



A guide to reporting child abuse and neglect in the ACT



**ACT**

Government

Community Services

# Keeping Children & Young People Safe

a shared community responsibility

NOVEMBER 2014



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Enquiries about this publication should be directed to:  
**CSD, Learning and Community Education 6207 1382**

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# 1. CHILD ABUSE AND NEGLECT – DEFINITIONS

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## Child and Young Person

The *Children and Young People Act 2008* defines, a **child** as a person who is under 12 years old. A **young person**, for the purpose of mandatory or voluntary reporting, is a person who is 12 years old or older, but not yet 18 years old.

## What is child abuse and neglect and how can it be identified?

Child abuse and neglect are serious and complex problems that may occur in the lives of children and young people. There is no simple explanation for why child abuse and neglect occurs. Rather, there are a number of interacting factors that increase the risk of a child or young person being abused or neglected, such as family circumstances that may impact on a parent's ability to parent.

Child abuse is the term used for different types of maltreatment that endangers a child or young person's safety, wellbeing, and development.

Child abuse can be a single incident or a chronic pattern of behaviour over time and may be intentional or unintentional.

Neglect refers to a failure to provide a child or young person with the basic needs for his or her physical, emotional/psychological and intellectual development and may be chronic or episodic in nature.

Child abuse and neglect may lead to long term harm to the physical or emotional well being and development of a child or young person.

## Types of abuse and neglect

### Physical abuse (also referred to as non-accidental physical injury)

Physical abuse is a non-accidental act resulting in an injury to a child or young person by a parent, caregiver or another person who has responsibility for the child or young person.

Injury can be caused by a single episode or repeated episodes of physical abuse. The severity of injury can range from minor bruising to death.

Physical punishment of a child or young person is a crime when it falls outside the bounds of 'reasonable chastisement'.

There is a range of indicators of physical abuse. Each indicator needs to be considered in the context of other indicators and the particular circumstances of each child or young person.

The following list is not in any order.

<h2 style="text-align: center;">Indicators in children and young people</h2>	<h2 style="text-align: center;">Indicators in parents and care givers</h2>
<ul style="list-style-type: none"> <li>• Facial, head and neck bruising</li> <li>• Other bruising and marks which show the shape of the object used (e.g. a hand print, belt buckle)</li> <li>• Multiple bruises or injuries</li> <li>• Lacerations and welts</li> <li>• Bite marks</li> <li>• Dislocations</li> <li>• Fractures of bones, especially in children under three years old</li> <li>• Burns and scalds – a burn with a clear outline may be suspicious</li> <li>• A large number of scars of different sizes or ages, or on different parts of the body</li> <li>• Verbal disclosure by the child or young person</li> <li>• Explanation offered by the child or young person is not consistent with the injury</li> <li>• Flinching when approached by adults</li> <li>• Frozen watchfulness</li> </ul>	<ul style="list-style-type: none"> <li>• Direct admissions by parents or caregivers that they have injured the child or young person</li> <li>• Direct expressions by parents or caregivers that they may injure the child or young person</li> <li>• Family history of violence, including previous harm to children and young people</li> <li>• Repeated presentations of the child or young person to health or other services with injuries, swallowing of non-food substances or minor complaints</li> <li>• Marked delay between injury and presentation for medical assistance</li> <li>• Story of injury which is inconsistent with the physical findings</li> <li>• History of injury which is vague or variable</li> <li>• Showing little concern about the welfare of a child or young person or the treatment and care of an injury</li> <li>• Isolating a child or young person from contact with school, services etc in order to hide injuries or prevent disclosure.</li> </ul>

## Sexual abuse

Sexual abuse is any sexual act or sexual threat imposed on a child or young person. Sexual abuse is when an adult or someone else who is bigger or older involves the child or young person in sexual activity by using their power over the child or young person and taking advantage of their trust. Children or young people are most likely to be sexually abused by someone who is known to them, including a family member, neighbour or friend of the family.

Child sexual abuse is usually a planned process that follows a particular pattern where a child is identified and targeted. This process is commonly known as 'grooming' where the perpetrator gradually engages the child in sexual activity by using inducements, bribes, rewards or threats. The whole process relies on secrecy. The offender puts great effort into silencing the child or young person, hindering potential suspicion and protection by adults in the child or young person's life.

Child sexual abuse is difficult to detect because of the secrecy that surrounds it. Children or young people are frequently threatened or coerced into remaining silent and are frightened of the consequences if they disclose the abuse.

Children or young people who disclose either directly or indirectly often later deny what they have said due to fear of the consequences and because of the reactions of family and others.

How an adult responds to a disclosure of sexual abuse by the child or young person can be extremely significant for the child or young person's recovery from the trauma of abuse.

Sexual abuse of children or young people is a crime.

Child sexual abuse covers a range of sexual behaviours that are considered harmful to children and young people which may include:

- Any form of sexual touching;
- Any form of sexual suggestion to children, including exposure to pornographic material;
- Exhibitionism and voyeurism;
- Using the child or young person for pornographic videos or prostitution.

There is a range of indicators of sexual abuse. One indicator in isolation may not imply abuse. There may be no physical signs of sexual abuse. Indications are more likely to be emotional and/or behavioural. The following list is not in hierarchical order.

<h2 style="text-align: center;">Indicators in children and young people</h2>	<h2 style="text-align: center;">Indicators in parents, siblings, caregivers, relatives, strangers or acquaintances</h2>
<ul style="list-style-type: none"> <li>• Direct or indirect disclosures</li> <li>• Describes sexual acts e.g. 'he hurts my wee-wee'</li> <li>• Sexually explicit behaviour, play or conversation inappropriate to the child or young person's age</li> <li>• Inappropriate or excessive masturbation</li> <li>• Self destructive behaviour including eating disorders, substance misuse, self mutilation and suicide attempts</li> <li>• An anxious unwillingness to remove clothes e.g. for sporting events</li> <li>• Persistent running away from home</li> <li>• Sudden and unexplained changes in mood or behaviour</li> <li>• Regression in developmental achievements in younger children</li> <li>• Unexplained accumulation of money and gifts</li> <li>• Pain, itching or bleeding in genital or anal area</li> <li>• Pregnancy in a young person where the identity of the father is not disclosed</li> <li>• Bruising to buttocks, breasts, abdomen and thighs</li> <li>• Sexually transmitted infection</li> <li>• Difficulty sleeping and nightmares</li> </ul>	<ul style="list-style-type: none"> <li>• Exposing a child or young person to pornography or using a child or young person for pornographic purposes</li> <li>• Intentional exposure of child or young person to sexual behaviour in others</li> <li>• Previously committed or suspected of child sexual assaults</li> <li>• Denial of young person's pregnancy by family</li> <li>• Inappropriate curtailing or jealousy regarding age appropriate development of independence from the family</li> <li>• Coercing the child or young person to engage in sexual behaviour with other children</li> <li>• Verbal threats of sexual abuse</li> <li>• Exploitation or corruption of children or young people</li> </ul>

## Emotional Abuse

Emotional abuse is the term used to describe chronic and repetitive ill treatment of a child or young person which causes significant harm to their psychological, social, emotional or cognitive development.

Constant yelling, belittling, ignoring and ridiculing are all examples of emotional abuse.

Emotional abuse also refers to situations where children or young people are exposed to domestic violence by seeing or hearing the physical, sexual or psychological abuse between parents or caregivers; or where they are put at risk of exposure to domestic violence that would cause significant harm to their wellbeing and development.

As with other forms of abuse, all children and young people respond differently, however generally speaking, the more severe and ongoing the abuse, the greater the likelihood that it will negatively impact upon the child or young person's wellbeing and development.

It is particularly important to consider the indicators in parents and caregivers when identifying emotional abuse as there are many reasons why children or young people may be emotionally troubled. In situations where there is no emotional abuse, parents usually show concern about their child or young person and seek help.

The following may be indicators of emotional abuse. One indicator in isolation may not imply emotional abuse.

The following list is not in hierarchical order

<b>Indicators in children and young people</b>	<b>Indicators in parents and care givers</b>
<ul style="list-style-type: none"> <li>• Over compliant, withdrawn, passive and/or tearful</li> <li>• Displaying age-inappropriate behaviours, e.g. overly adult (parenting other children) or overly infantile (thumb sucking, rocking, wetting or soiling)</li> <li>• Lack expectations and trust in people</li> <li>• Fearful of parent(s) and caregiver(s)</li> <li>• Indiscriminate attachment</li> <li>• Disruptive or aggressive behaviour towards others</li> <li>• Hypervigilance, particularly in pre-school children</li> <li>• Exhibiting extreme attention seeking or risk taking behaviour</li> <li>• Withdrawn or seen as a 'loner' – difficulty relating to others</li> <li>• Highly anxious</li> <li>• Developmental delay</li> </ul>	<ul style="list-style-type: none"> <li>• Excessive or unreasonable demands</li> <li>• Unrealistic expectations of the child or young person</li> <li>• Persistent hostility and severe verbal abuse</li> <li>• Rejection, ridiculing and scapegoating</li> <li>• Exposure to domestic violence</li> <li>• Constant criticism, belittling, teasing and withholding of affection and praise</li> <li>• Belief that a particular child or young person is intrinsically 'bad', 'naughty' or 'evil'</li> <li>• Using inappropriate social or physical isolation as punishment</li> </ul>

## Neglect

Neglect is the failure by a parent or caregiver to provide a child or young person with the basic requirements necessary for their proper growth and development, such as food, clothing, shelter, medical and dental care and adequate supervision.

Emotional neglect is the term used to describe situations where the parent or caregiver is unresponsive to the child or young person. This may occur when parents or caregivers, overwhelmed by struggles in their lives, such as substance use, domestic violence or mental illness, are emotionally or physically unavailable to their children.

Neglect may be episodic and related to a particular crisis or it may be chronic and persistent, characterised by the repeated failure to meet a child or young person's needs and to protect them from harm.

Neglect can have seriously detrimental effects on a child or young person's social, psychological, educational or physical development.

There is a range of indicators of neglect. One indicator in isolation may not imply neglect. Each indicator needs to be considered in the context of other indicators and the child's or young person's circumstances.

The following list is not in hierarchical order.

<b>Indicators in children and young people</b>	<b>Indicators in parents and care givers</b>
<ul style="list-style-type: none"> <li>• Poor hygiene: matted hair, dirty skin or strong body odour</li> <li>• Loss of ‘skin bloom’ and poor hair texture</li> <li>• Untreated physical or medical problems</li> <li>• Frequent illness and low grade infections</li> <li>• Persistently untreated head lice</li> <li>• Hungry – scavenging, stealing or hoarding food</li> <li>• Constantly tired and listless</li> <li>• Delay in developmental milestones</li> <li>• Low weight for age and/or failure to thrive for no medical reason</li> <li>• A flat and superficial way of relating</li> <li>• Anxiety about being dropped or abandoned</li> <li>• Self comforting behaviour, e.g., rocking and/or sucking</li> <li>• Inadequate clothing in winter</li> <li>• Frequent lateness to or absence from school</li> <li>• Child or young person states that no one is home to provide care</li> <li>• Longing for adult affection</li> <li>• Child or young person avoids going home</li> </ul>	<ul style="list-style-type: none"> <li>• Dirty unhygienic environment e.g., house over-run with pets, faeces not cleaned up etc</li> <li>• Nowhere for child or young person to sleep</li> <li>• Unable or unwilling to provide adequate food and/or clothing</li> <li>• Leaving the child or young person inappropriately without supervision</li> <li>• Abandoning the child or young person</li> <li>• Unable to respond emotionally to the child or young person</li> <li>• Depriving of or withholding physical contact or stimulation for prolonged periods</li> <li>• Overwhelmed with other problems eg., substance abuse</li> <li>• showing no concern for the child or young person’s wellbeing when it would be reasonably expected</li> <li>• Family is isolated from relatives, other adults or social supports</li> <li>• Greeting the child or young person with indifference</li> <li>• An extremely chaotic life</li> <li>• Family home is very chaotic and unkempt</li> </ul>

## 2. LEGISLATIVE CONTEXT

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The *Children and Young People Act 2008* provides general principles and specific care and protection principles to guide all decisions and actions made or taken under the Act, whether made by the Director General, the courts or otherwise.

### Best interests of children and young people

Section 8 states the following:

- (1) *In making a decision under this Act in relation to a particular child or young person, the decision-maker **must regard the best interests of the child or young person as the paramount consideration.***

### General principles

Section 9 requires a decision-maker to apply the following principles except when it would be contrary to the best interests of a child or young person-

- (a) *the child's or young person's sense of racial, ethnic, religious, individual or cultural identity should be preserved and enhanced;*
- (b) *the child's or young person's education, training or lawful employment should be encouraged and continued without unnecessary interruption;*
- (c) *the child's or young person's age, maturity, developmental capacity, sex, background and other relevant characteristics should be considered;*
- (d) *delay in decision-making processes under the Act should be avoided because delay is likely to prejudice the child's or young person's wellbeing.*

## Aboriginal and Torres Strait Islander children and young people principle

This principle (section 10) states the decision-maker must take into account the following:

- (a) *the need for the child or young person to maintain a connection with the lifestyle, culture and traditions of the child's or young person's Aboriginal or Torres Strait Islander community;*
- (b) *submissions about the child or young person made by or on behalf of any Aboriginal or Torres Strait Islander people or organisations identified by the director-general as providing ongoing support services to the child or young person or the child's or young person's family;*
- (c) *Aboriginal and Torres Strait Islander traditions and cultural values (including kinship rules) as identified by reference to the child's or young person's family and kinship relationships and the community with which the child or young person has the strongest affiliation.*

## Care and protection principles

Section 350 requires a decision-maker to apply the following principles:

- (a) *the primary responsibility for providing care and protection for the child or young person lies with the child's or young person's parents and other family members;*
- (b) *priority must be given to supporting the child's or young person's parents and other family members to provide for the wellbeing, care and protection of the child or young person;*
- (c) *if the child or young person does not live with his or her family because of the operation of the Act-contact with his or her family, and significant people must be encouraged, if practicable and appropriate;*
- (d) *if the child or young person is in need of care and protection and the child's or young person's parents and other family members are unwilling or unable to provide the child or young person with adequate care and protection (whether temporarily or permanently)-it is the responsibility of the government to share or take over their responsibility;*
- (e) *if the child or young person does not live with the child's or young person's parents because of the operation of this Act- the safety and wellbeing of the child are more important than the interests of the parents;*
- (f) *a court should make an order for a child or young person only if the court considers that making the order would be better for the child or young person than making no order at all.*

### 3. REPORTING REQUIREMENTS

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The Act provides for voluntary reporting, including prenatal reporting and mandatory reporting.

#### Voluntary reporting of abuse and neglect

Any person may choose to make a voluntary report if they believe or suspect a child or young person is being abused or neglected, or is at risk of abuse or neglect.

Section 354 of the *Children and Young People Act 2008* states;

*If a person believes or suspects that a child or young person-*

- a) *is being abused;*
- b) *is being neglected; or*
- c) *is at risk of abuse or neglect,*

*The person may report the belief or suspicion and the reasons for the belief or suspicion, to the director-general.*

There is no penalty if a person does not make a voluntary report.

#### Prenatal reporting – anticipated abuse and neglect

There are also provisions in the Act that enable a person to make a voluntary prenatal report if they suspect or believe a child, once born, may be in need of care and protection.

Section 362 of the Act states the following;

- 1) *This section applies, if during a pregnancy, a person believes or suspects that a child who may be born as a result of the pregnancy may be in need of care and protection.*
- 2) *The person may report (a prenatal report) the belief or suspicion, and the reasons for the belief or suspicion, to the director-general.*

Care and Protection Services must seek the consent of the pregnant woman in order to further assist or provide support or referrals to relevant agencies.

However, if the pregnant woman does not consent to assistance and the Director-General suspects on reasonable grounds that the child may be in need of care and protection after the child is born, the Director-General may give prenatal information to, or ask for prenatal information from, a relevant organisation.

The Director-General must ensure, as far as practicable, that any action taken is appropriate and consistent with the pregnant woman's human rights.

Section 362 of the *Children and Young People Act 2008* contains more information about prenatal reporting

## Mandatory Reporting

Section 356 of the *Children and Young People Act 2008* states that the following people are mandated reporters:

- a) *a doctor;*
- b) *a dentist;*
- c) *a nurse;*
- d) *an enrolled nurse;*
- e) *a midwife;*
- f) *a teacher at a school* (this includes a teacher's assistant or aide if the assistant or aide is in paid employment at the school);
- g) *a person authorised to inspect education programs, materials or other records used for home education of a child or young person under the Education Act 2004;*
- h) *a police officer;*
- i) *a person employed to counsel children or young people at a school;*
- j) *a person caring for a child at a childcare centre* (this includes a childcare assistant or aide caring for a child at the childcare centre if the assistant or aide is in paid employment at the childcare centre, but does not include anyone caring for a child as an unpaid volunteer);
- k) *a person coordinating or monitoring home-based care for a family day care scheme proprietor;*
- l) *a public servant who, in the course of employment as a public servant, works with, or provides services personally to, children and young people or families;*
- m) *the public advocate;*
- n) *the official visitor;*
- o) *a person who, in the course of the person's employment, has contact with or provides services to children, young people and their families and is prescribed by regulation.*

## A person commits an offence if-

- a. *the person is a mandated reporter; and*
- b. *the person is an adult; and*
- c. *the person believes on reasonable grounds that a child or young person has experienced, or is experiencing -*
  - i. *sexual abuse; or*
  - ii. *non-accidental physical injury; and*
- d. *the person's reasons for the belief arise from information obtained by the person during the course of, or because of, the person's work (whether paid or unpaid); and*
- e. *the person does not, as soon as practicable after forming the belief, report (a mandatory report) to the director-general -*
  - i. *the child's or young person's name or description; and*
  - ii. *the reasons for the person's belief.*

**Maximum penalty:** 50 penalty units, imprisonment for 6 months or both

## Exceptions to mandatory reporting

- 1) *Section 356 does not apply to a person if the person believes on reasonable grounds that-*
  - a) *someone else has made a report to the director-general about the same child or young person in relation to the same abuse or neglect; and*
  - b) *the other person has reported the same reasons for their belief as the person has for their belief.*
- 2) *Section 356 does not apply to a person if the person believes on reasonable grounds that-*
  - a. *the child or young person (the injured person) has experienced, or is experiencing, non-accidental physical injury caused by another **child or young person; and***
  - b. *a person with parental responsibility for the injured person is willing and able to protect the injured person from further injury.*

## Under what circumstances may you form a belief on reasonable grounds that someone else has made a report?

- someone tells you; or
- you read a file note; or
- you sight the reporting documentation;

that a report was made about the same child or young person in relation to the same abuse or neglect with the same reasons given for their belief as you have for your belief.

## The following are examples of situations when you might form a 'belief on reasonable grounds' that a child or young person has experienced sexual abuse or non-accidental physical injury?

- a child or young person tells you that he or she has experienced or is experiencing sexual abuse or non-accidental physical injury, or
- someone else advises you that a child or young person has been sexually abused or non-accidentally physically injured, or
- your own observations of the child or young person's physical condition or behaviours, or those of the parents or caregivers, lead you to reasonably believe that the child or young person has experienced sexual abuse or non-accidental physical injury.

**The mandated reporter is not required to prove that abuse has occurred.**

## False or misleading mandatory, voluntary or prenatal report.

Refer to sections 355, 358 & 363, it is an offence to make a report that contains information or allegations that are false or misleading.

It is also an offence if you **knowingly** omit or withhold information relevant to the allegations and by withholding this information the allegations are false or misleading.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

## 4. MAKING A CHILD CONCERN REPORT TO CARE AND PROTECTION SERVICES

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If you consider the risk of harm for the child or young person requires immediate police attention, please call 000.

If you suspect or believe on reasonable grounds that a child or young person is experiencing abuse or neglect or you wish to discuss your concerns about a child or young person, you should telephone Care and Protection Services Centralised Intake Service as soon as possible.

The contact numbers are listed on the last page of this booklet

### Interstate issues

If the child or young person you are concerned about is currently in the ACT but resides interstate, the Act requires you to report to Care and Protection Services in the ACT. Care and Protection Services will notify the interstate authority if the child or young person is to return to their state of origin

### What if you are not sure if what you are seeing is abuse or neglect?

People who contact Care and Protection Services do so because they are concerned about a child or young person's situation. Often they are not sure how serious a matter may be or whether a child's experience should be considered 'abusive' or not.

If you are unsure that what you are seeing constitutes abuse or neglect you can contact Care and Protection Services at Centralised Intake Services to discuss your concerns.

It is the intention of Care and Protection Services to genuinely encourage and facilitate any discussions that you may wish to have about your concerns for children or young people and to provide advice about services available to help and support children, young people and families.

Care and Protection Services document all discussions about concerns for children and young people. It is recommended that you also document on your file that the discussion has taken place.

## Information required when making a Child Concern Report

- name and date of birth of the child(ren) or young person(s)
- home address(es) of the child(ren) or young person(s) and any known previous addresses of the family
- current whereabouts of the child(ren) or young person(s)
- name of parents/aliases and contact details
- name of known siblings
- nature of abuse and neglect
- known supports to the child, young person and family including extended family
- details about when and how you became aware of the information

## Protection of reporter

If a person makes a voluntary or mandatory report to Care and Protection Services 'honestly and without recklessness' -

- a. *giving the information is not a breach of –*
  - i. *confidence; or*
  - ii. *professional etiquette or ethics; or*
  - iii. *a rule of professional conduct; and*
- b. *the person does not incur civil or criminal liability only because of giving the information*

Section 874 expands on protection of people who give information to Care and Protection Services

## Confidentiality provisions

Section 857 of the Act states your identity as a reporter must not be disclosed to any other person. Under section 845 the identity of the reporter is considered sensitive information.

However, if Care and Protection Services refer a Child Concern Report to the Child Abuse Team of the Police, the identity of the reporter must also be provided.

Additionally, in certain circumstances, the court may order a document containing sensitive information to be produced to the court. This may include the contents of a Child Concern Report and the identity of the reporter.

Before doing so, the court must carefully consider the desirability of protecting the identity of a person who made a Child Concern Report.

Information identifying people who have reported to Care and Protection Services and the contents of reports and appraisals are exempt from release under the *Freedom of Information Act 1989*

## Action following a Child Concern Report

Upon receiving information or a Child Concern Report Care and Protection Services will make an assessment of risk and need. This process may include gathering information from a range of services and contact with the family concerned. The assessment will assist Care and Protection Services to determine an appropriate response for the child, young person and family.

In some instances contact with Care and Protection Services may be brief and involve assisting the family to engage with support services. In other circumstances where risk to a child or young person's immediate safety has been identified, a more protective intervention may be initiated. All concerns reported to Care and Protection Services will be recorded whether the child or young person is identified as being at risk of harm or not.

A child or young person will only be removed from the home when there is imminent risk to their safety and well being. This occurs in a very small percentage of cases each year. Care and Protection Services prefer to work with families on a voluntary basis however court orders may be sought when voluntary involvement cannot be achieved.

Care and Protection Services will advise a mandated reporter if the Child Concern Report will be appraised or not. However, other members of the community will not receive feedback regarding the report. The confidentiality provisions of the Act prevent Care and Protection Services from providing more detailed information unless the professional has an ongoing role with the child, young person and family. The confidentiality provisions are designed to protect all those involved – for example, the child, the family members and reporters.

## 5. RESPONDING TO A CHILD OR YOUNG PERSON WHEN THEY DISCLOSE ABUSE AND NEGLECT

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When a child or young person discloses that he or she has been abused or neglected the child or young person may be feeling scared, guilty, ashamed, angry, and powerless. A child or young person's disclosure is a message that they want the abuse to stop.

You, in turn, may feel a sense of outrage, disgust, sadness, anger and sometimes, disbelief.

It is important that you remain calm and in control of your feelings in order to reassure and support the child or young person.

If you suspect abuse, but the child or young person has not told anyone, be aware of the emotional distress that the child or young person may be experiencing. Approach the child or young person in a caring and sensitive manner and tell the child or young person that you want to listen and help.

Do not make any promises you are unable to keep

### ***Possible ways you can show your care and concern***

- listen carefully to what the child or young person is saying
- control expressions of panic or shock
- reassure the child or young person that you believe him or her
- reassure the child or young person that to disclose was the right thing to do
- reassure the child or young person that they are not to blame (only if the child indicates this is what they believe)
- acknowledge that it is hard to talk about such things
- indicate what you will do, i.e. that you will talk to someone who can give you some advice about what should happen next
- if you are not in a position to answer all the questions that a child or young person may have, explain that you don't know but will pass on their questions or concerns to the relevant person

### ***You will not be helping the child if you:***

- express anger or disgust about the alleged abuser;
- make promises you cannot keep, such as promising that you will not tell anyone; or
- seek further details beyond those that the child or young person freely wants to discuss. Remember that quizzing children about details may be interpreted as disbelief.

**Your role is to support and listen to the child or young person, not to conduct an investigation.**

## 6. FREQUENTLY ASKED QUESTIONS

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### What about confidentiality?

Confidentiality and privacy are important but should not override the safety of children or young people. Sharing information between Care and Protection Services and other agencies is essential in order to protect children and young people from experiencing abuse or neglect.

Chapter 25 of the *Children and Young People Act 2008* provides the legal framework for Care and Protection Services to ask for, receive and give information to specified people and agencies.

When making a decision about sharing information about a child or young person, the decision maker must regard the best interests of the child or young person as the paramount consideration.

### Do Care and Protection Services appraise every Child Concern Report?

No. All Child Concern Reports must be recorded. However, a decision to undertake a child protection appraisal is based on the outcome of the risk assessment undertaken upon receipt of each Child Concern Report.

### Will you tell me what will happen now that I have made a Child Concern Report?

Care and Protection Services is unable to provide members of the community with feedback regarding the report. Care and Protection Services will advise a mandated reporter if the report will be appraised or not.

### Can I be called to give evidence?

Yes. A reporter may be called to Court to give evidence. However, it is rare for the reporter to be called as a witness, as Care and Protection Services will have obtained extensive additional evidence through the appraisal process. Care and Protection Services is not the only party who may issue a subpoena. Solicitors for the parents, for the child or another party may also subpoena you to provide evidence or documents to the Court.

If you are subpoenaed to give evidence or produce documents, you may contact the Care and Protection Services Centralised Intake Service for further advice and assistance.

## Should the student/client/patient be forewarned that I am legally obliged to contact Care and Protection Services?

It is respectful practice and within the parameters of natural justice to make clear to people your legal responsibilities as a mandated reporter. Many professional groups address this issue by:

- including a verbal explanation of the limitations on confidentiality at the beginning of their relationship with a client or patient; and/or
- placing a sign in a reception area or agency newsletter that clearly states the legislative responsibilities of mandated reporters.

The law **does not require** mandated reporters to advise persons prior to making a Child Concern Report.

## Should I tell the family I will be making a report?

This is a decision only you can make.

The experience of mandated persons has been that the relationship with the client is more likely to be maintained or repaired if the intention to make a Child Concern Report and the reasons for doing so are fully discussed.

However there are some circumstances where discussing your intention to make a Child Concern Report would not be advisable as it could:

- place a child or young person at increased risk of significant harm;
- place an adult at risk of serious harm;
- interfere with the investigation of a criminal offence;
- lead to delay in the assessment of allegations of significant harm to a child or young person

If in doubt, it is recommended that you discuss this issue with your supervisor.

## CONTACTS FOR MAKING A CHILD CONCERN REPORT

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### Care and Protection Services Centralised Intake Services

General Public line (24 hours) 1300 556 729

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Mandated Persons line (24 hours) 1300 556 728

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Mandated Persons fax line (24 hours) 02 6205 0641

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Email address: childprotection@act.gov.au

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### Other important contacts

Police Urgent and immediate assistance 000

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NSW DoCS Helpline 132 111

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The Office for Children, Youth and Family Support website

<http://www.dhcs.act.gov.au/ocyfs>

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Children and Young People Act 2008

[http://www.austlii.edu.au/au/legis/act/consol\\_act/caypa2008242/](http://www.austlii.edu.au/au/legis/act/consol_act/caypa2008242/)

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