DFAT Australian Aid Child Protection Policy 2013 – ACFID Webinar

Child Protection Compliance Section

December 2013

Overview

1. Background to the current Child Protection Policy
2. Key features of the Policy
3. Implementing a risk management approach in practice
4. Developing a child protection policy/system
5. Your Questions Answered
6. Managing child exploitation and abuse allegations
6. Further Questions

Foreign Affairs and Trade

Background to DFAT Australian aid Child Protection Policy

1990's NGOs become aware of professional perpetrator's and opportunistic offenders in the delivery of aid.

1994 Australia enacted the Crimes Amendment Act – *illegal for Australians to sexually abuse children under 16 while overseas.*

2002 West African Report from UNHCR and Save the Children UK

2004 Former AIDAB diplomat sentenced to 13 years in Balinese jail for assaulting 2 young boys

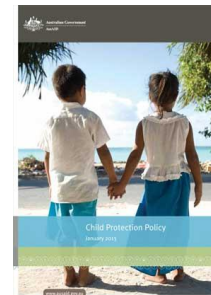**2005** Former AusAID Adviser charged with possession of child pornography

2007 TORs for child protection risk framework including policy/procedures/training (Childwise)

2005 Crimes Act amended to include grooming of persons under 16 via internet and mobile phones

2010 significant amendments made to consolidate offences under Criminal Code Act which introduced stronger penalties

Child Protection Policy and Procedures Manual Introduced **Mar-2008**

Implemented **2009**

2013 New Child Protection Policy launched

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Drivers for change

- Commonwealth extraterritorial laws
- revelations about child abuse and exploitation in humanitarian settings (UNHCR / Save the Children (UK) report, 2002)
- cases involving AusAID advisors / former staff members and partner organisations
- Child Wise advocacy

Rationale for adopting the Policy

- Children have the right to grow up safely and enjoy a childhood that is free from exploitation and abuse.

- Contribute to efforts being led by child-focused CSOs to protect children.

- Consistent with Australia's international law obligations - Australia a party to the Convention on the Rights of the Child (since 1990) and ILO Conventions.

- Provides a risk management framework for the Agency and its partners.

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Key features of the Policy

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Goal of the Child Protection Policy 2013

To protect children from exploitation and abuse of all kinds in the delivery of Australia's overseas aid program

Objective

To create and maintain protective environments

for children in the delivery of Australia's overseas

aid program

Child abuse includes: physical abuse, neglect, emotional abuse and sexual abuse

Australian Government
Department of Foreign Affairs and Trade

www.dfat.gov.au

Scope

- **includes** staff, CSOs, contractors, AVID volunteers and host organisations
- Multilateral organisations and bilateral donor partners

Five guiding principles

- Zero tolerance of child abuse
- Recognition of the best interests of the child
- Sharing responsibility for child protection
- Risk management approach
- Procedural fairness **(new)**

'Child' means any person under 18 years of age **(new)**

Implementing a risk management approach in practice

Assessing Organisational risk

- Who is vulnerable in our org (people we serve, staff volunteers?)

- What makes them vulnerable?

- What part of their vulnerability can we control or influence as an organisation?

For further information – Canadian Red Cross (2011) "Ten Steps to Creating Safe Environments"

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Organisational (cont)

- AusAID compliant CP policy and associated procedures will ensure minimum level risk mitigation strategies are in place for protecting children, based on current best practice.

- CP risk management practice should not be separate - it should fit in with existing risk management systems.

- CP risks need to be regularly monitored and reviewed to ensure the Policy is up-to-date and appropriate in light of changing circumstances

Activity

- <u>Ensure risks to children are given explicit treatment in program risk management plans and reporting.</u> These plans should specify the risk treatments, including a schedule of compliance monitoring, that each program would undertake annually for 'high risk' activities.

- Organisations should specifically <u>discuss child protection risks and compliance actions with partners delivering 'high risk' activities</u>, as part of the standard partner agreement monitoring practices.

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Assessing high risks

Position descriptions - working directly with

- Abandoned or orphaned children
- Children with disabilities
- Children who have been abused or sexually exploited
- Children in detention
- Children in residential care
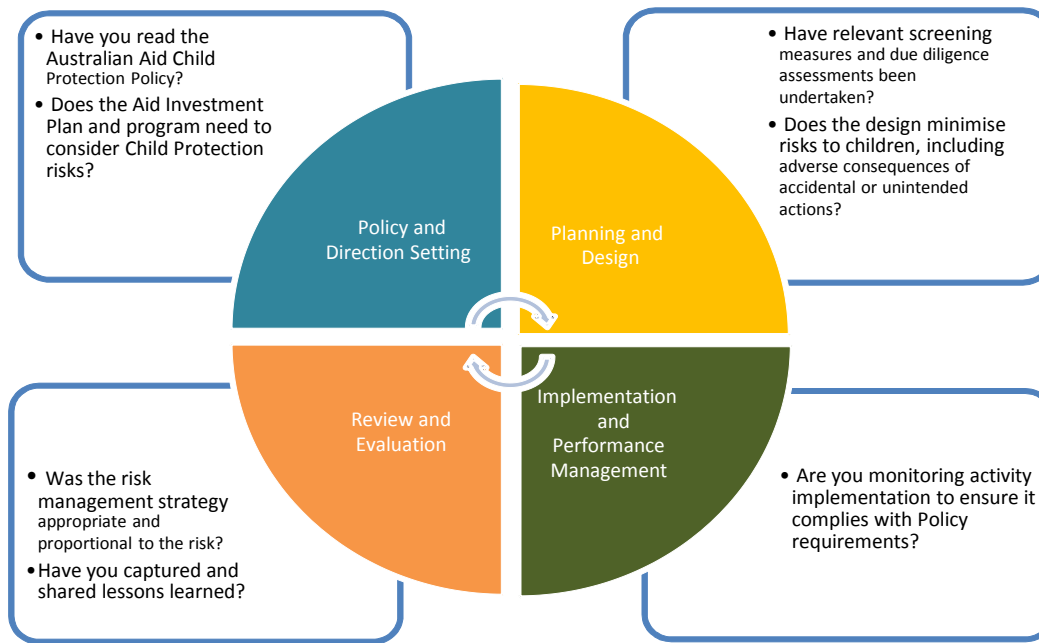
Locations and nature of activities

- Emergency and conflict settings
- Activities located away from communities
- Education settings
- Visiting a child at home or vice versa
- One-on-one activities
- Swimming, bathing, changing, attending to personal hygiene

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If the activity or organisation is high risk, ensure appropriate control systems and treatments are in place and monitor

The diagram below illustrates the key checks during each phase of the aid management cycle

- Have you read the Australian Aid Child Protection Policy?
- Does the Aid Investment Plan and program need to consider Child Protection risks?

Policy and Direction Setting

- Have relevant screening measures and due diligence assessments been undertaken?
- Does the design minimise risks to children, including adverse consequences of accidental or unintended actions?

Planning and Design

- Was the risk management strategy appropriate and proportional to the risk?
- Have you captured and shared lessons learned?

Review and Evaluation

Implementation and Performance Management

- Are you monitoring activity implementation to ensure it complies with Policy requirements?

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Developing a child protection policy / system

How to develop a CP Policy

- Assess the risks to children in your programs
- Identify existing policies in your organisation to build on or link in with
- Review other organisations' policies, including DFAT Australian aid CP policy
- Identify your organisation's needs and operating context, and understand local laws & available government services
- Consult with relevant stakeholders
- Circulate draft for feedback and revise as appropriate
- Formally adopt your policy
- Educate staff and stakeholders
- Periodically review and evaluate

What to include in your CP Policy

- Your organisation's commitment to child protection
- Goal / objective
- Context
- Relevant definitions
- Recruitment practices
- Code of Conduct
- Use of children's images
- Reporting and response
- Relevant laws
- Staff (and stakeholder) training
- Periodic review of the Policy

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Organisational Child protection system

Education & training to promote awareness & understanding about child risk, harm, and abuse in the context of org responsibilities

Establish guidelines for dealing with complaints management & disciplinary proceedings

Recruitment & selection practices deter unsuitable people from positions in the org and attract suitable people

An effective COC promotes positive work practice & outlines expectations

Importance of clearly codifying organisation's commitment to good practice, as part of organisational culture

A Child Safe Org commits to child safe practices & procedures; takes a preventative, proactive, & participatory approach

Training

Reporting

Recruitment and Screening

Code of conduct

Policy

Governance

Your Questions Answered

Governance – Risk Management

1. AusAID/DFAT recently circulated guidance notes on CP Risk assessment (establishing the CP risk context of orgs and activities) along with the formats for the Child Protection Stocktake Survey. Is there an expectation that this guidance will be socialized among ANGO staff and partners and all risk assessments will be undertaken as per this document? Note: different ANGOs have encouraged program teams and partners to use varied tools and processes that align to their development approach and different programming contexts.

2. At what level should the risk log be maintained? At the program level or at the organisational level? Will it not be more meaningful to maintain the detailed risk log at the program level to promote ownership at the program level and for effective monitoring?

Governance (cont)

3. Re. Attachment 1 of the Child Protection Policy (AusAID-compliant child protection policy): Must a Child Protection policy address all parts of the compliance standard to be compliant? For example – compliance standard 2 (robust recruitment process) has 3 sub-points – are these all minimum requirements v's best practice?

4. Compliance standard 6 – Does this have to be specifically noted in the Child Protection policy, or can it be implied, and covered in the contracts themselves?

Policy

1. Do CP policies actually work?

- Refer to the Victorian Royal Commission Inquiry Report – Betrayal of Trust

  - A child safe policy aims to prevent predators and opportunistic offenders from offending through screening and situational crime prevention

Policy (cont)

2. What's the exact definition of "working with children?

- No consensus across States & Territories
- No national CP legislation – refer to http://www.aifs.gov.au/cfca/pubs/factsheets/a141887/

Policy – Partners

3. What is the definition of 'local partners' i.e for the purposes of the recent CP Survey, local partners were our in-country entities i.e. FHF Country Office. Is there a specific definition for the Child Protection policy?

4. What is the level of compliance needed from partners (NGO and government)? My understanding is that local partners must either sign and implement the Australian Aid Child Protection policy, or have their own, which is compliant with this.

Policy – Partners (cont)

5. If our 'local partner' is the national Department of Health, do we require that their Child Protection policy is compliant with the Australian Aid Child Protection policy before we can work with them?

6. How far downstream does this process go i.e. if our in-country FHF office partners with the Department of Health, who in turn sub-contract training to a national tertiary training institute, does this institute also require an Australian Aid Child Protection policy, or to implement and sign the ANGOs', before we commence activities?

Policy – Partners (cont)

7. Are there minimum requirements on checks ANGOs must have in place to audit this downstream compliance?

8. Can we commence activities with partners if they do not have compliant policies, but we are supporting them as part of the project to become compliant?

9. Are foreign government bound by these requirements? What if these differ from their own country-specific legal requirements?

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Policy – thematic strategy

10. Can DFAT provide further details about their intentions regarding the development of the child protection thematic strategy. A commitment to developing a strategy that "acknowledges the broader risks to children associated with aid program investments and will outline how the aid program promotes and protects children's rights" was articulated in the management response to the 2011 Independent Child Protection Policy Review. AusAID was consulting with NGOs on the drafting of the strategy, but as of October this year, we were advised that the work is on hold. Any updates on the progress, or at least a sense that DFAT is committed to developing this policy and that consultations with civil society will resume, would be greatly appreciated.

Code of Conduct

1. How similar does an organisations's Code of Conduct have to be to that provided in Attachment 2, to be compliant ie. The Foundation's Code of Conduct summarises the issues around photography into a single bullet point.

Code of Conduct – photos & images

1. What is DFAT's position about images that were obtained under the previous child protection policy? Can they still be used?

2. Period of Consent For Photos/Images/Video/text – what is the period of consent?

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'No borders for doctors saving kids'
The weekend Australian, 23-24 November 2013

http://www.theaustralian.com.au/news/nation/syrian-children-brought-over-israeli-border-for-doctors-to-save/story-e6frg6nf-1226766434148#

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Recruitment & screening

1. What are the guidelines/criteria to determine when a statutory declaration can be used instead of obtaining a criminal record check as part of the screening processes?

2. Extent of Background Checks and Spent Convictions – what is best practice and minimum requirements on this? Can employees commence contact with children or working with children roles before a check has been processed?

3. Verbal vs written referee checks – is there a preference? ACFID Child Protection Training placed importance on verbal referred checks.

Recruitment & Screening (cont)

4. What is the difference between the national criminal check and the working with children check?

    – Details on the different pre-employment screening systems can be found at http://www.aifs.gov.au/cfca/pubs/factsheets/a141887/

5. What is the requirement regarding criminal check in the following contexts?

    – Where organisations cannot get criminal checks from home country as the expat has not lived there or returned for a significant period of time?

    – Where the expat has not been home and the host country does not have any mechanism to provide criminal checks

    – Country's where it is not easy to get criminal checks for anyone including local national staff

Reporting

1. One of the listed evidence required to demonstrate compliance with Compliance Standard 3 is "Documentary evidence outlining the organisation's details of available sanctions for breaches of the code of conduct." What does AusAID/DFAT mean by this? What is a sanction for breaches of Code of Conduct?

2. Why does DFAT/Australia aid require personal details of alleged perpetrators and victims when reporting alleged CP incidents? Is this not a deterrent for field reporting as there are issues around confidentiality?

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Training

1. How much child protection training would be considered adequate for staff not working directly with children?

   - At induction (formal training)
   - Any time the policy is amended (formal training)
   - Discussed at staff meetings every 6 months to ensure people are reminded of their reporting obligations, what the code of conduct is and what it is designed to do, and what the dangers to children are likely to be in your organisation and how to address those

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Managing child exploitation and abuse allegations

Plan ahead

- Identify who in your organisation will lead on managing allegations and concerns – a Child Protection Officer?

- Start with developing an internal reporting management system – establish clear reporting lines and procedures.

- Plan ahead. What support would your organisation be able to arrange for people (victim, notifier, accused) affected by a child protection allegation or concern.

- Ensure staff receive regular training on your organisation's CP policy and procedures, including on reporting.

Managing an allegation or concern

- Respond immediately but take a measured approach.

- Apply the Procedural Fairness Guiding Principle. Use fair and proper procedures for those involved.

- Know when to report to the Police – immediately if potentially a criminal matter.

- Know when to report to DFAT Australian aid program – immediately under part 2.5. See Attachment 3 for guidance on mandatory reporting.

Managing an allegation or concern (cont)

- Maintain confidentiality as much as possible. Contain the flow of information.

- Document steps taken, including interviews with people affected e.g. victims, witnesses, family members, alleged perpetrator (if interview). Keep a confidential file.

- Arrange support for people affected e.g. counselling and/or outreach services. Know who the leading support organisations are in each country.

- You may need to run parallel processes – internal & criminal. Ensure you liaise with police.

Concluding a case

- <u>See a case through to the end</u>. Remember that this could take months or years.

- <u>Victims of abuse can suffer lifelong impacts</u>. Conclusion of a case for an organisation won't mean the matter is resolved for a victim. What ongoing support can be provided?

- <u>Prepare a final case report</u> for your file and provide a copy to AusAID.

- In doing so, <u>reflect on lessons learned</u> through the case management process. What steps could be improved? Should your CP policy, processes and reporting system be strengthened? Do you need to develop additional risk mitigation measures to ensure a similar incident doesn't occur again?

'Working with children' positions and activities

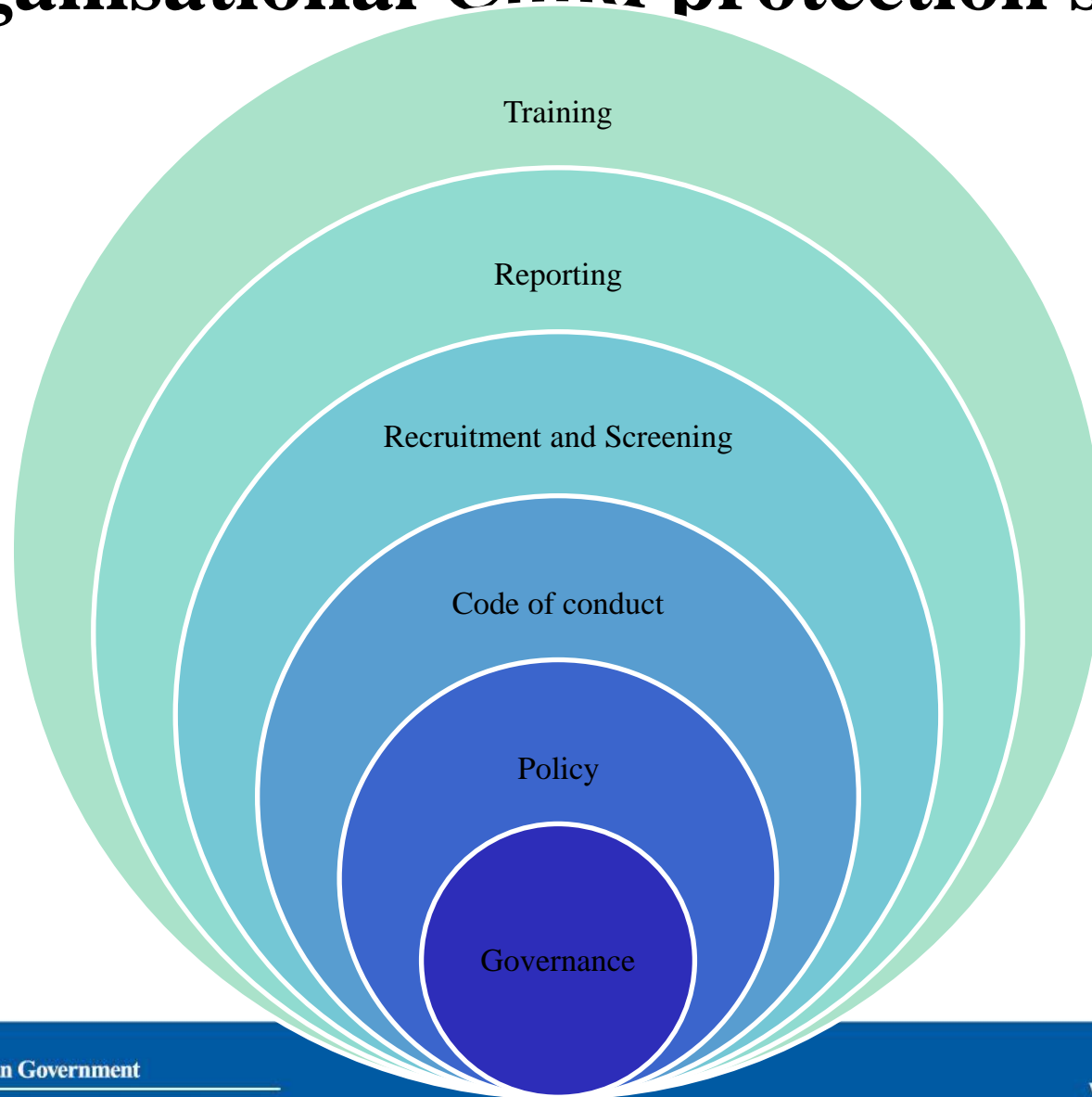| Children	Setting
Abandoned or orphaned children	Residential care; refuges; youth centres; street outreach
ANY child in residential care	Residential care
Children with disabilities	Formal and informal education; disability services
Children who have been abused or sexually exploited	
Children in detention	Detention centre

Any Further Questions?

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Organisational Child protection system

Training

Reporting

Recruitment and Screening

Code of conduct

Policy

Governance

Contact details

Foreign Affairs and Trade

More information

Key documents

- Child Protection Policy
- Guidance Notes – being developed in 2013

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