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reporting child protection matters

reporting **child protection** matters

This section provides information on the official and formal processes for the reporting of suspected cases child abuse and neglect in each State and Territory. It includes information on the varying laws and definitions relating to child abuse and neglect and outlines who is compelled to report possible cases under mandatory reporting requirements.

Suspected cases of child abuse and neglect should be reported and it is important that people making reports understand the child protection system. This includes how the system may impact upon the person making the report, the child or children involved and the families involved.

The Aboriginal and Islander Child Care Agencies in each State and Territory are a good source of advice on how the child protection system works in your State or Territory, (see Section E: Directory for contact details).

Finally if making a notification it is important to let the child protection authorities know if you believe the child or children concerned are Aboriginal or Torres Strait Islander. This is important to ensure the appropriate Indigenous organisations, communities and families are consulted about the best interests of the child or children involved.

Photo: Kenny Bedford

Aboriginal & Islander **Child and Family Welfare Services**

Development of Aboriginal & Islander Child and Family Welfare Services

Aboriginal and Islander Child and Family Welfare Services as we know them today, commenced in the 1970's as Aboriginal and Islander Child Care Agencies, AICCAs. The first AICCA's were established as Indigenous communities across Australia sought to prevent the ongoing removal of Aboriginal and Torres Strait Islander children by state welfare authorities and their placement with non-Aboriginal families.

Inspired by the success of Native Americans, in particular the Yakima Indian Nation, in reducing the rate of child removal, Mollie Dyer from the Victorian Aboriginal Legal Service returned to Australia to establish the Victorian Aboriginal Child Care Agency, VACCA. VACCA, the Aboriginal Children's Service in Redfern and South Australia's AICCA soon became models and a source of inspiration for a new way of caring for children at risk of abuse or neglect. The establishment of similar agencies in all other States and Territories soon followed.

By 1979 the AICCAs, most still operating as voluntary associations, had decided to develop a national organisation to represent and pursue the rights, needs and aspirations of Aboriginal and Torres Strait Islander families and children.

SNAICC was established as an organisation with broad aims and objectives which go beyond child welfare to focus on the rights of Aboriginal and Torres Strait Islander children and families.

Over the years AICCA services have expanded and are now more commonly known as Aboriginal and Islander Child and Family Welfare Services. This is because agencies now provide quite a broad range of services and programs. Early Intervention and Support Programs such as Family Support and Counselling, Parenting groups, and Playgroups are now part of the continuum of service provision. Over the years it became more apparent that the provision of early intervention programs was paramount in terms of combating the issue of contemporary removals and to emphasise the original aim of the AICCA's which was to keep Aboriginal and Islander families together.

There are now agencies operating across Australia, although in many parts of the country and throughout most of NSW there is a great need to develop new Aboriginal and Islander Child and Family Welfare Services for communities. SNAICC believe there should ideally be AICCAs based in all geographic regions around the country to provide a relevant and localised service to Aboriginal and Torres Strait Islander children and families. It is imperative that we have Indigenous specific services that are community based and managed, similarly, it is important these services are localised as local service providers are known and trusted by community, have established relationships with their people and are in the best position to know and understand the needs of their community.

The role of AICCA's today

The aim of the AICCAs has always been to support Aboriginal and Torres Strait Islander families to raise happy, healthy, proud, strong children — who will take pride in their cultural heritage and identity.

Whilst the AICCAs are community based organisations and are unique from one another, they typically provide a range of services for communities:

- parenting and family support programs including family preservation and counselling
- support services to prevent breakdown in Aboriginal Families
- recruitment and training of Aboriginal and Torres Strait Islander foster carers to support children who need to be placed in out of home care
- assisting families with referrals to other support services including health, education, domestic violence and legal services
- placement, cultural support and supervision for children in foster care, out of home care or kinship care
- provision of support and assistance to families who have voluntarily taken on the care of other Aboriginal or Torres Strait Islander children from their community or kin
- link up programs for members of the Stolen Generations
- family reunification services for children with experience of out of home care
- court advocacy and support for families in relation to child protection matters in order to determine the best interests of children
- emergency relief and youth accommodation services
- family group homes and short term care for families and children in crisis
- community awareness campaigns on the rights and needs of children and families
- cross-cultural awareness advice and training to Non-Aboriginal agencies and Government departments
- cultural activities and programs for children and families
- activities for NAIDOC and National Aboriginal and Islander Children's Day

Whilst AICCAs may work in all of these areas they are not necessarily funded for all services. Most of the funding provided to AICCAs is from State and Territory governments and the majority of their funding is focussed on the care of children after they have been removed – rather than supporting families to stay together. This includes funding for foster care programs and placement support. Very little funding is provided for general family support, parenting programs or family reunification however SNAICC and the AICCAs are continuously and increasingly asserting to Government

The AICCAs and SNAICC believe that additional funding is required to provide AICCAs with the capacity and resources to assist families and prevent the need for children to be removed in the first place.

The role of AICCAs in child protection

AICCAs are not responsible for investigating reported cases of child abuse or neglect or for making decisions in relation to the removal of Aboriginal and Torres Strait Islander from their families. These decisions are the responsibility of State and Territory community services, human services or welfare departments.

AICCAs main objective is to support families, keep families together, reduce the need for children to be removed and ensure that children are kept close to family — and within their Indigenous community — if they are removed.

The specific role and responsibilities of each AICCA in child protection varies from State to State but typically includes providing community and family input into decisions regarding the welfare of children.

This can include:

- being informed by the State/Territory department of any child abuse or neglect investigations involving Indigenous children and possibly being present to assist families when investigations take place
- providing advice to the relevant court on the best interests of the child before care and protection orders are issued

Photo: Kenny Bedford

- providing advice to the State/Territory department on the most appropriate options for placing a child or children if it has been decided they need to be removed from home for their protection. (Final decisions of where a child is placed is usually the responsibility of the Department.)
- assisting States and Territories to adhere to the Indigenous Child Placement Principle
- supervising and monitoring placements to ensure children are properly cared for when they are in out of home care
- administering foster care payments
- providing on-going advice to the Department on the long term interests of children in care and options for family reunification
- providing policy advice to governments on priorities for improving the child protection system

The role of AICCAs does not include:

- acting as the contact point for formal notification of possible cases of child abuse or neglect
- investigating possible cases of child abuse or neglect
- issuing care and protection orders
- approving, endorsing or making decisions to remove children from their families

Indigenous Child Placement Principle

One of the first and most important changes the AICCAs and SNAICC secured in relation to child protection was the development and agreement by all States and Territories to the Aboriginal Child Placement Principle, now referred to as the Indigenous Child Placement Principle.

The principle ensures that if an Indigenous child is removed from home then their placement must adhere to a set of priorities. These priorities were established to serve in the best interest of the child and their needs including their cultural, spiritual, emotional and mental wellbeing.

As was established during the Human Rights and Equal Opportunity Commission inquiry into the Stolen Generations, the forced removal of Indigenous children and their deliberate assimilation into another community was a form of genocide.

"Genocide is not only the mass killing of a people. The essence of genocide is acting with the intention to destroy the group, not the extent to which that intention has been achieved. A major intention of forcibly removing Indigenous children was to absorb, merge or assimilate them, so Aborigines as a distinct group would disappear. Authorities sincerely believed assimilation would be in the best interests of the children, but this is irrelevant to a finding that their actions were genocidal."

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The aim of the Indigenous Child Placement Principle is to prevent the culturally destructive practice of Aboriginal and Torres Strait Islander children being removed from home and placed long term with non-Aboriginal families.

The principle replaced the racist policies which gave rise to the Stolen Generations and it sets out the following priorities for the placement of children who have been removed from their families.

Preferred placement of Indigenous children is to be:

- with the child's extended family
- within the child's Indigenous community or group
- with another Indigenous family, where culturally appropriate
- or where no other option is available, with a non-Indigenous family

Where an Aboriginal and Torres Strait Islander child is placed as a last resort with a non-Indigenous family an AICCA may be involved in supervising the placement to ensure that the child is able to maintain links with their people and culture.

All States and Territories have accepted the principle as either law or policy however there appears to be emerging evidence that shows the Principle is not being consistently adhered to by child protection authorities. Nonetheless, AICCA representatives and SNAICC believe the ICPP is the means to achieving the best interest of the child and will continue to seek adherence to the Principle.

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This material is an extract from AIHW report, *Child protection Australia 2003–04,* Australian Institute of Health and Welfare Canberra AIHW Cat. no. CWS 24 CHILD WELFARE SERIES Number 36. For more detailed information about child protection statistics and policy for each state and territory access the full version of the AIHW report at http://www.aihw.gov.au/publications/index.cfm/title/10095]

Child Protection Overview

Legal Responsibility for child protection

Child protection is the responsibility of the community services department in each state and territory. Children who come into contact with these departments for protective reasons include those:

- who are suspected of being, have been or are being abused, neglected or otherwise harmed

  whose parents cannot or are unable to provide adequate care or protection.

The community services departments provide assistance to these children and their families through the provision of, or referral to, a wide range of services. Some of these services are targeted specifically at children in need of protection (and their families); others are available to a wider section of the population and attempt to deal with a broad range of issues or problems. This report provides national data on children who come into contact with the community services departments for protective reasons. The three areas of the child protection system for which national data are collected are:

- child protection notifications, investigations and substantiations
- children on care and protection orders
- children in out-of-home care.

A limited amount of data is collected on intensive family support services. However, there are no data at the national level on children who are referred to or who access other services for protective reasons.

Reporting of child protection matters

Currently, all states and territories have some level of legislation requiring the compulsory reporting to community services departments of harm due to child abuse or neglect. The breadth of professionals and organisations mandated to report varies widely across the jurisdictions. For example, in Western Australia only a few professionals are mandated to report (see section on mandatory reprting for more information). On the other hand, in the Northern Territory anyone who has reason to believe that a child may be abused or neglected must report this to the appropriate authority.

The types of child protection matters that are reported also vary across jurisdictions. In addition to requirements under state and territory legislation, Family Court staff are also required under the Family Law Act 1975 to report all suspected cases of child abuse.

Police also have some responsibility for child protection in each state and territory, although the extent of their responsibility varies in each jurisdiction. Generally, they are involved in child abuse or neglect of a criminal nature, that is, where there is significant sexual or physical abuse, or any abuse that results in the serious injury or death of a child. In some states or territories there are protocols or informal arrangements whereby the police are involved in joint investigations with the relevant community services department.

Other areas of government also play a role in child protection. Health services support the assessment of child protection matters and deliver therapeutic, counselling and other services. The education sector in many jurisdictions undertakes preventive work with children and families, and also plays an important role in the identification of suspected harm. In some jurisdictions, childcare services are specifically provided for children in the child protection system.

The child protection process

Although each jurisdiction has its own legislation, policies and practices in relation to child protection, the processes used to protect children are broadly similar. Figure 1 shows a simplified version of the main processes used in child protection systems across Australia. These are outlined in more detail in Figure 1.1 overleaf.

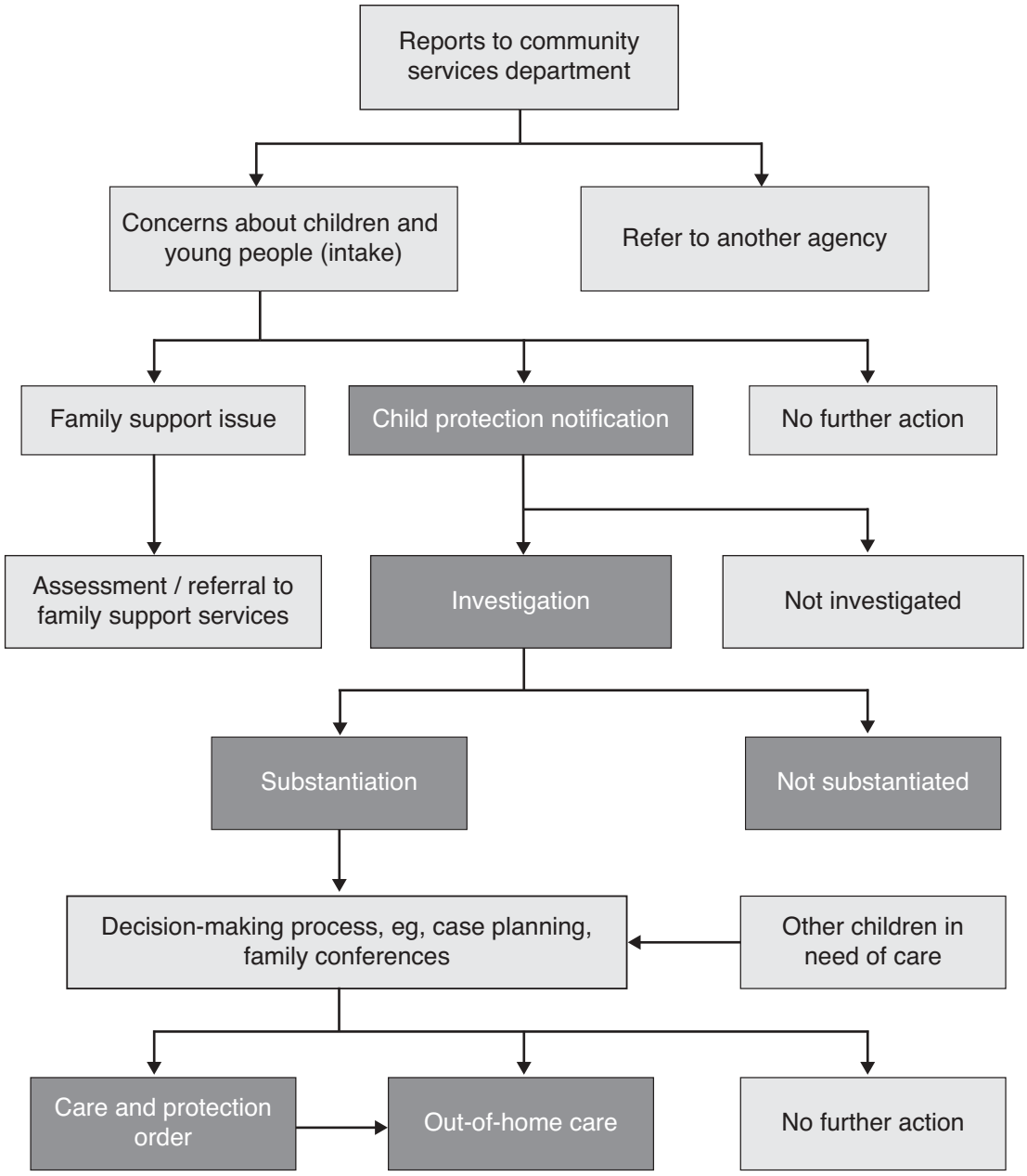
Reports to the department

Children who are assessed to be in need of protection can come into contact with community services departments through a number of avenues. These include reports of concerns about a child made by someone in the community, by a professional mandated to report suspected abuse and neglect, or by an organisation that has contact with the family or child. The child, his or her parent(s), or another relative may also contact the department either to seek assistance or to report suspected child abuse or harm. These reports may relate to abuse and neglect or to broader family concerns such as economic problems or social isolation. There are no national data on the total number of reports made to community services departments relating to concerns about children.

Reports to the department are assessed to determine whether the matter should be dealt with by the community services department or referred to another agency. Those reports that are appropriate for the community service departments are further assessed to determine whether any further action is required.

Reports requiring further action are generally classified as either a family support issue or a child protection notification, although the way reports are classified varies somewhat across jurisdictions. Departmental officers, in deciding whether a report will be classified as a child protection notification, take a range of factors into account. Those reports classified as requiring family support are further assessed and may be referred to family support services. Child protection notifications are dealt with through a separate process.

Fig 1.1 The child protection process



Note: Family support services can be provided at any point in the process. A child may also be placed on a care and protection order or be taken into out-of-home care at any point. Shaded boxes are items for which national data are collected.

Notifications, investigations and substantiations

A child protection notification is assessed by the department to determine whether it requires an investigation; whether it should be dealt with by other means, such as referral to other organisations or to family support services; or whether no further protective action is necessary or possible. An investigation is the process whereby the community services department obtains more detailed information about a child who is the subject of a notification, and the aim of an investigation is to make an assessment of the degree of harm or risk of harm for the child.

After an investigation has been finalised, a notification is classified as 'substantiated' or 'not substantiated'. A notification will be substantiated where it is concluded after investigation that the child has been, is being or is likely to be abused, neglected or otherwise harmed. States and territories differ somewhat in what they actually substantiate. All jurisdictions substantiate situations where child abuse and neglect have occurred or are likely to occur, whereas some also substantiate situations where the child has been harmed or is at risk of harm and the parents have failed to act to protect the child.

Care and protection orders and out-of-home care

At any point in this process the community services department has the authority to apply to the relevant court to place the child on a care and protection order. Recourse to the court is usually a last resort and is used in situations where supervision and counselling are resisted by the family, where other avenues for the resolution of the situation have been exhausted, or where removal of a child from home into out-of-home care requires legal authorisation. In some jurisdictions, for example, all children who are placed in out-of-home care must be on an order of some kind.

Children can also be placed on a care and protection order and/or in out-of-home care for reasons other than child abuse and neglect; for example, in situations where family conflict is such that 'time out' is needed, or a child is a danger to himself or herself, or where the parents are deceased, ill or otherwise unable to care for the child.

Important differences among states and territories

There are some important differences between jurisdictions in policies and practices in relation to child protection, and these differences affect the data provided. The data from different jurisdictions are therefore not strictly comparable and should not be used to measure the performance of one jurisdiction relative to another.

One of the main differences between jurisdictions is in the policy frameworks used by states and territories in relation to notifications. In Western Australia, reports that express concerns about children are screened by senior staff. Also, a report expressing concern about children may receive the interim assessment classification of 'Child Concern Report' (CCR). This occurs when there is uncertainty at intake as to whether a child has experienced, or is likely to experience, significant maltreatment warranting a statutory child protection response. The CCR assessment provides the basis for the

most appropriate response—statutory child protection (i.e. treat as if the contact is a notification), family support or no further action. A significant proportion of reports are therefore not counted as child protection notifications. The rates of children who are the subjects of notifications, and consequently substantiations, are therefore lower than the rates in other jurisdictions.

In Victoria, on the other hand, the definition of a 'notification' is very broad and includes some reports that may not be classified as a notification in other jurisdictions. Other states and territories have policies between these two extremes. For example, South Australia screens reports and may refer some of these to other agencies or provide family support services rather than a child protection response. In 2002, the Australian Capital Territory screened reports similar to South Australia, but in 2003 the definition was changed to incorporate all contacts regarding concerns for children as child protection reports. Tasmania previously had a very similar system to Western Australia, but since 2003–04 all reports to the department are recorded as a notification, which is a very similar system to Victoria. The screening process used in South Australia, however, does not appear to be as stringent as that used in Western Australia. In New South Wales, all reports classified as 'child protection' reports are categorised and receive a 'risk of harm' assessment to determine the appropriate action. Only reports of harm or risk of harm are included in this report.

Other differences between jurisdictions are also worth noting:

- In some jurisdictions, such as New South Wales, reports to the department relating to abuse by a stranger may be classified as a notification, but in other jurisdictions they are not.
- What is substantiated varies. Some jurisdictions substantiate the harm or risk of harm to the child, and others substantiate actions by parents or incidents that cause harm. In focusing on harm to the child, the focus of the child protection systems in many jurisdictions has shifted away from the actions of parents towards the outcomes for the child.

Care and Protection Orders

Children who are in need of care and protection

If a child has been the subject of a child protection substantiation, there is often a need for the community services department to have continued involvement with the family. The department generally attempts to protect the child through the provision of appropriate support services to the child and family. In situations where further intervention is required, the department may apply to the relevant court to place the child on a care and protection order.

Recourse to the court is usually a last resort—for example, where supervision and counselling are resisted by the family or where removal of the child to out-of-home care needs legal authorisation. However, not all applications for an order will be granted. The

term 'care and protection order' in this publication refers not only to legal orders but also to other legal processes relating to the care and protection of children, including administrative arrangements or care applications.

Fewer children are placed on a care and protection order compared to the number who are the subject of a substantiation. The proportion of children who were the subject of a substantiation in 2002–03, and who were placed on a care and protection order within 12 months, ranged from 12% in Queensland to 58% in Tasmania. The variations between jurisdictions are likely to reflect the differences in child protection policies and in the types of orders available in each state and territory.

Community services departments may also need to assume responsibility for children and place them on a care and protection order for reasons other than a child protection substantiation. This may occur in situations where there is family conflict and 'time out' is needed, where there is an irretrievable breakdown in the relationship between the child and his or her parents, or where the parents are unwilling or unable to adequately care for the child.

Each state and territory has its own legislation that provides a definition of 'in need of care and protection'. In some states and territories the definition in the legislation covers a wide range of factors that may lead to a child being considered in need of care and protection, such as truancy or homelessness. In other states, such as Victoria, the legislation defines the need for care and protection more narrowly to refer to situations where the child has been abandoned or where the child's parent(s) are unable to protect the child from significant harm. The legislation in each jurisdiction provides for action that can be taken if a child is found to be in need of care and protection.

Although the legislation provides the framework within which the community services departments must operate in regard to children in need of care and protection, there are a number of factors that are likely to affect the decision of departmental officers to apply for a care and protection order. These include the different policies and practices of the states and territories, the characteristics of the particular child, the characteristics of the family, previous encounters of the child or family with the community services department, and the availability of alternative options.

The Children's Court

In most jurisdictions, applications for care and protection orders by the relevant community services department are made to the Children's Court. In South Australia, applications are made to the Youth Court, and in the Northern Territory to the Family Matters Court. A small number of applications may also be brought before the Family Court, or the state or territory Supreme Court, but orders granted by these courts are only included for some jurisdictions.

Temporary Protection Visas

In some jurisdictions, children on Temporary Protection Visas (TPV) are included in the data collection. The Department of Immigration, Multicultural and Indigenous Affairs (DIMIA) issues these visas and then advise the community services department. The child is then under the guardianship of the community services minister until they turn 18 years. These children are counted under guardianship or custody order/administrative arrangements. Data on the exact number of children is not collected by the AIHW.

Types of care and protection orders

There are a number of different types of care and protection orders and these have been grouped into three categories for this report.

1. Guardianship or custody orders/administrative arrangements

Guardianship orders involve the transfer of legal guardianship to an authorised department or to an individual. By their nature, these orders involve considerable intervention in the child's life and that of the child's family, and are sought only as a last resort. Guardianship orders convey to the guardian responsibility for the welfare of the child (for example, regarding the child's education, health, religion, accommodation and financial matters). They do not necessarily grant the right to the daily care and control of the child, or the right to make decisions about the daily care and control of the child, which are granted under custody orders.

In previous years, guardianship orders generally involved the transfer of both guardianship and custody to the department, with the head of the state or territory community services department becoming the guardian of the child. More recently, several jurisdictions have introduced options for transferring guardianship to a third party, for example in Victoria's use of Permanent Care Orders. Under the new legislation introduced in New South Wales, these types of orders relate to 'parental responsibility' rather than 'guardianship' and can be issued to individuals as well as to an officer of the state.

Custody orders generally refer to care and protection orders that place children in the custody of a third party. These orders usually involve child protection staff (or the person who has been granted custody) being responsible for the day-to-day requirements of the child while the parent retains guardianship. Custody alone does not bestow any responsibility regarding the long-term welfare of the child. In New South Wales under the new legislation, the state can hold parental responsibility but the authorised carer has the power to make decisions about the daily care and control of the child or young person.

This category also includes those administrative arrangements with the community services departments that have the same effect as a court order of transferring custody or guardianship. These are legal arrangements, but not all states and territories have such provisions in their legislation.

2. Supervisory orders

This category includes supervisory and other court orders that give the department some responsibility for the child's welfare. Under these types of orders the department supervises the level of care provided to the child. Such care is generally provided by parents, and the guardianship or custody of the child is not affected. They are therefore less interventionist than guardianship or custody orders. This category also includes undertakings which are voluntary orders regarding the care or conduct of the child. These orders must be agreed to by the child, and the child's parents or the person with whom the child is living.

3. Interim and temporary orders

Interim and temporary orders generally provide for a limited period of supervision and/or placement of a child. These types of orders vary considerably between states and territories.

State differences

There are large variations across the States and Territories in the types of care and protection orders that can be issued.

Detailed information on the precise types of care and protection orders which are applicable in your State and Territory should be obtained from your local AICCA or your State/Territory community services/welfare department. Refer to the Directory section for contact details.

Photo: SNAICC

Mandatory reporting of alleged child abuse or neglect

The Information for this section has been primarily contributed by the National Children's and Youth Law Centre

The National Children's and Youth Law Centre

The National Children's and Youth Law Centre (NCYLC) remains the only Australian national community legal centre working exclusively for, and with children and young people. The intention of the centre is to provide advocacy, education and information services for Australia's children and young people. The touchstone of the centre's efforts is the United Nations Convention on the Rights of the Child, and its mandate in promoting understanding and adherence to children's rights as fundamental human rights.

The centre seeks to empower children and young people, providing them with the informational and support tools necessary to assist them to make informed personal choices.

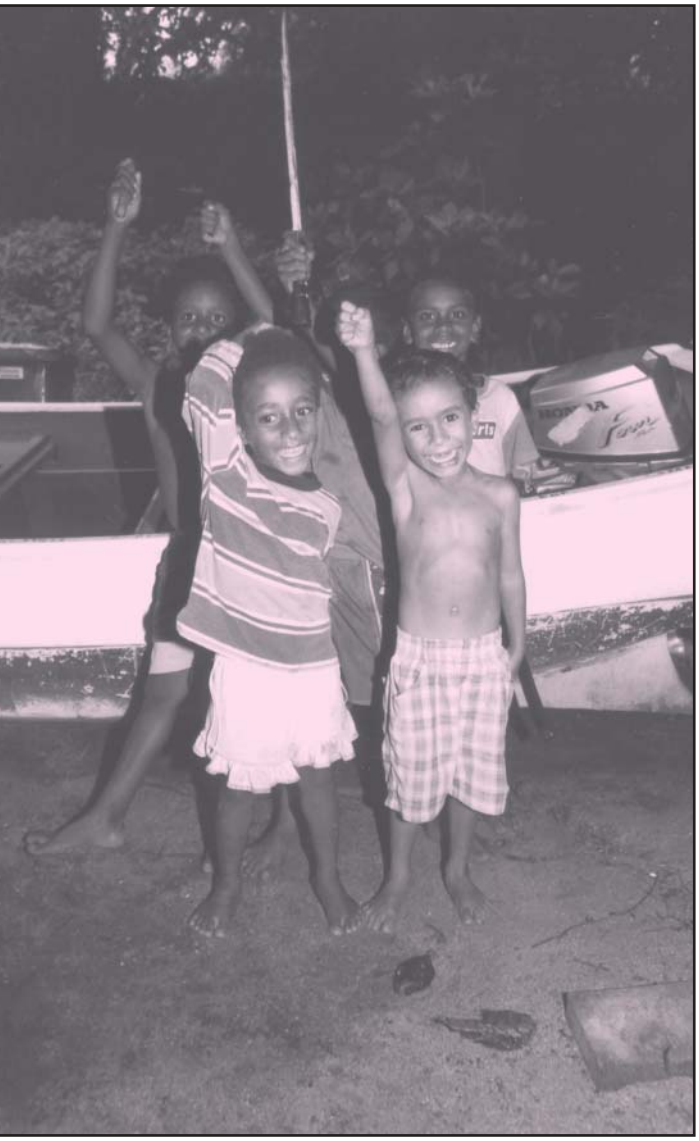


Photo: Kenny Bedford

This material on mandatory reporting has been provided by the NCYLC and SNAICC gratefully acknowledges their assistance.

Background to mandatory reporting

Mandatory refers to the legal obligation on certain professionals to report to either police or child protection authorities, concerns, suspicions or beliefs that certain children with whom they have contact may be suffering some form of abuse, mistreatment or neglect.

This section provides a brief guide to workers, who because of their professions may come into contact with children who may suffer some form of abuse or neglect, as to their legal obligations regarding mandatory reporting in each State and Territory.

Mandatory reporting has been the focus of significant debate in Australia. The argument to impose mandatory reporting requirements rests on the fact that some people, by virtue of their occupations, have special knowledge about the welfare of children. Advocates of mandatory reporting assert that it is likely to increase the protection available to children as part of the larger scheme of child abuse prevention.

All States and Territories except Western Australia have legislation mandating reporting of child maltreatment, abuse or neglect to community service departments. In

most States and Territories, there are several professions involved with children that are mandated to report, although in the Northern Territory anyone who has reason to believe that a child is being abused must report it to the authorities. Whilst Western Australia does not have any mandatory reporting, it has protocols or guidelines for certain types of professionals to report maltreatment.

Generally, those mandated to report are the people who, in the course of their profession, see children on a regular basis, such as teachers, doctors, health and welfare workers.

To lodge a report, the mandated person needs to either reasonably suspect, reasonably believe, or know that any form of violence, abuse, neglect or maltreatment is occurring, or is likely to occur. Then, they must share the details with the relevant government department. The necessary corollary to the reporting requirements is protection for those who share their fears. Those who divulge concerns of violence against children are protected from criminal and civil liability if the report is based on reasonable grounds. If a notifier's identity were disclosed automatically, the resultant lack of trust in that person would prevent mandated parties from being in a position to access information about children in the future. It is crucial to preserve an element of anonymity except in exceptional circumstances, in order to maintain an environment conducive to monitoring children's domestic situations.

Under no legislation is it necessary to prove that the abuse occurred, is occurring, or will occur. It is sufficient that the notifier entertain either reasonable suspicion or reasonable belief depending on the details of the reporting requirements of the State/Territory.

Who is mandated to report?

Reports of actual or alleged child maltreatment must be made by certain classes of people to their assigned child protection authority (listed page 89). However, if there is an immediate and life-threatening concern that cannot be dealt with in time by the respective authority call 000 and report the situation as an emergency.

STATE/TERRITORY	MANDATED PARTIES
AUSTRALIAN CAPITAL TERRITORY	Doctors, dentists, nurses, police officers, teachers, school counsellors, public servants working in the child welfare field and licensed child care providers
NEW SOUTH WALES	A person who, in the course of his or her professional work or other paid employment delivers health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children, and a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly, to children.
NORTHERN TERRITORY	Any person

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STATE/TERRITORY	MANDATED PARTIES
QUEENSLAND	Medical practitioners are required to notify all suspected cases of physical, psychological or emotional abuse or neglect, as well as sexual abuse or exploitation, to the Director-General, Queensland Health. School principals and teachers are not mandated by legislation, but Education Queensland policy requires teachers to report suspected cases to authorities. Department of Families officers and licensed care officers are required to report suspected cases of harm to children who are In residential care.
SOUTH AUSTRALIA	Medical practitioners, nurses, dentists, psychologists, police, probation officers, social workers, teachers, family day care providers, and employees of, or volunteers in, government departments, agencies or local government or non-government agencies that provide health, welfare, education, child care or residential services wholly or partly for children.
TASMANIA	Medical practitioners, registered nurses, probation officers, child welfare officers, guidance officers, dentists, dental therapists or dental hygienists, registered psychologists within the meaning of Psychologists Registration Act 2000, principals and teachers in any educational institution (including a kindergarten), child care providers, any person employed or who Is a volunteer in a Government Agency that provides health, welfare, education, child care or residential services wholly or partly for children.
VICTORIA	Doctors, nurses, police, registered psychologists, any person registered as a teacher under the Victorian Institute of Teaching Act 2001 or has been granted permission to teach under the Act, head teachers or principals of State schools within the meaning of the Education Act 1958 or of schools registered under Part III of that Act, a person with a post-secondary qualification in the care, education or minding of children field who is employed by a children's service to which the Children's Services Act 1996 applies, a person with a post-secondary qualification in youth, social or welfare work who works in the health, education or community or welfare services field, probation officers, and youth parole officers.
WESTERN AUSTRALIA	Any person may report their concern, although there are no mandatory reporting requirements for any professionals/individuals. The WA system is based on there being a duty of care owed by those involved in the provision of health, welfare and police services, which provides for a moral duty to report any concerns. There are no guidelines outlining the reporting requirements and protections. Assistance and advice is available from the Family and Children's Service section of the Department of Community Development.

Do I tell the family?

There is no obligation to inform the child's family about the report. However, there are several reasons why this might be better for the child and your on-going relationship with the family.

- Many families are shocked when they first hear of the notification, and often respond by trying to guess the notifier. Whether they guess correctly or incorrectly, there is likely to be a sense of betrayal. It is found that the relationship with the client is more likely to be saved if the intention to notify and the reasons for doing so are discussed.
- Protection of the child is paramount. It is important to ensure the child is not exposed to an increased risk of harm by warning the offender or family members of the report. Also, notification might jeopardise your safety, which is clearly inadvisable.
- Not all matters will be investigated; it is pointless causing undue distress by telling the family, when no action is likely to be taken.
- If allegations are serious and possibly criminal, the evidence may become contaminated by your intervention in this way.

Photo: Hilary Veale

Therefore it is recommended that you contact the relevant community service department before making any decision to inform the family of the notification.

When must I make a report?

- Reports of alleged child maltreatment must be made to the relevant department as soon as possible.
- The grounds differ between the States and Territories in their requirements either for belief, suspicion or knowledge of abuse.
- The basis for the report is the same in all States and Territories, in that they must all be founded on reasonable grounds [2].
- In all States and Territories (except the Northern Territory) the suspicion, belief or knowledge to be reported is that which arises as a result of carrying out official duties, rather than information gathered from one's private life.
- In each case the circumstances justifying the report will be for the protection of the child based on maltreatment that has already occurred, is still occurring or is likely to occur in the future. There are also a range of penalties for failing to report concerns, or where concerns are not reported in good faith[3] .

2 *See page 77, Reasonable Grounds*

3 *In Queensland, a mandated notifer is excused from the duty to report where it would be self-incriminating.*

reporting **child protection** matters

STATE/TERRITORY	GROUNDS FOR NOTIFICATION	PENALTY FOR NOT REPORTING
Australian Capital Territory	Reasonable suspicion	50 penalty units and/or up to 6 months imprisonment
New South Wales	Reasonable suspicion	200 penalty units
Northern Territory	Reasonable belief	200 penalty units
Queensland	Suspicion (regarding children in residential	20 penalty units care only)
South Australia	Reasonable suspicion	Max penalty $2,500 fine
Tasmania	Reasonable suspicion/ Reasonable belief/knowledge	Fine not exceeding 20 penalty units
Victoria	Reasonable belief	10 penalty units

- Reasonable suspicion means that you think that it is more likely than not, that the child has been, or is likely to be maltreated.
- Reasonable belief means that you should conclude, based on reasonable grounds, that the child has been or is likely to be maltreated.
- Knowledge means you have first hand details from personal experience or information from the child that maltreatment has or is likely to occur.

What must I report?

STATE/TERRITORY	MALTREATMENT TO BE REPORTED
Australian Capital Territory	Sexual abuse or non-accidental physical injury
New South Wales	Any incident or circumstance that places a child or young person "at risk of harm" - physical/psychological needs are not being met, medical care is not provided, physical or sexual abuse or ill-treatment, the child lives in a house where there has been domestic violence and as a result the child is at serious risk of physical/psychological harm
Northern Territory	Maltreatment (suffered or suffering maltreatment)
Queensland	Physical, psychological, emotional abuse or neglect, sexual abuse or exploitation

STATE/TERRITORY	MALTREATMENT TO BE REPORTED
South Australia	Murder, manslaughter, injury, abuse, neglect and any statement of the observations, information, opinions upon which the suspi cion is based (any abuse or neglect).
Tasmania	Abuse or neglect
Victoria	Any incident or circumstance that demonstrates a child "Is In need of protection".

What are 'reasonable grounds'?

- Reasonable grounds relate to the foundation of the report made to the relevant department.
- The basis of any report must stem from information derived from your own observations of the child's physical condition or behaviour, something that the child might tell you, or information gained from any other person.
- In order to report any concerns you might have, there is a need to recognise and understand abuse and neglect. In most situations, abuse is not an isolated event, but a pattern of behaviour occurring over a period of time.
- Abuse falls into four categories: physical, emotional, sexual and neglect. Although each is independent, children may suffer a combination of these categories.
- There are an array of indicators providing insight into possible abuse. These are outlined in Sections A, B and C.

Photo: Hilary Veale

What happens next?

Investigations

Not every report will be investigated. The critical factors in deciding whether a matter will be investigated are that:

- the alleged incidents have caused serious harm to the child;
- the child is likely to suffer further harm without the intervention of the statutory authority; and
- there are sufficient resources available to ensure that the matter can be fully and properly investigated. Investigations may be delayed until such time as adequate resources become available.

What protection do I have?

Photo: Hilary Veale

Confidentiality and privacy

Whilst confidentiality and privacy require protection, they must not override the safety of children.

It is no defence for failure to report that "it was more important to protect client confidentiality."

However, it is necessary to respect the privacy of the child and family, so sharing of information should be strictly on a need to know basis.

Notification made to the relevant department in compliance with the reasonable grounds for making the report in good faith[4], and in all honesty[5], will not incur civil or criminal liability, and will not amount to a breach of confidence, professional conduct, etiquette or ethics.

Disclosure of Notifier's Identity

It is not standard practice of any State or Territory to seek the identity of the person who made the report, thereby providing anonymity to the notifier.

However, there are certain circumstances in the States and Territories where the identity of the notifier may be disclosed, which are outlined below.

4 *Made with the intention that the child be protected from harm without ulterior motive*

5 *required in Queensland*

reporting **child protection** matters

STATE/TERRITORY	GROUNDS FOR DISCLOSURE	PENALTY FOR UNAUTHORISED DISCLOSURE
Australian Capital Territory	Notifier gives permission Court deems the identity to be of importance to proceedings.	No penalty provided
New South Wales	Reports may be made anonymously; thus there might not be an identity to disclose. However, if identity may be deduced it may be disclosed Notifer consents Court deems the evidence to be of critical importance to the proceedings and omission would prejudice the administration of justice	No penalty provided
Northern Territory	No legislative provision	No penalty provided
Queensland	In the course of another performing functions under the Act[6] /welfare law To a Parliamentary Commission for Administrative Investigations To a Commissioner under the Act[7] Evidence given in legal proceedings with the prior permission of the court. Permission will be granted if the identity is crucial to proceedings and there is a compelling reason in the public interest, or the notifier consents	No penalty provided
South Australia	In the course of official duties of another person performing official duties Notifier gives permission Evidence adduced with the court's permission, who must be satisfied that the evidence is critical to the administration of justice In the course of official duties under the Act to another person acting in the course of their official duties	$5,000

6 *Child Protection Act 1999*

7 *Commission for Child and Young Persons Act 2000*

reporting **child protection** matters

STATE/TERRITORY	GROUNDS FOR DISCLOSURE	PENALTY FOR UNAUTHORISED DISCLOSURE
Tasmania	Notifier gives permission	Fine not exceeding 40 penalty points and/or for no longer than 12 months
	Court deems the evidence to be of critical importance to the proceedings and omission would prejudice the administration of justice. Notifier chooses to inform the family	
Victoria	Notifier gives permission in writing	10 penalty units
	Court decides it is required to ensure the safety/well being of the child	
	Court decides it is in the interests of justice.	

Photo: Hilary Veale

Note

- It is recommended that you ensure your clients are aware of the mandatory reporting requirements from the outset, so they understand the limits of your confidentiality and responsibilities.
- It is not defense to the mandatory reporting rules that it breaches client

child protection and **mandatory reporting legislation**

List of applicable legislation from each State/Territory

Commonwealth
Family Law Act 1975

Australian Capital Territory
Children and Young People Act 1999

New South Wales
Children (Care and Protection) Act 1987
Children and Young Persons (Care and Protection) Act 1998

Northern Territory
Community Welfare Act 1983

Queensland
Child Protection Act 1999
Health Act 1937

South Australia
Family and Community Services Act 1972
Children's Protection Act 1993

Tasmania
Alcohol and Drug Dependency Act 1968
Children, young persons and their families Act 1997

Victoria
Children and Young Persons Act 1989

Western Australia
Child Welfare Act 1947
Community Services Act 1972

Legislative definitions of 'in need of care and protection'

Each State and Territory has legislation defining in what circumstances a child is considered to be 'in need of care and protection'.

The relevant section of legislation from each State and Territory is included below.

Readers are advised that legislation is almost constantly under review and as such subject to change.

Up to date legislation for each State and Territory should be available from the website of the Department responsible for child protection in each State and Territory, see resource directory for details.

New South Wales

In New South Wales, a child is defined under section 23 of the Children and Young Persons (Care and Protection) Act 1998 as being at risk of harm if current concerns exist for the safety, welfare or well-being 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.

Note. Physical or sexual abuse may include an assault and can exist despite the fact that consent has been given.

Victoria

In Victoria, section 63 of the Children and Young Persons Act 1989 indicates that a child is in need of protection if any of the following grounds exist:

(a) the child has been abandoned and after reasonable inquiries the parent(s) cannot be found, and no other suitable person can be found who is willing and able to care for the child;

(b) the child's parent(s) are dead or incapacitated and there is no other suitable person willing and able to care for the child;

(c) the child has suffered, or is likely to suffer, significant harm as a result of physical injury or sexual abuse, and the child's parent(s) have not protected, or are unlikely to protect, the child from harm of that type;

(d) the child has suffered, or is likely to suffer, emotional or psychological harm of such kind that the child's emotional or intellectual development is, or is likely to be, significantly damaged and the child's parent(s) have not protected, or are unlikely to protect, the child from harm of that type;

(e) the child's physical development or health has been, or is likely to be, significantly harmed and the child's parent(s) have not provided, arranged or allowed the provision of, or are unlikely to provide, arrange, or allow the provision of, basic care or effective medical, surgical or other remedial care.

Queensland

In Queensland, section 10 of the Child Protection Act 1999 (introduced in March 2000) defines a child 'in need of protection' as a child who:

(a) has suffered harm, is suffering harm or has an unacceptable risk of suffering harm; and

(b) does not have a parent able and willing to protect the child from harm.

'Parent' is defined broadly in section 11 of the Act to include persons 'having or exercising parental responsibility for the child' and includes a person who, under Aboriginal or Torres Strait Islander tradition or custom, is regarded as a parent of the child.

'Harm' is defined in section 9 of the Act as 'any detrimental effect of a significant nature on the child's physical, psychological or emotional wellbeing'.

Western Australia

In Western Australia, a 'child in need of care and protection' is defined in the Child Welfare Act 1947 to include a child who:

(a) has no sufficient means of subsistence apparent to the court and whose near relatives are, in the opinion of the court, in indigent circumstances or are otherwise unable or unwilling to support the child, or are dead, or are unknown, or cannot be found, or are out of the jurisdiction, or are in the custody of the law;

(b) has been placed in a subsidised facility and whose near relatives have not contributed regularly towards the maintenance of the child;

(c) associates or dwells with any person who has been convicted of vagrancy, or is known to the police as of bad repute, or who has been or is reputed to be a thief or habitually under the influence of alcohol or drugs;

(d) is under the guardianship or in the custody of a person whom the court considers is unfit to have that guardianship or custody;

(e) is not being maintained properly or at all by a near relative, or is deserted;

(f) is found in a place where any drug or prohibited plant is used and is in the opinion of the court in need of care and protection by reason thereof;

(g) being under the age of 14 years is employed or engaged in any circus, travelling show, acrobatic entertainment, or exhibition by which his life, health, welfare or safety is likely to be lost, prejudiced or endangered;

(h) is unlawfully engaged in street trading;

(i) is ill-treated, or suffers injuries apparently resulting from ill-treatment;

(j) lives under conditions which indicate that the child is lapsing or likely to lapse into a career of vice or crime; or

(k) is living under such conditions, or is found in such circumstances, or behaves in such a manner, as to indicate that the mental, physical or moral welfare of the child is likely to be in jeopardy.

South Australia

In South Australia, under section 37 of the Children's Protection Act 1993, an application may be made to the Youth Court when the Minister is of the opinion that:

(a) the child is at risk and an order should be made to secure the child's care and protection; or

(b) disruption of existing arrangements for the child would be likely to cause the child psychological injury and it would be in the best interest of the child for the arrangement to be the subject of a care and protection order.

For the purposes of section 6(2) of the Act, a child is at risk if:

(a) the child has been, or is being, abused or neglected; or

(b) a person with whom the child resides (whether a guardian of the child or not):

(i) has threatened to kill or injure the child and there is a reasonable likelihood of the threat being carried out; or

(ii) has killed, abused or neglected some other child or children and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person; or

(c) the guardians of the child:

(i) are unable to maintain the child, or are unable to exercise adequate supervision and control over the child; or

(ii) are unwilling to maintain the child, or are unwilling to exercise adequate supervision and control over the child; or

(iii) are dead, have abandoned the child, or cannot, after reasonable inquiry, be found; or

(d) the child is of compulsory school age but has been persistently absent from school without satisfactory explanation of the absence; or

(e) the child is under 15 years of age and of no fixed address.

The Children's Protection Act 1993 also covers the practice of female genital mutilation

For the purposes of the Act the following definitions of female genital mutilation are used: Under section 26A(1) female genital mutilation means:

(a) clitoridectomy; or

(b) excision of any other part of the female genital organs; or

(c) a procedure to narrow or close the vaginal opening; or

(d) any other mutilation of the female genital organs, but does not include a sexual reassignment procedure or a medical procedure that has a genuine therapeutic purpose.

Under section 26B(1) on the protection of children at risk of genital mutilation: if the Court is satisfied that there are reasonable grounds to suspect that the child may be at risk of female genital mutilation, the Court may make orders for the protection of the child, for example, preventing a person from taking the child from the State, or requiring that the child's passport be held by the Court for a period specified in the order or until further order or providing for periodic examination of the child to ensure that the child is not subject to female genital mutilation.

Part 5 of the Children's Protection Act also states that family care meetings should be convened in respect of the child if the Minister believes that a child is at risk and that arrangements should be made to secure the child's care and protection. The Minister cannot make an application for an order granting custody of the child or placing the child under guardianship, before a family care meeting has been held unless satisfied that:

(a) it has not been possible to hold a meeting despite reasonable endeavours to do so; or

(b) an order should be made without delay; or

(c) the guardians of the child consent to the making of the application; or

(d) there is another good reason to do so.

The department will consider taking court action for a care and protection order only when no other intervention can safely protect a child who is at risk by definition of the Act. There are powers which the Youth Court may exercise when it finds that a child is in need of care and protection.

New care and protection orders tend to be no longer than 12 months, although a second or subsequent order can be granted to complete a reunification process. The child may then be placed under the guardianship of the Minister or such other person or persons the Court thinks appropriate, until 18 years of age.

Tasmania

In Tasmania, Section 42 of the Children, Young Persons and their Families Act 1997 allows the Secretary to apply to the Court for a care and protection order. On the application of the Secretary, the Court may make a care and protection order if –

(a) the Court is satisfied –

(i) that a child is at risk; and

(ii) that a care and protection order should be made to secure the care and protection of the child; or

(b) the Court is satisfied that –

(i) proper arrangements exist for the care and protection of a child (whether pursuant to the Secretary approving the arrangements recommended in a decision of a family group conference or otherwise); and

(ii) the child would be likely to suffer significant psychological harm if the arrangements were to be disturbed; and

(iii) it would be in the best interests of the child for the arrangements to be incorporated in a care and protection order.

Section 4 of the Act describes a child at risk if:

(a) the child has been, is being, or is likely to be, abused or neglected; or

(b) any person with whom the child resides or who has frequent contact with the child (whether the person is or is not a guardian of the child) –

(i) has threatened to kill or abuse or neglect the child and there is a reasonable likelihood of the threat being carried out; or

(ii) has killed or abused or neglected some other child or an adult and there is a reasonable likelihood of the child in question being killed, abused or neglected by that person; or

(c) the child is an affected child within the meaning of the Family Violence Act 2004; or

(d) the guardians of the child are –

(i) unable to maintain the child; or

(ii) unable to exercise adequate supervision and control over the child; or

(iii) unwilling to maintain the child; or

(iv) unwilling to exercise adequate supervision and control over the child; or

(v) dead, have abandoned the child or cannot be found after reasonable inquiry; or

(vi) are unwilling or unable to prevent the child from suffering abuse or neglect; or

(e) the child is under 16 years of age and does not, without lawful excuse, attend school regularly.

For the purposes of the above, it does not matter whether the conduct that puts a child at risk occurred or, as the case requires, is likely to occur wholly or partly outside Tasmania.

The words "abuse and neglect" means –

(a) sexual abuse; or

(b) physical or emotional injury or other abuse, or neglect, to the extent that –

(i) the injured, abused or neglected person has suffered, or is likely to suffer, physical or psychological harm detrimental to the person's wellbeing; or

(ii) the injured, abused or neglected person's physical or psychological development is in jeopardy.

If the Court adjourns the hearing of an application for a care and protection order, the Court may also make an interim care and protection order under section 46 of the Act. An interim care and protection order may contain one or more of the following orders:

(a) an order requiring the child or a guardian of the child to do any specified thing or refrain from doing any specified thing;

(b) an order granting custody of the child to one or more of the following persons:

(i) a guardian of the child;

(ii) a member of the child's family;

(iii) the chief executive officer of a non-Government organisation that provides facilities for the residential care of children, or a person who holds a position similar in nature to that of chief executive officer in such an organisation;

(iv) the Secretary;

(v) any other person that the Court considers appropriate in the circumstances;

(c) an order placing the child under the guardianship of the Secretary or one or 2 other persons as the Court considers appropriate in the circumstances;

(d) an order providing for access to the child;

(e) an order providing for the way in which a person who has custody or guardianship of the child under an order of the Court is to deal with matters relating to the care, protection, health, welfare or education of the child;

(f) any other order the Court considers appropriate.

Australian Capital Territory

In the Australian Capital Territory, section 156 of the Children and Young People Act 1999 states that a child is in need of care and protection if:

(a) he or she has been, is being or is likely to be, abused or neglected; and

(b) no-one with parental responsibility for the child or young person is willing and able to protect him or her from suffering the abuse or neglect.

A child or young person is in need of care and protection in the following circumstances:

(a) if a person with whom the child or young person lives or is likely to live—

(i) has threatened to kill or injure the child or young person and there is a real possibility of the threat being carried out; or

(ii) has killed, abused or neglected a child or young person and there is a real possibility of the person killing, abusing or neglecting the relevant child or young person; and no-one with parental responsibility for the child or

young person is willing and able to protect the child or young person;

(b) no-one with parental responsibility for the child or young person (other than the chief executive) is willing and able to provide him or her with adequate care and protection;

(c) if there is a serious or persistent conflict between the child or young person and the people with parental responsibility for him or her (other than the chief executive) to such an extent that the care and protection of the child or young person is, or is likely to be, seriously disrupted;

(d) the people with parental responsibility for the child or young person (other than the chief executive) are—

(i) dead, have abandoned him or her or cannot be found after reasonable inquiry; or

(ii) unwilling or unable to keep him or her from engaging in self-damaging behaviour; or

(iii) sexually or financially exploiting the child or young person or unwilling or unable to keep him or her from being sexually or financially exploited;

(e) the child or young person is the subject of a child protection order in a State that is not being complied with.

It does not matter whether conduct giving rise to the belief that a child or young person has been, is being or is likely to be, abused or neglected occurred wholly or partly outside the ACT.

Section 151 of the Act defines "abuse", in relation to a child or young person as:

(a) physical abuse; or

(b) sexual abuse; or

(c) emotional abuse (including psychological abuse) if the child or young person has suffered, is suffering or is likely to suffer in a way that has caused, is causing or is likely to cause significant harm to his or her wellbeing or development; or

(d) emotional abuse (including psychological abuse) if:

(i) the child or young person has been, is being, or is likely to be exposed to conduct that is domestic violence under the Domestic Violence and Protection Orders Act 2001; and

(ii) the exposure has caused, is causing or is likely to cause significant harm to the child's or young person's wellbeing or development.

(2) In this chapter:

Section 151 of the Act defines "neglect", of a child or a young person, as a failure to provide the child or young person with a necessity of life that has caused, is causing or is likely to cause the child or young person significant harm to his or her wellbeing or development.

Northern Territory

In the Northern Territory, section 4(2) of the Community Welfare Act 1983 states that a child is in need of care where:

(a) the parents, guardian/person having the custody have abandoned the child and cannot, after reasonable inquiry, be found; or

(b) the parents, guardian/person having the custody are unwilling or unable to maintain the child; or

(c) the child has suffered maltreatment; or

(d) the child is not subject to effective control and is engaging in conduct which constitutes a serious danger to their health or safety; or

(e) being excused from criminal responsibility under section 38 of the Criminal Code (being under 10 years of age), the child has persistently engaged in conduct which is so harmful or potentially harmful to the general welfare of the community, measured by commonly accepted community standards, as to warrant action under this Act for the maintenance of those standards.

For the purpose of the Community Welfare Act 1983, a child shall be taken to have suffered maltreatment where they have suffered:

(a) a physical injury causing temporary or permanent disfigurement or serious pain or impairment of a bodily function or the normal reserve or flexibility of a bodily function, inflicted or allowed to be inflicted by a parent, guardian or person having the custody of the child, or where there is substantial risk of the child suffering such an injury or impairment;

(b) serious emotional or intellectual impairment evident by severe psychological or social malfunctioning measured by the commonly accepted standards of the community to which the child belongs, whether a result of physical surroundings, nutritional or other deprivation, or the emotional or social environment in which the child is living, or where there is a substantial risk that such surroundings, deprivation or environment will cause such emotional or intellectual impairment;

(c) serious physical impairment evidenced by severe bodily malfunctioning, whether a result of the child's physical surroundings, nutritional or other deprivation, or the emotional or social environment in which the child is living, or where there is a substantial risk that such surroundings, deprivation or environment will cause such impairment;

(d) sexual abuse or exploitation, and the child's parents, guardians or persons having custody of the child are unable or unwilling to protect them from such abuse or exploitation; or

(e) female genital mutilation, where a female child shall be taken to have suffered female genital mutilation where she:

  (i) has been subjected, or there is substantial risk that she will be subjected, to female genital mutilation, as defined in section 186A of the Criminal Code; or

  (ii) has been taken, or there is substantial risk that she will be taken, from the Territory with the intention of having female genital mutilation performed on her.

Age of Consent

There differences between States and Territories in relation to the age of consent for sex and for homosexual sex and heterosexual sex. The following is a summary of the laws in each State and Territory.

STATE/TERRITORY	HETEROSEXUAL		HOMOSEXUAL	
	FEMALES	MALES	FEMALES	MALES
Australian Capital Territory	16	16	16	16
	Other Considerations: The law in the ACT is the same for heterosexual sex and homosexual sex. People aged between 10 and 16 yrs can legally have sex with another person as long as both consent and there is not more than 2 yrs difference between them.			
New South Wales	16	16	16	18
	Other Considerations: Homosexual sex Males: Both males must be aged 18 yrs or over. Females: There is no law which applies specifically to sexual relationships between two females. The law would appear to be that both females have to be 16yrs or over.			
Northern Territory	16	16	16	18
	Other Considerations: Homosexual sex Males: Both males must be aged 18yrs or older. It is an offence for a male to have sex with another male under 18yrs. Females: There is no law which applies specifically to sexual relationships between two females.			
Queensland	16	16	16	18
	Other Considerations: Homosexual sex Males: Both males must be aged 18yrs or older. It is an offence for a male to have sex with another male under 18yrs. Females: There is no law which applies specifically to sexual relationships between two females.			
South Australia	17	17	17	17
	Other Considerations: In South Australia the law is he same for heterosexual sex and homosexual sex. The law says that two 16yrs olds who have sex together are not committing an offence.			
Tasmania	17	17	17	17
	Other Considerations: The consent of a person against whom a crime is alleged to have been committed is a defence to a charge of unlawful intercourse with a young person under the age of 17 years if (a) at the time the crime was allegedly committed that person was of or above the age of 15 years and the accused person was not more than five years older than that person; or that person was of or above the age of 12 years and the accused person was not more than three years older than that perosn.			
Victoria	16	16	16	16
	Other Considerations: The law in Victoria is the same for heterosexual sex and homosexual sex. People aged between 10 and 16 yrs can legally have sex with another person as long as both consent and there is no more than 2 yrs age difference between them			
Western Australia	16	16	16	16
	Other Considerations: A child under the age of 13 is incapable of consenting to sexual intercourse. The age of consent to sexual intercourse (homosexual and heterosexual) is 16. For a child between the ages of 13 and 16, it is a defence if the accused (if not in the position of authority) (a) believed on reasonable grounds that the child was of or over the age of 16 years; and (b) was not more than 3 years older than the child.			