NEW SOUTH WALES

Interagency Guidelines FOR
Child Protection Intervention

2006 EDITION
ACKNOWLEDGEMENTS

The NSW Government's Child Protection Senior Officers Group (CPSOG) is comprised of representatives from a wide range of government human service and justice agencies. In consultation with stakeholders, the CPSOG undertook a major review of the Guidelines to reflect the current child protection environment in a 2006 edition.

This document is based on The 1997 Interagency Guidelines for Child Protection Intervention, reviewed and updated in 2000 and 2005.

Contributions were made by:

Family Services Inc; Association of Children's Welfare Agencies; NSW Aboriginal Child, Family and Community Care State Secretariat; NSW Ombudsman; NSW Office for Children - Children's Guardian and NSW Commission for Children and Young People; Community Relations Commission; Association of Independent Schools; Catholic Education Commission; CREATE Foundation; non-government agencies in the child welfare, education, legal, disability and children's services sectors; parents of children and young people; other individuals; government departments and local government.

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www.community.nsw.gov.au
FOREWORD BY NSW PREMIER MORRIS IEMMA

Too many children in our community grow up in homes marred by family breakdown, social isolation, poverty, domestic violence, and chronic alcohol or drug misuse.

Protecting these children is the shared responsibility of families, communities, government and non-government agencies. And we protect these children best when we intervene early.

The latest social research reinforces the critical importance of early intervention to ensure children receive the best possible start in life at a time when brain development is at its most critical stage.

And successful early intervention strategies like Families First have shown that effective child protection involves professionals from many different fields.

A wide range of agencies provide intervention services for children and families under stress. It is vital that these agencies work together so that the needs of individual children are fully addressed and the best range of skills is brought to bear in each case.

In fact, collaboration between agencies must be regarded as a cornerstone of good professional practice in child protection intervention, not an optional extra.

This new edition of the NSW Interagency Guidelines for Child Protection Intervention sets out processes for agencies to effectively work together to help children, young people and their families.

These Guidelines recognise the fact that no single agency or individual can make a difference in isolation. But by sharing information, resources and expertise, agencies can make a powerful impact.

I look forward to seeing continuing improvements from all agencies working to make a difference to the lives of children, young people and their families.

Morris Iemma
Premier
Table of contents

Premier’s Foreword ............................................................... Page 3
Telephone contacts ............................................................ Page 6
Using the Guidelines .......................................................... Page 7

Chapter 1 BUILDING INTERAGENCY COLLABORATION
1.1 The importance of interagency collaboration .................... Chapter 1 / Page 1
1.2 Interagency practice in child protection ........................... Chapter 1 / Page 1
1.3 Strategies for improving interagency collaboration ............. Chapter 1 / Page 3
1.4 Roles and responsibilities of key agencies in child protection Chapter 1 / Page 4
1.5 The responsibility to raise and address differences between agencies Chapter 1 / Page 7

Chapter 2 MAKING A CHILD PROTECTION REPORT
2.1 Who should report? ....................................................... Chapter 2 / Page 1
2.2 When should a report about a child or young person be made? Chapter 2 / Page 2
2.3 Recognising child abuse and neglect ............................... Chapter 2 / Page 5
2.4 Seeking advice prior to reporting ..................................... Chapter 2 / Page 13
2.5 How to make a report .................................................... Chapter 2 / Page 15
2.6 What information is required in a report? ......................... Chapter 2 / Page 16
2.7 Responding to a child or young person who discloses information Chapter 2 / Page 18
2.8 Taking into account the child's or young person's views ........ Chapter 2 / Page 19
2.9 Responding to disclosures by a parent or caregiver .......... Chapter 2 / Page 19
2.10 Should I inform the family of a report? ......................... Chapter 2 / Page 20
2.11 Safeguards for reporters ............................................. Chapter 2 / Page 20
2.12 Feedback to reporters ................................................. Chapter 2 / Page 21
2.13 Where allegations involve agency employees .................. Chapter 2 / Page 22

Chapter 3 PRACTICES AND PROCEDURES FOLLOWING A CHILD PROTECTION REPORT
3.1 After reporting – an agency’s initial responsibilities ........ Chapter 3 / Page 1
3.2 The assessment and intervention roles of agencies .......... Chapter 3 / Page 1
3.3 The Department of Community Services risk assessment functions Chapter 3 / Page 4
3.4 Taking immediate action to ensure safety ....................... Chapter 3 / Page 11
3.5 Physical, psychological, psychiatric and other medical assessments Chapter 3 / Page 14
3.6 Working with families to reduce harm and increase resilience Chapter 3 / Page 14
3.7 Management of child protection cases ........................... Chapter 3 / Page 15
3.8 Care plans ................................................................. Chapter 3 / Page 21
3.9 Case review and service supports .................................. Chapter 3 / Page 22
3.10 Care applications ........................................................ Chapter 3 / Page 23
3.11 Permanency planning .................................................. Chapter 3 / Page 25
Chapter 4 EXCHANGING INFORMATION IN A CHILD PROTECTION CONTEXT

4.1 The legal framework for exchanging information
4.2 Information sharing in service delivery
4.3 Information seeking powers of the Department of Community Services
4.4 Provision of information by the Department of Community Services
4.5 How the Department of Community Services will exchange information
4.6 Other agencies responding to an information request
4.7 Information for court proceedings
4.8 Other information exchange arrangements

Chapter 5 CRIMINAL PROCEEDINGS

5.1 Issues to consider
5.2 Coordinating criminal proceedings
5.3 Communicating throughout criminal proceedings
5.4 Victims’ Services – counselling, support and compensation
5.5 Court preparation of child or young victim
5.6 Court determinations

Chapter 6 BEST PRACTICE PRINCIPLES IN WORKING WITH CHILDREN AND FAMILIES

6.1 Intervening early with children, young people and families
6.2 Engaging families
6.3 Engaging children and young people
6.4 Engaging Aboriginal people
6.5 Engaging people from culturally and linguistically diverse backgrounds
6.6 Engaging people who have a disability
6.7 Facilitating referrals

Appendices

 Principles when working with children and families
 Roles, responsibilities, services and programs in NSW relevant to child protection
 Legislative grounds to report
 A guide to developing a protocol with local Aboriginal organisations and government/non-government partners
 Aboriginal tribal/language groups in Australia
 The placement principles for Aboriginal and Torres Strait Islander children, young people and families
 Prevention and early intervention strategies and programs in NSW

Glossary
Index
Telephone contacts

**DEPARTMENT OF COMMUNITY SERVICES (DoCS) HELPLINE**
To report suspected abuse or neglect of children or young people call

**13 3627** (or for ease of reference 13 DoCS) for *mandatory* reporters
(e.g. Police, doctors, teachers)

**132 111** for *non-mandatory* reporters (e.g. the general community)

TTY 9633 7698

**DoCS’ Domestic Violence Line**
If you or someone you know is experiencing domestic violence, you can call
DoCS’ Domestic Violence Line for help on

**1800 656 463**

TTY 1800 671 442

DoCS’ Domestic Violence Line is a statewide free-call number and is available
24-hours, seven days a week.
The Domestic Violence Line provides telephone counselling, information and
referrals for people who are experiencing or have experienced domestic violence.

**NSW Attorney General’s Department Victims Support Line**
The Victims Support Line provides 24-hour information, referral and support to
victims of crime.

**1800 633 063** (toll free)

**9374 3000** (Sydney)

**Community Relations Commission**
The Language Services Division of the Commission provides a comprehensive
interpreter and translation service throughout the State. These services may be
obtained from anywhere in the State by telephoning

**1300 651 500** (for interpreters onsite)

**Translating and Interpreting Services (TIS)**
24-hours, seven days a week, telephone interpreting service to all state and
territories in Australia. To access a telephone interpreter call

**131 450** (for telephone interpreting)
USING THE GUIDELINES

The purpose of these Guidelines is to assist professionals and agencies in their work with children, young people and families where there are child protection concerns.

The Guidelines are a resource to promote effective collaboration, cooperation and coordinated effort across all responsible service providers under the Children and Young Persons (Care and Protection) Act 1998 and ultimately to improve the safety, welfare and wellbeing of children and young people in NSW.

Individual agencies have different responsibilities relating to strengthening families and preventing child abuse, but the best results will occur where agencies are working together and in a complementary way, to deliver the often complex range of responses and supports that are required by children, young people and families.

Practitioners from government and non-government agencies should:

- familiarise themselves with the child protection policies and procedures of their own agency
- understand that the Guidelines convey good practice for participating agencies, and recognise that they do not replace agency-specific policies or procedures or replace professional judgment, but rather that they build on these
- refer to legislation and other relevant instructions or information, such as in website references.

THE GUIDELINES ARE IN SIX CHAPTERS:

Chapter 1 Building interagency collaboration
Outlines the important principles and benefits of effective interagency work, and provides strategies for working together. It also outlines mechanisms for resolving unavoidable differences between agencies in order to secure the best outcomes for children, young people and families.

Chapter 2 Making a child protection report
Provides guidance on the circumstances in which a child protection report may be required and the steps that should be followed by a person wishing to make a report. This chapter includes advice on indicators of abuse and neglect.

Chapter 3 Practices and procedures following a child protection report
Outlines the processes and actions that will flow from a report, including the assessment functions of the Department of Community Services and aspects of case planning and management.

Chapter 4 Exchanging information in a child protection context
Deals with the mechanisms for and limitations on information exchange in child protection cases.

Chapter 5 Criminal Proceedings
Provides an overview of the criminal prosecution process.

Chapter 6 Best practice principles in working with children and families.
Highlights important practice considerations for effective intervention, such as engaging with children, young people and families, and facilitating referrals.

Appendices
Practitioners are referred to the appendices for specific information such as services and programs in all agencies, an overview of early intervention initiatives and a protocol that may assist to operationalise the Guidelines with Aboriginal communities.

Glossary
A shared understanding of terms and definitions is essential for an effective interagency approach – the glossary provides the agreed definitions for use in day-to-day practice.

There are a number of conventions in the document to assist in the use of the Guidelines:

- Practice Points identify useful tips or practice directions and are denoted by PRACTICE POINTS
- Flow charts are included to provide an overview of complex processes
- Important information is tagged by a NOTE
- The use of flags provides a direction to specific references elsewhere in the Guidelines or to external documents such as agency websites.
Chapter 1

Building interagency collaboration

1.1 THE IMPORTANCE OF INTERAGENCY COLLABORATION

One of the primary concerns of any community must be the safety, health and wellbeing of its children and young persons. This responsibility goes beyond the role of a single government department, and requires the commitment of all levels of government, non-government agencies and the wider community to deliver a coordinated and comprehensive system for protecting children and young people.

The Department of Community Services has the 'lead responsibility' in providing care and protection for children and young people in NSW but there are many other agencies, both within and beyond government, that have a vital role to play. No single agency, service, program or professional discipline has the knowledge, skill or mandate for the entire spectrum of interventions to protect children from harm.

The efficacy of the NSW child and family service system relies on the response of individual agencies and professionals working in collaboration with others in the service system, regardless of differences in size, individual philosophies, structures or funding sources.

1.2 INTERAGENCY PRACTICE IN CHILD PROTECTION

The Children and Young Persons (Care and Protection) Act 1998 (the Act) provides the framework for promoting a partnership approach to child protection. The legislation recognises that responsibility is shared across:

- government agencies
- non-government agencies
- families
- corporations
- business agencies
- the community.

The principles contained in Sections 9 and 10 of the Act guide government and non-government agencies in exercising their responsibilities under the Act, and in relating with each other and with children and young people at risk of harm.

Sections 11 to 14 of the Act contain important additional principles for government and non-government agencies in relation to Aboriginal and Torres Strait Islander children and young people, their families and communities.

Refer Appendix 1 for the legislative principles outlined in Sections 9 and 10 of the Act, and Appendix 6 for the additional principles related to Aboriginal and Torres Strait Islander people.

The foundation for interagency practice is the mandatory reporting framework provided by Section 27 of the Act. Mandatory reporting places an obligation on a range of professionals who work with children to report concerns of risk of harm. These professionals form the network of practitioners engaged in working together under the NSW Interagency Guidelines for Child Protection Intervention.

1 The legislation is available online: http://www.legislation.nsw.gov.au
The Act also requires the Director-General of the Department of Community Services to promote the development of coordinated strategies for the care and protection of children and young people. Such strategies include the provision of assessment and support services directed towards strengthening families to look after children and young people so that their safety and welfare is not put at risk.

Interagency practice refers to the process of agencies working together to achieve joint outcomes for children, young people and their families, and problem-solving together to improve child protection service responses. It can include improving communication, sharing of information about services, case planning for specific children and their families, and informal approaches to quickly resolve immediate problems for children at risk.

Refer Chapter 6, ‘Best practice principles in working with children and families’, for information on engaging families, referral practice and exchanging information about children, young people and families.

Interagency practice in child protection happens on three levels:

- **Policy level** – where agencies at all levels of government (state, federal and local) work together with non-government stakeholders to establish clear goals and objectives for the prevention of harm to children. Policy can be delivered through legislative change, the development of statements and principles that set out the responsibilities and actions of all stakeholders, and guidelines to apply those statements and principles in practice

- **Program level** – where service delivery is managed by more than one agency, with each of the participating agencies bringing their expertise and skills so that clients receive a coordinated and integrated service response without the need to move between agencies and programs. Joint Investigation Response Teams (JIRTs) are an example of interagency practice through cross-agency programs. They link the risk assessment and protective interventions of the Department of Community Services with criminal investigations conducted by NSW Police and medical examination, counselling and therapeutic services from NSW Health

- **Direct service level** – where agencies work together to address the needs of individual children, young people and families through shared case planning, management and coordination efforts. The practice of interagency case management to build a common case plan and goal improves the quality of the service outcomes received by the child, young person and family, and are an example of interagency practice at the direct service level.

When interagency practice and collaboration is working well, children, young people and their families, human service workers and agencies all benefit:

### Table 1.1: Benefits of interagency practice

<table>
<thead>
<tr>
<th>For clients</th>
<th>For workers</th>
<th>For agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>A coordinated case plan can address a range of needs and provide more seamless service delivery</td>
<td>Sharing information, assessment knowledge and intervention responsibility is less stressful and more rewarding than acting individually</td>
<td>Reduces duplication of services and allows for greater efficiency in the utilisation of public resources</td>
</tr>
<tr>
<td>Cooperative efforts by agencies improves access to services</td>
<td>The quality of problem-solving and service planning is enhanced when all parties coordinate their efforts</td>
<td>Can assist in easing workforce limitations and barriers created by agency mandates</td>
</tr>
<tr>
<td>More diverse expertise is available due to the joined up resources of agencies</td>
<td>Increased contact and better relationships between service providers improves communication and role clarity, and eases the stress of individual work with clients in crisis</td>
<td>Improves the likelihood of meeting the varied and complex needs of clients</td>
</tr>
<tr>
<td>Models cooperation to clients, and exposes effective methods of problem solving and relating to other professionals</td>
<td>Breaks down defensive ways of thinking, and reduces the undue responsibility or blame on any one worker or agency</td>
<td>Produces a wider picture of the needs of a community, and can lead to shared planning across a range of agencies</td>
</tr>
</tbody>
</table>
1.3 STRATEGIES FOR IMPROVING INTERAGENCY COLLABORATION

At the broadest level, collaboration needs to become an integral component of the core business of all agencies. The NSW Human Services Chief Executive Officers have confirmed the following collaboration principles for human services agencies across government:

- Organisational cultures must value innovative solutions to complex client and community needs, and respect the different perspectives of other agencies and professionals.

- Relationships between people are at the centre of collaboration, recognising that it takes time and effort to develop trust, a common language and a common understanding of each agency’s requirements.

- Frank and respectful analysis of many different perspectives and priorities is essential so that creative, innovative and transparent solutions can be developed to resolve mutual problems.

Some of the specific ways in which agencies can improve the way that they work together include:

- Building better local networks which foster an understanding of the agencies that are operating in the local area. Getting to know the types of services they offer and the expertise of their workforce could be achieved by establishing a program of interagency network meetings, or information bulletins to share information; identify interagency issues early; and to gain a better understanding of roles and responsibilities.

- Agreeing on better ways to work together to support shared clients might involve establishing a formal or informal network of service providers in a local area and actively undertaking joint case planning, case conferencing, or cross-agency referrals. These types of activities help providers to consider information about a child or a family from their respective professional disciplines, and to work out the best mix of supports for those clients.

- Establishing formal protocols to ensure that the roles and responsibilities of all parties are clear in supporting children and families in the local community by using Memoranda of Understanding to establish the basis for interagency collaboration where the interdependencies between agencies are accounted for and facilitated. Protocols can provide guidance for workers to engage with one another across agency and program boundaries.

- Creating opportunities for shared training which provide a strong foundation for interagency practice would improve understanding of agencies’ respective roles and responsibilities, as well as promoting a shared language, knowledge and awareness between agencies.

- Recognising the function of strengthening relationships between agency partners within ‘position descriptions’. For instance, the Department of Community Services requires that Managers in Community Services Centres establish and facilitate collaborative and innovative partnerships with community partners towards an integration of service delivery at the local level. In addition, there is an expectation of their active participation in local interagency forums where the aim is to share an understanding of child protection service provision, and the respective roles of local agencies.

Refer Chapter 3.2 for a diagram on the interagency approach in child protection practice.
1.4 ROLES AND RESPONSIBILITIES OF KEY AGENCIES IN CHILD PROTECTION

Effective collaboration requires agencies to be familiar with each other’s roles and responsibilities as this will support good communication and the ability to identify opportunities for ‘joined up’ approaches to resolving issues faced by families with children and young people.

The roles and responsibilities of agencies with the most direct involvement in the protection of children and young people are outlined in Table 1.2. These include NSW Government human service and justice agencies, NSW Government independent oversight and support agencies and non-government organisations, including non-government schools and local government.

Refer Appendix 2 provides details of all agencies’ responsibilities, their services and programs relevant to child protection.

Table 1.2: Key roles and responsibilities in child protection (1/3)

<table>
<thead>
<tr>
<th>Who</th>
<th>What</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NSW Government human service and justice agencies</strong></td>
<td></td>
</tr>
</tbody>
</table>
| Department of Community Services (DoCS) | ▶ has lead responsibility for providing and coordinating the community response to care and protect children and young people  
▶ accepts and assesses reports about children and young people who are at risk of harm  
▶ jointly investigates serious reports about child sexual or physical abuse or extreme neglect with other agencies, such as NSW Police or Joint Investigation Response Teams (JIRTs)  
▶ supports and monitors children, young people and families at risk  
▶ initiates care proceedings before the Children’s Court  
▶ facilitates out-of-home care arrangements for children and young people  
▶ delivers community awareness, education and preventative programs about the safety, welfare and wellbeing of children and young people |
| NSW Police | ▶ has a key role in recognising and reporting children and young people who are suspected of being at risk of harm  
▶ undertakes joint investigation with other agencies on reports that may be subject to criminal charges, such as child sexual abuse and serious child physical abuse, as defined in the JIRT policy and procedures manual, or extreme neglect  
▶ intervenes in child abuse and neglect cases, applying for Apprehended Violence Orders (AVOs), laying criminal charges and commencing criminal proceedings as needed  
▶ refers children and young people to emergency interim placements following accidents and disasters where the parent/carer has been hospitalised, arrested or has died  
▶ delivers crime prevention programs aimed at identifying and diverting children and young people at risk of becoming young offenders |
| NSW Health | ▶ has a key role in recognising and reporting children and young people who are suspected of being at risk of harm  
▶ conducts medical examinations and assessments, and provides medical treatment, crisis and ongoing counselling, and advocacy services for children and young people who have been, or are suspected of having been, physically or sexually abused or neglected  
▶ provides crisis and ongoing counselling for children under the age of 10 who are exhibiting sexualised or sexually abusive behaviour, and treatment programs for adult intra-familial child sex offenders  
▶ delivers preventative programs and early intervention services that aim to protect children and young people  
▶ prepares and supports children and young people who have to go to court, where their abuse is the subject of criminal proceedings |
### Table 1.2: Key roles and responsibilities in child protection (2/3)

<table>
<thead>
<tr>
<th>Who</th>
<th>What</th>
</tr>
</thead>
</table>
| NSW Government human service and justice agencies | - has a key role in recognising and reporting children and young people who are suspected of being at risk of harm  
- informs children and young people who are students, apprentices and trainees in their schools, colleges, workplaces and programs about their right to be protected from abuse, and where they can get support  
- provides child protection education to children and young people in schools, and teaches protective strategies to children in preschools and child care centres |
| Department of Education and Training (DET) | - reports children and young people suspected of being at risk of harm  
- provides a safe environment for children and young people with whom they are working  
- provides the opportunity for young offenders and their victims (including young people who are victims of assault) to meet together in a safe and supported environment when referred to a youth justice conference  
- provides offence-related services to children and young people in custody, conditional release or community orders. These children and young people may be victims as well as offenders against children  
- provides assessment, case planning and interventions for young offenders in custody or under community orders, including for those who have committed sex or violent offences against children  
- informs registered victims of impending parole hearings and seeks their submissions for these hearings |
| Department of Juvenile Justice (DJJ) | - ensures that inmates who are under 18 years of age are safe from harm  
- assesses risk, develops case management plans, and provides interventions that reduce the risk of known child-related offenders reoffending  
- assesses the risk for known child-related offenders to receive visits from children or young people while they are in custody, or if the offenders want to participate in external leave programs  
- assesses the risk for offenders to have their child reside with them in custody or participate in occasional care programs |
| Department of Corrective Services (DCS) | - reports children and young people suspected of being at risk of harm  
- provides housing assistance to young people in transition from out-of-home care to independent living |
| Department of Housing (DoH) | - provides a safe place for children and young people waiting at court  
- ensures the availability of the relevant technology and facilities for children to give evidence  
- minimises delays for children waiting to give evidence by expediting hearings, giving matters involving children priority, and ensuring children are not kept waiting at court to give evidence longer than necessary |
| Attorney General’s Department (AGD) | - finalises charges in conjunction with NSW Police for the prosecution of alleged child-related offenders  
- advises investigators on the sufficiency of evidence and the appropriateness of particular charges relating to child-related offenders  
- prosecutes all criminal proceedings for child sexual assault offences  
- supports children who are victims and witnesses, before and during court appearances |
| Office of the Director of Public Prosecutions (ODPP) | - reports children and young people suspected of being at risk of harm  
- provides specialist support to young people with a disability in transition from out-of-home care to independent living |
| Department of Ageing, Disability and Home Care (DADHC) | - reports children and young people suspected of being at risk of harm  
- educates coaches, administrators, parents and children about child protection electronically: [http://www.playbytherules.net.au](http://www.playbytherules.net.au) |
### Table 1.2: Key roles and responsibilities in child protection (3/3)

<table>
<thead>
<tr>
<th>Who</th>
<th>What</th>
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</thead>
<tbody>
<tr>
<td><strong>Courts</strong></td>
<td></td>
</tr>
<tr>
<td>Children’s Court</td>
<td>- hears and determines most applications for care orders relating to children and young people</td>
</tr>
<tr>
<td></td>
<td>- identifies children at risk of harm in any proceedings before the court</td>
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<tr>
<td></td>
<td>- ensures that the best interests of children and young people are paramount in court considerations, and that children and young people have the fullest opportunity to be heard and to participate in the proceedings</td>
</tr>
<tr>
<td>Children’s Court Clinic</td>
<td>- provides expert clinical assessments of children, young people and their families involved in care proceedings</td>
</tr>
<tr>
<td>Family Courts</td>
<td>- report children and young people suspected of being at risk of harm</td>
</tr>
<tr>
<td></td>
<td>- manage and adjudicate disputes between parents or others with parental responsibility</td>
</tr>
<tr>
<td></td>
<td>- for children and young persons, including living arrangements, time spent in the company of and communicating with parents, and other parenting issues</td>
</tr>
<tr>
<td></td>
<td>- may refer parties to family counselling and family dispute resolution to assist them to resolve their disputes</td>
</tr>
<tr>
<td>Local, District and Supreme Courts</td>
<td>- manage and adjudicate criminal proceedings when a person is charged with abusing, neglecting or otherwise harming a child or young person</td>
</tr>
<tr>
<td></td>
<td>- hear appeals against decisions of the Children’s Court</td>
</tr>
<tr>
<td><strong>Independent Oversight and Support Agencies</strong></td>
<td></td>
</tr>
<tr>
<td>Commission for Children and Young People (CCYP)</td>
<td>- promotes and monitors the overall safety, welfare and wellbeing of children and young people in the community</td>
</tr>
<tr>
<td></td>
<td>- promotes the participation of children and young people in decisions that affect them</td>
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<tr>
<td></td>
<td>- monitors and conducts activities associated with the NSW Working with Children Check</td>
</tr>
<tr>
<td>NSW Office for Children – the Children’s Guardian (OCCG)</td>
<td>- promotes the best interests of all children and young people in out-of-home care</td>
</tr>
<tr>
<td></td>
<td>- ensures that the rights of all children and young persons in out-of-home care are safeguarded and promoted</td>
</tr>
<tr>
<td></td>
<td>- accredits designated agencies and monitors their responsibilities under the Children and Young Persons (Care and Protection) Act 1998 and the regulations</td>
</tr>
<tr>
<td></td>
<td>- accredits adoption service providers</td>
</tr>
<tr>
<td></td>
<td>- authorises the employment of children under 15 years of age in the entertainment industry, for door-to-door selling, or for exhibition or still photography purposes</td>
</tr>
<tr>
<td>NSW Ombudsman</td>
<td>- monitors and reviews the prevention of reportable conduct and handling of reportable allegations by employers of all government and certain non-government organisations in NSW</td>
</tr>
<tr>
<td></td>
<td>- monitors and reviews the provision of community services provided by DoCS, DADHC and organisations that are funded, licensed or authorised by the Minister for Community Services, or the Minister for Ageing, Minister for Disability Services</td>
</tr>
<tr>
<td>Local councils and non-government organisations</td>
<td></td>
</tr>
<tr>
<td>Local Councils</td>
<td>- report children and young people suspected of being at risk of harm</td>
</tr>
<tr>
<td></td>
<td>- promote a safe environment for children and young people who receive services from council or use council facilities</td>
</tr>
<tr>
<td>Non-government organisations (NGOs)</td>
<td>- report children and young people suspected to be at risk of harm</td>
</tr>
<tr>
<td></td>
<td>- work collaboratively with government agencies when intervening with families</td>
</tr>
<tr>
<td></td>
<td>- provide a range of services to deliver care and support to at risk, abused or neglected children and young people, and their families</td>
</tr>
<tr>
<td>Non-government schools</td>
<td>- report children and young people suspected of being at risk of harm</td>
</tr>
<tr>
<td></td>
<td>- inform students in their schools about their right to be protected from abuse and where they can get support</td>
</tr>
<tr>
<td></td>
<td>- provide child protection education to children and young people in their schools, and teach protective strategies to children in their preschools and child care centres</td>
</tr>
<tr>
<td>All employers</td>
<td>- notify the Ombudsman of reportable allegations against employees arising in the course of the person's employment, irrespective of whether the head of the agency believes them to be false, vexatious or misconceived</td>
</tr>
<tr>
<td></td>
<td>- investigate reportable allegations and convictions against their employees and take appropriate action as a result of the investigation</td>
</tr>
</tbody>
</table>
1.5 THE RESPONSIBILITY TO RAISE AND ADDRESS DIFFERENCES BETWEEN AGENCIES

All who are involved in the NSW child and family service system must be able to participate in, influence and contribute to its overall efficacy. It is important that all agencies be committed to working together and are open to challenges and feedback from their interagency partners.

Different perspectives and competing priorities will occur from time to time. Differences may be about decisions made in relation to a particular child or young person, roles, professional and organisational philosophies or priorities, systems issues, status and perceived power issues, communication, level of commitment to the interagency approach and group dynamics, and attitudes and beliefs about families and community standards.

A measure of the success of our interagency work will be the manner in which agencies exercise their responsibilities in resolving differences or in considering what further action may be required of them to move forward, notwithstanding any differences.

Where differences occur, early acknowledgment of this is critical to avoid unproductive disputation and to fulfill the collective commitment to acting in the best interests of children and young people. This will assist each party to consider whether there is something more or different that could or should be done within their own agency or through interagency work to progress an issue.

This would include each agency considering internal responsibilities and options where there appears to be a difference that gives rise to concern about an ongoing risk to a child or young person. For the Department of Community Services, this may involve seeking more information from a reporting agency or providing more information to them. For a reporting agency, this may involve gathering and providing more information to accompany a report or to supplement a previous report, or in some cases it may warrant a further report.

There may be cases where a fundamental difference is identified and it is most appropriate to seek interagency review of the matter. It is expected that all agencies will have a clear policy on review and resolution of concerns raised by or in relation to agency partners. The following diagram, 'A Model for Resolving Interagency Differences', provides a generic model for resolving differences between agencies (noting that other dispute resolution processes may need to be followed depending on the nature of the dispute). The model is not designed to assign fault but rather to improve both processes and outcomes. The key proposed steps are:

1. identify the issue and the outcome sought. This may be done in consultation with your line manager
2. as appropriate to the circumstances, approach the worker concerned and talk directly with them about the dissatisfaction. Personal skills of negotiation and active listening will assist in developing a timely resolution
3. if there is still dissatisfaction or complaint, then consider an approach to the worker’s line manager. This may be undertaken by the respective line managers. If a review of a decision is being sought, it may be appropriate to document the issues and/or concerns in writing so that the process has added clarity and accountability
4. if this doesn’t help, then approach the next most relevant senior officer in the organisation or that agency's specialist complaints officer or unit, if and where this option exists. Chief Executive Officer (CEO) level resolution should be considered in cases where protracted cross-agency differences are impeding the ability to deliver an efficient and effective response to clients
5. if this doesn’t help, then CEOs may consider it appropriate to go to an independent body or a mediation process.
Diagram 1.1: A model for resolving interagency differences

1. An individual or agency identifies a concern or difference of opinion requiring resolution

2. Clarify legislative, policy or procedural requirements

3. Raise concerns with other party or parties

4. **Discuss and resolve**
   - **YES** → Act on agreement
   - **NO** → Refer to the relevant line manager or committee of management

5. Engage mediator

6. **Discuss and resolve**
   - **YES** → Act on agreement
   - **NO** → Discuss issue relate to policy or procedures?

7. **YES** → Management decision made following joint consultation

8. **NO** → Refer to the relevant senior management

9. Engage mediator

10. **Discuss and resolve**
    - **YES** → Act on agreement
    - **NO** → Refer to Directors-General of relevant departments and/or CEOs

   - Clarify interagency issue at principle level and communicate to relevant stakeholders
   - Copy of advice provided as appropriate by respective agencies to Child Protection Senior Officers Group (CPSOG)
Chapter 2

Making a child protection report

2.1 WHO SHOULD REPORT?

New South Wales establishes shared responsibility for the protection of its children by legislating for mandatory reporting under the Children and Young Persons (Care and Protection) Act 1998. Any person can make a report of harm or risk of harm to a child or young person, but some have a legal obligation to do so – these are known as mandatory reporters.

A mandatory reporter is an individual required by law to report to the Department of Community Services when they have reasonable grounds to suspect that a child, or a class of children, is at risk of harm from abuse or neglect and those grounds arise during the course of or from the person’s work.

Mandatory reporters include those who deliver the following services wholly or partly to children as part of their paid or professional work:

- health care (e.g. doctors, nurses, dentists and other health workers)
- welfare (e.g. psychologists, social workers and youth workers)
- education (e.g. teachers)
- children’s services (e.g. child care workers, family day carers and home-based carers)
- residential services (e.g. refuge workers)
- law enforcement (e.g. police).

The legislation also mandates any person managing an employee from the above mentioned services to report risk of harm.*

Agencies will generally have internal policies setting out the requirements for employees and their managers who are mandated reporters to report concerns about children. Some agency policies require non-mandated reporters to report to the Department of Community Services. One example of this is NSW Health. Practitioners should therefore be familiar with the legislation as well as their agency’s policy on reporting.

*PRACTICE POINT

Family court personnel and counsellors are required to report concerns about children under Section 67ZA of the Family Law Act 1975.
2.2 WHEN SHOULD A REPORT ABOUT A CHILD OR YOUNG PERSON BE MADE?

The Act establishes a broad framework for receiving and responding to:

- reports suspecting that children or young people are at risk of harm
- reports suspecting that an unborn child may be at risk after birth
- reports about homeless children and young people.

Table 2.1 identifies the way in which mandatory and non-mandatory reporting applies in certain types of cases, noting that there are no mandatory provisions for young persons aged 16 to 18 years or for unborn children.

<table>
<thead>
<tr>
<th>Case type</th>
<th>Mandatory report</th>
<th>Not mandatory</th>
</tr>
</thead>
<tbody>
<tr>
<td>A child or a group of children under 16 years</td>
<td>✔️</td>
<td></td>
</tr>
</tbody>
</table>
| A young person or a group of young people aged 16 years or above but under 18 years | | ✔️
| An unborn child | | ✔️
| A child under 16 years living away from home without parental permission | ✔️ for persons who provide residential accommodation | ✔️ for other reporters
| A young person 16 years or above but under 18 years who is homeless | | ✔️ and any such report requires the consent of the young person

2.2.1 MANDATORY REPORTING AND RISK OF HARM

The Act requires that a reporter has:

- reasonable grounds to make a report
- a suspicion of risk of harm
- current concerns about safety, welfare or wellbeing.

What does ‘reasonable grounds’ mean?

Reasonable grounds is the standard that reporters must use in deciding whether or not to report to the Department of Community Services. It refers to the need to have an objective basis to deduce that a child may be at risk of harm. This could be derived from such things as:

- first-hand observations about the child or family
- what a practitioner has been told by a child, their parent or another person, or
- what a practitioner can reasonably infer based on professional training and/or experience.
It does not mean that reporters are required to confirm their suspicions or provide incontrovertible proof before making a report to the Department of Community Services. A useful rule of thumb is to consider whether another person, when faced with similar information, would also draw the same conclusion.

**What does ‘risk of harm’ mean?**

The term ‘risk of harm’ is pivotal to the Act. It is important to have an understanding of its two components:

- what constitutes risk
- what constitutes harm.

Put simply, risk refers to the relative likelihood of something occurring in the future. The continuum of risk in Diagram 1 indicates that reports of risk of harm should not be focused on concerns falling to the left side of the continuum (those with an unlikely or remote possibility of occurring), but concerned with those that are possible, likely or probably will occur.

![Diagram 2.1: Continuum of risk](image)

**Harm** to a child or young person may be the impact of one or more of physical, psychological or sexual harm or neglect. The current and future impact of the harm needs to be considered.

**Risk of harm** is present if there are current concerns that a child or young person may suffer physical, sexual, psychological and/or emotional harm as a result of what is being done or not done by another person, often an adult responsible for their care.

Agencies and practitioners are required to make a judgment about whether the known facts or observations may constitute a risk of harm to a child or young person from abuse or neglect. In general, it is clear that a sound judgment will require consideration of the likely degree of harm taking into account the following factors:

- the age, development, functioning and vulnerability of the child or young person
- the behaviour of a child or young person that suggests they may have been or are being harmed by another person
- history of previous harm
- behaviour by another person, that has had, or is having, a demonstrated negative impact on the healthy development, safety, welfare and wellbeing of the child or young person (e.g. drug and alcohol abuse, domestic violence or mental health issues)
- contextual risk factors (For example, recent abuse or neglect of a sibling, or a parent recently experiencing significant problems in managing a child or young person’s behaviour)
- indications that a child or a young person's emotional, physical or psychological wellbeing is significantly affected as a result of abuse and neglect.

**Refer** Detailed guidance on indicators of harm and abuse that might inform a decision to report is provided in the chapter 2.3 ‘Recognising child abuse and neglect’.

In making judgments about risk of harm, reporters may give further consideration to other factors that can heighten the risk of harm such as poverty, social isolation or the presence of disability. These factors do not of themselves constitute risk of harm under Section 23 of the Act, but may influence a judgment on both the level of risk and the degree of harm that may occur.
What does ‘current concerns’ mean?

Current concerns may exist for a child or young person where maltreatment has not yet happened but there is a reasonable suspicion that, should the circumstances continue unchanged, then it is likely in the foreseeable future that the child or young person will experience abuse or neglect. Similarly, current concerns may arise from circumstances involving a child or young person’s contact with someone who is known or suspected to be a person responsible for causing harm to a child in the past and there is a concern that a child is at risk of being harmed.

Current concerns also refer to situations where the abuse or neglect of the child occurred some time in the past, but continues to have an impact on the child or young person’s safety, welfare or wellbeing.

For a concern to have currency, there has to be a ‘present time’ element to the risk of harm or to the risk becoming apparent to the reporter. It is not appropriate for a reporter to delay reporting their concerns about a child.

2.2.2 SPECIAL PROVISIONS FOR NON-MANDATORY REPORTING

In addition to the different categories of child abuse and neglect, the Act identifies the following areas for special consideration in the reporting context:

- unborn children
- homeless children and young people aged 16 to 17 years.

Unborn children

Section 25 of the Act states:

... a person who has reasonable grounds to suspect, before the birth of a child, that the child may be at risk of harm after his or her birth may make a report to the Director-General.

This is known as a prenatal report and provides for the making of reports to the Department of Community Services about a child before their birth. Whilst such reporting is not mandatory, it is recognised that such action may be helpful so that assistance can be provided early to prevent the likelihood of a child being at risk of harm when they are born.

Prenatal reporting may be particularly helpful to the unborn child in domestic violence situations, or where there are mental health concerns or hazardous drug and/or alcohol misuse during pregnancy. It is also appropriate to consider prenatal reporting where a parent has previously demonstrated an inability to safely parent.

NSW Health is the key provider of antenatal services to women during pregnancy. They are uniquely positioned to identify vulnerabilities in pregnant women that may result in a risk of harm to a child when they are born.

Homelessness of children and young people

The Act recognises homelessness of children and young people as an important issue. Aside from the possibility that homelessness is likely to be a manifestation of more entrenched problems such as abuse or neglect, it also increases a child or young person’s vulnerabilities and poses additional risks associated with transience.

Under Section 120 of the Act, the reporting of homeless children is mandatory for any person who in the course of providing residential accommodation encounters a child (that is, a person aged under 16 years) who is suspected to be living away from home without parental permission. This applies to a child living in anyone’s private household or in a facility that provides an accommodation service to children, such as a refuge.
Under the Act, a young person is defined as someone who is age 16 years or above, but under 18 years of age. The Act recognises the unique vulnerabilities of young people, as well as their growing right to self-determination and participation in decisions that affect them. This is reflected in the requirement under Section 121 that a reporter needs to have the consent of a young person who is homeless prior to making a report about their homelessness. However, consent is not required for the making of other reports about harm or risk of harm.

The Act does not define homelessness, however the Human Rights and Equal Opportunity Commission 1989 Report of the National Inquiry into Homeless Children, does provide a useful definition:

Homelessness is where a child or young person is living without any family support in any of the following circumstances:

- no accommodation at all, that is ‘roofless’
- only temporary or transient accommodation
- emergency, refuge or crisis accommodation
- other long-term supported accommodation for homeless people, such as hostels or transitional accommodation.

A child or young person who is living in accommodation where they do not have access to basic utilities (such as power and running water) may also be regarded as homeless.

2.3 RECOGNISING CHILD ABUSE AND NEGLECT

Everyone whose work brings them into contact with children, young people and families has a crucial role in the protection of children and young people. By virtue of this contact such workers are in a position to:

- receive information that a child or young person has been harmed or may be at risk of harm
- make observations about a child or young person’s appearance, behaviour or family circumstances that may give rise to concerns about their safety or risk of harm.

2.3.1 GENERAL INDICATORS OF CHILD ABUSE AND NEGLECT

As a first step in keeping children safe, it is important that all community members be alert to signs of abuse or neglect in children and discern situations where additional supports might be needed to prevent harm to a child, a young person or to an unborn child.

Indicators of child abuse and neglect provide guidance on possible concerns and potential causal relationships. They act as a trigger, encouraging practitioners and others to consider whether an injury, behaviour or disclosure raises the possibility that a child or young person may be at risk of harm from abuse or neglect. Some indicators are sufficient as single signs to give reasonable grounds to suspect risk of harm. Others are meaningful when they co-exist with other indicators.

It should be stressed that the absence of indicators does not necessarily mean that a child or young person is safe as some maltreated children or young people will not display any noticeable symptoms.

Indicators need to be considered in the context of a child or young person’s circumstances and their age or other vulnerabilities, for example disability or chronic illness.* Interpretation of indicators always involves adopting a child or young person’s perspective and having the child at the centre of consideration. The focus is on the consequences of the actions or inactions by parents or other authority figures for the child.

Children who have experienced abuse or neglect will often experience more than one type of maltreatment. For example, sexual abuse will most probably co-exist with psychological or emotional harm.

*PRACTICE POINT

Some children with a disability may be more vulnerable to risk due to mobility constraints, dependence on others or limits on their ability to communicate.
General indicators of abuse or neglect include:

- a child or young person tells you of their abuse or neglect
- someone else tells you of the abuse or neglect of a child or young person
- a history of previous abuse or neglect to the child, young person or a sibling
- unexplained and marked changes in a child or young person's behaviour or mood
- the parents’ or caregivers’ misuse of alcohol or drugs is affecting their ability to care for the child or young person
- ongoing or sporadic violence between the parents
- the parents or caregivers are experiencing significant problems in managing their child, which is incongruent with the child's or young person's behaviour or special needs
- a deficiency in functional parenting skills required to provide for the safety, welfare and wellbeing of the child or young person.

Learning to identify indicators and to use them effectively in recognising child abuse and neglect is complex because of the unique nature of children and families. For this reason, it is important to access the guidance of your agency supervisor or manager.

Entry level training courses in learning how to identify and respond to risk of harm are available across NSW. A calendar of one-day, two-day or half-day courses is available online: http://www.community.nsw.gov.au/html/comm_partners/training_calendar.htm.

### 2.3.2 INDICATORS OF NEGLECT

Neglect is the failure to provide the basic necessities of life. It is typically regarded as an act of omission or commission, and as such may or may not be intentional. Neglect is potentially serious and can have long-term developmental consequences for children.

**Refer** Appendix 3 'Legislative grounds to report'

Both the Act and the Crimes Act 1900 provide significant penalties against a person who neglects to provide adequate and proper food, nursing, or lodging for a child or young person, or intentionally abandons or exposes a child under seven years of age to risk if it causes danger of death or serious injury to the child.

**Refer** Section 71(2) of the Act specifies that the Children's Court cannot conclude that the basic needs of a child or young person are likely not to be met only because of a parent's disability or poverty.

Neglect can take one or more of the following forms:

(i) **Neglect of basic physical needs** occurs where there is a risk of harm or actual harm caused by the parent or caregiver’s failure to provide for a child’s basic physical needs, such as:

- food
- clothing and hygiene
- physical shelter
- safety from harm – including issues of appropriate supervision.

Neglect of basic physical needs is the most well known and recognised form of child neglect. Depending on the age and circumstances of the child, the focus is not simply and solely on the absence of safe physical care, adequate nutrition or appropriate clothing. Rather, the issue is whether the omission of such basic care needs has impaired or could risk impairing the child's welfare, health and development.
(ii) **Neglect of basic psychological needs** occurs when a child or young person is not receiving sufficient or appropriate interaction, encouragement, nurturing or stimulation from their parents or caregivers. This form of neglect also refers to the persistent ignoring of a child's signals of distress, pleas for help, attention, comfort, reassurance, encouragement and acceptance.

Without this care a child or young person may not develop appropriate attachments with primary carers and others, significantly impairing their ongoing emotional, cognitive and physical development. These are important for participation in school, forming friendships, playing sport or participating in other recreational activities, and later, in employment and for raising their own children.

(iii) **The neglect of necessary medical care** presumes that risk of harm is likely to arise from a failure to provide for the required medical service or treatment. This can include the withholding or failure to provide essential medication for a child. For very young children the risk of harm in not receiving appropriate medical attention may be quite high.

Physical and behavioural indicators of neglect are often readily observable by people in close contact with the child – most particularly doctors, teachers, child care workers, relatives and neighbours.

### Table 2.2: Indicators of neglect

<table>
<thead>
<tr>
<th>In children*</th>
<th>In young people*</th>
<th>In parents or caregivers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Physical</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ low weight for age and/or failure to thrive and develop</td>
<td>▶ poor standards of hygiene and self-care</td>
<td></td>
</tr>
<tr>
<td>▶ poor primary health care (e.g. untreated sores, serious nappy rash, significant dental decay)</td>
<td>▶ may have poor standards of hygiene and self-care</td>
<td></td>
</tr>
<tr>
<td>▶ poor standards of hygiene (i.e. child consistently unwashed, bad odour)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ poor complexion and hair texture</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Social/psychological</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ child not adequately supervised for their age</td>
<td>▶ stays at the homes of friends and acquaintances for prolonged periods, rather than at home</td>
<td></td>
</tr>
<tr>
<td>▶ scavenges or steals food; focus is on basic survival</td>
<td>▶ cannot access adequate self-care resources such as washing facilities and food</td>
<td></td>
</tr>
<tr>
<td>▶ longs for or indiscriminately seeks adult affection</td>
<td>▶ poor school attendance</td>
<td></td>
</tr>
<tr>
<td>▶ displays rocking, sucking, head-banging behaviour</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ poor school attendance</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Physical</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ may have poor standards of hygiene and self-care</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Indicators listed for children may also be evident in young people
2.3.3 INDICATORS OF PHYSICAL ABUSE

Physical abuse is harm to a child or young person that is caused by the non-accidental actions of a parent or other person responsible for their care. Physical abuse is often a particularly visible form of child maltreatment. Acts such as beating, shaking, biting, deliberate burning with an object, attempted strangulation and female genital mutilation are a range of examples of physical abuse or ill treatment.

Caution has to be exercised in interpreting the cause of injuries as bruising, bone and other injuries can also occur accidentally. Suspicions may be raised where:

- the injuries relate to an infant or a child under two years of age
- there is inconsistency between the presentation of the injury and the explanation provided
- there are multiple injuries that appear to be of different ages
- there is a pattern and/or an unexplained frequency to injuries.

Refer Appendix 3 'Legislative grounds to report'

The boundary between physical discipline of children and abusive behaviour is a particularly vexed one. In some instances, excessive discipline can constitute physical abuse and lead to criminal charges. The Crimes Act 1900 has been amended to limit the use of physical force to discipline, manage or control a child. Section 61 AA of the Crimes Act precludes force (other than in a manner that could reasonably be considered trivial or negligible in the circumstances):

- to any part of the head or neck of a child, or
- to any part of the body of a child in such a way as to be likely to cause harm to the child that lasts for more than a short period.

### Table 2.3: Indicators of physical abuse (1/2)

<table>
<thead>
<tr>
<th>In children*</th>
<th>In young people*</th>
<th>In parents or caregivers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Physical</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ bruises on face, head or neck</td>
<td>▶ lacerations, welts, bruising, burn marks</td>
<td>▶ frequent visits with child to health or other services with unexplained or suspicious injuries, swallowing of non-food substances or internal complaints</td>
</tr>
<tr>
<td>▶ other bruises or marks which may show the shape of the object that caused it</td>
<td>▶ unspecified internal pains</td>
<td>▶ explanation of injury is not consistent with the visible injury</td>
</tr>
<tr>
<td>▶ lacerations and welts</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ head injuries where the infant may be drowsy or vomiting, or have glassy eyes, fixed pupils or pooling of blood in the eyes suggesting the possibility of having been shaken</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ adult bite marks and scratches</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ bone fractures, especially in children under three years old</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ dislocations, sprains, swelling</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ burn marks and scalds</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ multiple injuries or bruises</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ child’s explanation inconsistent with injury</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ abdominal pain (may be caused by ruptured internal organs)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ ingestion of poisonous substances, alcohol or drugs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ general indicators of female genital mutilation (e.g. having a 'special operation')</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Indicators listed for children may also be evident in young people
Risk of harm issues involving infants require extra vigilance and attention. A Welsh study provides powerful illustrative data, finding that severe physical abuse in babies under one year was:

- six times more common than for children from one to four years, and 120 times more common than in five to 13-year-olds
- brain injury and fractures are more common than for older children, and are at their most frequent in the first six months
- the non-accidental death rate is ten times higher than for children one to five years of age.

### 2.3.4 INDICATORS OF SEXUAL ABUSE

**Sexual abuse** is any sexual act or threat to a child or young person that causes them harm, or to be frightened or fearful.* It covers a continuum from:

- non-contact forms of harm, such as flashing, having a child or young person pose or perform in a sexual manner, exposure to sexually explicit material or acts (including pornographic material), communication of graphic sexual matters (including by email and SMS)
- a range of contact behaviours, such as kissing, touching or fondling the child or young person in a sexual manner, penetration of the vagina or anus either by digital, penile or any other object or coercing the child to perform any such act on themselves or anyone else.

*PRACTICE POINT

It is reported that child sexual abuse in Aboriginal communities needs to be understood in the context of the broader setting of trauma, deprivation and racism. The solution needs to be holistic in its approach, addressing issues of violence, loss of cultural identity, substance abuse and the needs of women and children.

### Table 2.3: Indicators of physical abuse (1/2)

<table>
<thead>
<tr>
<th>In children*</th>
<th>In young people*</th>
<th>In parents or caregivers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social/psychological</td>
<td>Social/psychological</td>
<td>Social/psychological</td>
</tr>
<tr>
<td>▶ wears clothing that is inappropriate to the weather conditions, to conceal injuries</td>
<td>▶ aggressive and violent behaviours toward others, particularly younger children</td>
<td>▶ family history of violence</td>
</tr>
<tr>
<td>▶ fears adults, is aggressive, lacks empathy</td>
<td>▶ explosive temper that is out of proportion to precipitating event</td>
<td>▶ history of their own maltreatment as a child</td>
</tr>
<tr>
<td></td>
<td>▶ constantly on guard around adults, cowers at sudden movements, unusual deference to adults</td>
<td>▶ fears injuring their child</td>
</tr>
<tr>
<td></td>
<td></td>
<td>▶ uses excessive discipline</td>
</tr>
</tbody>
</table>

*Indicators listed for children may also be evident in young people

### Table 2.4: Indicators of sexual abuse (1/2)

<table>
<thead>
<tr>
<th>In children*</th>
<th>In young people*</th>
<th>In non-offender parents, caregivers or others</th>
<th>In perpetrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Physical</td>
<td>Physical</td>
<td>Physical</td>
<td>Physical</td>
</tr>
<tr>
<td>▶ bleeding from the vagina, external genitalia or anus</td>
<td>▶ adolescent pregnancy and/or reluctance to identify father of child</td>
<td>nil</td>
<td>nil</td>
</tr>
<tr>
<td>▶ tears or bruising to the genitalia, anus or perineal regions</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ trauma to the breasts, buttocks, lower abdomen or thighs including bite/burn marks</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ sexually transmitted disease</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Indicators listed for children may also be evident in young people
**PRACTICE POINT**

A large epidemiological study (SULLIVAN AND KNOTSON, 2000) found that the rate of sexual abuse of children with a disability is higher than that of children with no disability. It identified that this abuse was more likely to be by an extra-familial perpetrator.

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**Sexual abuse may result in physical, emotional or psychological harm. It can occur to children of any age, from infants to teenagers. It may occur once, a few times or be a repeated occurrence, and can be perpetrated by either males or females. In most cases the offender is known to the child and can include household members such as parents, step-parents, de facto partners of parents, siblings of the child or young person, or non-household relatives and acquaintances of the family.**

Physical and psychological coercion of children is intrinsic to child sexual assault and differentiates such assault from consensual peer sexual activity. Adults, young people and children who perpetrate child sexual abuse exploit the dependency and immaturity of children by misusing their power and encouraging children to be secretive. Although the child victims of sexual assault often feel guilty, it is never their fault.

Recognising sexual abuse can be difficult because there is often an absence of clear physical evidence or indicators. There also may be a number of explanations that could account for some behavioural presentations listed in the Table 2.4, such as general stress reactions or even other abuse types.

---

### Table 2.4: Indicators of sexual abuse (2/2)

<table>
<thead>
<tr>
<th>In children*</th>
<th>In young people*</th>
<th>In non-offender parents, caregivers or others</th>
<th>In perpetrator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social/Psychological</td>
<td>Social/Psychological</td>
<td>Social/Psychological</td>
<td>Social/Psychological</td>
</tr>
<tr>
<td>▶ direct or indirect disclosures</td>
<td>▶ poor self esteem</td>
<td>▶ defers to partner</td>
<td>▶ controlling attitude and behaviour to children and/or partner</td>
</tr>
<tr>
<td>▶ describes sexual acts with age-inappropriate knowledge</td>
<td>▶ runs away from home, homelessness</td>
<td>▶ may minimise disclosure</td>
<td>▶ inappropriately curtails child's age-appropriate development of independence from the family</td>
</tr>
<tr>
<td>▶ age-inappropriate behaviour and/or persistent sexual behaviour</td>
<td>▶ particularly negative reaction to adults of only one sex</td>
<td></td>
<td>▶ overly critical of adult partner</td>
</tr>
<tr>
<td>▶ self-destructive behaviour, drug misuse, suicide attempts, self-mutilation</td>
<td>▶ desexualisation (e.g. wearing baggy clothes in order to disguise gender)</td>
<td></td>
<td>▶ defends against accusations by claiming the child or young person is lying</td>
</tr>
<tr>
<td>▶ runs away from home persistently</td>
<td>▶ artwork or creative writing with obsessively sexual themes</td>
<td></td>
<td>▶ Encourages/tolerates sexualised behaviour between family members</td>
</tr>
<tr>
<td>▶ eating disorders</td>
<td>▶ sexually provocative behaviour</td>
<td></td>
<td>▶ exposes child or young person to the sexual behaviour of others</td>
</tr>
<tr>
<td>▶ goes to bed fully clothed</td>
<td>▶ engaging in/talking about violent sexual acts</td>
<td></td>
<td>▶ intentionally exposes child or young person to prostitution or pornography; or uses a child or young person for pornographic purposes</td>
</tr>
<tr>
<td>▶ regression in developmental achievements in younger children</td>
<td>▶ knowledge about practice and locations usually associated with prostitution</td>
<td></td>
<td>▶ coerces child or young person to engage in sexual behaviour with other children and young people</td>
</tr>
<tr>
<td>▶ has contact with a known or suspected paedophile</td>
<td>▶ risk-taking behaviours – self-harm, suicide attempts</td>
<td></td>
<td>▶ verbal threats of sexual abuse</td>
</tr>
<tr>
<td>▶ unexplained money and gifts</td>
<td>▶ contact with a known or suspected paedophile</td>
<td></td>
<td>family denies adolescent pregnancy</td>
</tr>
</tbody>
</table>

*Indicators listed for children may also be evident in young people.

---

2.3.5 INDICATORS OF PSYCHOLOGICAL HARM

The focus is the serious harm caused by the psychologically abusive behaviour of a parent or other caregiver. Serious psychological harm can occur where the behaviour of their parent or caregiver damages the confidence and self-esteem of a child or young person, resulting in serious emotional deprivation or trauma.

Serious psychological harm can lead to significant impairment of a child’s or young person’s social, emotional, cognitive, intellectual development and/or disturbance of a child’s or young person’s behaviour.

Although it is possible for ‘one-off’ incidents to cause serious harm, in general it is the frequency, persistence and duration of the parental or carer behaviour that is instrumental in defining the consequences for the child. Additionally, individual child factors can mediate the impact of psychological harm – such as age, intelligence, resilience – as can the nature of support the child receives from others.

### Table 2.5: Indicators of serious psychological harm

<table>
<thead>
<tr>
<th>In children*</th>
<th>In young people*</th>
<th>In parents or caregivers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social/psychological</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ feels worthless about life and themselves</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ unable to value others or show empathy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ lacks trust in people</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ lacks interpersonal skills necessary for age-appropriate functioning</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ extreme attention-seeking</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ takes extreme risks, is markedly disruptive, bullying or aggressive</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social/psychological</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ avoids all adults</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ is obsessively obsequious to adults</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ has difficulty maintaining long-term significant relationships</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ is highly self-critical</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ is depressed, anxious, other mental ill-health indicators</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ is self-harming, attempts suicide</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Social/psychological</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ constantly criticises, belittles, teases a child or young person</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ ignores or withholds praise and affection</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ excessively criticises a child in comparison to child’s peers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ is persistently hostile and verbally abusive, rejects and scapegoats</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ makes excessive or unreasonable demands</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ believes that a particular child or young person is bad or evil</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ uses inappropriate physical or social isolation as punishment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▶ domestic violence involvement such as where weapons are used, significant threats made</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*Indicators listed for children may also be evident in young people

2.3.6 INDICATORS OF DOMESTIC VIOLENCE

Domestic violence is any abusive behaviour used by a person in a relationship to gain and maintain control over their intimate partner. It can include a broad range of abusive and intimidatory behaviour causing fear and physical and/or psychological harm. Domestic violence can be physical assault, sexual assault or psychological abuse. It may also include behaviour such as restricting a partner’s or child’s social contact and financial deprivation.*

*PRACTICE POINT

Violence to Aboriginal women is reported to be 45 times higher than to non-Aboriginal women, with 23 per cent of these women needing hospital treatment compared to 6.6 per cent of non-Aboriginal victims.


Refer DoCS’ Domestic Violence Line can be contacted on 1800 656 463 (TTY 1800 671 442).
### Table 2.6: Indicators of domestic violence

<table>
<thead>
<tr>
<th>In children**</th>
<th>In young people**</th>
<th>In parents &amp; caregivers</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Physical</strong></td>
<td><strong>Physical</strong></td>
<td><strong>Physical</strong></td>
</tr>
<tr>
<td>preterm and low birth weight baby</td>
<td>unexplained physical injuries</td>
<td>injuries do not fit the cause/history given</td>
</tr>
<tr>
<td>slow weight gain in infants</td>
<td>eating disorders, such as anorexia and bulimia</td>
<td>bite marks</td>
</tr>
<tr>
<td>difficulties with sleeping/eating</td>
<td>uses alcohol and drugs</td>
<td>unwanted pregnancy or sexually transmitted infection through coerced sex/refusal to use contraceptives</td>
</tr>
<tr>
<td>unexplained physical injuries.</td>
<td>psychosomatic complaints</td>
<td>through coerced sex/refusal to use contraceptives</td>
</tr>
<tr>
<td><strong>Social/Psychological</strong></td>
<td><strong>Social/Psychological</strong></td>
<td><strong>Social/Psychological</strong></td>
</tr>
<tr>
<td>defiant at school, particularly with female teachers</td>
<td>depressed</td>
<td>anxious, depressed</td>
</tr>
<tr>
<td>aggressive or violent behaviour</td>
<td>suicide attempts</td>
<td>suicidal thoughts and attempts</td>
</tr>
<tr>
<td>over-protects mother or fears leaving mother at home</td>
<td>takes extreme risks</td>
<td>low self-esteem</td>
</tr>
<tr>
<td>concentrates poorly</td>
<td>physically and verbally abusive</td>
<td>socially isolated</td>
</tr>
<tr>
<td>constantly fights with peers</td>
<td>abuses siblings, parents, peers</td>
<td>submissive and withdrawn</td>
</tr>
<tr>
<td>frequently absent from school</td>
<td>sexually abusive</td>
<td>repeat/after hours presentations at emergency departments</td>
</tr>
<tr>
<td>clingy, dependent, sad and secretive</td>
<td>frequently absent from school, and poor academic achievement</td>
<td>seldom/never makes decisions without referring to partner</td>
</tr>
<tr>
<td>regressive behaviour</td>
<td>disruptive</td>
<td>fears reprisal</td>
</tr>
<tr>
<td>delayed or problematic language development</td>
<td>homeless or stays away from home for prolonged time</td>
<td>frequent absences from work/studies</td>
</tr>
<tr>
<td>stealing</td>
<td>socially isolated</td>
<td></td>
</tr>
</tbody>
</table>

* One indicator in isolation may not imply that domestic violence is occurring. Each indicator needs to be considered in the context of the individual situation and the presence of other indicators.

** Indicators for children may also apply to young people, and vice versa

---


---

*One indicator in isolation may not imply that domestic violence is occurring. Each indicator needs to be considered in the context of the individual situation and the presence of other indicators.

** Indicators for children may also apply to young people, and vice versa
Living with domestic violence can cause physical and emotional harm to children and young people. Studies\(^6\) show that children who live with domestic violence are more likely to:

- show aggressive behaviour
- develop phobias and insomnia
- experience anxiety
- show symptoms of depression
- have diminished self-esteem
- demonstrate poor academic performance and problem-solving skills
- have reduced social competence skills, including low levels of empathy
- show emotional distress
- have physical complaints.

Children and young people can be physically injured or threatened within an environment of family violence. Children and young people do not need to see violence to be affected by it. Recent research on infant brain development highlights the potential for serious harm occurring to the development of neural pathways in an infant’s brain when exposed to trauma such as domestic violence.\(^*\) Research has also drawn links between household violence and insecure or disorganised attachment in children\(^7\).

**Psychological harm caused by domestic violence** may vary depending on the age of the child, the length of exposure to incidents of domestic violence, the nature of incidents of domestic violence, and the nature of any protective factors or influences available to the child or young person and their family.

**Refer** Appendix 3 ‘Legislative grounds to report’

The following situations should act as a trigger to consider whether the child or young person is at risk of serious psychological harm:

- there has been a repetition or escalation in frequency/severity of household violence
- the violence resulted in the need for medical intervention for any party
- weapons have been used
- police officers have intervened and an Apprehended Violence Order (AVO) has been issued/breached, or the offender has been removed from the house.

It is also critical to consider whether the caregiver’s level of victimisation is such that they are unable to act protectively towards the child or young person and to note whether domestic violence coexists with one or more factors such as the hazardous use of alcohol or other drugs and/or untreated mental health concerns.

### 2.4 SEEKING ADVICE PRIOR TO REPORTING

Developing a reasonable suspicion that a child or young person is at risk of harm from abuse or neglect is not always clear-cut and involves a process of reflection and evaluation. Sometimes the decision will be obvious, especially in situations of a direct disclosure by a child or where there is unambiguous physical evidence. At other times, a professional judgment will be required about whether and when to make a report of harm.


\(^7\) Ibid.
The interpretation of information is not a simple and straightforward process. Perceptual bias and thinking 'shortcuts' can lead people to:

- rely too heavily on intuitive and subjective information
- attend to the wrong data and ignore other data
- underestimate or overestimate the significance of certain information
- selectively interpret information that supports a particular view, and similarly to selectively disregard information that does not confirm the preferred hypothesis.

The following prompts may assist a practitioner in deciding whether to make a report:

- is there someone else in the agency who also has contact with the child, young person or their family and what information can they offer?
- can the indicators be linked to risk of harm, or are there other explanations that would more appropriately explain their presence?
- in evaluating the information, to what extent is the focus on the safety, welfare and wellbeing of the child or young person or are there other influences – for example on the needs of a parent, or the practitioner’s personal views about the needs of children or families?
- on the basis of all the available information, is the practitioner more inclined or less inclined to believe that the child is at risk of harm?
- if the concern is about the homelessness of a young person aged 16 to 17 years, do they consent to a report being made to the Department of Community Services?

Some agencies have specific policies and/or tools to guide staff in the early identification of children and young people at risk of harm. For example, NSW Health requires mental health clinicians in their assessment of adults who care for or who have regular contact with children (including if the person is pregnant) to consider Risk of Harm Assessment guidelines.

Where a practitioner is uncertain about how to interpret information they have about a child, young person or family, it will be necessary to follow their employing agency’s policy or procedures about reporting risk of harm. This may involve consulting with a supervisor or a senior staff member in the agency.

Practitioners need to be aware that consultation with an agency supervisor is not a substitute for making a report to the Department of Community Services.

Depending on the circumstances of the matter, specialist advice might be required. This could be sought from a specialised service such as a disability or early childhood/children’s service, sexual assault service, NSW Health Physical Assault and Neglect of Children (PANOC) Service, Child and Adolescent Mental Health Service or a paediatrician. In consulting externally it is inadvisable, for privacy reasons, to identify the child concerned.

Where a practitioner determines that there are not ‘reasonable grounds to suspect that a child is at risk of harm’, then there is no statutory basis to make a report to the Department of Community Services. Nonetheless, it is advisable to document the information, describing what triggered the initial concern or ‘gut feeling’, the date and why it was decided not to report the matter. Such a record will be useful if another incident arises that leads the practitioner (or another agency colleague in contact with the child or family) to again be concerned about the child’s safety, welfare or wellbeing.
2.5 HOW TO MAKE A REPORT

The Department of Community Services Helpline is the initial point of contact for mandatory and non-mandatory reporters who have concerns about a child’s safety, welfare and wellbeing. It is the ‘front door’ of the Department of Community Services and receives and screens all reports of harm and requests for assistance from the community. The Helpline operates as an inbound call centre, 24 hours a day, 7 days a week, and is staffed by professionally qualified Department of Community Services caseworkers.

The Helpline also provides an after-hours crisis team to respond to call-outs in metropolitan Sydney, and coordinates responses in rural areas. As appropriate, the Helpline will notify the NSW Police of urgent matters that may require their involvement.

The Helpline has a system for managing calls during busy periods. Priority is given to answering calls as quickly as possible and identifying those that may be urgent so that they are responded to first. In busy times, basic information details may be taken from non-urgent calls and a call back to the mandated reporter may occur if further information is required.

The Helpline has a range of strategies to assist mandatory reporters and has increased options for how they can lodge a report of harm:

<table>
<thead>
<tr>
<th>Table 2.7 Reporting methods available</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. PHONE</strong></td>
</tr>
<tr>
<td>13 3627 (or for ease of reference 13 DoCS) for mandatory reporters</td>
</tr>
<tr>
<td>132 111 for non-mandatory reporters</td>
</tr>
<tr>
<td><strong>2. FAX</strong></td>
</tr>
<tr>
<td>9633 7666 for designated mandatory reporters, using the designated Helpline fax form</td>
</tr>
<tr>
<td><strong>3. E-REPORT</strong></td>
</tr>
<tr>
<td>commencing 2007, and will be progressively rolled out to schools, NSW Police and NSW Health</td>
</tr>
<tr>
<td><strong>4. TTY</strong></td>
</tr>
<tr>
<td>9633 7698</td>
</tr>
<tr>
<td><strong>5. PAGER</strong></td>
</tr>
<tr>
<td>available for use by NSW Police and NSW Health for urgent matters only</td>
</tr>
</tbody>
</table>

Where there are urgent concerns for the child’s health or life, then it is important to contact the police using the emergency line ‘000’.

Direct phone contact with the Helpline is advisable when concerns about the child are of an immediate nature. Person-to-person dialogue between the Helpline and the reporter allows for discussion and ‘teasing’ out of information, particularly where there may be complexity in the child’s or family’s circumstances.

Phone reporting is preferred where:

- the child may require an immediate response due to the currency of evidence that would establish abuse or harm
- the child or young person has a critical need for immediate intervention – for example, a child is currently alone, without supervision or is homeless
- the alleged person causing harm has access to the child and there is concern that the child may experience harm in the foreseeable future
- there is a complexity to the information (for example, substantial history of abuse or detailed information about the child or family) which is more easily communicated verbally than in writing
- the reporter is unsure about how to interpret the indicators of abuse and/or neglect, and may need to ‘talk through’ the information with a Helpline caseworker.
Helpline caseworkers are sensitive to the difficulties that reporters can experience when making a report. It is not uncommon to feel stressed, confused and generally uncomfortable with the reporting task, particularly where a person has developed close relationships with the child, young person or parents. It is important for the reporter to understand that reporting is not an accusation that parents are causing harm, but a statement that the child may be at risk of harm.

Aboriginal people face unique challenges with reporting to the Helpline, partly due to the historical distrust of child welfare authorities arising from the history of the ‘stolen generation’. In addition, Aboriginal workers carry strong obligations towards their community and may have to deal with negative reactions from a range of people with whom they have direct personal, family or local connections. Recognising this, Aboriginal reporters can request to speak with an Aboriginal caseworker at the Helpline.

In addition, where a reporter is not fluent in English or requests an interpreter, the Helpline caseworker will make the necessary arrangements.

The Helpline also has an Education Team, which operates to improve accessibility for and responsiveness to the education sector. This group of Helpline caseworkers deals exclusively with information from school personnel and child care workers, who are mandated reporters. More streamlined processes, coupled with the team’s specialisation and knowledge, contribute to improved services for children and young people at risk.

2.6 WHAT INFORMATION IS REQUIRED IN A REPORT?

The detail and quality of the information provided by the reporter is critical to the quality of the decision-making that follows.

The Helpline is reliant on the reporter’s information, as it does not usually make outbound calls to other agencies or services involved with the child or family in order to clarify or corroborate the information provided. Additional inquiries are only initiated by the Helpline to clarify the child’s identity or their current location, or to a school or hospital to determine essential information, such as whether the child is currently on their premises.

Reporters need to be prepared to provide as much information as possible and to answer the exploratory questions from the Helpline caseworker. Reporters can assist the reporting process by having all required information close at hand – this might be the demographic information from agency records, as well as any contemporaneous notes of observations or disclosures.

Reporters are not expected to have answers to all the information prompts detailed in the Template for Reporting (Table 2.8), but to provide such information about the child and family as is available to them/their agency. The template can be used to assist a practitioner in preparing to report a risk of harm. If known, information should be provided about any disability, unmanaged mental illness or drug or alcohol dependency experienced by the child/young person or their family.

To ensure that clients from backgrounds of cultural, linguistic and religious diversity are provided with effective services, it is important for the reporter to provide information (where this is known) about the language, religious and cultural background of the family. Such information can assist in arranging suitable professional interpreters or other services.

Although Table 2.8 provides prompts for comprehensive information to be conveyed, a report can still be made where only a little information is known to the reporter.

There is also a legislative requirement for the Department of Community Services to identify if the child is Aboriginal, and this information will routinely be sought from reporters. It is important that reporters do not make a hasty judgment based only on the physical presentation of the child, young person or their family.

Once a report is made to the Helpline, it is not necessary to make a further report unless there is new information that was not included in the original report. If a report has been made by phone, it is not necessary to also send a fax or vice versa.

### Table 2.8: Template for reporting

**DEMOGRAPHIC INFORMATION**

<table>
<thead>
<tr>
<th>Child’s Information</th>
<th>Family Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Name of child or young person (or alias) or other means of identifying them</td>
<td>- Name, age of parents and household adults</td>
</tr>
<tr>
<td>- Age and date of birth (or approximation)</td>
<td>- Home and/or mobile phone number</td>
</tr>
<tr>
<td>- If child is Indigenous – Aboriginal, Torres Strait Islander or both</td>
<td>- Language, religion and other cultural factors</td>
</tr>
<tr>
<td>- Language, religion and other cultural factors</td>
<td>- Information about parental risk factors and how they link to child’s risk of harm</td>
</tr>
<tr>
<td>- Name, age of other household children or young people</td>
<td>- domestic violence</td>
</tr>
<tr>
<td>- Address of child and family</td>
<td>- alcohol or other drug misuse</td>
</tr>
<tr>
<td>- School or child care details (if known)</td>
<td>- unmanaged mental illness</td>
</tr>
<tr>
<td>- If child has a disability – nature/type, severity, impact on functioning</td>
<td>- intellectual or other disability</td>
</tr>
<tr>
<td>- Name, age of parents and household adults</td>
<td>- Protective factors and family strengths</td>
</tr>
<tr>
<td>- Home and/or mobile phone number</td>
<td>- Non-offending carers’ capacity to protect child</td>
</tr>
<tr>
<td>- Language, religion and other cultural factors</td>
<td>- Any previous suspicious death of a child or young person in the household</td>
</tr>
</tbody>
</table>

**Reporter details**

<table>
<thead>
<tr>
<th></th>
<th>Other information</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Name, agency address, phone and email details</td>
<td>- Services involved with child/family if known</td>
</tr>
<tr>
<td>- Position</td>
<td>- Principal language of family and whether an interpreter or signing is required</td>
</tr>
<tr>
<td>- Reason for reporting today</td>
<td>- If parent knows of report and their response</td>
</tr>
<tr>
<td>- Nature of contact with child or family</td>
<td>- If child or young person knows about the report and their views</td>
</tr>
<tr>
<td>- Nature of ongoing role with child or family (include frequency, duration and type)</td>
<td>- Information related to worker safety issues (if known)</td>
</tr>
<tr>
<td>- If report is being made by someone else in the agency, name of the agency worker who sourced the report</td>
<td></td>
</tr>
</tbody>
</table>

**RISK OF HARM ISSUES**

<table>
<thead>
<tr>
<th>Neglect</th>
<th>Psychological harm</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Description of neglect – who, what, when:</td>
<td>- Description of harmful parenting practices and frequency (e.g. rejection, criticism, scapegoating, isolating, ignoring, blaming)</td>
</tr>
<tr>
<td>- inadequate provision of food/shelter</td>
<td>- The impact on the child’s behaviour</td>
</tr>
<tr>
<td>- inappropriate clothing or hygiene</td>
<td>- Description of exposure to domestic violence, its nature and frequency</td>
</tr>
<tr>
<td>- inadequate supervision</td>
<td>- Reason to suspect risk of serious psychological harm</td>
</tr>
<tr>
<td>- failure to provide medical treatment</td>
<td></td>
</tr>
<tr>
<td>- emotional needs unmet</td>
<td></td>
</tr>
<tr>
<td>- Implications/impact of neglect on child</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Physical</th>
<th>Sexual</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Description of injury – who, what, when:</td>
<td>- Description of harm incident or risk of harm, including what occurred and when</td>
</tr>
<tr>
<td>- site, size and colour of injury</td>
<td>- Did child disclose? – What was said (use direct quotes of child), to whom, when?</td>
</tr>
<tr>
<td>- who allegedly caused injury (if known) and how</td>
<td>- Description of behaviours</td>
</tr>
<tr>
<td>- medical treatment – what, when, who</td>
<td>- Who/where is the alleged perpetrator (if known)?</td>
</tr>
<tr>
<td>- Suspicions regarding future risk of harm</td>
<td>- Response of the non-offending parent</td>
</tr>
</tbody>
</table>
**2.7 RESPONDING TO A CHILD OR YOUNG PERSON WHO DISCLOSES INFORMATION**

It is very rare for a child to disclose abuse or neglect immediately or the first time something happens. Often children and young people experience a great sense of helplessness and hopelessness and think that nobody can help them. Weeks or even years may pass before a child or young person makes their abuse known, either directly or indirectly.

Depending on the age of the child and the nature of the abuse or risk, there can be a range of inhibitors to them telling someone about their situation. For instance, a child or young person may:

- believe that they are responsible for the abuse
- not understand that it is inappropriate behaviour by others
- want to protect the person responsible
- want to protect their own ‘reputation’
- feel ashamed of the abuse/of the perpetrator/of protecting the perpetrator
- feel scared or powerless
- have been threatened with further harm if they tell someone.

A disclosure occurs when a child lets you know in some way that they have been abused or are likely to be abused. When a child does disclose this information, they might do this purposefully or accidentally. They could:

- ‘blurt out’ a harmful experience or their fear of something
- confide privately that they have been abused or fear that they will be
- tell another child
- provide hints – as evidenced in drawings, play or stories
- disguise a disclosure by posing ‘what if’ or ‘a friend of mine’ scenarios
- present with somatic symptoms (such as constantly feeling ‘sick’).

How a person responds to a disclosure by a child or young person can be critical.* If the child senses that the person they tell is not interested in listening to them or doesn’t believe them, the child will typically stop disclosing the events. This will delay them from seeking help in the future. The important response, as outlined in the Table 2.9, is to be calm and listen carefully and non-judgmentally. Let the child tell their story in their own way.

**Table 2.9: Responding to a disclosure by a child or young person**

<table>
<thead>
<tr>
<th>Do</th>
<th>Don’t</th>
</tr>
</thead>
<tbody>
<tr>
<td>find a private place to talk</td>
<td>express disbelief, shock or disapproval</td>
</tr>
<tr>
<td>if a child/young person uses a communication board/form of argumentative communication, consider whether another trusted person needs to be present who is able to understand them and accurately record the communication</td>
<td>probe for additional information they are unwilling to provide</td>
</tr>
<tr>
<td>listen carefully to the child or young person</td>
<td>ask leading questions (i.e. questions that contain or suggest answers, or multiple-choice questions)</td>
</tr>
<tr>
<td>allow them to tell, using their own words</td>
<td>investigate the allegations</td>
</tr>
<tr>
<td>be open and non-judgmental to their account and support them in telling their experience</td>
<td>make the child or young person tell others</td>
</tr>
<tr>
<td>tell them that it’s not their fault and that they have a right to be safe</td>
<td>make promises not to tell anyone</td>
</tr>
<tr>
<td>provide reassurance that they have done the right thing by telling</td>
<td></td>
</tr>
<tr>
<td>tell them you know this happens to other children, it’s not just them</td>
<td></td>
</tr>
<tr>
<td>tell them you will try to stop it happening</td>
<td></td>
</tr>
</tbody>
</table>

*PRACTICE POINT
IT SHOULD BE RECOGNISED THAT A CHILD OR YOUNG PERSON WHO DISCLOSES ABUSE CAN OFTEN BE SUBJECT TO CONSIDERABLE PRESSURE FROM FAMILY MEMBERS AND OTHERS TO WITHDRAW THEIR ALLEGATIONS. THE CHILD MAY FEAR THEY WILL BE THE CAUSE OF BREAKING UP THE FAMILY. IT IS IMPORTANT TO BE SUPPORTIVE OF THE CHILD AND DISCUSS ANY FEARS OR THREATS THAT MAY BE MADE TO ENCOURAGE THE CHILD OR YOUNG PERSON TO WITHDRAW THEIR ALLEGATIONS.
The role of the person hearing the disclosure is not to interview or gather evidence, as this is the responsibility of the Department of Community Services caseworkers and/or police officers, who have received special training in investigative interviewing of children and young people.

It is important to acknowledge the impact of a disclosure on the child or young person. They may regret telling someone, or may react with guilt, anxiety or shame. They may even recant their disclosure in the days following or seek to provide more information. Disclosure is not always a discrete event but often an evolving process.

Immediately after the disclosure, it is advisable to write down and date the comments and statements made by the child. Try to use their exact words. Record any observations about the child's mood or demeanour during the disclosure. This information will need to be communicated to the Helpline as it will assist in the assessment and investigation process.

2.8 TAKING INTO ACCOUNT THE CHILD OR YOUNG PERSON’S VIEWS

An additional challenge facing a reporter is considering whether and how to tell a child or young person about making a report to the Department of Community Services. By and large, it will be important for the child or young person to be told of the need to tell someone else. The framing of this information will be influenced in part on whether the child or young person intentionally or accidentally disclosed the abuse, as well as on the child’s age and capacity to understand.

With the exception of reporting the homelessness of young people aged 16 years or above but under 18 years of age, it is not a legislative requirement that a practitioner seeks the permission of the child or young person when making a report. This is because the safety, welfare and wellbeing of the child or young person must be the paramount consideration in all actions and decisions made under the Act, including over the principle of their participation in decision-making.

In circumstances where the concern is about the child’s or young person’s risk of harm of physical or sexual abuse or neglect, and their opposition to your reporting the matter is unequivocal, it is important to proceed and report the matter. This is because they may continue to experience harm, or other children and young people may also be at risk. For example, there may be siblings who could also be at risk or, in situations of extra-familial abuse, other children and young people with whom the alleged person responsible has contact.

Failure to report can also be seen as colluding with the abuse and with the alleged person responsible for perpetrating the maltreatment.

When making a report to the Helpline, remember to provide information about a young person’s reaction to the report. This is because the legislation requires the Department of Community Services to have regard to any known wish expressed by a young person, including their opposition to the report being made.

2.9 RESPONDING TO DISCLOSURES BY A PARENT OR CAREGIVER

Another critical window of opportunity for child protection is opened when a parent or caregiver reveals that they have harmed or are worried that they will harm their child, or confides harm from another household member.

Parents who physically harm or neglect their children or tolerate their partner harming their children may still love their children very much. The parents’ behaviour may be due to a range of factors such as:

- lacking a successful model of parenting and family life, for example, parents having been abused as children
- lacking an understanding of their child’s needs or of age-appropriate expectations
- being overwhelmed by external stressors and unable to cope
- expecting their child to satisfy their own emotional needs
- being victims of violence themselves
- not able to control their anger or frustration, resulting in lashing out at their child
- illness or disability, which limits their ability to meet the needs of their children.
It is important to suspend personal judgment about the parent (whether this be favourable or unfavourable) and be mindful of temptations to minimise or exaggerate their behaviour or attitudes. It is also important not to ignore the role of the 'failing to protect' parent, or to prematurely ascribe them as an innocent party or a minimally responsible party.

Regardless of the parent’s remorse or their intentions to seek professional help, the focus should always remain on the child and any risk of ongoing harm, and on obligations to report current concerns.

2.10 SHOULD I INFORM THE FAMILY OF A REPORT?

Good practice points to the value of practitioners discussing concerns with the parent or caregiver and advising them of the legal or professional obligations to report their current concerns to the Department of Community Services. Such practice is more likely to be the case for mandated reporters who have ongoing relationships with the parent, such as family support services, drug and alcohol services, teachers, counsellors or health care professionals.

The decision to inform the family of a report will be guided by good professional judgment and the important principles of working in partnership with families and involving children and young people in decisions that affect them. Practitioners can prepare for this by dealing with the issue of mandatory reporting obligations early in the relationship between the parent and the service/agency.

There may be circumstances however, when because of the urgency of the situation for the child, or the perceived risk to the safety of the child or even to themselves, the practitioner may need to report the matter prior to telling the parent. Circumstances where it might be inappropriate for a worker to disclose to parents/carers that they are reporting include if there are potential safety issues for workers or if it would place the child/young person at further risk of harm.

Refer The Association of Children’s Welfare Agencies (ACWA) has prepared a series of information sheets to provide guidance to practitioners about this issue. For example, refer to Information Sheet 4 for workers: Talking to parents about children protection, safety responsibilities and confidentiality. This is available online at: http://www.acwa.asn.au/infosheets.

2.11 SAFEGUARDS FOR REPORTERS

Reports to the Department of Community Services are confidential.

In many situations, families will endeavour to figure out who reported them. In spite of any ‘correct guessing’ on their part, the Department of Community Services is prohibited from providing them with any affirmation or information that will lead them to identify the reporter.

Private citizens may give information anonymously if they wish. Persons who make a report through the course of their work, whether or not they are required by law to do so, should make known to the Helpline their position and the name of their agency or service.

Any person who makes a report is afforded the following protection by law if they make a report in good faith:

- the report shall not be held to be a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct
- no liability for defamation can be incurred because of the making of the report
- the report, or its contents, is not admissible in any proceedings as evidence against the person who made the report
- a person cannot be compelled by a court to provide the report or give any evidence as to its contents
- a report is an exempt document under the Freedom of Information Act 1989.
These protections may be overridden on rare occasions where information about the report is crucial to court proceedings. In such circumstances, disclosure of the reporter's identity can only be made with either the consent of the reporter or the leave of the court.

If, as a result of making a report to the Department of Community Services, a person is threatened or fears personal violence, this should be reported to the police.

2.12 FEEDBACK TO REPORTERS

The Department of Community Services recognises that mandated reporters often have an ongoing service role with the children, young people or families that they have reported to the Helpline. Under Sections 248 and 254 of the Act, feedback can be provided to mandated reporters where this disclosure is for the purpose of furthering the safety, welfare and wellbeing of a child or young person.

When a report is made, the Helpline will inform the reporter about the initial action to be taken. Mandatory reporters, except NSW Police, will be advised in writing either that the report has been closed at the Helpline or transferred to a Community Services Centre or a Joint Investigation Response Team (JIERT). Feedback will include details of which Community Services Centre or JIERT the matter has been referred to. NSW Police are provided with an automatic receipt of their report, providing a reference number.

The Community Services Centre will, in turn, make further decisions about the report. A caseworker from the Community Services Centre may initiate contact with the reporter for further assistance in the assessment of the safety, welfare or wellbeing of the child or young person. Such contact provides a reporter with an opportunity to offer further information about the child or young person, or to clarify any ambiguous or misleading information.

The contact also provides an opportunity for the Department of Community Services to make constructive suggestions about support that a reporter could provide to the child, young person or family. This is particularly relevant for reporters such as teachers, family support workers and child care workers who may be in daily contact with the child or young person and parents.

At this time the Community Services Centre may also provide the reporter with information about their intended course of action. It is not always possible or appropriate to provide detailed information. Feedback may include the identity of the relevant Department of Community Services caseworker, whether or not a home visit will be made or that there are to be further discussions with the police or other support services, or that, on the information available, no further action is to be taken.

The level of detail and information provided to reporters will depend upon the circumstances of the particular child or young person, the nature of the reporter’s relationship with the child or family and the capacity of the Community Services Centre to respond at the time.

At a minimum, the Community Services Centre will provide feedback to mandated reporters who request it and who have an ongoing role with the child, young person or family and the feedback will enable that work to continue. Contact might be via letter or email. Alternatively, phone contact or a case meeting between a mandated reporter and the Community Services Centre might be indicated.

Mandatory reporters are encouraged to initiate contact with the Community Services Centre or the Helpline and request feedback.

The Department of Community Services has reached agreements with some mandatory reporters for more tailored feedback arrangements owing to their unique role with children, young people and families. For example, NSW Police require a reference number for their report; and school principals, who have a duty of care for reported children and young people, have designated ‘contact officers’ in Community Services Centres.
2.13 WHERE ALLEGATIONS INVOLVE AGENCY EMPLOYEES

Special procedures are in place to deal with reportable allegations or convictions against employees of all government and certain non-government agencies in NSW.

As Diagram 2.2 explains, a matter is notifiable to the Ombudsman when it appears that the information received by an agency constitutes an allegation of reportable conduct, a reportable conviction or an allegation of misconduct that may involve reportable conduct (B). However, this type of allegation may not be notifiable to statutory investigative bodies (for example, Department of Community Services) unless there is some evidence that a child may be 'at risk of harm' (C) or a criminal offence may have been committed (D). It should be noted that, when a child dies and an allegation of reportable conduct is made against an employee, the matter should be notified to the Ombudsman (E) under Part 3A of the Ombudsman Act 1974.

NOTE: A head of an agency is required to notify the Ombudsman of a reportable allegation or conviction made against an employee of the agency within 30 days of becoming aware of the allegation or conviction.

REFER: Further information is available online from the Ombudsman’s website: http://www.ombo.nsw.gov.au.

Investigations by designated agencies and other public authorities of allegations against employees under Part 3A of the Ombudsman Act 1974 will at times take place in conjunction with Department of Community Services and/or police investigations, or they may take place without the involvement of these agencies if there are no risk of harm or criminal issues.

The responsibility for conducting an investigation in relation to a reportable allegation against an employee lies with the employing agency. However, all investigation processes should be carefully planned and coordinated to ensure that children and young people’s safety and welfare are being addressed and that investigating bodies do not act unilaterally. This will also help to ensure the integrity of an investigation.

If agencies are concerned about their capacity to undertake fair and proper investigations of allegations against employees, they should seek advice from the NSW Ombudsman, their funding body or the Department of Community Services.
In some cases, the Department of Community Services will decide not to respond to a risk of harm report where they are satisfied that risk of harm has been reduced through support and intervention, internal investigation and disciplinary processes being undertaken by the employer. For example, the employee may have been removed from contact with children and young people, and the child or young person’s care and support needs have been addressed.

Where the Department of Community Services decides not to intervene, they should provide the reasons for this decision to the employer in cases where this will assist the investigation of the allegation against the employee.

REFER Appendix 2.5 ‘Responsibilities of employers’

REFER Appendix 2.6 ‘Investigations of reportable allegations against employees’

At the completion of its investigation, the agency is also required to report the outcome of the investigation to the Commission for Children and Young People (CCYP), unless the allegation is found to be false, vexatious or misconceived, or found not to involve reportable conduct.

CHAPTER 3
Practices and procedures following a child protection report

3.1 AFTER REPORTING – AN AGENCY’S INITIAL RESPONSIBILITIES

Reporting is just the beginning of the child protection process and is not necessarily the end of a reporter’s role or responsibility in a matter.*

Where reporters were providing services to the child and family prior to reporting, it is important that these continue to be provided. Key considerations at this time include:

- what role can the reporter or the agency play to support the child or family?
- what will be the consequences for the child or young person of withdrawing support?
- what further or new information about the child, young person or family is available to the reporter, and how is this best communicated to the Department of Community Services?
- what expertise can the reporter contribute to assist the Department of Community Services in accurately assessing risk of harm, or that may assist in the development of a case plan?
- can the reporter continue to monitor the child’s situation for additional indicators of abuse or neglect?

It is often unwise for a reporter to withdraw or delay contact with the child or family on the basis of lodgment of a report of risk of harm. Where a practitioner is unsure about their continuing role with the child, young person or family, guidance could be sought from the local Community Services Centre (CSC) or Joint Investigation Response Team (JIRT) to whom the report was transferred.

Another consideration is whether it is possible and appropriate to link the child, young person and family to other appropriate services within your agency or with another agency. These might target more peripheral difficulties facing the child and family (such as housing, financial management), or provide additional services aimed at supporting and strengthening the family.

*PRACTICE POINT
For a child or young person who has limited social networks, the reporter may be the only other significant adult in their life. Even though a reporter might be uncertain how to respond to the child or young person, avoiding or being seen as ‘rejecting’ the child can be damaging. Once aware of a risk of harm, support from the reporter will often be very important for the child or young person.
3.2 THE ASSESSMENT AND INTERVENTION ROLES OF AGENCIES

Although all of the parts of the NSW child and family service system share common principles when working in a child protection context, each agency and profession has a different vantage point. Diagram 3.1, 'The Child Protection Interagency Approach in Practice', seeks to illustrate that, within the broad range of human service agency roles in child protection, individual agencies and professionals have a unique contribution to make to assessment and the provision of ongoing services.

For example:

- the Department of Community Services has a statutory responsibility in assessing child protection reports
- health care professionals play a critical role in the area of diagnosis and treatment; and provide a range of specialist intervention services targeting children, young people and their families where abuse or neglect has occurred
- Aboriginal workers and agencies have essential knowledge about their community mores, and can advise and facilitate outreach to families that is likely to be more culturally acceptable and effective
- early childhood professionals and teachers are in a unique position to provide regular support to children and young people, as well as the assessment of a variety of issues such as learning, behaviour, health, and social adjustment concerns
- police have a specialist role in investigating alleged criminal offences and in assisting the prosecution of such matters
- Children's Court clinicians provide an independent assessment of the child, young person and/or their families, specifically to assist the Children's Court in reaching an informed decision about the needs of the child or young person
- psychologists, social workers, counsellors, early childhood nurses, family support workers and youth workers all play a key role in specialist intervention and support to both children, young people and families
- foster carers and residential workers help to ensure that the day-to-day needs of children and young people who are living in out-of-home care are met in a safe and stable environment.
Diagram 3.1: Child protection interagency approach in practice

Children/young people and families may be referred to support and intervention services at any point in the continuum. While the child protection interagency process represented here is linear, each intervention stage may need to be revisited depending on the circumstances, such as a new risk of harm report.

1 Refer to Chapter 5 for processes relating to criminal proceedings where DoCS determines that a child/young person is not in need of care and protection
2 An appropriate apprehended violence Order to protect a child/young person should be considered. Refer to Chapter 5.4.2 Use of Apprehended Violence Orders (AVO’s) to protect a child or young person.
3 Refer to Chapter 3.8 Where allegations involve agency employees.
4 Protective action may need to be reinstated.

NOTE: Children/young people and families may be referred to support and intervention services at any point in the continuum. While the child protection interagency process represented here is linear, each intervention stage may need to be revisited depending on the circumstances, such as a new risk of harm report.
Section 30 of the Act identifies the Department of Community Services as the agency responsible for the assessment of reports that a child or young person is suspected of being at risk of harm:

- The Director-General is to make such investigations and assessment as the Director-General considers necessary to determine whether the child or young person is at risk of harm, or
- the Director-General may decide to take no further action if, on the basis of the information provided, the Director-General considers there is insufficient reason to believe that the child or young person is at risk of harm.

As is outlined in the flowchart, 'Diagram 3.1: Overview of child protection intake, investigation and assessment process', a two-tiered risk assessment approach is adopted by the Department of Community Services:

1. **Initial assessment** – undertaken by Helpline caseworkers. This is a process to screen and prioritise reports and requests for assistance, so that the most appropriate response to the information is made.

2. **Secondary assessment** – undertaken by caseworkers at Community Services Centres or Joint Investigation Response Teams. This is a process that leads to a professional opinion about safety, risk and harm, and informs a decision about a child's or young person's need for care and protection.
3.3.1 THE INITIAL ASSESSMENT PROCESS AT THE HELPLINE

The initial assessment is the first stage in the gathering and analysis of information, and is undertaken without direct contact with the child or family, unless they are the reporter.* The Helpline caseworker combines the reporter’s concerns about the child, young person or unborn child with the child protection history information, as available from the client electronic database of the Department of Community Services (known as KIDS – Key Information and Directory System).

An analysis of previous episodes of child maltreatment can change the significance of the information provided by the reporter. The following information is of particular relevance:

- previous episodes of abuse and neglect, and any patterns arising from these
- previous or current Children’s Court Orders, and placements in out-of-home care
- previous assessments and actions by Department of Community Service caseworkers
- any complicating parenting issues such as domestic violence, parental misuse of drugs or alcohol, mental health concerns.

Analysis of the child protection history of a report is an important assessment step and repeatedly emphasised in child protection research and in child death reviews.

Reports can be closed at the Helpline. This is likely to be due to insufficient information provided by the reporter and/or that the information does not reach the legislative definition of what constitutes risk of harm. Other reasons for closure include:

- there is insufficient information to identify the child or young person, or their whereabouts
- the child or young person is residing interstate and as such there is no legislative mandate for action in NSW
- identical information about the child or young person and family has already been received and assessed by the Helpline
- the request from the caller is fully satisfied by the provision of information, advice and/or guidance.

Reports that are not closed proceed through the remaining initial assessment determinations, which involve judgments about the risk level for the child or young person and the response time that is recommended for taking action.

1. **Risk level** – is a judgment derived from the information provided by the reporter, the child protection and other departmental contact history, as well as information that indicates the child’s or young person’s own capacity for self-protection or vulnerability, and any complicating factors that can promote risk. One of three risk levels will be assigned to reports – **high risk**, medium risk or low risk.

2. **Response time** – recommends the timeliness of a response to the report. It is based on the immediacy of the safety and risk of harm and the severity or extent of the harm that could reasonably occur to the child. The response time frames are – **within 24 hours, within 72 hours or within 10 days.**

Some information is referred to Community Services Centre for advice only.

In situations where an offence against the child may have been committed, Helpline caseworkers will also provide that information to the NSW Police.

The final Helpline decision is about whether the matter should be referred to a local office of the Department of Community Services (the Community Services Centre) or, if it meets the criteria, for referral to a Joint Investigation Response Team.

The risk and response time determinations are recommendations for the Community Services Centre. They assist them in prioritising and allocating reports, and ensuring that children and young people who are at the highest risk of danger or ongoing harm are prioritised for action over those reports of a lower risk of harm.
Where a Manager at either the Community Services Centre or the Joint Investigation Response Team has more recent information or direct knowledge about the child, young person or the family, they will review and possibly amend the Helpline's initial assessment decisions. This could result in the risk level and/or the response time being increased or decreased.

As outlined in chapter 2.12, the Helpline will advise mandated reporters in writing either that the report has been closed at the Helpline or transferred to a Community Services Centre (CSC) or Joint Investigation Response Team (JIRT).

**NOTE** When the Helpline receives information it will determine if the information adds to new information on an open or closed case or an unknown case, where the name of the child or young person, or family is not known by the reporter, and/or whether or not the information constitutes a new report to be forwarded to a Community Services Centre. Depending on the information received, the Department may take different action. For example:

- where there is an open case plan and new information is received, the Helpline will determine if the information constitutes a new report or if the information should be forwarded to the CSC as information only
- where there is no open case plan and new information is received, the Helpline will consider the relevant history of the child or young person, including the recent involvement of other services, such as Physical Abuse and Neglect of Children (PANOC) services, in determining if the information constitutes a new report or should be recorded as information only
- where there is no information held on the child or young person and information is received, the Helpline will determine if this constitutes a new report or be recorded as information only if it is not assessed as sufficiently serious to warrant action by a CSC.

### 3.3.2 COMMUNITY SERVICES CENTRE RESPONSES TO REPORTS

The majority of reports are transferred by the Helpline to Community Services Centres. Those with a response time ‘within 24 hours’ usually indicate that there is an issue of immediate safety for the child or young person. These reports receive a prompt assessment and investigation response.

Reports with a high risk will also be prioritised for early attention by the Community Services Centre. In general, the following factors signal high risk:

- the child or young person has recently been sexually assaulted or has a serious non-accidental injury or an illness
- there has been a history of suspicious death or serious non-accidental injury of a child or young person in the family or household
- emergency removal of a child or young person has recently occurred in the same household
- there is a pattern of recurring harm or risk and/or escalation in seriousness of the harm
- there is impairment to the primary parent or caregiver’s functioning due to alcohol or other drug misuse or unmanaged mental illness, which is currently affecting the safety, welfare and wellbeing of the child or young person
- there is current access to a child or young person by a person known to the Department of Community Services or NSW Police as a person causing harm to a child or young person
- there is a history of transience or avoidance associated with statutory child protection action in NSW or an interstate or overseas jurisdiction.

Some reports will be identified as suitable for referral to the Department of Community Services Early Intervention Program, and will cease to follow the process of assessment and investigation. The referral criteria for this program specifically targets:

- low risk or medium risk reports of harm
- children less than eight years old
these criteria coexisting with family issues of domestic violence, drug or alcohol problems, mental health, lack of family or social support, parental learning difficulties, intellectual disability, or child behaviour management problems.

For other reports, the Manager Casework will determine whether additional information should be obtained to assist in the decision about the most appropriate response. Obtaining such information is undertaken prior to contact with the family, for the explicit purpose of informing the decision about whether or not assessment and investigation action is required, and if so, to then inform the time frame for this action. This part of the assessment process is referred to as a secondary assessment stage one (SAS 1).

Inquiries may include contacting the reporter, schools, medical services, or other agencies involved with the child, young person or their family. Requests for further information may be initiated by phone or fax pursuant to Section 248 of the Act, which relates to the provision and exchange of information.

A report may be closed following the receipt of further information, and is often due to there being insufficient information to establish risk of harm. This is likely to occur when the additional information indicates that sufficient arrangements exist for the care and protection of the child or young person, and the circumstances that led to the report have been or are being adequately dealt with.

Closure can also occur because of the relative priority of this report compared with other reports together with the current casework resources of the Community Services Centre. Where the Department of Community Services is unable to allocate a case, agencies providing services to the child, young person or family can seek general consultative advice from Managers Casework in Community Services Centres to assist them.

As outlined in chapter 2.12, mandated reporters who request feedback and have an ongoing role with the child, young person or the family, and where the feedback will enable that work to continue, will be advised of the decision made regarding the report by the Community Services Centre.

3.3.3 THE SECONDARY ASSESSMENT PROCESS BY COMMUNITY SERVICES CENTRES

Those reports that are allocated to a caseworker for a secondary assessment stage 2 (SAS 2) involve the direct interviewing of the parties subject to the report of harm. This includes the child or young person subject of the report, their parents or caregivers and, where indicated, other household members. Contact with interagency partners may also occur at this juncture, depending on the circumstances of the matter.

The secondary assessment enables the Department of Community Services to make a decision about the child’s or young person’s need for care and protection.

The Department of Community Services uses the NSW Risk Assessment Framework, which guides professional judgments about harm consequences and the probability of future harm. The following Diagram 3.4 portrays the three phases of activity – information gathering, analysis and judgment.

A secondary assessment is not simply about establishing the veracity of the reported concerns. In addition to gathering and assessing information outlined in the report, caseworkers assess for environmental, familial and individual parent or child characteristics that may affect the child or young person’s current safety and future risk of harm.
Evidence-informed practice guides the Department of Community Services caseworkers in being particularly alert to the effects of the following parent, caregiver or child characteristics:

- domestic violence – specifically its nature, severity and frequency; the parents’ attitudes to it (for example, denial, minimising); and any stressors/triggers and how these are managed

- alcohol and/or drug misuse – for example, by exploring for patterns of use, type of drugs and frequency of use or poly-drug use; and most importantly, the effect of the drug use on the parent or carer’s cognitive abilities and capacity to parent*

- mental illness – exploring how symptoms or behaviours could be harmful to the child or young person; and the ‘other’ parent’s or carer’s capacity to provide care and protection to the child or young person˚

- past history of harm to a child – analysing the pattern and frequency; considering the child’s experience of the effects of repeated harm; and the demonstrated ability and willingness of the parent or carer to provide care and protection.

Sometimes interviews of children and young people need to be conducted by a caseworker in a neutral environment. The Department of Education and Training has procedures in place for interviewing students in schools. The following basic principles apply:

- interviews at school need to be managed carefully

- principals will permit an interview at school only when they have been assured by the Department of Community Services or police officer that there is no suitable alternative and the person has agreed to be interviewed

- no person should be interviewed against their wishes (it is the principal’s responsibility to inform the child or young person of this)

- the child or young person is given the opportunity to have a support person of their choice with them.

In some cases there may be the need to have parents present at the interview. In such cases any interview of the student at the school should occur only when parents have been contacted or an attempt to contact them has been made.

*PRACTICE POINT
The Department of Community Services has developed resource kits to help practitioners and families where there is parental dual diagnosis, the term used to describe when a person is affected by both mental illness and substance misuse. These are available to practitioners online: [http://www.community.nsw.gov.au/html/news_publications/dual_diagnosis.htm](http://www.community.nsw.gov.au/html/news_publications/dual_diagnosis.htm)

˚PRACTICE POINT
Resource information relating to children of parents with a mental illness is available online: [http://www.copmi.net.au/cpj/child.html](http://www.copmi.net.au/cpj/child.html)
If interviews have to take place at school, discuss with the principal how to make the school environment conducive for the interview. Plan with the principal for the conclusion of the interview, particularly how the child will return to the classroom or playground, and how to handle other students’ curiosity and possible questions.

For younger children who may be interviewed while in child care, pay particular attention to their need for breaks. If the child becomes distressed, stop the interview and comfort the child appropriately.

**NOTE** Department of Education and Training has specific instructions for interviews of students at school. See *Protecting and Supporting Children and Young People: Revised Procedures, 2000*, Department of Education and Training.


### 3.3.4 INVESTIGATION AND ASSESSMENT FUNCTIONS OF THE JOINT INVESTIGATION RESPONSE TEAMS (JIRTs)

Joint Investigation Response Teams (JIRTs) combine the risk assessment and protective interventions of the Department of Community Services with the criminal investigation of NSW Police. The Helpline determines the referrals to JIRT, according to clearly established referral criteria. These target serious abuse matters where there is the possibility that the abuse constitutes a criminal offence, and may also include extreme neglect resulting in physical harm.

A police officer and a Department of Community Services caseworker work together in conducting interviews of children, young people, their families and offenders:

- to determine whether protective intervention is necessary to prevent harm or injury to the child or young person – this is a Department of Community Services decision
- to gather and document forensic evidence in matters where criminal charges are likely to be laid – this is a police decision.

The decisions and the criteria used to make the respective decisions are different. It is possible for NSW Police to make a decision not to charge a party to the report and to discontinue their investigation, and for the Department of Community Services caseworker to substantiate harm or risk of harm regarding the same matter. In this case, the police would discontinue involvement and the Department of Community Services would decide if the child was in need of care and protection.

As part of the joint investigative response model, NSW Area Health Services provide timely access to appropriate locally based medical examinations, crisis and ongoing counselling services to children, young people and to non-offending family members.

**REFER** Refer to Victims Services (part of the NSW Attorney General’s Department) for information to assist children and young people who have been a victim of a crime involving violence, regarding the process to claim victim’s compensation. This information is available from the Lawlink website: [http://www.lawlink.nsw.gov.au/lawlink/victimsservices/ll_vs.nsf/pages/VS_compensation](http://www.lawlink.nsw.gov.au/lawlink/victimsservices/ll_vs.nsf/pages/VS_compensation).
3.3.5 OUTCOME DECISIONS BY THE DEPARTMENT OF COMMUNITY SERVICES

Following completion of interviews of the child or young person subject to the report, their parents or caregivers and other relevant parties, the Department of Community Services caseworker concludes the secondary assessment and reaches the following decision points in accordance with the legislative provisions of Section 23 of the Act:

- **the outcome of the assessment**: Does it substantiate that the child or young person is at risk of harm, or has sustained actual harm?
- **whether the child or young person is ‘in need of care and protection’**: Is ongoing intervention by the Department of Community Services required?

There are three possible substantiation decisions:

- **substantiating actual harm**: where there is sufficient information to indicate on reasonable grounds that the child or young person has been harmed physically, sexually, psychologically or through neglect
- **substantiating risk of harm**: requires sufficient information about the likely harm consequences and harm probability to enable a judgment on reasonable grounds about the level of risk for the child or young person
- **unsubstantiated**: where the secondary assessment has determined that there are no reasonable grounds to suspect that the child or young person has experienced actual harm or is likely to be at risk of future harm

The decision as to whether the child or young person is in need of care and protection is required to be made where the harm or risk of harm has been substantiated.

Refer Section 34(1) of the *Children and Young Persons (Care and Protection) Act 1998* outlines the basis on which the Director-General can take action in relation to a child or young person.

3.4 TAKING IMMEDIATE ACTION TO ENSURE SAFETY

Where there are indications that a child or young person is at risk of serious harm, then immediate action involving the authority of the Act may be required. Immediate action may involve facilitating:

- medical examinations of the child
- removing/excluding the person who is the cause of risk
- removing the child or young person from the location of risk
- assuming care responsibility for a child.

3.4.1 MEDICAL EXAMINATIONS

The medical examination of children and young people can provide important information about the type and extent of injuries, diagnose illness or determine necessary treatment, and can assist in the assessment and investigation of alleged abuse and/or neglect.

A decision about whether a medical examination is warranted during the process of assessment and investigation of reports may be clear-cut or may need to be made in consultation with the relevant health service. Arrangements regarding the time and place of the medical examination may also need to be made in direct consultation with the medical practitioner, hospital social worker, paediatrician, or child protection coordinator, or in the case of sexual abuse, a NSW Health Sexual Assault Service.
If a parent or guardian of the child is unable or unwilling to consent to the child to be medically examined, or cannot be located within a reasonable time, police officers and authorised officers of the Department of Community Services (under Section 173 of the Act) may serve a Notice Requiring Medical Examination on a person who has the care of a child requiring that person to present the child for a medical examination.

If the person named in the Notice fails to comply with its requirements, an authorised Department of Community Services officer or a police officer may organise for the child to be presented for examination at a hospital or to a medical practitioner.* In such circumstances, it will be important that the child be asked whether he or she wants a support person present. This person should be the child’s or young person's choice.

In some circumstances a Notice Requiring Medical Examination will be served on a person other than the child’s parents or caregivers. For example, if the child is at school or in child care at the time, the Notice will then need to be served on the Principal of the school or Director of the child care service. The parent will be served with a copy of the Notice as soon as practicable.

Once the child is presented to the medical practitioner for the examination, the Director-General is deemed to be the parent of the child for the purpose of enabling the medical examination to be carried out and until it has been completed, or until 72 hours has expired. The medical practitioner is required to consult with the caseworker or the police officer about the proposed examinations for consent purposes.

Medical examinations will follow the standard procedures for forensic examinations.” In cases of child sexual abuse, medical examinations should be conducted only by doctors working as part of a NSW Health Sexual Assault Service, using the Child Sexual Assault Medical Protocol. This is because findings or opinions as a result of a medical examination can be used as evidence in care or criminal proceedings. The information can also be used to determine treatment or the need for other interventions such as counselling or support.

Under Section 173 (4) (c) of the Act, the medical officer is required to provide the Department of Community Services with a written report following the examination. In these circumstances a report is not in breach of professional etiquette or professional conduct and no liability for defamation can be incurred.

3.4.2 USE OF APPREHENDED VIOLENCE ORDERS (AVOs) TO PROTECT A CHILD OR YOUNG PERSON

An Apprehended Violence Order (AVO) can be a less intrusive option in protecting a child or young person than removal of the child or young person. Section 562C(3) of the Crimes Act 1900 requires police to make a complaint for an Order where they suspect or believe a domestic violence offence under 562AB, or child abuse offence, has recently been, or is being committed, or is likely to be committed. NSW Police have powers under Part 15A of the Crimes Act to make an application to a Local Court seeking an interim AVO on behalf of the child or young person.

An AVO may specifically state that a person not reside or have contact with a child. In some cases, this will be sufficient to ensure the safety of a child. However, where there is not a supportive household adult (usually the non-offending parent or caregiver) who is able and willing to advise the NSW Police if the AVO is breached, then an AVO may not be appropriate, as the child or young person will not be afforded sufficient protection. In such cases, other action may be needed, depending on the assessed level of risk to the child."

After hours, a Telephone Interim Order can be sought by a police officer as a temporary measure. If granted, the Order is effective only after the police officer has served the defendant with a copy of the Order.

When applying for an AVO, special care will need to be taken to check whether there are any existing Family Law Act residence and contact Orders that need to be changed. If there are, then the Magistrate should be asked to rescind/vary those Orders to make them consistent with the AVO. Failure to do so will mean that the Family Law Act Orders will override the AVO to the extent of any inconsistency.

3.4.3 USE OF POWERS TO REMOVE A CHILD OR YOUNG PERSON

Removing a child or young person from their parents or caregivers, or assuming care responsibility for them, is an extremely intrusive action and is only considered where:

- there are reasonable grounds to believe that he or she is at risk of serious harm and the risk is immediate
- less intrusive actions have been considered and excluded due to their not being sufficient to adequately address issues of safety, welfare and wellbeing, and
- there is evidence that can be put before the Children's Court that the child or young person is in need of care and protection.

Where there is an immediate risk of serious harm to a child or young person and it is not possible to secure the agreement of a parent or caregiver to make safe arrangements for their care, emergency action may be required under the powers of the Act.

The Act provides for four specific options for removal and assumption of care:

- removal with a warrant
- removal without a warrant, when the risk is serious and immediate
- assuming care responsibility of a child or young person in hospital or other premises
- removal of a child or young person pursuant to an Order of the Children's Court.

In addition, a child or a young person who is suspected to be in need of care and protection can be removed without a warrant if they are or have recently been on premises being used for the purposes of prostitution, acts of child prostitution or pornography.

A Search Warrant may be sought by an officer of the Department of Community Services or a police officer, and authorises them to enter and/or search the specified premises and remove the child or young person.

Under Section 43 of the Act a child (and not a young person) may be removed without a warrant from a public place by an officer of the Department of Community Services or a police officer where:

- it is suspected on reasonable grounds that the child is in need of care and protection, and
- they are not under the supervision or control of a responsible adult and they are living in or habitually frequenting a public place.

3.4.4 ASSUMPTION OF CARE RESPONSIBILITY

Where a child or young person is in a safe place such as a hospital, respite service or family day care placement and an authorised officer of the Department of Community Services suspects on reasonable grounds that a child or young person is at risk of serious harm, but is satisfied that it is not in the best interests of the child or young person to be removed from the current premises, the Department of Community Services may assume care responsibility by means of an Order in writing signed by the Director-General or the person who appears to the Department of Community Services to be in charge of the premises. This is outlined in Sections 44 and 45 of the Act.

Exercising this power ensures that a child is not returned to an environment in which he or she is in immediate danger of further abuse.* When care responsibility is assumed in this way, the Department of Community Services is required to apply for a care Order, or alternatively to provide the Children's Court with an explanation why no care application was made. When hospitals, respite care or other services are used as a safe place, staff will need clear instructions about access and visitation rights of family members.

The Act requires that following an emergency removal, the Department of Community Services must apply to the Children's Court the next sitting day for an Emergency Care and Protection Order, an Examination and Assessment Order, or any other care Order.

*PRACTICE POINT
When hospitals, respite care or other services are used as a safe place, staff will need clear instructions about access and visitation rights of family members.
The initiation of care proceedings does not mean that care and support services should not be offered to the child or family. Rather, the fact that such proceedings are recommended provides further reason for care and support services to be offered.

### 3.5 PHYSICAL, PSYCHOLOGICAL, PSYCHIATRIC AND OTHER MEDICAL ASSESSMENTS

Qualified practitioners from government and non-government agencies as well as from private practice conduct assessments of the physical, psychological, psychiatric, educational and developmental functioning of children and young people, and may provide therapeutic intervention geared to the needs of the children and young people.

A Children's Court may make an order for the physical, psychological, psychiatric or other medical examination and/or assessment of a child or young person upon application to the Court by the Department of Community Services or, if proceedings are already pending before the Children's Court, on application by any party to those proceedings.

A Children's Court may also order an assessment of a person's capacity to parent a child or young person, but only if that person consents to the making of the Order.

All Assessment Orders are carried out by the Children's Court Clinic, although the Clinic can refer the assessment to other agencies, through the Court, in special circumstances. Any report prepared as a result of an Assessment Order is considered to be a report to the Court, rather than evidence tendered by a party to any proceedings before the Court, and must be forwarded directly to the Court by the person undertaking the assessment and/or examination.

**NOTE** Section 58 of the *Children and Young Persons (Care and Protection) Act 1998* specifies the role of the Children's Court Clinic.

**REFER** Sections 52–59 of the *Children and Young Persons (Care and Protection) Act 1998* specify the role of Assessment Orders, while Section 173 is concerned with medical examinations.

### 3.6 WORKING WITH FAMILIES TO REDUCE RISK OF HARM AND INCREASE RESILIENCE

Child protection services can be innately challenging for families. When faced with a system of assessment and intervention parents are likely to feel judged, defensive and powerless. A range of professionals are often involved in exchanging information about the family, which can further add to their sense of alienation.

Research in child protection supports the idea that where families “feel that they have been given a say in matters and presented with options, they respond favorably”\(^8\). The more families are engaged in identifying what needs to change, and what will help them to change, the more they will be committed to achieving and sustaining change. This can be assisted by:

- ensuring that family members know that the child’s safety, welfare and wellbeing must be given first priority*
- learning what the family wants and offering them choices where this is possible
- recognising that cooperation is possible even where coercion may initially be required.

In spite of the complex and controversial nature of the decisions being made in a child protection context, family involvement during both the assessment and planning phase of intervention is fundamental to developing an effective case plan and achieving change. Working with child protection families as partners in the case management process is particularly important.

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3.7 MANAGEMENT OF CHILD PROTECTION CASES

Case management* in child protection is the process of assessment, planning, implementation, monitoring and review that aims to strengthen families and decrease risks to children and young persons in order to optimise their outcomes through integrated and coordinated service delivery.

The process of case management is interactive and dynamic, with an emphasis on ongoing analysis, decision-making and record keeping. Good practice indicates that it is best where this:

- involves the participation of the child, young person and their parents or caregiver
- concentrates on strength-based, child-centred and family-focused interventions
- promotes and reinforces partnerships between service providers in order to facilitate the achievement of planned goals
- supports self-determination for Aboriginal children, young people and their families, and, where possible, involves Aboriginal communities and service providers
- ensures that goals and strategies are monitored for progress/achievements and arrangements reviewed to ensure their continued appropriateness.

Wherever possible, case management responsibilities should rest with one agency. This is to ensure that effective communication, service coordination and shared case planning continues. Where appropriate, agencies can hold collaborative case meetings and exchange information that is pertinent to achieving a coordinated case plan:

- for early intervention matters, case management can be undertaken by the Department of Community Services or by a Lead Agency.
- for child protection matters, case management will remain with the Department of Community Services, primarily because of the Department’s statutory responsibilities, which include investigation, decisions regarding removal and court work.
- for children or young people who are under a care Order and/or living in out-of-home care, case management can be with the Department of Community Services or a designated agency; or can be a joint responsibility between agencies, where different aspects of parental or designated agency responsibility can be assigned to different parties.
- where there are no risk of harm concerns, or where these have been sufficiently resolved, and other agencies continue to provide services to a family, any agency can assume the role of case manager.

Whenever agencies hold such meetings consent should be obtained where appropriate.

3.7.1 THE ROLE OF CASE MANAGER

Consistent with interagency practice, the responsibilities of practitioners who provide case management functions include:

- communicating with interagency partners, keeping involved agencies informed of progress
- calling and convening case meetings and ensuring that meetings are documented and minutes are distributed
- documenting, monitoring and reviewing case plans
- coordinating the participation of children, young people and their families
- receiving relevant feedback from other agencies on the progress of the child, young person and family
- informing relevant agencies, children, young people and families of changes of case manager, and, as appropriate, of a plan for case closure.

*PRACTICE POINT

Some agencies in the NSW child and family service system use a specific model of case management.

˚PRACTICE POINT

A Lead Agency is funded by the Department of Community Services (DoCS) in the early intervention program to undertake referral, intake, assessment and ongoing case management with families in the program, and is the central referral point for families referred to the program by another agency or individual within the community. The Lead Agency becomes responsible for case management once the DoCS early intervention team determines that the family is eligible for the program. In addition, the DoCS early intervention team will also transfer some families, who have been reported to DoCS and determined eligible, to the Lead Agency for intake and case management.
3.7.2 CASE MEETINGS

A core component of case management is the use of case meetings as a primary vehicle for developing individualised case plans for children and young people at risk of harm and their families. The term ‘case meeting’ is a generic one. Other terms have been or are used interchangeably – such as ‘case planning meeting’, ‘case conference’, ‘case review meeting’, ‘interagency case meeting’, or ‘protection planning meeting’.

Case meetings can be convened at various points in the intervention process, depending on the complexity of the matter and the urgency and needs of the child, young person or family. For instance, when a child or young person has been subject to a report of risk of harm, a case meeting may be held after the matter is allocated to a Community Services Centre caseworker for a secondary assessment. At this time, the focus would be on building a picture as to the degree of risk and harm faced by the child or young person, as seen from the vantage point of agencies who are actively involved with the family.

At a minimum, the Department of Community Services, as case manager, will convene a case meeting or teleconference with key interagency partners, e.g. Physical Assault and Neglect of Children Services (PANOC), when it has been determined that a child or young person is in need of care and protection following a secondary assessment (SAS 2). The Department will appoint a case manager where a matter has been allocated for a SAS 2.

The Department of Community Services defines key interagency partners as those who:

- are, or will be, involved in legal proceedings to protect a child or young person and/or
- will provide services that are critical to achieving the outcomes of the case plan.

Case meetings held at this time are at a particularly critical point for participative case planning and decision-making. Such meetings could be held with the direct involvement of participants, or could happen through a teleconference where this may be more expeditious. A contribution to a meeting could also be made through such means as provision of a written report or a letter or phone call.

At this time, key decisions need to be made, and include consideration about what the child or young person needs to be safe, what changes parents or caregivers are committed to undertake to achieve this, which services can assist the child and family in these changes, and how the case plan is to be coordinated.

This does not exclude case meetings being held at other times. For instance, where a report of risk of harm is made, a case meeting may build the picture as to the relative degree of risk and harm faced by a child or young person as seen from a vantage point of agencies providing services to the family.

Reasons for the Department of Community Services convening a case meeting include, but are not limited to, the following circumstances:

- when there is a need for coordinated development and/or review of a case plan. This might include collaboration with other agencies such as NSW Health, Department of Education and Training, family support services, or individuals such as doctors and counsellors
- to ensure appropriate information exchange about the reason for the referral (including any court-ordered requirements), the importance of the family’s participation and the goals of intervention when making a referral to PANOC or sexual assault services
- to ensure comprehensive exchange of information when a case is being transferred between agencies or workers
- to determine roles and responsibilities of family members and agencies where an Apprehended Violence Order (AVO) is required
- when a case plan is being developed to address the long-term safety, welfare and wellbeing of the child or young person, including their need for a Court Order to support a permanent placement
- when a care plan for an out-of-home care placement is being developed for a child or young person
- when court action has been initiated and case planning is to focus on comprehensive assessment of, and/or service planning for, the child or young person’s short and long-term needs
- when a decision needs to be made about whether there is a realistic possibility of the child being restored to parents
- to develop leaving care and after-care plans before a child or young person leaves care
- when a critical incident has occurred that may have an impact on the child or young person
- when it is planned to close a case.

Other agencies can request the case manager to convene a case meeting, explaining the reason for the request and purpose of the meeting. Their reason for requesting a case meeting may be similar to those outlined above. If the request is declined and the other agency disagrees with this decision, they may consider initiating a process to request a review of the decision.

Where another agency is case manager, such as where there are no care and protection issues and the Department of Community Services is not involved, a case meeting will be convened in accordance with the needs of the case and the coordinating agency’s case management model.

The purpose of the case meeting is to develop or review a case plan that recommends a course of action to ensure that where abuse or neglect is at risk of occurring or recurring, it is stopped or minimised, and that the child or young person and their family receive the services’ care and support appropriate to their assessed needs. Case meetings and the resultant case plans ensure that all parties are clear about the purpose, intent, and direction of intervention, and the roles and responsibilities of everyone involved.

The case plan provides the direction of intervention for both the family and agencies. The case plan will be tailored to meet the assessed needs of each child, young person and family, and will take into account the effects of any criminal proceedings, care applications before the Children’s Court, and any relevant Family Law Court Orders pertaining to residence or contact.

Case meetings enable those most affected by the intervention to contribute directly to the development of the case plan and may include:

- the parent or caregiver
- the child or young person, depending on his/her age and developmental stage
- the agency worker and his/her line manager (where the Department of Community Services is involved, this will be the Community Services Centre caseworker and Manager Casework)
- other agencies or professionals who are or will be working with the child, young person or family
- if required, a support person for the child, young person, or parent
- an accredited interpreter where the participants do not speak English well, or when requested.

The involvement of family members is particularly critical as they are the service recipients and hence central to the planning process. However, there may be situations where it is inappropriate for a child, young person or a particular family member to attend a case meeting. Consideration as to the suitability of their attendance needs to be made prior to the meeting.

Where a decision is made to exclude a parent, child or young person from attending a case meeting, the reasons for this decision need to be documented, and efforts made to ensure that their views are brought to the meeting and considered by participants. Similarly, if a child or young person or parent is absent or declines the invitation to attend the planning meeting, the reasons for their non-attendance will need to be documented in the minutes.

The involvement of interagency partners provides a forum for pooling the skills, knowledge and expertise of agencies. This input is critical as it enhances the quality of the assessment and case plan outcomes. The inclusion of agencies in the case meeting promotes a multidisciplinary and interagency approach and enhances a coordinated response and a shared responsibility for the plan.
Participants could include other government departments, community agencies (for example, family support, children’s services, alcohol and other drug treatment services, counselling services) and other practitioners such as medical personnel and private counsellors. Service providers may already have a current involvement with a child or family, or may be invited to discuss the proposed provision of a service.

Consideration may need to be given to limiting the numbers of practitioners attending a meeting where children, young people and family members are involved. Alternatively, it is possible that the meeting be structured so that participants attend for part of the meeting if this is congruent with their contribution and/or ongoing role.

Practitioners engaged in supporting a family, such as family support workers, are in a primary position to contribute to the meeting and assist in preparing and supporting the children, young people and parents for the meeting – for example, assisting them to think about the agenda items they might want included, the message they want to get across to the meeting participants, and how they might communicate this.

3.7.3 PROMOTING THE PARTICIPATION OF CHILDREN AND YOUNG PEOPLE

Facilitating a means for children and young people to participate in the decisions that are made about them is critical to effective planning and the achievement of safety, welfare and wellbeing outcomes.

Section 10 of the Act requires the Director-General of the Department of Community Services to ensure the participation of children and young people in decisions made under the legislation that have a specific impact on their lives.

Sinclair and Franklin (2000) have identified the following reasons for children’s participation:
- to enhance children’s self-esteem and resilience
- to promote children’s protection
- to improve decision-making
- to improve services
- to fulfil legal responsibilities
- to uphold children’s rights.

Children’s participation is a process as much as a product. That is, it is not simply the outcome of case meeting that is the sole desired goal, but the processes of the consultations and the preparatory work involved in seeking their views, and making decisions, that is also important.*

Participation varies from someone being present and taking part in decisions to someone just knowing that their views are being considered and will be acted upon.

A child’s age should not be used as a rationale for excluding them from participation. While infants and pre-verbal toddlers will not be able to verbalise a point of view, this should not make them invisible to the decision-making processes. Their ‘voice’ can contribute to decisions indirectly through the observations of parents or caregivers, as well as through the observations and expertise of early childhood nurses, children’s services workers, paediatricians and other professionals. Similarly, case meetings about babies and young children can benefit from their symbolic presence – such as the placing of a toy or photograph in the centre of the table or room, to assist in focusing meeting participants.

However, while the views of children and young people should be listened to and respected, the safety, welfare and wellbeing of a child is the paramount consideration.

*PRACTICE POINT
Experience in the United Kingdom has shown that children can participate in far more areas of work, community and social life than adults initially realise. The key lies in seeing children’s participation not as a blanket concept, but in considering it as praxis – that is, as methods and practice.

NOTE When engaging children and young people from culturally and linguistically diverse backgrounds, wherever possible, staff should seek an interpreter accredited through the National Accreditation Authority for Translators and Interpreters (NAATI). A support person should not be used to interpret unless NAATI-accredited.

The NSW Commission for Children and Young People has developed a resource kit designed for a wide range of agencies and situations. TAKING PARTICIPATION SERIOUSLY provides practical step-by-step guidance on how to move the principle of participation of children and young people from rhetoric to reality, and applies this across an organisational level, as well as to the direct service level.

**Refer** These resources are available on the website of the NSW Commission for Children and Young People: http://www.kids.nsw.gov.au/publications.

The kit includes a participation model for involving children and young people in meetings. It has equal application to case meetings convened by the Department of Community Services or any other agency for case planning purposes; meetings held by a school in order to develop an individual education plan for a child or young person; or a meeting by health care professionals to discuss a proposed treatment plan for a given child or young person. In summary, the kit includes four steps toward effective participation in meetings:

1. **Preparation before a meeting** – preparation is critical and will assist in reducing anxiety that the child or young person may have. Time spent in preparing a child will help them to feel more confident and empowered. This involves talking to the child about the reason for holding a meeting, who will be attending, and how the meeting will be run, and some of the terms and phrases that they might hear at the meeting, and the meaning of these.

The child’s views should be sought prior to the meeting about such things as:

- ideas about a location for the meeting and the time of the meeting – for example, about holding them outside of school hours, and whether breaks are needed
- the questions or issues they would like discussed during the meeting
- how they would like to participate at the meeting, including whether they want to attend in person and how they will get there
- whether they want somebody to come to the meeting to support them.*

The practitioner will also need to consider how to ensure fair participation for both the child or young person and his or her parents or carers, particularly if disputes are likely to arise.

2. **At the meeting** – there are several things that can be done to make meetings more fun and interesting for children. These can have the added benefit of breaking down the power differences amongst adult participants. Ensure that the child is introduced to everyone, and knows where they are from and why they are attending. It may be useful to provide the child with a pen and paper so that they can make notes; or to allow time to have things explained if they do not understand what is being discussed or what it means. The chair of the meeting should give the child or young person ongoing support for the duration of the meeting, by providing them with the opportunity to have a say, to ask questions etc.

Children’s views can be considered whether or not they attend the entire meeting or part of it. As many children will find it boring to sit and talk, consideration could be given to the child not attending the meeting but electing to participate in another way.

The different ways that a child or young person can participate in a meeting include:

- displaying a symbol of the child or a photograph in the meeting room
- having someone to speak on their behalf
- writing down their views and having someone read them to the other participants
- writing down their views for participants to read individually
- putting their views on audio tape to be played at the meeting
- writing their views on a whiteboard and displaying this at the meeting
- speaking or listening by telephone, web cam or video conference
- speaking at the meeting.

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*PRACTICE POINT
Organisations that provide support to children and young persons in out-of-home care include: CREATE, Commission for Children and Young People, and the Children’s Guardian.

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This material has been summarised from the TAKING PARTICIPATION Kit Participation: Meeting Together – Deciding Together module (2003). Full acknowledgement for the material is given to the NSW Commission for Children and Young People.
3. After the meeting – it is of paramount importance that the child or young person is properly debriefed after a case meeting and that his or her questions are properly answered. This debriefing will assist them to be clear about what has been said and what is going to happen next. This should be done as soon as is practicable after the meeting. There may be a need for ongoing support after the meeting.

Where appropriate, a copy of any minutes from the meeting, or written documentation about the decisions of the meeting, could also be provided to the child or young person, whether they attended the meeting or not.*

3.7.4 RESPONSIBILITIES OF AGENCIES AT CASE MEETINGS

Where other agencies or departments are asked to participate in a case meeting, they should do so in the interests of reducing risk of harm faced by a child or young person.

One of the main outcomes of a case meeting will be a case plan, based on collaborative action, and specifying the goals, objectives, tasks, time frames and the persons responsible. It is the responsibility of each agency or department to decide whether to use their statutory powers or service provision responsibilities in relation to the safety, welfare and wellbeing of children.

Recommendations from case meetings are not legally binding on individual agencies or departments. Where an agency cannot action a recommendation, the meeting may need to be reconvened so that an alternative course of action can be considered.

The case manager is responsible for ensuring that recommendations that arise from discussion in case meetings are documented. These recommendations record who is responsible for particular actions, a time frame for each action, and other recommendations relevant to achieving client outcomes.

It is the responsibility of the person chairing the meeting to ensure that distribution of the case plan occurs within the time frame agreed by the meeting. The case plan will be provided to the parent/carers, the child or young person (depending on their age and developmental level) and to those agencies with responsibility to act on a recommendation.

3.7.5 MANAGING CASE CLOSURE

Case closure is most effective when it occurs as part of a planned process, as a result of the family’s achievement of the case plan goals – that is, risk of harm to the child or young person has been addressed and sufficiently reduced. Where progress has been regularly monitored and reviewed through case meetings, and attended by family and the interagency partners, it is likely that the parties will agree with the decision to close.

However, case closure by an agency can also be unplanned and triggered by a range of events such as:

▶ mutual agreement by the agency and family to cease the service in favour of an alternative service arrangement
▶ a decision by the agency to cease provision of the service – this could be due to a range of reasons, including unsuccessful engagement between the service and the family
▶ a unilateral decision by the child, young person or family to cease contact with the service.

Where an agency or a family member takes unilateral action to cease the service, such action may have a considerable effect on either the safety, welfare and wellbeing of the child or young person or on other service providers. In these situations, it is advisable to convene a case meeting to consider new service arrangements and/or changes to the case plan.

Where an agency is considering ceasing their service involvement, it is important that this be discussed with those most affected by it – the family and interagency partners who are actively engaged in implementing the case plan. The Department of Community Services, where involved, has a particular need for information about another agency’s withdrawal or cessation of services, as it may affect the child’s protective needs.
The Department of Community Services will consult with the family and with all interagency parties who have a role in implementing the case plan prior to a decision, to close an allocated case. Optimally, this will occur through a case meeting. Sometimes, however, this will not be possible, and the case closure decision may be conveyed to an interagency partner by phone, fax, e-mail or letter.

After case closure by the Department of Community Services, agencies that continue to provide a service to the family are able to seek general consultative input related to case management or case work with the family from the Manager Casework in the Community Services Centre. Consultation advice in these circumstances will be for a time-limited period (usually no more than a few weeks) after closing the case. This will allow time for effective engagement between the family and a new service, or to ensure that the family remain involved with an existing service. The advice will be limited to general information and cannot include case-specific guidance or casework supervision.

The Department of Community Services will only recommence involvement with the family if a new risk of harm report is allocated to a caseworker for a secondary assessment.

3.8 CARE PLANS

A care plan is used to formalise agreements between parties (usually the Department of Community Services, a parent/s or caregiver/s) and aims to address the risk of harm concerns affecting a child or young person.

A care plan has a particular role under the Act in care proceedings before the Children’s Court. The Court may authorise a care plan when legal intervention is required to ensure the child’s or young person’s care and protection. The Children’s Court cannot make a Final Order allocating parental responsibility, or aspects of parental responsibility, unless it has had a care plan presented to it by the Department of Community Services. Alternatively, a care plan can be registered with the Children’s Court, with or without a consent Order.

The type of care plan will depend on the risks identified for the child or young person, and the action required to address their safety, welfare and wellbeing. Several types of care plans are referred to in the Act:

- **registered care plans** – where a care plan is registered with the Children’s Court with the agreement of the family, the child and young person. Such action may be utilised when a more formal approach is required, that is, other than an agreement made during casework with the family or during the case planning process and/or case meetings

- **registered care plans with a Court Order made by consent** – where the Children's Court grants a Court Order made with the consent of the parents or caregivers, together with a registered care plan where the parents are in agreement. In these circumstances, the Court does not need to be satisfied on the ‘balance of probabilities’

  **Refer** Section 34 of the Act

- **registered care plans with a care Order made by consent and where there is an allocation of all or some parental responsibility** – this differs from the above, in that the Court needs to be satisfied, on the balance of probabilities, that the child is in need of care and protection before the Order is made

  **Refer** Section 38 of the Act

- **care plans presented to the Children’s Court before a final Order is made in relation to a care application** – under the Act a Section 78 care plan must be submitted to the Children’s Court before a final Order is made, where the Director-General has applied for an Order (other than an Emergency Protection Order) for the removal of a child or young person from his or her parents.

Care plans are made, as far as possible, with the agreement of the child or young person and their family. They may be developed by direct negotiation with family members or by using mediation or other alternative dispute resolution process. Copies should be provided to family members and all relevant parties.
If the Department of Community Services or family members are unable to reach agreement on a care plan, or if the arrangements in an agreed care plan are not adhered to by family members, the Department of Community Services may make a care application to the Children's Court for a care Order.

Where the Department of Community Services applies to remove a child from parental care, it is required to submit a care plan before an Order is made. The care plan is enforceable only to the extent that its provisions are embodied in the Order of the Children’s Court. The care plan must include provision for:

- allocation of parental responsibility for the duration of the period of removal. This may be to one party, or shared between two or more parties, including the Minister, the parents, other family members and/or another agency
- provision for placement of the child including an interim arrangement
- how it relates to permanency planning for the child or young person (in accordance with the requirements of Section 78A of the Act
- arrangements for maintaining key relationships of the child or young person
- the agency designated to supervise
- the services that need to be provided.

For children and young people already in out-of-home care, a care plan will address permanency planning and how their long-term needs will best be served. This includes consideration of whether there is a realistic possibility of returning to their family or whether they should remain in an alternative placement long term.

3.9 CASE REVIEW AND SERVICE SUPPORTS

Ongoing care and support is a critical stage that involves case planning and review for the child and young person. This stage is about coordinating the delivery of a range of care and support services that will work together over time to address the long-term needs of the child, young person and the family, and prevent the risk of harm to the child or young person from recurring.

When children and young people are unable to live with their families, the focus of intervention becomes that of coordinating the delivery of a range of care and support services that will work together over time to address the long-term needs of the child, young person and the family. A committed interagency approach is required and involves practitioners:

- being vigilant for changes in the family's circumstances that may affect the likelihood of risk of harm, and, as appropriate, reporting these to the Department of Community Services
- working with Aboriginal families, taking into account the family's preference for involving a local Aboriginal agency or members of their community
- considering the issue of whether family members can realistically access required services, especially for extended periods
- initiating strategies for re-engagement where a family's commitment to intervention is waning
- using the case meetings with family members and interagency partners to review the progress of intervention
- being aware that interagency conflicts could emerge and working to resolve these.

Reviewing the case plan allows for reflection, discussion and input from agencies and importantly, the child or young person and family.

In reviewing case plans, it is important to take into account that children who are in statutory out-of-home care are at higher risk of poor educational achievement, unemployment, homelessness, substance abuse and mental health problems. To reduce these risks and ensure positive outcomes, early identification and timely provision of services is vital.
The Memorandum of Understanding (MoU) between the Department of Community Services and the Department of Education and Training, finalised in December 2005, provides a framework for a coordinated approach by the two agencies in responding to the learning and educational needs of children and young people in out-of-home care. The MoU establishes a platform for negotiation and improved communication and coordination between these two departments at the central level and in the regions. It is focused on improving information exchange, referral protocols and joint case planning and review to improve the education outcomes for the target group.

There are a number of strategies that contribute to improved educational outcomes. These include:

- working to ensure stability in placement and schooling
- facilitating school attendance and connectedness to the school community
- avoiding the need to take children or young people out of school for appointments
- planning strategies for significant transition points (for example, starting school and transitioning to high school), as children and young people in out-of-home care may be particularly vulnerable during such transitions.

3.10 CARE APPLICATIONS

The Children's Court is a court of inquiry and is conducted with as little formality and legal technicality as the circumstances permit. The Children's Court is not bound by the rules of evidence, but may consider any statement, document or information that in its opinion will assist in the proceedings.

A care application may be made to a Children's Court by an officer with delegated authority in the Department of Community Services if they have reasonable grounds to believe that a child or young person is in need of care and protection.

The Act requires the exploration of alternatives to seeking a care Order from the Children's Court. When making a care application, the Department of Community Services must provide details of the alternatives considered and why those alternatives were not deemed suitable.

Where a care application has been made to the Children’s Court seeking an Order allocating parental responsibility, the Department of Community Services must submit a care plan to the Court before it can make an Order. In these circumstances, the care plan may or may not be agreed to by family members, although as far as possible it should be made with the agreement of the child or young person and their family.

**PRACTICE POINT**

It is important that, while support agencies seek to empower parents and support them during care proceedings, practitioners do not lose the focus on the child or young person.

When care proceedings are initiated, it is the responsibility of the case manager to inform other relevant agencies of the progress of care proceedings. In cases where criminal proceedings have also been initiated, the case manager will also need to ensure that the police officer in charge of the case or the relevant person in the Office of the Director of Public Prosecutions is kept informed of any progress or outcomes in the Children’s Court.

Professionals from health or educational settings, as well as a range of workers in non-government service agencies, may be called upon to give evidence in care proceedings. In most instances, evidence will be by way of sworn affidavit rather than as a witness before the Children's Court. Children’s Courts do, however, have the power to subpoena witnesses, including workers, in care proceedings.

The agency responsible for supervising the placement of the child may provide information to the Court if it is a party to the proceedings or if the material is filed by one of the parties.
A caseworker making the care application will need to ensure that if any matter that is of relevance to the child is before a Family Court, appropriate liaison occurs with the Registrar of that Court, and any appointed separate legal representative of the child.*

The Family Law Act 1975 has provision to quarantine the operation of child welfare Orders from the operation of family law. A Family Court cannot make an Order where an existing child welfare Order is in place, except where the Minister for Community Services has consented to the Family Court making Orders about the child or young person or the Family Court Order is expressed to come into effect when the child welfare Order has ceased.

REFER Section 69ZK, Family Law Act 1975

Care orders that relate to the care of, or contact with, the child or young person can be registered with the Family Court, giving them the same status as any other order made under the Family Law Act 1975. Registration may be of benefit, for example, where parties move interstate or overseas, or where it is desirable to use the powers of the Family Court to locate and recover the child or young person, where a passport is required, or to take action for contravention of the order.

REFER Sections 70B-70E, Family Law Act 1975

The outcome of care proceedings may involve an Order by the Children’s Court for the child or young person to be placed in out-of-home care. This decision may be based on assessments and recommendations contained in reports to the Children’s Court, when other options are not deemed suitable.

Decisions that are considered/reviewed at this time include:

- the ongoing suitability of the recommended placement and the alternative carers
- location of the placement for continuing parental contact
- the child’s or the young person’s involvement in decisions about placement options
- the child’s or the young person’s reaction to the decision for placement
- the principles of permanency planning.

Maintaining key relationships of a child or young person will almost always include continuing their involvement in education. Teachers and child care workers may have very important relationships with children and young people. Health workers and counsellors may also have important relationships with children and young people.

3.10.1 CARE APPLICATIONS FOR ABORIGINAL CHILDREN AND YOUNG PEOPLE

Care proceedings involving Aboriginal children and young people evoke strong feelings among family members and the broader Aboriginal community because of the association between care proceedings and past practices of removing Aboriginal children from their families. Practitioners will need to recognise and be sensitive to these feelings*.

Sections 11 and 12 of the Act outline the self-determination and participation principles for Aboriginal and Torres Strait Islander people. Section 11 is concerned with their participation in the care and protection of children and young people, including through specially designed programs and strategies that promote self-determination. Section 12 covers Aboriginal and Torres Strait Islander people, including representative organisations, being given the opportunity, by Minister-approved means, to participate in significant decisions that concern their children and young people, including placement decisions.

Court-ordered out-of-home care for Aboriginal children and young people requires particular considerations. Section 13 of the Act requires that placements of Aboriginal children and young people be culturally appropriate to enable them to maintain their cultural identity. The Order for placement is specified in the Act as:

- with extended family or kinship group
- if this is not practicable or in their best interests, with a member of the child or young person’s Aboriginal or Torres Strait Islander community
- if this is also not practicable or in their best interests, then with an Aboriginal family in the vicinity of their usual residence
- if none of the above options are possible, with another approved person, but only after consultation with the child’s extended family and an appropriate Aboriginal organisation.

The expressed wishes of the child or young person and their family should also be taken into account in the application of these principles.

Placement planning will usually involve working with an Aboriginal caseworker from one or more Community Services Centres and, depending on the placement issues, with local Aboriginal community representatives or family members.

Where a permanency plan indicates an intention to provide a permanent placement through an Order for sole parental responsibility or adoption of an Aboriginal person by a non-Aboriginal person, strict conditions are specified in the Act.

### 3.11 PERMANENCY PLANNING

Permanency planning is a requirement of the Act. It recognises that every child and young person should have a permanent and stable home where possible, preferably with his or her birth family, and that unnecessary changes to care arrangements create instability and uncertainty for a child or young person. Permanency planning involves giving early consideration to the long-term needs of a child being placed in out-of-home care, based on a thorough assessment of family strengths, to determine whether or not there is a realistic possibility of restoration of the child to the parent/s. Permanency planning can include:

- restoration to the birth family
- long-term authorised foster care (including sole parental responsibility Orders)
- relative and kinship placement
- adoption.

When considering a care plan, the Children’s Court will pay particular attention to aspects of permanency planning. The Children’s Court cannot make final care Orders unless it finds that permanency planning has been appropriately addressed. In the case of a child or young person not presently living with their family, it will consider whether there is a realistic possibility of the child or young person returning to their family, or whether the child or young person should remain in an alternative placement long term.

Sections 78A and 83 of the Act
3.11.1 RESTORATION PLANNING

In circumstances, such as at the end of temporary care arrangements, where the case plan goal is restoration of a child or young person to their parent or caregiver, attention must be given to coordinated restoration planning and support. This includes organising support services for parents to improve parenting capacity and establishing clear goals for the parents as to what they need to achieve for restoration to occur.

Some of the main considerations following the return of the child or young person to the parents care include:

- tailoring support services to reduce the likelihood of further need for placement once the child or young person is reunified to the parents’ care
- having contingency plans in place such as providing parents, children and young people with emergency numbers and access to a safe adult if assistance is required
- reassuring family members that asking for help does not imply that the child or young person will be removed.

In situations where restoration is the case plan goal for the family, a case meeting will be held with all the relevant agencies and the family to clearly outline the case plan goal, objectives and tasks, and to give clear time frames for both the parents and the relevant agencies. It is important for the support services to understand the role of each group in working with the family.

The Case Review prior to the child returning home should consider information from each of the participants, which covers:

- the progress and achievements made towards meeting the case plan objectives and tasks
- any lack of progress on tasks that would lead to ongoing concerns for the safety, welfare and wellbeing of the child
- the progress of the contact visits and the relationship between the parents and the child
- preparing the child for their return home
- the foster/relative carers’ role in supporting the child during the restoration process
- the ongoing support needs of the child and family after restoration
- how the support needs will be met and for how long. If there is an ongoing Order after restoration, what support role is to the taken by each agency?

A permanency plan involving restoration must be reviewed by the designated agency responsible for the placement of the child or young person at the end of the period under the permanency plan where restoration should be actively pursued, or within 12 months of the last occasion the case was considered by the Children’s Court, whichever is earlier. The Children’s Guardian may also direct a designated agency to review a permanency plan involving restoration.

REFER Sections 84, 85 and 85A of the Act

3.11.2 LONG-TERM FOSTER CARE

For cases where restoration is not possible, permanency planning aims to provide a child or young person with a stable placement with authorised carers, usually in a family situation, that meets their needs until he or she reaches adulthood. Carers may come from the Department of Community Services or from other non-government agencies. The child or young person in long-term foster care will have an Order from the Children’s Court granting Parental Responsibility to the Minister, often until the child attains the age of 18 years. Case planning for children in long-term foster care will include contact arrangements between the child or young person and any significant others, and health, education and financial supports.
Section 49 of the Act introduced the provision by which the carer can make application for sole parental responsibility. These Orders provide greater stability for the child and carer, and must be agreed to by the child’s parents.

Long-term foster care offers long-term security and aims to:

- avoid the instability and uncertainty arising through a succession of different placements or temporary care arrangements
- provide for continuity of relationships with family members and others significant to the child or young person, as long as it is in the best interests of the child or young person
- make arrangements in a timely manner, recognising the child or young person’s circumstances, and that, the younger the age of the child, the greater the need for early decisions to be made in relation to a permanent placement.

3.11.3 RELATIVE AND KINSHIP PLACEMENT

Relative and kinship placement generally occurs where a child or young person, under the Parental Responsibility of the Minister on a long-term Order, is placed with relatives or kin. In certain circumstances, these may include short-term supported placements without a Children’s Court Order, where the child is considered to be at risk of coming into statutory out-of-home care.

Case planning for children and young people in relative and kinship care involves decisions on similar issues, as for children placed in non-relative authorised care, such as contact arrangements between the child or young person and any significant others, and health, education and financial supports.

Permanent alternative placement options need to be considered as early as possible after it is determined that restoration is not viable. This should include consideration of adoption. In some situations, an Order for sole parental responsibility may provide greater stability in long-term placements where adoption is not a suitable option but return to the birth family is not in the best interests of the child or young person.

3.11.4 ADOPTION

Adoption is a legal process that is long term and permanent. All legal rights and responsibilities of parents are transferred from the birth parents to the adoptive parents. The practice of adoption has changed, and current practice recognises that, although adoption ends a child’s legal relationship with birth parents, the emotional and genetic relationships remain. Adoption today embraces issues of identity, openness and the value of a child’s history, cultural and racial heritage.

REFER NSW Adoption Act 2000

REFER Website of the Department of Community Services: http://www.community.nsw.gov.au
Chapter 4  

Exchanging information about children, young people and families in a child protection context

International and Australian research shows that to protect children from harm, agencies and members of the public must actively share information. This is because it sometimes only becomes clear that a child or young person is at risk, or has been harmed, when information from a number of sources is combined to create a complete picture about the child or young person and their circumstances.

Generally, sharing information is also a contributor to good service delivery practice where more than one agency is involved in providing support.

However, it is important that the privacy rights of a person are respected, and those rights be balanced with the need to ensure the care and protection of the child or young person.

It is also important to note the importance of the confidentiality of reporters to the integrity of the child protection system.

4.1 THE LEGAL FRAMEWORK FOR EXCHANGING INFORMATION

In NSW, the privacy requirements of government and non-government organisations and agencies are governed by the following laws:

- Privacy and Personal Information Protection Act 1998 (NSW)
- Health Records and Information Privacy Act (NSW)
- Privacy Act 1988 (Commonwealth)
- Privacy Amendment (Private Sector) Act 2000

There are 12 Information Protection Principles (IPPs) under the NSW Privacy and Personal Information Protection Act 1998. These principles are legal obligations that describe what a NSW government agency or a funded non-government agency must do when it collects, stores, uses and discloses personal information.

Generally, these principles require agencies to get the consent of a client before information about them is shared.

In some cases, agencies do not have to follow all the principles, and can share information without a client or individual’s consent, for example, if there is a serious and imminent threat to any person’s health or safety.

There are other exemptions to those principles in the child protection context, for example:

- The Children and Young Persons (Care and Protection) Act 1998 allows information to be exchanged between specified people and agencies without the consent of an individual where there is a risk of harm to a child or young person. It also protects the identity of people providing information about a child or young person at risk.
Section 27 of the Privacy and Personal Information Protection Act 1998 provides NSW Police with a general exemption to compliance for its law-enforcement functions. This enables the police and other law-enforcement agencies to provide information to others without the consent of the individual when investigating criminal activities including child abuse or sex offences. Agencies can also provide information to NSW Police without consent for law-enforcement purposes, including assisting with locating a missing person.

Where search warrants or subpoenas have been issued by a court, agencies must comply with the terms of the warrant or subpoena.

In addition to the Department of Community Services, only officers in the following agencies ('prescribed agencies' under the Act) can exchange information with the Department of Community Services without consent. They are:

- NSW Police
- a government department or a public authority
- a government school or a registered non-government school or a TAFE
- a public health organisation or a private hospital
- a private fostering agency or a private adoption agency
- agencies that provide residential child care centre or a child care service under the Act
- the Family Court of Australia
- Centrelink
- the Commonwealth Department of Immigration and Multicultural and Aboriginal Affairs
- any other organisations that have direct responsibility for, or supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, to children.

If you are unsure whether your agency is a prescribed agency, contact your legal services unit.

For more information about exemptions, contact the Privacy Contact Officer in your agency.

Useful websites about privacy law:

Information about NGOs and privacy can be found on Council of Social Service NSW (NCOSS) website at: http://www.ncoss.org.au.

### 4.2 INFORMATION SHARING IN SERVICE DELIVERY

Agencies involved in the day-to-day provision of services and support to children and young people will share information as part of the process of delivering effective results for an individual or family. Agencies should have the consent of the client before they share information in order to provide regular coordinated services, unless there is a serious and imminent threat to any person's health or safety. This can include circumstances where a report has been made about a child or young person, but where the Department of Community Services has not yet investigated the report or has closed the file. The sharing of that information should happen in accordance with prevailing program guidelines and policies.
4.3 INFORMATION-SEEKING POWERS OF THE DEPARTMENT OF COMMUNITY SERVICES

Section 248 of the Act gives the Department of Community Services (DoCS) the power to direct agencies to provide information about the safety, welfare and wellbeing of a child or young person, or a group of children and young people at any stage in a child protection intervention.

**Agencies are obliged** under the Act to provide information to the Department of Community Services about the safety, welfare and wellbeing of a child or young person, or a class of children and young people, to assist with investigations, assessments and the planning or delivery of care and support to children, young people and families.

A request for information made by the Department of Community Services must relate to a current or future concern for the safety, welfare or wellbeing of a child, young person or class of children or young people. This may include concerns about the current effects of past abuse on a child or young person, such as risk-taking and self-harming behaviour.

The Department of Community Services may request information on:

- a child or young person’s history, current circumstances and their views
- a parent or other family member
- other significant or relevant relationships that the child or young person may have
- the agency’s engagement with the child, young person and their family, including past support arrangements.

The Department of Community Services can only collect information that already exists. It cannot require an agency to collect new information, or to undertake a separate assessment and report.

When requesting information, the Department of Community Services will:

- explain how the request for information relates to safety, welfare and wellbeing and/or risk of harm for the child or young person
- identify the subject of the information request and (if it is not the child or young person) identify the subject’s relationship to the child or young person
- provide any particular identifying information so that agencies can be sure that they are talking about the same person
- provide a background to the request, including whether or not consent has been requested and where it has not, why the agency should not inform a child, young person or parent that the information has been requested (for example, safety concerns)
- advise of the time frame for providing the information, giving the agency a realistic time frame within which to report, unless the information is required for court proceedings where a more limited time frame may be required.

**NOTE** When requesting information from other agencies, DoCS will provide a sufficient level of detail to assist the agency to find the relevant information in an efficient manner. Wherever possible, the Department will indicate the time period for which the information is sought (e.g. for the last three years) and indicate the type of information sought.

**NOTE** Where information is provided under Section 248, any subsequent use of the information continues to be subject to confidentiality requirements, including those arising under Sections 29 and 254 of the Act.
4.4 PROVISION OF INFORMATION BY THE DEPARTMENT OF COMMUNITY SERVICES

In response to a request from another agency, the Department of Community Services (DoCS) is able to provide agencies with information about the safety, welfare and wellbeing of a child or young person, or a group of children or young people. This is a discretionary power and will only be exercised when it is considered necessary for the safety, welfare and wellbeing of a child or young person.

Only ‘prescribed’ agencies can make requests for information from the Department of Community Services.

The Department of Community Services can provide information to other ‘prescribed’ agencies when:

▸ that agency is providing a service under a case plan together with the Department of Community Services

▸ that agency has ongoing contact with the child or young person and their safety or wellbeing and the service outcomes would be compromised without that information. For example, to a school that is managing a student who is at risk or who poses a risk to others, or where there is proposed court action and the stress associated with that action may affect the child in other settings

▸ that agency needs assistance and/or advice to make decisions about future supports and service-delivery arrangements for the child, young person and their family. For example, the child or young person’s current living arrangements, or the role that the Department of Community Services has had in supporting them to date

▸ that agency discovers that an employee has been reported to the Department of Community Services on a child protection matter, and details of that report need to be given to the Ombudsman by the agency head

▸ that agency needs to determine (generally for the purposes of the agency’s investigation under Part 3A of the Ombudsman Act 1974) whether a person might pose a threat to a child or young person

▸ the police need to manage a child or young person for a short time until an appropriate person or agency can take responsibility for assisting them.

Provision of information by the Department of Community Services is restricted by the following considerations:

▸ provision of information must be approved by the Department of Community Services’ Manager Casework or Helpline Team Leader or approved delegate

▸ the release of information will be limited to information of relevance and importance, determined at the discretion of the Department. For instance, information about a person/people receiving services under other programs managed by the Department and where there is no current child protection issue will not be provided

▸ information on third parties that does not relate to the request for information will not be provided

▸ identifying information about a person who has made a risk of harm report will not be provided

▸ the Department of Community Services cannot provide documents, other than to the Ombudsman:
  ▸ that legally belong to other agencies, for example Children’s Court Clinic Assessment Reports
  ▸ where it has an agreement with another agency not to release, for example, records from NSW Health
  ▸ which may be subject to legal privilege, for example, legal advice.

**NOTE** DoCS will provide an agency with relevant information to assist that agency in its decision-making.
4.5 HOW THE DEPARTMENT OF COMMUNITY SERVICES WILL EXCHANGE INFORMATION

Information may be requested or provided:

- **In writing:** The Department of Community Services has detailed internal processes to manage information requests, and will use standard forms and letters to communicate with agencies, citing the relevant sections of the Act that might apply to the sharing of information in particular cases. A separate form or letter will be used to request information for each person.

- **Over the phone, or in person:** In some cases, the information may be requested or provided verbally, usually when there is an established local working arrangement between officers in the Department of Community Services and other agencies, and contact officers are clearly identified. Where information is exchanged verbally, each agency will ensure that there is a record kept of the details of the exchange.

4.6 OTHER AGENCIES RESPONDING TO AN INFORMATION REQUEST

Agencies receiving the request for information take responsibility for identifying which parts of their system may hold the information relevant to the request. They are responsible for identifying information that may assist the requesting agency in determining the risk to a child or young person.

The provision of any information must be approved by a suitably delegated officer in the agency.

- **Refer** Check your agency’s policies on the mechanisms for providing information, including providing information verbally.

- **Refer** Check your agency delegations to determine who can approve the release of information.

4.7 INFORMATION FOR COURT PROCEEDINGS

When child protection matters proceed to the Children’s Court, the following information collection arrangements will apply:

- if information is sought by the Department of Community Services from another agency expressly for use in a matter before the Children’s Court, the Department of Community Services will inform that agency of the legal proceedings and obtain consent for the release of the information under appropriate delegations. Consent to attach that information to any affidavit will also be sought from the agency.

- the Department of Community Services will issue a subpoena when any documents from another agency, such as a report or a file, need to be produced for the purpose of Court proceedings.

Where criminal proceedings have been initiated, agencies should be mindful that if the prosecution relies upon information contained in agency records, there is an obligation on the prosecution to disclose to the defence the existence of that information. In practice, this can mean that a record of an interview or an assessment report is potentially available to the accused through their legal representative. Issues of this nature that arise in a specific case should be discussed with the Office of the Director of Public Prosecutions or the police prosecutor with responsibility for that case.

- **Note** When the Department of Community Services has obtained information under Section 248, it may be disclosed for the purpose of legal proceedings arising out of the Act, but only with the knowledge and consent of the supplying prescribed agency. This provides the agency with a chance to object to the production of the material (in part or entirely) by the Department, and for the agency to be assured that it has responded accurately and completely before information is supplied to the Court.
4.8 OTHER INFORMATION EXCHANGE ARRANGEMENTS

In addition to the Department of Community Services, there are other agencies that can direct that information be provided about individuals or classes of persons. The circumstances where that exchange can occur are as follows:

1. The Children’s Guardian has the power to direct the Department of Community Services, designated agencies and authorised carers to provide information relating to the safety, welfare and wellbeing of a particular child or young person or class of children or young persons.

2. The NSW Ombudsman can obtain information from agencies under the Ombudsman’s general powers related to proposed and current investigations.

3. The Commission for Children and Young People and other Approved Screening Agencies can request information when undertaking a Working with Children Check. That information can relate to relevant employment proceedings they have notified to the Commission. Information can also be sought by the Commission when estimating the risk to children posed by an applicant for a review of their prohibited status under the Child Protection (Prohibited Employment) Act 1998.

Agencies have a duty to comply with these requests.

These agencies may also release information about individuals and/or classes of persons to other agencies in certain circumstances:

4. Police can make a written request to government agencies for any information that is relevant to the assessment of the risk posed by a registrable person to the lives or sexual safety of children, under Section 16 of the Child Protection (Offenders Prohibition Orders) Act 2004. Agencies are obliged to provide this information unless it is subject to legal or other professional privilege.

Information cannot be provided under Section 248 of the Act to any agency for the purposes of screening employees or prospective employees. Information is not sought from Department of Community Services about the safety, welfare and wellbeing of a child or children as part of a Working with Children Check background check. Employment screening is not part of the administration and execution of the care legislation.

Further information on information exchange arrangements with the Children’s Guardian is available at Section 185 of the Act.


Chapter 5

Criminal proceedings

Criminal prosecution or appropriate disciplinary action that protects children and young people from their abusers are important parts of the child protection system. Access to mandated treatment and community supervision is dependent on successful outcomes in the criminal justice system. When a person is charged with an offence, even if it does not proceed to court, this action may enable agencies to commence other protective processes such as work-related disciplinary proceedings and risk assessments for child-related employment.

In addition to criminal prosecutions, proceedings might also be brought for other offences such as those pursuant to sections of the care legislation. It is usually the responsibility of either the NSW Police or the Department of Community Services to commence proceedings for breach of offences under this legislation. Where either the Department of Community Services or the police undertakes prosecutions of offences under the Act, each will communicate this to the other.

In relation to the prosecution of offences under the Crimes Act 1900, either the NSW Police or the Office of the Director of Public Prosecutions may be involved, but not the Department of Community Services.

**5.1 ISSUES TO CONSIDER**

It is the responsibility of whoever is bringing the prosecution to decide whether there is sufficient evidence to proceed with charges against offenders, and to make an assessment about the emotional and cognitive competency of a child or young person to give evidence in any criminal proceedings and to determine the likelihood of a successful prosecution. In making that determination, consideration will be given to matters including evaluating prospective witnesses in terms of perceived honesty, credibility and ability to handle the rigours of the court process.

When criminal charges in relation to child sexual assault or serious offences of violence against children are being considered, police may make a written request for legal advice to the Office of the Director of Public Prosecutions. The request may be made in relation to such issues as the sufficiency of evidence or the appropriateness of charges, or for advice during the course of an investigation as to the admissibility of evidence, or about evidence that is likely to be obtained, or the legal implications of alternative or proposed courses.

Participating in criminal proceedings has a significant impact on children and families. Families may have reservations about their child’s participation in criminal proceedings that need to be addressed.

NSW has established a *Charter of Victims’ Rights*, to protect and promote the rights of victims. The Charter obliges government agencies in the treatment of victims and the effective delivery of services to meet their needs, including the provision of information. Consistent with the Charter, children, young people and their caregivers need clear information in relation to the process of criminal prosecution and need to be consulted and informed as steps are taken. The Director of Public Prosecutions, under the Charter, must provide children and their carers with clear information in relation to the criminal prosecution. Any alleged breaches of the Charter may be referred to the Victims of Crime Bureau.

Families should not feel they have the responsibility for making decisions about whether an alleged offender is charged, or be expected to make decisions in the early days following discovery of abuse. In fact, police make the decision about whether or not to charge an alleged offender, with one of their considerations, although not the only one, being whether the family is willing to proceed.

Practitioners and agencies need to be responsive to the dilemmas faced by families going through criminal prosecutions and work with children, young people and families to:

- reduce uncertainty by providing as much information as possible about court processes and procedures, including dates and the purpose of proceedings
- increase support and practical assistance
- acknowledge the reality of their distress.

If, in the process of criminal proceedings undertaken by the police or the Office of the Director of Public Prosecution, the Department of Community Services becomes aware that a report of harm or risk of harm to a child or young person has not been made in line with mandatory reporting requirements, the Department of Community Services will bring this to the attention of the relevant agency.

5.2 COORDINATING CRIMINAL PROCEEDINGS

After criminal charges have been laid in relation to sexual assault offences or other serious offences involving violence against children or young people, the police will forward a brief of evidence to the Office of the Director of Public Prosecutions. That Office will screen the brief and allocate it to a solicitor to prosecute, or instruct a Crown Prosecutor (a barrister) where necessary, based on the complexity and seriousness of the alleged offending.

At this stage, the Office of the Director of Public Prosecutions assumes responsibility for the conduct of the criminal proceedings.

Where charges do not involve child sexual assault offences or other indictable offences (matters involving serious violence against children or young people) and are to be heard in a Local Court or District Court, the police or the Department of Community Services (as the case may be) retain responsibility for the prosecution. The officer in charge of the case assumes responsibility for coordinating criminal proceedings and keeping everyone informed of progress. Where the police or the Department of Community Services undertakes prosecutions of offences under the Act, each will communicate this to the other.

NOTE A coordinated interagency approach will reduce the trauma to a child victim during the court process. This is facilitated by having an appointed case manager from the Department of Community Services or from another agency – although in reality many matters proceeding through the criminal justice system do not have an allocated case manager. Changes of placement, outcomes of care proceedings or other significant changes in circumstances should be conveyed to the case manager, who should then inform the prosecutor of these developments. Attempted contact by the alleged offender or any pressure put on the child or young person not to give evidence should be notified promptly to the police or prosecutor, as well as to the case manager.

5.3 COMMUNICATING THROUGHOUT CRIMINAL PROCEEDINGS

During the progress of criminal proceedings, issues will arise that need to be communicated to those working with the child or their family. Where there is an allocated case manager, that person should advise the Office of the Director of Public Prosecutions of their role and how they can be contacted. For those situations where the accused person is in the care of the Minister or the Director-General, the Department of Community Services will provide additional support as needed.
It is the responsibility of the Office of the Director of Public Prosecutions or the police officer in charge of the case, when less serious charges are involved, to keep the case manager informed of changes as they occur. These include:

- dates of court listings, hearings, trial adjournments
- dates for the hearing of evidence from a victim
- bail applications, granting of bail and any conditions
- breaches of bail conditions
- progress of proceedings
- charges withdrawn by the Crown (‘no bill’ applications)
- findings or determinations of courts
- sentencing decisions
- appeals
- any other matter that arises which is relevant to the safety, welfare or wellbeing of the child or young person.

It is the responsibility of the case manager to ensure this information is conveyed to other relevant agencies involved with the child or young person and their parents or care givers and, if appropriate, adjustments made to the case plan in light of the new information.

5.4 VICTIMS’ SERVICES – COUNSELLING, SUPPORT AND COMPENSATION

A child or young person who has been abused or neglected may be receiving counselling from a NSW Health Sexual Assault Service, a Physical Abuse and Neglect of Children (PANOC) service, or from another counselling service such as a non-government service provider.

The Attorney General’s Department’s Victims’ Services provides services and entitlements to victims of crime under the *Victims Support and Rehabilitation Act 1996* and the *Victims Rights Act 1996*. Primary victims of violent crime, or an adult or child who witnesses a crime in NSW, may be eligible for approved counselling and/or victims’ compensation.

A convicted offender does not need to be identified for a victim to qualify for counselling or compensation, although the victim needs to be able to provide substantiation of the act of violence. The person with parental responsibility for the child victim should initiate the compensation claim. Where the Minister has parental responsibility for a child, the Department of Community Services initiates the compensation claim. An eligible victim can have a solicitor to assist them with compensation claims free of charge. Information about accessing victims’ compensation and approved counselling and other remedies for victims of crime can be obtained from the Victims Support Line, a 24-hour telephone information referral and support service.

**Victims’ Support Line – toll free 1800 633 063; or Sydney 9374 3000**

5.5 COURT PREPARATION FOR A CHILD OR YOUNG VICTIM

The *Charter of Victims’ Rights* requires that a child or young person who gives evidence in criminal proceedings be offered information to assist their understanding of the often demanding court process and procedures. An adult of the child’s choosing should also support them through the court process. This person may be any suitable person who is not a witness and who is available to assist the child or young person. The Office of the Director of Public Prosecutions should advise this court support person of the parameters of their role in relation to the victim.
Diagram 5.1: Police and court processes

**Complaint to police**
- Investigation (Police may consult the Office of the Director of Public Prosecutions)
  - Enough evidence to charge
    - Police arrest and charge the suspect:
      - Offender held in custody?
      - Police grant bail?
  - Not enough evidence to charge
    - Investigation suspended or finalised without charge
      - Apply for Victims’ Compensation?

**Appeal to District Court**

**Grounds for Apprehended Violence Order (AVO)**
- Police apply for interim AVO
- Interim AVO served on accused
- Final AVO needed?
  - AVO hearing
    - AVO granted by consent
    - Dismissed
    - Final AVO granted
  - Appeal?

**Appeal to Local Court**
- Commitment Proceedings - in Local Court
  - (either paper committal or committal hearing)
  - Not enough evidence for trial
    - Charges withdrawn?
    - Charges dismissed?
    - Police grant bail?
    - Accused free?
    - Apply for Victims’ Compensation?
  - Enough evidence for trial
    - Committed for trial at District Court
      - Not guilty plea
        - Selection of jury
          - Witnesses for the prosecution
          - Witnesses for the defence
        - Trial
        - Verdict
          - Guilty
            - Pre-sentence report?
            - Sentence hearing with witnesses?
            - Victim Impact Statement?
            - Imprisonment?
            - Periodic detention?
            - Community service?
            - Fine or bond?
            - Appeal to the Court of Criminal Appeal?
          - Not guilty
            - Appeal for Victims’ Compensation?
The Witness Assistance Service (WAS) is attached to the Office of the Director of Public Prosecutions. The Service works closely with other agencies to ensure children and their caregivers receive counselling and support. It provides some casework services to victims and other witnesses. Services include preparing the child and other witnesses to testify, court support and debriefing, assessment and referral to other services, and facilitating liaison between victims, witnesses and the prosecution lawyers. The role of court support person for a child is not necessarily undertaken by an officer employed by WAS.

The requirement for an interpreter should be considered well beforehand by the case manager or any other worker involved with the child or young person, as this service will need to be organised in advance of the court appearance of the child or young person. Even where a child or young person’s level of English proficiency seems adequate in normal day-to-day communications, it is worth noting that these skills may deteriorate under stress. The police should be informed of the language and dialect of the child or young person, parent or caregiver, to enable an appropriately skilled interpreter to be engaged.

The police should advise the Office of the Director of Public Prosecutions if a witness needs an interpreter, and it is the responsibility of the solicitor from the Office of the Director of Public Prosecutions to notify the court that an interpreter is needed. That Office holds the responsibility to arrange for interpreters in committals and in trials.

The police should also advise the Office of the Director of Public Prosecutions if the child or young person is Aboriginal. The identification of such children and accommodation of their needs is of particular importance, given the experience of Aboriginal families and communities with the legal system.

Additionally, the Office of the Director of Public Prosecutions needs to be advised by the police if a child or young person has any other special needs, such as related to a physical disability or to an intellectual or cognitive learning disability.

It is the responsibility of the Office of the Director of Public Prosecutions to ensure that a child or young person is appropriately prepared to appear as a witness. This should involve the prosecutor meeting with the child or young person and their caregivers well before the commencement of proceedings in order to assess the needs of the child or young person as a witness. If a NSW Health Sexual Assault Service or another counselling service is involved in the case, the prosecutor should liaise with that service and the case manager, if applicable, to discuss the child’s or the young person’s specific needs with regard to court preparation and support.

The prosecutor should at this meeting:

- assess the child’s or the young person’s competence to give evidence
- decide whether the child or young person’s pre-recorded statement will be presented as evidence in chief, if this record has been made
- form an appreciation of the child’s developmental level, including language and conceptual skills, their capacity to understand concepts of time and locality, and their capacity to concentrate
- form an appreciation of the child or young person’s level of anxiety in relation to the proceedings
- establish some trust and rapport with the child or young person
- liaise with the Witness Assistance Service.

**NOTE** Child sexual assault matters are referred early to the Witness Assistance Service to facilitate access to counselling, support and court preparation and support.

This contact, if involving very young children, may need to occur over several meetings. It will enable the prosecutor to decide what special arrangements should be sought from the court to facilitate the child giving evidence. There is now a presumption that children will have a right to:

- the presence of a supportive person while giving evidence
- give evidence in chief in the form of a recording, wholly or partly
- give all their evidence by closed circuit television (CCTV), or when CCTV facilities are not available, by alternative arrangements.
It must be made clear to the child, young person and relevant parents or caregivers that the court determines court arrangements for children’s testimony, and no promises can be given about particular arrangements. It should also be clarified to all relevant parties that, given the pressures on court lists, it is unlikely that the one prosecutor will remain with a matter from start to finish.


Evidence (Children) Act 1997; Evidence (Children) Regulations 2004; ODPP Prosecution Guidelines

All children or young person witnesses and the chosen supporting adult should attend a court preparation program.* NSW Health Sexual Assault Services conduct an accredited preparation program that has been developed taking into account all relevant law. Other agencies working with children and young people should facilitate their participation in such a program by providing transport for the child or young person and the supporting adult, or by meeting other reasonable requests of NSW Health Sexual Assault Services.

5.6 COURT DETERMINATIONS

The Office of the Director of Public Prosecutions is responsible for informing the child or young person and the parents, caregivers or guardian and the case manager, if available, of the outcome of criminal proceedings or any bargaining agreements reached with the defence. In cases conducted by a police prosecutor, they may delegate this task to the police officer in charge of the case.

When a final court outcome is reached, and where there is a current case manager, the manager should be given details of all orders made.

In cases where the Crown discontinues the prosecution and hence the charges are withdrawn (referred to as ‘no billed’), and for non-full time custodial sentences, the case manager, if appointed, should reconvene a case meeting to reconsider the safety of the child or young person and his or her ongoing care and support needs. Similarly, if there is a ‘not guilty’ finding, the case manager should reconvene a case meeting to address any protection needs of the child or young person.

Where the Department of Community Services has addressed the safety and risk concerns that were present at the initial report, they may no longer have an open case by the time the matter is heard in the criminal court. In such circumstances, where the Department of Community Services has closed the case and the discontinuance of the criminal court case or a not guilty verdict is the outcome, a case meeting to address any protection needs of the child or young person is not likely to be held unless there is a new risk of harm report.

Where a conviction has resulted and sentencing has occurred, the prosecutor should write to the case manager, if available, and advise of any relevant comments of the sentencing judge.

Learning of a final court determination can be difficult for the child or young person and for their caregivers. Past experiences and feelings can be rekindled and a sense of confusion and injustice may emerge if charges have been withdrawn or guilt has not been established. Support and counselling at this time is often required. It is for this reason that agencies involved in the provision of care and support services should be aware of the roles of their interagency colleagues, and ensure that dialogue occurs to meet the ongoing needs of the child or young person and their family.*
Chapter 6

Best practice principles in working with children and families

6.1 INTERVENING EARLY WITH CHILDREN, YOUNG PEOPLE AND FAMILIES

The abuse and neglect of children and young people can have detrimental and far-reaching consequences. Increasingly government and non-government agencies are expanding their focus to intervene earlier with families, to help prevent their problems from escalating.

The importance of early intervention programs is based on well-established evidence that the first years of a child’s life are crucial in setting the foundation for life-long health and learning behaviours. Early provision and coordination of services for children and their families assists parents to give their children a good start in life, and can reduce or avoid the need for protective action.

‘Early Intervention’ is the process of identifying and responding early to reduce the risk, or ameliorate the effect of less-than-optimal social and physical environments. One of the goals of early intervention with children and families is to prevent the development of more serious problems that require more intensive or specialist assistance later on.

The term ‘early intervention’ in a child protection context can be used in two ways. The first refers to intervention as soon as a problem is apparent, and the second is intervention early in a person’s life to ensure that they are supported in the most formative developmental years. Early intervention programs therefore operate across the full continuum of service supports. They include programs that focus on preventing the development of future problems, such as child abuse, emotional and behavioural problems, substance abuse and criminal behaviour, as well as programs that assist and promote the necessary conditions for a child’s healthy development.

Refer Appendix 7 for an overview of key prevention and early intervention programs operating in NSW.

The Act has a number of provisions that allow children and young people, as well as parents and any other persons in some restricted circumstances, to ask for assistance from the Department of Community Services before a problem becomes more serious:

- a child or young person may seek assistance from the Department of Community Services
- a parent of a child or young person may ask the Department of Community Services for assistance to obtain services that will enable the child or young person to remain in or return to the care of their family
- a parent, child or young person, or any other person may seek assistance from the Department of Community Services where there is a serious or persistent conflict between a child or young person and their parents; or in circumstances where the parents are unable to provide adequate supervision to such an extent that it places the child or young person in jeopardy. This is targeting those circumstances where children or young people and their parents experience a breakdown in their relationship.
6.2 ENGAGING FAMILIES

The majority of children, young people and families who come in contact with the child protection system do so involuntarily. This creates a challenge for practitioners seeking to establish rapport and a positive communication process. Practice can also be challenged by the personal views of practitioners, such as:

- a belief that engaging with the family condones inappropriate behaviour
- a belief that the practitioner will be betraying the family if the child or young person is subsequently removed from their care
- a belief that the family cannot understand or achieve what is expected
- biases, such as those arising from an individual’s cultural or religious background or upbringing.

The family may also be challenged by the process of engagement.* For instance, they may have:

- poor past experiences with a government agency or community service
- no previous experience with and possible fear of child protection practitioners
- a belief that no problem exists or a reluctance to face the current issues
- a belief that agency involvement is unnecessary
- difficulties in forming positive interpersonal relationships resulting from factors such as low self-esteem, depression or attention-seeking behaviours.

Engaging the family is critical to a successful assessment and intervention process, and is fundamental to promoting shared decision-making. Engagement refers to the development of a respectful, collaborative working relationship between a family and a practitioner. Engagement is an interactive process that begins with the first contact, and is fundamental to changing the conditions or patterns of behaviour that contributed to the risk of harm.17

It facilitates a two-way provision of information, improved communication, inclusive and participatory decision-making, and open and honest relationships. Engagement is further assisted by:

- listening actively
- being honest
- using language that is free of jargon and that is appropriate for the person’s abilities and understanding
- being inclusive of culture and considering any special needs of a family member˚
- taking a non-judgmental approach
- being positive and identifying strengths
- recognising that the time taken for people to engage will vary
- ensuring that interpreters are engaged if the person has difficulty with communication or if they request an interpreter.

Continued attention to the relationship between the practitioner and the family is essential. The safety of children must never be compromised for the sake of the quality of a relationship between a practitioner and the parents or caregivers.

*PRACTICE POINT
Resistance may be expressed by being aggressive, blaming or denying the existence of problems or by agreeing to do something but not following through with the action.

˚PRACTICE POINT
Where it is known that there are special issues relating to the child, young person or their parents or carers, such as Aboriginality, culture or a disability, assistance may need to be sought from an organisation with special expertise as early as possible.

6.3 ENGAGING CHILDREN AND YOUNG PEOPLE

A consistent theme of child death reviews in the context of child protection, both nationally and internationally, has been the failure to engage children and young people in the process of assessment, planning and intervention.*

Practitioners’ engagement with children and young people is an integral part of everyday child protection practice, and the onus is on the practitioner to fashion an environment that will facilitate rapport-building with the child. Additionally, it is critical that contact with the child is not always driven by the practitioner's need for information, but recognises that children and young people sometimes need to lead discussions, thus improving the likelihood that their needs are also heard.

In general, a caring, non-judgmental attitude encourages engagement with children and young people:

- listen to what they have to say without interrupting or criticising
- listen to what they want
- take their fears and concerns seriously
- be available and reliable
- let them know that you are there to provide assistance
- recognise and encourage their strengths
- provide them with information, and be vigilant to how you can facilitate their involvement

A range of communication methods can be used to maintain ongoing contact with a child or young person. For example, writing emails, posting letters, or sending SMS text messages can support the usual forms of direct meetings. Special occasion meetings or venues can also be considered where appropriate, such as at the local park, providing that appropriate permissions are sought. For children and young people from backgrounds that are culturally, linguistically and religiously diverse, the use of accredited interpreters is advised.

6.4 ENGAGING ABORIGINAL PEOPLE

The Act makes special provision in relation to statutory services for Aboriginal children and families. These are:

1. Early confirmation of whether a child or young person subject of a risk of harm report is Aboriginal. The Department of Community Services is to make reasonable enquiries to establish this. Such information is important for the purpose of providing culturally appropriate referrals, interventions and services.

2. An emphasis on self-determination for Aboriginal people, requiring the development of strategies at a program level to encourage and promote self-determination.

3. The provision of opportunities for participation in decision-making is highlighted for Aboriginal families, communities and organisations. This relates to any significant decisions that are to be made about an individual child who is Aboriginal in the context of child protection, including the decision to remove a child or young person from the care of the parent or caregiver.

An understanding of the historical and sociocultural factors that have shaped parenting practices in Aboriginal societies is a critical aspect of working with Aboriginal families and communities. Historically, Aboriginal people have been subject to government policies that resulted in dispossession of their land and the removal of children from families and communities. This has invariably led to a loss of traditional relationships, cultural identity, kinship ties, Aboriginal law and parenting capacity.
The *Bringing Them Home* report noted that:

Aboriginal children have been forcibly removed from their families and communities since the very first days of the European occupation of Australia. In that time, not one Aboriginal family has escaped the effects. Most families have been affected in one or more generations by the removal of one or more children. Nationally, the Inquiry concluded that between one in three and one in ten Aboriginal children were forcibly removed from their families and communities between 1910 and 1970.18

It is increasingly recognised that the historical impact of colonialism and cultural disconnection has had an indelible impact on Aboriginal people. The loss of land, culture, roles and kinship are experienced as current losses that still require mourning. According to the National Chairperson of the Secretariat of National Aboriginal and Islander Child Care (SNAICC), ‘it is important not to dismiss these losses as simply belonging to the past but acknowledge how important these losses are for Aboriginal people today.’19

Child protection interventions remain higher for Aboriginal children – an indication that Aboriginal families continue to experience significant disadvantage. Data from the Australian Institute of Health and Welfare indicate that Aboriginal children are subject to orders of the Children’s Court at a rate of nearly 8.5 times higher than other children.

The following causes are identified as contributing to the over-representation of Aboriginal children and young people in the child protection system today. Their influence needs to be viewed as part of a complex historical picture of disadvantage and oppression:

- the effects of institutionalisation and removal policies – such as the intergenerational impact of previous separations of children from family and culture
- breakdown of community kinship systems
- entrenched poverty
- poor socioeconomic status (housing, education and unemployment)
- differences in child rearing practices
- alcohol and other drug misuse
- high incidence of domestic violence
- in some communities, the high incidence of child sexual abuse.

Recognition of the historical impacts does not override the need to report and respond to child protection concerns in Aboriginal families and communities.

Two Ways Together, the NSW Aboriginal Affairs Plan 2003–2012, provides the policy framework for interagency work on Aboriginal affairs.

Further information is available online from the Department of Aboriginal Affairs website:


To facilitate engagement with Aboriginal people, it is necessary for practitioners to have an understanding of:

- the historical influences on individuals and communities that have led to a mistrust of welfare authorities and other institutions
- the different family structures and how these influence decision-making – for example, decision-making is often based on a consensus of extended family and kin views rather than on the opinion of key individuals
- the time that it takes to build trust and respect


- the nature of competing and complex community responsibilities and priorities and how these might affect service accessibility
- the subtle communication styles that can influence outcomes
- the value of consulting with specialist Aboriginal staff in your own agency for cultural guidance.

At a local or regional level, it is important to understand that there are different protocols and styles of engagement for different Aboriginal communities. There are more than 500 different Aboriginal cultures across Australia, all with distinct histories and language. While broad similarities exist, it is inaccurate to have a generic ‘one size’ interpretation of Aboriginal culture.

This diversity highlights the importance of cultural awareness training that is locality-specific. Each Aboriginal community usually has its own protocols, which provide guidance on standards of behaviour, respect and knowledge that need to be acknowledged and taken into consideration.*

Refer Appendix 4, ‘A guide to developing a protocol between local Aboriginal organisations’
Refer Appendix 5, Aboriginal tribal/language groups in Australia, provides a map of the Aboriginal tribal/language groups across NSW.

6.5 Engaging People from Backgrounds of Cultural, Linguistic and Religious Diversity*

Additional stress and opportunities for miscommunication are likely when children, young people and families have:
- little or no English language skills
- differing cultural and religious values about revealing personal information
- a different understanding of what is good parenting and/or a different understanding of the nature of harm to children
- different perceptions and experiences of the role of government and its intervention, especially where experiences from their country of origin may have included abuse of power, torture, trauma and victimisation.

When working with clients from backgrounds of cultural, linguistic and religious diversity, it is important that practitioners have an awareness and sensitivity for the culture and religion of the family with whom they are working. It is also important to recognise the particular difficulty faced by persons under stress whose first language is not English.

If a person does not speak or read English at a more than functional level, practitioners have a duty of care to ensure that an accredited interpreter is engaged and, where required, translated material is provided.

With the exception of interpreting basic information such as an address, telephone number or appointment time, it is not appropriate to use friends, relatives or children of clients as interpreters, because:
- failure to ensure clear communication is a failure of duty of care that may lead to poor outcomes for the clients and liability to the service provider, particularly where a court or other legal process is involved
- it places undue stress on children and may create reversal of roles within families or other unhelpful or damaging dynamics within the family
- children, relatives and friends may have an investment in particular outcomes. For example, these may relate to their views rather than the issue of the child’s need for safety, and such views may filter or distort the message the practitioner needs to share with the client, based on their own perceptions
- their English proficiency or their first language proficiency may be inadequate.
Deaf people are also officially recognised as one of Australia’s linguistic and cultural minority groups. Where an individual uses Australian Sign Language (ASLAN) as their primary communication it is important to use professional interpreters accredited by National Accreditation Authority for Translators and Interpreters (NAATI).

**NOTE** When engaging people from culturally and linguistically diverse backgrounds, wherever possible staff should seek a NAATI-accredited interpreter. A support person should not be used to interpret unless NAATI-accredited.

Telephone interpreters are available through the Translating and Interpreting Service (TIS), and can be accessed nationwide 24 hours a day, 7 days per week on 131 450.

On-site interpreters are available through the Language Services Division of the Community Relations Commission 24 hours a day, 7 days per week on 1300 651 500. This service is offered primarily on a user-pays basis, with exemptions provided on a needs basis.

### 6.6 ENGAGING PEOPLE WHO HAVE A DISABILITY

Disabilities in a child, young person or their parent or caregiver can include serious emotional disturbance, developmental disabilities that affect cognitive capacity, psychiatric disabilities, serious medical disabilities, serious physical disabilities or perceptual disabilities.

Intellectual disability may affect a person in the following ways:

- the person may take longer to learn things and absorb information
- the person may have difficulty in reading and writing
- the person may have difficulty understanding questions, abstract concepts or instructions
- the person may have difficulty with numbers and other measures such as money, time and dates
- it can affect how the person talks
- the person may find communication over the phone difficult
- the person may find it difficult to plan ahead
- the person may have difficulty expressing their needs
- the person may need education and training adapted to their level of understanding and development
- the person may be vulnerable to suggestion
- the person may give a false impression of understanding
- the person might find it difficult to adapt to new environments and situations.

**REFER** For additional information on supporting people who have a disability, refer to http://www.dadhc.nsw.gov.au/dadhc/people.

Engaging with parents, children and young people who have an intellectual disability necessitates the use of appropriate language concepts and communication strategies. Every effort needs to be made to maximise opportunities for people to communicate for themselves. Aids such as the use of communication boards and books, symbols, photographs, or the like could be considered as appropriate.

The presence of a support person or advocate will assist many people with disabilities to participate more effectively in discussions and decisions that affect them. This could include the use of advocates or advocacy programs in the case of broader service planning. When using advocates, it is important to ensure the advocate is qualified to undertake the task.

**REFER** Sections 9, 36 and 202 of the *Children and Young Persons (Care and Protection) Act 1998*

6.7 FACILITATING REFERRALS

Many agencies will, at some time, be engaged in the practice of assessing the need of a child, young person or family, determining a suitable service to meet this need, and then negotiating a referral with the identified agency.

Referral is a key activity in child protection work, and one that requires reliable communication and good coordination between staff from different agencies.

Refer There are a number of human services resource directories that can assist in the identification of services for children, young people and families. These are available online as follows:


The referral process has a direct correlation to child, young person and family outcomes, and an unsuccessful referral process can lead to several complications such as:

- the client's failure to attend or engage with the service
- the 'referred to' agency providing a service different to that intended by the 'referring' agency or to that which the child, young person or family actually needs
- the referring agency ceasing their involvement with the client prematurely on the assumption that the referral has led to the provision of the service.

Referrals are made at a range of points in the service relationship between the child, young person or their family, and the referring agency. Where an agency has little knowledge of a person (as in the case of a simple enquiry or telephone counselling service), the referral process is likely to be informal and communicated verbally, with that person's full consent for information exchange. There is also no obligation on any of the parties to follow up the referral.

At other times, the referring agency will already be engaged in a service relationship with the family or family member. This might be in the role of therapist, health care professional, counsellor or family support worker. In these situations, the referral usually occurs following assessment, and is made in response to an identified strategy to promote change, provide support, and reduce the level of risk to a child or young person.

The following activities are likely to ensure an effective referral process:

- agencies having clear and uncomplicated referral procedures; and an efficient response to the management of referral intakes
- practitioners making initial enquiries with the identified agency for the purpose of determining whether that agency can provide the required service, and whether the eligibility criteria are met
- practitioners involving the child, young person or the family in decision-making about service options – this could range from consulting with them about services to empowering them to directly negotiate the referral
- practitioners providing or arranging for a 'bridging' service to the child, young person or family in circumstances where there will be delays before the referral can be accepted by the preferred agency
- ensuring that client consent has been obtained prior to providing personal details about the child, young person or family to another agency
- as appropriate to the circumstances, ensuring that information critical to the safety, welfare and wellbeing of the child or young person is provided to the new agency, as well as information about 'worker safety' concerns
- where other agencies are involved with a family, communicating the new service changes and ensuring that the new agency is included in future case meetings.
NOTE As part of the referral process, particularly when parents are reluctant to face the current issues and/or minimise these, child protection concerns should be raised. This will provide an acknowledgment of the concerns to be addressed by the referral.

The referring agency could use a range of strategies to facilitate a successful engagement between the family and the ‘referred to’ agency. Active engagement strategies are those intended to increase the rate of ‘take up’ with the ‘referred to’ service. Some strategies to assist in engagement are included in the Table 6.1:

<table>
<thead>
<tr>
<th>By the referring agency</th>
<th>By the ‘referred to’ agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>▶ actively encouraging the family to attend</td>
<td>▶ making direct contact with the family within 48 hours of the referral</td>
</tr>
<tr>
<td>▶ openly discussing why the service can help</td>
<td>▶ maintaining frequent and regular contact with the family, especially during the first few months – phone, letter, and/or in person contacts</td>
</tr>
<tr>
<td>▶ expressing confidence in the service</td>
<td>▶ adopting an active and persistent follow-up approach when the family fails to keep an appointment or return a phone call (e.g. making direct contact efforts several times)</td>
</tr>
<tr>
<td>▶ identifying barriers to engaging with the service and considering strategies to mitigate these</td>
<td>▶ providing concrete assistance to ‘get to’ the initial appointments – can range from mapping the route from home to service, providing transport or covering costs of transport</td>
</tr>
<tr>
<td>▶ providing concrete assistance to ‘get to’ the initial appointments – can range from mapping the route from home to service, providing transport or covering costs of transport</td>
<td>▶ accompanying the client to the first contact with the referred to agency – as a support and/or to contribute to the information provided to the agency by the family themselves</td>
</tr>
</tbody>
</table>

For families receiving protective intervention due to a Department of Community Services determination that a child or young person is in need of care and protection, the engagement of other services and/or timely completion of treatment will typically be part of an agreed case plan. Failure to achieve the case plan goals can have serious and significant consequences, such as the removal of children and young people and their placement in out-of-home care. Active engagement strategies utilised by service providers can significantly encourage families to receive effective intervention.

6.7.1 MANAGING A ‘BEST ENDEAVOURS’ REQUEST

Section 17 of the Act provides for the Director-General of the Department of Community Services to request a service from a government department, or a non-government agency in receipt of government funding, to provide a service for a particular child, young person or their family. Coupled with this is the Section 18 requirement on the government agency to use its best endeavours to comply with any such request.*

The legislation also empowers the Children’s Court to request a service from a government department or agency or a funded non-government agency, to provide services that would facilitate restoration. Where the Court exercises Section 85 of the Act in relation to such a request, the government department or agency or the funded non-government agency are to use their ‘best endeavours’ to provide the service.

Best endeavours means to ‘make a genuine and considered effort’. While its intent is not to compel agencies to provide a service that is outside of their expertise or responsibility, Section 18 does provide a government department or agency with a legislative obligation to comply with the request for services.

Requests under Section 17 will not usually be made as a first-attempt referral. The prerequisite conditions are:

▶ the identified service or program is necessary for the child or young person’s safety, welfare and wellbeing

▶ the requested service or program is congruent with the agency mandate

*PRACTICE POINT
A section 18 obligation does not apply to non-government agencies, although many non-government agencies will operate in the spirit of this legislative provision.
the usual referral channels or referral procedures have not been successful. Such efforts may have been made directly by the family themselves or by an officer of the Department of Community Services.

The Department of Community Services will make a request for service, asking the government department or agency to use their best endeavours in cases where, following a risk assessment, it is decided that the child or young person is at risk of harm and may be in need of care and protection. These requests will most often be in the context of a case plan and therefore usually generated by the Community Services Centre.

In using best endeavours, government agencies should:

- have documented intake procedures for agencies, children, young people and families that prioritise those who are vulnerable
- consider risk of harm issues in prioritising the request for assistance
- manage services flexibly to deal with high demand so that children’s or young people’s safety, welfare or wellbeing is not compromised
- deliver accessible services
- use active attempts to engage families and assist families to make use of services offered.

Wherever requests for a service are made under Section 17 of the Act, the Department of Community Services will make such requests to an agency in writing.

Similarly, agencies are required to provide written advice of their response to a Section 17 request, such as providing information about the service or program that they considered for the family or family member; what they can actually provide, or alternatively, reasons for their inability to provide the required service.
Principles when working with children, young people and families

Extract from the Children and Young Persons (Care and Protection) Act 1998

Section 9 What principles are to be applied in the administration of this Act?

(a) In all actions and decisions made under this Act (whether by legal or administrative process) concerning a particular child or young person, the safety, welfare and wellbeing of the child or young person must be the paramount consideration. In particular, the safety, welfare and wellbeing of a child or young person who has been removed from his or her parents are paramount over the rights of the parents.

(b) Wherever a child or young person is able to form his or her own views on a matter concerning his or her safety, welfare and wellbeing, he or she must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child or young person and the circumstances.

(c) In all actions and decisions made under this Act (whether by legal or administrative process) that significantly affect a child or young person, account must be taken of the culture, disability, language, religion and sexuality of the child or young person and, if relevant, those with parental responsibility for the child or young person.

(d) In deciding what action it is necessary to take (whether by legal or administrative process) in order to protect a child or young person from harm, the course to be followed must be the least intrusive intervention in the life of the child or young person and his or her family that is consistent with the paramount concern to protect the child or young person from harm and promote the child’s or young person’s development.

(e) If a child or young person is temporarily or permanently deprived of his or her family environment, or cannot be allowed to remain in that environment in his or her own best interests, the child or young person is entitled to special protection and assistance from the State, and his or her name, identity, language, cultural and religious ties should, as far as possible, be preserved.

(f) If a child or young person is placed in out-of-home care, arrangements should be made, in a timely manner, to ensure the provision of a safe, nurturing, stable and secure environment, recognising the child or young person’s circumstances and that, the younger the age of the child, the greater the need for early decisions to be made in relation to a permanent placement.

(g) If a child or young person is placed in out-of-home care, the child or young person is entitled to a safe, nurturing, stable and secure environment. Unless it is contrary to his or her best interests, and taking into account the wishes of the child or young person, this will include the retention by the child or young person of relationships with people significant to the child or young person, including birth or adoptive parents, siblings, extended family, peers, family friends and community.
Section 10 The principle of participation

(1) To ensure that a child or young person is able to participate in decisions made under or pursuant to this Act that have a significant impact on his or her life, the Director-General is responsible for providing the child or young person with the following:

(a) adequate information, in a manner and language that he or she can understand, concerning the decisions to be made, the reasons for the Department’s intervention, the ways in which the child or young person can participate in decision-making and any relevant complaint mechanisms

(b) the opportunity to express his or her views freely, according to his or her abilities

(c) any assistance that is necessary for the child or young person to express those views

(d) information as to how his or her views will be recorded and taken into account

(e) information about the outcome of any decision concerning the child or young person and a full explanation of the reasons for the decision

(f) an opportunity to respond to a decision made under this Act concerning the child or young person.

(2) In the application of this principle, due regard must be had to the age and developmental capacity of the child or young person.

(3) Decisions that are likely to have a significant impact on the life of a child or young person include, but are not limited to, the following:

(a) plans for emergency or ongoing care, including placement

(b) the development of care plans concerning the child or young person

(c) Children’s Court applications concerning the child or young person

(d) reviews of care plans concerning the child or young person

(e) provision of counselling or treatment services

(f) contact with family or others connected with the child or young person.
APPENDIX 2

Roles, responsibilities, services and programs in NSW relevant to child protection

2.1 NSW GOVERNMENT HUMAN SERVICE AND JUSTICE AGENCIES

2.1.1 ATTORNEY GENERAL’S DEPARTMENT (AGD)

Role
The Attorney General’s Department assists the NSW Government, Judiciary, Parliament and the community to promote social harmony through programs that protect human rights and community standards, and reduce crime.

The Department plays a key role in the administration and development of a just and equitable legal system of courts, tribunals, laws and other mechanisms that further the principles of justice and contribute to the achievement of the goals of Government.

Responsibilities

▶ providing a safe place for children waiting at court and ensuring the availability of the relevant technology and facilities for children to give evidence (Evidence (Children) Act 1997)

▶ minimising delays for children waiting to give evidence by expediting hearings, giving matters involving children priority and ensuring children are not kept waiting at court to give evidence longer than necessary

▶ leading the development and implementation of evidence-based policies to prevent crime – including crimes against children and crimes committed by children

▶ monitoring the implementation of the Charter of Victims’ Rights by all NSW Government Agencies (Victims Rights Act 1996)

Specific departmental programs

▶ The Youth Drug and Alcohol Court (YDAC) – a specialist court that aims to reduce reoffending by young offenders through assisting them to overcome their drug or alcohol problem

▶ Intensive Court Supervision Pilot Program – operates in Bourke and Brewarrina and provides support for juvenile offenders

▶ Aboriginal Community Patrols program – staffed vehicles provide outreach support, transport and informal community surveillance

▶ Pathways to Prevention Project – an early intervention project funded by the Australian Government’s National Crime Prevention Program, and delivered in partnership between AGD and the Department of Education and Training
Victims’ Services provides the following services to victims and witnesses of crime under the 
Victims Support and Rehabilitation Act 1996 and Victims Rights Act 1996:

- Victims’ compensation – adult and child victims and witnesses of violent crimes can apply
  for compensation
- Approved Counselling Scheme – offers adult and child victims up to 20 hours free counselling
  by qualified counsellors. Children who have been abused or witnessed domestic violence and
  their non-offending parent can receive assistance through this scheme
- Victims’ Support Line – a statewide call centre that operates 24/7 and can be accessed toll-free
  on 1800 633 063 or 9374 3000 in metropolitan Sydney.

REFER Departmental website: http://www.lawlink.nsw.gov.au

2.1.2 DEPARTMENT OF AGEING, DISABILITY AND HOME CARE (DADHC)

Role

The Department of Ageing, Disability and Home Care provides a range of services for children and
young people with a disability and their families. Some of these services are targeted at the child or
young person with a disability, while others are targeted to families or carers. Each of these services
aims to assist the child or young person with a disability to live with their family and as a member
of their community.

Responsibilities

- promoting a safe environment for children and young people who receive services from
  the Department
- reporting children and young people suspected of being at risk of harm to Department of
  Community Services
- providing support services to families including case management, behaviour support and
  therapy, as well as early childhood services for 0 to six-year-olds
- assisting families to access mainstream and specialist services that enhance the development of
  the child or young person with a disability and promote the wellbeing of the family as a whole

REFER Departmental website: http://www.dadhc.nsw.gov.au

2.1.3 DEPARTMENT OF COMMUNITY SERVICES (DOCS)

Role

The Department of Community Services has lead responsibility for providing and coordinating a
response where intervention is necessary for the care and protection of children and young people.
The Department has wide-ranging statutory powers under the Act to carry out its role in protecting
children and young people from abuse and neglect.

The Department’s lead role does not detract from the joint responsibility of all relevant agencies to
protect children and young people who are at risk of harm and to work together to provide a
coordinated and comprehensive response.

Responsibilities

- responding to requests for assistance from children, young people and families
- receiving and assessing reports of children and young people at risk of harm
- planning, conducting and managing joint investigations of serious child sexual, physical abuse
  and extreme neglect reports with NSW Police, and NSW Health when medical examinations are
  needed
undertaking risk and needs assessments of the child or young person and the family to ensure their safety, welfare and wellbeing

determining if a child or young person is in need of care and protection

monitoring the child, young person and family in order to maintain a safe and secure environment

providing, arranging and requesting care and support services for children, young people and families, including homeless children and young people

providing, or negotiating with other agencies to provide, high quality out-of-home care and support services to children and young people

arranging mediation or other suitable intervention for children, young people and families where this will assist in problem-solving

gathering evidence and initiating care proceedings before the Children’s Court

developing, implementing and undertaking educational and preventative programs aimed at protecting children and young people

raising community awareness about the safety, welfare and wellbeing of children and young people

Services and Programs

Helpline (13 3627 for mandatory reporters, 132 111 for non-mandatory reporters) – a statewide 24/7 call centre staffed by departmental caseworkers to receive, document and undertake initial assessment of risk of harm reports from mandatory reporters and others in the community. The Helpline also provides an after-hours crisis team to respond to emergency after-hours call-outs in metropolitan Sydney

Domestic Violence Line (1800 656 463) – a toll-free statewide 24/7 counselling and referral call centre staffed by women

Child Protection Casework – located in more than 80 Community Services Centres, where child protection caseworkers undertake further assessment of reports transferred by the Helpline. Assessment involves addressing any immediate safety issues, determining the risk to the child, deciding what should be done to reduce that risk, such as history checks, telephone inquiries or a family visit

Joint Investigation Response Teams (JIRT) – comprise specially trained police and child protection caseworkers who conduct joint investigations when a risk of harm report involves a criminal act. The Department of Community Services’ role is to ensure that the child is safe from further harm, and assist in interviewing the child or young person

Allegations Against Employees Unit – manages and coordinates responses to allegations of reportable conduct against departmental employees

Strategy to Reduce Violence Against Women – this cross-agency strategy, hosted by the Department of Community Services, is a partnership with NSW Police, NSW Health, Attorney General’s Department, Department of Education and Training, and Office for Women. The Strategy’s Violence Against Women Specialist Unit promotes statewide initiatives to better protect women and their children from domestic and family violence

Out-of-Home Care – the Department provides, or helps arrange accommodation, care, and other forms of support for children and young people who have experienced significant harm or for some other reason cannot live at home. Services are provided for crisis, short, medium or extended periods, and sometimes permanently; and include foster care, relative and kinship care, and small residential services in the community. In addition, the Department:

- funds non-government organisations to provide accommodation and support services

- monitors and reviews placements, and assesses, trains, authorises and supports carers
supports children and young people in out-of-home care, and works with their families. Out-of-Home Care caseworkers provide and arrange mentoring, therapy, medical and dental care, youth development work, remedial teaching and respite care. Support services may also be engaged to work with birth families to assist them to regain care of their children.

provides specialist services for children and young people with high and complex needs. A small number of young people with challenging or self-harming behaviours receive specialist placement options, such as intensive foster care, residential care, semi-supported independent living. Intensive support service caseworkers support young people, and provide interventions, with psychologists, which assist to modify the young people’s behaviour.

- **Funded Services** – around 50 per cent of the Department of Community Services’ budget is provided via grants and subsidies to non-government organisations to fund individual and family support, community development, neighbourhood, community and youth centres, youth support and some child protection services, as well as services for Aboriginal people and those from culturally and linguistically diverse backgrounds. Funding programs include:
  - whole-of-government and multi-agency programs such as Families First; the Aboriginal Child, Youth and Family Strategy, which provides support to families, young people and children; and the Alcohol and Other Drugs Program, which assists individuals, families and communities affected by drug and alcohol misuse. Whole-of-government approaches assist in preventing child abuse and neglect by enhancing community capacity and resilience. Evidence suggests that strong and cohesive communities are more likely to look out for children and young people.
  - the Supported Accommodation Assistance Program (SAAP), which is a joint Commonwealth/State Program administered in NSW by the Department of Community Services. It provides accommodation and support to people who are homeless or at risk of being homeless, including young people and families, women and children escaping domestic violence.
  - Early Intervention Program – a voluntary program for families with young children encountering problems that affect their ability to care for their children.

Refer Departmental website: http://www.community.nsw.gov.au

### 2.1.4 DEPARTMENT OF CORRECTIVE SERVICES (DCS)

**Role**

The Department of Corrective Services manages offenders in custody (including young people held in Karing Juvenile Correctional Centre) and in the community. These include child-related offenders who have committed sexual, violent and other offences against children and young people. One role of the Department is to work with child-related offenders to reduce their risk of reoffending.

The Department also promotes contact between children and young people and their family and relatives in custody through visits, telephone, mail and special activity days in correctional centres. Some children may also live with their mothers in correctional centres until school age or participate in occasional care programs on weekends or during school holidays. The Department has a direct role in ensuring children and young people are safe while visiting or staying in correctional centres.

Child-related offenders are also supervised in the community by the Community Offender Services Probation and Parole Service. This involves case management of the offender including risk assessment and developing individual case plans and strategies to minimise risk of harm to the community, including children with whom the offender may have contact.

**Responsibilities**

- assessing risk, developing case management plans and providing a range of interventions for known child-related offenders, in accordance with the Department’s best practice in offender management.
• assessing the risk to children residing with offenders in custody or participating in occasional care programs offered at some correctional centres in accordance with Departmental policy and in consultation with the Department of Community Services
• assessing the risk to children and young people visiting known child-related offenders in custody
• assessing and managing the risk to children and young people posed by child-related offenders participating in external leave programs
• providing behavioural management and supervision, programs and services to known child-related offenders appropriate to their level of risk and need, and in accordance with the Department’s best practice in offender management and availability of programs
• ensuring juvenile inmates in custody, under 18 years of age, are safe from harm

Services and programs
• Victims’ Register – maintaining a victims’ register in accordance with the Charter of Victims’ Rights, and responding to requests from registered victims for information concerning an offender’s release from custody, escape or participation in external leave programs from a correctional centre

Departmental website: http://www.dcs.nsw.gov.au

2.1.5 DEPARTMENT OF EDUCATION AND TRAINING (DET)

Role

The role of the Department of Education and Training in child protection is to promote the safety, welfare and wellbeing of children and young people, whether they are students, apprentices or trainees in schools, colleges, workplaces or programs conducted by the Department or under the auspices of the Department. Departmental employees also recognise and report children and young people suspected to be at risk of harm.

The Department requires staff to participate in child protection training in:
• the Department’s child protection policy and procedures
• professional standards in relationships with students, trainees and apprentices
• the recognition and reporting of suspected risk of harm
• support strategies for students.

Departmental staff provide support that is responsive to the needs of students who are the subject of risk of harm reports, appropriate to staff roles. School counsellors and principals refer students to outside specialist support services, if needed. Community members in Departmental programs, such as tutors, mentors or voluntary helpers, are made aware of child protection policy and any other obligations relating to the specific activity in which they are involved.

Responsibilities
• protecting children and young people from risk of harm while they are in the Department’s care
• informing students, including apprentices and trainees, of their right to be protected from abuse, and of avenues for support if they have concerns about abuse
• providing child protection education to children and young people in schools and teaching protective strategies to children in preschool and child care centres
• ensuring that community members in its programs, such as tutors, community mentors or voluntary helpers, are aware of the Department’s policy on child protection, and any other obligations relating to the specific activity in which they are involved
Services and programs

- Curriculum – the formal and informal curriculum teaches communication skills, promotes societal values and norms, and develops skills and understandings about positive interpersonal relationships. Education settings provide opportunities for students to seek support from adults, if needed.

- Child protection education – a mandatory component of the key learning area Personal Development, Health and Physical Education is taught from Kindergarten to Year 10. It aims to teach students strategies for protecting themselves from abuse, assist them to seek help effectively, and to develop skills for positive, non-coercive relationships.

- Crossroads program – addresses personal and social issues, with a focus on relationships and drug use, is provided to all students in years 11 and 12 to prevent or reduce risk-taking behaviours.

- Targeted support programs for students experiencing difficulties include peer support, mentoring, homework centres and school uniform clothing pools.

- Schools as Community Centres, in collaboration with the Department of Community Services, NSW Health, the Department of Housing and the Department of Ageing, Disability and Home Care, provide opportunities for families to meet and receive support and information, including referrals to other services as required.

Refer Departmental website: http://www.det.nsw.edu.au

2.1.6 DEPARTMENT OF HOUSING (DOH)

Role

The Department of Housing provides housing assistance to low-income households in NSW through a range of programs, including social housing (public, Aboriginal and community housing), assistance to households to access or maintain private sector rental housing, home ownership assistance and services to homeless people. Assistance may range from long-term social housing to overnight accommodation.

To ensure that public housing assists those in greatest need, eligibility is being changed to concentrate on people who need support services to help them live independently, such as frail older people, people with a disability, homeless people and people under 20 years without family support, and those who have problems accessing suitable affordable housing in the private rental market, including families with children, aged pensioners and unemployed or very low-waged adults.

The key role of the Department of Housing in child protection is to recognise and report children and young people suspected of being at risk of harm to the Department of Community Services.

Responsibilities

- recognising and reporting children and young people suspected of being at risk of harm to the Department of Community Services.

- referring public tenant households that include children and young people to necessary support services when required.

- using best endeavours to provide housing assistance as required.

- seeking the advice of the Department of Community Services where an application for housing assistance is received from a young person less than 16 years of age.

- participating as an interagency partner in establishment and implementation of case plans where relevant.

- exchanging information as required under legislation in child protection cases.
Services and Programs

- Social Housing – this includes public housing directly managed by the NSW Department of Housing, and community housing, which is managed by providers such as housing associations and cooperatives. The Department of Housing also manages housing on behalf of the Aboriginal Housing Office in NSW. Priority public housing is provided to eligible households who have an urgent housing need that cannot be resolved in the private market.

- Private rental market assistance – a range of programs assists people to access and maintain housing in the private rental market. Rentstart offers assistance with a bond and in some cases rental arrears. Temporary or short-term accommodation can also be offered through this program. The Special Assistance Subsidy program provides rental subsidies to people with a disability or HIV/AIDS. In selected locations, the Department works with support service providers to ensure that tenants with complex needs can access private rental housing.

- Support Services for Department of Housing clients – Senior Client Service Officers Specialist provide information, referrals and liaise with service providers to assist public housing applicants and tenants with support needs achieve sustainable housing outcomes.

- Interagency partnerships – the Department of Housing participates in whole-of-government partnerships such as Families First. The Department has also developed partnerships including the Joint Guarantee of Service for People with Mental Health Problems and Disorders, and the Housing Accommodation and Support initiative with NSW Health, both focusing on delivery of housing and necessary support services to people with mental illness. The Department also leads the Partnership Against Homelessness, which is a network of government agencies working together to improve existing responses to homelessness.

- NSW Housing and Human Services Accord – A range of Department of Housing partnership initiatives are being consolidated through the Accord between the NSW Department of Housing and NSW Human Services Agencies. This aims to strengthen existing arrangements and to facilitate new partnerships, service guarantees and integrated delivery models for priority client groups. It also promotes cross-agency agreements that improve services for tenants of large social housing estates.

Refer: Departmental website: http://www.housing.nsw.gov.au

2.1.7 DEPARTMENT OF JUVENILE JUSTICE (DJJ)

Role

The Department of Juvenile Justice provides services to children and young people who have admitted, been found guilty of, or are subject to court proceedings for offences committed between the ages of 10 and 18 years. Young people may also be referred to a youth justice conference by the police or a court, or be non-offending participants in a conference. A court may order a child or young person to be supervised by the Department of Juvenile Justice, either in the community or in custody, or it may request the Department of Juvenile Justice to prepare a background report on them. The Department works with young people on community or custodial orders to reduce the risk or future offences.

In relation to child protection, the Department ensures that children and young people with whom the Department has contact are safe, whether in youth justice conferences or in Departmental community and detention settings. This work includes recognising and reporting risk of harm to the Department of Community Services, and assisting in the protection of children and young people who are suspected of risk of harm resulting from child abuse and/or neglect, whether they are participating in youth justice conferences, in the Department’s direct care, under the Department’s supervision, or are visitors.

Some of the Department’s clients have been convicted of violent or sexual offences against other children and young people, or are young parents who have abused or neglected their own children.

The Department requires that the organisations it funds and regulates observe their child protection responsibilities.
Responsibilities

- providing services to children and young people in custody or on conditional release who are convicted of offences against adults, offences related to child abuse or neglect, or who are the victims of child abuse or neglect
- providing offence-related services, including assessments, case planning and interventions, for children and young people in custody, conditional release or community orders. These children and young people include those who have committed sex or violent offences against children
- linking young offenders and victims participating in youth justice conferences to appropriate support and other relevant services
- maintaining the Victims’ Register

Services and programs

- Youth Justice Conferences – community-based negotiated responses to offending by children and young people, which involve all affected parties, and operate under the provisions of Part 5 of the Young Offenders Act 1997 as an alternative to formal court proceedings for the vast majority of offences committed by children and young people. Participants in youth justice conferences may disclose abuse or neglect to youth justice conference conveners
- Assessments and offence-focused case planning – conducted by Departmental staff for all young offenders in custody or under supervision, and a range of individual and group counselling and treatment interventions where required, including for those who have committed sex or violent offences against children. These services recognise that a significant proportion of these children and young people may themselves have been victims of abuse and/or neglect
- Victims’ Register – provides support and information to registered victims of juvenile crime (including child and sibling abuse) as outlined in the Charter of Victims’ Rights. Registered victims (or the parents of those victims under 18 years of age) have the right to be kept informed about a convicted juvenile detainee’s impending parole hearing, release, escape or eligibility for absence from custody. For certain serious young offenders, registered victims are also given the opportunity to make submissions to the Serious Young Offenders Review Panel and the Parole Authority

Refer Departmental website: http://www.djj.nsw.gov.au

2.1.8 NSW HEALTH

Role

A key role of NSW Health in child protection is to recognise and report children and young people who are suspected of being at risk of harm, and to provide crisis counselling, ongoing counselling and medical interventions for children and young people who have experienced abuse or neglect. NSW Health also provides a range of services in mental health, drug and alcohol assessment and treatment, and allied health services such as speech pathology, psychology/social work and occupational therapy services, a significant proportion of which aim to address the needs of vulnerable families with children.

Responsibilities

- providing required medical examinations and treatment and interventions, including developmental, psychosocial and psychiatric assessments for children and young people who have been or are suspected of having been physically, sexually or emotionally abused or neglected
- providing crisis and ongoing counselling and advocacy services for children and young people who have been sexually abused, their non-offending caregivers and siblings through Sexual Assault Services
- providing counselling for eligible (intra-familial) child sex offenders through the Pre-Trial Diversion of Offenders Program
- providing counselling (through NSW Health prescribed programs) for young people who have sexually abused and are not eligible for programs provided by the Department of Juvenile Justice, and for children under 10 years who exhibit sexualised behaviours or sexually abusive behaviour if they have been sexually abused and referral received to provide this service

- providing counselling for children and young people (who have been physically abused, emotionally abused or neglected) and their families through Physical Abuse and Neglect of Children (PANOC) services

- providing court preparation and support to children and young people whose abuse is the subject of criminal proceedings and also to their non-offending caregivers

- maintaining a victims register with the Mental Health Review Tribunal

- providing a range of health responses to children and young people, including mental health services, health screening and community health services

- providing mental health and drug and alcohol services to adults with children

- providing preventative programs, including early intervention services that aim to protect children and young people

**Services and programs**

Universal health services support healthy families to prevent problems from arising, and identify early signs of abuse and neglect. These services include:

- Early Childhood Health Services – provide support to families and a range of services relating to the health and development of infants and children aged 0 to five years, which are delivered in accordance with the principles of the NSW Families First program

- Community Health Centres – assess and manage developmental delay, emotional and behavioural problems for children and young people. Services may also include generalist counselling services and counselling to victims of domestic violence and adults experiencing other problems that may affect their ability to parent

- Youth Health Services – provide counselling, outreach and needle exchange services for young people between 12 and 24 years, also targeting young people who are homeless or at risk of becoming homeless

- Acute Health Services – staff in designated paediatric wards in many hospitals and other services identify children and young people at risk.

Health services play a role in secondary prevention by offering services that support children and young people to deal with common life difficulties, where they may be particularly vulnerable to abuse or neglect. These include:

- Integrated Perinatal and Infant Care (IPC) program – provides comprehensive psychosocial assessment and intervention for women during pregnancy, birth and the first weeks of life. Women who are pregnant and families with a young baby, with drug and alcohol issues, mental health issues, high psychosocial needs, as well as Aboriginal and adolescent women, are offered additional support. Maternity services provide timely and appropriate referral onto Child and Family Health services for early follow up of these families once they are discharged from hospital

- Child and Family Health Services – in line with the NSW Families First program, these services work with families identified as vulnerable to assess their needs and provide early intervention and referral as required. Additional home and clinic visits are provided by Child and Family Health nurses to promote parent-infant relationships and parenting skills, with the aim of supporting a safe and nurturing environment for the infant/child. These services are particularly aimed at the early years of life (0–2 years). These services coordinate with other government and non-government services to provide comprehensive care to vulnerable families
Family Care Centres – provide intensive intervention on a day-stay basis to people who are experiencing difficulties with their babies and young children, for problems that need longer appointments or a multidisciplinary focus. The issues can be related to infant feeding, lactation, sleep and settling, other infant care issues or maternal depression and/or other psychosocial factors etc.

Tresillian and Karitane – provide 24-hour residential care for families with children under three years when complex problems exist. Clients include parents, carers, families with mental health and child protection issues.

Children of Parents with a Mental Illness (COPMI) Network – a range of initiatives to identify children and young people whose parents have a mental illness and provide them with support programs.

NSW Refugee Health Service and NSW Service for the Treatment and Rehabilitation of Torture and Trauma Survivors (STARTTS) – a preventative role in child protection by protecting and promoting the health of refugees. Both services provide health assessments and education. STARTTS also provides counselling, therapy and community development to adults, children and young people.

Funding to non-government organisations for a range of child, youth and family services. These include partnership agreements for services such as the NEWPIN program which is auspiced through Burnside.

Adult Mental Health and Drug and Alcohol Services have a role where children and young people may be at risk as a result of their carer’s mental illness and/or substance abuse problems.

Specialist health services for when abuse or neglect has occurred include:

- Child and Adolescent Sexual Assault Counselling Services – providing medical examinations and treatment, crisis and ongoing counselling for children and young people who have been victims of sexual assault and their non-offending caregivers and siblings, as well as advocacy, court preparation and support.

- Physical Abuse and Neglect of Children (PANOC) – services, providing a range of therapeutic, counselling and casework services to children, young people and their families when physical abuse, emotional abuse, neglect or exposure to domestic violence has occurred in a family.

- Child Protection Units – located at Sydney Children’s Hospital (Randwick), Westmead Children’s Hospital and the John Hunter Children’s Hospital (Newcastle), providing a specialist response to children and young people who have experienced abuse and their families. Services provided include a 24-hour crisis counselling and medical service, specialist assessment, forensic medical assessment, ongoing therapeutic and counselling services, medical treatment, complex consultations and expert testimony in court.

- Child and Adolescent Mental Health Services – providing specialist assessment and treatment services for children and young people with developing mental health problems or disorders. These services also assess and treat children and young people at risk of harm or who have experienced abuse and neglect.

- Program for Children who Exhibit Sexualised or Sexually Abusive Behaviours – Area Health Services work with children under the age of 10 who exhibit inappropriately sexualised or sexually abusive behaviour.

- New Street Adolescent Service – providing services to children and young people aged 10–17 years who have sexually abused other children and who are not eligible for programs provided by the Department of Juvenile Justice.

- NSW Pre-Trial Diversion of Offenders Program – treating adults who have sexually assaulted their own or their partner’s children. The goals of the program are the protection of children and young people and the prevention of further child sexual assault in families where this has occurred.
Education Centre Against Violence (ECAV) – which trains and resources NSW Health and interagency professions working with children, young people and adults who have experienced sexual assault, domestic violence, and/or physical and emotional abuse and neglect.

Refer: Departmental website: http://www.health.nsw.gov.au

2.1.9 NSW POLICE

Role

NSW Police and the Department of Community Services are designated statutory authorities responsible for the care and protection of children and young people, under the Act.

NSW Police identifies, reports and investigates child abuse and neglect. NSW Police initiates legal proceedings for child abuse and neglect offences under the Crimes Act 1900 and the Act.

NSW Police has powers to apply for Apprehended Violence Orders (AVOs) on behalf of children and young people under Section 562C(3) of the Crimes Act 1900, and for child protection prohibition orders that prohibit registrable persons who pose a risk to the lives or sexual safety of children from engaging in specified conduct under the Child Protection (Offenders Prohibition Orders) Act 2004. NSW Police assists with ensuring the safety and security of children and young people, their families and the workers in agencies involved in child protection intervention.

Responsibilities

- undertaking joint investigation with other agencies on reports that may be subject to criminal charges, such as child sexual abuse and serious child physical abuse, as defined in the Joint Investigation Response Teams (JIRT) policy and procedures manual, or extreme neglect
- informing relevant agencies of the progress and outcome of investigations and legal processes
- keeping children, young people and families informed about investigations and legal processes, as required by the Charter of Victims’ Rights, and making referrals to counselling and support services as required
- responding to information about abandoned children in cars or public places, and locating missing children or young people
- locating children and young people at risk who have run away from placement
- providing information to arrested persons on the Pre-Trial Diversion of Offenders (Child Sexual Assault) Program where relevant
- referring children and young people to emergency interim placement following accidents and disasters, and where the parent/carer has been hospitalised, arrested or is deceased

Services and programs

- Blue Light Unit – a partnership between NSW Police and local communities, to provide and encourage young people to participate in activities in an environment free from drugs, alcohol, intimidation and anti-social behaviour
- Schools Safety Response Unit – a joint initiative where NSW Police and Department of Education and Training work together to reduce crime in State schools, and increase the safety of children, young people and schools staff
- Aboriginal Community Liaison Officers (ACLOs) – ACLOs assist operational police to develop, implement and monitor programs that bring about positive outcomes between police and Aboriginal people
- Ethnic Community Liaison Officers (ECLOs) – ECLOs are unsworn officers who assist operational police to build closer relationships with local communities from diverse cultural and linguistic backgrounds
Community-based safety for children – NSW Police in partnership with other agencies undertakes a range of community education strategies to promote safety for children, including Walk Safely to School Day, Protective Behaviours and Road Safety Around Schools

Investigating child abuse and neglect

- Child Protection and Sex Crimes Squad – a NSW-wide specialist child protection service that includes Joint Investigation Response Teams. The Squad investigates serious crimes against children, and works closely with Local Area Commands to monitor high risk child sex offenders and combat internet-based child sexual exploitation
- Joint Investigation Response Teams (JIRTs) – a partnership between NSW Police, the Department of Community Services and NSW Health, with all referrals from the Department of Community Services’ Helpline. Specially trained police and Department of Community Services child protection caseworkers jointly investigate sexual abuse and serious physical abuse and neglect of children and young people
- Local Area Commands – investigate less serious physical, emotional abuse and neglect cases involving children and young people, and cases involving adults reporting abuse when they were children

Responding to risk of harm from domestic and family violence situations

- Domestic Violence Liaison Officers – support and monitor the police response to family and domestic violence, ensure protection orders are sought for victims including children and young people, monitor family and domestic violence-related ‘child at risk’ reports made to the Department of Community Services, and support JIRT Police in the application for apprehended violence orders through the courts

Reducing risk of harm from sexual or violent offenders against children

- Child Protection Registration Orders – offenders of certain sexual and violent offences must provide police with personal information, such as the details of any children with whom they reside or with whom they have regular unsupervised contact under the Child Protection (Offenders Registration) Act 2000

Diverting young people at risk of becoming juvenile offenders

- Youth Liaison Officers (YLOs) – work with young people, their families and community members to reduce and prevent crime, enhance positive relationships between young people and police, and promote a safer shared public environment. Through interventions under the Young Offenders Act 1997 and programs run locally, YLOs target the behaviour of young offenders to divert them from the criminal justice system or assist them in not reoffending. YLOs also identify those young people whose risk-taking behaviour, family situation or contact with police indicates they are at risk of becoming persistent offenders, and refer them to other services. YLOs also assist in reducing the contact between the justice system and young people of Aboriginal and culturally and linguistically diverse backgrounds
- Police and Community Youth Club Youth Program Officers – based in 57 Police and Community Youth Clubs across NSW – deliver programs and interventions for young offenders, young people at risk of offending, and youth crime hotspots. Programs are aimed at addressing risk factors and building protective factors and resilience in young people

Refer Departmental website: http://www.police.nsw.gov.au
2.1.10 NSW SPORT AND RECREATION

Role

NSW Sport and Recreation is part of the Department of the Arts, Sport and Recreation. The role of NSW Sport and Recreation in child protection is to promote the safety, welfare and wellbeing of children and young people by providing a safe environment for participation in sport and recreation activities they operate, and by assisting sport and recreation organisations to understand their child protection responsibilities. Agency employees also have a responsibility to report children and young people suspected of being at risk of harm.

Responsibilities

- creating safe environments for children and young people participating in sport by requiring all NSW Sport and Recreation employees to undergo training in:
  - child protection policy and procedures, including recognising and reporting suspected risk of harm
  - reportable conduct and the role of the CCYP and the NSW Ombudsman
  - national child protection competency (CHILD 1C) in the Community Services Training package, for identified positions
- assisting organisations the agency funds to adopt a proactive and consistent approach to the protection of children and young people
- delivering information and training seminars with supporting publications

Services

- Child Protection Information Line (1300 366 407) – responds to inquiries about child protection
- Web-based training – for coaches, administrators, parents and children on child protection, harassment and discrimination through the Play by the Rules website

http://www.playbytherules.net.au

Departmental website: http://www.dsr.nsw.gov.au

2.1.11 OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS (ODPP)

Role

The Office of the Director of Public Prosecutions’ main function is finalising charges in conjunction with police, and the prosecution of alleged offenders.

The child protection role of the Office is to advise investigators on the sufficiency of evidence available and the appropriateness of particular charges, and thereafter prosecute all criminal proceedings for child sexual assault offences in the Children’s, Local, District and Supreme Courts, as well as any appeals and related proceedings arising there from in the District, Supreme and High Courts. The Office also prosecutes serious child physical assault offences, which are dealt with on indictment.

Responsibilities

- screening cases to ensure that a prosecution proceeds where there is sufficient evidence and prosecution is required in the public interest
- prosecuting alleged offenders in all courts in New South Wales
- communicating effectively with and appropriately supporting victims of crime and witnesses before and during court appearances
- appearing in appeals and related proceedings in the District, Supreme and High Courts
- supporting children who are victims and witnesses, before and during court appearances, through priority access to the Witness Assistance Service
Services and programs

- Witness Assistance Service – provides information, referral to counselling and support services, court preparation and court support. Children who are victims and witnesses before and during court appearances are given priority access. Aboriginal victims and witnesses are supported by Aboriginal Witness Assistance Officers if required.

Refer The Office’s website: http://www.odpp.nsw.gov.au

2.2 COURTS

2.2.1 CHILDREN’S COURT

Role

The Children’s Court is responsible for hearing and determining the majority of applications for care orders relating to children and young people under the Children’s Court Act 1987.

Responsibilities

- identifying children at risk of harm in any proceedings before the court, and reporting these concerns to the Department of Community Services
- where an application is made to the Children’s Court alleging that a child or young person is in need of care and protection, the Children’s Court is responsible for:
  - ensuring that the best interests of the children and young people are its paramount consideration
  - ensuring that children and young people have the fullest opportunity to be heard and to participate in proceedings, taking into account their age and developmental capacity, including by appointing a legal representative for the child or young person
  - ensuring that Court processes are independent, impartial and fair to all concerned.


2.2.2 CHILDREN’S COURT CLINIC

Role

The Children’s Court Clinic prepares independent clinical assessment of a child, young person and/or an adult who seeks to have parental responsibility for the child or young person. Such assessments are independent, in the sense that the expert is not on the side of any of the parties to the proceedings.

Responsibilities

- providing expert clinical assessments of children, young people and their families involved in care proceedings, and reporting the findings to the Children’s Court for use as evidence in the proceedings
- providing training and information to the Children’s Court in respect of psycho-social/psychological issues that may arise in proceedings involving children and young people

2.2.3 FAMILY COURTS

Role

The term ‘Family Courts’ refers to the various courts in NSW that have jurisdiction under the federal Family Law Act 1975 to make orders relating to children – the Family Court of Australia, the Federal Magistrates Court and State Magistrates Court. Family Courts manage and adjudicate disputes between parents and others with parental responsibility for children and young people, including living arrangements, time spent in the company of, and communicating with parents, and other parenting issues. Family Courts also report risk of harm to the Department of Community Services.

Responsibilities

- ensuring that the best interests of the children or young people involved are the paramount consideration in any decisions about them. This includes the need to protect the child or young person from physical or psychological harm and any family violence involving the child or young person or any member of the child’s or young person’s family
- ensuring that court processes are independent, impartial and fair to all concerned
- identifying and reporting a child or young person suspected as being at risk of harm or actual harm to the Department of Community Services
- providing conciliation counselling and mediation to assist families to resolve their disputes without the need for a contested hearing in a manner that promotes the best interests of the children or young people involved

REFER Family Court website: http://www.familycourt.gov.au
REFER Federal Magistrates Court of Australia website: http://www.fmc.gov.au

2.2.4 LOCAL, DISTRICT AND SUPREME COURTS

Role

The role of the Local, District and Supreme Courts in child protection is to manage and adjudicate criminal proceedings when a person is charged with abusing, neglecting or otherwise harming a child or young person in violation of the criminal law. The District Court also hears, in its statutory care jurisdiction, appeals against decisions of the Children’s Court, and in these cases its functions are similar to those of the Children’s Court. The Supreme Court makes orders for the proper administration of justice.

Responsibilities

- ensuring that court processes are independent, impartial and fair both to persons charged with an offence and to the child or young person who is the alleged victim of the offence and may appear as a witness in the proceedings

REFER Attorney General’s Department website: http://www.lawlink.nsw.gov.au

2.2.5 CORONER’S COURT

Role

The role of the State Coroner in New South Wales in child protection is to ensure all child deaths or suspected child deaths that come under the Coroner’s jurisdiction are properly investigated. Where the law requires an inquest to be held, or in cases where the Coroner believes an inquest is necessary, a formal inquest hearing will be conducted.
Responsibilities

The death of a child:

(a) in care, or
(b) whose death may be due to abuse or neglect, or
(c) where a report of abuse was made in the past three years, or
(d) who was a sibling of a child in (a)–(c),

must be reported to either the State Coroner or a Deputy State Coroner, who examines each death to determine the manner and cause of death, and to decide whether an inquest is necessary. These deaths are also reviewable by the Ombudsman. The State Coroner is required to notify the Ombudsman of any reviewable death notified to the State Coroner no later than 30 days after receiving the notification.


2.3 INDEPENDENT OVERSIGHT AND SUPPORT AGENCIES

2.3.1 COMMISSION FOR CHILDREN AND YOUNG PEOPLE (CCYP)

Role

The role of the Commission for Children and Young People in child protection is to promote the safety, welfare and wellbeing of children and young people in NSW, particularly vulnerable children and young people. It also promotes children and young people’s participation in decisions that affect them, such as child protection casework decisions. The Commission is the lead agency for the Working With Children Check in NSW.

Responsibilities

- promoting participation of and young people in decisions that affect their lives, and encouraging government and non-government agencies to do the same
- promoting and monitoring the overall safety, welfare and wellbeing of and young people in the community
- making recommendations to government and non-government agencies on legislation, policies, practices and services affecting and young people
- promoting the provision of information and advice that assists and young people
- conducting, promoting and monitoring training, public awareness and research on issues affecting and young people
- monitoring and auditing compliance with screening for child related employment
- conducting Working With Children Check background checks for registered employers
- maintaining a database of relevant employment proceedings for the Working With Children Check
- encouraging organisations to develop their capacity to be safe and friendly for children
- administering the Child Sex Offender Counsellor Accreditation Scheme, a voluntary accreditation scheme for professionals who work with people who have committed sexual offences against children
- supporting the Child Death Review Team (CDRT) in the exercise of its functions
- recognising and reporting suspected risk of harm

Refer: Commission’s website: http://www.kids.nsw.gov.au
2.3.2 NSW OFFICE FOR CHILDREN – THE CHILDREN’S GUARDIAN (OCCG)

Role

The Children’s Guardian promotes the best interests of all children and young people in out-of-home care, and ensures their rights are safeguarded and promoted.

The Children’s Guardian accredits designated agencies, which are government and non-government organisations that provide, or arrange the provision of, out-of-home care services for children and young people.

The Children’s Guardian provides a Quality Improvement Program to assist organisations that provided out-of-home care services immediately before the accreditation system was established to meet accreditation standards.

The Children’s Guardian also accredits adoption service providers, and authorises the employment of children under 15 years of age in the entertainment industry, for door-to-door selling, or for exhibitions, or for still photography purposes.

Responsibilities

- promoting the best interests of all children and young people in out-of-home care
- ensuring the rights of all children and young people in out-of-home care are safeguarded and promoted
- accrediting designated agencies
- monitoring the responsibilities of designated agencies under the Act and regulations
- issuing directions to designated agencies for the review of permanency plans involving restoration
- preparing guidelines for the review of placements ordered by the Children’s Court
- authorising the employment of children under 15 years of age in the entertainment industry, for door-to-door selling, or for exhibitions, or for still photography purposes
- accrediting adoption service providers

Programs

- Accreditation Programs for designated agencies and adoption service providers
- Case File Audit Program for designated agencies
- Quality Improvement Program for transitionally accredited designated agencies

OCCG website: http://www.kidsguardian.nsw.gov.au

In April 2006, the NSW Government merged the Commission for Children and Young People and the Office of the Children’s Guardian and created the Office for Children. The Office for Children is in the portfolio of the Minister for Community Services and Minister for Youth. Under the new arrangements, the roles of the Children’s Guardian and the Commissioner for Children and Young People will continue.

2.3.3 NSW OMBUDSMAN

Role

The Ombudsman monitors and reviews the prevention of reportable conduct and handling of reportable allegations by employers of all government and certain non-government organisations in NSW. This is to ensure that children and young people receiving services are not exposed to employees who may harm them.
The Ombudsman also monitors and reviews the provision of community services provided by the Department of Community Services, the Department of Ageing, Disability and Home Care, and organisations that are funded, licensed or authorised by the Minister for Community Services, or the Minister for Ageing, Minister for Disability Services.

As the lead agency, the Ombudsman oversees employers’ handling of allegations against their employees that constitute sexual offences, sexual misconduct, assault, ill-treatment, neglect or behaviour that causes psychological harm to children and young people. The Ombudsman may also investigate an allegation or an agency’s handling of an allegation, if there are significant concerns about a situation.

**Responsibilities**

- ensuring designated government agencies, non-government agencies and other public authorities are aware of their reporting obligations under Part 3A of the **Ombudsman Act 1974**
- scrutinising the systems agencies have for preventing reportable conduct in relation to children and young people, and for responding to reportable allegations or convictions
- monitoring agency investigations into reportable allegations or convictions, and in some cases, conducting those investigations
- investigating complaints about inappropriate handling of reportable allegations concerning children and young people
- providing the agency with recommendations or suggestions for action at the conclusion of a direct investigation or after monitoring an investigation
- where necessary, disclosing information to a police officer, the Department of Community Services or any other public authority that the Ombudsman considers appropriate if the information relates to the safety, welfare or wellbeing of a particular child or young person (or a class of children or young persons)
- educating consumers of community services, including children and young people, of their right to complain about access to services or about unreasonable conduct in the provision of services
- reviewing complaints-handling systems within services or in program areas and making recommendations for improvements
- investigating and resolving oral and written complaints about access to and provision of community services
- reviewing the circumstances of children and young people in care, reporting to the relevant Minister, service provider and other appropriate persons on the results of the review, and making recommendations to improve the welfare of the person or group of people
- undertaking inquiries into major issues affecting children and young people as consumers of community services
- reviewing the deaths of certain children in care

**Services and Programs**

- Official Community Visitors scheme – official community visitors monitor the quality of out-of-home care services. The Ombudsman provides education and training for official community visitors about indicators of abuse and neglect and the procedures for reporting suspected risk of harm
- Reviewable Deaths – the Ombudsman reviews the deaths of children, or siblings of children, who were reported to the Department of Community Services within three years prior to their death, and the deaths of children in care which occurred in suspicious circumstances or were due to abuse or neglect. The Ombudsman analyses the causes and patterns of deaths and recommends ways to improve services to reduce early and preventable deaths

**Refer** Agency’s website: http://www.ombo.nsw.gov.au
2.4 LOCAL COUNCILS AND NON-GOVERNMENT ORGANISATIONS

2.4.1 LOCAL COUNCILS

Role

The 152 local councils in NSW are major providers of infrastructure, facilities and services, and have a key role in planning and regulating the built and natural environment, although the mix of services they provide for children and young people vary from between councils. Local councils can provide community welfare, cultural, health, and recreation facilities, services and activities, such as child care, youth centres and services, neighbourhood centres, public libraries (with children’s sections and toy libraries), galleries, museums, medical services, immunisation centres, health promotion programs, sports and recreation facilities and programs, including children’s playgrounds, swimming facilities and programs.

Responsibilities

- promoting a safe environment for children and young people who receive child-related services from councils by adhering to the following legislation, and associated guidelines and practices:
  - Ombudsman Act 1974
  - Commission for Children and Young People Act 1998
  - Children and Young Persons (Care and Protection) Act 1998
- promoting a safe environment for children and young people who receive other services from councils or use council facilities.

2.4.2 NON-GOVERNMENT ORGANISATIONS (NGOS)

Role

A range of non-government agencies provide services to children, young people and their families. The role of non-government organisations in child protection is to recognise and report suspected risk of harm. Paid staff who work with children and young people are required by law to report suspected risk of harm.

Some agencies provide services to children, young people and their families where abuse or neglect has occurred, including family support, crisis and ongoing counselling or therapy, child care, training, out-of-home care, residential care, and accommodation for homeless people and for women and children escaping domestic violence. Some other agencies provide more general services for the community as a whole.

Non-government organisations are autonomous bodies but frequently work collaboratively with government and other agencies when intervening with families. Most non-government organisations will support and work in accordance with the principles and practices established in the Guidelines.

Responsibilities

- informing children and young people of their rights to be protected from abuse or neglect, and of the avenues for support available to them
- providing care and support services to children, young people and their families
- promoting the safety, welfare and wellbeing of children and young people in their agency
providing services in a way that is accessible regardless of race, sex, age, pregnancy, marital status, disability, sexual preference, religion, philosophy, cultural background, transgender or HIV status, in accordance with the Anti-Discrimination Act 1977

ensuring that people who do not speak/read English well or at all have access to interpreters and translators if they need or request them

Services and programs

Key non-government services for children, young people and families include:

- Family services – provide prevention, early intervention and child protection work with the whole family, through respectful and trusting relationships with individual family members that prevent family breakdown. To further enhance and support families, family workers adopt a strengths focus, building on the existing skills of family members. Family services offer counselling, advocacy and referral, group activities (such as courses to develop skills in parenting, self-esteem, communication, building and maintaining relationships, play skills for parents and children, money management and household management), activities for children, self-help groups and information about resources available for families. Family services, which are autonomous bodies, are mostly funded by the Department of Community Services. They seek to develop a network of support, referral and self-help services with a preventative and educative emphasis. The services offered vary depending on geographic location, service capacity and their ‘fit’ with other specialist service providers in the local community

- Children’s services – provide early childhood development for children up to the age of 6 years in long day care, pre-school, occasional care and family day care, and before and after school care. Children’s services staff play an important role in recognising and reporting child abuse and neglect, and in promoting the safety, health and wellbeing of children. Services may also work directly with children who have suffered abuse or neglect. Many of these services receive funding from the Department of Community Services

- Disability services – provide a range of services for children and young people with a disability, and their families and carers including case management, behaviour support and therapy, as well as early childhood services for children 0 to six years old. In addition, families may access respite care (including in-home, host family and centre-based services), support and education groups, and counselling services. For young people, services may also include day program, training and employment support services. Disability advocacy services provide information, advice and support to children and young people with disabilities and their families to enable them to make informed decisions. They act to promote and protect the rights and interests of children and young people with disability and their families. Many of these services receive funding from the Department of Ageing, Disability and Home Care

- Out-of-home care services – are provided by accredited and licensed agencies for children and young people who cannot live at home, and include placement with family members, foster care, residential care and independent living arrangements. These services deliver a range of care, accommodation and support services to children and young people across NSW. Services include monitoring and reviewing placements, assessing, training, authorising and supporting carers, and providing residential care and adoption services. Many of these services receive funding from the Department of Community Services

- Services for homeless people – provide people who are homeless, or at risk of homelessness, with a range of interventions including outreach, counselling, case management, accommodation, advocacy and living skills development through the Supported Accommodation Assistance Program (SAAP). SAAP is Australia’s primary response to homelessness, and is jointly funded by the Australian Government and the state and territory governments. In New South Wales, SAAP is jointly funded by the NSW Department of Community Services and the Australian Government Department of Family and Community Services and Indigenous Affairs. People assisted include families, single adults, young people, and women and children affected by domestic violence. The key goals are to resolve crisis, re-establish family links where appropriate, and re-establish the capacity of clients to live independently
Youth services – offer children and young people support and run programs that reach out to vulnerable children and young people, such as drop-in centres, youth health services, specialist youth services, counselling and support, mediation in crisis intervention to assist in averting family breakdown, child and adolescent sexual assault counselling services, advocacy, outreach, street work, recreational activities and group work and activities. Many of these receive funds from the Department of Community Services and NSW Health.

2.4.3 NON-GOVERNMENT SCHOOLS

Role

The role of non-government schools in child protection is to protect children and young people from risk of harm, and to promote and safeguard the safety, welfare and wellbeing of children and young people. Principals or their nominees, teachers and other staff, are required to report suspected risk of harm from abuse and neglect to the Department of Community Services. Organisations with this responsibility include sectoral administrators, schools, colleges and other providers of education and training.

It is also the role of the non-government schools sector to provide appropriate preventative programs that aim to protect children and young people from abuse, assist them to seek help effectively, and to develop skills for positive, non-coercive relationships.

Responsibilities

- protecting children and young people attending non-government schools from risk of harm
- informing students that they have a right to be protected from abuse or neglect, and of the avenues for support available to them
- educating children and young people in schools and preschools about child abuse and neglect

2.5 RESPONSIBILITIES OF EMPLOYERS

2.5.1 RESPONSIBILITIES OF ALL EMPLOYERS

- notifying the Commission for Children and Young People of any employee against whom relevant employment proceedings have been completed since 3 July 1995
- providing appropriate information to Approved Screening Agencies, when it is requested, about employees who have been subject to relevant employment proceedings

2.5.2 RESPONSIBILITIES OF EMPLOYERS OF STAFF IN CHILD-RELATED EMPLOYMENT

Employers of people in child-related positions (as defined in the Commission for Children and Young People Act 1998) are required to:

- register with one of the following Approved Screening Agencies:
  - Catholic Commission for Employment Relations
  - Department of the Arts, Sport and Recreation
  - Department of Education and Training
  - NSW Commission for Children and Young People
  - NSW Health.
- obtain a Prohibited Employment Declaration from all preferred applicants for any child-related position. Prohibited persons must not be allowed to work in a child-related position.
ask preferred applicants for positions in paid child-related employment, or for positions as foster
carers or ministers of religion, to sign a Working With Children Check consent form
request a Working With Children Check from the Approved Screening Agency
decide whether to employ the applicant, taking into account the result of the Working With
Children Check, and any other relevant information
notify the Commission for Children and Young People of any person whose application is
rejected primarily because of an adverse Working With Children Check estimate of risk, and
advise the applicant

Check: http://www.kids.nsw.gov.au for information about Working With Children Check,
relevant employment proceedings and strategies for making organisations more child-safe and
child-friendly.

2.6 INVESTIGATIONS OF REPORTABLE ALLEGATIONS AGAINST EMPLOYEES

2.6.1 RESPONSIBILITIES OF DESIGNATED GOVERNMENT AND NON-GOVERNMENT
AGENCIES AND OTHER PUBLIC AUTHORITIES

notifying the Ombudsman within 30 days of any reportable allegations against employees
arising in the course of the person’s employment
reporting allegations, even if the head of the agency believes they are false, vexatious or
misconceived. The test for this notification is lower than that required for making a risk of harm
report to the Department of Community Services
investigating reportable allegations and convictions against their employees, and taking
appropriate action as a result of the investigation

2.6.2 RESPONSIBILITIES OF DESIGNATED GOVERNMENT AND NON-GOVERNMENT
ORGANISATIONS

reporting to the Ombudsman and investigating reportable allegations and convictions against
employees where the alleged incident occurred outside the person’s employment, are the
following designated government and non-government agencies:

Ambulance Service
Department of Ageing, Disability and Home Care
Department of the Arts, Sport and Recreation
Department of Community Services
Department of Corrective Services
Department of Education and Training
Department of Juvenile Justice
NSW Health (including Area Health Services)
non-government schools
child care centres, family day care centres, mobile children’s services and home-based
children’s services
designated agencies within the meaning of the *Children and Young Persons (Care and Protection) Act 1998* which provide substitute residential care

- statutory health corporations
- affiliated health organisations.

Appendix 3

Legislative grounds to report

Section 23  Child or young person at risk of harm

For the purposes of this Part and Part 3, a child or young person is at risk of harm if current concerns exist for the safety, welfare or wellbeing of the child or young person because of the presence of any one or more of the following circumstances:

(a) the child’s or young person’s basic physical or psychological needs are not being met or are at risk of not being met

(b) the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive necessary medical care

(c) the child or young person has been, or is at risk of being, physically or sexually abused or ill-treated

(d) the child or young person is living in a household where there have been incidents of domestic violence and, as a consequence, the child or young person is at risk of serious physical or psychological harm

(e) a parent or other caregiver has behaved in such a way towards the child or young person that the child or young person has suffered or is at risk of suffering serious psychological harm

Section 25  Prenatal reports

A person who has reasonable grounds to suspect, before the birth of a child, that the child may be at risk of harm after his or her birth may make a report.

Section 120 (1)  Homelessness of children

Any person may report the homelessness of a child to the Director-General.

Section 121  Homelessness of young people

Any person may, with the consent of the young person, report the homelessness of the young person to the Director-General.

Section 122  Mandatory reporting of child who lives away from home without parental permission

A person who provides residential accommodation for another person who the person believes, on reasonable grounds:

(a) is a child, and

(b) is living away from home without parental permission, must immediately inform the Director-General of the child’s whereabouts.
APPENDIX 4

A Guide to Developing a Protocol between local Aboriginal organisations and government/non-government partners

Preamble:

Where it is considered useful to assist in operationalising the NSW Interagency Guidelines for Child Protection Intervention, local protocols may be developed between Aboriginal community-based organisations and another service provider.

The development of a local protocol implicitly acknowledges the principles in the Children and Young Persons (Care and Protection) Act 1998 of Aboriginal people being enabled and offered opportunities to participate in the care and protection of their children and young persons with as much self-determination as possible.20

In the development of a protocol, the parties should be mindful of the diversity of Aboriginal and Torres Strait Islander people within NSW, and consider local cultural values and traditions when implementing a protocol.

Local protocols are generally developed to improve service provision and assist service providers by articulating the roles of partner agencies, giving recognition to the particular local context within which agencies work and describing the way in which the partner agencies will work together.

Local protocols may be considered for the purpose of facilitating clear communication between the agencies providing services, defining shared principles for service provision, respective roles, key local service-delivery issues, and establishing agreed processes for the delivery of services.

A local protocol should always be developed in partnership between all the stakeholders involved, including the target client. It should be tailored to reflect the local context and issues, and written in simple and concise language that is easy to follow and apply in practice. A key purpose of a protocol with an Aboriginal agency is to acknowledge the importance of local Aboriginal practices and processes and of consulting with Aboriginal communities.

Any protocol developed must align with any pre-existing service agreements. The protocol should be considered a working document that provides the context for service delivery, and should be reviewed regularly to ensure currency.

Protocols developed to assist in improving service responses for Aboriginal children and young people at risk of harm and their families should also be developed in alignment with principles and practices outlined in the NSW Interagency Guidelines for Child Protection Intervention.

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20 Section 11 (Aboriginal and Torres Strait Islander self-determination) and Section 12 (Aboriginal and Torres Strait Islander participation in decision-making) of the Children and Young Persons (Care and Protection) Act 1998.
The following steps should be considered in developing a protocol:

Step 1: The Negotiation Process

A preliminary meeting is needed to commence the negotiation process. This may be arranged by either the local Aboriginal organisation, or the local government/non-government agency to consider the following:

- For what purpose are we developing this protocol?
- What problems are we trying to address?
- Issues of contention contained in the Service Specifications, and if so, has a dispute resolution process been followed?
- What is the current context? (for example, issues faced by client group, need for clarification of roles and/or improved communication between the local Aboriginal organisation and a government agency/non-government organisation)
- What are the goals of the client group, local Aboriginal organisation and the government agency/non-government organisation?
- Is development of a protocol the best way to proceed, or could the issues be resolved via another method?
- Have we included the relevant people in this preliminary discussion?
- What are the time frames for producing the protocol and who will write it up?

Before proceeding to finalise the content of a protocol, the parties may need to reconsider various factors, such as:

- Have all the respective issues of concern been captured?
- Have the views of the relevant persons/stakeholders been considered?
- Whether this approach will be useful and serves the intended purpose?
- What other consultations may be useful before proceeding to finalise the protocol?
- Who is going to monitor compliance with the protocol?
- When will it be necessary to review the content of the protocol, and how will this be done?

The negotiation process is likely to involve a number of meetings and discussions, enabling each party to come to a better understanding the position of the other agency, as well as to clarify or revise their position. This process itself is a significant means for improving interagency practice by increasing shared understanding of individual agency remits and the goals of collaborative work.

Step 2: Content of the Protocol

Include as an overarching statement that any protocol should align with the *NSW Interagency Guidelines for Child Protection Intervention* and any pre-existing service agreements. Include the following headings, as relevant:

- **Purpose** – outline the purpose of the protocol in one paragraph in an introductory statement.
- **Service Description** (including service model description) – outline what type of service/s are provided.
- **Target Group** – be as specific as possible about who the protocol is intended to assist and who was consulted in its development.
- **Cultural Issues and Responses** – are there particular requirements that should be considered and included?

- **Admission/Referral Process** – clarify the expectations of each of the parties, for example, who can refer, can referrals be made by telephone, what is the minimum information required for an effective referral?

- **Geographical Service Coverage Area** – be specific about the extent of coverage and whether boundaries are defined or flexible.

- **Training** – is this an area that the parties will consider separately? What are the opportunities for shared training?

- **Code of Conduct and Ethics** – consider the general and/or agreed Code/s to which the parties can agree. For example: the parties may refer to their own agency codes, but each agency acknowledges and supports the other agency’s code.

- **Case Management Roles and Responsibilities** – clarify what the government agency/non-government organisation will do and what the local Aboriginal organisation will do.

- **Administrative Roles and Responsibilities** – again, specify the respective requirements for each party so these expectations are clear.

- **Occupational Health and Safety Issues (OH&S)** – each party is to consider the importance of OH&S, their relevant experience, and a proactive response to risk management.

**Step 3: Review of the Protocol**

The protocol should end with an agreement between the parties for the review of the document, stating the frequency of review and the date of the first review.

There should be space for dated signatures from all parties to formalise the protocol (for example: between the government/non-government organisation and the local Aboriginal organisation).

**Step 4: Communication**

An agreement will need to be reached about who will need to know about the protocol and how information about it will be communicated.
Diagram 3.3: Overview of child protection intake, investigation and assessment process

DoCS Helpline
Contact received and recorded

Initial assessment
Child not at risk of harm

Referred to CSC, JRT or local police
Belief child is at risk of harm

DoCS Community Services Centre

Review risk level

Secondary Assessment Stage 1 (eg phone contact, s.248)
Low/med risk – to Early Intervention Program

Further assessment needed

Secondary Assessment Stage 2 (family visit)
Child/young person assessed as in need of care and protection

Case work and ongoing intervention

DoCS & Other Agencies

Ongoing casework/monitoring, possibly court action and ODHC

Yes

Is an employee involved?
(And a reportable allegation)

No risk of harm/ not prioritised for allocation Close case

Not in need of care & protection/referral to other services Close case

No longer in need of care and protection/referral to other services Close case

Agency assessment and investigation re reportable allegation
- Agency ensures child is safe
- Agency reports to Police any allegation of criminal conduct (including neglect)
- Agency advises Ombudsman (within 30 days of the head of agency becoming aware of the allegation or conviction)
- Agency conducts investigation
- Agency acts on investigation
- Agency reports outcome of investigation to CCYP.

DoCS assessment and investigation
- Includes all or part of the risk of harm assessment framework
- Secondary assessment stage 2:
  - Liaison with interagency partners
  - Detailed assessment of child/young person and parents
  - Medical examination/issuing a Notice
  - Arranging for psychological and developmental assessment of child/young person/parents
  - Case planning
  - Temporary care arrangement
  - Removal of child/young person if ODHC placement required (may be with friends, relatives, extended family, kin, residential care or unrelated authorised carers)
  - Emergency or respite care if required
  - Court action (AVO, Children’s or Criminal Court).

Ombudsman monitors outcomes

JRT assessment and investigation
- Immediate planning for assessment and investigation
- Conducting assessment may include:
  - Medical examination/issuing a Notice
  - Child, young person and family assessment
  - Psychological and developmental assessment
  - Care giver assessment
- Conducting investigation
- Removal of child or young person.
- Charges for offences

No legal action
Close case

Court action, ongoing monitoring

Local Police
(Emergency)

Investigate non-specialist police matters, eg urgent safety concerns, breach of AVO

Service information provided to caller, and referral to other care and support

No further action

Guidelines-Chapter3.qxd  10/10/06  10:10 PM  Page 5
APPENDIX 5

Aboriginal tribal/language groups in Australia

This map indicates only the general location of larger groupings of people which may include smaller groups such as clans, dialects or individual languages in a group. Boundaries are not intended to be exact. The views expressed in this publication are those of the author and not those of Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS). For more information about the groups of people in a particular region contact the relevant land councils.

NOT SUITABLE FOR USE IN NATIVE TITLE AND OTHER LAND CLAIMS.
Aboriginal tribal/language groups in Australia
Appendix 6

The placement principles for Aboriginal and Torres Strait Islander children, young people and families

Extract from the Children and Young Persons (Care and Protection) Act 1998

Section 13 Aboriginal and Torres Strait Islander Children and Young Person Placement Principles

(1) The general order for placement

Subject to the objects in Section 8 and the principles in Section 9, an Aboriginal or Torres Strait Islander child or young person who needs to be placed in out-of-home care is to be placed with:

(a) a member of the child’s or young person’s extended family or kinship group, as recognised by the Aboriginal or Torres Strait Islander community to which the child or young person belongs, or

(b) if it is not practicable for the child or young person to be placed in accordance with paragraph (a) or it would not be in the best interests of the child or young person to be so placed – a member of the Aboriginal or Torres Strait Islander community to which the child or young person belongs, or

(c) if it is not practicable for the child or young person to be placed in accordance with paragraph (b) or it would not be in the best interests of the child or young person to be so placed – a member of some other Aboriginal or Torres Strait Islander family residing in the vicinity of the child’s or young person’s usual place of residence, or

(d) if it is not practicable for the child or young person to be placed in accordance with paragraph (a), (b) or (c) or it would be detrimental to the safety, welfare and wellbeing of the child or young person to be so placed – a suitable person approved by the Director-General after consultation with:

(i) members of the child’s or young person’s extended family or kinship group, as recognised by the Aboriginal or Torres Strait community to which the child or young person belongs, and

(ii) such Aboriginal or Torres Strait Islander organisations as are appropriate to the child or young person.

Refer Sections 11, 12 and 14 of the Children and Young Persons (Care and Protection) Act 1998 cover further principles in relation to Aboriginal and Torres Strait Islander people.
A broad range of early intervention services and programs are available across NSW. An overview of some of the main programs operating in NSW include:

1. **Families First Strategy**

Families First is the NSW Government’s whole-of-government prevention and early intervention strategy, which aims to improve the health and wellbeing of children aged 0 to eight years in NSW. It is built on principles that take a holistic view of families and acknowledges that families know what is best for their children. Families First recognises that all families need support to raise their children and that some families will need additional support for their particular needs. Families First aims to reorient the human service network towards principles of prevention and early intervention, using a strong research and evidence base.

The Families First strategy aims to provide a combination of universal and targeted services. Some services are known to be more effective when universally available, while others are known to be more effective when targeted towards particular sections of the community. The combination of these two approaches results in a coordinated program.

The Families First initiative is the responsibility of five government agencies in partnership with non-government organisations working collaboratively with families and communities. The aim of planning from a whole-of-government approach is to develop more responsive, coordinated services through existing service networks and links, and building on existing services through innovation and collaboration.

Families First aims to improve children’s health and wellbeing by:

- supporting parents who are expecting or caring for a new baby
- supporting parents who are caring for young children
- assisting families who need extra support
- building communities that support families
- improving the way agencies work together to make sure families get the services and support they need.

The service networks developed as part of the Families First planning process will generally reflect the different needs of each area. Although services may vary from area to area, they will all be grounded in the principles, aims and objectives of the Families First strategy. Some of the key service models utilised by Families First to support families include:

- **Family Worker Services** – involve skilled professionals working with a range of groups (such as teenage parents, fathers and Aboriginal parents) within local communities to provide support and assistance to parents in developing social networks, life and parenting skills

- **Schools as Community Centres** – are located in primary schools and provide a range of early childhood services and projects, including supported playgroups, parenting skills courses, breakfast clubs and transition-to-school projects. One of the main aims is to promote interagency collaboration in breaking down barriers to children successfully entering school

- **Supported Playgroups** – are facilitated by qualified workers and provide an informal way for parents to learn from each other, the facilitator and invited professionals about child development and play. The Supported Playgroup can be a point of access for parents in gaining information about services, issues and general parenting advice and support
Universal Health Home Visiting – all parents in NSW with a new baby are offered a visit from a child and family health nurse within the first few weeks of returning home from hospital.

Volunteer Home Visiting Services – involves volunteers visiting parents of newborn babies and toddlers in their home to provide practical advice and support. Volunteers also assist parents in linking up with services and supports within their local community.

The Families First strategy is the combined responsibility of five Government agencies, namely NSW Health and Area Health Services, the Department of Community Services, the Department of Education and Training, the Department of Housing, and the Department of Ageing, Disability and Home Care, together with non-government agencies funded to support families.

The Families First strategy is implemented by Regional Officer’s Groups, made up of Chief Executive Officers, Area Managers and Department Heads of Government Agencies in each area. Managers responsible for Regional Strategies from the Department of Community Services Communities Division coordinate the planning and implementation of the Strategy through these Groups, which are responsible for all the planning and budget for the Strategy in their region, in response to identified local needs.

Parents usually find out about services delivered under the Families First strategy at antenatal classes, from local early childhood nurses or from health centres. Each new mother is visited by a nurse who is part of the network and who might recommend other services. Families are also referred by other agencies or they may approach a service directly.

Families First website: http://www.familiesfirst.nsw.gov.au

Department of Community Services website: http://www.community.nsw.gov.au

Department of Community Services parenting website: http://www.parenting.nsw.gov.au

2. Aboriginal Maternal and Infant Health Strategy (AMIHS)

The goal of Aboriginal Maternal and Infant Health Strategy (AMIHS) is to improve the health of the Aboriginal mothers and their infants, and decrease Aboriginal perinatal death and illness across NSW. The AMIHS operates seven targeted antenatal/postnatal programs for Aboriginal women and infants across Greater Western, Hunter, New England and North Coast Area Health Services.

Information about this strategy is available online at: http://www.health.nsw.com.au.

3. Early childhood intervention services

Early childhood intervention programs provide support to young children who have developmental delays or disabilities, in order to promote the child’s development and inclusion in family and community life. Early childhood intervention programs can include therapy, education, health services, inclusion support in early childhood services, family support, and the provision of information and support for transition into school.

Information about early childhood intervention services in NSW is available on the Early Childhood Intervention Infoline on 1300 656 865 or on the Early Childhood Intervention Australia website at: http://www.ecia-nsw.org.au.

4. Non-government agency early intervention services

Non-government agencies are a large provider of early intervention services in NSW. The type of early intervention supports provided by non-government agencies to families is generally dependent on the needs of the local community in which they operate. The range of services provided by non-government agencies includes home visiting, counselling, antenatal and parent support groups, playgroups, parenting and other courses, advocacy and referral services.
The NSW Parenting Services Directory provides a comprehensive listing of agencies, programs and services in NSW to help parents, carers and families. It is available online at: http://www.parenting.nsw.gov.au.

The Greater Western Sydney Community Services Directory is an online directory of community services across Greater Western Sydney. It also lists organisations providing Sydney, NSW and Australia-wide services, and is available at: http://directory.ngo.net.au/.

ServiceLink is an online directory of service providers in the Human Services sector in NSW. Community services agencies in NSW that register with HSNet can access the Servicelink Directory at http://www.hsnet.nsw.gov.au.

5. Children’s services

Children’s services can help prevent problems in families by helping families to meet their ongoing commitments. Children's services can prevent problems in families by:

- giving families a break and helping to relieve stress
- providing children with programs that assist their development
- helping children start school on a 'level playing field'
- detecting early, and providing support for, behavioural and learning problems
- giving parents the opportunity to participate in the workforce, to have a break from care duties or to join in social activities
- providing communities, particularly small rural townships, with a focal point for the sharing of information on child and family issues and as a referral point to health, family support and other community services.

The types of children’s services available in NSW include long day care, preschool, occasional care, vacation care, toy libraries, supported playgroups, family day care, home-based care, and mobile children's services.

A comprehensive listing of children’s services in NSW is included in the NSW Parenting Services Directory, available online at: http://www.parenting.nsw.gov.au.

6. The Department of Community Services Early Intervention Program

This Early Intervention Program is a voluntary, targeted program designed for families encountering problems that affect their ability to care for their children. The program identifies children and families who are vulnerable or likely to be at risk of harm, and provides them with targeted supports before further problems arise or become serious.

The Early Intervention Program is being rolled out across NSW in a staged process expected to be completed by the end of 2007.

There are two pathways into the Program. One is through a report of risk of harm to the Department of Community Services Helpline and through to a local Community Services Centre. A screening is then completed on low to medium level risk of harm reports to determine the suitability of the family for referral to the Program.

The other pathway into the Program is via a community referral to a Lead Agency, directly from another agency or person. Lead Agencies are funded to undertake referral, intake, assessment and ongoing case management with families.

Eligibility for the program is determined by the Department of Community Services (DoCS) for all the families entering the program from either pathway. Families may be case managed by either a DoCS Early Intervention Caseworker or by the Lead Agency. Lead Agencies will case manage all families referred via community referral, and the Department of Community Services early intervention team will also transfer some families to the Lead Agency for case management.
The Program uses a strengths-based practice approach that recognises and fosters family strengths and responds to the individual, familial, social, cultural and environmental factors that affect a family. Early Intervention caseworkers work closely and over an extended period with families and community agencies to identify and review family strengths and needs, facilitate support and build the parent-child relationship and the wellbeing of the family unit.

A key component of the Early Intervention Program is that families can access the full range of services and supports they require through a single entry point, either through the Department of Community Services early intervention team if there has been a report of risk or harm, or through the Lead Agency. This is intended to promote efficient and consistent service provision and a more collaborative approach to service delivery.

**REFER** Additional information about the Department of Community Services’ Early Intervention Program is available online at: http://www.community.nsw.gov.au.
Aboriginal and Torres Strait Islander/Indigenous  The term ‘Aboriginal’ is mostly used throughout the Guidelines, and refers to an Aboriginal and/or Torres Strait Islander person, defined in Section 5 of the Children and Young Persons (Care and Protection) Act 1998 as:

**Aboriginal** means a person who is a member of the Aboriginal race of Australia, identifies as an Aboriginal and is accepted by the Aboriginal community as an Aboriginal.

**Torres Strait Islander** means a person who is descended from a Torres Strait Islander and identifies as a Torres Strait Islander and is accepted by the Torres Strait Islander community.

**Act, the** this refers to the Children & Young Persons (Care & Protection) Act 1998. All other Acts will be referred to in full.

**Adoption** A legal order whereby the parental rights and responsibilities are transferred from the birth parents to the adoptive parents. Under such an order, the adoptee becomes the child of the adoptive parents as if born to them.

**Affidavit** A statement for the court written in a standard format approved by the court. It is sworn or affirmed to be true by the person making the statement (deponent).

**Agency** refers to an organisation, and includes both government and non-government bodies.

**AIATSIS** Australian Institute of Aboriginal and Torres Strait Islander Studies. http://www.aiatsis.gov.au

**Alleged perpetrator** A person who is alleged to have harmed a child or young person, either physically, psychologically, sexually or through neglect.

**Authorised carer** A person who is authorised as a foster or relative carer by a designated agency, the principal officer of a designated agency, or any person authorised according to the regulations (Section 137 of the Act).

**Apprehended Violence Order (AVO)** A court Order prohibiting a person from behaviour such as assaulting, harassing or intimidating another person. The purpose for an AVO is to protect a person against acts of violence such as physical assault and damage to their property. The Order itself does not give a criminal record. However, the breach of an AVO is a criminal offence, and the police may arrest and charge a person who breaches an Order.

**CALD (Culturally and Linguistically Diverse)** Refers to people from culturally diverse backgrounds, particularly people who are immigrants or the descendants of immigrants and who define their own cultural, linguistic and religious identity partly or wholly on this basis. For correct terminology to describe particular target groups for the provision of services, such as people who need interpreters, or have skills in languages other than English, refer to the EAPS (Ethnic Affairs Priorities Statement) section on the Community Relations Commission website at: http://www.crc.nsw.gov.au.

**Care application** An application lodged at the Children's Court under the Act with the intention of commencing proceedings to obtain a care Order or to vary or rescind a pre-existing Order.

**Care and protection, in need of** This term is used by the Act under two separate circumstances and according to two different standards of proof:

i) when, following a Secondary Assessment, the Department of Community Services forms an opinion on reasonable grounds that the level of future risk to a child or young person is sufficient to warrant protective action by the Department of Community Services under Section 34 of the Act to safeguard the child or young person's safety, welfare and wellbeing. Action by the Department of Community Services includes the provision of support services, protective intervention or court action; or

ii) when a matter is placed before the Children's Court for a care order, and the Court must be satisfied on the balance of probabilities that the child is in need of care and protection under Section 72 of the Act.
Care plans  The *Children and Young Persons (Care and Protection) Act* 1998 refers to care plans. Care plans are a tool that may be used within the context of casework to formalise agreements made with the family to meet the care and protection needs of a child or young person, or within a legal context to enable the Children’s Court to allocate parental responsibility.

Care proceedings  Proceedings before the Children’s Court and District Courts under Chapter 5 of the Act concerning children and young persons who are considered to be in need of care and protection.

Case management  Case management is the process of assessment, planning, implementation, monitoring and review that aims to strengthen families and decrease risks to children and young persons in order to optimise their outcomes through integrated and coordinated service delivery. Case management may be the responsibility of the Department of Community Services or another agency, depending on the specific circumstances.

Case meetings  Meetings held to facilitate information sharing, case review, decision making and interagency coordination. The specific purpose of a meeting will depend on the particular type of plan or action required. The case meeting is the primary vehicle for case planning and may be convened with in-person attendance or via teleconference.

Case plan  The central tool in case management. It is a document that sets out what action will be taken to enhance the child or young person’s safety, welfare and wellbeing. The case plan identifies goals, objectives and tasks with clearly identified responsibilities and time frames that are realistic and achievable within available resources.

Case planning  Case planning is an interactive process, involving the participation of the child or young person, their parent/carer, and service providers that are critical to the case-planning process. The focus is on developing the goal/s of intervention and identifying strategies to meet the care and protection needs of the child or young person.

Child  Under the Act, a child is a person who is under the age of 16 years. Under the *Family Law 1975*, the *Crimes Act 1900*, the *Commission for Children and Young People Act 1998*, the *Child Protection (Prohibited Employment) Act* 1998 and the *Ombudsman Act 1994*, a child is a person under the age of 18 years.

Child abuse/child maltreatment  These terms are used interchangeably. Child abuse is the term commonly used to describe different types of maltreatment inflicted on a child or young person. It includes assault (including sexual assault), ill treatment, neglect and exposing the child or young person to behaviour than might cause psychological harm.

Children’s Court and Children’s Court Orders  The Children's Court is responsible for care and criminal proceedings relating to children and young persons. It operates more like a court of inquiry than an adversarial court when hearing care proceedings, where its role is to find out what has happened in the child or young person’s life, and then decide the best way to provide care and protection. When the Court is satisfied, on the balance of probabilities, that a child or young person is in need of care and protection, it may make any of the following final Orders:

- Order accepting undertakings – this may relate to the person with parental responsibility, the child or young person, or both
- Order for supervision – this can be up to a maximum period of 12 months and extended a further 12 months
- Order allocating parental responsibility – all or part of parental responsibility can be allocated to either or both parents and/or another person (which can include the Minister for Community Services)
- Contact Orders – may stipulate the frequency and duration of contact between a child or young person and his or her parents, including that contact be supervised or denied
- Order to attend a therapeutic treatment or program – restricted to children and young persons over 14 years-of-age to attend a therapeutic program relating to sexually abusive behaviours
- Order for the provision of support services – this directs a person or an organisation to provide support services for up to 12 months.
**Class of children or young persons** Refers to more than one child or young person who may be at risk of harm because of association with a person or a situation causing risk of harm from abuse and neglect. An example could be the children in a school or recreational group where a person in charge is suspected of abuse or known to have abused a child.

**Client consent** For consent from a client to be valid it must be voluntary, informed, specific and current:

- **Voluntary** – a person must be free to exercise genuine choice about whether to give or withhold consent
- **Informed** – generally, a person must have reasonable knowledge of all relevant facts before they give or refuse consent
- **Specific** – consent must be reasonably specific to meet the circumstances of each case. Generally, the more privacy-intrusive the proposed use or disclosure, the more specific the notification and consent will need to be
- **Current** – consent given in particular circumstances cannot be assumed to endure indefinitely with the passage of time and changes of circumstances. It is good practice to inform the person of a specified period for which the consent will be relied upon.

**CPSOG** The Child Protection Senior Officers Group comprises representatives from all key government human service and justice agencies – NSW Health, NSW Police, Ministry of Police, Department of Education and Training, Department of Community Services, Department of Juvenile Justice, Department of Housing, Attorney General’s Department, Office of the Director of Public Prosecutions, Department of Ageing Disability and Home Care, Department of Corrective Services, Department of Art, Sport and Recreation, and the Department of Aboriginal Affairs, as well as a representative from The Cabinet Office, and the Human Services Chief Executive’s Officers Forum. The CPSOG was established in October 2003 by the Minister for Community Services.

**Designated agency** Is an agency accredited in accordance with the regulations to provide out-of-home care services, and includes the Department of Community Services, and the Department of Ageing, Disability and Home Care.

**Disability** According to Section 5 of the *Disability Services Act 1993*, a disability (however arising and whether or not of a chronic or episodic nature):

- Is attributable to an intellectual, psychiatric, sensory, physical or like impairment or to a combination of such impairments, and
- Is permanent or is likely to be permanent, and results in:
  - a significantly reduced capacity in one or more major life activities, such as communication, learning, mobility, decision-making or self-care, and
  - the need for support, whether or not of an ongoing nature.

**Family Law Act Orders** The *Family Law Act 1975* governs family law jurisdiction in Family Courts responsible for dealing with a range of family matters, including divorce, property settlement and the ongoing care of children. Family Courts have the power to make orders where parents seek legally enforceable arrangements for the care of a child. Parenting orders may deal with:

- who a child lives with (residence Order)
- who a child spends time with and communicates with (contact Order)
- financial support of a child (child support/maintenance Order)
- other components of parenting (specific issues Order).

Family Courts also have the power to make welfare orders. Welfare Orders enable the court to deal with any aspect of a child’s welfare that falls outside of the scope of a parent’s powers and responsibilities, e.g. surrender of passports to prevent a child being removed from Australia.
**Foster care** General foster care is defined as 24-hour care for children and young people aged 0 to 17 years which is provided on a short- or long-term basis by authorised carers in their own homes, or in a home owned or rented by an agency, who are reimbursed for expenses. The range of placement types available for children and young people include: emergency or crisis placements, short-term (temporary) placements, bridging (medium) placements, permanent care placements, respite care placements, and adolescent community placements.

**Harm** Physical and/or psychological damage or injury experienced by a child or young person as a consequence of one or more of physical, psychological or sexual abuse, ill-treatment or neglect. The current and future impact of the harm needs to be considered in making the decision about substantiation of harm.

**Indigenous** See Aboriginal and Torres Strait Islander/Indigenous.

**JIRT** Joint Investigation Response Team

**Kinship care** Care with a person who is not a relative of the child, but who shares cultural, tribal and community connection that is recognised by that child’s community.

**Mandatory reporting** Is the act of a person mandated under Section 27 of the Act, reporting to the Department of Community Services that they suspect a child is at risk of harm.

**Memorandum of understanding** A document between particular parties, setting out how each proposes to interact with the other. It will often contain procedures each will follow when dealing with a particular subject matter. This document will usually relate to ‘intentions’ reached at the highest level of the organisation such as from one Director General to another.

**NAATI** National Accreditation Authority for Translators and Interpreters

**Out-of-home care** The care of the child or young person who is in the parental responsibility of the Minister, or a non-related person, residing at a place other than their usual home, and by a person other than their parent, as a result of a Children’s Court Order that lasts for more than 14 days, or because they are a protected person.

**Parent or carer** ‘Parent’ is defined in Section 3 of the Act as a person having the parental responsibility for the child or young person. This may therefore apply to persons other than the biological parent – such as persons exercising parental responsibility within the kinship group of the child or young person.

**Practitioner** A general term used to describe a person who works with or without fee or reward in any government or non-government setting for the benefit of children and young people, and includes police officers, teachers, psychologists, welfare workers, health workers and counsellors.

**Protected person** has a particular meaning as defined in the Act under Section 135(4) Out-of-home care.

**Protocol** A document between particular parties or a number of parties, often about operational issues and procedures each proposes to follow when dealing with a particular subject matter. Protocols may be agreed at the highest level of the organisation or at a lower operational level, such as regionally or locally based protocols. Protocols may also be developed as a result of an agreed MoU.

**Registrable offence** The Child Protection (Offenders Registration) Act 2000 provides the full definition.

**Registrable person** Refers to a person who has been convicted of murdering, kidnapping or committing a sexual offence against a child. Refer to the Child Protection (Offenders Registration) Act 2000 for the full definition.

**Reportable allegation** Under Part 3A of the Ombudsman Act 1974, reportable allegation or conviction means a reportable allegation against a person or an allegation of misconduct that may involve reportable conduct.

For an allegation to be reportable to the Ombudsman, the following components are necessary:

- the subject of the allegation must be a current employee of a designated agency or public authority, or have been a employee at the time the allegation was made, and must be identifiable
the allegation must contain a description of behaviour that may constitute reportable conduct

the child or young person who was alleged to have been involved in reportable conduct by an employee must have been under 18 years at the time of the alleged incident or behaviour.

Reportable conduct Under Part 3A of the Ombudsman Act 1974, reportable conduct means:

(a) any sexual offence, or sexual misconduct, committed against, with or in the presence of a child (including a child pornography offence), or

(b) any assault, ill-treatment or neglect of a child, or

(c) any behaviour that causes psychological harm to a child, whether or not, in any case, with the consent of the child

Reportable conduct does not extend to:

(a) conduct that is reasonable for the purposes of the discipline, management or care of children, having regard to the age, maturity, health or other characteristics of the children, and to any relevant codes of conduct or professional standards,

(b) the use of physical force that, in all the circumstances, is trivial or negligible, but only if the matter is to be investigated and the result of the investigation recorded under workplace employment procedures, or

(c) conduct of a class or kind exempted from being reportable conduct by the Ombudsman under Section 25CA

Reportable conviction Under Part 3A of the Ombudsman Act 1974, reportable conviction means a conviction (including a finding of guilt without the court proceeding to a conviction), in this State or elsewhere, of an offence involving reportable conduct.

Report, risk of harm A report made to the Department of Community Services, usually via the Helpline, to convey a concern about a child or young person who may be at risk of harm due to the circumstances outlined in Sections 23, 24, 25 and 27 of the Act. The homelessness provisions in Sections 120, 121 and 122 of the Act also provide for specific reporting responsibilities.

Restoration When a child returns to live in the care of a parent or parents for the long term.

Risk of harm assessment In undertaking risk of harm assessments, Department of Community Services staff use a professionally guided practice model with domains for gathering information, information organisation and analysis. The Risk Assessment Framework commences with an Initial Assessment, which is usually conducted at the Helpline. The process may continue, to include Secondary Assessment, which is conducted by the Community Services Centre or JIRT. The Framework supports the exercise of professional judgment in determining a child or young person’s need for care and protection.

Subpoena An Order by a court:

- to deliver documents to the court, or

- for someone to give evidence to the court,

so that the court can consider the material specified in the subpoena that may be relevant to a particular proceedings. The recipient is required to comply with the subpoena, and is given money to meet the reasonable cost of complying with the subpoena.

Young person Under the Act, a young person is defined as a person aged 16 years or above, but under the age of 18 years. Under the Crimes Act 1900, the Commission for Children and Young People Act 1998, the Child Protection (Prohibited Employment) Act 1998, and the Ombudsman Act 1974, any person under the age of 18 years is defined as a child.
## INDEX

Numbers refer to chapters and sections rather than pages. References starting with an A are in the Appendices, e.g. A3.2

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aboriginal Affairs, Department of</td>
<td>6.4</td>
</tr>
<tr>
<td>Aboriginal community health care workers</td>
<td>3.2</td>
</tr>
<tr>
<td>Aboriginal Community Liaison Officers</td>
<td>A2.19</td>
</tr>
<tr>
<td>Aboriginal Community Patrols program</td>
<td>A2.11</td>
</tr>
<tr>
<td>Aboriginal Maternal and Infant Health Strategy</td>
<td>A7</td>
</tr>
<tr>
<td>Aboriginal and Torres Strait Islanders</td>
<td>A4</td>
</tr>
<tr>
<td>ACLOs (Aboriginal Community Liaison Officers)</td>
<td>A2.19</td>
</tr>
<tr>
<td>Acute Health Services</td>
<td>A2.18</td>
</tr>
<tr>
<td>ACHDA (Association of Children’s Welfare Agencies)</td>
<td>2.10</td>
</tr>
<tr>
<td>ADHC</td>
<td>1.4, A2.12</td>
</tr>
<tr>
<td>adoption</td>
<td>3.11.4</td>
</tr>
<tr>
<td>Adult Mental Health Services</td>
<td>A2.18</td>
</tr>
<tr>
<td>advice-seeking</td>
<td>2.4</td>
</tr>
<tr>
<td>advocates, see also support people for children</td>
<td>6.6</td>
</tr>
<tr>
<td>AGD (Attorney General’s Department)</td>
<td>1.4, A2.1.1</td>
</tr>
<tr>
<td>Ageing, Disability and Home Care, Department of</td>
<td>1.4, A2.1.2</td>
</tr>
<tr>
<td>agencies, see also interagency collaboration</td>
<td></td>
</tr>
<tr>
<td>allegations against employees of</td>
<td>2.13</td>
</tr>
<tr>
<td>differences between</td>
<td>1.5</td>
</tr>
<tr>
<td>independent oversight and support agencies</td>
<td>A2.3</td>
</tr>
<tr>
<td>responsibilities at case meetings</td>
<td>3.7.4</td>
</tr>
<tr>
<td>Allegations Against Employees Unit</td>
<td>A2.13</td>
</tr>
<tr>
<td>AMHIS (Aboriginal Maternal and Infant Health Strategy)</td>
<td>A7</td>
</tr>
<tr>
<td>anonymous information</td>
<td>2.11</td>
</tr>
<tr>
<td>Apprehended Violence Orders</td>
<td></td>
</tr>
<tr>
<td>may indicate risk of psychological harm</td>
<td>2.3.6</td>
</tr>
<tr>
<td>powers to apply for</td>
<td>A2.19</td>
</tr>
<tr>
<td>roles and responsibilities under</td>
<td>3.7.2</td>
</tr>
<tr>
<td>to protect children or young people</td>
<td>3.4.2</td>
</tr>
<tr>
<td>Approved Counselling Scheme</td>
<td>A2.1.1</td>
</tr>
<tr>
<td>approved screening agencies</td>
<td>4.8, A2.5.2</td>
</tr>
<tr>
<td>Area Health Services</td>
<td>3.34</td>
</tr>
<tr>
<td>ASL (Australian Sign Language)</td>
<td>6.5</td>
</tr>
<tr>
<td>assessment roles</td>
<td>3.2, 3.3.3.5</td>
</tr>
<tr>
<td>Association of Children’s Welfare Agencies</td>
<td>2.10</td>
</tr>
<tr>
<td>Association of Independent Schools</td>
<td>2.1</td>
</tr>
<tr>
<td>assumption of care responsibility</td>
<td>3.4.4</td>
</tr>
<tr>
<td>Attorney General’s Department</td>
<td>1.4, A2.1.1</td>
</tr>
<tr>
<td>Australian Sign Language</td>
<td>6.5</td>
</tr>
<tr>
<td>AVOs, see also Apprehended Violence Orders</td>
<td></td>
</tr>
<tr>
<td>babies and infants, abuse</td>
<td>2.3.3, 2.3.4, 2.3.6</td>
</tr>
<tr>
<td>backgrounds to requests for information</td>
<td>4.3</td>
</tr>
<tr>
<td>benefits of interagency practice</td>
<td>1.2</td>
</tr>
<tr>
<td>‘best endeavours’ requests</td>
<td>6.7.1</td>
</tr>
<tr>
<td>best practice principles</td>
<td>6</td>
</tr>
<tr>
<td>Blue Light Unit</td>
<td>A2.1.9</td>
</tr>
<tr>
<td>Bringing Them Home report</td>
<td>6.4</td>
</tr>
<tr>
<td>care applications</td>
<td>3.10</td>
</tr>
<tr>
<td>care orders</td>
<td></td>
</tr>
<tr>
<td>case management</td>
<td>3.7</td>
</tr>
<tr>
<td>obligation to apply for</td>
<td>3.4.4</td>
</tr>
<tr>
<td>care plans</td>
<td>3.8</td>
</tr>
<tr>
<td>caregivers</td>
<td></td>
</tr>
<tr>
<td>disclosure of information by</td>
<td>2.9</td>
</tr>
<tr>
<td>indicators of abuse by</td>
<td>2.3.2, 2.3.4</td>
</tr>
<tr>
<td>indicators of domestic violence</td>
<td>2.3.6</td>
</tr>
<tr>
<td>indicators of neglect</td>
<td>2.3.2</td>
</tr>
<tr>
<td>indicators of psychological harm</td>
<td>2.3.5</td>
</tr>
<tr>
<td>violence between</td>
<td>2.3.1</td>
</tr>
<tr>
<td>case closure, see closure</td>
<td></td>
</tr>
<tr>
<td>case management, see also management of child protection cases</td>
<td></td>
</tr>
<tr>
<td>case manager, role of</td>
<td>3.7.1</td>
</tr>
<tr>
<td>case meetings</td>
<td>3.7.2, 3.7.3</td>
</tr>
<tr>
<td>agency responsibilities</td>
<td>3.7.4</td>
</tr>
<tr>
<td>case review</td>
<td>3.9, 3.11.1</td>
</tr>
<tr>
<td>Catholic Education Commission</td>
<td>2.1</td>
</tr>
<tr>
<td>CCYP, see Commission for Children and Young People</td>
<td></td>
</tr>
<tr>
<td>Charter of Victims’ Rights</td>
<td>5.1</td>
</tr>
<tr>
<td>Chief Executive Officers</td>
<td>1.5</td>
</tr>
<tr>
<td>child abuse, see abuse</td>
<td></td>
</tr>
<tr>
<td>Child and Adolescent Mental Health Services</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>Child and Adolescent Sexual Assault</td>
<td></td>
</tr>
<tr>
<td>Counselling Services</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>Child and Family Health Services</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>child protection</td>
<td></td>
</tr>
<tr>
<td>case management</td>
<td>3.7</td>
</tr>
<tr>
<td>casework</td>
<td>A2.1.3</td>
</tr>
<tr>
<td>education in</td>
<td>A2.15</td>
</tr>
<tr>
<td>registration orders</td>
<td>A2.19</td>
</tr>
<tr>
<td>reports</td>
<td>2.3</td>
</tr>
<tr>
<td>Child Protection and Sex Crimes Squad</td>
<td>A2.1.9</td>
</tr>
<tr>
<td>Child Protection Information Line</td>
<td>A2.1.10</td>
</tr>
<tr>
<td>Child Protection Units</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>Child Sex Offender Counsellor</td>
<td></td>
</tr>
<tr>
<td>Accreditation Scheme</td>
<td>A2.3.1</td>
</tr>
<tr>
<td>Child Sexual Abuse Medical Protocol</td>
<td>3.4.1</td>
</tr>
</tbody>
</table>
children, see also young people assistance sought by ..... 6.1
disclosure of information by ..... 2.7
engagement of ..... 6.3
exchanging information about ..... 4
in case meetings ..... 3.73
in employment ..... 2.5.2
indicators of abuse ..... 2.3.2, 2.3.4
indicators of domestic violence ..... 2.3.6
indicators of neglect ..... 2.3.2
indicators of psychological harm ..... 2.3.5
non-government services for ..... 2.4.2
preparation for court appearance ..... 5.5
principles when working with ..... 2.8
views of taken into account ..... 2.8
Children and Young Persons (Care and Protection) Act 1998: 1.2, 2.1, 4.1
grounds for reporting ..... 2.3
Sections 9 and to: ..... 2.3
employers responsibilities ..... 2.5.2
Children of Parents with a Mental Illness ..... 2.1.8
Children’s Court may order assessments ..... 3.5
care applications to ..... 3.10
empowered to request services ..... 6.7.1
requires Care Plans ..... 3.8
roles and responsibilities ..... 1.4, 3.2, 2.2.1
Children’s Court Clinic ..... 1.4, 3.5, 2.2.2
Children’s Guardian, see Office for Children - the Children’s Guardian
children’s services workers, responsibility to report ..... 2.1
closure at Helpline ..... 3.3.1
case meetings for ..... 3.7.2
interagency collaboration ..... 3.2
management of ..... 3.7.5
coercion into sexual abuse ..... 2.3.4
Commission for Children and Young People, see also Office for Children - the Children’s Guardian
may request information ..... 4.8
resource kit ..... 3.7.3
roles and responsibilities ..... 1.4, 2.3.1
Commonwealth Privacy Act 1998: 2.1
communication, during criminal proceedings ..... 5.5
Community Health Centres ..... 2.1.8
Community Offender Services Probation and Parole Service ..... 2.1.4
Community Services Centres ..... 3.3.1, 3.3.3
responses to reports ..... 3.3.2
Community Services, Department of, see also
Community Service Centres; Director-General; Helpline early intervention program ..... 2.7
information-seeking powers ..... 4.3
provision of information by ..... 4.4
risk assessment functions ..... 3.3
roles and responsibilities ..... 1.4, A2.1.3
Compensation for victims of crime ..... 2.4
continuum of risk ..... 2.2.1
coordinating criminal proceedings ..... 2.2.1
COPMI (Children of Parents with a Mental Illness) ..... 2.1.8
Coroner’s Court ..... 2.5.2
Corrective Services, Department of ..... 1.4, 2.1.4
counselling for victims of crime ..... 5.4
courts court orders ..... 3.8
derterminations by ..... 5.6
information required by ..... 4.7
roles and responsibilities ..... 1.4, 2.2
witnesses ..... 3.10, 5.5, A2.1.1
Crimes Act 1900
on discipline vs abuse ..... 2.3.3
penalties for neglect ..... 2.3.2
police obligations under ..... 3.4.2
criminal offences, see also victims of crime
alleged, by agency employees ..... 2.13
criminal proceedings ..... 2.3
information for proceedings ..... 4.7
Crossroads program ..... A2.1.5
CSCs (Community Services Centres) ..... A2.1.5
3.3.1, 3.3.3
cultural issues ..... A4, 6.3, 6.5
current concerns, definition of ..... 2.2.1
Curriculum program ..... A2.1.5
DADHC (Department of Ageing, Disability and Home Care) ..... 1.4, A2.1.1
DCS (Department of Corrective Services) ..... 1.4, A2.1.4
debriefings ..... 3.7.3
demographic information required for report ..... 2.6
Department of Aboriginal Affairs ..... 6.4
Department of Ageing, Disability and Home Care ..... 1.4, A2.1.2
Department of Community Services, see Community Services, Department of
Department of Education and Training ..... 1.4, 3.9, 2.1.5
Department of Health ..... 1.4, 5.5, A2.1.8
Department of Housing ..... 1.4, A2.1.6
Department of Juvenile Justice ..... 1.4, A2.1.7
Department of Sport and Recreation ..... 1.4, A2.1.10
DET (Department of Education and Training) ..... 1.4, 3.9, 2.1.5
differences between agencies ..... 1.5
direct service level interagency practice ..... 1.2
Director-General care responsibility ..... 3.4.4
deemed to be parent for medical examination ..... 3.4.1
obligations imposed by the Act ..... 1.2
Director of Public Prosecutions, see Office of the Director of Public Prosecutions disabilities
evelopment of people with ..... 6.6
linked with sexual abuse ..... 2.3.4
non-government services for people with ..... 2.4.2
discipline vs. abuse ..... 2.3.3
disclosure of information
by child or young person ..... 2.7
by parent or caregiver ..... 2.9
District Courts ..... 1.4, A2.2.4
DJI (Department of Juvenile Justice) ..... 1.4, A2.1.7
DoCS, see Community Services, Department of documentation see also information
for case meetings ..... 3.7.2, 3.7.3, 3.7.4
photographic, of abuse ..... 3.4.1
DoH (Department of Housing) ..... 1.4, 5.5, A2.1.8
domestic violence, indicators of ........................................ 2.3.1, 2.3.6
Domestic Violence Liaison Officers .................................. A2.1.9
Domestic Violence Line .................................................. A2.1.3
Drug and Alcohol Services ................................................ A2.1.8
Early Childhood Health Services ........................................ A2.1.8
early intervention .............................................................. 6.1
case management ............................................................... 3.7
programs for ...................................................................... A2.1.3
referral to programs ........................................................... 3.3.2
strategies and programs ..................................................... A7
ECAV (Education Centre Against Violence) ......................... A2.1.8
ECLOs (Ethnic Community Liaison Officers) ....................... A2.1.9
Education and Training, Department of ............................... 1.4, 3.9, A2.1.5
Education Centre Against Violence ...................................... A2.1.8
Education Team, Helpline .................................................... 2.5
education workers, responsibility to report .......................... 2.1, see also schools
emergency removals ............................................................ 3.4.3
employees of agencies, allegations against ........................... 2.13, A2.6
employers, roles and responsibilities ..................................... 1.4, A2.5
engagement of Aboriginal and Torres Strait Islanders .......... 6.4
of children and young people .............................................. 6.3
of families .......................................................................... 6.2
of people from diverse backgrounds ................................... 6.5
of people with a disability ................................................... 6.6
Ethnic Community Liaison Officers ....................................... A2.1.9
evidence, in court ............................................................... 3.10
evidence-informed practice .................................................. 3.3.3
families, see also caregivers; parents decision to disclose report to ........................................ 2.10
engagement of ................................................................... 6.2
involvement in case meetings ............................................. 3.7.2
non-government services for ............................................. A2.4.2
of Aboriginals ................................................................... 6.4
pressure from to withdraw allegations ................................. 2.7
working with to reduce risk ................................................ A1.3.6
Families First Strategy .......................................................... A7
Family Care Centres ............................................................ A2.1.8
Family Courts ...................................................................... 2.1, A2.2.3
Family Law Act ................................................................... 3.4.2, 3.10
Family Worker Services ...................................................... A7
feedback to reporters .......................................................... 2.12
final court orders ............................................................... 3.8
formal protocols .................................................................. 1.3
foster carers ....................................................................... 3.2, 3.11.2
Freedom of Information Act 1989: ....................................... 2.11
funded services, roles and responsibilities ............................ A2.1.3
Greater Western Sydney Community Services Directory ......... 6.7
harm defining ....................................................................... 2.2.1
substantiating ...................................................................... 3.3.5
health care workers, roles and responsibilities ......................... 2.1, 3.2
Health, Department of ........................................................ 1.4, 5.5, A2.1.8
Health Records and Information Privacy Act ......................... 4.1
Helpline initial assessment .................................................... 3.3.1
reporting to roles and responsibilities ..................................... A2.1.3
homelessness definition ......................................................... 2.2.2
may prompt report .............................................................. 2.4
legislative grounds for reporting .......................................... A3
non-government services .................................................... A2.4.2
non-mandatory reporting .................................................... 2.2.2
Housing and Human Services Accord .................................... A2.1.6
Housing, Department of ...................................................... 1.4, A2.1.6
Human Rights and Equal Opportunity Commission ............... 2.2.2
Human Services Network ..................................................... 6.7
immediate action ................................................................. 3.4
independent oversight and support agencies .......................... 1.4, A2.3
indicators of abuse and neglect ........................................... 2.3
infants, abuse of .................................................................... 2.3.6, 2.3.3, 2.3.4
information, see also documentation exchanging ..................... 4
in a report .......................................................................... 2.6
linking to analysis and judgment .......................................... 3.3.3
protection of ........................................................................ 4.1
provision by DoCS ............................................................... 4.4
initial assessments ............................................................... 3.3
intake processes .................................................................... 3.3
Integrated Perinatal and Infant Care program ......................... A2.1.8
intellectual disabilities .......................................................... 6.6
Intensive Court Supervision Pilot Program ............................ A2.1.1
interagency collaboration ..................................................... 1, see also case meetings
after report case review ........................................................ 3.2
coordinating criminal proceedings ....................................... 3.9
facilitating referral ................................................................ 5.2
information exchange .......................................................... 6.7
interpreters and translators see also National Accreditation Authority for Translators and Interpreters accredited .......................................................... 6.5
for court appearances .......................................................... 5.5
in case meetings ................................................................. 3.7.3
intervention roles ............................................................... 3.2
investigation process ........................................................... 3.3, A2.6
IPC (Integrated Perinatal and Infant Care program) .................. A2.1.8
Joint Investigation Response Team (JIRT) ................................ 3.3.4, A2.1.3
assessment by roles and responsibilities ................................ A2.1.9
Juvenile Justice, Department of ............................................ 1.4, A2.1.7
Karitane .............................................................................. A2.1.8
Key Information and Directory System (KIDS) ...................... 3.3.1
kinship placement ............................................................... 3.11.3
law enforcement workers, responsibility to report ........................... 2.1, see also police
legal framework for information exchange ............................ 4.1
legislative ground for reporting ............................................ A3
linguistic issues 6.5, see also interpreters and translators linking information .................................................. 3.3.3
Local Area Commands .......................................................... A2.1.9
local councils ..................................................................... 1.4, A2.4.1
<table>
<thead>
<tr>
<th>Name</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Courts</td>
<td>1.4, A2.2.4</td>
</tr>
<tr>
<td>local networking</td>
<td>1.3</td>
</tr>
<tr>
<td>local protocols</td>
<td>A4</td>
</tr>
<tr>
<td>long-term foster care, see also foster care</td>
<td>3.2, 3.11.2</td>
</tr>
<tr>
<td>maltreatment, see abuse</td>
<td></td>
</tr>
<tr>
<td>management of child protection cases</td>
<td>3.7</td>
</tr>
<tr>
<td>mandatory reporting</td>
<td></td>
</tr>
<tr>
<td>legislative grounds for</td>
<td>A3</td>
</tr>
<tr>
<td>obligations imposed by</td>
<td>1.2</td>
</tr>
<tr>
<td>responsibility for</td>
<td>2.1</td>
</tr>
<tr>
<td>medical care, neglect of</td>
<td>2.3.2</td>
</tr>
<tr>
<td>medical examinations and assessments</td>
<td>3.4.1, 3.5</td>
</tr>
<tr>
<td>Memoranda of Understanding</td>
<td>1.3</td>
</tr>
<tr>
<td>for centralised reporting from schools</td>
<td>2.1</td>
</tr>
<tr>
<td>with Department of Education and Training</td>
<td>3.9</td>
</tr>
<tr>
<td>mental health clinicians, obligations of</td>
<td>2.4</td>
</tr>
<tr>
<td>mental illness, parent or caregiver with</td>
<td>3.3.3</td>
</tr>
<tr>
<td>Model for Resolving Interagency Differences</td>
<td>1.5</td>
</tr>
<tr>
<td>MoU, see Memoranda of Understanding</td>
<td></td>
</tr>
<tr>
<td>National Accreditation Authority for Translators and Interpreters (NAATI)</td>
<td>3.73</td>
</tr>
<tr>
<td>neglect</td>
<td></td>
</tr>
<tr>
<td>indicators of</td>
<td>2.3.2</td>
</tr>
<tr>
<td>recognising</td>
<td>2.3</td>
</tr>
<tr>
<td>reporting to Helpline</td>
<td>2.6</td>
</tr>
<tr>
<td>negotiation with Aboriginal communities</td>
<td>A4</td>
</tr>
<tr>
<td>New South Wales</td>
<td></td>
</tr>
<tr>
<td>diversity of</td>
<td>6.5</td>
</tr>
<tr>
<td>tribal and language groups</td>
<td>A5</td>
</tr>
<tr>
<td>New South Wales government, see names of Departments and organisations</td>
<td></td>
</tr>
<tr>
<td>New Street Adolescent Service</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>NGOs, see non-government agencies</td>
<td></td>
</tr>
<tr>
<td>'no billed' cases</td>
<td>5.6</td>
</tr>
<tr>
<td>non-government agencies</td>
<td></td>
</tr>
<tr>
<td>dealing with Aboriginal and Torres Strait Islanders</td>
<td>A4</td>
</tr>
<tr>
<td>early intervention services</td>
<td>A7</td>
</tr>
<tr>
<td>investigation of allegations against employees</td>
<td>A2.6.2</td>
</tr>
<tr>
<td>roles and responsibilities</td>
<td>1.4, A2.4.2, A2.4.3</td>
</tr>
<tr>
<td>voluntary compliance with Section 18</td>
<td>6.7.1</td>
</tr>
<tr>
<td>non-government schools</td>
<td>1.4, A2.4.3</td>
</tr>
<tr>
<td>non-mandatory reporting</td>
<td>2.2.2</td>
</tr>
<tr>
<td>Notice Requiring Medical Examination</td>
<td>3.4.1</td>
</tr>
<tr>
<td>NSW, see New South Wales; New South Wales government</td>
<td></td>
</tr>
<tr>
<td>NSW Health (Department of Health)</td>
<td>1.4, 5.5, A2.1.8</td>
</tr>
<tr>
<td>OCCCG, see Office for Children – the Children’s Guardian</td>
<td></td>
</tr>
<tr>
<td>ODPP, see Office of the Director of Public Prosecutions</td>
<td></td>
</tr>
<tr>
<td>Office for Children – the Children’s Guardian</td>
<td></td>
</tr>
<tr>
<td>may request information</td>
<td>4.8</td>
</tr>
<tr>
<td>roles and responsibilities</td>
<td>1.4, A2.3.2</td>
</tr>
<tr>
<td>Office of the Director of Public Prosecutions</td>
<td></td>
</tr>
<tr>
<td>coordinates criminal proceedings</td>
<td>5.2</td>
</tr>
<tr>
<td>legal advice from</td>
<td>5.1</td>
</tr>
<tr>
<td>roles and responsibilities</td>
<td>1.4, A2.11.1</td>
</tr>
<tr>
<td>Official Community Visitors scheme</td>
<td>A2.3.3</td>
</tr>
<tr>
<td>Ombudsman</td>
<td></td>
</tr>
<tr>
<td>may request information</td>
<td>4.8</td>
</tr>
<tr>
<td>roles and responsibilities</td>
<td>1.4, 2.13, A2.3.3</td>
</tr>
<tr>
<td>out-of-home-care</td>
<td></td>
</tr>
<tr>
<td>applications for Aboriginal children and young people</td>
<td>3.10.1</td>
</tr>
<tr>
<td>case management</td>
<td>3.7</td>
</tr>
<tr>
<td>non-government services for recommended</td>
<td>A2.4.2</td>
</tr>
<tr>
<td>roles and responsibilities</td>
<td>3.10</td>
</tr>
<tr>
<td>outcome decisions</td>
<td>3.3.5</td>
</tr>
<tr>
<td>PANOC (Physical Abuse and Neglect of Children services)</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>parental dual diagnosis</td>
<td>3.3.3</td>
</tr>
<tr>
<td>parental responsibility, allocation of</td>
<td>3.8</td>
</tr>
<tr>
<td>parental responsibility, for foster carers</td>
<td>3.11.2</td>
</tr>
<tr>
<td>Parenting Services Directory</td>
<td>6.7</td>
</tr>
<tr>
<td>parents, see also caregivers</td>
<td></td>
</tr>
<tr>
<td>allocation of responsibility to</td>
<td>3.8</td>
</tr>
<tr>
<td>assistance sought by</td>
<td>6.1</td>
</tr>
<tr>
<td>disclosure of information</td>
<td>2.9</td>
</tr>
<tr>
<td>indicators of abuse</td>
<td>2.3.2, 2.3.4</td>
</tr>
<tr>
<td>indicators of domestic violence</td>
<td>2.3.6</td>
</tr>
<tr>
<td>indicators of neglect</td>
<td>2.3.2</td>
</tr>
<tr>
<td>indicators of psychological harm</td>
<td>2.3.5</td>
</tr>
<tr>
<td>participation of children and young people</td>
<td>3.1, 7.3</td>
</tr>
<tr>
<td>Pathways to Prevention Project</td>
<td>A2.11</td>
</tr>
<tr>
<td>perceptual bias</td>
<td>2.4</td>
</tr>
<tr>
<td>permanancy planning</td>
<td>3.8, 3.10.1, 3.11</td>
</tr>
<tr>
<td>perpetrators of domestic violence</td>
<td>2.3.6</td>
</tr>
<tr>
<td>perpetrators of sexual abuse</td>
<td>2.3.4</td>
</tr>
<tr>
<td>phone reporting</td>
<td>2.5, 4.5, 5.7</td>
</tr>
<tr>
<td>photodocumentation of abuse</td>
<td>3.4.1</td>
</tr>
<tr>
<td>physical abuse</td>
<td></td>
</tr>
<tr>
<td>indicators of reporting to Helpline</td>
<td>2.6</td>
</tr>
<tr>
<td>Physical Abuse and Neglect of Children (PANOC) services</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>physical assessments</td>
<td>3.5</td>
</tr>
<tr>
<td>physical needs, neglect of</td>
<td>2.3.2</td>
</tr>
<tr>
<td>placement planning for Aboriginals</td>
<td></td>
</tr>
<tr>
<td>and Torres Strait Islanders</td>
<td>A6, 3.10.1</td>
</tr>
<tr>
<td>Play by the Rules website</td>
<td>A2.1.10</td>
</tr>
<tr>
<td>Police, NSW</td>
<td>A2.1.9</td>
</tr>
<tr>
<td>may request information</td>
<td>4.8</td>
</tr>
<tr>
<td>Apprehended Violence Orders (AVOs)</td>
<td></td>
</tr>
<tr>
<td>sought by</td>
<td>3.4.2</td>
</tr>
<tr>
<td>exemption from privacy legislation</td>
<td>4.1</td>
</tr>
<tr>
<td>police and courts process flowchart</td>
<td>5.5</td>
</tr>
<tr>
<td>roles and responsibilities</td>
<td>1.4, 3.2, A2.1.9</td>
</tr>
<tr>
<td>Police and Community Youth Club Program</td>
<td></td>
</tr>
<tr>
<td>Officers</td>
<td>A2.1.9</td>
</tr>
<tr>
<td>policy level interagency practice</td>
<td>1.2</td>
</tr>
<tr>
<td>powers to remove a child or young person</td>
<td>3.4.3</td>
</tr>
<tr>
<td>practices and procedures following report</td>
<td>3</td>
</tr>
<tr>
<td>Pre-Trial Diversion of Offenders Program</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>prenatal reports</td>
<td>A3, 2.2</td>
</tr>
<tr>
<td>preparation for court appearance</td>
<td>5.5</td>
</tr>
<tr>
<td>prescribed agencies, information exchange by</td>
<td>4.1, 4.4</td>
</tr>
<tr>
<td>present time element</td>
<td>2.2.1</td>
</tr>
<tr>
<td>prevention strategies</td>
<td>A7</td>
</tr>
<tr>
<td>principles when working with children, young people and families</td>
<td>A1</td>
</tr>
<tr>
<td>Privacy Act 1998 (Cth)</td>
<td>4.1</td>
</tr>
<tr>
<td>Topic</td>
<td>Page</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td><strong>Guidelines Index</strong></td>
<td></td>
</tr>
<tr>
<td>Privacy Amendment (Private Sector) Act 2000 (Cth)</td>
<td>4.1</td>
</tr>
<tr>
<td>Privacy and Personal Information</td>
<td></td>
</tr>
<tr>
<td>Protection Act 1998:</td>
<td>2.1, 4.1</td>
</tr>
<tr>
<td>reasonable grounds for reporting</td>
<td>2.2.1</td>
</tr>
<tr>
<td>reasonable suspicions</td>
<td>2.4</td>
</tr>
<tr>
<td>reasons for reporting</td>
<td>2.2</td>
</tr>
<tr>
<td>recognising abuse and neglect</td>
<td>2.3</td>
</tr>
<tr>
<td>referrals, facilitating</td>
<td>6.7</td>
</tr>
<tr>
<td>Refugee Health Service, NSW</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>registered care orders</td>
<td>3.8, 3.10</td>
</tr>
<tr>
<td>relationships of children, importance</td>
<td>3.10</td>
</tr>
<tr>
<td>with agency partners, strengthening</td>
<td>1.3</td>
</tr>
<tr>
<td>relative placement</td>
<td>3.11.3</td>
</tr>
<tr>
<td>religious issues</td>
<td>6.5</td>
</tr>
<tr>
<td>removal of a child or young person</td>
<td>3.4.3</td>
</tr>
<tr>
<td>rent assistance</td>
<td>A2.1.6</td>
</tr>
<tr>
<td>Report of the National Inquiry into Homeless Children</td>
<td>2.2.2</td>
</tr>
<tr>
<td>reporting matrix</td>
<td>2.2</td>
</tr>
<tr>
<td>reports, child protection</td>
<td>2.3</td>
</tr>
<tr>
<td>requests for information</td>
<td>4.3</td>
</tr>
<tr>
<td>residential services workers</td>
<td>2.1, 3.2</td>
</tr>
<tr>
<td>resilience, working to increase</td>
<td>3.6</td>
</tr>
<tr>
<td>response time</td>
<td>3.3.1</td>
</tr>
<tr>
<td>responsibilities, see roles and responsibilities</td>
<td></td>
</tr>
<tr>
<td>restoration planning</td>
<td>3.11.1</td>
</tr>
<tr>
<td>Reviewable Deaths program</td>
<td>A2.3.3</td>
</tr>
<tr>
<td>risk of harm</td>
<td></td>
</tr>
<tr>
<td>agency-specific policies</td>
<td>2.4</td>
</tr>
<tr>
<td>assessment of</td>
<td>3.3</td>
</tr>
<tr>
<td>case management</td>
<td>3.7</td>
</tr>
<tr>
<td>defining</td>
<td>2.2.1</td>
</tr>
<tr>
<td>mandatory reporting and</td>
<td>2.2.1</td>
</tr>
<tr>
<td>reporting to Helpline</td>
<td></td>
</tr>
<tr>
<td>roles and responsibilities</td>
<td></td>
</tr>
<tr>
<td>at case meetings</td>
<td>3.7.4</td>
</tr>
<tr>
<td>Department of Community Services</td>
<td>A2.1.3</td>
</tr>
<tr>
<td>following report</td>
<td>3.1, 3.2</td>
</tr>
<tr>
<td>of agencies</td>
<td>A2.1.4</td>
</tr>
<tr>
<td>of parents</td>
<td>3.8</td>
</tr>
<tr>
<td>SAAP (Supported Accommodation Assistance Program)</td>
<td>A2.1.3</td>
</tr>
<tr>
<td>safeguards for reporters</td>
<td>2.11</td>
</tr>
<tr>
<td>safety</td>
<td></td>
</tr>
<tr>
<td>community-based, for children</td>
<td>A2.1.9</td>
</tr>
<tr>
<td>immediate action for</td>
<td>3.4</td>
</tr>
<tr>
<td>SAS 1 and 2, see secondary assessment</td>
<td></td>
</tr>
<tr>
<td>Schools as Community Centres</td>
<td>A7, A2.1.5</td>
</tr>
<tr>
<td>schools, roles and responsibilities</td>
<td>1.4, A2.4.3</td>
</tr>
<tr>
<td>Schools Safety Response Unit</td>
<td>A2.1.9</td>
</tr>
<tr>
<td>search warrants</td>
<td>3.4, 3.4.1</td>
</tr>
<tr>
<td>secondary assessment</td>
<td>3.3</td>
</tr>
<tr>
<td>stage one</td>
<td>3.3.2</td>
</tr>
<tr>
<td>stage two</td>
<td>3.3.3, 3.7.2</td>
</tr>
<tr>
<td>self-determination principles</td>
<td>3.10.1, 6.4</td>
</tr>
<tr>
<td>service delivery, information sharing</td>
<td>4.2</td>
</tr>
<tr>
<td>Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, NSW</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>service supports</td>
<td>3.9</td>
</tr>
<tr>
<td>sexual abuse</td>
<td></td>
</tr>
<tr>
<td>indicators of</td>
<td>2.3.4</td>
</tr>
<tr>
<td>medical examinations for</td>
<td>3.4.7</td>
</tr>
<tr>
<td>reporting to Helpline</td>
<td>2.6</td>
</tr>
<tr>
<td>Sexual Assault Services</td>
<td>5.5</td>
</tr>
<tr>
<td>Social Housing</td>
<td>A2.1.6</td>
</tr>
<tr>
<td>social indicators of abuse</td>
<td>2.3.2, 2.3.4</td>
</tr>
<tr>
<td>specialists, advice from before reporting</td>
<td>2.4</td>
</tr>
<tr>
<td>Sport and Recreation, Department of</td>
<td>1.4, A2.1.10</td>
</tr>
<tr>
<td>STARTTS (Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, NSW)</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>strategies</td>
<td></td>
</tr>
<tr>
<td>for early intervention</td>
<td>A7</td>
</tr>
<tr>
<td>for interagency collaboration</td>
<td>1.3</td>
</tr>
<tr>
<td>to facilitate referrals</td>
<td>6.7</td>
</tr>
<tr>
<td>Strategy to Reduce Violence Against Women</td>
<td>A2.1.3</td>
</tr>
<tr>
<td>subpoenas</td>
<td>4.1, 4.7</td>
</tr>
<tr>
<td>substantiation decisions</td>
<td>3.3.5</td>
</tr>
<tr>
<td>support for shared clients</td>
<td>1.3</td>
</tr>
<tr>
<td>support people for children</td>
<td></td>
</tr>
<tr>
<td>advocates</td>
<td>6.6</td>
</tr>
<tr>
<td>at case meetings</td>
<td>3.7.3</td>
</tr>
<tr>
<td>for crime victims</td>
<td>5.4</td>
</tr>
<tr>
<td>in medical examinations</td>
<td>3.4.1</td>
</tr>
<tr>
<td>Supported Accommodation Assistance Program</td>
<td>A2.1.3</td>
</tr>
<tr>
<td>Supported Playgroups</td>
<td>A7</td>
</tr>
<tr>
<td>Supreme Courts</td>
<td>1.4, A2.2.4</td>
</tr>
<tr>
<td>sworn affidavits, in court</td>
<td>3.10</td>
</tr>
<tr>
<td>TAKING PARTICIPATION SERIOUSLY</td>
<td>3.7.3</td>
</tr>
<tr>
<td>Telephone Interim Orders</td>
<td>3.4.2</td>
</tr>
<tr>
<td>telephone reporting to DoCS</td>
<td>2.5, 4.5</td>
</tr>
<tr>
<td>Template for Reporting</td>
<td>2.6</td>
</tr>
<tr>
<td>third parties</td>
<td></td>
</tr>
<tr>
<td>information on</td>
<td>4.4</td>
</tr>
<tr>
<td>reporting by</td>
<td>2.11</td>
</tr>
<tr>
<td>timing of reports</td>
<td>2.2, 3.3.1</td>
</tr>
<tr>
<td>Torres Strait Islanders, placement principles</td>
<td>A6</td>
</tr>
<tr>
<td>training</td>
<td></td>
</tr>
<tr>
<td>in local protocols</td>
<td>A4</td>
</tr>
<tr>
<td>shared between agencies</td>
<td>1.3</td>
</tr>
<tr>
<td>translators, see interpreters and translators</td>
<td></td>
</tr>
<tr>
<td>interpreters</td>
<td></td>
</tr>
<tr>
<td>translators, see interpreters and translators</td>
<td></td>
</tr>
<tr>
<td>Tresillian</td>
<td>A2.1.8</td>
</tr>
<tr>
<td>Two Ways Together</td>
<td>6.4</td>
</tr>
</tbody>
</table>
unborn children, reports on ........................................... A3, 2.2
Universal Health Home Visiting ........................................... A7

victims of crime
register of .............................................................. A2.1.4, A2.1.7
support for .............................................................. 5.4, A2.1.1

violence
may indicate abuse or neglect ........................................... 2.3.1
domestic .............................................................. 2.3.6
physical abuse .............................................................. 2.3.3, 2.6
Volunteer Home Visiting Services ...................................... A7

warrants, removal with ...................................................... 3.4.3
Witness Assistance Scheme (WAS) ........................................... 5.5, A2.1.11
welfare workers, responsibility to report ................................... 2.1
witnesses, in court .............................................................. 3.10, 5.5, A2.1.11

Working With Children Checks ........................................... A2.3.1, A2.5.2

YDAC (Youth Drug and Alcohol Court) ...................................... A2.1.1
YLOs (Youth Liaison Officers) ............................................ A2.1.9
young people, see also children
assistance sought by .............................................................. 6.1
definition of .............................................................. 2.2.2
disclosure of information by ................................................... 2.7
engagement of .............................................................. 6.3
exchanging information about ................................................... 4
in case meetings .............................................................. 3.7.3
indicators of abuse .............................................................. 2.3.3
indicators of domestic violence ................................................... 2.3.6
indicators of neglect .............................................................. 2.3.2
indicators of psychological harm ................................................... 2.3.5
indicators of sexual abuse .............................................................. 2.3.4
non-government services for ................................................... A2.4.2
preparation for court appearance ................................................... 5.5
principles when working with ................................................... A1
views of taken into account .............................................................. 2.8
Youth Drug and Alcohol Court ................................................... A2.1.1
Youth Health Services .............................................................. A2.1.8
Youth Justice Conferences ...................................................... A2.1.7
Youth Liaison Officers .............................................................. A2.1.9