO's and divert from the overall aim of the CPP.

Hear, hear!

Vitality important - we need our partners most efforts on greater - be able to focus on the areas of risk

Issues

7. This work is consistent with the overarching aid simplification agenda and aims to remove ambiguity and ensure that compliance requirements are appropriate and proportional to the level of risk in any operation.

8. A number of issues have been so far identified in the CPP for review and possible refinement, these are outlined in Attachment A. They include, but are not limited to

- Yes i. Modifying the requirement for all partners to develop a specific Child Protection Policy whether or not they work directly with children;
- Yes ii. Aligning Policy requirements with the DFAT Code of Conduct for Overseas Service (e.g. the former AusAID Code and the DFAT Code do not align on age of consent; complaints and allegations against DFAT staff are dealt with by DFAT's Conduct and Ethics area);
- Yes iii. Reviewing the requirement for staff and partners to sign the Child Protection Code of Conduct, given APS staff are covered by the APS Code of Conduct, the DFAT Code for Overseas Service and relevant laws, and child protection requirements are included in contracts and agreements. (Note: CPCS has stopped asking DFAT staff to sign the Child Protection Code of Conduct);
- Yes iv. Clarifying Policy requirements in relation to Bilateral and Multilateral partners. The Policy is internally contradictory on how it applies to multilaterals and the reality is we have never been able to unilaterally impose policies on these partners and therefore the Policy appears unrealistic; and
- Yes v. Aligning CPP complaints and reporting requirements with existing DFAT processes.

9. In relation to the first issue, an alternative approach has already been tested with Australian Development Research Award (ADRA) recipients based on level of risk, relevant pre-existing internal policies and a 'statement of intent'. The statement affirms that ADRA institutions' policies, processes and safeguards align with the intent of the DFAT CPP.

10. CPCS proposes the following indicative timeline for this work:

Action	Date
Response to direction Minute	March 2014
Industry consultation	March-April 2014
Policy revisions	May-June 2014
Finalise draft review	June-July 2014
Socialise draft with partners	July-August 2014
Final revision	August-September 2014
Executive approval	September 2014
Revised CPP published	October 2014

although we may want to argue for more stringent requirements in some cases.

Consultation

11. Subject to approval of this Minute, CPCS will consult further with partners and relevant DFAT areas.

Resourcing Implications

12. Work will be done within existing resources but it is a large exercise.

Author/Contact Officer

s 22(1)(a)(ii) Child Protection Specialist, CPCS s 22(1)(a)(ii)

ATTACHMENT A **DFAT Child Protection Policy 2013 - areas of potential change/refinement**

POSSIBLE POLICY CHANGE/ADJUSTMENT	ISSUE 1 – Organisations that do not 'work with children' are not required to have a Child Protection Policy (CPP)
Reason	DFAT needs to take a risk management approach to Child Protection and help stakeholders calibrate the level of effort required to achieve compliance with the DFAT CPP. The breadth, depth, and type of assessment required for child protection risk analysis should be commensurate with and proportional to the scope and scale of the proposed initiative. There is no point organisations developing policies they don't or can't apply, eg some Australian Development Research Award (ADRA) recipients cannot comply with the 2013 CPP and are bound by different legislative requirements.
What the 2011 Independent CPP Review said on this issue	<p>"international standards [developed by INGOs] describe measures that agencies should implement to safeguard children they are <i>in contact with</i>, in both development and emergency contexts" (p21)</p> <p>Criticises former AusAID CPP (2009) for being narrowly focused ie ensuring staff and 'associates' do not pose a risk to children overseas, rather than focus on risks posed by program design and implementation.</p>
s 22(1)(a)(ii)	<p>Recommended amending definition of activities involving 'contact with children' to distinguish between primary contact ('working with children') and secondary contact (or 'contact with children'):¹</p> <ul style="list-style-type: none"> • Primary contact (working with children): paid or unpaid work for an AusAID funded activity that may involve contact with a child. Eg physical contact, oral and written communication; making decisions about a child's welfare; visiting premises such as schools, children's health services • Secondary contact (primary contact): eg working in remote/rural locations; any community consultation <p><u>Response:</u> Management agreed on need for greater specificity.</p> <p>s 22(1)(a)(ii)</p> <p>These have been further tested with delivery partners in the 'Child Protection s 22(1)(a)(ii) Risk assessment guidance including new definitions is being updated and will be available on the website.</p>
Ongoing relevant protections if the policy is changed or refined	<ul style="list-style-type: none"> • APS Code of Conduct: "when acting in connection with APS employment comply with all applicable Australian laws". • Integrity checks on individuals who are engaged by contractors & NGOs. • Organisations provide <u>statement of intent</u> to comply with the DFAT CPP. Risk is shared between Orgs and relevant aid program area. (This has been successfully tested with ADRA recipients in early 2014).

¹ The Australian Aid CPP defines activities that have "contact with children" as: Working on an activity or in a position that involves or may involve contact with children, either under the position description or due to the nature of the work environment".

ATTACHMENT A

DFAT Child Protection Policy 2013 - areas of potential change/refinement

	<ul style="list-style-type: none"> Project risk assessments.
Suggested change	<ul style="list-style-type: none"> Organisations not directly working with children have option to provide a 'statement of intent' to comply with the CPP (as per ADRA recipients) Clarify definitions of Working with Children and Contact with Children and publish Risk Assessment guidance

POSSIBLE POLICY CHANGE/ADJUSTMENT	ISSUE 2 – Overseas conduct: age of consent
Reason	Need to re-align former AusAID requirements with DFAT Code of Conduct for Overseas Service for consistency.
What the 2011 Independent CPP Review said on this issue	<p>Review does not comment on the grey area between State legislation and UN Conventions on the Rights of the Child (CRC) definitions of 'child'.</p> <p>Note: Australia has ratified the CRC which defines the child as any human being under the age of 18, unless the age of majority is attained earlier under a state's own legislation. Although Australia has various state legislations with different age thresholds to the CRC, it is not inconsistent with the CRC.</p> <p>Commonwealth, ACT, VIC, TAS law – age threshold for child pornography is higher because involves exploitation, closely aligned with prostitution = 18yr (see Table 1 - Commonwealth, State and Territory age thresholds)</p>
s 22(1)(a)(ii)	N/A
Ongoing relevant protections if the policy is changed or refined	<p><u>DFAT Code of Conduct</u> :</p> <p>(5.3) An employee must comply with the age of consent requirements specified for sexual activity in the law of the host country or the age of consent under the law of the ACT (16 years), whichever sets the greater age.</p> <p><u>APS Code of Conduct</u>: "when acting in connection with APS employment comply with all applicable Australian laws".</p> <p>Relevant Australian legislation and extraterritorial laws² refer to offences against children (defined as under 16) and sexual activity offences directed at <i>aggravated conduct</i>, persistent sexual abuse and sexual activity with a <i>young person</i> where the defendant is in a position of trust or authority in relation to the young person (defined as 16-18 years).</p> <p><u>Australia Consular Operations Handbook</u>:</p> <p>Chp 3 highlights seriousness of allegations in relation to child sex offences and ensuring child's welfare and health are handled appropriately.</p> <p>Chp 11 acknowledges State obligations to protect children under the CRC (which defines child as under 18 years) and 'best interests of the child'.</p>

² Including *Crimes ACT Part IIIA (Child Sex Tourism)* and *Crimes Legislation Amendment Act (Telecommunications Offences...etc)* and changes in the *Criminal Code* following commencement of the *Amending Act* (2010)

ATTACHMENT A
DFAT Child Protection Policy 2013 - areas of potential change/refinement

Suggested change	<p>s 22(1)(a)(ii) outlines key extra territorial criminal offences including child sex offences, forced marriage, and FGM³ offences. 'Child sex offences' includes sexual by any Australian against any minor (including own children) overseas (Chp 11:3)</p> <ul style="list-style-type: none"> • Work with DFAT Conduct and Ethics to ensure consistency of approach • Include relevant content and references to the DFAT Code, APS Code and Consular Ops Handbook in Child Protection training
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POSSIBLE POLICY CHANGE/ADJUSTMENT	ISSUE 3 – Code of Conduct: requirement to sign CP Code of Conduct
Reason	<p>Need to streamline DFAT processes and procedures/align with DFAT Code of Conduct for Overseas Service.</p> <p>Note:</p> <ul style="list-style-type: none"> • CPP does not currently apply to non-aid program DFAT staff • Aid program staff are not currently being asked to sign the CoC due to uncertainty re status and coverage of CPP • DFAT Code <i>does not apply to locally engaged staff or honorary consuls and their staff</i>
What the Independent CPP Review said on this issue	<p>Codes of Conduct apply differently to different groups of staff in AusAID. AusAID would benefit from developing one single CPP Code of Conduct that applies to all AusAID staff and others that are in a contractual relationship to AusAID, regardless of their status, location or any other variable. <i>A clause relating to staff conduct and child protection responsibilities could also be included in the APS Code (10-11)</i></p>
s 22(1)(a)(ii)	N/A
Ongoing relevant protections if the policy is changed or refined	<p>All <i>Australian DFAT staff</i> are bound by the DFAT Code of Conduct for Overseas Service ('The Code') which is underpinned by the APS CoC. And obligations set out in the Public Service Act 1999 and applicable Australian laws.</p> <p>Currently all <i>aid program funded partners</i> are required contractually to comply with the CPP, including a Code based on the 2013 CPP CoC (but note ADRA awardees' option)</p>
Suggested change	<ul style="list-style-type: none"> • Change DFAT CPP Code of Conduct into a 'Statement of Intent' or 'Behavioural Principles' • Reinforce behaviours in CP training and relate back to professional codes of conduct, APS Code, Overseas Conditions of Service and Commonwealth legislation.

³ Female Genital Mutilation

ATTACHMENT A
DFAT Child Protection Policy 2013 - areas of potential change/refinement

POSSIBLE POLICY CHANGE/ADJUSTMENT	ISSUE 4 – Multilaterals/Bilateral partners
Reason	<p>Beyond the scope of individual States' legislative jurisdiction.</p> <p>Harmonisation agenda as per Paris/Accra etc.</p> <p>Should be working directly with partner govts to align with global standards and strengthen their policies and practice s 22(1)(a)(ii) s 22(1)(a)(ii)</p>
What the Independent CPP Review said on this issue	<p>Recommends extending scope of CPP to cover Multi and Bilats:</p> <p>Recom 5: Given increase of aid budget and "international moves" to safeguard children exclusion of multi and bilats should be reconsidered</p> <p>Recom 22: AusAID to lead work with bilateral donors in developing broader constituency of donors focused on ensuring agencies working with children meet basic protection standards.</p> <p>Recom 23: support collaboration with donors, UN, NGOs etc to develop joint safeguarding initiatives.</p> <p>Multiple refs to adopting broader child safeguarding approach (eg 'beyond compliance') more consistent with obligations under CRC</p> <p>'International standards' on child safeguarding developed by INGOs "have been or are being developed by a number of donors such as DFID, Irish Aid and ECHO as part of their funding requirements" (21).</p> <p>Note: CPCS continues to hold regular dialogue with partners (coordinated by UK's Keeping Children Safe)</p>
What the Audit said on this issue	N/A
Ongoing relevant protections if the policy is changed or refined	<p>s 22(1)(a)(ii)</p> <p>s 22(1)(a)(ii)</p> <p>MDBs are considered global best practice on some social and environmental safeguards. They conduct social impact assessments to ensure vulnerable groups are not adversely impacted. They will defer to a higher standard if available eg the s 22(1)(a)(ii) as best practice.</p>
Suggested change	<ul style="list-style-type: none"> • Amend ambiguous language in CPP • Align approach with Due Diligence process • Provide internal guidance on managing risks

ATTACHMENT A
DFAT Child Protection Policy 2013 - areas of potential change/refinement

Further issues for consideration	
Do we need to align DFAT and DFAT aid program reporting requirements?	<p>DFAT staff at post must report complaints and allegations in relation to child protection issues to HOM. If deemed necessary HOM will cable Director, Sanctions & Transnational Crime (STC), copied to Senior Legal Advisor. Where appropriate Director STC informs the s 47 E(d)</p> <p>The Child Welfare Checklist should be used to report all child abuse/neglect cases. Where a consular officer assesses that a child may be in imminent danger, the Consular Emergency Centre should be advised immediately by telephone, followed by cable including the checklist information (11.3)</p> <p>Note: Role of DFAT International Social Services (ISS) – has an international network of members and can act as an adviser on difficult child welfare cases – providing links to local child welfare agency etc.</p>
DFAT aid program's requirement that country offices of the same organisations develop their own CPPs	<p>Organisations such as s 22(1)(a)(ii) etc should have universal policies that apply across all countries and offices s 22(1)(a)(ii)</p>

ATTACHMENT A
DFAT Child Protection Policy 2013 - areas of potential change/refinement

Table 1
Commonwealth, State and Territory age thresholds

Age of consent

The 'age of consent' is generally understood as the age at which consensual sexual activity is lawful. Table 1 sets out Commonwealth, State and Territory ages of consent for sexual activity, and the age threshold for Commonwealth, State and Territory child pornography offences (the age of the child appearing in the material).

Age of consent		Child pornography
CTH	16	18
NSW	16	16
VIC	16	18
QLD	16	16
WA	16	16
SA	17	16
TAS	17	18
ACT	16	18
NT	16	18

The Commonwealth's age of consent is 16 years of age. State and Territory ages of consent vary from 16 to 17 years of age. The Government believes that setting the age of consent at 16 years of age strikes the appropriate balance between the need to protect vulnerable persons from sexual exploitation, and the need to allow for sexual autonomy.

Setting the age of consent at 16 is generally consistent with international practice. While the age of consent varies between countries, there is a trend towards a standardisation between 15 and 17 years of age.⁴

The Commonwealth, Victoria, Tasmania, the Australian Capital Territory and the Northern Territory age threshold for child pornography offences is 18 years of age. In remaining jurisdictions it is set at 16 years of age. While the age threshold for child pornography offences also varies internationally, the general trend in the sample countries compared is 18 years of age. It is common for the age of persons covered by child pornography offences to be higher than the age of consent because child pornography involves the exploitation (often for commercial purposes) of children. The type of conduct involved is more closely aligned to child prostitution. Child prostitution offences are generally directed at persons under 18 years of age.

In line with the majority of States and Territories, and consistent with the trend internationally, the Government proposes to retain the age threshold for child pornography offences at 18 years of age.

⁴ UK Home Office, *Setting the Boundaries: Reforming the law on sex offences*, Volume 1, July 2000, page 41

ATTACHMENT A
DFAT Child Protection Policy 2013 - areas of potential change/refinement

Table 2
Multilateral and Bilateral approaches to Child Protection/Safeguarding

Organisation	Policy coverage/approach
s 22(1)(a)(ii)	