

ROYAL COMMISSION
INTO THE
NEW SOUTH WALES POLICE SERVICE

FINAL REPORT

VOLUME VI: THE PAEDOPHILE INQUIRY
APPENDICES

Commissioner: The Hon Justice JRT Wood

August 1997

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EXPLANATORY NOTES

The amalgamation of the New South Wales Police Force (operations) and the New South Wales Police Department (policy and administrative support) into a single entity known as the New South Wales Police Service, commenced in June 1987. This was formalised by the *Police Service Act 1990* (NSW) which came into effect on 1 July 1990. Throughout this Report, the organisation is generally referred to as 'the Service' or 'the Police Service'.

The Department of Youth and Community Services (YACS) became the Department of Family and Community Services (FACS) in 1988 and the Department of Community Services (formerly abbreviated to DOCS, but now referred to as DCS) in 1991.

Legislation referred to throughout this Report is NSW legislation unless otherwise indicated.

The letter 'C' following a Royal Commission exhibit number indicates that the exhibit is confidential.

The letter 'B' following a Royal Commission exhibit number indicates that this is the public version of the exhibit, which will have some deletions to preserve necessary confidentiality, and the letters 'AC' indicate that this is the confidential version of the same document.

ABBREVIATIONS USED IN THIS REPORT

| | |
|-------|--|
| ABA | Australian Broadcasting Authority |
| ABCI | Australian Bureau of Criminal Intelligence |
| ACID | Australian Criminal Intelligence Database |
| ADD | Ageing and Disability Department, NSW |
| ADT | Administrative Decisions Tribunal |
| AFP | Australian Federal Police |
| AIDS | Auto Immune Deficiency Syndrome |
| ALRC | Australian Law Reform Commission |
| AMA | Australian Medical Association Limited |
| BBS | Bulletin Board Services, Internet |
| BCS | NSW Bureau of Crime Statistics and Research |
| BLACP | Boy Lovers Against Child Pornography |
| BLAZE | Boy Lovers and Zucchini Eaters |
| CAPS | Child Abuse Prevention Service |
| CCP | Centre for Child Protection, Children's Commission |
| CCTV | closed circuit television |
| CEO | Chief Executive Officer |
| CFS | Child and Family Services, Department of Community Services |
| CIB | Criminal Investigation Branch, NSW Police Service |
| CIIS | Crime Information and Intelligence System |
| CIS | Client Information System, Department of Community Services |
| CIT | Computer Investigation Techniques, National Police Research Unit |
| CMS | Case Management System, Department of School Education |
| CMU | Child Mistreatment Unit, NSW Police Service |
| CMU | Central Management Unit, Department of School Education |
| CNI | Criminal Names Index |
| COBAC | Community Based After Care |

| | |
|-------------|--|
| CPC | NSW Child Protection Council |
| CPD | Child Protection Directorate, NSW Police Service |
| CPE program | Child Protection Education program |
| CPEA | Child Protection Enforcement Agency, NSW Police Service |
| CPIT | Child Protection Investigation Team, NSW Police Service |
| CPS | Child Protection Services |
| CSC | Community Service Centre |
| CSC | Community Services Commission |
| CUBIT | Custody Based Intensive Treatment Unit, Department of Corrective Services |
| CWU | Child Witness Unit, Office of the Director of Public Prosecutions |
| DCS | Department of Community Services, NSW (present acronym) |
| DG | Director-General |
| DJJ | Department of Juvenile Justice |
| DOI | Duty Operations Inspector |
| DPP | The Director of Public Prosecutions, NSW |
| DSE | Department of School Education |
| DSR | Department of Sport and Recreation |
| EIC | Employment Information Centre, Children's Commission |
| EMDR | Eye Movement Desensitisation and Reprocessing |
| EU | European Union |
| FACS | Department of Family and Community Services |
| FAIRS | FACOM Advanced Information Retrieval System - a former NSW Police Service database for sensitive information |
| FBI | Federal Bureau of Investigation, USA |
| GREAT | Government and Related Employees Appeals Tribunal, NSW |
| HCCC | Health Care Complaints Commission, NSW |
| HCR | Health Conciliation Registry |
| HIV | human immunovirus |
| HREOC | Human Rights and Equal Opportunity Commission |

| | |
|---------------|--|
| ICAC | Independent Commission Against Corruption, NSW |
| ICARE program | Interviewing Children and Recording Evidence program |
| IOC | Child Protection Interagency Operational Committee |
| IPSB | Internal Police Security Branch, NSW Police Service |
| IRC | Industrial Relations Commission |
| IROC | Initial Response Officers Course, NSW Police Service |
| IRU | Investigation and Review Unit |
| JCS | Juvenile Crime Squad, NSW Police Service |
| JIT | Joint Investigative Team (comprising police and DOCS personnel) |
| JSB | Juvenile Services Bureau, NSW Police Service |
| LRC | Law Reform Commission, NSW |
| MCEETYA | Ministerial Council of Education, Employment, Training and Youth Affairs Ministers |
| MLA | Member of the Legislative Assembly, NSW Parliament |
| MLC | Member of the Legislative Council, NSW Parliament |
| OCYP | Office of Children and Young People, The Cabinet Office, NSW |
| ODDP | Office of the Director of Public Prosecutions, NSW |
| OFLC | Office of Film and Literature Classification |
| ORC | Operations Review Committee |
| PANOC | physical abuse and neglect of children |
| PSG | Paedophile Support Group |
| PSRG | Professional Standards Resource Group (Catholic Church) |
| RAHC | Royal Alexandra Hospital for Children, Sydney (now the New Children's Hospital) |
| RC | Refused Classification |
| RCPS | Royal Commission into the New South Wales Police Service |
| RCT | Royal Commission Transcript (Commissioner Wood) |
| RCT(U) | Royal Commission Transcript (Commissioner Urquhart) |
| RYC | Rural Youth Centre |
| SAAP | Supported Accommodation Assistance Program |

| | |
|--------|--|
| SANE | Sexual Assault Nurse Examiners |
| SCAG | Standing Committee of Attorneys-General |
| SIG | State Intelligence Group, NSW Police Service |
| SNYPIC | State Network of Young People in Care, NSW |
| SOAP | Sex Offenders Assessment Program, Cooma |
| SRA | Satanic ritual abuse |
| VCB | Victims of Crime Bureau, NSW |
| ViCLAS | Violent Crime Linkage Analysis System |
| YACS | Department of Youth and Community Services |

TERMS OF REFERENCE TO COMMISSIONER WOOD (CONSOLIDATED)

ELIZABETH THE SECOND, by the Grace of God and Her other Realms and Territories, Head of the Commonwealth.

To the Honourable James Roland Tomson Wood.

We hereby, with the advice of the Executive Council, appoint you as sole Commissioner to make inquiry into the operations of the New South Wales Police Service, with particular reference to:

- (a) The nature and extent of corruption within the Police Service, particularly of any entrenched or systemic kind.
- (b) The activities of the Professional Responsibility and Internal Affairs Branches of the Police Service in dealing with any problems of corruption and internal investigations generally.
- (c) The system of promotion in the Police Service.
- (d) The impartiality of the Police Service and other agencies in investigating and/or pursuing prosecutions including, but not limited to paedophile activity.
- (d1) Whether any members of the Police Service have by act or omission protected paedophiles or pederasts from criminal investigation or prosecution and, in particular, the adequacy of any investigations undertaken by the Police Service in relation to paedophiles or pederasts since 1983; however, you may investigate any matters you deem necessary and relevant which may have occurred prior to 1983.
- (d2) Whether the procedures of, or the relationships between the Police Service and other public authorities adversely affected police investigations and the prosecution, or attempted or failed prosecution, of paedophiles or pederasts.
- (d3) The conduct of public officials related to the matters referred to in paragraphs (d1) and (d2).
- (e) The efficacy of the internal informers policy.
- (f) Any other matter appertaining to the aforesaid matters concerning possible criminal activity, neglect or violation of duty, the inquiry into which you consider to be in the public interest.
- (g) Whether the existing law prohibiting crimes involving paedophilia and pederasty are appropriate and sufficient to effectively prosecute persons accused and punish persons convicted of those crimes or other related crimes of sexual abuse.
- (h) Whether penalties currently prescribed for crimes involving paedophilia and pederasty are appropriate and a sufficient deterrent to the commission of those crimes.
- (i) Whether Government departments and agencies have sufficiently effective monitoring and screening processes to protect children in the care of or under the supervision of Government departments and agencies from sexual abuse; if not, what measures should be put in place to provide effective protection in this respect.
- (j) Whether Police Service investigatory processes and procedures and the criminal trial process are sufficient to effectively deal with allegations of paedophilia and pederasty².

AND WE declare that, for the purpose of these Terms of Reference, a reference to the Police Service includes a reference to the Police Force of New South Wales before its dissolution by the Police Service Act 1990.

AND OUR further will and pleasure is that you do, as expeditiously as possible, but in any case on or before 30 June 1996³ deliver your report in writing of the results of your inquiry to the office of Our Premier at Sydney.

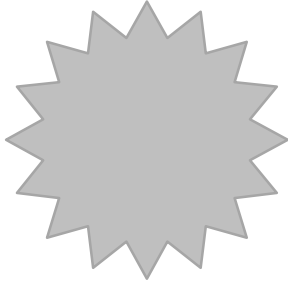
¹ On 21 December 1994 His Excellency the Governor issued further Letters Patent to include sub-paragraphs (d1), (d2) & (d3) and which are to be read in conjunction with paragraph (d).

² On 23 October 1996 His Excellency the Governor issued further Letters Patent to include paragraphs (g), (h), (i) & (j).

³ The original Letters Patent required a report by 30 June 1996. On 16 May 1995 His Excellency the Governor issued further Letters Patent to permit the Royal Commissioner to issue interim Reports and to defer the date for the final Report to 31 December 1996. On 21 February 1996

AND IT IS HEREBY DECLARED that section 17 of that Act⁵ shall apply to and with respect to the said inquiry.

IN TESTIMONY WHEREOF, we have caused Our Letters to be made Patent, and the Public Seal of Our State to be hereunto affixed.



WITNESS His Excellency Rear Admiral Peter Ross Sinclair,
Officer of the Order of Australia,
Governor of the State of New South Wales
in the Commonwealth of Australia.

Dated this 13th day of May, 1994.

By Deputation from
His Excellency the Governor.

By His Excellency's Command,
Premier

His Excellency the Lieutenant Governor deferred the date for the final Report to 31 March 1997. On 30 October 1996 His Excellency the Governor issued further Letters Patent to defer the date for the final Report to 30 June 1997.

⁴ On 21 February 1996 His Excellency the Lieutenant Governor varied these Letters Patent to appoint a second Commissioner, His Honour Judge Paul David Urquhart QC, and to permit the Commissioner to request the second Commissioner to inquire into any matter within the Terms of Reference.

⁵ On 30 November 1994 His Excellency the Governor issued further Letters Patent to the effect that the word 'Act' refers to the Royal Commissions Act 1923.

ROYAL COMMISSION PAEDOPHILE HEARING SEGMENTS AND WITNESS LIST

Hearings held before Commissioner Urquhart are indicated by U after the day number.

| SEGMENT | DAY | DATE |
|--|--|---|
| OPENING Introduction to the terms of reference relevant to the Paedophile segment, including evidence from a convicted paedophile. Witness D1 | 219 | 18 March 1996 |
| POLICE INVESTIGATIONS IN THE 1990s Examination of: <ul style="list-style-type: none"> the adequacy of police investigations into paedophilia conducted during the 1990s by use of Task Forces known as Task Force Disk and Task Force Colo; the adequacy of the policy in relation to and the way in which the NSW Police Service has handled child sexual abuse cases in the 1990s including the establishment of the Child Protection Enforcement Agency and the Joint Investigation Teams; investigation of cases of familial abuse; and the relationship between DCS and NSW Police Service (Missing Persons Unit) which adversely affected the investigations of a paedophile. Witnesses ANGEL Khiah BASSINGTHWAIGHTE Edward John James BRAMMER Malcolm James CAMPBELL Alyss CHOAT Jennifer Anne COX Malcolm Wilfred GIBSON Bruce GOULD Neil Stephen GRAHAM Angus Andrew GREEN Gordon Roy HARVEY Rodney Graham HESLOP John Robert HUNGERFORD Megan Joy HUNTER Robert Morrison J2 LAWSON Maggie MARTIN Felicity Jane McKINNON Paul William MOTHER A MOTHER B PEATE Alfred Stewart POLICE 5 POLICE 6 POLICE 8 REITH Brian John RUSSELL Katherine Maree STANTON Warren Sidney SWAIN Deborah Frances T7 VICKERY Philip WATSON Kenneth William | 220-224 246 257-258 307-308 332 358 359 360-361 | 19-26 March 1996 7 May 1996 27-28 May 1996 20-21 August 1996 30 October 1996 19 February 1997 20 February 1997 24-25 February 1997 |
| OPERATION GULL Investigation into the adequacy of police investigations into the activities of a suspected paedophile and the protection of paedophiles from investigation and prosecution by police officers. | 225-226 228-234 249 260 | 27-28 March 1996 1-16 April 1996 13 May 1996 30 May 1996 |

| SEGMENT | DAY | DATE |
|--|--|---|
| Witnesses A1 A2 A3 A4 A5 A6 A7 A8 A9 A10 B39 C41 C42 C44 CRAWFORD John Ambrose FISK Colin John GODFREY Ann Louise HAGAN Michael Arthur KIELY John Phillip SCOTT Lola Anne STEWART Gordon Vivien WATSON Kenneth William and four witnesses whose names were suppressed | 294 295-296 | 31 July 1996 1 August 1996 5 August 1996 |
| POLICE INVESTIGATIONS IN THE 1970s AND 1980s Examination of the adequacy of police investigations into paedophilia conducted during the 1970s and 1980s. Witnesses KR35 KR64 KR84 KR169 KR248 W24 W35 | 306-309 | 19-22 August 1996 |
| THE CHURCHES AND CLERGY Examination of: <ul style="list-style-type: none"> the protocols and procedures in place within the various churches and clergy, including screening and monitoring procedures, to deal with allegations of sexual abuse, offenders and victims; the Police Service, Church and clergy handling of child sexual abuse allegations against Brother Michael Evans (deceased) and Father Peter Comonsoli; and the investigations by the Church and Police Service of allegations against other clergy. Witnesses AINSWORTH David John BECK Adrian CASSIDY Patrick John CONLON Paul Vincent DOOLEY John Francis FITZGERALD Jon Patrick FOLEY Susan Margaret GALLAGHER Peter GOODHEW Richard Henry ISSANCHON Peter Anthony LAWSON Beverley Ann LUCAS Brian MARSH Mario Frederick | 235-236 238-240 246-247 304-305 | 17-18 April 1996 22-24 April 1996 7-8 May 1996 15-16 August 1996 |

| SEGMENT | DAY | DATE |
|--|---|---|
| McCLOUGHAN Cynthia McDONALD Julian McGRATH James Henry MURRAY William Edward ROBINSON Terrence Edward SKILLICORN Walter Stanley USHER John Joseph X4 X5 X6 X9 X11 X14 and two witnesses whose names were suppressed | | |
| EXPERTS To assist the Commission's inquiries, evidence was taken from various experts: <ul style="list-style-type: none"> • Video link to Birmingham, UK: <ul style="list-style-type: none"> – Raymond Keith Wyre - sexual crime consultant, principal adviser to Faithful Foundation, UK • Video link to Alabama, USA: <ul style="list-style-type: none"> – Kathy Pearce - Child Sexual Abuse Investigator, Alabama – Donna Pence - Special Agent Tennessee Bureau of Investigation – Charles Wilson - Executive Director, National Children's Advocacy Centre. • Video link to San Diego, USA: <ul style="list-style-type: none"> – David Howard Jones - Detective Sergeant, San Diego Police Department – Catherine Stephenson - Deputy District Attorney • Desmond Leslie Mulcahy - consultant paediatrician • Anne Schlebaum - family and adult psychiatrist • Andrew Gibbs - senior clinician neuropsychologist • Alexander Blaszczyński - Deputy Director, Psychiatry Research and Teaching Unit, UNSW • Ingrid Van Beek - Director, Kirketon Road Centre • Video link to Vermont, USA: <ul style="list-style-type: none"> – William D. Pithers - psychologist, Vermont Treatment Program for Sexual Aggressors, USA – Alison S. Gray - counsellor, child/adolescent sex offender treatment, Vermont, USA • Suzette Margaret Booth - medical practitioner, Head of Child Protection Unit at New Children's Hospital • Barbara Holborrow - former Children's Court Magistrate • Christopher John Guelph Puplick - Anti-Discrimination Board and Privacy Committee • Video link to Washington, USA: <ul style="list-style-type: none"> – Kenneth Lanning - Federal Bureau of Investigation, USA • Nathaniel McConaghy - consultant psychiatrist • Ferry Grunseit - paediatrician and former Chairman of the NSW Child Protection Council and former NSW Child Advocate • John Albert Boots - psychoanalyst, child and family psychiatrist • Kevin Malcolm McConkey - Professor & Head of School of Psychology, UNSW | 241 277-278 310 331 332 332 310 311 312 313 314 358U 359U | 26 April 1996 2-3 July 1996 2 September 1996 29 October 1996 30 October 1996 30 October 1996 2 September 1996 3 September 1996 4 September 1996 5 September 1996 6 September 1996 19 February 1997 20 February 1997 |
| DEPARTMENT OF SCHOOL EDUCATION Examination of: <ul style="list-style-type: none"> • the DSE's procedures and protocols for handling allegations of | 245 247 311 353U | 6 May 1996 8 May 1996 3 September 1996 12 February 1997 |

| SEGMENT | DAY | DATE |
|---|---------|------------------|
| child sexual abuse; | 354U | 13 February 1997 |
| • the conduct of DSE officials in the handling of allegations of child sexual abuse; and | 356U | 17 February 1997 |
| | 357U | 18 February 1997 |
| • whether by act or omission the DSE or its officers have protected paedophiles from investigation and prosecution. | 358U | 19 February 1997 |
| | 360U | 24 February 1997 |
| | 362U | 26 February 1997 |
| Witnesses | 363U | 27 February 1997 |
| AREA 1 | 364U | 3 March 1997 |
| AREA 4 | 365U | 5 March 1997 |
| AREA 5 | | |
| AREA 8 | | |
| ARNOLD Roslyn | | |
| BOSTON Kenneth George | | |
| COOK Frederick William | | |
| COOMBER Roslyn | | |
| COUNSELLOR 1 | | |
| COUNSELLOR 2 | | |
| COUNSELLOR 3 | | |
| DEPUTY PRINCIPAL 1 | | |
| HENNESSEY John Morris | | |
| IRVING Richard Paul | | |
| KYRIOS William | | |
| LEE Patrick John | | |
| LOCAL MEMBER 1 | | |
| PARENT 1 | | |
| POLICE OFFICER 1 | | |
| PS2 | | |
| PS7 | | |
| TEACHER 1 | | |
| TEACHER 2 | | |
| TEACHER 3 | | |
| TEACHER 4 | | |
| TEACHER 5 | | |
| TEACHER 6 | | |
| TEACHER 7 | | |
| TEACHER 8 | | |
| WOLLONGONG | 248-253 | 9-20 May 1996 |
| • Investigation into allegations of organised paedophilia and in particular the activities in Sydney and Wollongong of Anthony Bevan, the former Mayor of Wollongong; and | 256-257 | 23-27 May 1996 |
| • Examination of the adequacy of police investigations into those allegations. | | |
| Witnesses | | |
| AINSWORTH David John | | |
| G17 | | |
| JONES Donald Robert | | |
| KING William Bruce | | |
| LAWSON Beverley Ann | | |
| McCLOUGHAN Cynthia | | |
| W2 | | |
| W3 | | |
| W4 | | |
| W5 | | |
| W11 | | |
| W13 | | |
| W14 | | |
| W17 | | |
| W26 | | |
| W61 | | |
| W83 | | |
| CHURCHILL, WELLS AND OTHERS | 253-256 | 20-23 May 1996 |

| SEGMENT | DAY | DATE |
|---|---|---|
| <p>Examination of whether by act or omission certain police officers protected paedophiles from prosecution.</p> <p>Witnesses</p> <p>CHURCHILL Larry Glen CS7 CS8 FISK Colin John FT2 FT3 KR5 R1 VINCENT Ben WELLS Peter John and two witnesses whose names were suppressed</p> | 260 293-294 | 30 May 1996 30-31 July 1996 |
| <p>HEALTH CARE COMPLAINTS COMMISSION</p> <p>Examination of the history and workings of the Health Care Complaints Commission.</p> <p>Witness</p> <p>WALTON Marilyn Margaret</p> | 364 | 3 March 1997 |
| <p>COMMUNITY SERVICES COMMISSION</p> <p>Examination of the history and workings of the Community Services Commission.</p> <p>Witness</p> <p>WEST Roger Booth</p> | 310 312 | 2 September 1996 4 September 1996 |
| <p>DEPARTMENT OF COMMUNITY SERVICES</p> <p>Examination of:</p> <ul style="list-style-type: none"> the DCS relationship with the Police Service and other agencies in relation to the handling of child sexual abuse allegations; DCS procedures and protocols for handling allegations of child sexual abuse; the conduct of DCS officials in the handling of allegations of child sexual abuse against both members of the community and DCS staff; and whether by act or omission the DCS or its officers have protected paedophiles from prosecution. <p>Witnesses</p> <p>BAUER Helen DCS 12 DCS 8 DCS 9 M7 M8 O'MARA Terrence Julian RILEY Christopher Keith SEMPLE Desmond Lloyd T7 Y91 and four witnesses whose names were suppressed</p> | 223 258 277 312-313 332 361U-362U 364U 367 | 25 March 1996 28 May 1996 2 July 1996 4-5 September 1996 30 October 1996 25-26 February 1997 3 March 1997 7 March 1997 |
| <p>DEPARTMENT OF JUVENILE JUSTICE</p> <p>Examination of:</p> <ul style="list-style-type: none"> the procedures of the DJJ and its relationship with the Police Service and other bodies in the handling of child sexual abuse matters; | 258 259 281 | 28 May 1996 29 May 1996 9 July 1996 |

| SEGMENT | DAY | DATE |
|--|-------------------|--|
| <ul style="list-style-type: none"> the screening and internal disciplinary procedures adopted by the DJJ; and the DJJ's Juvenile Sex Offenders Program. Witnesses BUTTRUM Kenneth John GOODMAN Susan | | |
| CARETAKERS COTTAGE Examination of a short-term and crisis accommodation service for young people, which has a community-based management committee and Commonwealth State funding through SAAP. | 276 278 301 | 1 July 1996 3 July 1996 12 August 1996 |
| WITNESSES MATTHEWS Lawrence Charles Y10 Y101 | | |
| CHILD PROTECTION COUNCIL Examination of: <ul style="list-style-type: none"> the role of the CPC and its relationship with other bodies in dealing with issues relevant to child sexual abuse; and the CPC's role in establishing adequate inter-agency guidelines and co-operation. Witnesses FORD Adrian ROGERS Gary John | 246 259 279 | 7 May 1996 29 May 1996 4 July 1996 |
| PRE-TRIAL DIVERSION PROGRAM Examination of this community-based treatment program which provides counselling and therapy for familial abuse victims and offenders, and for non-offending family members. | 259 | 29 May 1996 |
| WITNESS TOLLIDAY Dale Robert | | |
| DIRECTOR OF PUBLIC PROSECUTIONS Examination of the role and functions of the ODPP in the prosecution of child sexual abuse cases. | 276 360U | 1 July 1996 24 February 1997 |
| WITNESSES COWDERY QC - Director of Public Prosecutions DART Philip Alan - Solicitor | | |
| DEPARTMENT OF CORRECTIVE SERVICES Examination of: <ul style="list-style-type: none"> the management and treatment programs available for convicted child sexual abusers within the prison system; the plans for future training and management programs known as the CUBIT and COBAC programs; and the existence of a list of paedophiles allegedly delivered to Cooma prison and forwarded by prison officials to the NSW Police Service. Witnesses CG1 DOYLE Keith Lesley EDWARDS Michael Jack GOODMAN Susan LEONARD Brian LEVERTON Phillip Lawrence MAYHEW Michael Edwin | 280-283 | 8-11 July 1996 |

| SEGMENT | DAY | DATE |
|---|--------------------|--|
| McCOMISH Catriona McKINNON Paul William PAGET John RaymondPhillip TAYLOR Douglas James URE Sheridan John WALLIS Kevin Jonathon ZWIERH Hinderikus William | | |
| THE SEABEACH KINDERGARTEN Examination of: <ul style="list-style-type: none"> the adequacy of the police investigation into allegations of sexual abuse at the Seabeach Kindergarten; the appropriateness and sufficiency of existing laws to effectively prosecute those accused of child sexual abuse; and the processes and procedures of the police and criminal trial process to deal with allegations of child sexual abuse. Witnesses BRACEY John Everett CLEAR Patrick Philip FAVRETTO John Daniel FLUIT Roeluf (Ronald) Marinus FRENCH Mark John O'CONNOR Stephen Edward RALSTON Roger Colin ROPE Brian William SB115 | 296-299 301-304 | 5-8 August 1996 12-15 August 1996 |
| SPECIAL BRANCH Examination of: <ul style="list-style-type: none"> the activities of the Special Branch, in particular concerning any partiality extended to a judicial officer; the keeping of inappropriate files; and misappropriation of Police Service funds and misconduct by Special Branch staff in relation to the inquiry. Witnesses ALLEN Geoffrey AVERY John Keith BURKE John William CC2 CC3 CC4 CC5 CC6 CC7 CC24 COLE Colin Richard GALLAGHER Barry Joseph GARVEY John William HEYWARD Kerry IRELAND Neville George JOHNSTON Bruce Wallace KING Michael Wayne MAGDAPOULOS Dennis MOHR Bruce McCallum MORONEY Kenneth Edward PEATE Alfred Stewart PERAKIS Con PETERS Phil Thomas PITT Narelle Miriam POPPLE Michael James RYAN Peter Michael SEWARD John | 345-350 368-370 | 3-10 December 1996 11-13 March 1997 |

| SEGMENT | DAY | DATE |
|--|--------------------|--|
| SHEAHAN Terrence William SHEPHERD Robert Charles STREET Lawrence Whistler TREHEARN Robert Ian URE Sheridan John WALKER Francis John WARD Phillip Douglas WOOD Gavin | | |
| DEPARTMENT OF HEALTH Examination of: <ul style="list-style-type: none"> the Health Department's relationship with other bodies in relation to the handling of child sexual abuse allegations; and the Health Department's procedures and protocols for handling allegations of child sexual abuse. Witnesses REID Michael Anthony WYN OWEN John | 282 313 366U | 10 July 1996 5 September 1996 6 March 1997 |
| THE INTERNET Examination of the use made of the Internet by paedophile networks and groups. Witnesses GRIFFITHS Sydney Hubert SCIPIONE Andrew Phillip | 363 | 27 February 1997 |

INVITATION FOR SUBMISSIONS

This advertisement calling for submissions relating to the Paedophile terms of reference was placed in major NSW newspapers on 6 July 1996.

Royal Commission into the NSW Police Service

Paedophile Segment

Written Submissions

The Royal Commission invites written submissions from members of the public and from any organisations or government departments interested in having their views taken into account on the following topics:

- (i) The appropriate structures for the New South Wales Police Service to deal with policing of child sexual abuse cases in metropolitan and rural New South Wales. This would include such matters as the appropriate training of police, investigative techniques, resources and anti-corruption measures.
- (ii) (a) The most effective process by which the Police Service and other public authorities including:
 - Department of Community Services
 - The Office of Director of Public Prosecutions
 - Department of Juvenile Justice
 - Department of Health
 - Department of School Education
 - Department of Corrective Services
 can work together to achieve a modern efficient and fair system for dealing with child sexual abuse cases.
- (b) The role of the New South Wales Child Protection Council in relation to this process.
- (iii) The establishment of procedures or registers for the appropriate and fair vetting of child and youth workers, teachers and others who are involved with young persons.
- (iv) The development of child protection strategies and protocols for use by public authorities, agencies and other bodies having the responsibility to care for young persons, to ensure that allegations of child sexual abuse are appropriately reported and handled.
- (v) Any changes to the prosecution process for child sexual abuse cases to achieve a modern, efficient and fair system including the following topics:-
 - Video taping interviews with children.
 - The use of the video tapes as evidence in chief.
 - Cross-examination of victims.
 - Jury trials/Judge only trials.
 - The question of the retention of wigs and robes in such cases.
 - The training of professionals/magistracy/judiciary in relation to child sexual abuse cases.
- (vi) Structures and procedures for support, counselling and rehabilitation of victims and offenders.
- (vii) Review of the relevant legislation including the following topics:
 - The appropriateness of the present offences.
 - The age of consent.
 - The current evidentiary rules/principles.
 - Protection of information.
 - Privacy principles.
- (viii) Initiatives for public education and awareness to encourage report of child sexual abuse cases.

Any submissions should be delivered to the Royal Commission by 9 August 1996.

Address submissions to: The Royal Commission
 GPO Box 3880 SYDNEY NSW 2001.

LIST OF SUBMISSIONS

Many confidential submissions have been received which are not listed. There were also other submissions received that the Royal Commission has regarded as confidential by reason of their content. The Commission also received numerous anonymous submissions. The following are the public submissions:

- AIDS Council of New South Wales, Don Baxter (Executive Director)
- Anti Discrimination Board, Chris Puplick (President)
- Australian Association of Adolescent Health, Bernie Brown
- Australian Association of Social Workers, Sheila Lim (President)
- Australian Early Childhood Association, Deanne Hazell (President, ACT Branch)
- Barnardos Australia, L Voigt (Chief Executive and Director of Welfare)
- Barry, Jenny; Beagley, Ellie; Bunfield, Jacinta; Fry, Sue; Lewis, Jone (joint submission)
- Basset, Cathie
- Blaszczynski, Alex, Associate Professor & Deputy Director, Psychiatry Research & Teaching Unit, University of NSW
- Burnside, Rhonda Stein (Chief Executive Officer)
- Cahill, Geoff
- Castles, Danielle
- Child Abuse Prevention Service, Dorothy Ginn (Director)
- Child Protection Team, Sydney Children's Hospital, Margery Kennedy (Co-ordinator of Allied Health Child Protection Team)
- Coffs Harbour Child Sexual Assault Service, Judi Wood & Jacqui Day
- Collier, Henry, Senior Lecturer, University of Wollongong
- Deniliquin Family Support Service, Lynette Blayney (Manager)
- Department of Community Services, Ageing and Disability Department; Department of Juvenile Justice (joint submission)
- Department of Human Services, Vic, Paul Mullen (Professor & Director, Forensic Psychiatry Services)
- Department of School Education, Ken Boston (Director-General)
- Doran, Robert
- Dymrna House, Jan Breckenridge, Helen Young & Anne McDonald
- Family Planning NSW, Edith Weisberg (Medical Director) & Kendra Sundquist (Director, Education Services)
- Family Support Services Association of NSW, Penny Stewart (President)
- Family Support Services Association, Jo Goodsell (Co-ordinator)
- Fellowship of Congregational Churches, Robert Aiken (President) & Les Van Vorst (General Secretary)
- Fisher, Jeremy
- Gay & Lesbian Teachers & Students Association, Derek Williams (Co-convenor) & Maria Marshall (Committee)
- Gay and Lesbian Rights Lobby, Stevie Clayton (Female Co-convenor) & Simon Lloyd (Male Co-convenor)
- Gibbs, Andrew, Senior Clinical Neuropsychologist, Royal Melbourne Hospital
- Green, Gail
- Harris, Neil

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- Hart, John
 - Hungerford, Megan
 - Independent Commission Against Corruption, The Hon B S O'Keefe, AM QC, Commissioner
 - Inner City Legal Centre
 - Intellectual Disability Rights Service
 - Interchange Respite Care NSW, Patricia Dunn (Executive Officer)
 - Jackson, Shelley, Senior Counsellor, Southern Cross University Counselling Service
 - Juvenile Crime Prevention Advisory Committee, Jenni Borgen (Chairperson)
 - Kennedy, Michael
 - King, Elizabeth
 - KU Children's Services, Antionette le Marchant (Chief Executive Officer)
 - Lancefield, Kay
 - Legal Aid NSW, Terry Murphy (General Manager)
 - Leonard, Geoff
 - MacNeill, Ian
 - Messer, Ron
 - Mid North Coast Area Child Protection Committee, Michael Hinchey (Acting Chairperson)
 - Mithiran, Jan
 - Moore, Clover MP
 - Mulcahy, Des
 - Murray, John
 - National Committee for Professional Standards, Father David Chappo (Executive Officer)
 - Network of Community Activities, Alex White (Convenor)
 - NSW Attorney General's Department, Laurie Slanfield (Director-General)
 - NSW Child Protection Council, Adrian Ford (Chairperson)
 - NSW Community Services Commission, Roger West (Commissioner)
 - NSW Council for Civil Liberties, Williams (Secretary)
 - NSW Council of Churches, Pastor Wayne Magee (Public Affairs Director / Secretary)
 - NSW Council of Social Service, Gary Moore (Director)
 - NSW Health Department, John Wyn Owen (Director-General)
 - NSW Privacy Committee, Chris Puplick (Chairperson)
 - NSW Youth Advisory Council, David Field (Chairperson)
 - Parkinson, Patrick
 - Pastoral Response Office, Catholic Archdiocese of Melbourne
 - Police Association of NSW, Gail Chilvers (Director, Research & Resource Centre)
 - Pratchett, Rick
 - Protective Behaviours Consultancy Group of NSW, Cath Laws (President)
 - Puplick, Christopher
 - Re, Tony

- Reece, Dr A S
- Rex, Keith
- Ryan, Michael
- Ryan, Sharryn
- Schofield, Linda
- Scott, Lola
- Scripture Union NSW, John Tigwell (State Director)
- Smith, Jeffery
- South West Adolescent & Family Services Association, W Waller (Manager)
- South West Womens Child Sexual Assault Resource Centre, Shauna Howe
- Spielman, Dr Ron
- St Vinnies for Youth, Father Chris Riley
- Sydney Gay & Lesbian Mardi Gras, Mark Goggin (General Manager)
- Sydney Rape Crisis Centre, Liz Mulder (Co-ordinator of counselling services)
- The New Children's Hospital, Suzette Booth (Head, Child Protection Unit)
- Thwaites, Des
- Twenty-Ten Association, Ross Bennett (Co-ordinator)
- Wakeman, Len
- Wilson, M
- Winter, Michael
- Wollondilly Shire Council, Greg Wright (Director, Corporate & Community Services)
- Wollondilly/Camden Family Support Service Inc., Christine Spackman (Co-ordinator)
- Women Incest Survivors Network, Aliss Campbell (Co-secretary)
- Young, Anthony
- Youth Justice Coalition, Teresa O'Sullivan (Convenor)

GUIDELINES FOR IN CAMERA EVIDENCE

Evidence will only be taken in camera where special circumstances exist. That might occur where:

- (a) the evidence, if led in public, is such that, despite a suppression order, it might imperil the fair trial of a person waiting trial;
- (b) it is necessary to take preliminary evidence to further a covert inquiry, yet the early disclosure of it would prejudice that inquiry;
- (c) it is necessary to take evidence from a witness earlier than planned, in relation to a covert inquiry, because of concern to remove a young person from the risk of imminent sexual abuse;
- (d) it is desirable, having regard to the particularly prejudicial or discreditable nature of the evidence, to receive it in camera to ensure that it is relevant to a term of reference, it being important to exercise Royal Commission powers responsibly, and in a way which limits collateral or gratuitous harm;
- (e) the evidence of the witness is such that, if led in public, it would pose an unacceptable risk to the life of that witness, or of some other person (through harm which is either self inflicted or attributed to a third party).

There may well be other circumstances in which hearings in camera might be justified, although, prima facie, the proceedings of this Royal Commission are conducted in public. Furthermore, because evidence is taken in camera, that does not mean that it will remain in camera. Once the factor justifying the taking of evidence in camera has ceased to have relevance, then, as has already occurred on more than one occasion, the evidence will be made public, i.e. so long as it is relevant to a term of inquiry. If not released publicly for the reason that it is not found to be within the terms of reference, it will nevertheless be disseminated to an appropriate law enforcement agency, where unlawful activity is incidentally detected.

This Royal Commission is not interested in protecting anyone, and it has no intention of doing so. Office, rank and position are of no relevance, and there will be absolutely no cover up of anybody, or anything.

It is important, however, to state that this Royal Commission does not have a general authority to investigate criminality, or under the paedophile term, to inquire into the sexual conduct of individual persons. To attract our interest under that particular term, there needs to be more than simple unlawful sexual activity. Our interest is only attracted if there is material suggestive of a failure or deficiency in the investigative process either by the Police Service, or by one or more of the Agencies involved in the area of child sexual abuse, or some event involving an abuse of power by a public official.

It is necessary to emphasise this. The Royal Commission has absolutely no business investigating whether anybody, whether holding public office or not, has participated in any form of lawful sexual activity, or indeed in any form of unlawful activity, unless in that case there is that connection mentioned.

Furthermore, this Royal Commission will not normally disclose publicly when it is sitting in camera; or what it is investigating in camera. There can be no legitimate expectation to that effect, since such disclosure would be incompatible with the reason for going into camera, and would remove the advantage of doing so.

Public speculation as to whether the Royal Commission has taken evidence in camera, and the reasons for it, can be extremely harmful to the investigative process, and potentially dangerous or unfair to the person who is hinted to be of interest. A response of no comment to a media inquiry whether the Royal Commission has taken evidence in camera, should be taken as neither an affirmation or denial of that fact, nor should it become the basis of speculation. The Royal Commission will not be baited in this respect.

DSM IV CRITERIA FOR PAEDOPHILIA

The following is derived from the fourth edition of the 'Diagnostic and Statistical Manual of Mental Disorders' published by the American Psychiatric Association, Washington DC.

302.2 Pedophilia

The paraphiliac focus of Pedophilia involves sexual activity with a prepubescent child (generally age 13 years or younger). The individual with Pedophilia must be age 16 years or older and at least 5 years older than the child. For individuals in late adolescence with Pedophilia, no precise age difference is specified, and clinical judgment must be used; both the sexual maturity of the child and the age difference must be taken into account. Individuals with Pedophilia generally report an attraction to children of a particular age range. Some individuals prefer males, others females, and some are aroused by both males and females. Those attracted to females usually prefer 8- to 10-year-olds, whereas those attracted to males usually prefer slightly older children. Pedophilia involving female victims is reported more often than Pedophilia involving male victims. Some individuals with Pedophilia are sexually attracted only to children (Exclusive Type), whereas others are sometimes attracted to adults (Nonexclusive Type). Individuals with Pedophilia who act on their urges with children may limit their activity to undressing the child and looking, exposing themselves, masturbating in the presence of the child, or gentle touching and fondling of the child. Others, however, perform fellatio or cunnilingus on the child or penetrate the child's vagina, mouth, or anus with their fingers, foreign objects, or penis and use varying degrees of force to do so. These activities are commonly explained with excuses or rationalizations that they have "educational value" for the child, that the child derives "sexual pleasure" from them, or that the child was "sexually provocative" - themes that are also common in pedophilic pornography.

Individuals may limit their activities to their own children, stepchildren, or relatives or may victimize children outside their families. Some individuals with Pedophilia threaten the child to prevent disclosure. Others, particularly those who frequently victimize children, develop complicated techniques for obtaining access to children, which may include winning the trust of a child's mother, marrying a woman with an attractive child, trading children with other individuals with Pedophilia, or, in rare instances, taking in foster children from nonindustrialized countries or abducting children from strangers. Except in cases in which the disorder is associated with Sexual Sadism, the person may be attentive to the child's needs in order to gain the child's affection, interest, and loyalty and to prevent the child from reporting the sexual activity. The disorder usually begins in adolescence, although some individuals with Pedophilia report that they did not become aroused by children until middle age. The frequency of pedophilic behaviour often fluctuates with psychosocial stress. The course is usually chronic, especially in those attracted to males. The recidivism rate for individuals with Pedophilia involving a preference for males is roughly twice that for those who prefer females.

■ Diagnostic criteria for 302.2 Pedophilia

- A. Over a period of at least 6 months, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving sexual activity with a prepubescent child or children (generally age 13 years or younger).
- B. The fantasies, sexual urges, or behaviors cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.
- C. The person is at least 16 years and at least 5 years older than the child or children in Criterion A.

Note: Do not include an individual in late adolescence involved in an ongoing sexual relationship with a 12- or 13-year-old.

Specify if:

Sexually Attracted to Males
Sexually Attracted to Females
Sexually Attracted to Both

Specify if:

Limited to Incest

Specify type:

Exclusive Type (attracted only to children)
Nonexclusive Type

**LIST OF NON-GOVERNMENT
CHILD PROTECTION PROGRAMS/ORGANISATIONS
FUNDED BY DCS**

Taken from

**ANNUAL REPORT 1995/96 ADDENDUM
CHILD PROTECTION - CSGP**

SUB-PROGRAM: CHILD PROTECTION PROJECT

- Barnardos Australia Penrith Children's FamilyCentre
Penrith SpecialNeighbours Programme
- Bogal Land Council
Box Ridge Child Protection Project Old
- Dympna HouseInc
Dympna House
- NSW Aboriginal Lands Council Far North Coast Branch
TabulamJubullum Child Protection Project
- Richmond Health Service
Box Ridge Child Protection Project
- South West Child Adolescent & Family Services Association (CAFS)c
Green Valley Family & Children's Service
- Swinson Cottage FamilyCentre Inc
Swinson Cottage FamilyCentre
- The Samaritans Foundation
Creative Times
- The Uniting ChurchAust Property Trust (NSW) - Sydney South
Child Protection Project -Campbelltown
FamilyCounsellor -Lakemba
Family Worker Project (TCFCC)
- Upper Blue Mountains Child Protection ServiceInc
The Gunedoo Centre

SUB-PROGRAM: CHILD SEXUAL ASSAULT PROGRAM

- Aboriginal Medical ServiceCo-operativeLtd
Child Sexual Assault Project Redfern
- Armidale & District Child Sexual Assault Service
Armidale Child Sexual Assault Service
- Association of Children's Welfare AgenciesInc
Child Sexual Assault Project - Sydney
- Bankstown Women's HealthCentre Inc
Child Sexual Assault Project Bankstown
- Barnardos Australia - Auburn
Child & Adolescent Sexual Assault Project
- Bulahdelah Progress Association
Bulahdelah Progress Association

- Centacare
Centacare Child Sexual Assault Counselling Service
Vietnamese Child Sexual Assault
- Central Coast Community Women's Health Centre
Eva's Child Sexual Assault Counselling & Resource Centre
- Central West Womens Health Centre Inc
Child Sexual Assault Service Bathurst
- Coffs Harbour Child Sexual Assault Service Inc
Coffs Harbour Child Sexual Assault Service - Old
- Eurobodalla Women Against Incest Inc
Child Sexual Assault Project Moruya
- Linden Place Inc
Child Sexual Assault Counselling Service
- Lismore Neighbourhood Centre Inc
Lismore Child Sexual Assault Project
- M O S A C
Mothers of Sexually Abused Children
- Manning Valley Women's Group Inc
Taree Child Sexual Assault Programme
- Nambucca Valley Neighbourhood Centre Inc
Nambucca Valley Neighbourhood - one off
- Riverwood Community Centre Inc
Child Sexual Assault Project Riverwood
- Rosemount Youth and Family Services Inc
Child Sexual Assault Project Dulwich Hill
- Rosie's Place Inc
Child Sexual Assault Counselling Project
Parents Support Project
- South West Women's Child Sexual Assault Resource Centre Inc
Child Sexual Assault Resource Centre (Rosebank)
- St Saviour's Neighbourhood Centre
Child Protection Service
- Upper Blue Mountains Child Protection Service Inc
Gunedoo Child Sexual Assault Service
- Women and Children's Incest Support House
West Street Centre
West Street Centre - Recession Supplement

SUB-PROGRAM: COMMONWEALTH GRANT (CHILD ABUSE PREVENTION CENTRE)

- Child Abuse Prevention Service
Child Abuse Prevention Service

SUB-PROGRAM: AREA ASSISTANCE SCHEME - CHILD PROTECTION

- Bellingen Neighbourhood Centre Inc
Bellinghen Youth Service - One off
- Coffs Harbour Child Sexual Assault Service Inc
Coffs Harbour C.S.A.S. - Isolated Client Counsellor
- Nambucca Valley Childrens Group Inc
Nambucca Bellinghen Family Support - one off

GUIDELINES AND PROTOCOLS FOR PSYCHOLOGISTS/PSYCHIATRISTS

AUSTRALIA AND OVERSEAS

The following are guidelines and protocols for psychologists/psychiatrists regarding recovered memory etc.

1. Australian Psychological Society 1995
2. The Royal Australian and New Zealand College of Psychiatrists
3. British Psychological Society
4. American Medical Association Council on Scientific Affairs
5. American Psychiatric Association

MEMORIES OF ABUSE

GUIDELINES RELATING TO THE REPORTING OF RECOVERED MEMORIES

Australian Psychological Society, 1995

A. Preamble

The Australian Psychological Society has expertise in scientific, clinical, and ethical aspects of the practice of psychology. These Guidelines Relating to the Reporting of Recovered Memories draw essentially on these competencies. The Australian Psychological Society acknowledges that the broader social context affects the credence given to the interpretation; of recovered memories when independent corroboration is not available or possible. Central elements of this social context include gender, age, social class and ethnic and cultural identity. Although this wider context is beyond the scope of these Guidelines, the Australian Psychological Society recognises that comment and debate on these issues is important.

B. Code of Professional Conduct

These Guidelines should be read in conjunction with the Australian Psychological Society *Code of Professional Conduct*, which sets forth principles of professional conduct designed to safeguard:

- the welfare of consumers of psychological services;
- the integrity of the profession.

The General Principles of the Code are:

I Responsibility

Psychologists remain personally responsible for the professional decisions they take:

- Psychologists are expected to take cognisance of the foreseeable consequences of their actions and to make every effort to ensure that their services are used appropriately.
- In working with organisations, whether as employees or consultants, psychologists shall have ultimate regard for the highest standards of their profession.

II Competence

Psychologists shall bring to and maintain appropriate skills and learning in their areas of professional practice:

- Psychologists must not misrepresent their competence, qualifications, training or experience.
- Psychologists shall refrain from offering or undertaking work or advice beyond the professional competence.

III Propriety

The welfare of clients, students, research participants, and the public, and the integrity of the profession, shall take precedence over a psychologist's self interest and over the interests of the psychologist's employer and colleagues.

- Psychologists must respect the confidentiality of information obtained from persons in the course of their work as psychologists. They may reveal such information to others only with the consent of the person or the person's legal representative, except in those unusual circumstances in which not to do so would result in clear danger to the person or to others. Psychologists must inform their clients of the legal or other contractual limits of confidentiality.
- Psychologists shall refrain from any act which would tend to bring the profession into public dispute.

C. Guidelines Relating to Recovered Memories

These Guidelines set forth information and recommendations designed to safeguard clients and psychologists who are dealing with reports of recovered memories. These Guidelines acknowledge however, that those who are associated with the events of therapy (psychologist, client and others) must take ultimate responsibility for their own actions.

I Scientific Issues

Memory is a constructive and reconstructive process. What is remembered about an event is shaped by what was observed of that event, by conditions prevailing during attempts to remember, and by events occurring between the observation and the attempted remembering. Memories can be altered, deleted, and created by events that occur during and after the time of encoding, and during the period of storage, and during any attempts at retrieval.

Memory is integral to many approaches to therapy. Repression and dissociation are processes central to some theories and approaches to therapy. According to these theories and approaches, memories of traumatic events may be blocked out unconsciously, and this leads to a person having no memory of the events. However, memories of these traumatic events may become accessible at some later time. Although some clinical observations support the notion of repressed memories, empirical research on memory generally does not. Moreover, scientific evidence does not allow global statements to be made about a definite relationship between trauma and memory. "Memories" that are reported either spontaneously or following the use of special procedures in therapy may be accurate, inaccurate, fabricated, or a mixture of these. The presence or absence of detail in a memory report does not necessarily mean that it is accurate or inaccurate. The level of belief in memory or the emotion associated with the memory does not necessarily relate directly to the accuracy of the memory. The available scientific and clinical evidence does not allow accurate, inaccurate, and fabricated memories to be distinguished in the absence of independent corroboration.

It is established by scientific evidence that sexual and/or physical abuse against children and adults is typically destructive of mental health, self esteem, and personal relationships. It is also the case that people who suffer these experiences may use various psychological mechanisms to reduce the psychological severity of the painful events in an attempt to help them cope with the experience and its consequences.

Just as psychologists should be familiar with this evidence, so should they recognise that reports of abuse long after the events are reported to have occurred are difficult to prove or disprove in the majority of cases. Independent corroboration of the statements of those who make or deny such allegations is typically difficult, if not impossible. Accordingly, psychologists should exercise special care in dealing with clients, their family members, and the wider community when allegations of past abuse are made.

II Clinical Issues

Psychologists should evaluate critically their assumptions or biases about attempts to recover memories of trauma-related events. Equally, psychologists should assist clients to understand any assumptions that they have about repressed or recovered memories. Assumptions that adult problems may or may not be associated with repressed memories from childhood cannot be addressed by existing scientific evidence.

Psychologists should be alert to the ways in which they may unintentionally overlook or minimise reports of experiences of abuse or other events that may have had a significant impact on a client. They should also be alert to the ways that they can shape their reported memories of clients through the expectations they convey, the comments they make, the questions they ask, and the responses they give. Psychologists should be alert that clients are susceptible to subtle suggestions and reinforcements, whether those communications are intended or unintended. Therefore, psychologists should record intact memories at the beginning of therapy, and be aware of any possible effects from outside the therapeutic setting (e.g. self-help groups, popular books, films, or television programs).

Psychologists should be alert not to dismiss memories that may be based in fact. Equally, they should be alert to the role that they may play in creating or shaping false memories. At all times, psychologists should be empathic and supportive of the reports of clients while also ensuring that clients do not jump to conclusions about the truth or falsity of their recollections of the past. They should also ensure that alternative causes of any problems that are reported are explored. Psychologists should recognise that the context of therapy is important as is the content.

Psychologists should not avoid asking clients about the possibility of sexual or other abusive occurrences in their past, if such a question is relevant to the problem being treated. However, psychologists should be cautious in interpreting the response that is given. Psychologists should not assume the accuracy or inaccuracy of any report of recovered memory.

Psychologists should recognise that the needs and wellbeing of clients are their essential focus, and they should design their therapeutic interventions accordingly. Relatedly, psychologists should recognise that therapeutic interventions may have an indirect impact on people other than the client they are treating.

They should seek to meet the needs of clients who report memories of abuse, and should do this quite apart from the truth or falsity of those reports. Psychologists should be cautious about conveying statements about the accuracy of memory reports given by clients. In particular, psychologists should understand clearly the difference between narrative truth and historical truth, and the relevance of this difference inside the therapy context and outside that context. Memory reports as part of a personal narrative can be helpful in therapy, independent of the accuracy of those reports. But, to be accepted as accurate in another setting (e.g. court of law), those reports will need to be shown to be accurate.

III Ethical Issues

Psychologists treating clients who report recovered memories of abuse are expected to observe the Principles set out in the *Code of Professional Conduct* of the Australian Psychological Society, and in the *Code of Professional Conduct* of the Psychologists Registration Board in States in which they are registered as psychologists. Specifically, psychologists should obtain informed consent at the beginning of therapy in relation to the therapeutic procedures and process.

Psychologists should explore with any client who reports recovering a memory of abuse that it may be an accurate memory of an actual event, may be an altered or distorted memory of an actual event, or may be a false memory of an event that did not happen. Psychologists should explore with the client the meaning and implications of the memory for the client, rather than focus solely on the content of the reported memory. Psychologists should explore with the client ways of determining the accuracy of the memory, if appropriate.

Psychologists should be alert particularly to the need to maintain appropriate skills and learning in this area, and should be aware of the relevant scientific evidence and clinical standards of practice. When appropriate, they should refer the client to a colleague who is especially skilled and experienced in dealing with issues in this area. Psychologists should guard against accepting approaches to abuse and therapy that are not based in scientific evidence and appropriate clinical standards.

Psychologists should be alert also to the personal responsibility they hold for the foreseeable consequences of their actions.

IV Legal Issues

Psychologists should in no way tolerate, or be seen to tolerate, childhood or adult sexual abuse, or abuse of any kind. They should ensure that their psychological services are used appropriately in this regard, and should be alert to problems of deciding whether allegations of abuse are true or false. They should be alert especially to the different demands and processes of the therapeutic and legal contexts in dealing with such allegations.

Psychologists should be aware that some approaches and writings concerning abuse and recovered memories urge people who report recovered memories to pursue legal action of various type. Given that the accuracy of memories cannot be determined without corroboration, psychologists should use caution in responding to questions from clients about pursuing legal action.

Psychologists should be aware that their knowledge, skills, and practices may come under close scrutiny by various public and private agencies if they are treating clients who report recovering memories of abuse. Psychologists should ensure that comprehensive records are maintained about their sessions with clients who report recovering such memories.

V Research Issues

Psychologists should be aware that research is needed to understand more about trauma-related memory, techniques to enhance memory, and techniques to deal effectively with childhood sexual abuse. Psychologists should support and contribute to research on these, and related, issues whenever possible.

Note: these Guidelines have been adapted from:

McConkey, K.M., & Sheehan, P.W. (in press). *Hypnosis, memory and behaviour in the forensic setting*. New York: Guilford.

Clinical Memorandum #17

**GUIDELINES FOR PSYCHIATRISTS DEALING WITH
REPPRESSED TRAUMATIC MEMORIES**

1. Although the role of traumatic sexual experiences during childhood in influencing adult psychopathology has been a part of clinical psychiatry for some 100 years, there has recently been an upsurge of popular interest in what is being termed in the lay press 'Recovered Memory Syndrome'. The clinical and ethical issues involved in the present circumstances pose a real issue for psychiatrists and for the College.
2. There is general agreement about the following matters:
 - (a) Clinical experience, supported by relevant research, has shown that both physical and sexual abuse in early and later childhood occur with disconcerting frequency.
 - (b) Children who are subject to such developmentally inappropriate experiences are, in most (if not all) cases, adversely affected by such experience in respect of their mental development and evidence varying degrees of psychological damage which can be attributed to their experience of the abuse.
 - (c) Memory of such abusive experiences may be absent for considerable and varied periods of life and may be recalled under any of a variety of circumstances, including as a vicissitude of undergoing psychiatric treatment for (at least initially) apparently unrelated reasons.
3. In these circumstances psychiatrists should be mindful of the following:
 - (a) Modern day understanding of the nature of memory itself is that it is highly susceptible to influence and revision from the time of encoding up to and including the time and relationship context of the memory being retrieved.
 - (b) It is an appropriate role for the psychiatrist to facilitate and maximise the therapeutic potential of any memory recovery process on behalf of the patient.
 - (c) Psychiatrists must respect the right of patients to secure their own memory - free, as far as is possible, from contamination by external influences.
 - (d) It is important that psychiatrists maintain a position of clinical neutrality in the consulting room - no matter what personal views they may have formed. This is no different from the stance which psychiatrists must take on many other matters raised by patients.
 - (e) It is not, generally, the clinical role of the psychiatrist to advocate for the patient 'as victim' - but, where necessary and possible, to support a process whereby the patient comes to feel able to deal with the experience of having recovered a hitherto forgotten aspect of their history, in any way which they themselves deem appropriate.
4. The scientific literature carries a growing number of studies in this field and, in turn, a growing number of reviews of this literature. In addition, there is an explosion of books being published taking polemic positions in the controversy - there are instances of extremist positions on each side.
5. Regrettably, the legal consequences of this have been a disturbing increase in the number of court cases (especially in America), where the concept of 'repressed memory' and the counterclaim of 'false memory' have been tested more in the style associated with television courtroom drama, than in a spirit of seeking the truth - difficult as that may be.
6. As a further consequence, the airing of these vexed issues in the popular press can only serve to entrench fixed views held by the various proponents.

7. In a climate of such complexity, where psychologically positive outcomes are largely made impossible by the adversarial nature of the legal arena and the sensationalist nature of the popular press, it is important that psychiatrists maintain at least the hope of a clinical haven for those who need the opportunity to explore their own relevant issues in a neutral, supportive environment.
8. The only thing that we can know for certain in this complex field is that it is almost impossible to know for certain what transpires privately between two individuals - especially if one of them is a child.

Clinical Memorandum #17

Adopted: May 1996 (GC1/96. R11)

Date of Current Document: May 1996 (review by May 2001)

MEMORIES OF ABUSE**British Psychological Society****Summary of Report on Recovered Memory**

The working party was charged with reporting on the scientific evidence relevant to the current debate concerning Recovered Memories of Trauma and with commenting on the issues surrounding this topic. We have reviewed the scientific literature, carried out a survey of relevant member of The British Psychological Society, and scrutinised the records of the British False Memory Society. On this basis we came to the following conclusions:

- ◇ Complete or partial memory loss is a frequently reported consequence of experiencing certain kinds of psychological traumas including childhood sexual abuse. The memories are sometimes fully or partially recovered after a gap of many years.
- ◇ Memories may be recovered within or independent of therapy. Memory recovery is reported by highly experienced and well qualified therapists who are well aware of the dangers of inappropriate suggestion and interpretation.
- ◇ In general, the clarity and details of event memories depends on a number of factors, including the age at which the event occurred. Although clear memories are likely to be broadly accurate, they may contain significant errors. It seems likely that recovered memories have the same properties.
- ◇ Sustained pressure or persuasion by an authority figure could lead to the retrieval or elaboration of 'memories' of events that never actually happened. The possibility of therapists creating in their clients false memories of having been sexually abused in childhood warrants careful consideration, and guidelines for therapists are suggested here to minimise the risk of this happening. There is no reliable evidence at present that this is a widespread phenomenon in the U.K.
- ◇ In a recent review of the literature on recovered memories, Lindsay and Read commented that "the ground for debate has shifted from the question of the possibility of therapy-induced false beliefs to the question of the prevalence of therapy-induced beliefs". We agree with this comment but add to it that the ground for debate has also shifted from the question of the possibility of recovery of memory from total amnesia to the question of the prevalence of recovery of memory from total amnesia.

Reference

Lindsay, D, and Read, J (1994) Incest Resolution Psychotherapy and Memories of Childhood Sexual Abuse. *Applied Cognitive Psychology*, 8, 281-338.

Guidelines for Therapists

The following guidelines are intended to apply to a range of psychological therapies.

1. It may be necessary clinically for the therapist to be open to the emergence of memories of trauma which are not immediately available to the client's consciousness.
2. It is important for the therapist to be alert to the dangers of suggestion.
3. While it is important always to take the client seriously, the therapist should avoid drawing premature conclusions about the truth of a recovered memory.
4. The therapist needs to tolerate uncertainty and ambiguity regarding the client's early experience.
5. Whilst it may be part of the therapists' work to help their clients to think about their early experiences, they should avoid imposing their own conclusions about what took place in childhood.
6. The therapist should be alert to a range of possibilities, for example that a recovered memory may be literally true, metaphorically true or may derive from fantasy or dream material.

7. If the role of the professional is to obtain evidence that is reliable in forensic terms, they need to restrict themselves to procedures that enhance reliability (e.g. use of the Cognitive Interview and avoidance of hypnosis or suggestion and leading questions).
8. CSA should not be diagnosed on the basis of presenting symptoms such as eating disorder alone. There is a high probability of false positives, as there are other possible explanations for psychological problems.

REPORT ON MEMORIES OF CHILDHOOD ABUSE^{1,2}

AMERICAN MEDICAL ASSOCIATION COUNCIL ON SCIENTIFIC AFFAIRS

Chicago, Illinois

The adoption of Substitute Resolution 504, A-93, created new policy on memory enhancement methods used in cases of possible childhood sexual abuse. The policy states "The AMA considers the technique of 'memory enhancement' in the area of childhood sexual abuse to be fraught with problems of potential misapplication" (AMA Policy Compendium, Policy 515.978). The resolution also directed the Council on Scientific Affairs to investigate the issues surrounding memory enhancement. This report addresses those and related issues.

The resolution was adopted in response to concerns about the growing number of cases in which adults make accusations of having been abused as children based solely on memories developed in therapy. In many cases, the accusations are made against the parents of the accuser, although others, such as members of the clergy, teachers and camp counselors, have been targets of allegations. Questions have been raised about the veracity of such reported memories, one's ability to recall such memories, the techniques used to recover these memories, and the role of the therapist in developing the memories.

The general issues have come to be referred to under the umbrella term "repressed memories" or "recovered memories." Both terms refer to those memories reported as new recollections, with no previous memories of the event or circumstances surrounding the event, although some "fragments" of the event may have existed. Considerable controversy has arisen in the therapeutic community over the issue, and experts from varied professional backgrounds can be found on all sides of the issue. At one extreme are those who argue that such repressed memories do not occur, that they are false memories, created memories, or implanted memories, while the other extreme strongly supports not only the concept of repressed memories but the possibility of recovering such memories in therapy. Other professionals believe that some memories may be false and others may be true.

Most controversial are those "memories" that surface only in therapy and those from either infancy or late childhood (including adolescence). Concern about and interest in repressed memories is widespread, and the topic is covered in both the professional literature and the lay press. Word of the AMA's interest in the issue resulted in well over 100 letters asking the AMA to address the needs of falsely accused individuals.

The Board of Trustees of the American Psychiatric Association (APA) recently issued a statement "in response to the growing concern regarding memories of sexual abuse." In part, the statement says:

It is not known what proportion of adults who report memories of sexual abuse were actually abused. Many individuals who recover memories of abuse have been able to find corroborating information about their memories. However, no such information can be found, or is possible to obtain, in some situations. While aspects of the alleged abuse situation, as well as the context in which the memories emerge, can contribute to the assessment, there is no completely accurate way of determining the validity of reports in the absence of corroborating information. (Statement of the APA Board of Trustees, adopted December 12, 1993)

¹ Action of the AMA House of Delegates 1994 Annual Meeting: Council on Scientific Affairs Report 5 recommendations adopted as amended and the remainder of the report filed.

² AMA Council on Scientific Affairs, Report on Memories of Childhood Abuse. Copyright by the American Medical Association, 1994. Reprinted by permission.

Note. Copies of the CSA reports and policy statements cited in the present report can be obtained from Ms. Brenda Stewart, Council on Scientific Affairs, American Medical Association, 515 North State Street, Chicago, IL 60610. Telephone: 312-464-5046; Fax: 312-464-5841.

Related AMA Policy

The AMA has numerous policies related to child abuse, including sexual abuse, and about violence in general. Two policy statements are of particular importance. Policy 515.976, adopted at the 1993 Annual Meeting, encourages physicians to be alert to the mental health consequences of interpersonal and family violence. Council on Scientific Affairs Report B (A-93), which developed this policy, thoroughly discussed these consequences, including possible long-term adverse effects. There is considerable evidence that victims of child abuse are found in mental health treatment settings in large numbers.

Also relevant is Policy 80.996, adopted in 1984, which discusses the use of hypnosis in refreshing recollection. The entire policy states:

The AMA believes that (1) With witnesses and victims, the use of hypnosis should be limited to the investigative process. Specific safeguards should be employed to protect the welfare of the subject and the public, and to provide the kind of record that is essential to evaluate the additional material obtained during and after hypnosis; (2) A psychological assessment of the subject's state of mind should be carried out prior to the induction of hypnosis in an investigative context, and informed consent should be obtained; (3) Hypnosis should be conducted by a skilled psychiatrist or psychologist, who is aware of the legal implications of the use of hypnosis for investigative purposes; a complete taped and/or precise written record of the clinician's prior knowledge of the case must be made; complete videotape recordings of the pre-hypnotic evaluation and history, the hypnotic session, and the post-hypnotic interview, showing both the subject and the hypnotist, should be obtained; (4) Ideally, only the subject and the psychiatrist or psychologist should be present; (5) Some test suggestions of known difficulty should be given to provide information about the subject's ability to respond to hypnosis; (6) The subject's response to the termination of hypnosis and the post-hypnotic discussion of the experience of hypnosis are of major importance in discussing the subject's response; (7) Medical responsibility for the health and welfare of the subject cannot be abrogated by the investigative intent of hypnosis; and (8) Continued research should be encouraged.

This policy was developed as part of CSA Report K (1-84), which addressed several aspects of hypnosis and memory. The report concluded that new information is often reported under hypnosis, and that while the information may be accurate, it may also include confabulations and pseudomemories. Moreover, the Council concluded that hypnosis-induced recollections actually appear to be less reliable than nonhypnotic recall. That statement remains an accurate summary of the empirical literature.

Neither the AMA nor the Council has studied other aspects of memory enhancement, such as amytal or age regression. A forthcoming review of amytal concludes that it has no legitimate use in recovered-memory cases.² Rigorous scientific assessments of other methods of memory enhancement are not available.

Legal Concerns

To some extent, current concerns about repressed memories can be traced to the lawsuits filed by accusers, particularly those filed against parents. Numerous such lawsuits have been filed by accusers, and it is of course difficult to disprove accusations regarding events that are alleged to have taken place many years or even decades earlier. Over the past few years, a number of states have adopted laws that have affected such litigation. Illinois, for example, has just extended the time allowed in which to file a suit; previously lawsuits could not be filed after the accuser had attained the age of 30. On the other hand, California has recently adopted laws under which a plaintiff cannot prevail in the absence of evidence beyond the recovered memories.

From a therapeutic perspective, such lawsuits might be deemed valuable in helping an abuse victim retake or reassert control of his life or her life. Restoring control to the victim is a widely recognized part of therapy.¹ At the same time, public policy may require standards of proof that must be met before allowing suits based on recovered memories to be filed or result in judgments against the accused.

Therapeutic Issues

Of particular interest in this issue is the role of the therapist in developing new memories. It is well established for example that a trusted person such as a therapist can influence an individual's reports, which would include memories of abuse. Indeed, as the issue of repressed memories has grown, there have been reports of therapists advising patients that their symptoms are indicative - not merely suggestive - of having been abused, even when the patient denies having been abused.³ Other research has shown that repeated questioning may lead individuals to

report events that in fact never occurred. Unfortunately, the dynamics that underlie an individual's suggestibility are only beginning to be understood.

Notwithstanding these findings, other research indicates that some survivors of abuse do not remember, at least temporarily, having been abused. While some research relies on self-identified survivors of abuse and consequently begs the question of repressed memories (see for example Briere and Conte⁴), other research is based on cases in which childhood sexual abuse was documented. Williams,⁵ for example, reports that more than one-third of women in a group of known victims failed to report the victimisation 17 years later, most of those who did not report the abuse appear to have been "amnesic for the abuse."^(p20) There are other instances in which recovered memories proved to be correct.

In short, empirical evidence can be cited for both sides of the argument. While virtually all would agree that memories are malleable and not necessarily fully accurate, there is no consensus about the extent or sources of this malleability. The issue is far from settled, and under such circumstances, therapists should exercise care in treating their patients, maintaining an empathic and supportive posture. Due diligence for and reference to the Principles of Medical Ethics, or other similar statements in the case of nonphysician therapists, should be given high priority. In some cases, a second opinion should be considered.

Conclusions and Recommendations

The AMA has a long history of concern about the extent and effects of child abuse. Child abuse, particularly child sexual abuse, is under recognized and all too often its existence is denied. Its effects can be profound and long-lasting⁴. The Council on Scientific Affairs recommends that the following statements be adopted and that the remainder of this report be filed:

1. That the AMA recognize that few cases in which adults make accusations of childhood sexual abuse based on recovered memories can be proved or disproved and it is not yet known how to distinguish true memories from imagined events in these cases.
2. That the AMA encourage physicians to address the therapeutic needs of patients who report memories of childhood sexual abuse and that these needs exist quite apart from the truth or falsity of any claims.
3. That Policy 515.978 be amended by insertion and deletion to read as follows: The AMA considers recovered memories the technique of 'memory enhancement' in the area of childhood sexual abuse to be of uncertain authenticity, which should be subject to external verification. The use of recovered memories is fraught with problems of potential misapplication.
4. That the AMA encourage physicians treating possible adult victims of childhood abuse to subscribe to the Principles of Medical Ethics when treating their patients and that psychiatrists pay particular attention to the Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry.
5. That Policy 80.996, which deals with the refreshing of recollections by hypnosis, be reaffirmed.

References

1. Herman JL. Trauma and Recovery. New York: Basic Books; 1992.
2. Piper A Jr. "Truth Serum" and "Recovered Memories" of sexual abuse: A review of the evidence. J Psychiatry and Law. In press.
3. Loftus EF. The reality of repressed memories. American Psychologist. 1993;48(5):518-537.
4. Briere J, Conte J. Self-reported amnesia for abuse in adults molested as children. J Traumatic Stress. 1993;6(1):21-31.
5. Williams LM. Adult Memories of childhood abuse: Preliminary findings from a longitudinal study. The APSAC Advisor. 1992;5(3):19-21.
6. Council on Scientific Affairs. 'Mental health consequences of interpersonal and family violence: Implications for the practitioner. CSA Report B (A-93).

The *International Journal of Clinical and Experimental Hypnosis* , Vol. XLIII, No. 2 April 1995 114-117

STATEMENT ON MEMORIES OF SEXUAL ABUSE

AMERICAN PSYCHIATRIC ASSOCIATION BOARD OF TRUSTEES

Washington, DC

AMERICAN PSYCHIATRIC ASSOCIATION
1400 K Street, NW
Washington, DC 20005

STATEMENT ON MEMORIES OF SEXUAL ABUSE

This Statement is in response to the growing concern regarding memories of sexual abuse. The rise in reports of documented cases of child sexual abuse has been accompanied by a rise in reports of sexual abuse that cannot be documented. Members of the public, as well as members of mental health and other professions, have debated the validity of some memories of sexual abuse, as well as some of the therapeutic techniques which have been used. The American Psychiatric Association has been concerned that the passionate debates about these issues have obscured the recognition of a body of scientific evidence that underlies widespread agreement among psychiatrists regarding psychiatric treatment in this area. We are especially concerned that the public confusion and dismay over this issue and the possibility of false accusations not discredit the reports of patients who have indeed been traumatized by actual previous abuse. While much more needs to be known, this Statement summarizes information about this topic that is important for psychiatrists in their work with patients for whom sexual abuse is an issue.

Sexual abuse of children and adolescents leads to severe negative consequences. Child sexual abuse is a risk factor for many classes of psychiatric disorders, including anxiety disorders, affective disorders, dissociative disorders and personality disorders.

Children and adolescents may be abused by family members, including parents and siblings, and by individuals outside of their families, including adults in trusted positions (eg, teachers, clergy, camp counsellors). Abusers come from all walks of life. There is no uniform "profile" or other method to accurately distinguish those who have sexually abused children from those who have not.

Children and adolescents who have been abused cope with the trauma by using a variety of psychological mechanisms. In some instances, these coping mechanisms result in a lack of conscious awareness of the abuse for varying periods of time. Conscious thoughts and feelings stemming from the abuse may emerge at a later date.

It is not known how to distinguish, with complete accuracy, memories based on true events from those derived from other sources. The following observations have been made:

- Human memory is a complex process about which there is a substantial base of scientific knowledge. Memory can be divided into four stages: input (encoding), storage, retrieval, and recounting. All of these processes can be influenced by a variety of factors, including developmental stage, expectations and knowledge base prior to an event; stress and bodily sensations experienced during an event; post-event questioning; and the experience and context of the recounting of the event. In addition, the retrieval and recounting of a memory can modify the form of the memory, which may influence the content and the conviction about the veracity of the memory in the future. Scientific knowledge is not yet precise enough to predict how a certain experience or factor will influence a memory in a given person.
- Implicit and explicit memory are two different forms of memory that have been identified. Explicit memory (also termed declarative memory) refers to the ability to consciously recall facts or events. Implicit memory (also termed procedural memory) refers to behavioral knowledge of an experience without conscious recall. A child who demonstrates knowledge of a skill (eg, a bicycle riding) without recalling how he/she learned it, or an adult who has an affective reaction to an event without understanding the basis for that reaction (eg, a combat veteran who panics when he hears the sound of a helicopter, but cannot remember that he was in a helicopter crash which killed his best friend) are demonstrating implicit memories in the absence of explicit recall. This distinction between explicit and implicit memory is fundamental because they have been shown to be supported by

different brain systems, and because their differentiation and identification may have important clinical implications.

- Some individuals who have experienced documented traumatic events may nevertheless include some false or inconsistent elements in their reports. In addition, hesitancy in making a report, and recanting following the report can occur in victims of documented abuse. Therefore, these seemingly contradictory findings do not exclude the possibility that the report is based on a true event.
- Memories can be significantly influenced by questioning, especially in young children. Memories also can be significantly influenced by a trusted person (eg, therapist, parent involved in a custody dispute) who suggests abuse as an explanation for symptoms/problems, despite initial lack of memory of such abuse. It has also been shown that repeated questioning may lead individuals to report “memories” of events that never occurred.

It is not known what proportion of adults who report memories of sexual abuse were actually abused. Many individuals who recover memories of abuse have been able to find corroborating information about their memories. However, no such information can be found, or is possible to obtain, in some situations. While aspects of the alleged abuse situation, as well as the context in which the memories emerge, can contribute to the assessment, there is no completely accurate way of determining the validity of reports in the absence of corroborating information.

Psychiatrists are often consulted in situations in which memories of sexual abuse are critical issues. Psychiatrists may be involved in a variety of capacities, including as the treating clinician for the alleged victim, for the alleged abuser, or for other family member(s); as a school consultant; or in a forensic capacity.

Basic clinical and ethical principles should guide the psychiatrist's work in this difficult area. These include the need for role clarity. It is essential that the psychiatrist and the other involved parties understand and agree on the psychiatrist's role.

Psychiatrists should maintain an empathic, non-judgmental, neutral stance towards reported memories of sexual abuse. As in the treatment of all patients, care must be taken to avoid prejudging the cause of the patient's difficulties, or the veracity of the patient's reports. A strong prior belief by the psychiatrist that sexual abuse, or other factors, are or are not the cause of the patient's problems is likely to interfere with appropriate assessment and treatment. Many individuals who have experienced sexual abuse have a history of not being believed by their parents, or others in whom they have put their trust. Expression of disbelief is likely to cause the patient further pain and decrease his/her willingness to seek needed psychiatric treatment. Similarly, clinicians should not exert pressure on patients to believe in events that may not have occurred, or to prematurely disrupt important relationships or make other important decisions based on these speculations. Clinicians who have not had the training necessary to evaluate and treat patients with a broad range of psychiatric disorders are at risk of causing harm by providing inadequate care for the patient's psychiatric problems and by increasing the patient's resistance to obtaining and responding to appropriate treatment in the future. In addition, special knowledge and experience are necessary to properly evaluate and/or treat patients who report the emergence of memories during the use of specialized interview techniques (eg, the use of hypnosis or amytal), or during the course of litigation.

The treatment plan should be based on a complete psychiatric assessment, and should address the full range of the patient's clinical needs. In addition to specific treatments for any primary psychiatric condition, the patient may need help recognizing and integrating data that informs and defines the issues related to the memories of abuse. As in the treatment of patients with any psychiatric disorder, it may be important to caution the patient against making major life decisions during the acute phase of treatment. During the acute and later phases of treatment, the issues of breaking off relationships with important attachment figures, of pursuing legal actions, and of making public disclosures may need to be addressed. The psychiatrist should help the patient assess the likely impact (including emotional) of such decisions, given the patient's overall clinical and social situation. Some patients will be left with unclear memories of abuse and no corroborating information. Psychiatric treatment may help these patients adapt to the uncertainty regarding such emotionally important issues.

The intensity of public interest and debate about these topics should not influence psychiatrists to abandon their commitment to basic principles of ethical practice, delineated in *The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry*. The following concerns are of particular relevance:

- Psychiatrists should refrain from making public statements about the veracity or other features of individual reports of sexual abuse.

- Psychiatrists should vigilantly assess the impact of their conduct on the boundaries of the doctor/patient relationship. This is especially critical when treating patients who are seeking care for conditions that are associated with boundary violations in their past.

The APA will continue to monitor developments in this area in an effort to help psychiatrists provide the best possible care for their patients.

This statement was approved by the Board of Trustees of the American Psychiatric Association on December 12, 1993.

NSW POLICE SERVICE GUIDELINES REGARDING USE OF HYPNOSIS

The following Commissioner's Circular was issued in the *Police Service Weekly* on 18 November 1996 regarding the use of hypnosis.



Commissioner's Circular

CC98/98

18 November 98

Enquiries: 58189 / (02) 9265 58189

File No: 5502744 N

USE OF HYPNOSIS

Commissioner's Instruction 92.02

The admissibility of evidence obtained from a witness by hypnosis was considered in the judgment of Hunt CJ at CL in *R v Jenkyns* (1993) 32 NSWLR 712, since approved in *R v Tillott & Ors* (CCA NSW unrep. 01.09.95), a case involving Eye Movement Desensitisation and Reprocessing (EMDR).

As a result, the Director of Public Prosecutions (DPP) has advised it is essential investigators comply with the following procedures if the evidence of witnesses who have undergone either hypnosis or EMDR therapy, for whatever purpose, is to be admitted in court:

- 1) Hypnotically or EMDR induced evidence must be limited to matters which the witness has recalled and related prior to hypnosis or EMDR – referred to as 'the original recollection'. In other words, evidence will not be tendered by the Crown where its subject matter was recalled for the first time under hypnosis or EMDR or thereafter. The effect of that restriction is only details recalled for the first time under hypnosis or EMDR or thereafter will be advanced as evidence in support of the original recollection.
- 2) The substance of the original recollection must have been preserved in written, audio or video recorded form.
- 3) The hypnosis or EMDR must have been conducted with the following procedures:
 - The witness gave informed consent to the hypnosis or EMDR
 - The hypnosis or EMDR was performed by a person who is experienced in its use and who is independent of the police, the prosecution and the accused
 - The witness' original recollection and other information supplied to the person conducting the hypnosis or EMDR concerning the subject matter of the hypnosis or EMDR was recorded in writing in advance of the hypnosis or EMDR
 - The hypnosis or EMDR was performed in the absence of police, the prosecution and the accused but was video recorded.

The DPP also indicated the fact that a witness has been hypnotised or undergone EMDR will be disclosed by the prosecution to the defence and all relevant transcripts, recordings and information provided to the defence well in advance of the trial in order to enable the defence to have the assistance of their own expert witnesses in relation to that material, if desired.

Potential unreliability in the testimony of a witness (which is a separate issue) will ultimately have to be resolved on a case by case basis but (in the case of a prosecution witness) the onus lies on the prosecution to prove it is safe to admit evidence of this character. That

the guidelines is of paramount importance. With this in mind, a potential witness should not be considered for hypnosis or EMDR until all other reasonable avenues of inquiry have been exhausted.

These considerations do not apply to the evidence of an accused person, but they do extend to witnesses for the defence.

The remarks by Justice Wood, Commissioner, Royal Commission of Inquiry into the NSW Police Service, outlined below should be kept in mind when considering the use of hypnosis on young children (see full PRC transcript, page 30042 on 7 August 1996):

"Quite frankly, I can't think of anything more potentially dangerous and unacceptable than submitting young children to hypnosis."

Accordingly, Commissioner's Instruction 92.02 is amended by deleting the heading "using hypnosis in the criminal process" and the paragraph under that heading and inserting the following:

Use of hypnosis or eye movement desensitisation and reprocessing (EMDR) in the criminal process

General

A person who is, or is likely to be, a witness in criminal proceedings may undergo hypnosis or EMDR for the purpose of recalling the original recollection of an incident or incidents provided the guidelines adopted by the Director of Public Prosecutions (DPP) are followed. These guidelines have been incorporated in this instruction. While the guidelines are not in themselves laid down as a test of admissibility or a requirement, failure to comply with this instruction will give rise to a high probability that the court will decline to admit such evidence, whether proffered by the prosecution or from a witness for the defence. The DPP will have regard to the guidelines when determining whether or not such evidence should be tendered on behalf of the Crown.

OIC

Only consider the use of hypnosis or EMDR after all reasonable avenues of inquiry have been explored and exhausted to identify and prosecute the offender(s). Do not use it on suspects or defendants.

If you wish to use hypnosis or EMDR, submit an application through the normal chain of command to the Commander Region Legal Services in the region where the offence occurred. Include the following:

- a complete summary of the police investigation including all statements, particularly the formal statement from the witness who is to be hypnotised or undergo EMDR, and any hearsay information
- written consent from the witness to be hypnotised or

USE OF HYPNOSIS (CONT)

- undergo EMDR (or a parent or guardian if the person is a juvenile), after explaining the procedures involved
- qualifications and experience of the person to perform the hypnosis or EMDR ie qualified in clinical hypnotherapy by examination conducted by a recognised training institution and well experienced in the use of hypnosis or EMDR for investigative purposes
- an assessment of the information likely to be recalled from the person under hypnosis or EMDR
- a basic outline on which the hypnosis or EMDR and the questions will focus
- other relevant information in support of your application.

Commander, Region Legal Services

You may grant approval provided you are satisfied:

- all avenues of inquiry have been explored and exhausted
- written consent has been obtained and the person giving consent understands the procedure
- the person to conduct the procedure is suitably qualified, is independent of the police, prosecution, and defence, and is not biased in favour of police
- where young children are involved, it will not be detrimental to them.

OIC

If you have approval to use hypnosis or EMDR, give the person who is to conduct it only as much information and material as is required for it to be performed. Advise the person not to be suggestive in the way the recalling process is conducted, by avoiding leading questions or by saying anything which could be construed as encouragement to answer any question. Record in your note/duty book the information provided, prior to the session commencing.

In relation to the hypnosis or EMDR ensure:

- it is done in the absence of police, the prosecution, and the accused at a location other than a police station or similar police establishment

- the entire session (including the induction and awakening) is audio and video recorded by an independent professional person (it is not to be done by police)
- the witness is not made aware of other evidence from another source.

Consider and in appropriate cases, you may allow to be present during the session:

- a parent or guardian if the witness is a juvenile
- a medical practitioner.

Retain the audio and video recording of the entire hypnosis or EMDR session.

Include in the brief of evidence, to both the prosecution and defence, the audio recording and transcript of only the recalling process.

If the witness requests a copy of the recorded hypnosis or EMDR session (recalling process only) give the person a copy of the transcript after all sessions are completed.

If the defence seeks access to the video recording of the entire hypnosis or EMDR session, consult with the ODPP lawyer. The ODPP will make the necessary arrangements including any editing of the video recording in accordance with ERISP procedures.

Advise the DOI of details of a person who has been used to obtain evidence from a witness by hypnosis or EMDR and who has been recognised by the DPP and the court as an expert.

DOI

Maintain those details for future reference and investigative purposes.

*P J Ryan
Commissioner*

INDEX HEADINGS:

COMMISSIONER'S INSTRUCTION 92.02 – amendment of

CRIMINAL INVESTIGATIONS – use of hypnosis

HYPNOSIS – use in criminal investigation

EYE MOVEMENT DESENSITISATION AND

REPROCESSING (EMDR) – use in criminal investigation

Filing of Commissioner's Circulars

Officers are reminded of the obligation to file Commissioner's Circulars to ensure Commissioner's Instructions are kept up to date.

Each week, Circulars are to be photocopied and placed in a folder/file for the relevant instruction until the next update release of Commissioner's Instructions, at which point they may be destroyed.

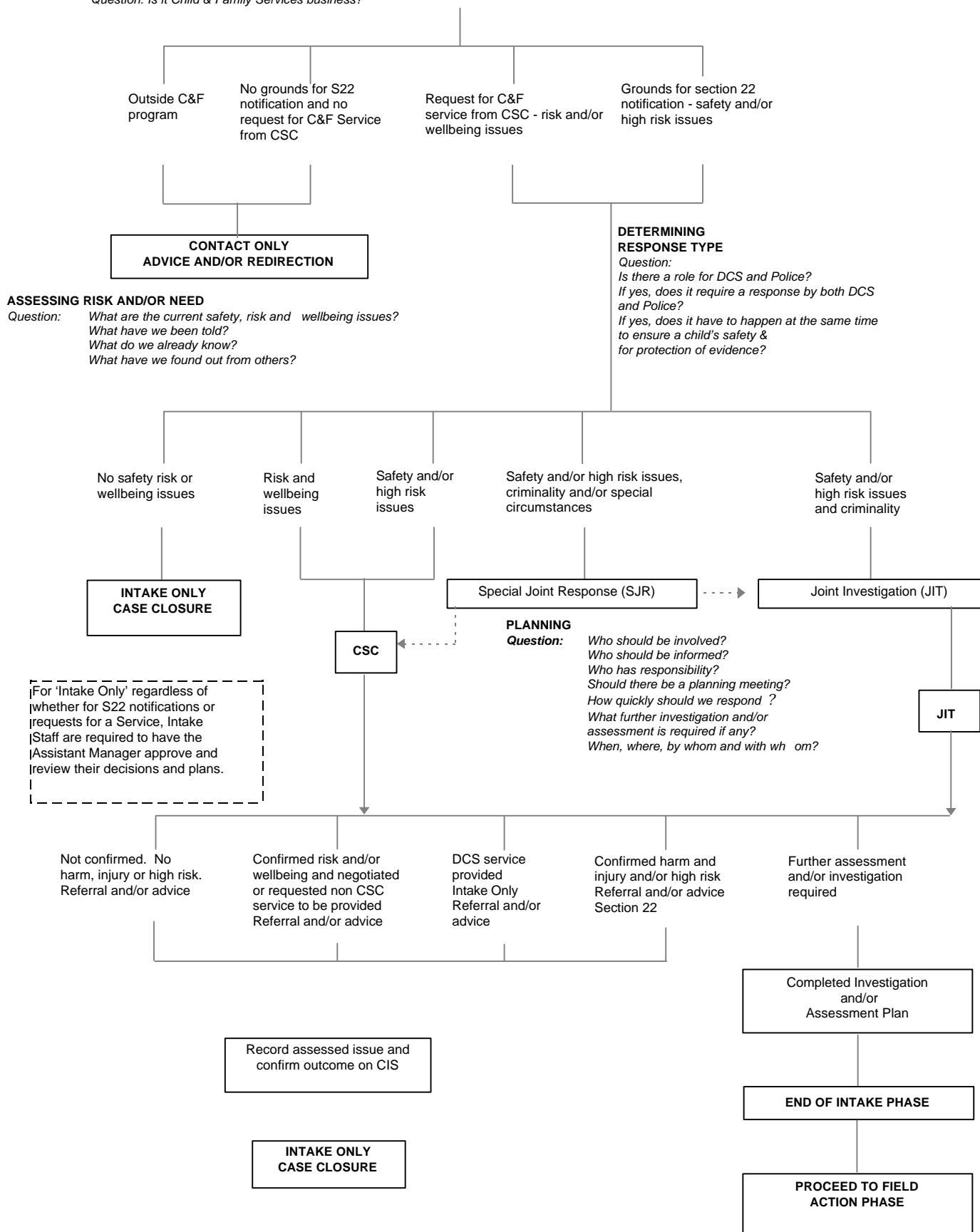
Refer Commissioner's Instruction 28.08

CASE MANAGEMENT CHARTS FROM THE DRAFT CHILD AND FAMILY SERVICES POLICY MANUAL

The following are taken from the Draft Child and Family Services Policy Manual and outline the current intake procedure and post intake management.

CASE MANAGEMENT PHASE ONE - INTAKE ACTION BY INTAKE STAFF SCREENING

Question: Is it Child & Family Services business?



Intake Action

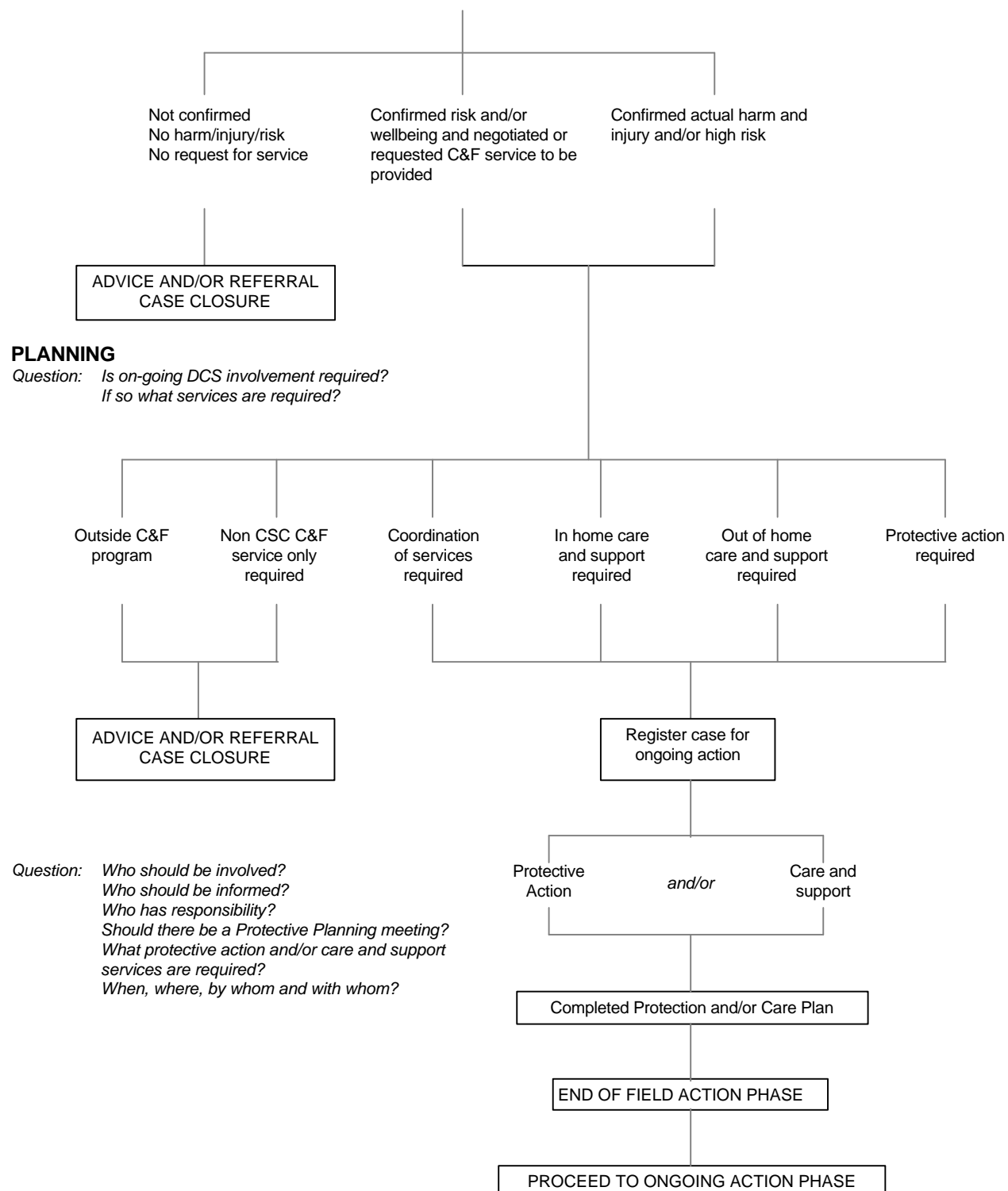
| Question | References | Actions | Record Keeping |
|--|--|--|--|
| Question 1 <ul style="list-style-type: none"> Is it Child & Family Service business? | Chapter 7 | Gather and analyse information. | Local contact record Intake form |
| Question 2 <ul style="list-style-type: none"> What are the current safety, risk and wellbeing issues? What have we been told? What do we already know? What have we found out from others? | Risk assessment Needs assessment Determining Response Time Joint Investigation with Police Special Joint Response Work | CIS check, if criminality also a criminal record check, on people and addresses (through JITs). Assess and analyse information while continuing to focus on issues of safety and/or risk and permanency needs. | Intake form CIS Intake Summary |
| Determining Response Type <ul style="list-style-type: none"> Is there a role for DCS & Police Yes-does it require a response by both DCS & Police Yes-does it have to happen at the same time? | Joint Investigation with Police Special Joint Response Work | Referral to JIT. | Document Referral |
| Question 3 <ul style="list-style-type: none"> Who should be involved? Who should be informed? Who has responsibility? How quickly should we respond? Should there be a planning meeting? What further investigation and/or assessment is required if any? When, where, by whom and with whom? | Determining Response Times Planning Services for Clients Planning Meetings Planning for Joint or Special Joint Response Relationship between Protective Intervention and Support & Care Referrals to other services Statutory Legal Action - medical examination, removal or assumption of care Case Closure (Intake only). | Plan actions and Timeframes in response to assessed strengths, needs and concerns. Involve all relevant parties in the plan. Assign responsibilities and gain commitment for tasks. Obtain approval. Debriefing of Intake staff. Allocation of case briefing of Child and Family staff. Closure ensuring those needing to know are informed. | CIS Case Plan CIS Planning Meeting/Case Conference Investigation and/or assessment plan Referrals Feedback Form to Notifiers |

CASE MANAGEMENT PHASE TWO - FIELD ACTION BY FIELD STAFF

IMPLEMENTATING THE INVESTIGATION AND/OR ASSESSMENT PLAN

FURTHER ASSESSMENT OF RISK AND/OR NEED

Question: What has the needs and/or risk assessment identified?



Field Action

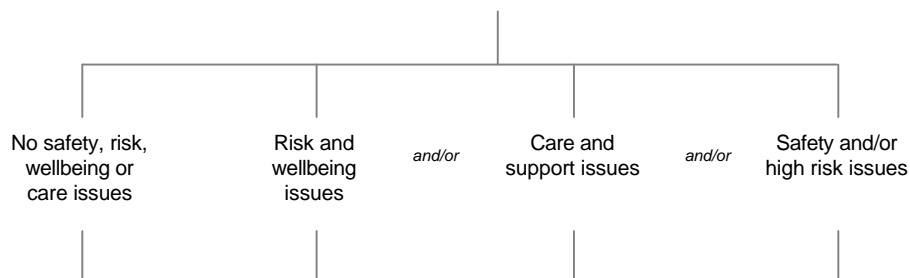
| Question | References | Actions | Record Keeping |
|--|--|---|---|
| Question 1 <ul style="list-style-type: none"> What has the risk and needs assessment identified? | Risk assessment Needs assessment Statutory Legal Action Special assessment considerations for Care Application and/or Entry into Care Theory and child protection research | Gather, assess and analyse information. Assess strengths and needs. What needs to happen to make this child safe and reduce risks? Immediate action to protect the child and/or Statutory Legal Action removal or assumption of care and out of home placement. Debriefing of Child and Family staff. | CIS Medical Examination CIS Entry into Care CIS Placement Entry CIS Legal Status CIS Court Action |
| Question 2 <ul style="list-style-type: none"> Is ongoing DCS involvement required? If so what services are required? | Statutory Legal Action Joint Investigation with Police Special Joint Response Work Case Review | Analyse relevant information and circumstances, the strengths and identification of what services will support the family, reduce risks and maintain the child or young person's appropriate care environment. | CIS Assessment Report CIS Assessed Issues CIS Outcome Decision |
| Question 3 <ul style="list-style-type: none"> Who should be involved? Who should be informed? Who has responsibility? Should there be a case conference? What protective action and/or care and support services are required? When, where, by whom and with whom? | Planning Meeting Planning Services for Clients Referrals to other Agencies Case Closure | Involve all participants to plan case goals and objectives ensuring responsibilities are identified and accepted. Obtain approvals required. Are all relevant parties aware of pending DCS ongoing action or closure. Briefing Child and Family staff. | CIS Case Plan CIS Planning Meeting/Case Conference |

CASE MANAGEMENT PHASE THREE - ONGOING ACTION BY FIELD STAFF

IMPLEMENTATION OF THE PROTECTION AND/OR CARE PLAN OR CASE PLAN

PLANNED RE-ASSESSMENT OF RISK AND/OR NEED

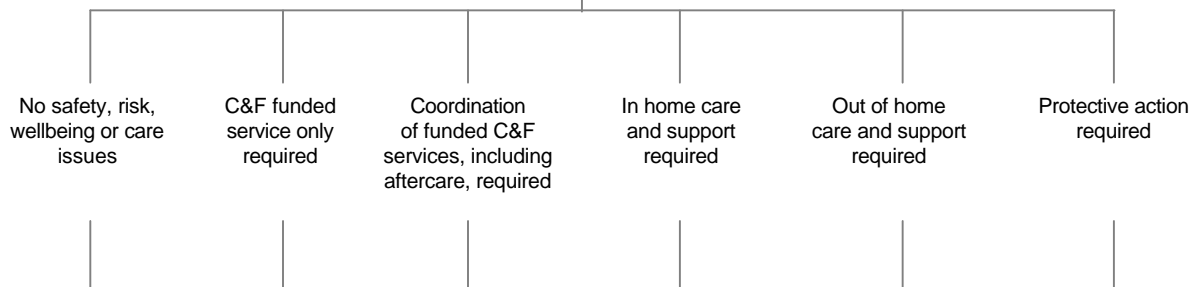
Question: What are the current safety, risk, wellbeing and care issues?



PLANNING & REVIEW

Question: Is on-going DCS involvement required?
Is the service still valid for and required by the family? If so what services are required?
Does any information gathered constitute new grounds for a S22 notification?

Re-notification at Intake Phase



ADVICE AND/OR REFERRAL
CASE CLOSURE

Question: Who should be involved?
Who should be informed?
Who has responsibility?
Should there be a case conference?
What is the plan for permanency?
What further protective services and/or care and support services are required?
When, where, by whom and with whom?

Protective Action and/or Care and support

Completed Protection and/or Care Plan

PROCEED TO IMPLEMENTATION OF CASE PLAN

Ongoing Action

| Question | References | Actions | Record Keeping |
|--|---|---|---|
| Question 1 <ul style="list-style-type: none"> What are the current safety, risk and wellbeing issues? | Risk assessment Needs assessment Theory and child protection research Substitute Care Standards | Assess strengths and needs. What needs to happen to make this child safe and reduce risks? What does the child require in their care environment? Debrief Child and Family staff. | |
| Question 2 <ul style="list-style-type: none"> Is ongoing DCS involvement required? Is the Service still valid for and required by the family? If so what services are required? Does any information gathered constitute new grounds for a S22 notification? | Statutory Legal Action - Care Application Section 74 Report Joint Investigation with Police Special Joint Response Work Case Review | Are all relevant parties aware of pending DCS closure? | CIS Assessment Report CIS Placement Changes CIS Legal Status CIS Court Outcome |
| Question 3 <ul style="list-style-type: none"> Who should be involved? Who should be informed? Who has responsibility? What is the plan for permanency? What further protective services and/or care and support services are required? When, where, by whom and with whom? | Planning Meeting Planning Services for Clients Referral to other Agencies Case Closure | Analyse relevant information and circumstances. Identify strengths and what services will support the family and reduce risk. Maintain the child or young persons appropriate care environment (or) plan leaving and after care services. Brief Child and Family staff. | CIS Case Plan CIS Planning Meeting/Case Conference CIS Case Closure |

**TERMS OF REFERENCE , COMPOSITION AND RECOMMENDATIONS OF 1985 CHILD SEXUAL ASSAULT
TASK FORCE**

REPORT OF THE NEW SOUTH WALES

**CHILD SEXUAL ASSAULT
TASK FORCE**

To the Hon. Neville Wran QC. MP
Premier of New South Wales

TERMS OF REFERENCE

- A. The Task Force shall:-
- (i) Examine and make recommendations related to health, welfare, police, education and legal services involved in dealing with child sexual assault with a view to formulating appropriate policies and procedures.
 - (ii) Examine and make recommendations on training of personnel who are involved with victims of child sexual assault within health, education, welfare, police and legal systems.
 - (iii) Investigate and make recommendations on strategies to prevent or alleviate the incidence of child sexual assault.
 - (iv) Examine NSW laws relevant to the sexual assault of children and make appropriate recommendations consistent with the maintenance of the existing rights of suspects and accused persons relating to:-
 - (a) reporting of child sexual assault;
 - (b) investigative procedures upon reporting of child sexual assault;
 - (c) the substantive and procedural law relating to prosecution, trial and disposition of cases of child sexual assault.
 - (v) Recommend mechanisms to monitor the implementation of the Government's Child Sexual Assault policies and programs.
- B. The Task Force shall bear in mind the interests and rights of the child, the accused and the community.
- C. The Task Force shall report to the Government within ~~16~~ months.

TASK FORCE MEMBERSHIP

| | |
|------------------|--|
| Helen L'Orange | Director Women's Co-ordination Unit (Chairperson) |
| Megan Latham | Legal Officer Solicitor for Public Prosecutions (Executive Officer) |
| Julie Berry | Projects Officer Officer of the Minister for Education |
| Paul Byrne | Commissioner NSW Law Reform Commission |
| Gillian Calvert | Dympna House |
| Moira Carmody | Co-ordinator Sexual Assault Centre Westmead Hospital |
| Richard Chisholm | Senior Lecturer University of New South Wales Law School |
| Sandra Egger | Deputy Director Bureau of Crime Statistics Department of the Attorney-General |
| John Gavaghan | Regional Social Worker Department of Health |
| Ferry Grunseit | Director of Casualty Children's Hospital Camperdown |
| Bruce Hawker | Legal Project Officer Department of Youth & Community Services |
| Rod Howie | Director Criminal Law Review Division Department of Attorney-General |
| Brian Rope | Officer-In-Charge Child Mistreatment Unit NSW Police Department |
| Jan Shier | Operations Manager Central Metropolitan Regional Office Department of Youth and Community Services |

RECOMMENDATIONS

COMMUNITY EDUCATION

Page 36

RECOMMENDATION 1

Page 43

That a broad community education programme on both attitudes and services be undertaken. That a range of materials, which account for cultural variables and the needs of the physically and developmentally disabled, be produced and actively promoted by the Government through all media channels.

That the programme also be specifically directed at children who are or have been assaulted, adults who were assaulted as children, non-offending parents, offenders, and siblings of victims.

That the following principles be incorporated into the programme:

- (1) Children have rights, including the right to be loved and cared for in an environment free of abuse of any kind.
- (2) Children can and do accurately describe what has happened or is happening to them when they feel safe enough to do so. Failure to report sexual assault is the result of fear and guilt, not deceit.
- (3) Children come from diverse cultural backgrounds with various levels of understanding about the world in which they live.
- (4) Children become victims of sexual assault in a society that is organised around relationships that are characterised by power and powerlessness.
- (5) Child sexual assault is not an uncommon occurrence and is not restricted to any one socio-economic, racial, geographical or age group.

RECOMMENDATION 2

Page 50

That pre-school to 18 years old children in New South Wales have access to education on sexual assault. That such education emphasise:

- (a) The child's right to say no to adults who touch them in ways that make them feel uncomfortable.
- (b) Strategies that focus on autonomy and strength rather than avoidance and fear i.e. the child's right to be safe, strong and free.

RECOMMENDATION 3

Page 52

That an inter-disciplinary community education sub-committee be established as part of the State Child Sexual Assault Council with wide community representation.

RECOMMENDATION 4

Page 52

That the focus of the community education sub-committee be to develop community education programmes that directly address the issues associated with child sexual assault.

RECOMMENDATION 5

Page 52

That a 15% levy be imposed on the issue of birth, death and marriage certificates for the purposes of resourcing community education programmes and that this levy be forwarded annually to the proposed State Council.

SERVICES AND NON-LEGAL PROCEDURES

Page 53

RECOMMENDATION 6

Page 55

That all workers who:

1. Have a responsibility for child protection;
2. Offer as part of their service or offer a service to children who are abused; or
3. Offer as part of their service or offer a service to victims of child sexual assault,

possess or acquire skills in all of the following areas:

1. Skills in working with children;
2. Skills in working in child protection;
3. Skills in working in the area of sexual assault.

RECOMMENDATION 7

Page 56

That wherever possible female personnel be employed to work with victims of child sexual assault and the mothers of victims of child sexual assault. Where interviewing takes place there should be a least one female worker present at the interview. Relevant Departments should actively pursue the employment of female personnel, particularly for the purposes of medical examinations, crisis counselling and police investigations.

RECOMMENDATION 8

Page 62

A. State Council

That a New South Wales Child Sexual Assault Council be immediately constituted by the Minister for Youth and Community Services in order to co-ordinate an integrated response to child sexual assault.

That the Council's terms of reference be

1. To co-ordinate and monitor the implementation of the New South Wales Child Sexual Assault Programme, based on the endorsed recommendations of the New South Wales Government's Child Sexual Assault Task Force.
2. To assist in the implementation of the programme in all relevant Government departments, authorities and non-government agencies.
3. To establish regional councils in each Department of Youth and Community Services Region.
4. To report annually to the Minister for Youth and Community Services.
5. To publish information relevant to child sexual assault victims and their families.
6. To provide pre-budget advice in respect of the Child Sexual Assault Programme.
7. To ensure that the needs of migrant, Aboriginal, physically and developmentally disabled children within the relevant government departments are met.

That the composition of the State Child Sexual Assault Council be

1. A convenor appointed by the Minister for Youth and Community Services.
2. Two representatives from the Department of Youth and Community Services (one from a policy and one from a service delivery area) to be appointed by the Minister for Youth and Community Services.
3. Two representatives from the Department of Health (one non-medical representative from a Sexual Assault Centre and one medical representative) to be nominated by the Minister for Health.
4. One representative from the Department of Education to be nominated by the Minister for Education.
5. One representative from the Department of Corrective Services to be nominated by the Minister for Corrective Services.
6. One representative from the Police Department to be nominated by the Minister for Police.
7. One representative from the Department of the Attorney-General to be nominated by the Attorney-General.
8. One representative from the Women's Co-ordination Unit to be nominated by the Premier.

- 9 One representative from the proposed diversionary treatment programme to be appointed by the Minister for Youth and Community Services.
10. Three community representatives to be appointed by the Minister for Youth and Community Services, for example, Dympna House, Barnardos, Aboriginal Children's Service.

The Council should be empowered to establish a range of permanent and ad hoc sub-committees. The permanent sub-committees should include:

- (a) a training sub-committee;
- (b) a community education sub-committee;
- (c) a services and procedures sub-committee;
- (d) a law and legal procedures sub-committee.

These sub-committees should be serviced by the relevant officer from the Council's Secretariat.

The Council should have the power to co-opt persons who are not Members of the Council on to the sub-committees.

The State Council should meet monthly.

The Council should be provided with a Secretariat comprising as follows:

1. an executive officer, grade 9-10.
2. one project officer, grade 4-7.
3. one legal officer.
4. one education officer.
5. one training officer.
6. one receptionist/typist
7. one administrative assistant.

Sitting fees and travelling allowances should be paid to the community representatives on both State and Regional Councils.

The State Council should be provided with funds in order to carry out various projects, e.g. workshops and seminars, publications.

The State Council should be responsible to the Minister for Youth and Community Services. The Secretariat of the State Council should report on an on-going basis through the Council's Executive Officer to the Minister for Youth and Community Services.

The Council should be constituted for four years, following which its operation should be reviewed.

B. Regional Councils

That Regional Councils be established immediately. The role of the Regional Councils should be as follows:

1. To co-ordinate and monitor the Regional implementation of the Child Sexual Assault Programme and to report to the State Council.
2. To implement decisions of the State Council.
3. To provide such information to the State Council as is required by it.

Each Regional Child Sexual Assault Council should be an 8-member body under the umbrella of the State Council. Members of the Regional Council should be nominated by Regional organisations or nominated by the appropriate Minister. All members should have expertise in the area of child sexual assault.

The membership of the Regional Council should include:

- The Regional Director of each of the Departments of Youth and Community Services, Education and Health;
- A senior police officer;
- A number of community representatives (for example, women's refuge, rape crisis centre, women's health centre or youth refuge);
- and a convenor elected by the Regional Council.

The Regional Council should have the power to co-opt other persons on to the Council subject to the approval of the State Council. Regional Councils should meet at least quarterly.

The community representatives on the Regional Council should be paid sitting fees and travel allowances. They should be provided with administrative assistance in the preparation of reports, budget, minutes, etc.

The Regional Councils should be established for four years, following which their operation should be reviewed.

C. Child Protection Interest Groups

That a set of guidelines be developed by the State Council for the operation of child protection interest groups. These groups should not be involved in the discussion of individual cases of child sexual assault.

D. Case Conferencing

That the Department of Youth and Community Services review case conferencing procedures, improve their standard and quality and standardise their operation throughout the State.

E. A National Child Sexual Assault Policy

That the State Council initiate discussion with the Commonwealth Government to develop a national child sexual assault policy.

RECOMMENDATION 9

Page 75

That the Government of New South Wales develop and fund the following range of services to meet the specific emotional and environmental needs of child sexual assault victims and their families.

1. Crisis Counselling Services

This should include:

- investigative interviewing services
- assessment services
- child protection interventions

2. 24-Hour State Wide Crisis Line

3. Appropriate Medical Services

This should include:

- medical facilities
- crisis counselling and follow-up

4. Ongoing Counselling Services

This should include:

- individual counselling
- group counselling
- couple counselling
- family counselling
- establishment of mutual support groups

5. Accommodation Services

This should include

- community based emergency accommodation for
 - (a) victims
 - (b) non-offending parents and children
 - (c) offenders
- medium term alternative care options for children and young persons who are victims of child sexual assault and as a result have developed behavioural patterns that make placement difficult
- long term alternative care options for children and young persons who are victims of child sexual assault and are unable to live with either parent.

6. Life Support Networks

This should include:

- emergency cash assistance provision
- transport facilities
- 24-hour child care facilities
- access to interpreters on a 24-hour basis.

RECOMMENDATION 10

Page 77

That the New South Wales Government develop a comprehensive and adequate budget for the development and implementation of the New South Wales Child Sexual Assault Programme. Such a budget should be determined by reference to the type of service delivered, the composition of the programme as well as the number of people seen or the case load carried by the agency. It should allow for both the upgrading of existing services as well as the establishment of new services.

RECOMMENDATION 11

Page 77

That the New South Wales Government, via the Departments of Youth and Community Services, Health, Corrective Services and of the Attorney-General, establish and maintain pre-trial diversion treatment programmes.

RECOMMENDATION 12

Page 80

- A. That a range of mechanisms for evaluation and monitoring services be available. These should include:
- (1) self evaluation
 - (2) departmental or agency evaluation
 - (3) independent evaluation
- Any evaluation should take into account the views of the consumers of the services.
- B. That the State Council evaluate and review the implementation of the New South Wales Child Sexual Assault Programme. That this report be included in the State Council's Annual Report to the Minister for Youth and Community Services.
- C. That departments and agencies develop accountability mechanisms and that these reflect the type of service provided rather than the number of clients seen.

RECOMMENDATION 13

Page 83

- A. Interdepartmental Policies and Procedures for Child Sexual Assault Matters
1. That the State Council review existing inter-departmental policies and procedures for the management of child sexual assault matters. These should be consistent with the policy and procedural guidelines for victims of sexual assault and inter-departmental policies and procedures in child protection.
 2. That the policies and procedures cover the following areas:
 - aims in child protection
 - statutory obligation
 - role of departments/authorities
 - co-ordination of services
 - confidentiality
 - discretion
 - consequences of non-compliance
 - decision-making processes
 - investigation procedures
 - review procedures
 - notification and registration procedures
 3. That the policies and procedures cover all relevant departments, i.e Youth and Community Services, Police, Health, Education and Corrective Services.
- B. Intradepartmental Policies and Procedures for Child Sexual Assault Matters
- That the Departments of Youth and Community Services, Health, Education, Police, Corrective Services and Attorney-General develop instructions for workers who provide a service to victims of child sexual assault and their families. These instructions should be consistent with the interdepartmental policies and procedures.
- C. Policies and Procedures for Non-Government Agencies
- That non-government agencies develop instructions for workers who provide a service to child sexual assault victims and their families. These policies and procedures should be consistent with the interdepartmental policies and procedures.
- D. Review of Policies and Procedures
- That these policies and procedures be reviewed every eighteen months, in consultation with the State Council.

RECOMMENDATION 14

Page 86

That certified interpreters who have received some training in the dynamics of child sexual assault be readily available on a 24 hour basis to provide a service to agencies.

RECOMMENDATION 15 Page 90

- A. That recruitment policy for child protection workers, community programme officers (child protection), programme officers (child protection), senior programme officers (child protection) and family crisis workers be based on a minimum qualification which gives them eligibility for Australian Association of Social Workers Membership or Australian Psychological Society Membership. They should have a minimum of 2 years work experience.
- B. That selection panels for the above five positions include one person with a minimum of three years as a child protection specialist.
- C. That every Community Welfare Office have at least one child protection worker. For some Community Welfare Offices this minimum level will be insufficient to resource the Office and these will require additional child protection workers.
- D. That every region have a community programme officer (child protection) based in it.
- E. That the Family and Children's Services Policy Unit be adequately sourced at a senior level.

RECOMMENDATION 16 Page 93

That all agencies and departments which provide a service to child sexual assault victims and their families provide on-going support for their workers as part of their job including:

- (i) limiting case loads and time on the roster;
- (ii) access to on-going supervision, case consultation and training;
- (iii) time out from face-to-face counselling and crisis work.

RECOMMENDATION 17 Page 101

- A. That the Department of Youth and Community Services ensures that its workers arranging out of home placements for children should be skilled in identification of child sexual assault and assessment.
- B. That the Department of Youth and Community Services review its options for placement and develop alternatives to institutionalisation that are responsive to the needs of children who have been sexually assaulted.
- C. That the existing professional and management staff in residential care facilities develop programmes to meet the needs of sexually assaulted children in their care. These programmes should be aimed at those children or young persons who have been identified as well as those who have not.
- D. That the Department of Youth and Community Services ensures via its licensing regulations that services and programmes are developed in establishments other than its own.
- E. That the Department of Youth and Community Services contract out on a fee-for-service basis to agencies which provide a skilled professional approach to recruiting, training and supporting foster parents, rather than providing the services in this area.
- F. That the Department of Youth and Community Services and other agencies offering a foster service
 - (i) Develop guidelines and criteria for selection of foster parents; and that these be reviewed every eighteen months in consultation with the State Council;
 - (ii) Only approve those families willing to undertake training in child sexual assault and supervision;
 - (iii) Provide initial and ongoing treatment and support for foster parents which includes clarification of their personal values in relation to child sexual assault and the provision of skills necessary for parenting sexually assaulted children;
 - (iv) Provide ongoing and active support for those children who have been placed;
 - (v) Pay foster parents a realistic allowance and quickly reimburse them for any out-of-pocket expenses.

RECOMMENDATION 18

Page 104

- A. That the Departments of Youth and Community Services, Health and any non-government agency that offers an alternative care service develop policies and procedures in consultation with the State Council for the protection of children in their care from sexual assault by staff members or other children.

- B. That these policies and procedures ensure that:
- (a) All allegations that come to the notice of any staff member are notified to the Department of Youth and Community Services.
 - (b) There are no restrictions on any staff or child notifying directly to the Department of Youth and Community Services.
 - (c) There is informed and independent investigation of the allegation.
 - (d) The investigation is carried out by senior personnel who have substantial experience in matters relating to child sexual assault.
 - (e) Child-focussed services are organised for the victim.
- C. That the policies and procedures be developed and approved within the first year of the Child Sexual Assault Programme.
- D. That these policies and procedures be reviewed every eighteen months in consultation with the State Council.

RECOMMENDATION 19 Page 107

That where possible, joint interviewing occur in the investigation of an allegation of child sexual assault. At least one of the interviewers must be female, except if the child wishes otherwise.

RECOMMENDATION 20 Page 112

- A. That officers of the Departments of Youth and Community Services, Health and Police have a discretion to make audio recordings of the child's statement, subject to compliance with inter-departmental and intra-departmental policies and procedures.
- B. That these policies be developed in the first 12 months of the New South Wales Child Sexual Assault Programme, by the Departments of Youth and Community Services, Health and Police, in consultation with the State Council.
- C. That these policies and procedures be reviewed every eighteen months in consultation with the State Council.

RECOMMENDATION 21 Page 118

- A. That officers of the Department of Youth and Community Services be permitted to conduct interviews with children at school following a notification of child sexual assault.
- The child being interviewed should be informed by Department of Youth and Community Services personnel of her/his right to the presence of a supporting adult of her/his choosing. It should not be mandatory for the interview to be conducted in the presence of the School Principal, a staff member or parent.
- B. That the Departments of Education and Youth and Community Services develop policies and procedures for this practice, in consultation with the State Council.
- C. That these policies and procedures be reviewed every eighteen months in consultation with the State Council.

RECOMMENDATION 22 Page 120

- A. That the Department of Youth and Community Services establish a 24-hour Statewide crisis line. The existing child protection and family crisis service should be expanded to incorporate such a service.
- B. That the regional councils establish, in consultation with the child protection and family crisis service, an on-call system for victims of child sexual assault.

RECOMMENDATION 23 Page 122

That the Department of Youth and Community Services not recruit medical officers, including psychiatrists, but use the appropriate Department of Health Medical Service or community-based service for child victims of sexual assault and their health care needs.

RECOMMENDATION 24 Page 123

That a protocol be adopted for use in conducting and recording medical examinations and assessments of child sexual assault victims.

RECOMMENDATION 25 Page 124

That, wherever possible, the child victim of sexual assault have a support person of their choosing present throughout the medical examination. The child should be told of this right.

RECOMMENDATION 26 Page 128

- A. That sexual assault centres which provide a service to children be located in the following hospitals: Westmead Centre, Children's Hospital Camperdown, Prince of Wales Children's Hospital, Royal North Shore, Newcastle and Wollongong. That they be adequately staffed by social workers and paediatricians 24 hours a day. That they provide a range of services to victims of child sexual assault and their families at any time. They should provide crisis counselling and arrangement of follow-up; the collection of medical evidence; emergency medical assistance and medical follow-up.
- B. That all Sexual Assault Centres have a full-time co-ordinator. That the co-ordinator be a grade one social worker (public hospital social work award) appointment.
- C. That all Sexual Assault Centres employ appropriately skilled staff.
- D. That all Sexual Assault Centres which offer a service to children use paediatric medical staff who have been trained and are appropriately skilled.

RECOMMENDATION 27 Page 131

- A. That in rural areas, the Regional Director of Health be responsible for ensuring that specialist medical services and crisis counselling with follow up services for victims of child sexual assault are readily available. Policies and procedures for the operation of these services should be developed by the Department of Health in consultation with the State Council, and should be reviewed every eighteen months.
- B. That the Public Service Board review its rules to allow community child health medical officers and consultant paediatricians to accept sessional payments.

RECOMMENDATION 28 Page 133

That the Child Mistreatment Unit be expanded, adequately staffed and regionally based. (Police)

RECOMMENDATION 29 Page 136

That the same police officer transports the child to and from the initial counselling and assessment, interviews the child, takes the child's statement and provides follow-up on court appearances.

RECOMMENDATION 30 Page 139

That the officer-in-charge ensure, wherever possible, a supportive adult of the child's choosing accompanies her/him throughout the interview, the taking of the statement and, if necessary, to and from the Sexual Assault Centre or person designated to conduct the medical examination.

TRAINING OF PERSONNEL

Page 140

RECOMMENDATION 31 Page 142

That training programmes for all workers who come in contact with child sexual assault be a priority in all relevant government departments and the voluntary sector, e.g. women's and youth refuges.

RECOMMENDATION 32 Page 144

That all tertiary institutions, universities, colleges of advanced education, institutes of technology, colleges of technical and further education and theological colleges develop compulsory child sexual assault curricula for a range of students, including both compulsory core units and in-depth electives.

RECOMMENDATION 33 Page 144

That compulsory training be provided either within tertiary institutions or as in-service programmes. The following personnel should be trained at both these levels:

- * family court counsellors
- * medical practitioners, psychiatrists
- * social workers
- * psychologists
- * welfare workers
- * probation and parole officers

- * health workers including nurses, paramedics such as speech pathologists, occupational therapists
- * lawyers, including magistrates, chamber magistrates
- * police
- * school counsellors
- * teachers, including early childhood services staff
- * child care workers, including family day care mothers
- * youth workers
- * women's services workers, including women's health centre and refuge staff
- * relevant voluntary workers
- * ministers of religion and religious instructors

RECOMMENDATION 34 Page 145

That compulsory core training programmes, whether within tertiary institutions or as part of in-service or on-the-job training, as a minimum address the following:

- (a) The person's own values and attitudes to children and child sexual assault
- (b) Societal attitudes to children and child sexual assault
- (c) The emotional and physical effects, both short-term and long-term, of sexual assault on children and their families
- (d) The indicators of child sexual assault in the behaviour of victims
- (e) The specific needs of Aboriginal children
- (f) The specific needs of migrant children
- (g) The specific needs of developmentally disabled children
- (h) The specific needs of physically disabled children
- (i) Legal and child welfare procedures and obligations including evidentiary aspects of disclosure, notification, interviewing and court appearances
- (j) Medical procedures
- (k) Support services for children and their families

RECOMMENDATION 35 Page 147

That in-service training occur in two stages:

- (a) A core inter-disciplinary programme which would address issues common to all workers who have contact with children who have been sexually assaulted.
- (b) Intensive training streams for different categories of workers tailored to the requirements of their particular role.

RECOMMENDATION 36 Page 148

That non-government workers who require training have access to departmental in-service training. In-service training programmes should be sufficiently flexible to allow non-government agencies to run their own in-service training.

RECOMMENDATION 37 Page 148

That in-service training programmes be conducted at a regional or local level wherever possible.

RECOMMENDATION 38 Page 148

That recognition be given to the important role played by people who were once victims of child sexual assault, in providing direct services and through participation in training programmes.

RECOMMENDATION 39 Page 150

That an inter-disciplinary training sub-committee be established as part of the State Child Sexual Assault Council. Representation should be wide and community agencies, women's services, educational bodies and people trained in child development should be included.

RECOMMENDATION 40 Page 150

That the focus of the training sub-committee be to develop training materials that directly address the issues associated with child sexual assault.

RECOMMENDATION 41 Page 150

That the role of the training sub-committee include:

- (a) The development of training manuals and course segments for use in a range of in-service programmes.
- (b) Consultation with agencies and educational institutions developing training curricula.
- (c) Monitoring the availability and implementation of training programmes.
- (d) Assisting in the development of State-wide training programmes.
- (e) Any other role assigned to it by the State Council.

RECOMMENDATION 42 Page 152

That appropriate personnel for child sexual assault training be provided by:

- (a) The release of designated workers with child sexual assault expertise from other duties to provide training.
- (b) The creation of at least two (2) specialist training positions within key areas to focus specifically on child sexual assault i.e., Health Department, Youth and Community Services, Education Department, Dymrna House.
- (c) The implementation of an educational skills course for trainers.

LAW AND LEGAL PROCEDURES

Page 153

RECOMMENDATION 43 Page 157

- A. That the class of persons required to report cases of suspected sexual assault of children be extended to include the following persons who are in a position of professional responsibility to the child:
 - teachers
 - paramedics, e.g. physiotherapists, occupational therapists, naturopaths
 - counsellors - school and family court
 - child care workers
 - kindergarten, pre-school teachers
 - welfare workers, youth workers
 - social workers
 - psychologists
 - speech pathology workers
 - nurses
 - police
- B. That this provision be proclaimed on the recommendation of the State Council.
- C. That any person who in good faith reports suspected cases of child sexual assault continue to be immune from civil or criminal liability.

RECOMMENDATION 44 Page 159

That where a medical examination is carried out on a child, notification to the Department of Youth and Community Services be made on a prescribed form detailing the extent of the medical examination, forensic tests and other matters which have led the doctor to form a belief that the child has been sexually assaulted.

RECOMMENDATION 45 Page 162

- A. That where an allegation of child sexual assault is made in the Family Court or the Family Court Counselling Service, the Department of Youth and Community Services be immediately notified. The Department of Youth and Community Services should investigate the matter and take the necessary action to protect the child. They should prepare a report on the allegation for the Family Court. The Court should consider that report in determining custody and access disputes.
- B. That a Working Party of the Child Sexual Assault Council with Department of Youth and Community Services and Family Court representatives be established to develop mechanisms for liaison between the two

departments, to clarify the current relationship between the two departments, and to develop policies and procedures to allow for access to information within each department where a child is "at risk".

The Working Party should consider the following:

- (a) The use of Local Courts to determine interim access orders;
 - (b) The flow of information so all Family Court Judges are aware of children who have been at risk of sexual assault;
 - (c) Family Court Counsellors notifying to the Department of Youth and Community Services;
 - (d) A mechanism for the Department of Youth and Community Services to have a role in Family Court processes;
 - (e) Jurisdictional issues;
 - (f) The relationship between the Family Court and child sexual assault protection orders.
- C. That the Commonwealth Government be requested to consider making a regulation under the Social Services Act to the effect that disclosure by an officer of information on child sexual assault will always be in the public interest.

RECOMMENDATION 46 Page 165

That where a Court has made a finding that a child has been sexually assaulted by an adult seeking access to that child such access should not be ordered except where the circumstances are such that access would promote the child's welfare.

RECOMMENDATION 47 Page 168

- A. That where a child over the age of 14 requires a medical examination the child's consent to the examination be obtained.
- B. That where a parent consents to a medical examination of her/his child, that consent also authorise the release of information and/or forensic material arising out of the examination.
- C. That where a parent does not consent to a medical examination of her/his child, the child be deemed to be under the guardianship of the Director-General of the Department of Youth and Community Services only for the purpose of allowing a medical examination to be carried out, and only for a period of up to 72 hours.

RECOMMENDATION 48 Page 170

- A. That the discretion to prosecute alleged offenders be maintained by the police and the Crown Law authorities.
- B. That this discretion be exercised following consideration of advice from the Department of Youth and Community Services and other agencies representing the interests of the alleged victim.
- C. That a special unit of appropriately trained and qualified persons be established within the Department of the Attorney-General to undertake the prosecution of cases of child sexual assault from ~~committal~~ to trial.
- D. That this special unit be assigned at least one social worker.

RECOMMENDATION 49 Page 172

That priority be given to the listing of court proceedings involving charges of child sexual assault, after that given to proceedings involving persons in custody.

RECOMMENDATION 50 Page 173

That the wishes of the alleged child victim of sexual assault be taken into account in deciding the venue of court proceedings, and that the Department of Attorney-General's budget make allowance for this.

RECOMMENDATION 51 Page 174

That the Department of the Attorney-General in consultation with the State Council develop policies and procedures to ensure that the proceedings in child sexual assault cases are conducted in a manner or an atmosphere which is not intimidating to the child witness.

RECOMMENDATION 52 Page 176

That provision be made in school curricula at both primary and secondary levels to familiarise children and young people with the character and atmosphere of a criminal court and the role of the personnel involved.

RECOMMENDATION 53 Page 176

- A. That child witnesses and non-offending parents be informed of their rights regarding such matters as court closure, venue, publication, presence of support person, and compensation.
- B. That this service be multilingual.
- C. That the service commence as soon as the child victim comes to notice.

RECOMMENDATION 54 Page 179

- A. That S.77A of the Crimes Act 1900 be amended to provide that, in making a determination whether to close the court, either in full or in part, the interests of the child who is the alleged victim of sexual assault be taken into account.
- B. That guidelines be developed as to the relevance of these interests in the exercise of the discretion. The interests of the accused should also be considered in making such a decision.
- C. That where an order is made to conduct proceedings in camera, the wishes of the child regarding the presence of persons in court as exceptions to that ruling be taken into account.
- D. That the alleged victim of child sexual assault and the non-offending parent(s) be entitled to have present in court during the proceedings support persons of their choice.

RECOMMENDATION 55 Page 181

That publication or broadcast of information which enables the victim to be identified not be allowed except in exceptional circumstances, to be determined on the advice of the Director-General of the Department of Youth and Community Services.

RECOMMENDATION 56 Page 182

- A. That S.418 of the Crimes Act 1900 be repealed.
- B. That section 306(3) of the Community Welfare Act be repealed.
- C. That a test for the reception of the evidence of children be enacted which provides that where the child is possessed of sufficient intelligence to justify the reception of evidence and understands the duty of speaking the truth her/his evidence is admissible and of the same weight as sworn evidence.

RECOMMENDATION 57 Page 183

That the provision in the Crimes Act making a spouse a compellable witness in cases of personal injury to the other spouse be extended to apply to proceedings in cases of child sexual assault.

RECOMMENDATION 58 Page 184

That provisions similar to SS.409B and 409C (admissibility of evidence of prior sexual history and sexual reputation) of the Crimes Act 1900 be enacted to provide for proceedings in respect of offences other than those under S.61, where the alleged victim of a sexual assault is a child.

RECOMMENDATION 59 Page 187

That Section 405C (warning to the jury regarding corroboration of the complainant's evidence) of the Crimes Act 1900 be extended to apply to proceedings for offences other than those under S.61, where the alleged victim of a sexual assault is a child.

RECOMMENDATION 60 Page 188

That S.405B (warning to the jury regarding delay in the making of a complaint) of the Crimes Act 1900 be extended to apply to proceedings for all child sexual assault offences.

RECOMMENDATION 61 Page 189

That in determining bail conditions in all child sexual assault matters, police, magistrates and judges give priority to prohibiting contact or attempted contact with the alleged victim. Any breach of bail should be reported immediately to the proposed special unit in the Department of the Attorney-General.

RECOMMENDATION 62 Page 192

- A. That in determining parole and recognizance conditions for child sexual assault offenders, the protection of the child victim be taken into consideration.
- B. That on the release of an offender the probation and parole service immediately notify the victim's family and the Department of Youth and Community Services.
- C. That priority be given to breach reports for the probation and parole service in respect of child sexual assault offenders.

RECOMMENDATION 63 Page 202

That provision be made for an interim no contact order as a mechanism for removing the alleged offender from the home.

RECOMMENDATION 64 Page 213

That sexual offences against children be structured in categories relating to the age of the child against whom the offence is committed.

RECOMMENDATION 65 Page 230

That a pre-trial diversionary programme be established for child sexual assault offenders.

RECOMMENDATIONS OF THE USHER COMMITTEE REVIEW

A REPORT

to the Minister for Health & Community Services,
the Hon. John P Hannaford, MLC
from the committee
established to review
Substitute Care Services in NSW

January 1992

Introduction

On August 13, 1991 the Minister for Health and Community Services, the Hon. J P Hannaford MLC announced his intention to conduct a review of services to wards and other children provided by the Department of Community Services.¹

The decision to conduct the Review followed the Minister's visits to some Departmental facilities and his resultant concern *"about the approach being taken to the placement of some of our wards."*² Furthermore, the Minister suggested that children in care had *"significant remedial education problems and [that] many of their difficult-to-manage traits"*³ could be related to educational deficiencies. In respect to foster care, the Minister noted that *"children returning to institutions on a number of occasions [had] been in foster care and those foster care relationships had broken down. We must ascertain whether that arose from our failure to properly select, or our failure to support or encourage them in understanding their roles."*⁴

Consequently, the Terms of Reference, and the Minister's subsequent comments, provided the Review with the responsibility to examine the practice of out-of-home care in respect of the following areas...

- 1 The responsibility of the state for children and young people who live away from their families;
- 2 Wardship and legal status;
- 3 Adequacy and distribution of current services; including the utilisation of residential care and foster care services, and the provision of remedial services such as family support, education, etc;
- 4 The relationship between government and non-government service provision;

The Review Committee first met on September 17, 1991.⁵ One of its first decisions was to seek public comment on the task before it, and an advertisement was prepared and placed in all appropriate media seeking submissions from interested parties.⁶ The Review Committee also identified particular organisations and individuals it would meet with, and arranged a schedule of visits to Departmental and non-government service providers.

This Report represents the major findings of the Review, and together with the recommendations, is submitted for the Minister's consideration.

Fr John Usher
Chairperson

¹ The Terms of Reference, and the Committee members appointed to conduct the Review are set out in Appendix 1.

² Hansard. NSW Legislative Council November 13, 1991

³ *ibid.*

⁴ *ibid.*

⁵ For a complete list of meeting dates and visits made by the Review Committee, see Appendix 2.

⁶ For a copy of the advertisement, and a list of respondents, see Appendix 3.

⁷ See Appendix 2.

"Good Child Welfare Services Provide The Right Thing, For The Right Child, At The Right Time"
Homer Folks 1904

1. Principles and Major Recommendations

Principles

This Report is based on the principle that the state has a responsibility for all children in partnership with their parents, or in the absence of their parents, their guardians.

Where parents' capacity to be adequate guardians diminishes, the responsibility of the state to provide services increases correspondingly; as do its responsibilities to monitor and review services.

As with *all* intervention strategies, placement into alternative accommodation and care should only be used when necessary, it should be of a high quality, planned and be subject to review.

The range of programmes provided should reflect the specific needs of children and young people and no one programme type is preferred over another so long as the programme is based in good practice; except that 'secure' units are inappropriate for children and young people who are not offenders.

All accommodation and care services, whether provided by the state or non-government organisations, should be 'contracted' on the basis of planned outcomes for specific children and young people, and monitored in terms of practice, expenditure, and their ability to meet needs within an overall, state-wide plan for the distribution of services.

The overall planning and distribution of accommodation and care services should be co-ordinated through a single programme area within the Department of Community Services, and monitored through an external committee which comprises government and non-government representatives.

Accommodation and care services, whether provided by the state or non-government organisations, should be contracted on a pre-determined full cost basis.

Changes to the unco-ordinated current pattern of services should be made over a period of time in a planned way. This report recommends a three year strategic plan for change.

Findings

The Review Committee, following its visits and a review of the Submissions, found a number of problems in the current system of service delivery...

- The particular service obtained for a child is often determined by...
 - chance contact
 - limited available options
 - the degree of skill of the individual caseworker
 - the commitment to good practice, supervision and management of the agency.
- Too many children still becoming the total responsibility of the system, staying too long and too 'deeply' in the system, particularly as access to resources is linked to the degree of 'ownership' of the child by the system.
- An over emphasis being placed on 'complete' substitute care compared with supplementary care and support.
- Residential care dominates funding and planning issues and is out of proportion to the range of services offered.
- Services are too willing to 'move on' children and young people when they have a problem, even though the services are intended for children and young people with problems.
- The over emphasis on administration in residential services is not conducive to the creation of an alternative home for children.

- There is a range of differing fundamental philosophies which conflict (eg., access to day care is prioritised in favour of two-parent working families - children in care generally come from single parents on Social Security).
- Problems abound in terms of standards, continuity of care, consistency, accountability, consistency in policy and procedures, consistency in service quality etc
- Cases are too readily identified as being more complex eg “multi-problem”, “hard-to-place” etc
- Misleading and inadequate labelling occurs in order to get access to services.

The Review Committee is loath to recommend an immediate re-organisation of the delivery of alternative accommodation and care services, being aware of the impact of the recent reorganisation in the Department of Community Services. Furthermore, the Review Committee concurs with the view that “...planners and managers need to be more aware that standards of practice depend much more on knowledge, skills, morale, pressures and resources than organisational patterns. Or, to put it another way, process issues are not cured by structural change.” (Utting 1991)

Nevertheless, the Review Committee does recommend a strategy of planned change for the provision of services for children and young people who are in need of substitute care in New South Wales. The Committee’s findings lead it to the conclusion that the appropriate, long-term role for the Department of Community Services should be to assess and review service needs, negotiate contracts with service providers, and to monitor standards, and to ensure programme and financial accountability on the part of service providers. The Department should not continue to operate as a major substitute care service provider. Such activity by the state government seriously compromises its proper assessment, contracting, review and monitoring roles in relation to the provision of services for children who are in the need of substitute care services. After a period of three years all services for children who are in need of substitute care should be contracted to non-government agencies and mechanisms should be in place for the proper assessment of children entering, moving or leaving substitute care arrangements and for the periodic review of such arrangements (see *Boards of Review*).

Summary of Recommendations

- | | |
|--------------------------|--|
| Recommendation 1: | That s19(1) of the Childrens (Care & Protection) Act [the Register] be enacted and enforced. |
| Recommendation 2: | That the s19(1) Register be the basis for a comprehensive computerised data collection system which relates to Departmental clients and to all children in the care of non-government services, monitored by a joint government/non-government mechanism, and administered by the Department. |
| Recommendation 3: | That the s19(1) Register be integrated with the Department’s Client Information System. |
| Recommendation 4: | That the decision to dismantle the Departmental library be reversed, or if this is not possible, that a specialist alternative accommodation and care journal, video and film library be adequately resourced as a contracted service available to all government and non-government agencies. |
| Recommendation 5: | That the NSW government provide an Annual Report indicating the extent to which it is meeting obligations under the UN Convention on the Rights of the Child. |
| Recommendation 6: | That sufficient resources be set aside to provide for the recruitment, training and supervision of Guardians ad item. |
| Recommendation 7: | That the Childrens Boards of Review be established in 1992. |
| Recommendation 8: | That a three year strategic plan be implemented which will gradually transfer all substitute care services in NSW to non-government agencies. The Department will only continue to provide services where a contract with a non-government agency is impossible. Such arrangements would be unlikely and undesirable, except in exceptional, short-term circumstances, and only with Ministerial approval. |

Recommendation 9: That an Alternative Accommodation & Care Committee be established for a three year period. This Committee will consist of Departmental and non-government agency members, appointed by the Minister for Community Services. This Committee will replace the NSW Alternate Care Committee, and will have the following roles:

- make recommendations to the Minister regarding the contracting of all substitute care services to non-government agencies over a period of three years;
- continue to oversee the administration of Alternate Care funding to non-government agencies;
- monitor standards and collect data, until funding arrangements are totally replaced by formal contracts with non-government agencies for the provision of necessary substitute care services;
- begin to monitor and review all contracts that are established with non-government agencies;
- begin to advise on the establishment of the s19(1) register;
- advise the Minister regarding future arrangements for the Department to take over the Committee's planning and monitoring role when all alternative accommodation and care services in NSW are contracted to non-government agencies at the end of the three year period.

(Boards of Review will continue to conduct periodic reviews of children in alternative care beyond the transition.)

Recommendation 10: The Alternative Accommodation & Care Committee will advise the Minister regarding the phased re-direction of those funding components of the Community Services Grants Programme and Supported Accommodation Assistance Programme relevant to the care of children and young people to those agencies which enter into formal contracts to provide alternative accommodation and care.

Recommendation 11: That all Departmental funded services, providing family support, respite child care and temporary family care for families be co-ordinated, funded and monitored by the Alternative Accommodation & Care Committee, and be subject to a similar standards review procedure.

Recommendation 12: That a state-wide service, or a service within each Departmental Division, be established for the primary assessment of every child, young person and their family who appear before the Court in relation to a guardianship matter. This service may be administered and staffed by officers of the Department of Community Services or may be contracted to a non-government agency which is not a provider of other alternative accommodation and care services. This would be known as the Substitute Care Intervention Programme (SCIP). This service would be staffed by social workers, psychologists, special childhood educators, specially trained in adolescent/childhood assessment and learning disabilities.

Recommendation 13: That where a child or young person comes to the attention of a District Officer or non-government agency worker, that worker should determine whether the child/young person may be in need of substitute care or some form of 'in family' intervention. If an initial assessment indicates a need for substitute care, the DO or worker would refer the child to the SCIP. This programme would work with the referring worker in assessing the child and family and their specific needs for intervention, bearing in mind the best possible outcomes (ie. restoration, substitute family [guardianship], or residential care, as well as health and educational interventions.) The SCIP would then operate as a 'broker' on behalf of the child and family and accessing necessary services and/or negotiate with one or more non-government organisations under contract to provide the range of services required by the child and his/her family. The plan for the longitudinal assessment of progress would be set in place by SCIP. The determination of SCIP would be endorsed and implemented by the Principal Officer of the contracted agency which is to have, or which has, the day-to-day care of the child.

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- Recommendation 14:** That the designation of 'ward' as it presently applies to children who are placed in the care of the Minister for Community Services be abolished, and the necessary legislative amendments be made.
- Recommendation 15:** That the Childrens Court require a report from the Guardian *ad litem* in all proceedings where the question of guardianship is being considered.
- Recommendation 16:** That the Minister for Community Services, or any other statutory person who may from time to time act as guardian of a child or young person in care, give formal delegation(s) to the Principal Officer of the contracted agency which has the day-to-day care of such a child in relation to the approval of caseplans deemed appropriate for the child or young person by that Principal Officer.
- Recommendation 17:** That the position of Childrens Guardian be created in NSW. The holder of this position would be independent and separate from the Minister for Community Services and from the Officers of the Department of Community Services, and that necessary legislative changes be enacted to create this new office.
- Recommendation 18:** That any child or young person to whom a Court order determines guardianship by the Childrens Guardian, be referred to as a 'Child Under Guardianship'.
- Recommendation 19:** That the NSW Child Protection Council complete its investigations into systems abuse expeditiously, and expand this work so that service providers may be assisted in minimizing undue damage to children and young people in care.
- Recommendation 20:** That the performance indicators used in the monitoring and evaluation of contracted services include the meeting of caseplan goals for individual children, particularly the rate of placement breakdown, and the level of involvement of the biological family.
- Recommendation 21:** That the payments to foster carers not depend on whether or not the carer is related to the child.
- Recommendation 22:** That the Boards of Review be empowered to grant foster carers an exemption from agency supervision when appropriate.
- Recommendation 23:** That all foster care services in NSW be contracted out to non-government agencies.
- Recommendation 24:** That, in contracting out foster care services to non-government agencies, special consideration be given to the state-wide provision of short-term foster care services and that those services be monitored and reviewed, as are all other services, to ensure that the goals of the short-term placement are achieved.
- Recommendation 25:** That short-term foster care services be developed by, and contracted out to, specific non-government agencies as a suitable option for adolescents who are in transition or in preparation for independent living.
- Recommendation 26:** That a high level of contract funding be allocated to those foster care services which are designated to care for a wide range of children and young people (eg children with disabilities, older children with special needs, adolescents, etc.)
- Recommendation 27:** That contracted services be designed in such a way that more innovation and flexibility be used in expanding the potential pool of carers available for a wide range of children's needs.
- Recommendation 28:** That reviews of higher payments to foster carers of children with special needs be undertaken only once every twelve months.
- Recommendation 29:** That foster care allowances be paid directly to agencies which are contracted to provide foster care services and that such agencies be given discretion in making such payments so long as all such payments are passed on to foster carers within a designated period of time.

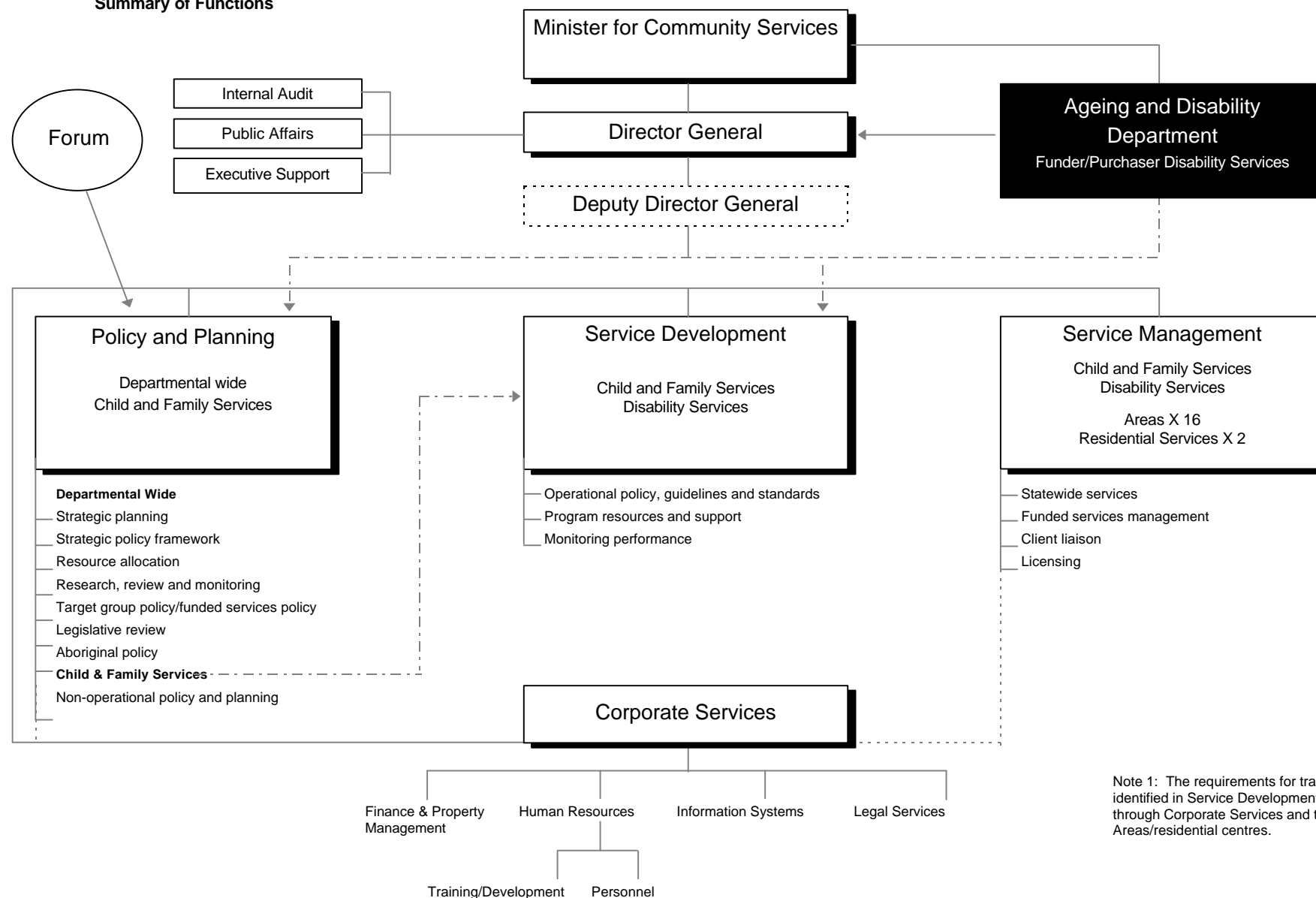
- Recommendation 30:** That physically secure alternative accommodation and care facilities not be provided, but rather individually tailored therapy and support programmes, with very high staff to child ratios when necessary, to meet the needs of severely disturbed children and provide emotional and psychological security.
- Recommendation 31:** That any other form of residential care facility, if identified by the Department as an appropriate response to the needs of children and young people in an area, be an acceptable service option for contracting with a service provider. Such contracts would be for a period of three years, and would be renewed, varied or terminated at the end of three years, depending on the Department's ongoing assessment of need in the area.
- Recommendation 32:** That the decision to place a child or young person in a residential care facility, or to continue the placement after a reassessment, would be made only after an assessment by the SCIP team, and only with the approval of the guardian or the Principal Officer.
- Recommendation 33:** That SCIP also determine the level and type of other (socialisation, education, therapy) services required by each child or young person placed in residential care. SCIP would then either take responsibility for arranging these services, or would arrange with the accommodation provider or some other contracted service provider to accept this responsibility.
- Recommendation 34:** That, if in the initial stages of the new arrangements, SCIP assesses any children or young people in long term residential care as needing to remain in a style of care which would otherwise not continue to be provided, the provision of that type of service be continued until those children are no longer in care.
- Recommendation 35:** That a 'consumer' organisation be developed by the Alternative Accommodation & Care Committee in consultation with young people in care, supported to a similar level as other similar organisations, and that this organisation be a source of information, support and consultation to and for children and young people in the care system.
- Recommendation 36:** That formal recognition and funding be given in all contracted services for the provision of after care programmes.
- Recommendation 37:** That internal schools not form part of alternative accommodation and care facilities after the three year transition to the new arrangements.
- Recommendation 38:** That a further investigation be undertaken about the substitute care of Aboriginal children by a committee of people who are Aboriginal.
- Recommendation 39:** That the principle of merit be introduced into all human resource policies and procedures in non-government substitute care agencies, and be a requirement of service contracts with these agencies.
- Recommendation 40:** That the State government make representations to the Federal government in order to withdraw the exemption of Public Benevolent Institutions from the provisions of the Training Guarantee (Administration) Act 1990.
- Recommendation 41:** That the Department clearly state its policy with regard to human resource development and management for non-government substitute care services and that a provision for the costs associated with external training be included in service contracts.
- Recommendation 42:** That the funding to training providers, peaks and councils be rationalised by establishing a training provider which would be co-ordinated by the Department or contracted to one non-government organisation to meet the training needs of substitute care agencies in a coherent and consistent manner.
- Recommendation 43:** That the practice of funding different organisations or individuals each year for the provision of training cease and attempts be made to reduce the fragmentation of training provision to both the government and non-government sector.

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- Recommendation 44:** That the Department and the non-government sector consult over industry recognised courses (in line with the development of core competencies by the National Training Board) for which agencies receive subsidisation when their staff attend.
- Recommendation 45:** That the Department develop human resource development and management standards that non-government substitute care agencies must adopt in order to receive funding and that these standards be part of a contract, review and evaluation process.
- Recommendation 46:** That the Minister for Further Education, Training, Employment and Industrial Relations review the role, structure and achievements of the state Social and Community Services Industry Training Advisory Group.
- Recommendation 47:** That the state government make recommendations to the federal government with a view to increasing the involvement of tertiary institutions in the area of higher education programmes for alternative accommodation and care workers.
- Recommendation 48:** That the Minister adopt a 'contracted' model of funding based on service types and outcome objectives as detailed in the Review Committee's full report.
- Recommendation 49:** That the Alternative Accommodation and Care Committee begin to determine immediately the current needs for a range of service types (eg foster care, residential care, independent living programme, etc) in each Departmental area. Furthermore, that this Committee determine the Caseload Objectives of each of these service types, bearing in mind any levels of special need or disability of some groups of children/adolescents.
- Recommendation 50:** That the Alternative Accommodation and Care Committee immediately prepare a detailed schedule of fixed general costs and fixed particular costs for the designated service types determined in the previous recommendation.
- Recommendation 51:** That the task of monitoring standards and assessing programme and financial accountability be formally undertaken by officers of the Department of Community Services.
- Recommendation 52:** That after the tasks of the Alternative Accommodation and Care Committee are completed, and following its recommendations to the Minister, a Departmental team be established to monitor standards in contracted services using the 'case audit' model as detailed in the full report of the Review Committee.
- Recommendation 53:** That after the tasks of the Alternative Accommodation and Care Committee are completed, and following its recommendations to the Minister, the Departmental officers responsible for developing and negotiating contracts with non-government agencies be responsible for assessing programme and financial accountability and this be done bearing in mind the details of each contract with a non-government organisation.

**COUNCIL ON THE COST OF GOVERNMENT REPORT - THREE OPTIONS AIMED AT IMPROVING DCS
ARRANGEMENTS FOR SERVICE DELIVERY**

Option 1: Functional Structure

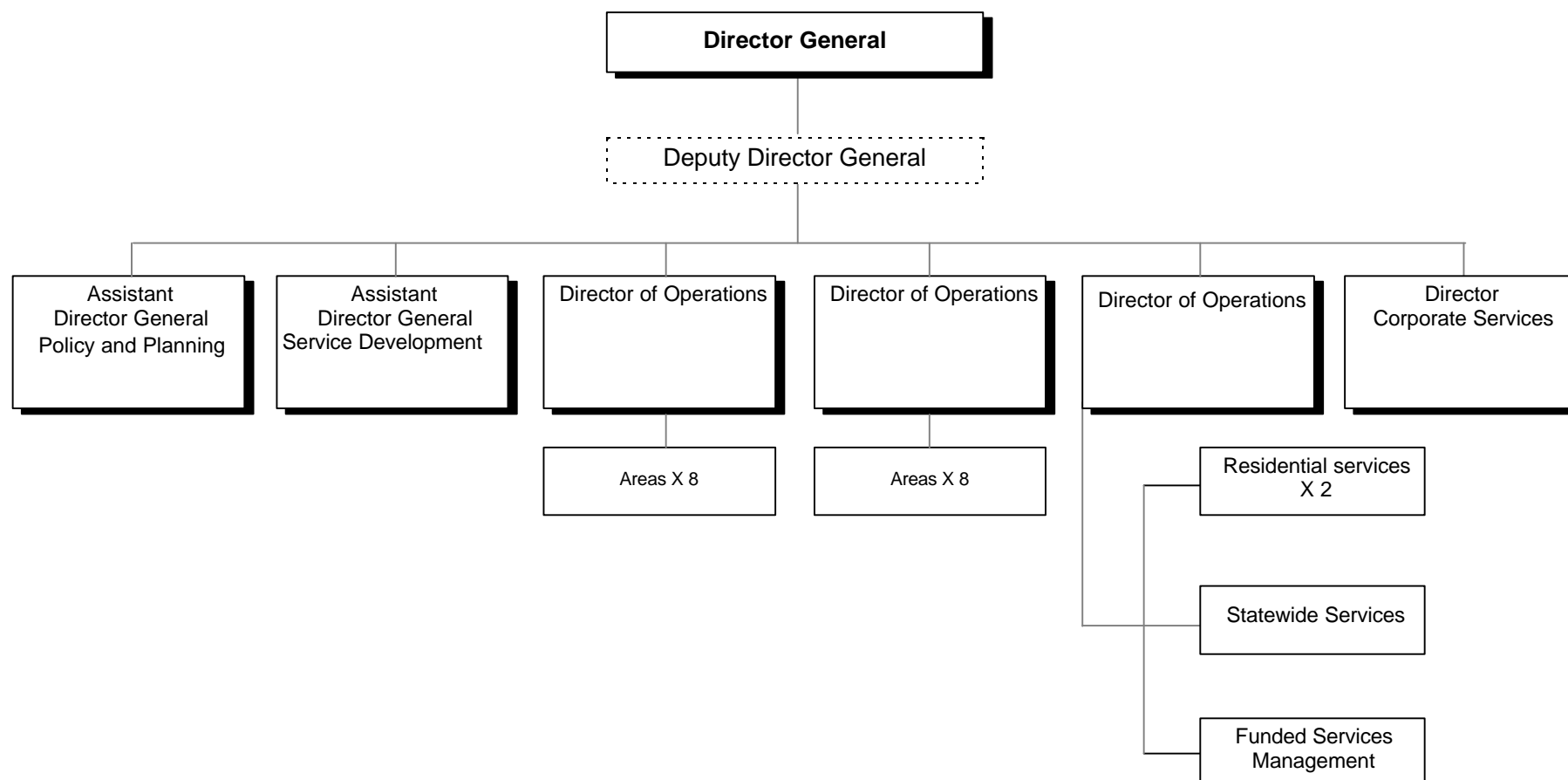
Summary of Functions



Note 1: The requirements for training would be identified in Service Development but delivered through Corporate Services and the Areas/residential centres.

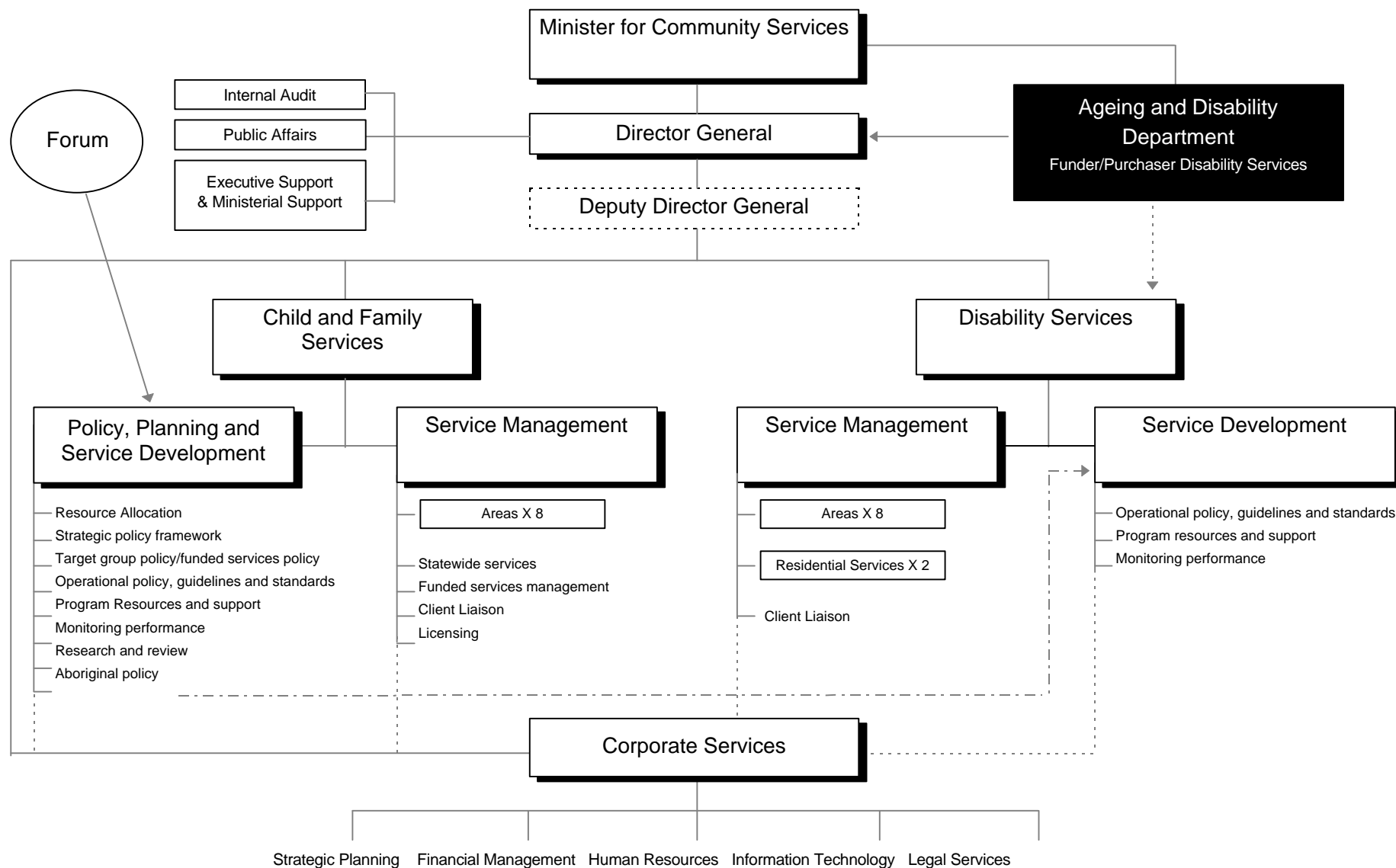
Option 1: Functional Structure

Senior Executive Structure



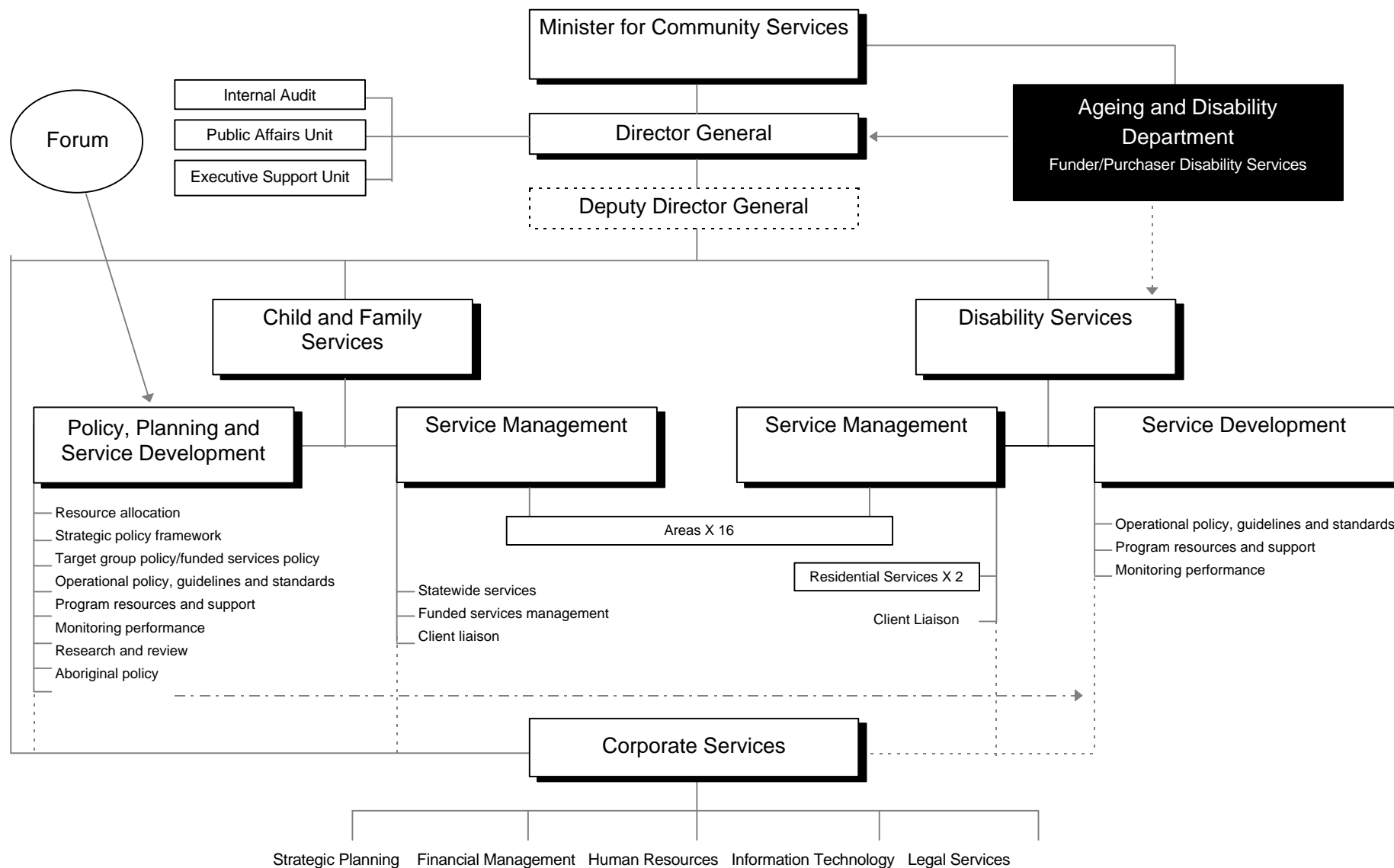
Option 2a: Client Program Structure

Summary of Functions



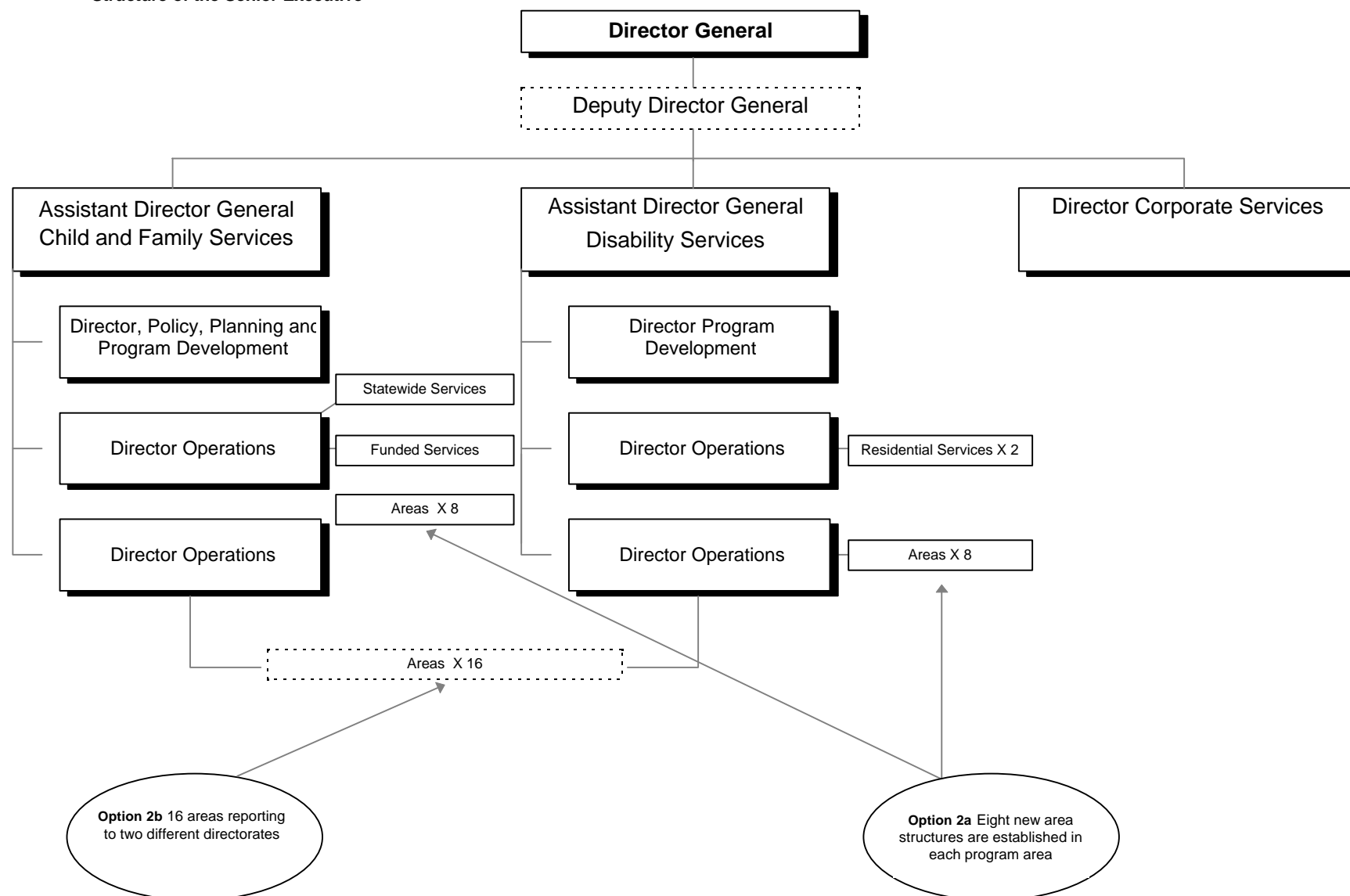
Option 2b: Client Program Structure

Summary of Functions



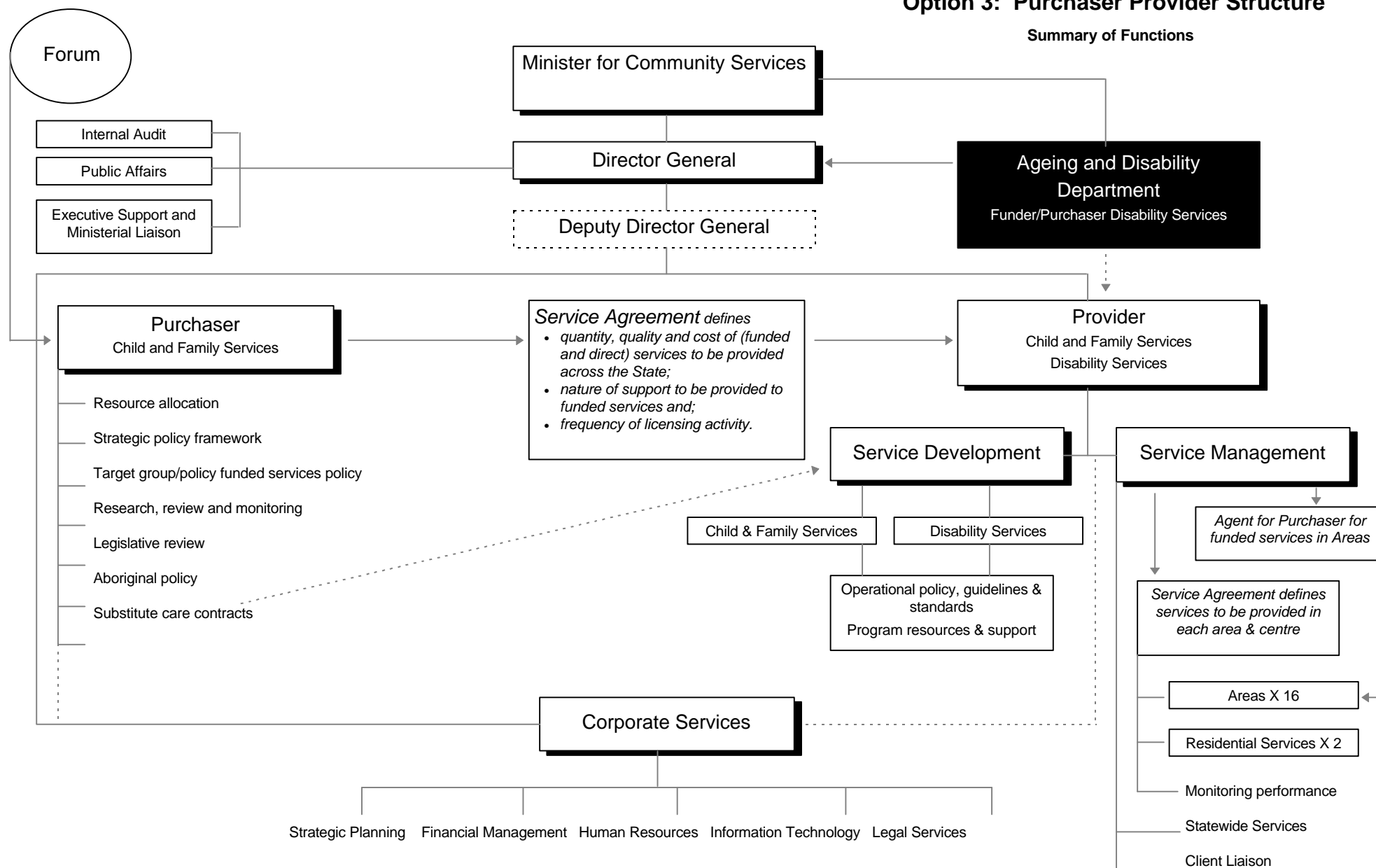
Option 2a and b: Client Program Structure

Structure of the Senior Executive



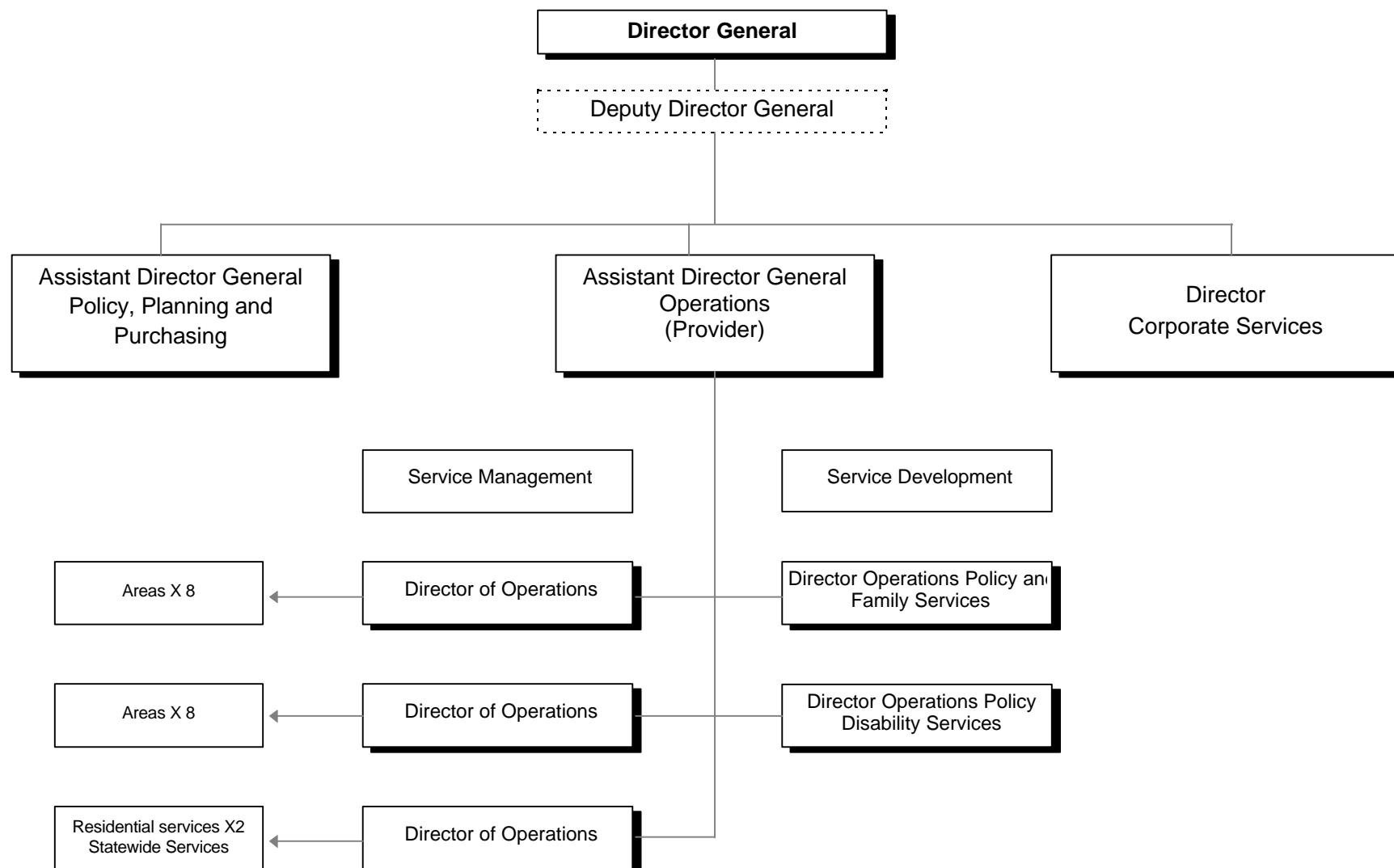
Option 3: Purchaser Provider Structure

Summary of Functions



Option 3: Purchaser Provider Structure

Structure of the Senior Executive



EXECUTIVE SUMMARY 'SYSTEMS ABUSE: PROBLEMS AND SOLUTIONS'

The following is the Executive Summary of the NSW Child Protection Council's February 1994 report on Systems Abuse.

SYSTEMS ABUSE: PROBLEMS AND SOLUTIONS

Executive Summary

Researched and written by Judy Cashmore, Robyn Dolby and
Deborah Brennan in consultation with the NSW Child Protection
Council's Systems and Abuse Committee

NSW



COUNCIL February 1994

Foreword by the NSW Child Protection Council to the Report on Systems Abuse

The NSW Child Protection Council presents this report which was requested by the then Minister for Community Services, the Hon. R. Webster MP, as one of the responses to the Report on Physical Abuse and Neglect of Children (PANOC).



The purpose of the report is to address a fundamental but, up till now, ignored form of abuse: systems abuse. We have been more used to thinking about an individual causing harm to another. This report focuses on the impact a system can have on a child - systems that have been established to help care and protect children. It does not absolve from responsibility individuals who perpetuate abuse, but it focuses on the bigger picture to help us examine the responsibility the system as a whole carries.

Systems abuse is defined in this report as: "harm done to children in the context of policies or programmes that are designed to provide care and protection". This apparent contradiction is one with which we all have to struggle. In this area of human endeavour, which is in its early stages, and in which there are few definite answers to a large number of complex questions, none of us can stand aloof and claim immunity for ourselves or for the system in which we work. It came, therefore, as no surprise during this study that the organisations which deal with children at risk do not always meet their own expectations.

The Child Protection Council's main purpose in preparing this report was to have a better understanding about how systems function and malfunction and to suggest ways in which care and protection systems can better meet the needs of children and families who seek their help.

The value of the report is that the work was only able to be achieved through the readiness of all major government departments to work together over a period of two years in a coordinated and cooperative manner to examine this difficult question.

The Committee engaged in an extensive process of community consultation in order to fully explore the many dimensions of systems abuse from all perspectives. It was a difficult and demanding process often challenging well established norms. Even so, all the participants and the bodies they represented remained committed to the process in order that there could be a constructive way of reviewing all systems, both government and non government, involved with children's care and protection.

It is inevitable that this document contains criticisms of systems. However, overall, the Council believes that the report is balanced and a positive statement with clear directions about how all systems can be improved for the children they serve.

It was produced by a responsible and creditable research team, steered by a multidisciplinary working party drawn from the members of Council and involving a number of other experienced people. To all the participants, the Council wishes to express its thanks and gratitude.

The Report's 37 recommendations are divided into 10 main strategies and these encompass the whole field of child protection. Critical issues include children's rights, reviews of policies, procedures and practice, provision of services, coordination and cooperation between agencies, and primary prevention.

A number of recommendations are already in existence, while others have been initiated in the time that has elapsed between commissioning the research and its conclusion. On the other hand, some remain unresolved.

We believe that it is necessary to restate the concerns and to suggest further improvements to policies and practices. There will be a number of recommendations which could be implemented immediately and at no great additional cost, while others will need time and money to effect.

In addition to these recommendations, the Council has written this document as a challenge for all of us who work in this field. We all are part of systems aiming to help care and protect children. We each need to take responsibility for examining our own system of which we are a part and review its functioning to see whether it is an appropriate and constructive organisation for children.

We need to ask are we involving our consumers in reviews of our organisation; is there community participation in these reviews, and are there performance indicators to substantiate our findings? Further, is there a complaints mechanism in place that works for individuals and are there other structures in place which address the concerns identified in this Report?

These are very challenging questions which can be applied to every agency, be it a child care centre, a family support agency, a government department or the Child Protection Council itself.

We each need to take responsibility for the place in which we work to see whether it measures up before we take our attack elsewhere. It is always easier to blame something or somebody of which we are not a part rather than looking to ourselves and the system of which we are already a part.

This report urges us to look closely at our workplace and provides a useful framework for measuring how effective our organisation is - how it cares for children and their families or is it in fact a system which is at risk of becoming abusive or neglectful?

As a first step this Council will be taking stock of its own organisation and seeing how it measures up as a system responsive to the needs of its consumers. The Council urges each organisation involved with children to do the same, be it government or non government. It commends the specific recommendations as a place where action can be taken in response to some of the issues that were identified through this report. Systems are full of human fallibility but they also provide frameworks and operating principles that can better safeguard children.

Our hope is that this report stimulates all of us into action to improve and build on the child protection system of which we all are a part.

Adrian Ford
Chairperson

Systems Abuse of Children

This study on systems abuse was commissioned by the New South Wales Child Protection Council. It follows the *Physical Abuse and Neglect of Children* (PANOC Report) which highlighted this problem within child protection programs and out-of-home care abuse. In the current study, the definition of systems abuse is extended to a number of different systems which have responsibility for the care of children or involvement with them.

Terms of reference

The terms of reference called for an examination of the nature of systems abuse and its effects on children and families, including a review of the recent literature. The following areas were to be covered:

- a) *Legal*: children involved with the legal system, ~~as~~ victims or offenders;
- b) *Education and child care* : children in out-of-home care, including schools, pre-schools, day care centres, family day care and out-of-school care;
- c) *Welfare*: children in contact with welfare services as a result of notification;
- d) *Health*: children involved with health services.

The definition of systems abuse

The working definition of systems abuse used in this report was:

harm done to children in the context of policies or programs that are designed to provide care or protection.

The abuse includes harm to children's welfare, development or security as the result of the actions of individuals or as a result of the lack of suitable policies, practices or procedures within systems or institutions. This definition includes acts of commission and acts of omission, more like ~~neglect~~ than abuse. It addresses those aspects of child development which can be expected to produce optimal outcomes for children rather than simply avoiding harm.

Aim of the report

The aim of the report was to define systems abuse and to understand how and why systems abuse occurs. This led to a focus on systems and the way they fail, more than on the individuals within the system through whom the abuse may finally occur.

This approach gives the best opportunity for identifying changes that can lead to a sustained improvement in services for children, and avoids unproductive attempts to assign blame.

The report identifies the types of policies, procedures ~~and~~ practices that contribute to systems abuse and recommends general principles to prevent ~~and~~ minimise it. Although the report of necessity focuses on problems, it takes a positive approach. It aims to go beyond rhetoric and stimulate practical debate about ways of providing a better deal for children.

How the inquiry was carried out

The report was based on a variety of sources of information, including:

- 51 submissions to the Child Protection Council;
- consultation meetings with 117 persons around the state;
- a review of current research and past reports;
- original research;
- an analysis of existing official figures, policy documents, and procedural guidelines;
- consultations with the steering committee.

The submission and consultation process drew responses from individuals and client groups, non-government agencies, and government employees.

A range of issues emerged from the submission and consultation process. They included legal issues and child sexual assault and housing (especially for homeless youth), mental health, and youth with special needs (homosexual youth, Aboriginal young people, and children of prisoners). Although these problems involved a range of “systems” and organisations, the Department of Community Services came in for more criticism than other organisations.

There are several reasons for this. First, it has statutory responsibility for children’s welfare and so has the front line in difficult cases. Second, uncertainty arising from recent restructurings may mean that its workers are more willing to express their criticisms, and that others outside the department have experienced problems as a result of changes in staffing and organisation. Third, there seems to be a widespread perception that the Department is under-resourced, and that its workers lack special expertise and experience.

Outline of the report

After presenting the working definition of systems abuse and outlining the way in which the inquiry was tackled, the report:

- described a number of different forms that systems abuse may take, including a range of concrete examples (Chapter 3);
- outlined various features of institutions that can contribute to systems abuse or allow it to continue (Chapter 4);
- documented the systems-related problems that arise in the court and welfare systems at different stages following a notification of child abuse (Chapter 5);
- presented a number of approaches to prevent and overcome systems abuse, including the development of child-oriented systems and quality assurance mechanisms (Chapters 6, 7 and 8);
- provided a series of questions which can be used by agencies dealing with children to determine how well they are set up to promote the welfare of children (Chapter 8).

How can systems abuse be recognised?

Systems abuse takes a variety of forms. Some characteristic forms, with some specific and concrete examples include:

- a) Children’s needs not being considered so that children are “invisible” or suffer secondary victimisation (e.g. the children of prisoners, children in court proceedings).
- b) Services being effectively not available because they are nonexistent, inadequate, inappropriate or inaccessible (due to entry requirements, location, their linguistic or cultural context or through lack of information).
- c) Services not being properly organised and coordinated so that children needing services are passed from “pillar to post” (e.g. multiple placements in substitute care) or are deemed to be “no-one’s responsibility” (children with serious emotional and/or behavioural disturbance).
- d) Institutional abuse which includes neglect and physical, sexual and emotional abuse which occurs in foster care, residential institutions, or other agencies caring for children.

Another way of approaching the problem of systems abuse is to take a particular area or issue (e.g. what happens to a child following notification of child abuse) and to examine the problems that emerged from the submission/consultation process and the literature. This was the concern of Chapter 5 - to document the systems-related problems that arise in the court and welfare systems at different stages following a notification of child abuse. Problems such as delay, lack of continuity, poor training, and a lack of consideration of children’s needs related to each of the following aspects:

- the investigation of the alleged abuse;
- the ensuing Children’s Court proceedings;
- Family Court proceedings;
- criminal prosecution of the alleged offender; and
- the placement of the child in substitute care.

What “causes” systems abuse or allows it to be overlooked or continue unchecked?

Various features of institutions can contribute to systems abuse. Some of these arise from the way particular organisations are run, and include:

- a lack of resources;
- a lack of coordination within and between agencies;
- a lack of appropriate guidelines;
- a lack of specialised skills and staff support;
- a lack of information, statistics and research;
- a lack of a voice for children.

Other features are more inherent in the nature of bureaucracies and organisations and include the tendencies to become closed off from the outside world and to value regulations for their own sake rather than consider the welfare of those they are supposed to serve.

How can systems abuse be prevented or counteracted?

Chapters 6 and 7 presented two main approaches to preventing and combating systems abuse. The first is to strengthen the child orientation of services and institutions so that they promote children's security and development rather than simply trying to avoid abusive practices. This means taking children seriously, providing them with a voice and attending to their individual needs. It also involves effective assessment to determine what children's needs are, supporting and maintaining involvement with their families and communities, and providing a balance of preventative programs.

The second is the provision of quality assurance mechanisms, including monitoring and review processes which can:

- indicate whether appropriate standards are being maintained;
- ensure that individual cases of abuse are detected and dealt with;
- determine whether staff and workers have the necessary conditions to work effectively.

Such mechanisms need to be an integral part of the system. They need to extend beyond mere economic accountability and to provide an opportunity for client, staff, and community participation. An analysis of the monitoring, review and complaints mechanisms in several systems indicated that few meet these requirements.¹ As Children's Commissioner is proposed as a means of meeting the special needs of children for a proactive, inclusive and accessible monitoring and review service.

¹ Reservations about the value of the Complaints and Appeals review by the Department of Community Services *children* are outlined in Chapter 7.

Recommendations

General approach

- 1.1. That the report be released by the Minister for Community Services and that each relevant department respond to this report and their responses be coordinated within a report produced by the Child Protection Council.
- 1.2. That all relevant departments and agencies establish processes to ensure the review of policies, practices, and procedures to examine the extent to which they contribute to systems abuse and to develop policies that are not abusive.
- 1.3. That statements of children's rights be developed to put into concrete terms the rights of children in various institutions (e.g. schools, child care centres, hospitals, group homes, refuges, detention centres, etc.) in accordance with the United Nations Convention on the Rights of the Child.
That these statements be the basis of view processes to assess the extent to which children's needs are being met and their rights respected.
- 1.4. That all relevant departments and agencies review existing procedures so that children are ensured of having their views heard in all proceedings and decision-making processes which affect them. (S 4.8, 6.2, 7.1.2.)

Primary prevention

2. That the Child Protection Council give consideration to ways in which increased emphasis on primary prevention and early intervention programs can be effected across all relevant departments and agencies. (S 6.6)

Provision of services

- 3.1. That minimum standards of entry level training be provided for all employees before they begin working directly with children in government and non-government agencies. (S 4.5, 5.1.4)
- 3.2. That specialist positions be established or extended:
 - (a) in the Department of Community Services and the Police Service for the conduct and investigation of child sexual assault cases. (S 4.5, 5.1.4)
 - (b) in the Department of Community Services to ensure the appropriate selection, screening, training and support of foster carers.
- 3.3. That the Department of Health develop and provide adequate treatment and counselling programs for physically and emotionally abused and neglected children and their families. (S 3.1, 4.3)
- 3.4. That the Department of Health ensure that all adolescents and young people have reasonable access to coordinated mental health services in all areas. Extra funding may be required to allow areas and regions to meet their requirements under the NSW Strategic Plan for Mental Health Services. (S 3.1, 4.1)
- 3.5. That all relevant departments and agencies develop procedures to ensure that the maximum continuity of contact occurs between children and direct service providers and professionals. Support should be particularly mobilised around transition periods. (S 3.1, 5.4, 6.1)
- 3.6. Children in care under-perform academically but this problem has received little attention. The Departments of School Education and Community Services should jointly investigate and seek solutions to this problem. (S 5.4)
- 3.7. That representations be made to the Commonwealth Government to review the criteria for eligibility for Austudy Young Homeless Allowance so as to ensure that children in need of the allowance are not precluded. (S 3.1)
- 3.8. That wherever possible, standardised assessments be used which relate to the context in which the child is having difficulties. The assessments should highlight the child's strengths as well as difficulties and lead to a case-plan. (S 6.4)

Coordination of services

- 4.1 That the Departments of School Education and Community Services establish procedures to improve communication with teachers about relevant information about children notified by the school. (S 4.3)

- 4.2 Children who are emotionally disturbed or who have disordered or difficult behaviours are currently at great risk of falling between the gaps in the health and education systems. The Departments of Health, School Education and Community Services should therefore develop policies and procedures for early intervention to minimise that risk.(S 3.1, 4.3)

Monitoring, review and complaints mechanisms

- 5.1 That all relevant departments and agencies ensure that there are easily accessible, publicised, independent reporting procedures whereby:
- complaints about actions or lack of actions by staff or in relation to procedures may be made by children; this is especially important in relation to out-of-home care facilities;
 - children who make a complaint are protected from any form of intimidation;
 - a rapid response to the complaint is made.(S 4.9, 4.10, 7.2)
- 5.2 That departments and agencies conducting out-of-home care facilities for children develop residents' committees to address the rights of children within the facility, with representation of family members or advocates to develop a monitoring and supportive role for residents and staff within these facilities. The Official Visitor should take on this role in Juvenile Justice Centres.* (S 4.8, 6.2, 7.1.2.)
- 5.3 That departments and agencies responsible for out-of-home care for children develop procedures for an annual review of the placement of all children in substitute care which ensures that children are able to provide confidential and private feedback about their placement.(S 5.4, 7.1)
- 5.4 That abuse in out-of-home care be the subject of mandatory reporting and that all reports be given category one status.*(S 4.10)
- 5.5 That s 19(1) of the Children's (Care & Protection) Act [the Register] be enacted and enforced so that a comprehensive register of all children in care for more than 14 days in any 12 month period is available to track the delivery of services to children and their families in and between departmental and non-government care.(S 4.7, 5.4)

*Out-of-home care includes schools, pre-schools, day care centres, family day care and out-of-school care.

- 5.6 That the Official Visitors Scheme be expanded to include all government and non-government facilities.(S 5.4, 7.2)
- 5.7 That a Commissioner for Children be appointed with duties as defined:
- To advocate on behalf of children.
 - To monitor activities of government departments and non-government agencies concerned with the care of children;
 - To review proposed legislation and advise government departments on the implications for children.
 - To report annually on the extent to which the NSW government is meeting its obligations under the UN Convention on the Rights of the Child;

The Office of the Children's Commissioner must have:

- statutory powers;
- independence from other government departments;
- a child focus, with primary concern for the interests and wellbeing of children;
- a range of functions e.g. research, publications, media releases, public inquiries, investigating and mediating individual complaints, making recommendations and proposals for change, reviewing legislation, policies and practices;
- a broad overview of governmental activity affecting children and contributing to the coordination and consistency of that activity;
- the ability to address issues which arise in the non-government sector.(S 7.3)

Policy

- 6.1 That the government encourage, wherever possible and in accordance with children's wishes, children's contact with their natural families when they have been removed from their care (S 5.4)
- 6.2 That corporal punishment not be allowed in schools or in any institution caring for children (S 3.1d)

Level of Resources and Support

- 6.3 That the Department of Community Services undertake a careful review of additional and appropriately qualified staffing requirements needed to overcome the problems outlined in relation to District Officers and youth workers - low pay, lack of clerical support, lack of resources, high case-loads, inadequate personal and professional supervision, high staff turnover, low morale (Ch 4)
- 6.4 That additional resources be allocated to departments to implement the recommendations of this report and that, in particular, the Department of Community Services be funded to enable it to meet all its statutory requirements in relation to children (Ch 4. 5.4)

Training and Education

- 7.1 That the Child Protection Council develop a training course to address the issues of systems abuse.
- 7.2 That courses/seminars be developed for judges, magistrates and lawyers dealing with cases involving children before they begin working in Children's Courts or in the Family Court and on a continuing basis. These courses should clarify roles and responsibilities within the system and address issues relating to child development, family dynamics, child abuse and effective communication with children (S 4.5; 5.1.4; 5.3.3; 5.5.3)
- 7.3 That coordinated training be conducted for Police and District Officers involved in child protection investigations. (S 4.5; 5.1.4)
- 7.4 That District Officers and other staff who are required to give evidence as part of their duties receive comprehensive training and ongoing support and supervision in court presentation (S 5.1)
- 7.5 That all workers have ready access to current resources and materials in the form of departmental libraries. (S 4.5; 4.7)
- *7.6 That all staff who have direct contact with children receive training on relating to children. This should be based on an understanding of emotional development and the process of attachment, and have the goals of promoting children's sense of trust and security and assisting them in negotiating feelings and resolving conflicts (S 6.1)

Legal Procedures

- 8.1 That a separate Children's Legal Service be established within the Legal Aid Commission to carry out the following functions:
- to provide legal representation for children in Children's Court and Family court proceedings via the services of salaried lawyers;
 - to obtain reports from relevant agencies and gather other relevant evidence;
 - to ensure that evidence and argument relevant to the child's welfare are put before the Court; to present evidence, conduct proceedings and argue in accordance with the child's instructions; and to act on behalf of the child in any negotiations between parties with a view to settlement out of Court where this is appropriate.
- The Children's Legal Service should be staffed only by professionals who are appropriately skilled, experienced and trained in child development and communication with children (S 5.3; 5.5.3)
- 8.2 Evidence that the 42-day rule (Section 76 (ii)(b) of the Children (Care and Protection) Act 1987) is not being complied with indicates the need for research to evaluate the level of compliance and the reasons for non-compliance. In any event, it is recommended that a statutory basis be provided to ensure that children involved in court proceedings do not face delays of more than 6 months in any case in which they are to give evidence or have their custody decided (S 5.3.2)
- 8.3 That an advisory committee be established comprising representatives from all agencies involved in Children's Court proceedings and outcomes (e.g. Children's Court magistrate, Legal Aid, Department of Community Services, Family Court of Australia, Child Protection Council, Police Service, non-government agencies, community representative) to monitor and review procedures within the Children's Court including the legal representation of children (S 5.3; 5.5.3)

Research, Evaluation and Statistics

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- 9.1 That all programs should be based on sound research or successful implementation in other areas and be subject to regular and systematic evaluations of their programs and services using both qualitative and quantitative measures as part of the review process (S. 7.1)
 - 9.2 That a method of tracking the delivery of services to children and families in both government and non-government agencies be developed.
 - 9.3 That the Child Protection Council carry out research on the prevalence and management of abuse in out-of-home care provided by government and non-government agencies (S. 3.1d, 4.10)

Steering Committee Membership

Child Protection Council

Dr Ferry Grunseit, Chairperson
Garry Rogers, Executive Officer

Alternative Care and Accommodation Committee

Graham Jackson

Department of Attorney General

Jill Muddle

Department of Community Services

Rosemary Fitzgerald
Marianne Curtis

Department of Health

Dr Elisabeth Murphy

Department of School Education

Barbara Gallagher
Sue Henderson
Helen Kerr Roubicek

Office of Juvenile Justice

Ian Graham

Consultants

Dr Judy Cashmore
Dr Robyn Dolby
Dr Deborah Brennan

CATHOLIC CHURCH PROCEDURES REGARDING COMPLAINTS OF SEXUAL ABUSE

The following procedures were outlined in 'Towards Healing, Principles and Procedures in Responding to Complaints of Sexual Abuse Against Personnel of the Catholic Church in Australia' published in December 1996 by the Australian Catholic Bishops' Conference & the Australian Conference of Leaders of Religious Institutes.

PART TWO: PROCEDURES FOR DEALING WITH COMPLAINTS OF SEXUAL ABUSE²

1. NOTES

- 1.1 This section of the document deals with procedures. It is to be implemented in the context of the previous section on principles.
- 1.2 These procedures are a revised version of the draft document published by the Australian Catholic Bishops' Conference and the Conference of Leaders of Religious Institutes in April 1992.³
- 1.3 These procedures are intended to apply to all complaints of sexual abuse by Church personnel, whether they be clerics, religious personnel, lay employees or volunteers.⁴
- 1.4 In applying these procedures, the penal and procedural provisions of the Code of Canon Law should be kept in mind.
- 1.5 If a complaint concerns a criminal offence, Church authorities shall not jeopardise the right of the police or other civil authorities to investigate the matter and to take appropriate action.
- 1.6 A complaint of sexual abuse raises medical, psychological, spiritual, legal and practical questions. An appropriate response will, therefore, need to be based on a team approach.

2. DEFINITIONS

'Accused' means the person against whom a complaint of sexual abuse is made.

² It is noted that the Archdiocese of Melbourne has already implemented a related but different set of procedures. Accordingly the procedures in this Part do not apply to that Archdiocese.

³ This document drew on various documents published in Australia, Canada and the United States of America. In particular it drew on the document, *Procedures to be Applied in Cases of Alleged Sexual Misconduct by a Priest* by Rev. Francis G. Morrissey O.M.I. (*Studia Canonica* 26(1992)39-73)

⁴ The section on principles concentrated on clergy and religious because of the added betrayal of trust that is present in such cases, but this section wishes to ensure that procedures are in place concerning all Church personnel.

'Church authority' includes a bishop, a leader of a religious institute and the senior administrative authority of an autonomous lay organisation, and their authorised representatives, responsible for the Church body to which the accused person is connected.

'Church body' includes a diocese, religious institute and any other juridical person, body corporate, organisation or association, including autonomous lay organisations, that are generally perceived to be part of the Catholic church.

'Church personnel' includes any cleric, member of a religious institute, employee or volunteer who is connected with a Church body.

'Civil authorities' includes members of the police service as well as officials of the government departments responsible for child protection, for the administration of laws relating to complaints of sexual harassment, for the discipline of professions and for industrial relations.

'Complainant' means the person who has alleged sexual abuse against Church personnel. In most but not all cases the complainant will also be a victim, and this is to be understood in this document unless the context suggests otherwise.

'Offender' means a person who has admitted sexual abuse or been found guilty of sexual abuse by a court of law.

'Sexual abuse' includes any form of criminal assault, sexual harassment, or other conduct of a sexual nature that is inconsistent with the public vows taken by a priest or religious, with the integrity of the relationship between a priest or religious and a person in their pastoral care, or with the duties or professional responsibilities of Church personnel.

'Victim' means the person against whom the sexual abuse was directed.

3. STRUCTURES AND PERSONNEL

- 3.1 The Australian Catholic Bishops Conference and the Australian Conference of Leaders of Religious Institutes have jointly established a National Committee for Professional Standards (National Committee) to oversee the development of policy, principles and procedures in responding to complaints of sexual abuse against Church personnel.
- 3.2 The bishops and leaders of religious institutes of each province of the Catholic Church in Australia have established and shall maintain a Professional Standards Resource Group (Resource Group) in each province.⁵

⁵ There are five provinces in the Catholic Church in Australia, based on Brisbane, Sydney, Melbourne, Adelaide and Perth. The Australian Capital Territory goes with New South Wales, Tasmania with Victoria and the Northern Territory with South Australia. It is

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- 3.2.1 The Resource Group shall consist of at least one priest and one religious and a suitable number of other persons (no more than ten), both men and women, of diverse backgrounds, skilled in the areas of child protection, the social sciences, civil and Church law and industrial relations.
- 3.2.2 The Resource Group shall act as adviser to all Church bodies in the province in matters concerning professional standards, both in general and in relation to specific cases.
- 3.2.3 In addition to responding to requests for assistance, the Resource Group shall also act in a proactive manner. It shall be free to offer advice within its mandate, to any Church body in the province as it sees fit.
- 3.3 Each Resource Group shall nominate from among its members a Convenor (and deputy), who shall convene and chair meetings as required; liaise with the National Committee, other provincial Resource Groups, and individual Church bodies and their professional advisers; have an overview of all matters dealt with by the Resource Group; and be responsible for the safekeeping of all documentation connected with the Resource Group.
- 3.3.1 All Church personnel shall deal with documents in accordance with the provisions of the Code of Canon Law.⁶
- 3.4 Each Resource Group shall ensure that, from amongst its own members or elsewhere, suitable persons are available to fulfill the following roles:

CONTACT PERSONS, who shall be the usual persons to receive complaints of sexual abuse and pass them on to the appropriate Church authority. Contact Persons shall be skilled listeners, sensitive to the needs of complainants and victims.

ASSESSORS, who shall be responsible for assessing any aspect of the complaint.

VICTIMS' SUPPORT PERSONS, who shall represent the needs of the victim to the Church authority and assist, where appropriate, with the care of a victim and with communication between the victim, assessors and Church authority. The victim's support person shall not be the victim's therapist.

ACCUSED'S SUPPORT PERSONS, who shall represent the needs of the accused to the Church authority and assist, where appropriate, with the care of the accused and with communication between the accused, assessors and Church authority. The

noted that although the Archdiocese of Melbourne will be represented on the Victorian Resource Group, the procedures set out in this Part need not be implemented in relation to that Archdiocese.

⁶ Especially canon 474, which states that all documents designed to have legal effect must be signed by the authority issuing them and by a notary.

accused's support person shall not be the accused's therapist.

- 3.5 The Resource Group shall draw up a list of facilitators not from its own members. FACILITATORS shall facilitate meetings between victims and Church authorities concerning what the Church body can and should do to assist the victim.
- 3.6 The Resource Group shall draw up a list of reviewers not from its own members. REVIEWERS shall, where appropriate, conduct a review of process. Before a list of reviewers is named, the Convenor shall guarantee their independence and impartiality by seeking recommendation of the list of names from the appropriate professional peak bodies.
- 3.7 The Convenor shall cause the Resource Group to establish criteria concerning when an individual member of the Resource Group may act alone or act only after consulting with other members.
- 3.8 All members of the Resource Group shall abide by the highest possible standards of professional conduct in all aspects of their work. They shall receive appropriate inservice training and support from the National Committee.

4. COMPLAINTS

- 4.1 If a complaint of sexual abuse against Church personnel comes to the notice of any member of the Church, he or she shall take contact details and immediately (and within 24 hours) refer the matter to a Contact Person.
- 4.2 Information shall be widely circulated to the public, and especially among Church counselling agencies, parishes and schools, giving the names and contact details of Contact Persons. The information shall set out as simply as possible the manner for making a complaint about sexual abuse. A national phonenumber, with the number published in every parish, shall be established by the National Committee to advise complainants concerning the availability of a local Contact Person.
- 4.3 All Church personnel shall comply with the requirements for mandatory reporting of child sexual abuse that exist in some States/Territories. The appropriate Church authority shall also be notified of any such report.
- 4.4 Anonymous complaints are to be treated prudently. An anonymous complaint cannot have the full force of one made by an identified person, but anxiety and fear may persuade some complainants not to reveal their identity immediately.
- 4.5 The person hearing the account of the complaint shall listen fully, honestly and compassionately to the person laying the complaint, both concerning the facts of the situation and its emotional, psychological and spiritual effects.
- 4.6 The Contact Person shall provide written notes of the details of the complaint in the

form of a report to the appropriate Church authority and these notes are to be confirmed by the signature of the complainant.

- 4.7 The Contact Person shall forward the report promptly to the appropriate Church authority. If necessary, a recommendation may be made concerning any immediate action that needs to be taken in relation to the protection of vulnerable children and adults. The Contact Person shall forward a copy of the report to the Convenor of the Resource Group.

5. ASSESSMENT

- 5.1 The Contact Person in receipt of a complaint shall make a recommendation to the responsible Church authority concerning whether there needs to be a formal assessment of any aspect of the matter.
- 5.2 No Church assessment shall be undertaken in such a manner as to interfere in any way with the proper processes of civil law, whether they are in progress or contemplated for the future.
- 5.3 When the complaint concerns an alleged crime, the Contact Person shall tell the complainant of the right to take the matter to the police and, if desired, provide assistance to do so. The appropriate Church authority is to be notified of any action by the Contact Person.
- 5.4 If the victim indicates an intention not to take the matter to the police, this should be recorded by the Contact Person and confirmed by the signature of the victim.
- 5.4.1 State or Territory law regarding the reporting of knowledge of a criminal offence must be observed.
- 5.5 The Resource Group shall liaise with civil authorities regarding the proper processes to be followed and the principles that should determine the timing and manner of Church assessments.
- 5.6 If in the course of a Church assessment, what had been thought not to be a crime is in fact revealed as an alleged crime, the Church assessment procedure shall cease immediately and the complainant told of the right to take the matter to the police. The Contact Person is to assist the complainant if requested.

6. ASSESSMENT PROCEDURES

- 6.1 If the Contact Person advises that some aspect of the matter needs to be assessed, the Church authority shall appoint two assessors from those named by the Resource Group. The appointment of the assessors shall occur within twenty four hours of receipt of the Contact Person's report.

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- 6.1.1 The two assessors chosen must be, and be seen to be, independent of the Church authority, the victim and the accused.
- 6.2 At any time prior to or during the assessment, the Contact Person and the assessors may recommend to the Church authority that the accused be asked to stand aside from a particular office or from all offices held in the Church. If only one of these persons makes the recommendation, the Church authority shall seek the opinion of the others before making a decision.
- 6.2.1 If there is seen to be any risk of sexual abuse of other persons, this advice must be given and acted upon by the Church authority at the earliest possible moment.
- 6.2.2 If accused persons are asked to stand aside from any office they hold while the matter is pending, it is to be clearly understood that they are on administrative leave and that no admissions of any kind are implied by this fact alone. Accused persons who are employees shall, therefore, be on full pay while standing aside.
- 6.3 The assessors shall not seek to interview the victim without first discussing the matter with the relevant Contact Person.
- 6.3.1 If the decision is made to seek further statements from the victim, the victim shall be invited to have another person present at the interview (e.g. victim support person or legal representative).
- 6.3.2 Under no circumstances shall there be any attempt to intimidate a victim or to dissuade a victim from proceeding with a complaint.
- 6.3.3 If the complainant is not the victim, the assessors shall seek advice from the complainant, the Contact Person and the Convenor of the Resource Group regarding the wisdom and prudence of seeking to interview the victim.
- 6.3.4 No interview with a child victim will take place if there is the slightest risk that this will interfere with the proper process of civil law. No interview, either by a Contact Person or an assessor, shall be conducted with a child victim without the express written authority and in the presence of the parent or guardian. An interview with a child victim shall only be conducted by personnel who are professionally recognised as skilled practitioners in interviewing children.
- 6.4 The assessors shall inform the accused of the complaint and arrange an interview. Both assessors are to be present for interviews with the accused.
- 6.4.1 The assessors shall inform the accused that in both civil and Church law a person is presumed innocent until proven guilty.

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- 6.4.2 An accused person may be invited to admit to an offence but is not bound to do so, nor may an oath be administered (canon 1728, #2).⁷
- 6.5 The accused has the right to obtain independent legal advice.
- 6.5.1 This advice shall be at the accused's expense. It is not appropriate that a Church authority should indemnify a person for legal expenses relating to alleged criminal behaviour or professional misconduct.
- 6.5.2 An exception to the above rule may be necessary in the case of a member of a religious institute who has taken a vow of poverty.
- 6.6 The accused is entitled to have other persons present during any interviews (e.g. accused's support person, union official or legal representative).
- 6.6.1 Any interview with an employee shall comply with the grievance procedures (if any) of the employment contract.
- 6.6.2 Insofar as they apply, the provisions of canons 1717–1719 regarding the preliminary investigation stage of the penal process, shall be observed.
- 6.7 The assessors shall interview any other persons who could be of assistance.
- 6.8 A written account shall be made of all interviews.
- 6.9 The victim's support person and the accused's support person shall have ready access to the assessors and shall have the responsibility of keeping the victim and accused, respectively, informed of the progress of the assessment.
- 6.10 After the assessment is completed, the assessors shall provide a written report with recommendations to the Church authority. The assessors shall provide a copy of the report to the Contact Person and the Convenor of the Resource Group.
- 6.11 The Church authority shall act on the recommendations of the report as quickly as possible. The Resource Group may be called upon by the Church authority for advice on their implementation.
- 6.12 Mindful that the assessment process is a difficult and trying time for all concerned, particularly the victim and the accused, the process of assessment shall be undertaken as quickly as possible and the process shall be as transparent as possible to all concerned. The Convenor of the Resource Group shall seek to ensure that all parties adhere to this principle.
- 6.13 During the assessment, and therefore, at a time when guilt has been neither admitted

⁷ 'The accused person is not bound to admit to an offence, nor may the oath be administered to the accused.'

nor proven, the issue of guilt, liability or the particular course of action that may follow assessment cannot be commented upon. Any comment regarding these issues must always be referred to the Church authority and its professional advisers.

7. OUTCOMES RELATING TO THE COMPLAINANT AND/OR VICTIM

- 7.1 Following the completion of the assessment process, one of the assessors shall meet with the complainant and express the findings of the assessment.
- 7.2 In the event of proven guilt, whether through admission of the offender or through a finding of a civil court or through a Church assessment, the Church authority and the victim shall mutually agree on a Facilitator from the approved panel.
 - 7.2.1 The Facilitator shall arrange and moderate a meeting between the victim and Church authority (or delegate with power to make binding decisions). Both the victim and Church authority may have one other person present with them.
 - 7.2.2 The Facilitator shall seek to know the ongoing needs of the victim and the response of the Church authority to these needs.
 - 7.2.3 The Facilitator shall also seek to know the needs of the victim's family and of the community in whose midst the abuse occurred.
 - 7.2.4 The Facilitator shall seek to identify any outstanding issues where the victim is not satisfied with the response received and shall explore with both parties the best means of confronting such issues.
 - 7.2.5 The Facilitator shall draw up a record of any agreement reached and of any outstanding areas of disagreement. A copy of this shall be forwarded to the Convenor of the Resource Group and, in doing so, the Facilitator may make any appropriate comments on the reasons for disagreement.
 - 7.2.6 The Church authority shall bear all ordinary and reasonable expenses of the process of facilitation.
- 7.3 If the victim remains of the view that the response of the Church authority is unsatisfactory, the Facilitator shall inform the victim of access to a review of process.

8. A REVIEW OF PROCESS

- 8.1 A review of process is available for complainants who are not satisfied with decisions taken by the relevant Church authority in relation to any aspect of the complaint.

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- 8.2 The review of process is an independent evaluation, not only of whether the procedures set out in this document have been properly observed, but also of whether the principles established in the first part of the document have been adhered to.
- 8.3 A complainant who is dissatisfied with the decisions of a Church authority may request in writing from the Convenor of the Resource Group a review of process.
- 8.4 If the request is accepted, the Convenor shall appoint one of the Reviewers named by the Resource Group.
- 8.4.1 If the request is to be denied, the Convenor must first consult the other members of the Resource Group.
- 8.4.2 If the victim objects to the Reviewer named, the matter shall be considered by the whole Resource Group who shall nominate another Reviewer.
- 8.4.3 The Convenor shall inform the Church authority that a review of process has been requested and approved.
- 8.5 The Reviewer shall determine the procedures for the conduct of the review.
- 8.5.1 The Reviewer shall have authority to interview all Church personnel concerned and will have access to all relevant documentation.
- 8.5.2 The Reviewer shall conduct the review expeditiously and certainly within three calendar months, unless the Convenor provides for a further extension of time.
- 8.6 At the end of the review, the Reviewer shall provide a written report with recommendations to the Convenor of the Resource Group.
- 8.7 The Convenor shall provide a copy of the report to the complainant and the Church authority. As soon as convenient, the Convenor (or delegate if appropriate) shall discuss with all parties the implementation of the recommendations.
- 8.8 The Church authority shall bear all ordinary and reasonable expenses of the review of process.

9. OUTCOMES RELATED TO THE ACCUSED

- 9.1 If the complaint is not resolved, either through the processes of civil law or through a Church assessment, the Church authority must decide whether it is appropriate for the accused to continue in ministry or return to ministry while the doubt remains.

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- 9.1.1 Whenever a risk of abuse to others is feared, or there is likely to be scandal, an accused who is an employee shall be suspended on full pay and a volunteer shall be required to step aside.
- 9.1.2 In the same circumstances, clerics or religious shall take administrative leave, in accordance with the principles of canon 1722,⁸ until the matter is resolved. They shall be provided with a suitable place to live and some useful activity. They shall not engage in any public ministry during this time.
- 9.1.3 These actions do not involve a penalty and do not imply guilt.
- 9.2 If Church authorities are satisfied that an accused is guilty of sexual abuse, they shall take such action as the situation and the seriousness of the offence demand. In relation to serious offences: in the case of an employee, this will mean a process of dismissal from employment; in the case of a volunteer, it will involve a prohibition from being involved in any activity associated with a Church body; in the case of a cleric or religious, it means that they will never be given back the power they have abused, and it can include a request that the person concerned apply to return to the lay state, or even the commencement of a canonical penal process in accordance with canons 1717–1731.
- 9.2.1 If a cleric or religious has admitted to or been convicted of sexual abuse, the Church authority shall, in person or through a nominated representative, meet with the offender to discuss honestly and openly the offender's future options. The offender may wish to be accompanied by a support person and/or legal representative. The discussion shall take into account the seriousness of the offence and all relevant circumstances. It is unfair to hold out to an offender any hope of a return to ministry when it is clear that this will not be possible.
- 9.2.2 The Church authority shall require the offender to address the issue of restitution to the victim and to the Church community.
- 9.3 If a police investigation and/or a Church assessment make it clear that the accused was not guilty of the alleged offence, the Church authority shall take whatever steps are necessary to vindicate the reputation of the accused.
- 9.3.1 In the case of paid employees relevant industrial relations law will be observed.

⁸ 'At any stage of the process, in order to prevent scandal, protect the freedom of the witnesses and safeguard the course of justice, the Ordinary can, after consulting the promotor of justice and summoning the accused person to appear, prohibit the accused from the exercise of the sacred ministry or of some ecclesiastical office and position, or impose or forbid residence in a certain place or territory, or even prohibit public participation in the blessed Eucharist. If, however, the reason ceases, all these restrictions are to be revoked; they cease by virtue of the law itself as soon as the penal process ceases'.

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- 9.4 The Church authority shall inform the Convenor of the Resource Group of all steps taken in relation to an offender.

10. PREVENTIVE STRATEGIES

- 10.1 Each Church authority shall ensure that all Church personnel are made aware of the seriousness of sexual abuse. They should be warned of behaviour that is inappropriate or which might be misunderstood as involving improper sexual behaviour.
- 10.2 Whenever a Church authority is concerned about the behaviour of any person connected to that Church body, this fact should be brought to the attention of that person and appropriate steps taken to determine whether the behaviour is the symptom of a deeper problem requiring attention.
- 10.3 Church personnel who feel that they might be in danger of committing sexual abuse shall be offered opportunities to seek both spiritual and psychological assistance before the problem becomes unmanageable and they offend. Names of suitable therapists and treatment programs should be made available.
- 10.4 Whenever a cleric or religious makes a request to transfer from one diocese or institute to another, or to carry out a ministry or apostolate in another diocese or institute, the appropriate Church authority shall ask for a written statement from the priest or religious that there are no known circumstances that could lead to a complaint of sexual abuse.
- 10.4.1 In these same circumstances the Church authority shall request from the Church authority in the diocese or institute where the cleric or religious previously lived and worked, a statement in writing that such authority is not aware of any circumstances that could lead to a complaint of sexual abuse.
- 10.5 Before candidates are accepted into a seminary or religious institute, they must be asked to state in writing that they are not aware of any circumstances that could lead to a complaint of sexual abuse against them.
- 10.6 While due process must be observed, any incident of proven sexual abuse must lead to the dismissal of a seminarian from a seminary or a candidate from an institute's program of formation.
- 10.7 Church bodies, especially those involved in providing care for children, shall have in place procedures, consistent with good industrial relations practice, for obtaining police checks, for checking references and verifying the suitability of persons for employment or for participation as volunteers.
- 10.8 Church authorities shall be honest and frank in references and shall not act in a way

which would allow an offender to obtain employment in circumstances where others might be at risk.

11. CONCLUDING STATEMENTS

- 11.1 All Church authorities shall take the necessary steps to conduct such in-service programs for Church personnel as may be necessary to inform them of the principles and procedures set down in this document.
- 11.2 While the distribution of this document is unrestricted, the publication of the document, its implementation, and all matters of interpretation are reserved to the National Committee for Professional Standards.
- 11.3 Sexual abuse of both children and adults by Church personnel has done great harm to individuals and to the whole Church. Despite this, it can become an opportunity to create a better Church, on the strict condition that the response given by the leaders and all the members of the Church is humble, honest and thoroughly Christian.

OVERSEAS AGES OF CONSENT

| | MALE/FEMALE | FEMALE/FEMALE | MALE/MALE |
|----------------|-------------|---------------|-----------|
| Austria | 14 | 14 | 18 |
| Belgium | 16 | 16 | 16 |
| Bulgaria | 14 | 18 | 18 |
| Canada | 14 | 14 | 18 |
| Cyprus | 16 | 16 | 18 |
| Czech Republic | 15 | 15 | 15 |
| Denmark | 15 | 15 | 15 |
| Finland | 16 | 18 | 18 |
| France | 15 | 15 | 15 |
| Germany | 16 | 16 | 16 |
| Greece | 15 | 15 | 15 |
| Hungary | 14 | 18 | 18 |
| Iceland | 14 | 14 | 14 |
| Ireland | 17 | - | 17 |
| Italy | 16 | 16 | 16 |
| Latvia | 16 | 18 | 18 |
| Liechtenstein | 14 | 14 | 18 |
| Luxembourg | 16 | 16 | 16 |
| Malta | 12 | 12 | 12 |
| Netherlands | 12 | 12 | 12 |
| New Zealand | 12 | 16 | 16 |
| Norway | 16 | 16 | 16 |
| Poland | 15 | 15 | 15 |
| Portugal | 16 | 16 | 16 |
| Spain | 12 | 12 | 12 |
| Sweden | 15 | 15 | 15 |
| Switzerland | 16 | 16 | 16 |
| Turkey | 18 | 18 | 18 |
| United Kingdom | 16 | 16 | 18 |

This table has been compiled from a number of sources including legislation, direct inquiries and *The Sun-Herald*, 27/7/97, p. 31. The Commission has been able to verify some of the information but it is emphasised that the table provides no more than an overview of ages of consent. In each country the age of consent is affected by legislation regarding type and circumstances of sexual activity and similar matters.

CHILD SEX OFFENCES IN THE CRIMES ACT OF EACH STATE/TERRITORY

The following charts sets out the legislation applicable for child sexual offences in each Australian State/Territory under the following Acts:

Australian Capital Territory - *Crimes Act 1900*

Northern Territory - *Criminal Code Act 1983*

NSW - *Crimes Act 1900*

Queensland - *Criminal Code 1899*

South Australia - *Criminal Law Consolidation Act 1935*

Tasmania - *Criminal Code Act 1924*

Victoria - *Crimes Act 1958*

Western Australia - *Criminal Code Act 1913*

CHILD SEX OFFENCES IN THE CRIMES ACT OF EACH STATE/TERRITORY

| SEXUAL OFFENCES AGAINST OLDER CHILDREN | | | | | | | |
|--|---|--|---|---|---|--|--|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| <p>s92E(2) Intercourse with person <16.</p> <p>s92E(3) Defence: <i>Person consented and defendant believed person was 16 or person is 10 and defendant is not more than 2 years older.</i></p> <p>s92P(1) Consent no defence if offender in relationship of authority.</p> | <p>s129 Intercourse or gross indecency with female <16.</p> <p>s129(2) Increased penalty where offender is an adult, and female <14.</p> <p>s129(3) Defence: <i>Accused believed the female was 16.</i></p> | <p>s61J(1) Sexual intercourse without consent in circumstances of aggravation.</p> <p>ss61J(2)(d+e) The offence occurs in circumstances of aggravation if the victim is a child <16 or offender is in authority.</p> | <p>s208(1) Carnal knowledge by anal intercourse, of or by person who is not an adult.</p> <p>s208(2) Increased penalty if: child <16, child <12, child is lineal descendant or offender in authority.</p> <p>s208(3) Defence: <i>Accused believed that person was an adult.</i></p> | <p>s49(3) Sexual intercourse, person 12 and <17.</p> <p>s49(4) Defence: <i>Person was 16 and accused was either <17 or believed the person to be 17.</i></p> | <p>s124(1) Unlawful sexual intercourse with person <17.</p> <p>s124(2) Defence: <i>Accused believed person was 17.</i></p> <p>s124(3) Consent is a defence if: victim was 15 and accused was not more than 5 yrs older; or victim was 12 and accused was not more than 3 yrs older.</p> <p>s124(5) No defence to anal intercourse.</p> | <p>s46(1) Sexual penetration, child between 10 and 16.</p> <p>Increased penalty if offender in authority.</p> <p>s46(2) Defence: <i>Consent is a defence if: accused believed child was 16, or accused was not more than 2 years older, or accused believed he/she was married to the child.</i></p> | <p>s321(2) Sexually penetrate child 13 and <16.</p> <p>s321(7) Increased penalty if child is under authority of offender. Lower penalty if offender >18 and not in authority.</p> <p>ss321(9+10) Defence: <i>Accused believed child was 16 or was married to the child.</i></p> |
| <p>s92K(2) Act of indecency, person <16.</p> <p>s92K(3) Defence: <i>Person consented and defendant believed person was 16 or person is 10 and defendant is not more than 2 years older.</i></p> <p>s92P(1) Consent no defence if offender in authority.</p> | <p>ss132(2)(a-d) Indecent dealing with child <16.</p> <p>ss132(3+4) Increased penalty if child <12 and/or lineal descendant or under the authority of offender.</p> <p>s132(5) Defence: <i>Accused believed other person to be 16.</i></p> | <p>s61M(1) Assault in circumstances of aggravation with act of indecency.</p> <p>ss61M(3)(b+c) The offence occurs in circumstances of aggravation if the victim is a child <16 or offender is in authority.</p> <p>s77 Defence: <i>If child was <16 and POI's are not both male, these facts can be raised as a defence: Child was >14, consented, and offender believed child was >16.</i></p> | <p>s209(1) Attempted carnal knowledge by anal intercourse of or by person who is not an adult.</p> <p>s209(2) Increased penalty if: child <16, child <12, child is lineal descendant or offender in authority.</p> <p>s209(3) Defence: <i>Accused believed that person was an adult.</i></p> | <p>s56 Indecent assault.</p> <p>Increased penalty if victim <12.</p> <p>s57(1) No person <18 can consent to an indecent assault by a teacher/guardian.</p> <p>s57(3) Consent is a defence if: person is between 16+17 and, the accused was <17 or believed the person was 17.</p> | <p>s127(1) Indecent assault.</p> <p>ss127(2+3) Defence: <i>Accused believed person was >17. Consent is a defence if: victim was 15 and accused was not more than 5 yrs older; or victim was 12 and accused was not more than 3 yrs older.</i></p> | <p>s47(1) Indecent act with/in the presence of, child <16.</p> <p>s46(2) Defence: <i>Consent is a defence if: accused believed child was 16, or accused was not more than 2 years older, or accused believed he/she was married to the child.</i></p> | <p>s321(3) Procure/incite child 13 and <16 to engage in sexual behaviour.</p> <p>s321(7) Increased penalty if child is under authority of offender. Lower penalty if offender >18 and not in authority.</p> <p>ss321(9+10) Defence: <i>Accused believed child was 16 or was married to the child.</i></p> |

| SEXUAL OFFENCES AGAINST OLDER CHILDREN | | | | | | | |
|--|---|---|---|--|---|-----|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | s192(6) Attempted sexual intercourse without consent by an adult offender, person <16. | s61N(1) Act of indecency with/towards, incite act of indecency by, person <16. s77 Defence: <i>If POI's are not both male, these facts can be raised as a defence: Child was >14, consented, and offender believed child was >16.</i> <hr/> s61N(2) Act of indecency with/towards, incite act of indecency by, person 016. s77 Defence: Consent. | ss210(1)(a-d) Indecent dealing with child <16. <hr/> ss210(3+4) Increased penalty if child is <12, child is lineal descendant or offender in authority. s210(5) Defence: <i>Child is 012 and accused believed that child was 016.</i> | s58(1) Commit, incite or procure, act of gross indecency, with/in presence of, person <16. | s127A(1) Aggravated sexual assault. ss127(2+3) Defence: <i>Accused believed person was >17. Consent is a defence if: victim was 015 and accused was not more than 5 yrs older; or victim was 012 and accused was not more than 3 yrs older. Consent no defence to anal intercourse if person <17.</i> | | s321(4) Indecently deal with child 013 and <16. <hr/> s321(8) Increased penalty if child is under authority of offender. Lower penalty if offender >18 and not in authority. ss321(9+10) Defence: <i>Accused believed child was 016 or was married to the child.</i> |
| | s131(1) Attempt to procure child <16 for sexual intercourse or act of gross indecency. <hr/> s131(2) Increased penalty if offender is an adult. s131(3) Defence: <i>Accused believed the other person was 016.</i> | s61O(1) Aggravated act of indecency with/towards person <16. s61O(3)(b) Act occurs in circumstances of aggravation if offender in authority. s77 Defence: <i>If POI's are not both male, these facts can be raised as a defence: Child was >14, consented, and offender believed child was >16.</i> | s215(1) Unlawful carnal knowledge, girl <16. <hr/> ss215(3+4) Increased penalty if the girl is <12 or under offender's care. s215(5) Defence: <i>Child is 012 and accused believed that the girl was 016.</i> | | | | s321(5) Procure/encourage child 013 and <16 to do indecent act. <hr/> s321(8) Increased penalty if child is under authority of offender. Lower penalty if offender >18 and not in authority. ss321(9+10) Defence: <i>Accused believed child was 016.</i> |

| SEXUAL OFFENCES AGAINST OLDER CHILDREN | | | | | | | |
|--|----|--|-----|----|-----|-----|--|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | s61O(1A) Aggravated act of indecency with/towards person ò16. <hr/> s61O(3)(b) Act occurs in circumstances of aggravation if offender in authority. s77 Defence: Consent. | | | | | s324 Indecently assault another person in circumstances of aggravation. <hr/> s319 If victim is a child ò13 and <16, above offence occurs in circumstances of aggravation. |
| | | s61P Attempts to commit offences under ss61I-61O. | | | | | s326 Sexual penetration without consent in circumstances of aggravation. <hr/> s319 If victim is a child ò13 and <16, offence occurs in circumstances of aggravation. |
| | | s66C(1) Sexual intercourse, child ò10 and <16. <hr/> s66D Attempt/assault with intent to commit, s66C(1). s77 Defence: If POI's are not both male, these facts can be raised as a defence: Child was >14, consented, and offender believed child was >16. | | | | | s328 Compel another to engage in sexual behaviour in circumstances of aggravation. <hr/> s319 If victim is a child ò13 and <16, offence occurs in circumstances of aggravation. |

| SEXUAL OFFENCES AGAINST OLDER CHILDREN | | | | | | | |
|--|----|--|-----|----|-----|-----|--|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | s80A(2) Compel, by use of threat, person to engage in self manipulation. <hr/> Increased penalty if person <10. | | | | | s192 Procure woman/girl or man/boy to have unlawful carnal knowledge by the use of threats/drugs or false pretences. |

| SEXUAL OFFENCES AGAINST YOUNG CHILDREN | | | | | | | |
|---|----|--|-----|---|-----|--|--|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| s92E(1) Sexual intercourse with person <10. | | s61M(2) Assault and commit act of indecency, child <10. | | s49(1) Sexual intercourse person <12. | | s45(1) Sexual penetration child <10. | s320(2) Sexually penetrate child <13. |
| s92K(1) Act of indecency, person <10. | | s61O(2) Act of indecency with/towards, incite act of indecency by, person <10. | | | | | s320(3) Encourage/procure child <13 to engage in sexual behaviour. |
| | | s61P Attempts to commit offences under ss61I-O. | | | | | s320(4) Indecently deal with child <13. |
| | | s66A Sexual intercourse, child <10. | | | | | s320(5) Encourage/procure child <13 to do an indecent act. |
| | | s66B Attempt/assault with intent to have sexual intercourse, child <10. | | | | | |

| SEXUAL RELATIONSHIP WITH A CHILD | | | | | | | |
|--|--|-----|---|---|---|--|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| s92EA(2) Maintain sexual relationship with person <16. <hr/> s92EA(6) Penalties for sexual offences increased if committed whilst maintaining relationship. | s131A(2) Unlawful sexual relationship with child <16. <hr/> s131A(4+5) Penalties for sexual offences increased if committed whilst maintaining relationship. s131A(6) Defence: <i>Accused believed other person to be ð16.</i> | | s229B(1) Maintain sexual relationship with child < 16. <hr/> ss229B(1B+1C) Penalties for sexual offences increased if committed whilst maintaining relationship. s229B(1D) Defence: <i>Child ð12 and believed by accused to be ð16 at commencement of relationship.</i> | s74 Persistent sexual abuse of child <16. | s125A(2) Maintaining a sexual relationship with person <17. 125A(5) It is a defence to prove that the accused believed the young person to be >17. | s47A(1) Sexual relationship with child <16 by person in authority. | s321A Have sexual relationship with a child <16. ss321A(7+8) Defence: <i>Accused believed child to be ð16 or was married to the child.</i> |

| SEXUAL OFFENCE BY PERSON IN AUTHORITY | | | | | | | |
|---------------------------------------|----|---|-----|---|-----|--|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | s66C(2) Sexual intercourse, child ð10 and <16 by person in authority. <hr/> s66D Attempt or assault with intent to commit, s66C(2) above. s77 Defence: <i>If POI's are not both male, these facts can be raised as a defence: Child was >14, consented, and offender believed child was >16.</i> | | s49(5) Sexual intercourse by guardian/teacher, of a person <18 in their care. | | s48(1) Sexual penetration of 16 or 17 yo. child, by person in authority. s48(2) Defence: <i>Consent is no defence unless: Accused believed the child was ð18 or that he/she was married to the child.</i> | s322(2) Sexual penetration by person in authority, child ð16. ss322(7+8) Defence: <i>Accused believed child to be ð18 or was married to the child.</i> |

| SEXUAL OFFENCE BY PERSON IN AUTHORITY | | | | | | | |
|---------------------------------------|----|--|-----|----|-----|---|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | s73 Carnal knowledge by teacher/father of girl who is pupil/daughter, aged 16 and <17. | | | | s49(1) Indecent act with/in presence of, child 16 yo. by person in authority. s49(2) Defence: <i>Consent no defence unless: Accused believed child was 17 or that he/she was married to the child.</i> | s322(3) Procure/ encourage to engage in sexual behaviour by person in authority, child 16. ss322(7+8) Defence: <i>Accused believed child to be 18 or was married to the child.</i> |
| | | s74 Attempt or assault with intent to have, carnal knowledge by teacher/father of girl who is pupil/daughter, aged 16 and <17. | | | | s60(1) Solicit/encourage child <18 to take part in sexual penetration or indecent acts, by person in authority. | s322(4) Indecent dealing by person in authority, child 16. ss322(7+8) Defence: <i>Accused believed child to be 18 or was married to the child.</i> |
| | | | | | | | s322(5) Procure/encourage to do indecent act, by person in authority, child 16. ss322(7+8) Defence: <i>Accused believed child to be 18 or was married to the child.</i> |

| OFFENCES SPECIFIC TO HOMOSEXUAL ACTS BY MALES | | | | | | | |
|---|---|--|-----|----|-----|-----|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | s127(1) Sexual intercourse or gross indecency by males in public. s127(2) Increased penalty if the offender is an adult + other male is <14. | s78H Homosexual intercourse, male <10. | | | | | s322A(2) Male who sexually penetrates or allows sexual penetration by male 16 and <21. s322A(4) Defence: <i>Accused believed that juvenile male was 16.</i> |
| | s128(1) Sexual intercourse/act of gross indecency by male, with another male who is not an adult, in private. s128(2) Increased penalty if the offender is an adult and the other male is <14. s128(3) Defence: <i>Accused believed that the other male was an adult.</i> | s78I Attempt/assault with intent to have, homosexual intercourse, male <10. | | | | | s322A(3) Male who indecently deals with or procures indecent dealing by, male 16 and <21. s322A(4) Defence: <i>Accused believed that juvenile male was 16.</i> |
| | | s78K Homosexual intercourse, male 10 and <18. | | | | | |
| | | s78L Attempt/assault with intent, to have homosexual intercourse, male 10 and <18. | | | | | |

| OFFENCES SPECIFIC TO HOMOSEXUAL ACTS BY MALES | | | | | | | |
|---|----|---|-----|----|-----|-----|----|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | s78N Homosexual intercourse by teacher/father with male who is his pupil/son aged 10 and <18. | | | | | |
| | | s78O Attempt to have homosexual intercourse by teacher/father with male who is his pupil/son aged 10 and <18. | | | | | |
| | | s78Q(1) Act of gross indecency by male with/towards male <18. | | | | | |
| | | s78Q(2) Solicit/advise male <18 to commit homosexual intercourse/act of gross indecency towards male. | | | | | |
| | | s78R Consent no defence to ss78H, I, K, L, M, N, O, or Q. | | | | | |

| OFFENCES SPECIFIC TO RELATIVES | | | | | | | |
|---|---|--|--|---|---|---|--|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| s92L(1) Sexual intercourse with person <10, who is a lineal descendant, sister, half-sister, brother, half brother or step-child. | s134(1) Sexual intercourse with female who is his daughter, lineal descendant, sister, mother. | s78A Incest, male with female ð16 who is his: mother, sister, daughter, granddaughter/or female ð16 with male who is her: grandfather, father, brother, son. s78C(1) Defence: Offender did not know he/she was related. | s222(1) Carnal knowledge by person of woman/girl who is his daughter, lineal descendant, mother or sister. s222(2) Attempt s222(1) above. | s72 Sexual intercourse by persons who are related either as parent and child or brother and sister. | s133(1) Knowingly have sexual intercourse with person who is a lineal relative. | s44(1) Sexual penetration with person who is their child, lineal descendant or step-child. s44(6) Defence: Person charged took part under coercion of other party. | s329(2) Sexually penetrate child who is a lineal relative/de facto. s329(9) Increased penalty if child is <16. |
| s92L(2) Sexual intercourse with person <16, who is a lineal descendant, sister, half-sister, brother, half brother or step-child. s92L(5): A person shall not be convicted under this section if acting, at the time of offence, under coercion. | s135(1) Adult female who allows her father, lineal ancestor, brother, son to have sexual intercourse with her. s135(2) Defence: Female was acting under coercion. | s78B Attempted incest by male. s78C(1) Defence: Offender did not know he/she was related. | s223(1) Woman/girl ð18 who permits her father, lineal ancestor, brother or son to have carnal knowledge of her. s223(2) Defence: Woman/girl acting under coercion. | | s133(2) Person ð16 who has sexual intercourse with a person knowing them to be a lineal relative. | s44(2) Sexual penetration with person <18 who is the child, lineal descendant or step-child of his/her de facto spouse. s44(6) Defence: Person charged took part under coercion of other party. | s329(3) Procure/encourage child who is a lineal relative/de facto to engage in sexual behaviour. s329(9) Increased penalty if child is <16. |
| s92L(3) Sexual intercourse with person ð16, who is a lineal ancestor, lineal descendant, sister, half-sister, brother or half brother. s92L(5): A person shall not be convicted under this section if acting, at the time of offence, under coercion. | | | | | | s44(3) Sexual penetration by person ð18, with father, mother, lineal ancestor, step-father, step-mother. s44(6) Defence: Person charged took part under coercion of other party. | s329(4) Indecently deal with child who is a lineal relative/de facto. s329(10) Increased penalty if child is <16. |

| OFFENCES SPECIFIC TO RELATIVES | | | | | | | |
|--------------------------------|----|-----|-----|----|-----|--|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | | | | | s44(4) Sexual penetration with person who is their sister/half sister or brother/half brother. s44(6) Defence: <i>Person charged took part under coercion of other party.</i> | s329(5) Procure/encourage child who is a lineal relative/de facto to do an indecent act. <hr/> s329(10) Increased penalty if child is <16. |
| | | | | | | | ss329(7+8) Sexual penetration of or by, person ò18 who is a lineal relative. |

| PORNOGRAPHY OFFENCES | | | | | | | |
|---|---|---|--|----|-----|-----|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| s92NA(1) Employ person <16 for pornographic purposes. | s125B(1) Possess child porn. <hr/> s125B(2) Sell/offer/advertise, child porn. s125B(5) Defence: <i>Defendant did not know material was classified RC or person depicted had attained the age of 16.</i> | s91G(1) Employ/cause/procure or consent to use of, child for porn. <hr/> Increased penalty if child <14. | ss210(1)(e+f) Record/expose to pornography, child <16. <hr/> ss210(3+4) Increased penalty if: child <12, is lineal descendant or under offender's authority. s210(5) Defence: <i>Child is ò12 and accused believed that person was ò16.</i> | | | | s204A(2) Show pornography to child <16 with intent to commit a crime. s204A(4) Defence: <i>Accused believed child to be ò16.</i> |

| PORNOGRAPHY OFFENCES | | | | | | | |
|---|--|--|---|----|-----|-----|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| s92NB(1) Possess child porn. s92NB(2) Defence: <i>Defendant believed person depicted was not <16.</i> | s125C Publish indecent article/child porn. | s578B(2) Possess child porn. 578B(5) Defence: <i>Defendant did not know material was/would be classified RC or person depicted in material was <16.</i> | s228(1) Publicly sell/expose/exhibit obscene material/exhibitions. <hr/> ss228(2+3) Increased penalties if material/exhibition depicts/appears to depict, child <16, child <12. s228(4) Defence: <i>Act was for public benefit and should be done.</i> | | | | s320(6) Indecently record a child <13. |
| | s125D Directors of a body corporate can be convicted individually for child porn offences. | | | | | | s321(6) Indecently record child <13 and <16. <hr/> s321(8) Increased penalty if child under authority of offender. Lower penalty if offender >18 and not in authority. ss321(9+10) Defence: <i>Accused believed child was <16 or was married to the child</i> |

| PORNOGRAPHY OFFENCES | | | | | | | |
|----------------------|--|-----|-----|----|-----|-----|--|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | <p>s132(2)(e) Exposes child <16 to porn.</p> <hr/> <p>ss132(3+4) Increased penalty if child <12, lineal descendant or under authority of offender. s132(5) Defence: Accused believed other person to be ò16.</p> | | | | | | <p>s322(6) Indecently record child ò16 by person in authority. ss322(7+8) Defence: Accused believed child to be ò18 or was married to the child.</p> |
| | <p>s132(2)(f) Record an indecent visual image of child <16.</p> <hr/> <p>ss132(3+4) Increased penalty if child <12 and/or lineal descendant or under the authority of offender. s132(5) Defence: Accused believed other person to be ò16.</p> | | | | | | <p>s329(6) Indecently record child who is a lineal relative/de facto.</p> <hr/> <p>s329(10) Increased penalty if child is <16.</p> |

| AID AN OFFENCE AGAINST A CHILD | | | | | | | |
|--------------------------------|--|---|--|---|--|---|---|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | s201 Entice away or detain child <16 for immoral purposes. | s87 Take away/detain female <21 against the will of person with lawful charge of her, with intent to marry or carnally know. | s213 Owner/occupier who allows child <16 to be sexually abused on premises. ie. ss 208, 210, 215. s213(3) Increased penalty, child <12. s213(4) Defence: Act falls under ss210 or 215, child is ð12, and accused believed child was ð16. | | s125 Owner/occupier, permit person <17 to be on premises for purpose of unlawful sexual intercourse. | s49A Facilitating sexual offences against children by organising travel etc. within Vic. | s186(1) Owner/occupier allowing girl<16/male <21, to be on premises for purpose of carnal knowledge. Increased penalty if the person is <13. s186(2) Defence: Accused believed girl was ð16 or that male was ð21. |
| | | s91D Participate/cause to participate in prostitution, child <18. Increased penalty if child <14. s91D(2) Defence: Except where POI's are both male, these facts may be raised as a defence: Child is not <14, consented, and offender believed person was ð18. | s217 Procure person who is not an adult or who is intellectually impaired to engage in carnal knowledge. | s58a Procure for prurient purpose, indecent act by child <16. | | s54 Owner/occupier/management, allowing child <17 to be on premises for purpose of sexual penetration. Increased penalty if child <13. | s191 Procure girl/woman, man/boy, <21 to have unlawful carnal connection with a man or to be a prostitute. |
| | | s91E Obtain benefit from child prostitution, child <18. | s218(1) Procure person to engage in a sex act by threat/false pretence/drugs. s218(2) Increased penalty if victim is a child <16 or an intellectually impaired person. | s65 Owner/occupier allowing/inducing, person <17 to be on premises for purpose of sexual intercourse. | | s56(1) Take away child <16 for the purpose of sexual penetration. s56(2) Cause a child <16 to be taken away for the purpose of sexual penetration. | s195 Owner/occupier/ manager, allowing boys <18 to resort to brothels to unlawfully carnally know girl/woman. |

| AID AN OFFENCE AGAINST A CHILD | | | | | | | |
|--------------------------------|----|---|--|----|-----|--|----|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | s91F Owner/occupier, allow premises to be used for child prostitution, child <18. ss91F(3)(a,b+c) Defence: <i>Owner/occupier did not know about the act, or that the act was one of child prostitution, or used all diligence to prevent the child from participating.</i> | s219(1) Taking/enticing away child <16 for immoral purposes. ie. ss 208, 210, 215. <hr/> s219(3) Increased penalty if child is <12. s219(4) Defence: <i>Prescribed act falls under ss210 or 215, child is ð 12, and accused believed child was ð 16.</i> | | | s58(1) Procure child <16 to take part in sexual penetration. <hr/> s58(2) Procure another person to take part in sexual penetration with a child <16. | |
| | | | s221(1) Conspire to induce woman/girl, by fraudulent means, to permit any man to have carnal knowledge of her. | | | | |
| | | | s229G Procuring a person to engage in prostitution. <hr/> s229G(2) Increased penalty if the person is not an adult or is intellectually impaired. | | | | |

| AID AN OFFENCE AGAINST A CHILD | | | | | | | |
|--------------------------------|----|-----|--|----|-----|-----|----|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | | s229H(1) Knowingly participate in the provision of prostitution by another person. s229H(2) Increased penalty if the offender is aware that the provider is not an adult or is intellectually impaired. | | | | |
| | | | s229I Be in a place of suspected prostitution. s229I(2) Increased penalty if the offender is aware of a person in the place who is not an adult/is intellectually impaired. | | | | |
| | | | s229K Having an interest in premises used for prostitution. s229K(3) Increased penalty if a person who is not an adult/is intellectually impaired, is in premises. | | | | |

| AID AN OFFENCE AGAINST A CHILD | | | | | | | |
|--------------------------------|----|-----|---|----|-----|-----|----|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | | s229L Permitting a person who is not an adult/is intellectually impaired, to be at a place of prostitution. | | | | |

| MISCELLANEOUS | | | | | | | |
|---------------|----|---|-----|----|-----|--|----|
| ACT | NT | NSW | QLD | SA | TAS | VIC | WA |
| | | s77A Court may decide in certain cases to hold proceedings in camera. eg. ss 66,73,74, 78N, 78O, 78Q, 91D-G. | | | | s60B Person convicted of certain offences may not loiter near school/place regularly frequented by children. | |
| | | s78F(2) All proceedings under ss78A+B (incest) shall be held in camera. | | | | | |
| | | 578D Police may apply for, and be supplied with, a search warrant to enter and search a premises for evidence of an offence under s578B (child porn). | | | | | |

INTERSTATE LEGISLATION REGARDING THE INTERNET

CENSORSHIP ACT 1996 (WA)

Objectional material: offences

101. (1) A person must not use a computer service to -
- a) transmit an article knowing it to be objectionable material;
 - b) obtain possession of an article knowing it to be objectionable material;
 - c) demonstrate an article knowing it to be objectionable material;
 - d) advertise that objectionable material is available for transmission; or
 - e) request the transmission of objectionable material knowing it to be objectionable material.

Penalty:

- a) in the case of an individual, \$15 000 or imprisonment for 18 months;
 - b) in any other case, \$75 000.
- (2) It is a defence to a charge of an offence against this section to prove that the article concerned is -
- a) an article of recognised literary, artistic or scientific merit; or
 - b) a *bona fide* medical article;
- and that transmitting, obtaining possession of, demonstrating, advertising, or requesting the transmission of, the article is justified as being for the public good.

Restricted Material: offences

- 102 (1) A person must not use a computer service to transmit restricted material to a minor.

Penalty:

- a) in the case of an individual, \$5 000 or imprisonment for 6 months;
 - b) in any other case \$25 000.
- (2) A person must not use a computer service to make restricted material available to a minor.

Penalty:

- a) in the case of an individual, \$5 000 or imprisonment for 6 months;
- b) in any other case, \$25 000.

- (3) It is a defence to a charge of an offence against subsection (1) or (2) to prove that -
- a) the defendant complied with a code of practice;
 - b) the defendant took all reasonable steps in the circumstances to avoid a contravention of the subsection; or
 - c) the defendant believed on reasonable grounds that -
 - i. the person to whom the defendant transmitted the restricted material was not a minor; or
 - ii. the restricted material would not be made available to a minor.

Definitions

“**article**” includes:

- a) a publication;
- b) a film;
- c) a computer programme and associated data;
- d) a photograph;
- e) an object;
- f) a sound recording; and
- g) an advertisement for any article;

“**child pornography**” means an article that describes or depicts, in a manner that is likely to cause offence to a reasonable adult, a person who is, or who looks like, a child under 16 years of age (whether the person is engaged in sexual activity or not);

“**computer game**” means a computer programme and associated data capable of generating a display on a computer monitor, television screen, liquid crystal display or similar medium that allows the playing of an interactive game, but does not include -

- a) an advertisement for a publication, a film or a computer game;
- b) business, accounting, professional, scientific or educational computer software unless the software contains a computer game that would be likely to be classified MA (15+) or RC;

“**computer generated image**” means an image (including an image in the form of text) produced by use of a computer on a computer monitor, television screen, liquid crystal display or similar medium from electronically recorded data;

“**computer service**” means a service provided by or through the facilities of a computer communication system allowing -

- a) the input, output or examination of computer data or computer programmes;
- b) the transmission of computer data or computer programmes from one computer to another; or
- c) the transmission of data or computer programmes from a computer to a terminal device;

“film” includes a cinematographic film, a slide, video tape and video disc and any other form of recording from which a visual image, including a computer generated image, can be produced, but does not include

- a) a computer game;
- b) an advertisement for a publication a film or a computer game; or
- c) a recording for business, accounting, professional, scientific or educational purpose unless it contains a visual image that would be likely to cause the recording to be classified MA, R, X, or RC;

“minor” means a person who is under 18 years of age;

“objectionable material” means -

- a) a film classified RC, a computer game classified RC, a refused publication;
- b) child pornography;
- c) an article that promotes crime or violence, or incites or instructs in matters of crime or violence; or
- d) an article that describes or depicts, in a manner that is likely to cause offence to a reasonable adult
 - i. the use of violence or coercion to compel any person to participate in, or submit to, sexual conduct;
 - ii. sexual conduct with or upon the body of a dead person;
 - iii. the use of urine or excrement in association with degrading or dehumanizing conduct or sexual conduct;
 - iv. bestiality;
 - v. acts of torture or the infliction of extreme violence or extreme cruelty;

“publication” means any written or pictorial matter, but does not include -

- a) a film;
- b) a computer game; or
- c) an advertisement for a film or computer game;

“publish” includes sell, exhibit, display and demonstrate;

“restricted material” means an article that a reasonable adult, by reason of the nature of the article, or the nature or extent of references in the article, to matters of sex, drug misuse or addiction, crime, cruelty, violence or resulting or abhorrent phenomena, would regard as unsuitable for a minor to see, read or hear.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) (ENFORCEMENT) ACT 1995 (Vic)

PART 6 - ON-LINE INFORMATION SERVICES

56. Definitions

In this Part -

“material unsuitable for minors of any age” means -

- a) objectionable material; or
- b) a film that is classified R or would, if classified, be classified R; or
- c) a publication that is classified Category 1 restricted or Category 2 restricted, or would, if classified, be classified Category 1 restricted or Category 2 restricted;

“material unsuitable for minors under 15” means -

- a) a film that is classified MA or would, if classified, be classified MA; or
- b) a computer game that is classified MA (15+) or would, if classified, be classified MA(15+);

“objectionable material” means -

- a) an objectionable publication; or
- b) an objectionable film; or
- c) a computer game that -
 - (i) depicts, expresses or otherwise deals with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that it offends against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it should not be classified; or
 - (ii) describes or depicts a person who is, or looks like, a minor under 16 engaging in sexual activity or depicted in an indecent sexual manner or context; or
 - (iii) promotes, incites or instructs in matters of crime or violence; or
 - (iv) is unsuitable for a minor to see or play; or
 - (v) is classified RC or would, if classified, be classified RC;

“on-line information service” means a service which permits, through a communication system, on-line computer access to or transmission of data or computer programs.

57. Publication or transmission of objectionable material

- (1) A person must not use an on-line information service to publish or transmit, or make available for transmission, objectionable material.
Penalty: 240 penalty units or imprisonment for 2 years.
- (2) It is a defence to a prosecution for an offence against sub-section (1) to prove that the defendant believed on reasonable grounds that the material was not objectionable material.
- (3) Sub-section (1) does not apply to a person who provides an on-line information service or a telecommunication service unless the person creates or knowingly downloads or copies objectionable material.

58. Publication or transmission of certain material to minors

- (1) A person must not use an on-line information service to publish or transmit, or make available for transmission, to a minor material unsuitable for minors of any age.

Penalty:

- (a) if the material is objectionable material - 240 penalty units or imprisonment for 2 years;
 - (b) in any other case - 60 penalty units or imprisonment for 6 months.
- (2) It is a defence to a prosecution for an offence against sub-section (1) to prove that -
- (a) the defendant -
 - (i) did not know and could not reasonably have known that the person to whom the material was published or transmitted or made available for transmission was a minor; and
 - (ii) had taken reasonable steps to avoid publishing or transmitting, or making available for transmission, the material to a minor; or
 - (b) the defendant believed on reasonable grounds that the material was not material unsuitable for minors of any age.
- (3) Sub-section (1) does not apply to a person who provides an on-line information service or a telecommunication service unless that person knowingly publishes, transmits or makes available for transmission to a minor material unsuitable for minors of any age.
- (4) A person must not use an on-line information service to publish or transmit, or make available for transmission, material to a minor under 15 knowing it to be material unsuitable for minors under 15.
- (5) It is a defence to a prosecution for an offence against sub-section (4) to prove that -
- (a) the defendant believed on reasonable grounds that the parent or guardian of the minor had consented to the material being published or transmitted, or made available for transmission, to the minor; or
 - (b) the defendant -
 - (i) did not know and could not reasonably have known that the person to whom the material was published or transmitted, or made available for transmission, was a minor under 15; and
 - (ii) had taken reasonable steps to prevent publishing or transmitting, or making available for transmission, the material to a minor under 15.
- (6) Sub-section (4) does not apply to a person who provides an on-line information service or a telecommunication service unless the person knowingly publishes, transmits or makes available for transmission to a minor under 15 material unsuitable for minors under 15.

59. Advertising for objectionable material etc.

A person must not -

- (a) publish an advertisement or notice; or
- (b) transmit, or make available for transmission, on an on-line information service an advertisement or notice; or
- (c) knowingly allow an on-line information service to be used for publishing or transmitting, or making available for transmission, an advertisement or notice -

that objectionable material is available for on-line computer access.

Penalty: 240 penalty units or imprisonment for 2 years.

CLASSIFICATION OF PUBLICATIONS, FILMS AND COMPUTER GAMES ACT 1985 (NT)

PART VII - COMPUTER SERVICES

50X. DEFINITION

In this Division -

“code of practice” means a code of practice, as amended from time to time, approved and published under section 50Y;

“computer service” means a service provided by or through the facilities of a computer communication system allowing -

- (a) the input, output or examination of computer data or computer programmes;
- (b) the transmission of computer data or computer programmes from one computer to another; or
- (c) the transmission of computer data or computer programmes from a computer to a terminal device;

“objectionable material” means -

- (a) a film classified RC, a computer game classified RC or a refused publication;
- (b) child pornography;
- (c) an article that promotes crime or violence, or incites or instructs in matters of crime or violence; or
- (d) an article that describes or depicts, in a manner that is likely to cause offence to a reasonable adult -
 - (i) the use of violence or coercion to compel a person to participate in, or submit to, sexual conduct;
 - (ii) sexual conduct with or on the body of a dead person;
 - (iii) the use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct;
 - (iv) bestiality; or
 - (v) acts of torture or the infliction of extreme violence or extreme cruelty;

“restricted material” means an article that a reasonable adult, by reason of the nature of the article or the nature and extent of references in the article to matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena, would regard as unsuitable for a minor to see, read or hear.

50Y. CODES OF PRACTICE

- (1) The Minister may approve a code of practice relating to computer services.
- (2) The Minister shall cause a copy of a code of practice approved under subsection (1) to be published in the *Gazette*.
- (3) The Minister may approve an amendment of a code of practice and on publication in the *Gazette* of the approved amendment the code is taken to be amended accordingly.
- (4) The Minister may, by notice in the *Gazette*, revoke the approval of a code of practice.

50Z. OBJECTIONABLE MATERIAL

- (1) A person shall not use a computer service to -
 - (a) transmit an article knowing it to be objectionable material;
 - (b) obtain possession of an article knowing it to be objectionable material;
 - (c) demonstrate an article knowing it to be objectionable material;
 - (d) advertise that objectionable material is available for transmission; or
 - (e) request the transmission of objectionable material.

Penalty: \$10,000.

- (2) It is a defence to a prosecution for an offence against subsection (1) to prove that the article concerned is -
- (a) an article of recognised literary, artistic or scientific merit; or
 - (b) a *bona fide* medical article,
- and the transmission, obtaining possession of, demonstrating, advertising, or requesting the transmission of, the article is justified as being for the public good.

50ZA. RESTRICTED MATERIAL - OFFENCES

- (1) A person shall not use a computer service to transmit restricted material to a minor.
Penalty: \$10,000.
- (2) A person shall not use a computer service to make restricted material available to a minor.
Penalty: \$10,000.
- (3) It is a defence to a prosecution for an offence against subsections (1) or (2) to provide that the defendant -
- (a) complied with a code of practice;
 - (b) took all reasonable steps in the circumstances to avoid a contravention of the subsection; or
 - (c) believed, on reasonable grounds, that -
 - (i) the person to whom the defendant transmitted the restricted material was not a minor; or
 - (ii) the restricted material would not be made available to a minor.

INTERAGENCY GUIDELINES FOR CHILD PROTECTION INTERVENTION

The following Interagency Guidelines for Child Protection Intervention were produced by the NSW Child Protection Council (second edition February 1997) at the Premier's initiative and after consultation with all relevant agencies.

PRINTER TO INSERT ENTIRE

INTERAGENCY GUIDELINES

FROM THIS PAGE ONWARDS TO END OF REPORT.

NSW Child Protection Council

Interagency Guidelines

FOR

Child Protection Intervention

Second Edition

New South Wales Child Protection Council

The Council comprises community members with expertise in child protection and representatives of key government agencies responsible for the care and protection of children, the apprehension and prosecution of offenders and the prevention of child abuse and neglect in the community.

Role

It is the role of the Council to provide advice to the New South Wales Government, through the Minister for Community Services, on matters related to child protection and to promote cooperation across both government and non-government agencies in responding to child abuse and neglect. Also the Council has a role in preventing child abuse and provides training and community education in the area of child protection.

Key responsibilities

The key responsibilities are to:

- ❖ monitor, review and provide advice to the New South Wales Government on child protection and the prevention of child abuse and neglect
- ❖ coordinate, implement and monitor strategies which improve interagency cooperation in child protection
- ❖ develop and implement educational and prevention programs for government and non-government agencies and the community aimed at protecting children.

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|----------------------------|---|
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Premier's Foreword



There is no more important test for judging our society than how it values and cares for children. Protection of children from abuse and neglect is a moral and ethical imperative. Accordingly it has been given high priority by the New South Wales Government.

The complexity of the problem of child abuse and neglect demands action by a number of different agencies and professions. It is when the combined efforts of all the relevant Departments of the NSW Government and non-government agencies are joined with the skills and resources of the community sector that proper action will be taken to effectively intervene when child abuse and neglect occurs.

It is vital we achieve a united approach across all agencies in their work to protect children. The Government's view is clear: no one agency acting alone can effectively ensure that children receive adequate protection. It is only through combining the efforts of all who share the common aim to protect children that we will succeed.

For this reason, the NSW Government fully endorses the interagency approach which forms the cornerstone of this revision of the Interagency Guidelines.

The Guidelines have been adopted by all New South Wales Government departments and agencies involved in child protection intervention.

The Guidelines have been produced following a thorough process of deliberation and review conducted by the NSW Child Protection Council. Ideas to improve coordinated effort have been provided by those with expertise in the field.

Also, careful consideration has been given to the practical experience gained since the release in 1984 of the report of the NSW Child Sexual Assault Task Force and the publication in 1991 by the NSW Child Protection Council of the first edition of Interagency Guidelines.

The task now is to put these Guidelines into practice. This will require commitment and goodwill.

Clearly these Interagency Guidelines for Child Protection Intervention represent just one of a number of important initiatives of Government in the area of child protection.

The NSW Government acknowledges the commitment and dedication of those who work to protect children. These Guidelines aim to assist them in that work so that through the interagency approach, the best possible decisions are made about a child's safety and future needs.



Bob Carr
Premier

Child Protection – The NSW Government Commitment

The NSW Government believes that one of the primary concerns of any community should be the health and wellbeing of its children. Children should be able to grow up in an environment which enables them to develop physically, intellectually and socially in conditions of freedom and dignity.

The NSW Government is committed to a coordinated and comprehensive response to promote the protection of children. Effective child protection incorporates community action to:

- ❖ prevent and reduce the abuse and neglect of children in the community
- ❖ provide support to families experiencing difficulties
- ❖ respond to notifications so that the safety of children is ensured and appropriate support is provided
- ❖ ensure offenders are appropriately sanctioned.

The Government recognises that there are common features which enable consistent procedures to be developed and implemented within a best practice framework. It also recognises that physical abuse, emotional abuse, neglect and child sexual assault will require different responses.

Principles for child protection intervention

The NSW Government has adopted the following principles which will underpin its child protection policies and the development of individual agency policies, practice and procedures:

- ❖ the safety, welfare and wellbeing of the child are paramount
- ❖ families will be given the opportunity to appropriately participate in decision making for the protection of children
- ❖ professionals and agencies are responsible for ensuring that children are the focus of procedures

- ❖ intervention should aim to secure the safety of the child with their own family. In all cases, appropriate links between the child and the family must be maintained
- ❖ intervention requires sensitivity to issues of age, gender, sex, race, culture, language, religion, disability, sexuality and location.

Outcomes for child protection intervention

The NSW Government has adopted this policy to ensure the following outcomes:

- 1 NSW Government agencies working in partnership with each other, with non-government organisations and with families to ensure the safety, welfare and wellbeing of children.
- 2 Agencies recognise, accept and understand the roles, responsibilities and practices of other relevant agencies to ensure best practice.
- 3 Agencies implement policies and practices, individually and in cooperation, which ensure that staff are appropriately screened, qualified, trained and supervised so that best practice can be achieved.

Roles and Responsibilities

The NSW Government has adopted the following roles and responsibilities for the main Government agencies (including the Child Protection Council):

Lead responsibility

The Department of Community Services is the agency with lead responsibility in child protection because it is the agency charged by law with responsibility for the care and protection of children. The Department has wide powers to enable it to carry out this responsibility on behalf of the community. While other agencies have key roles in aspects of child protection, the Department has the responsibility and legal mandate to ensure a child's safety, care and welfare.

It is these responsibilities for the child, whose interests are of paramount consideration in all child protection intervention, which mean that the Department of Community Services has lead responsibility in child protection. This lead responsibility does not detract from all agencies working together to protect children.

Department of Community Services

Role

The role of the Department of Community Services in child protection is prescribed by the *Children (Care and Protection) Act 1987*. The role includes receiving and assessing notifications of suspected child abuse and neglect, investigating those notifications where the wellbeing of the child is in question, ensuring the safety of children, meeting the ongoing needs of children for care and nurturing and their families' needs for assistance and support in conjunction with other services, initiating care proceedings in the Children's Court and arranging out-of-home care on a temporary basis to enhance family functioning or on a longer term basis where required.

Key responsibilities

The key responsibilities are to:

- ❖ ensure all relevant staff are aware of the indicators of child abuse and neglect, their obligation to notify suspected child abuse and neglect, and procedures for notification
- ❖ receive and assess all notifications of alleged child abuse and neglect
- ❖ investigate allegations of child abuse and neglect
- ❖ refer to the police suspected criminal offences
- ❖ undertake assessments of the needs of the child and family
- ❖ inform the notifying agency of the progress and outcome of assessments and investigations
- ❖ work with other agencies within agreed arrangements, to plan and provide services in order to protect the child and support the family
- ❖ provide services to meet the needs of children and their families for care and support
- ❖ prepare evidence and initiate care proceedings before Children's Courts

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- ❖ arrange placement and follow-up of children in substitute care
 - ❖ offer appropriate ongoing intervention to children and families where abuse has occurred
 - ❖ provide training for staff in the recognition of suspected child abuse and neglect and the implementation of the Department's child protection policy and procedures
 - ❖ develop, implement or undertake educational and preventative programs aimed to protect children.

New South Wales Police Service

Role

The role of the New South Wales Police Service in child protection is to detect and investigate alleged child abuse and neglect and to initiate legal proceedings, when appropriate, against an alleged offender when these allegations constitute an offence under the *Crimes Act 1900* or an offence under the *Children (Care and Protection) Act 1987*.

Key responsibilities

The key responsibilities are to:

- ❖ ensure all police officers are aware of the indicators of child abuse and neglect, their obligations to detect and investigate allegations of child abuse and neglect, and procedures for notification
- ❖ ensure all police are aware of their powers and obligations in relation to the protection of children through the use of Apprehended Violence Orders
- ❖ conduct all investigations on the basis that the safety and welfare of the child are paramount
- ❖ plan investigations in collaboration with other relevant agencies
- ❖ inform other relevant agencies of the progress and outcome of investigations and any summary criminal proceedings
- ❖ work with other agencies within agreed arrangements, to plan and provide services in order to protect the child and support the family

- ❖ police to provide information to the Pre-Trial Diversion of Offender's Program
- ❖ provide training for staff in the recognition of suspected child abuse and neglect and the implementation of the Police Service's child protection policy and procedures
- ❖ provide information to other relevant agencies to assist in the monitoring and review of protective services for children.

NSW Health

Role

The role of NSW Health in child protection is to identify and notify suspected child abuse and neglect and to provide treatment, crisis counselling and ongoing counselling and medical examinations. NSW Health also provides a range of other health services for children and families affected by child abuse or neglect. Preventative and educational programs for health workers and the community are provided.

Key responsibilities

The key responsibilities are to:

- ❖ ensure all health workers of NSW Health are aware of the indicators of child abuse and neglect, their obligations to notify suspected child abuse and neglect, and procedures for notification
- ❖ provide medical examinations including a developmental assessment for children where there is an allegation of physical or sexual abuse or neglect
- ❖ provide psycho-social/psychiatric and developmental assessment of children suspected of emotional abuse or neglect
- ❖ provide services for the medical treatment of children suspected of abuse and abused and neglected children
- ❖ provide crisis and ongoing counselling and advocacy services for children who have been sexually abused and their non-offending caregivers at Sexual Assault Services, and provide counselling

for eligible offenders through the Pre-Trial Diversion of Offender's Program

- ❖ provide crisis and ongoing counselling for children who have been physically abused, emotionally abused or neglected and their families
- ❖ provide court preparation and support to child victims of abuse and their non-offending caregiver
- ❖ work with other agencies within agreed arrangements, to plan and provide services in order to protect the child and support the family
- ❖ provide preventative programs, including early intervention services to the community, which aim to protect children
- ❖ provide training for staff in the recognition of suspected child abuse and neglect and the implementation of the Department's child protection policy and procedures
- ❖ provide educational programs regarding child abuse to health care workers, other relevant agencies and the community.



Any medical practitioner, including all general practitioners, are also required by law to notify if they suspect, on reasonable grounds, that a child who is under the age of 16 years has been abused.

Office of the Director of Public Prosecutions

Role

The role of the Office of the Director of Public Prosecutions in child protection is to prosecute, on behalf of the State, all criminal proceedings for child sexual assault offences and serious offences involving violence against children in the Children's, Local, District and Supreme Courts and any appeals or related ancillary proceedings.

Key responsibilities

The key responsibilities are to:

- ❖ on request, provide advice to the police as to the sufficiency of available evidence, the appropriateness of charges and recommend whether or not charges should be laid

- ❖ after charges are laid, screen each brief of evidence provided by the police and allocate to an appropriate lawyer to prosecute or to brief and instruct a Crown Prosecutor
- ❖ conduct the prosecution
- ❖ provide support and information through its Witness Assistance Service to the child victim and caregiver on court processes, procedures and progress of the prosecution
- ❖ inform the child victim, where appropriate, or caregiver of the progress of the proceedings at every stage including court listings and their purpose
- ❖ provide information to other witnesses about the court process and procedures
- ❖ consult with the police on the coordination of the proceedings at every stage and provide information to the police on the progress of the proceedings and any other matter which arises relevant to the safety or welfare of the child victim
- ❖ provide training for staff in the recognition of suspected child abuse and neglect and the implementation of the Office's child protection policy and procedures
- ❖ work with other agencies within agreed arrangements, to plan and provide services in order to protect the child and support the family.

Department of School Education

Role

The role of the Department of School Education in child protection is to provide educational programs which aim to protect children from abuse, assist them to seek help effectively and support the development of skills for positive, non-coercive relationships.

It is also the role of the Department of School Education to assist in the recognition of suspected child abuse and neglect, to notify suspected child abuse and neglect, and where abuse has occurred, to offer support to the student within the normal duties of school staff.

Key responsibilities

The key responsibilities are to:

- ❖ provide educational programs in child protection for students
- ❖ protect students at school from sexual, physical and emotional abuse and neglect, and from improper conduct of a sexual nature
- ❖ ensure all school staff are aware of the indicators of child abuse and neglect, their obligations to notify suspected child abuse and neglect, and procedures for notification
- ❖ provide training for staff in the identification of suspected child abuse and neglect, the implementation of the Department's child protection policy and procedures, and the implementation of child protection curriculum
- ❖ work with other agencies within agreed arrangements, to plan and provide services in order to protect the child and support the family.

Other government agencies

There are other government agencies which also have important roles in the protection of children. They are:

Department of Corrective Services

Role

The role of the Department of Corrective Services in child protection is to manage persons convicted of child sexual assault offences, offences involving violence against children, emotional abuse or neglect.

Key responsibilities

The key responsibilities are to:

- ❖ ensure all workers are aware of the indicators of child abuse and neglect, their obligation to notify suspected child abuse and neglect, and procedures for notification

- ❖ inform police of any breaches of bail, supervision or release conditions by persons charged or convicted of offences related to child abuse or neglect, particularly if the safety or welfare of the child is endangered
- ❖ work with other agencies within agreed arrangements to plan and provide protection services for the child which are informed by the conditions applying to the offender
- ❖ provide best practice risk assessment, comprehensive case planning for all persons imprisoned for convictions relating to child abuse and neglect and, where appropriate, provide treatment for those willing to accept it
- ❖ provide behavioural management to all child abuse or child neglect offenders in the community under supervision orders
- ❖ provide services to persons in custody or on conditional release who are convicted of offences related to child abuse and neglect
- ❖ provide long-term maintenance counselling, monitoring and support for those persons who have completed suitable offence specific treatment whilst in prison
- ❖ provide services to persons in custody who are the victims of child abuse and neglect
- ❖ inform the child's key worker when an offender seeks any form of contact with the child victim and when considering an offender's release
- ❖ respond to requests by the child victim, or their advocate, for information concerning an offender's release from custody.

Department of Juvenile Justice

Role

The role of the Department of Juvenile Justice in the protection of children is to recognise and notify suspected child abuse and neglect and to ensure the protection of young people under its supervision from all forms of abuse or neglect.

Responsibilities

The responsibilities are to:

- ❖ ensure all workers are aware of the indicators of child abuse and neglect, their obligations to notify suspected child abuse and neglect, and procedures for notification
- ❖ work with other agencies within agreed arrangements to plan and provide protective services for the child
- ❖ inform the child's key worker of changes to the supervision plan or contact between the child and family, particularly if these changes may endanger the safety or welfare of the child
- ❖ inform police of any breaches of bail, supervision or release conditions by young people charged or convicted of offences related to child abuse and neglect, particularly if the safety or welfare of the child is endangered
- ❖ provide services to young people in custody or on conditional release who are convicted of offences related to child abuse or neglect, or who are the victims of child abuse or neglect
- ❖ inform the child's key worker when an offender seeks any form of contact with the child victim and when considering an offender's release
- ❖ respond to requests by the child victim, or advocate, for information concerning an offender's release from custody.

The Department of Juvenile Justice also has the responsibility for young offenders who may be guilty of abusing or assaulting other younger people either in the community or whilst in custody.

Department of Sport and Recreation

Role

The role of the Department of Sport and Recreation in child protection is to promote a safe environment for all children and to recognise and notify suspected child abuse and neglect.

Responsibility

The responsibility is to:

- ❖ ensure all staff whether paid, voluntary, permanent or casual, are aware of the indicators of child abuse and neglect, their obligations to notify suspected child abuse and neglect, and procedures for notification.

Department of Housing

Role

The role of the Department of Housing in child protection relates:

- ❖ to providing assistance to the parents of children in violent households where either the child(ren) and/or parent are victims of abuse
- ❖ to referral by Client Service Officers of perceived cases of abuse to the appropriate Government agencies; and
- ❖ to children as consumers of public housing.

Key Responsibilities

The key responsibilities of the Department of Housing are to:

- ❖ ensure that the welfare of children is taken into consideration in the handling of all cases of domestic violence amongst clients of the Department of Housing. In general, however, the Department deals with the parents in such situations, not directly with the children
- ❖ following the receipt of any information regarding threats or actions of violence (including those against a child), action taken by the Department may involve reporting to the NSW Police Service and/or Department of Community Services or provision of temporary accommodation under the Rental Assistance Scheme
- ❖ ensure that the housing needs of youth are taken into consideration in the planning and delivery of community housing programs and other forms of housing assistance

- ❖ ensure children are not discriminated against in obtaining Departmental housing assistance. Eligibility for public housing can be approved for those clients under the age of 18 years provided they have an income and are able to demonstrate adequate living skills or have access to appropriate community support services.

The NSW Government also recognises the key roles and responsibilities of non-government and local government agencies and schools. They have agreed to the following roles and responsibilities:

Non-government organisations and local government authorities

A diverse range of non-government organisations and local government authorities through their work come in contact with children and families.

Some agencies provide services to children and families where abuse or neglect has occurred. These include some family support and counselling agencies, Child Sexual Assault Services, foster care and residential care services. Children's services, in particular child care services, provide generalist and specialist assistance and support to children and families. Others work with children at risk of abuse or neglect or provide more general services for children, families and the community as a whole.

Local government's charter involves providing services and facilities directly or on behalf of other governments. The charter highlights promoting, providing and planning for the needs of children. Councils provide community, cultural, educational, information, sport and recreational services for children and their families.

All of these organisations have a role in the protection of children.

Non-government organisations and local government authorities are autonomous bodies. Although the Guidelines are not prescriptive, it is anticipated that many non-government organisations and local government services will support and work in accordance with the principles established in these Guidelines.

Role

The role of non-government organisations and local government services in child protection is to identify and notify suspected child abuse and neglect. Some offer continuing support and assistance to children who have been abused and to their families by reducing the risk of re-abuse and to provide specialist crisis intervention, counselling and care to children.

Also these organisations develop and implement educational and preventative programs aimed to protect children.

Key responsibilities

The key responsibilities are to:

- ❖ ensure all workers are aware of indicators of child abuse and neglect, and procedures for notification
- ❖ work with other government and non-government agencies within agreed arrangements, to plan and provide services in order to protect the child and support the family
- ❖ provide counselling, support, care and material assistance to the child and her/his family
- ❖ act as an advocate for the child or where appropriate for other family members
- ❖ provide training for staff in the recognition of suspected child abuse and neglect and the implementation of non-government organisations' child protection policies and procedures
- ❖ develop, implement or undertake educational and preventative programs and community development strategies aimed to protect children and strengthen families and communities.

Non-government schools sector

Role

The role of the non-government schools sector in child protection is to assist in the recognition and notification of suspected child abuse and neglect and, where abuse has occurred, to offer support to the student within the school environment and within the normal duties of school staff.

Also it is the role of the non-government schools sector to provide appropriate preventative programs which aim to protect children from abuse, assist them to seek help effectively, and to develop skills for positive, non-coercive relationships.

Key responsibilities

The key responsibilities are to:

- ❖ ensure all school staff are aware of the indicators of child abuse and neglect, their obligations to notify suspected child abuse and neglect, and procedures for notification
- ❖ work with other agencies and if appropriate the family, to plan and provide protective services for the student including ongoing assistance to the student
- ❖ provide training for staff in the recognition of suspected child abuse and neglect, the implementation of the sector's child protection policy and procedures, and the implementation of child protection curriculum
- ❖ develop and implement curriculum to raise awareness of curriculum materials in the areas of child protection and positive non-coercive relationships which support New South Wales legislation and reflect Board of Studies Syllabus Outcomes.

Using these Guidelines

The purpose of these Guidelines is to assist professionals and agencies in their work with children and families where there are child protection concerns. While agencies have broad responsibilities relating to strengthening families and preventing child abuse, the focus of these Guidelines is the interagency approach to child protection intervention.

These Guidelines are in three parts.

Part I provides the background to the interagency approach to child protection. It sets the goals and expectations of the interagency approach and gives practitioners a clear understanding of the importance of this approach in working with children and families where there are child protection concerns.

Part II details what is regarded as essential pre-requisites to interagency practice. It includes key definitions, the exchange of information and how to resolve differences.

Part III puts the interagency approach into practice. It presents a practical framework for child protection intervention which includes six stages with major activities within each stage described.

The Guidelines are for practitioners. Where particular agencies have a specific role, an icon for that agency appears in the margin to help in quick identification of responsibilities.



Department of Community Services



New South Wales Police Service



NSW Health



Department of School Education



Office of the Director of Public Prosecutions



Non-Government Organisations

Suggestions or points for practice are highlighted and, where appropriate, flow charts are included to provide an overview of complex processes. Important information is tagged by a 'note' and 'refer' leads to the specific references.

A shared understanding of terms and definitions is essential for an effective interagency approach so a Glossary has been included. For convenience, relevant legislation has been reproduced.

A list of key government departments' procedures for child protection intervention is also included.

In using the Guidelines practitioners should:

- ❖ be acquainted with the child protection policies and procedures of their own agency
- ❖ understand that the Guidelines are not a practice guide for any particular agency or profession and do not replace professional judgement
- ❖ read the Guidelines in conjunction with any legislation or other relevant instruction.

It is the responsibility of the New South Wales Child Protection Council to review and update these Guidelines in light of legislative or policy changes and developments in practice.

Part I

The Interagency Approach

Background

Child abuse is a complex and serious problem affecting the most vulnerable in our society. Child abuse refers to non-accidental physical injury, neglect, emotional abuse, and sexual exploitation and abuse of children. In its most serious form, child abuse can result in the death of a child. In New South Wales, there has been an increase in the number of reports of child abuse and neglect and a growing recognition of the complexity of the problem. Children and families may receive a range of services including family support, care and support, protective intervention and ongoing care, when necessary.

The protection of children from abuse and neglect is a shared responsibility. No single agency has all the knowledge, skills or authority to safeguard a child at risk of abuse or to apprehend and prosecute an alleged offender. The complex nature of the problem of child abuse requires an approach which combines the expertise and resources of agencies at different times and in different ways in the intervention process. Effective intervention in child protection cases demands cooperative and coordinated action across agencies. This is an interagency approach.

“Experience has proven that coordinated responses can reduce the number of interviews a child undergoes, minimise the number of persons involved in the case, enhance the quality of evidence discovered for civil litigation or criminal prosecutions, provide critical information for family services, and minimise the likelihood of conflicts among agencies with different philosophies and mandates.”¹

Interagency Guidelines are one strategy for improving cooperation and coordinated effort across agencies in responding to a child protection case. Other strategies include legislation, policy, structures and training.

¹ Dinsmore, J., 1994, *Joint Investigations of Child Abuse*, National Centre for Prosecution of Child Abuse, American Prosecutors Research Institute, Paper (CD 18676).

Goal

It is the responsibility of all professionals and agencies to take action to stop child abuse and neglect when it occurs and to ensure that children receive proper care, support and nurturing.

The goal of the interagency approach is to set high standards of practice and to strengthen commitment to cooperative and coordinated effort by professionals and agencies responding to suspected and actual abuse.

Expectations

The goal of the interagency approach, together with the principles, give rise to a number of expectations of agencies and professionals working together to protect children.

These expectations are that professionals and agencies will share:

- ❖ an understanding of the aims of intervention and of what is good practice
- ❖ an appreciation of the roles and contribution of each other
- ❖ a commitment to partnership between the government and non-government sectors
- ❖ an acknowledgment of the constraints and the context in which their colleagues work
- ❖ a preference for coordinated effort rather than unilateral action by a single agency or uncoordinated action by a number of agencies
- ❖ a willingness to learn from each other
- ❖ a belief in the importance of accountability to their clients, to each other, and to the community.

In practice, they will take into account:

- ❖ a child's immediate needs as well as assessed longer term needs for safety, nurturing and specialised assistance
- ❖ prompt and purposeful information exchange between agencies to ensure the immediate and ongoing safety of the child
- ❖ every case requires an identified key worker

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- ❖ interagency planning of assessments and investigations minimises trauma to families and is in the best interests of children
 - ❖ the experience and impact of child abuse varies with the individual and the circumstances of the abuse
 - ❖ that difficulties and differences resulting in conflict between agencies are dealt with constructively as they arise by professionals and agencies.

Part II

Pre-requisites for Practice

Defining child abuse and neglect

Everyone who is concerned in a professional capacity with the protection of children needs to have a clear understanding of the main points of the law as it applies to the care and protection of children, and its implications for the discharge of their respective responsibilities.

The legal context of child abuse and neglect is set out in a number of Acts of Parliament. The law covers two main areas: the care and protection of children as provided for in the *Children (Care and Protection) Act 1987*; and the criminal law as set out in the *Crimes Act 1900*, as amended, and other statutes.



Professional workers need to be aware of their legal mandate and obligations to protect children. Legal advice may need to be sought in a particular case.

Child abuse is a term commonly used to refer to different types of child maltreatment.

Section 3 of the *Children (Care and Protection) Act 1987* defines 'child' for the purposes of that act to mean a person who is under the age of 18 years.

Section 3 of the *Children (Care and Protection) Act 1987* defines 'abuse'. It states as follows:

'abuse', in relation to a child, means:

- (a) assault (including sexual assault) the child; or
 - (b) ill-treat the child; or
 - (c) expose or subject the child to behaviour that psychologically harms the child,
- whether or not, in any case, with the consent of the child.

Abuse of a child is an offence under section 25 of the *Children (Care and Protection) Act 1987*. Section 25 of that act states:

"A person who abuses a child, or causes or procures a child to be abused, is guilty of an offence."

Child abuse is also a term commonly used to refer to a range of offences under the *Crimes Act 1900* which result in harm to a child victim or involve behaviours to which a child cannot give consent.

Sexual offences – Crimes Act 1900

The laws concerning offences in sexual assault are sexual intercourse, indecent assault and acts of indecency. Sexual intercourse under the *Crimes Act 1900* is defined in section 61A(1) as:

- (a) sexual connection occasioned by the penetration to any extent of the genitalia of a female person or the anus of any person by:
 - (i) any part of the body of another person;
 - or
 - (ii) an object manipulated by another person, except where the penetration is carried out for proper medical purposes;
- (b) sexual connection occasioned by the introduction of any part of the penis of a person into the mouth of another person;
- (c) cunnilingus; or
- (d) the continuation of sexual intercourse as defined in paragraph (a), (b) or (c).

An indecent assault is an assault, a touching without consent, accompanied by an indecent act. An indecent act is one which right-minded persons would consider contrary to community standards of decency (Chief Justice Gleeson, 17.2.1993).



A child cannot consent to behaviours which are offences under the *Crimes Act 1900*.



Indicators of Abuse and Neglect, pp.44-45.

About sexual abuse

Child sexual abuse is any sexual act or sexual threat imposed on a child. Adults or adolescents who perpetrate child sexual abuse exploit the dependency and immaturity of children. Coercion, which may be physical or psychological, is intrinsic to child sexual abuse and differentiates such abuse from consensual peer sexual activity.



Indicators of Abuse and Neglect, pp.44-45.

Physical assault

There are many behaviours which may constitute assault and the law specifically takes into account the circumstances of the victim which may mean that the offence is regarded as a more serious assault. The vulnerability of a child, and hence the likelihood of sustaining a more serious or permanent injury means that assault charges may be warranted in cases of physical abuse.



Female Genital Mutilation (FGM) is also a crime. The *Crimes (Female Genital Mutilation) Act 1995* states that anyone who is found guilty of practising FGM or who aids, abets, counsels or procures someone else to practise FGM on another person is liable to penal servitude of up to seven years. It is also illegal for FGM to be carried out overseas on anyone who is normally resident in NSW.



Department of Community Services Child Protection: Procedures for Recognising, Notifying and Responding to Child Abuse and Neglect and the *Crimes (Female Genital Mutilation) Act 1995*.



Indicators of Abuse and Neglect, pp.44-45.

About physical abuse

Physical abuse refers to non-accidental injury to a child by a parent, caregiver or another person responsible for the child. It includes injuries which are caused by excessive discipline, severe beatings or shakings, bruising, lacerations or welts, burns, fractures or dislocation, female genital mutilation, attempted suffocation or strangulation and death.



Indicators of Abuse and Neglect, pp.44-45.

About emotional abuse

Emotional abuse encompasses a range of behaviours that harm a child. It is behaviour by a parent or caregiver which can destroy the confidence of a child resulting in significant emotional deprivation or trauma. It involves impairment of a child's social, emotional, cognitive, intellectual development and/or disturbance of a child's behaviour.



Indicators of Abuse and Neglect, pp.44-45.

About domestic violence

Domestic violence is violence, abuse and intimidatory behaviour perpetrated by one person against another in a personal, intimate relationship. Domestic violence occurs between two people in which one has power over the other causing fear, physical and/or psychological harm.

Domestic violence has a profound effect on children and constitutes a form of child abuse. Children can be affected by being exposed to violence in the parental relationship, by becoming the victims of violence, or a combination of the two.



Indicators of Abuse and Neglect, pp.44-45.

Neglect

Neglect of children is an offence under section 26 of the *Children (Care and Protection) Act 1987*. Section 26 of that act states:

A person, whether or not the parent of the child, who, without reasonable excuse, neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child in his or her care, is guilty of an offence.

About neglect

Child neglect occurs where a child is harmed by the failure to provide the basic physical and emotional necessities of life. Neglect is characterised as a continuum of omissions in parental caretaking.



Indicators of Abuse and Neglect, pp.44-45.

Child abuse and neglect therefore covers a wide range of harms and behaviours.

Children may be harmed by a parent, other relative, a caregiver (ie. persons who while not a parent have actual custody of the child), a sibling, an acquaintance or a stranger.

Children in need of care

A child who has been abused or neglected may be a child in need of care. Having considered a care application, a Children's Court determines whether or not a child is in need of care. These are not criminal proceedings and the Children's Court must be satisfied that it is very highly probable that the child is in need of care before making any order.



A Children's Court cannot make an order unless the child is under 16 years of age.



Subsection 73 (1) *Children (Care and Protection) Act 1987*.

Section 10 (1) of the *Children (Care and Protection) Act 1987* states that a child is in need of care if:

- (a) adequate provision is not being made, or is likely not to be made, for the child's care;
- (b) the child is being, or is likely to be, abused; or
- (c) there is substantial and presently irretrievable breakdown in the relationship between the child and one or more of the child's parents.

Exchanging information

Arrangements for the care and protection of children can be successful only if professionals and agencies with responsibilities and obligations to ensure their protection have access to information relevant to the assessment of risk and the needs of the child and family.

Effective protection of children is dependent upon shared information. Information may include information concerning the child or information concerning a parent, caregiver or household members which is relevant to the child's safety and assessment of risk to the child.

This information will be exchanged according to the *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996*. Each worker should be familiar with the legislation, policies and procedures of their agency with regard to the release of information and be guided by their managers and internal procedures.

Information exchange is consistent with the Government's commitment to a high degree of cooperation among agencies with child protection responsibilities and an acknowledgment that government departments are the authorised agents of the community responsible for ensuring the protection of children.

Under provisions of the *Children (Care and Protection) Amendment Act 1995* information can be requested from workers through their agencies by the Child Death Review Team established under this Act.



Information can be requested under section 104 *Children (Care and Protection) Amendment Act 1995*. Appendix, p.109.

Notifiers

The *Children (Care and Protection) Act 1987* makes provision for safeguarding the identity of a person making a notification of suspected child abuse or neglect. It provides that notification shall not be held to be a breach of professional etiquette or ethics or a departure from accepted professional standards, nor is any liability for defamation incurred for notifying. Also it provides that except for Children's Court proceedings, the notification is not admissible in evidence, nor can any person be compelled to produce it or give evidence as to its contents.



No agency may disclose to a parent the identity of a notifier.



Section 22 *Children (Care and Protection) Act 1987* which incorporates *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996* Appendix, p.109.



Safeguards for notifiers, p.54.

Criminal proceedings

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

Records

Well kept records are essential to good child protection practice. Well kept records contain pertinent information recorded in a systematic, accurate way and regularly updated.

Agencies should have policies which outline the purpose and format of record keeping and the retention of records for appropriate periods. All agencies should ensure the safe keeping of information provided to them.

As a general principle, clients should have access to records relating to their personal affairs. Judgement will need to be exercised in deciding whether a client should have access to all or part of their records. This may arise for example, if a parent seeks access to information that may place a child at risk of further abuse or if the access may undermine work aimed at strengthening a parent-child relationship. In cases of child sexual assault, access to records by a parent or alleged offender should be carefully considered having regard to the interests and welfare of the child.

Resolving differences

It is essential that differences are proactively addressed. These differences may relate to a number of factors such as: roles; professional and organisational philosophies or priorities; systems issues; status and perceived power; communication breakdown; level of commitment to the interagency approach and group dynamics; and attitudes and beliefs about families and community standards. It is essential that differences be proactively addressed at the earliest opportunity. Otherwise, such differences may impact on the client.

Resolving differences needs to be addressed at an individual and agency level. Professional conduct is an important aspect in any process to resolve differences. A basic model for resolving differences is:

- ❖ clear identification by both parties of the problem or issue
- ❖ acknowledgment of relevant goals and interests
- ❖ generation of practical options to address the problem
- ❖ seeking agreement on a preferred option
- ❖ negotiation when the preferred option is not mutually shared
- ❖ agreement on an outcome and its implementation.

The process for resolving differences in an interagency context may be as follows. In the first instance, directly raise the concern with the other person.

If the problem cannot be resolved through discussion at this level, it should be referred to the line manager or a committee of management member. The line manager or committee member should then liaise with their equivalent in the other agency or agencies, with the object of resolving the difference. Depending on the nature of the concern, it may be sufficient to discuss verbally. Alternatively, written resolution may be required. When a written resolution is required that involves a member of the Police Service, it should be noted that actions or inactions by police may constitute an official complaint under the Police Service Act and can be investigated by the Police Service and the Ombudsman.

Where the concern cannot be resolved successfully between agencies it may be advisable for an external mediator to be involved.

It should be acknowledged that resolving differences does take time. Only those directly affected should be involved in the resolution process and outcomes from meetings need to be followed through. It is strongly recommended that the same staff be involved throughout the resolution process. Protective intervention must not be put on hold while differences are resolved.

Other strategies at an agency level that may assist in preventing differences arising are:

- ❖ memorandums of understanding between individual agencies which outline a specific process for resolving differences
- ❖ interagency training and other professional development activities
- ❖ ensuring an experienced and/or trained practitioner chairs and facilitates debriefing sessions for protection planning and case planning meetings
- ❖ systematically recording circumstances that contributed to differences along with positive strategies and learning outcomes
- ❖ monitoring and evaluating the interagency approach by an external body
- ❖ research and feedback from service users on their experience of intervention
- ❖ support for Area Child Protection Committees, other networks and child protection structures
- ❖ informal social gatherings between practitioners.

Some conflict is the result of issues not resolved at a policy or central level. At times this type of conflict identifies issues about gaps in services and role delineation. It is important to refer these issues to the appropriate personnel in your agency.

There are a number of other mechanisms and bodies that may be used as a last resort in resolving differences. If all steps and strategies for resolving differences have been followed and the conflict still exists, it may be necessary to take the matter further. This could include utilising internal agency mechanisms for complaints or going outside the organisation to independent bodies. Such bodies would include the Ombudsman and the Community Services Commission. Where the conflict has been unable to be resolved and it is suspected that this is related to corruption by an official, consideration may be given to making a complaint to the Independent Commission Against Corruption.

Part III

Practice

Framework

The interagency approach to child protection practice involves many different activities which occur over time. These activities can be grouped into broad stages which provide a framework for thinking about child protection intervention and the roles and responsibilities of the agencies involved.

Six broad stages are presented in these Guidelines. They are:

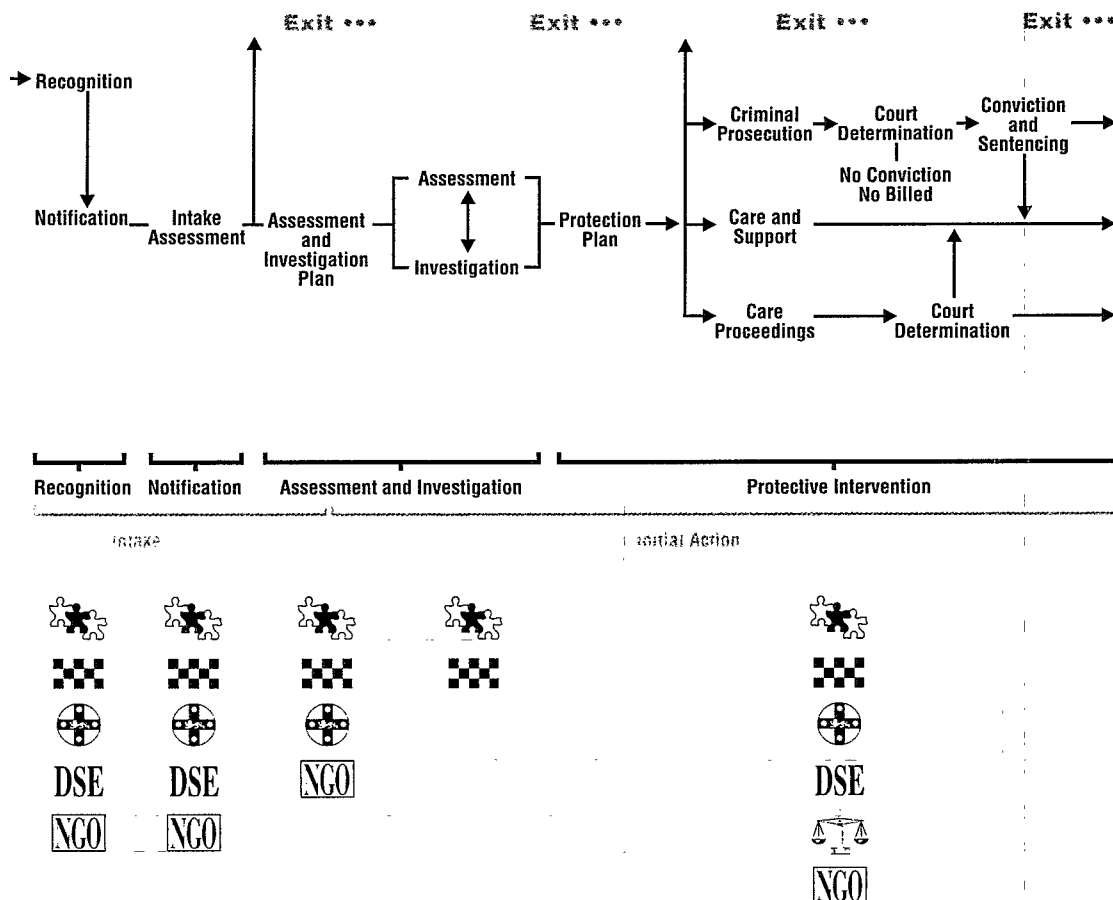
- | | |
|---------------------------------|-----------------------------|
| 1. recognition | (intake) |
| 2. notification | (intake) |
| 3. assessment and investigation | (initial action) |
| 4. protective intervention | (initial action) |
| 5. ongoing care and support | (ongoing care |
| 6. closure | and support and closure) |

(The words in brackets above represent the terminology used by the Department of Community Services in child protection intervention.)

There is overlap between stages and not every child protection case will involve all elements of each stage. Also, elements from different stages can occur simultaneously. The time taken to complete an element may vary markedly between cases. The framework presents the continuum of intervention, though on the whole, intervention is sequential in nature.

The flowchart, 'Interagency Approach in Practice' (pp.40-41) shows the six stages of intervention, the major activities within each stage and which key agencies are involved in each stage. Points at which clients exit from child protection intervention are shown.

Interagency Approach in Practice

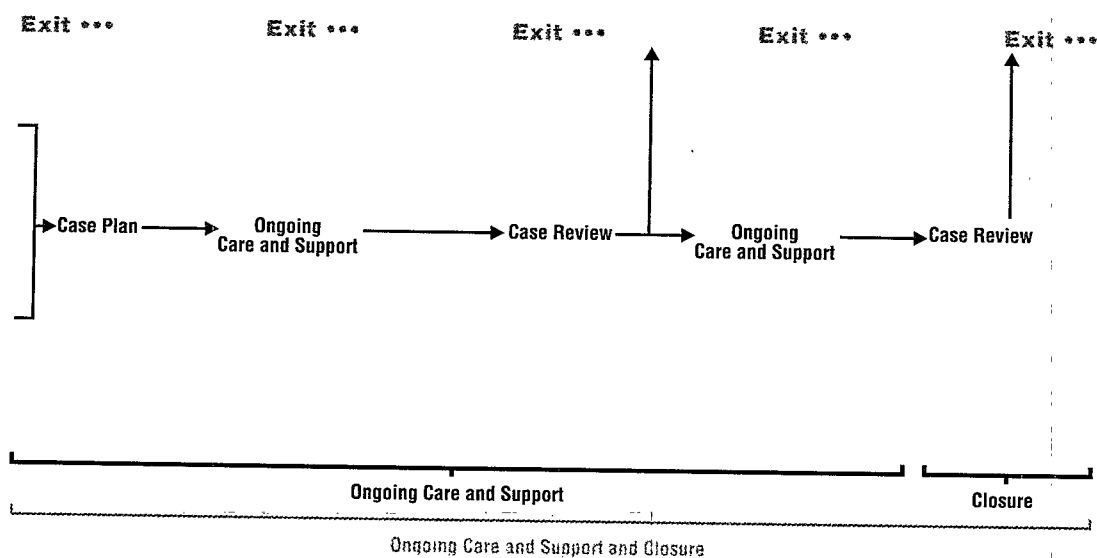


Department of Community Services

New South Wales Police Service

Department of School Education

Office of the Director of Public Prosecutions



NSW Health



Non-Government Organisations

Recognition



DSE

NGO

It is the responsibility of everyone whose work brings them in contact with children and families to be aware of the indicators of child abuse and neglect.

Recognising indicators of child abuse and neglect is about forming a responsible concern or well-founded suspicion that abuse or neglect has occurred or may occur in the future. In recognising the indicators of abuse and neglect, it is not necessary to prove that abuse or neglect has occurred or who is responsible for it.

It is a matter for the courts to determine whether or not a criminal offence relating to child abuse or neglect has occurred, or if a child is in need of care.

Having recognised the indicators of abuse or neglect, action can be taken to protect the child and assist the family by making a notification. A notification must be made on "reasonable" grounds. Reasonable grounds relate to the facts of the concern, the nature and seriousness of the allegations, being mindful of the child's age and circumstances.

Being alert



DSE

NGO

Practitioners in a wide variety of settings may observe a child's physical appearance or condition, their behaviour or family circumstances. This may raise concerns about abuse or neglect.

A child, the parents or caregiver, a sibling or another person may tell a practitioner about what has been happening, what they fear or how they feel. This may raise concerns about abuse or neglect.

Practitioners in their work with a parent, caregiver or other adult may observe interactions between that adult and a child, or be told something by that adult which raises concerns about abuse or neglect.

In any circumstances, practitioners should take special note of changes in a child including regression, deterioration, or frequency of presentation for assistance, whether this is in a health, educational, community or youth services setting.

While workers in a variety of settings need to be alert to the indicators of abuse and neglect, those who work in

Practice Point

Some children with a disability are at a higher risk of abuse. This can be due to increased vulnerability due to mobility constraints, dependence on others to communicate and limitations in stopping abuse from happening.

Practice Point

In maternity, mental health, drug and alcohol treatment, and community health settings, practitioners should be alert to the indicators of abuse and neglect as the adult may behave in ways that raise serious concerns about their capacity to protect a child. This is of greater significance if they have responsibility for a very young child.

the following settings are more likely, because of the nature of their contact with children and families, to encounter children for whom they may have concerns:

- ❖ child care, including family day care
- ❖ respite care
- ❖ hospitals and area health services
- ❖ health centres for young people
- ❖ disability services
- ❖ schools, including after school care
- ❖ sporting and recreation bodies
- ❖ youth services
- ❖ drop-in centres
- ❖ community centres
- ❖ domestic violence services
- ❖ adult and juvenile correctional services
- ❖ family support services
- ❖ youth shelters
- ❖ supported accommodation services.

Indicators

There are many indicators of child abuse and neglect. The following information is presented as a guide to assist practitioners in recognising child abuse and neglect. One sign in isolation may not necessarily indicate abuse or neglect. It cannot be considered to be a comprehensive listing of all harms, behaviours or presentations which give rise to a concern or suspicion of child abuse or neglect. Each sign needs to be considered in the context of the child's personal circumstances.

Contextual factors which relate to all types of abuse and neglect are described. They are of assistance when considering the likelihood that an injury, behaviour or disclosure of a child is related to or caused by abuse or neglect. The indicators of child abuse and neglect are grouped by neglect, followed by physical, emotional and sexual abuse. The indicators are described in terms of a child's presentation and the behaviours of those who abuse and neglect children.

Note

A child can be subjected to more than one type of abuse. Children sustain emotional harm from all the types of abuse. Abuse and neglect can affect all siblings. Multiple children can be abused by the one adult. Offenders can abuse children within their family as well as children outside the family.

Indicators of Abuse and Neglect

One indicator in isolation may not imply abuse or neglect. Each indicator needs to be considered in the context of other indicators and the child's circumstances.

Setting the context

The following contextual factors in the life circumstances of the child are relevant when considering indicators of abuse and neglect:

- ◆ history of previous harm to the child
- ◆ social or geographic isolation of the child or family, including lack of access to extended family
- ◆ abuse or neglect of a sibling
- ◆ family history of violence including injury to children
- ◆ domestic violence
- ◆ physical or mental health issues for the parent or caregiver affecting their ability to care for the child
- ◆ the parent or caregivers' abuse of alcohol or other drugs affecting their ability to care for the child
- ◆ a developmental disability of the parent or caregiver affecting their ability to care for the child
- ◆ parent or caregiver is experiencing significant problems in managing the child's behaviour
- ◆ the parent or caregiver has unrealistic expectations of age appropriate behaviour in the child.

General indicators of abuse or neglect

- ◆ marked delay between injury and presentation for medical assistance
- ◆ history of injury which is inconsistent with the physical findings
- ◆ history of injury which is vague, bizarre or variable
- ◆ where the child gives some indication that the injury or event did not occur as stated
- ◆ where the child tells you she/he has been abused
- ◆ when the child tells you she/he knows someone who has been abused, may be referring to herself/himself
- ◆ someone else tells you such as a relative, friend, acquaintance or sibling of the child that the child may have been abused.

Indicators of neglect

Indicators in children:

- ◆ poor standards of hygiene leading to social isolation
- ◆ scavenging or stealing food
- ◆ extended stays at school, public places, others homes
- ◆ being focused on basic survival
- ◆ extreme longing for adult affection
- ◆ a flat and superficial way of relating, lacking of a sense of genuine interaction
- ◆ anxiety about being dropped or abandoned
- ◆ self comforting behaviour, eg. rocking, sucking
- ◆ non-organic failure to thrive
- ◆ delay in developmental milestones
- ◆ loss of 'skin bloom'
- ◆ poor hair texture
- ◆ untreated physical problems.

Indicators in parents or caregivers:

- ◆ failure to provide adequate food, shelter, clothing, medical attention, hygienic home conditions or leaving the child inappropriately without supervision
- ◆ inability to respond emotionally to a child
- ◆ child abandoned
- ◆ depriving of or withholding physical contact or stimulation for prolonged periods
- ◆ failure to provide psychological nurturing
- ◆ one child treated differently.

Indicators of physical abuse

Indicators in children:

- ◆ facial, head and neck bruising
- ◆ lacerations and welts from excessive discipline or physical restraint
- ◆ explanation offered by the child is not consistent with the injury
- ◆ other bruising and marks which may show the shape of the object that caused it (eg. a hand-print, buckle)
- ◆ bite marks and scratches where the bruise may show a print of teeth and experts can determine whether or not it is an adult bite
- ◆ multiple injuries or bruises
- ◆ ingestion of poisonous substances, alcohol or other harmful drugs
- ◆ ruptured internal organs without a history of major trauma
- ◆ dislocations, sprains, twisting
- ◆ fractures of bones, especially in children under 3 years
- ◆ burns and scalds
- ◆ head injuries where the child may have indicators of drowsiness, vomiting, fits or retinal haemorrhages suggesting the possibility of the child having been shaken
- ◆ general indicators of female genital mutilation which could include:
 - ◆ having a special operation associated with celebrations
 - ◆ reluctance to be involved in sport or other physical activities when previously interested
 - ◆ difficulties with toileting.

Indicators in parents or caregivers:

- ◆ direct admissions by parents or caregivers that they fear they may injure the child
- ◆ family history of violence, including previous harm to children
- ◆ history of their own maltreatment as a child
- ◆ repeated presentations of the child to health or other services with injuries, ingestions or with minor complaints.

Indicators of Abuse and Neglect

One indicator in isolation may not imply abuse or neglect. Each indicator needs to be considered in the context of other indicators and the child's circumstances.

Indicators of emotional abuse

Indicators in children:

- ◆ feelings of worthlessness about life and themselves
- ◆ inability to value others
- ◆ lack of trust in people and expectations
- ◆ lack of inter-personal skills necessary for adequate functioning
- ◆ extreme attention seeking behaviour
- ◆ other behavioural disorders (eg. disrupt-iveness, aggressiveness, bullying).

Children sustain emotional harm from all the types of abuse.

Indicators in parents or caregivers:

- ◆ constant criticism, belittling, teasing of a child, or ignoring or withholding praise and affection
- ◆ excessive or unreasonable demands
- ◆ persistent hostility and severe verbal abuse, rejection and scapegoating
- ◆ belief that a particular child is bad or 'evil'
- ◆ using inappropriate physical or social isolation as punishment
- ◆ situations where an adult's behaviour harms a child's wellbeing
- ◆ exposure to domestic violence.

Indicators of sexual abuse

Indicators in children:

- ◆ describe sexual acts (eg. 'Daddy hurts my wee-wee')
- ◆ direct or indirect disclosures
- ◆ age inappropriate behaviour and/or persistent sexual behaviour
- ◆ self-destructive behaviour, drug dependency, suicide attempts, self-mutilation
- ◆ persistent running away from home
- ◆ anorexia, over-eating
- ◆ going to bed fully clothed
- ◆ regression in developmental achievements in younger children
- ◆ child being in contact with a known or suspected perpetrator of sexual assault
- ◆ unexplained accumulation of money and gifts
- ◆ bleeding from the vagina or external genitalia or anus
- ◆ injuries such as tears or bruising to the genitalia, anus or perineal region
- ◆ sexually transmitted diseases
- ◆ adolescent pregnancy
- ◆ trauma to the breasts, buttocks, lower abdomen or thighs

General indicators of child stress should be considered such as:

- ◆ poor concentration at school
- ◆ sleeping/bedtime problems eg. nightmares, bed wetting
- ◆ marked changes in behaviour or mood, tantrums, aggressiveness, withdrawal
- ◆ child complains of stomach aches and headaches with no physical findings.

Indicators in parents, caregivers, siblings, relatives, acquaintances or strangers:

- ◆ exposing the child to prostitution or child pornography or using a child for pornographic purposes
- ◆ intentional exposure of child to sexual behaviour of others
- ◆ ever committed/been suspected of child sexual abuse

- ◆ inappropriate curtailing or jealousy regarding age-appropriate development of independence from the family
- ◆ coercing child to engage in sexual behaviour with other children
- ◆ verbal threats of sexual abuse
- ◆ denial of adolescent's pregnancy by family
- ◆ perpetration of spouse abuse or physical child abuse.

Offenders use a range of tactics including force, threats, and tricks to engage children in sexual contact and to try to silence the child. They may also try to gain the trust and friendship of parents in order to obtain access to children.

Adapted from:

John Hunter Hospital, *Child Protection Protocol Revision 10*: June 29, 1994; Solihull Area Child Protection Committee, *Multi-Agency Training in Child Protection Training Handbook* (undated); Humberside Area Review Committees, *Child Abuse Guidelines and Procedures*, UK, (undated); *Interagency Guidelines Child Protection*, NSW Child Protection Council, 1991; *New Directions in Child Protection and Family Support: Interim Guidelines*, Government of Western Australia, March 1996; Queensland Centre for Prevention of Child Abuse, *Facts Sheet 4 & 5 - What is Child Abuse?* Queensland Department of Family Services and Aboriginal and Islander Affairs, 1991 NSW Child Protection Council Facts Sheet 1995.

Seek advice

Forming a concern or suspicion that child abuse or neglect has occurred or may occur in the future must be approached carefully and with an open mind.

A simple approach that can assist a practitioner in responding to a case where she or he is uncertain about whether to notify or not, is to consult. In consulting, it is unnecessary to identify the individual child concerned. Seek advice from colleagues or a preferable option is to consult with the intake officer of the Department of Community Services. Other sources of advice may be a counsellor at a sexual assault service, or a paediatrician. Carefully consider this advice. Remember your first hand contact with the child is very important in forming your opinion that you should make a notification.



If you suspect a child may be involved in some form of organised abuse immediately make a notification. Don't attempt to explore the circumstances.

Where you are concerned that a work colleague may be the abuser, make a notification and follow your agency's procedures.

Children with a disability are no different from other children in terms of their need for care and protection. Some children with a disability have greater vulnerability because of mobility constraints, dependence on others for a level of personal or physical care, or for communication, limitations in their ability to stop abuse from happening or communicating that it has happened. This does not imply practitioners should give special attention to children with a disability. However, the practitioner should be alert to the reality that children with a disability are sometimes abused and neglected. Where appropriate practitioners should assist children with a disability by believing what has happened to them and following through with action. Practitioners can play an important role in advocating for children with a disability.

Practice Point

For a child who has limited social networks, remember that you may be the only other significant adult in her or his life. Even though you might be uncertain how to respond, do not avoid or reject them. It is important to be supportive of the child.

Practice Point

It should be recognised that children who disclose abuse can often be subject to considerable pressure from family members and others to withdraw their allegations. The child may fear they will be the cause of breaking up the family. It is important to be supportive of the child and discuss any fears or threats that may be made to the child to withdraw their allegations.

Listen and clarify

Be prepared to listen and assist a child when he or she tells you about an event or behaviours which indicate abuse or neglect. Be prepared to offer support to the child. Be honest with the child about your responsibility for taking action to protect them and what is likely to happen.

Apart from making the notification, it is important not to do anything that may make the situation worse and cause further harm to the child, for instance by asking probing questions, accusing parents or discussing the circumstances of the notification with potential witnesses or colleagues. In cases of suspected sexual abuse, it is inappropriate to discuss with the family the nature of your concerns, particularly if it is suspected that a member of the child's household is involved in the abuse.

In the majority of other cases, the family should be informed about the reason for making a notification. Openly communicating your concerns with the family may increase their willingness to accept services offered to protect the child. If other colleagues have also been involved with the child, consult them and agree on what information will be shared with the family. Remember, in most cases there will be no need for immediate action to protect the child or legal action to remove a child from home.

Notification



DSE

NGO



Professionals and agencies have a responsibility to stop child abuse and neglect and should make a notification to the Department of Community Services. The Department of Community Services is the agency with the authority and mandate to respond to notifications. Children will not be protected from abuse or neglect unless responsible adults take action on their behalf.

The *Children (Care and Protection) Act 1987* and the *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996* establishes a process so that people who believe, on reasonable grounds, that a child is being or is in danger of being abused can give information to the Department of Community Services so that action can be taken to protect the child.



Section 22 *Children (Care and Protection) Act 1987*, see which incorporates the *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996* Appendix, p.109.



Child means a child under 18 years of age.

What to notify

Suspected physical, sexual and emotional abuse and neglect should be notified.



In making a notification, a person must give the name or a description of the child and the grounds on which the person formed the belief that the child is being abused or is in danger of abuse or is in need of care.



Subsection 22 (4) *Children (Care and Protection) Act 1987*, see Appendix, p.109.

Practice Point

Children and adolescents are all vulnerable to abuse and neglect. Issues raised by the age of the child or young person need to be carefully considered in each case.

Who notifies

- ❖ Any person who believes, on reasonable grounds, that a child has been or is in danger of being abused, or is in need of care may notify.
- ❖ Parents, relatives, friends, neighbours and acquaintances of a child may notify.
- ❖ Those whose work brings them in contact with children and parents may notify.
- ❖ All medical practitioners are required by law to notify if they suspect on reasonable grounds that a child has been abused.

NGO



Subsection 22 (2) *Children (Care and Protection) Act 1987*, see Appendix, p.109.

- ❖ All health workers in NSW Health who believe, on reasonable grounds, that a child has been abused or is in danger of being abused, are required by direction of the Minister for Health to notify.



NSW Health Child Protection: Procedures for Recognising and Notifying Child Abuse and Neglect.

- ❖ All principals and deputy principals at a school, and all teachers, counsellors, social workers and early childhood teachers are required by law to notify where they have reasonable grounds to suspect that a child has been sexually assaulted.

DSE



Subsection 22 (3) *Children (Care and Protection) Act 1987* and Regulation 10.



A school means a government school or a non-government school. Early childhood teachers employed by private child care centres are not required by law to notify.

- DSE** ❖ All school staff of the Department of School Education who believe, on reasonable grounds, that a student enrolled at the school has been abused or is in danger of being abused, or is in need of care are required by direction of the Director-General of School Education to report this belief to the principal at the school.



Department of School Education Child Protection: Procedures for Recognising and Notifying of Child Abuse and Neglect.



The principal makes a notification to the Department of Community Services. In cases of physical and emotional abuse and neglect the principal must agree that reasonable grounds exist. If the principal does not agree that there are reasonable grounds for concern he or she must advise the staff or community member that no notification is to be made and of their rights to notify the local Community Services Centre or the Police Service directly as a private citizen.



- ❖ All police are required to notify the Department of Community Services of all allegations of child abuse and circumstances of suspected abuse where the victim is under 18 years of age.



New South Wales Police Service Child Protection: Procedures for Recognising, Notifying and Responding to Child Abuse and Neglect.



- ❖ Staff of the following Government Departments have been directed by the Chief Executive Officer of their agency to notify the Department of Community Services if they believe on reasonable grounds that a child has been or is in danger of being abused:
- ◆ NSW Health
 - ◆ New South Wales Police Service
 - ◆ Department of Community Services
 - ◆ Department of School Education
 - ◆ Department of Juvenile Justice
 - ◆ Department of Corrective Services
 - ◆ Department of Sport & Recreation

- ❖ Staff of non-government organisations should follow their agency's policy and procedures for the notification of child abuse and neglect.



How to notify

The Department of Community Services is the central point for all notifications of child abuse.



Information provided to the Department concerning a child who has been or is in danger of being abused, or is in need of care, is a notification.

All notifications are made to the Department of Community Services. It is preferable to make the notification at the Community Service Centre or an Intake Unit nearest to where the child resides. After hours, contact the Department's Child Protection and Family Crisis Services on FREECALL 1800 066 777.



A notification can be made orally or in writing.



To avoid delay, it is preferable in the first instance to notify by telephone.

When making a notification orally staff must follow agency procedures and use agreed forms. Where no procedures exist the following information should be provided:

Practice Point

When notifying, tell the Department of Community Services officer if a language or sign interpreter may be required.

- ❖ the name or a description of the child
- ❖ the child's address or a description of her or his whereabouts
- ❖ when the child was last seen
- ❖ if known, the approximate age of the child and the school they attend and if there are other children in the household and their ages
- ❖ if known, whether a language or sign interpreter may be required or an Aboriginal agency should be involved

- ❖ all available information that is relevant to the safety and welfare of the child
- ❖ be prepared to discuss your concerns with an officer of the Department of Community Services
- ❖ record the events, conversations and observations which led to your concerns and have them available for reference when you notify by telephone
- ❖ your name and contact phone number.

Notifications in writing



DSE

NGO

A notification can be made in writing. It can be of assistance to those responsible for the investigation and assessment to include as part of the notification, reports that detail events, conversations or observations relevant to the child's safety and welfare.

Police



In addition to making a notification to the Department of Community Services, police officers must:

- ❖ notify all allegations of child abuse, suspected child abuse and child exploitation to the designated police specialist unit closest to where the child lives
- ❖ make an accurate record of the allegations or the complaint in his or her official notebook.

School staff

DSE

The principal at a school makes a notification to the Department of Community Services by telephoning the Community Service Centre. It is preferable to notify the office nearest to where the child lives. A written notification must also be made.

NSW Health

Health workers make notifications direct to the office of the Department of Community Services. It is preferable to make them to the office nearest to where the child lives.



Department of Juvenile Justice

All staff are required to immediately report all allegations of abuse or neglect to their manager. It is the responsibility of the manager to then notify the office of the Department of Community Services.

Department of Corrective Services

Any member of staff should notify the Department of Community Services if they suspect that a child may be abused or neglected. This applies to staff of the NSW Probation & Parole Service.

In cases of sex offenders who have victimised a child or who are likely to victimise a child, the relevant regional senior psychologist is to be advised prior to consideration of parole, release full-time, or temporary leave. It is the responsibility of the regional senior psychologist to notify the Department of Community Services whether or not a material risk is apprehended.



Department of Corrective Services Guidelines for the Protection of Victims of Abuse and the Management of Sex Offenders.

Department of Sport and Recreation

Any staff member should report to the program director or centre manager if they have a belief that a child has been abused, is in danger of abuse, or is in need of care.

The program director or centre manager makes a notification to the Department of Community Services, if she/he suspects on reasonable grounds that the child has been abused, is in danger of abuse, or is in need of care.

If the program director or centre manager does not notify the Department of Community Services, the staff member who reported the concern must be advised so that they can consider making a notification as a private citizen.

In the event that there are not reasonable grounds to make a notification to the Department of Community Services, the program director or centre manager should inform the principal of the school where the child is enrolled that concerns about child abuse have been expressed by a member of staff at the centre.

In all cases, the program director or centre manager is required to inform the Director, Operations Division.



Forms are available from the Department of Sport and Recreation for staff to report a child abuse concern to a program director or centre manager.



Department of Sport and Recreation: Child Abuse and Child Sexual Assault Policy Document.

Safeguards for notifiers



DSE

NGO

Notifications to the Department of Community Services are confidential. Private citizens may make notifications anonymously if they wish. Persons who through their work make a notification, whether or not they are required by law to do so, should make known their position and their agency.

Any person who makes a notification is afforded the following protection by law:

- ❖ the notification shall not be held to be a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct
- ❖ no liability for defamation is incurred because of the making of the notification
- ❖ the notification is not admissible in evidence in any court proceedings except in care proceedings before a Children's Court

- ❖ a person cannot be compelled by a court to produce the notification or give any evidence as to its contents.



Subsection 22 (8), (9) and (10) *Children (Care and Protection) Act 1987* which incorporates the *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996* Appendix, p.109.



If as a result of making a notification to the Department of Community Services, a person is threatened with or fears personal violence this should be reported to the police who may apply for and pursue on their behalf, an apprehended violence order.



Check that action is being taken

Although it is the responsibility of the Department of Community Services to provide feedback to the notifier you may contact the Department to discuss the progress of the information provided. This can be done by telephone contact with the officer in the Department of Community Services to whom notification was made.



DSE

NGO



Feedback to notifiers, p.58.

Practice Point

Assistance from an organisation with special expertise in relation to cultural issues should be consulted at this time.

These may include ethnic child care agencies, ethnic community groups, a migrant resource centre or grant-in-aid worker at local organisations.

Receiving notifications

The officer of the Department of Community Services will seek from the notifier as much information as possible concerning the child and the circumstances of the allegation. Information relevant to the immediate safety and welfare of the child will also be gathered from other sources as necessary, including the Department's Client Information System, the police and other agencies such as schools, family support services or community health centres. Particular attention should be given to whether or not an apprehended violence order is in force. Other relevant information may be gathered from professionals and agencies that have had recent contact with the child, their parents or other family members.



DSE

NGO

The authority for officers of the Department of Community Services to seek such information is

notification



contained in the *Children (Care and Protection) Act 1987*. This act empowers the Department to investigate matters notified. This is a necessarily broad power which authorises relevant officers of the Department to seek information from any person in carrying out an investigation. Those who aim to stop abuse and protect children should respond positively and promptly to requests for information in these circumstances.



Subsection 22 (7) of the *Children (Care and Protection) Act 1987* which incorporates the *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996* Appendix, p.109.



Intake assessment

This is the first of a series of assessments that will be made prior to decision making in all child protection cases. The focus of the intake assessment is on risk assessment.

Factors which should be considered in risk assessment are:

- ❖ the child's vulnerability because of age, degree of dependency or disability
- ❖ the level of severity of impairment or damage to child's physical health, emotional state and intellectual functioning
- ❖ whether there has been a recent escalation in events, a cumulative effect of many events or where, if current circumstances continue, severe impairment or damage will occur
- ❖ any previous allegations of abuse or neglect of the child or siblings and how recently they occurred and their seriousness
- ❖ the nature and outcome of any previous investigations, including responses to domestic violence
- ❖ the current whereabouts of the child and degree of safety, including the presence of a protective adult
- ❖ the parents' current mental or emotional state, level of intellectual functioning or drug and alcohol dependency.

Practice Point

Risk assessment seeks to identify the likelihood that a child will continue to be abused or neglected, or parents fail to protect their child from abuse by others.

On the basis of the intake assessment, the officer of the Department of Community Services prepares an intake plan which is approved by an assistant manager or manager. In preparing this plan the officer may seek the advice of a specialist child protection worker from within that agency. The plan must state whether:



- ❖ immediate action is required to ensure the child's safety (see p.64)
- ❖ police should be immediately advised of a suspected criminal offence
- ❖ a joint investigation with police is warranted
- ❖ a medical examination or other health assessment is required
- ❖ a specialist child protection worker should be involved
- ❖ temporary care is required for the child or counselling and support services for the child or family
- ❖ a full investigation and assessment should occur.



It is at this stage the senior officer of the Department of Community Services decides whether the information received requires further assessment and investigation.

Notifications which do not require protective intervention

The intake assessment will identify those notifications which are best responded to by the offer of advice, material assistance or referral to appropriate support services. This approach will be warranted when there are no apparent risks to the child's safety or wellbeing and the concerns raised in the notification suggest general parenting or relationship issues rather than actual harm to the child.



NGO

If it is decided that no further child protection intervention is required it does not mean that the child or family is not provided with needed services or advice or that there is no further involvement of agencies.



Rather, responding with an offer of advice or support services is essential if a family's needs are to be met when they arise. Support to children and families in these circumstances is provided by a range of community based non-government organisations and government agencies, such as family support and specific counselling and support services for young people.

Feedback to notifiers

It is good practice to provide feedback to the notifier of what action is to be taken in relation to the information they have provided. It may not always be either possible or appropriate to provide detailed information but in the majority of cases it is possible to tell the notifier, for example, who the key worker is, if known, that the need for support services is to be discussed with the child's parents, that a home visit will be made, that there are to be further discussions with the police or that, on the information available, no further action is to be taken. Feedback to notifiers is the responsibility of the Department of Community Services.



DSE

NGO



Providing feedback to notifiers also provides an opportunity for the notifier to provide further information concerning the child. It is not uncommon for the notifier to recall other relevant information after they have made the notification. This contact provides the opportunity for the Department of Community Services officer to make constructive suggestions regarding any support a notifier could give the child or the family. This is particularly relevant for notifiers such as teachers, family support workers and child care workers who may be in daily contact with the child and the parents. It must be acknowledged that if these notifiers follow good practice and tell the child or their parents that they intend to make a notification and why they must do this, it is difficult for them if they are unaware whether or not any action has been taken following the notification. This is why feedback to notifiers is so important.

Practice Point

Practitioners should check their agency's internal policies and procedures before providing parents with details concerning a notification.

Assessment and investigation

The assessment and investigation stage includes a number of distinct but concurrent activities which must be planned and implemented by agencies in a cooperative and coordinated way. Activities include:

- ❖ planning assessments and investigations
- ❖ undertaking investigations
- ❖ conducting assessments.

The purpose of the assessment and investigation stage is to identify the needs of the child and family and to gather information to decide what, if any, protective intervention is required.

The conclusions derived from assessments and investigations inform decisions about the future needs of a child and family, and shape any necessary protective intervention. These outcomes form the protection plan which is described in the section 'Protective intervention'.

Refer Protection plan, p.75.

Note Immediate action may be required in cases where there are serious concerns that a child is in imminent danger of abuse. Any action must have the interests of the child as paramount.

Refer Immediate action, p.64.

Key worker

Following a notification a worker from the Department of Community Services is appointed as a key worker. The role of the key worker is to coordinate the interagency intervention from assessment and investigation to closure. After the child exits the protective intervention system the key worker can be an appropriate worker from any agency.



DSE

NGO

Planning assessments and investigations

An interagency approach is essential to effective assessment and investigation. Each case will require a clear assessment and investigation plan which outlines what needs to be done, by whom and the urgency with which it has to be undertaken.

Some allegations will require considerable interagency cooperation at this stage.

Issues for consideration in planning assessments and investigations should include:

- ❖ how the child or young person's views will be taken into account throughout the investigation and assessment
- ❖ how the continuing safety of the child is assured while further assessment and investigation occurs
- ❖ if there is a need for immediate action such as removal of the child from the home on a voluntary basis or by use of statutory powers
- ❖ what involvement and information parents or carers will have, for example who will be interviewed and the best time and place for interviews
- ❖ how information can best be sought from the child, for example whether an officer of the Department of Community Services or a police officer or both interview the child and where, how the interview will be recorded and if the child should be temporarily placed away from the home
- ❖ whether a medical examination is needed and, if so, who will conduct it and whether it is likely that the parents will consent to the examination or will an order under Section 23 be required and, if so, who will issue the order
- ❖ how parents' views can be taken into account during assessment and investigation, whether they will accompany the child to any interviews or whether they will be involved if a child has not disclosed abuse

Practice Point

Worker safety in conducting the investigation and assessment should be considered. If necessary, contingency plans should be put in place. This may include contacting the police.

- ❖ whether there will be a need for involvement of a specialist worker from an Aboriginal organisation, ethnic community or interpreter and how will this be agreed with parents
- ❖ how provision will be made for a child or parents with a disability who require suitable communication mediums such as technology, braille, maketon, signing interpreters
- ❖ which members of the extended family should be interviewed, including siblings and who should do this and when
- ❖ what services or personal support do the family need to help them through the assessment and investigation process
- ❖ who will explain to the parents what is to happen and what their rights are
- ❖ whether a worker already known to the family should conduct the investigation or whether another worker should be involved.

In situations where allegations involve multiple child victims or are suggestive of organised abuse, a planning meeting should be convened by either the Department of Community Services or police and attended by each of those agencies, regardless of which agency convened the meeting. A decision can be made at the meeting, based on all the available information, how to pursue the joint investigation. This decision should be consciously made by the meeting and not by default as the result of one agency simply not attending a planning meeting convened by the other.

In cases where criminal behaviour has been alleged or where there are serious concerns for a child's safety, the assessment and investigation plan should be prepared in conjunction with other agencies. Police, Department of Community Services and NSW Health are those most likely to be involved.





Where there are serious concerns for the immediate safety and welfare of a child, intake assessment may be completed by the Department of Community Services within hours of receipt of the notification. The intake assessment and the preparation of the assessment and investigation plan may be concurrent.



Intake assessment, p.56.

When the assessment and investigation plan is agreed, the key steps in the plan should be documented and provided to each person who has a role in assessment and investigation. It is essential that the timing of each agreed step is clearly recorded and who is to be involved.

In agreeing to the plan, it is essential that a key worker for the case is named and that this person immediately assumes responsibility for coordination of the plan's implementation.

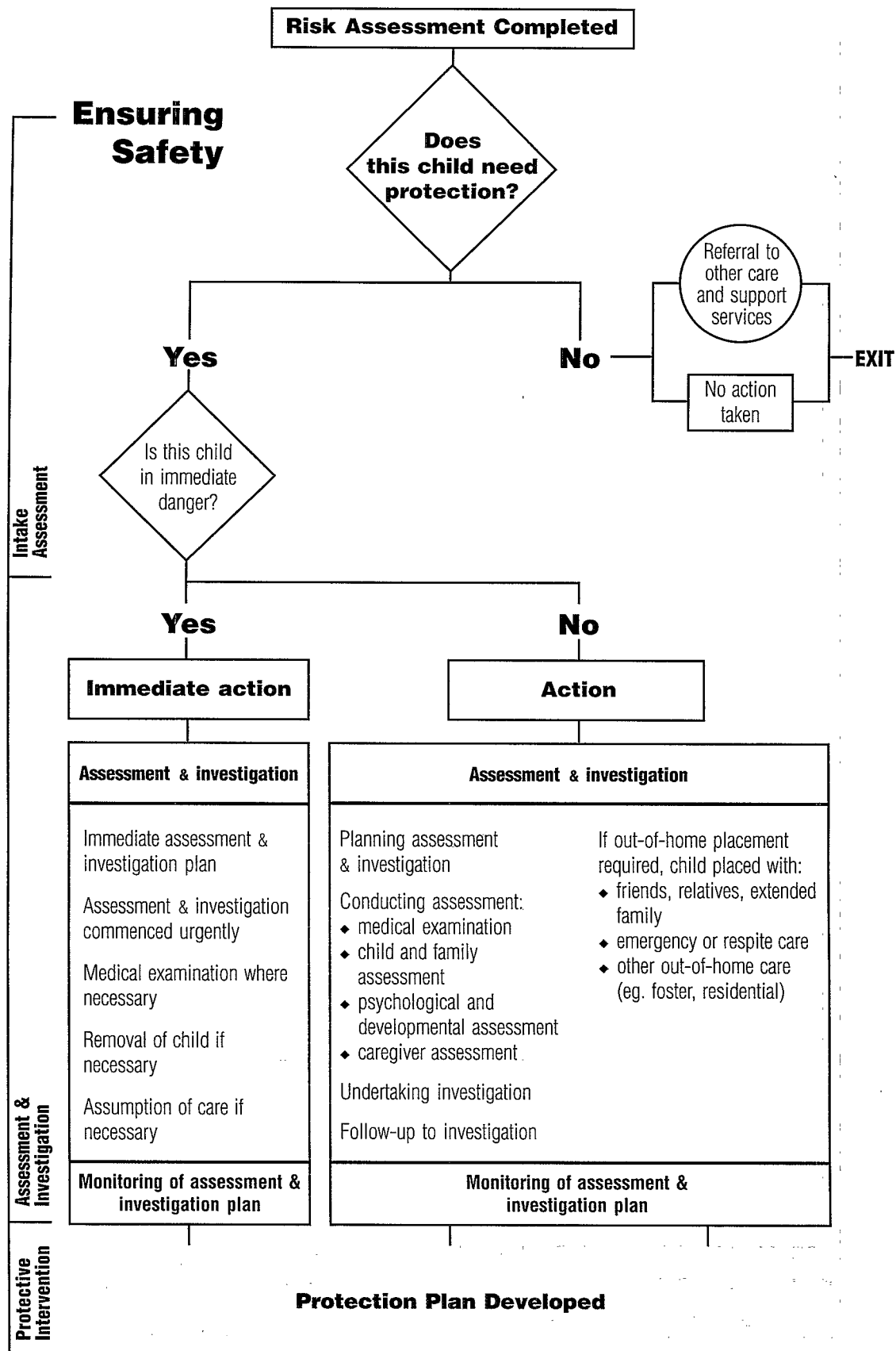
Implementation of the agreed assessment and investigation plan will require interagency cooperation and coordinated effort in order to avoid harm to the child from the investigation process itself.

Timing of assessments and investigations

The period of time taken to complete planned assessments and investigations will vary depending on the seriousness and complexity of the case. Not all cases of serious child abuse are complex, nor do all complex cases involve serious allegations of abuse.

No strict timeframes can be imposed. However every effort should be made to complete the assessments and investigations as promptly as possible to minimise the trauma to the child and their family. The guiding principle to the timing of assessments and investigations should be the safety and wellbeing of the child. This should also be applied to children who may disclose abuse that happened a long time ago.

Compliance regarding timeframes will be measured in accordance with agreed service standards.



assessment and investigation

Note

When a child has made a disclosure they should be interviewed without delay by the Department of Community Services.

Interviews should be planned and coordinated. Children should be interviewed without unreasonable delay or when it best suits the needs of the child.

Immediate action

Immediate action may be required in cases where there are serious concerns that a child is in imminent danger of abuse. Any action taken must have the interests of the child as paramount.

Immediate action can be taken for the purpose of:

- ❖ ensuring the safety of the child
- ❖ facilitating medical examinations
- ❖ restraining the alleged abuser.

Ensuring safety

If, during an investigation, it is apparent that to leave a child in their home would be to place the child in immediate danger of further abuse or neglect, alternative arrangements for the temporary care of the child should be considered.

Family living arrangements

In the first instance, suitable arrangements which would safeguard the child should be discussed with the parents or caregiver and their agreement to such arrangements sought. Arrangements might include:

- ❖ one or more adults residing elsewhere, (with or without an urgent application for an apprehended violence order under the *Crimes (Apprehended Violence) Amendment Act 1989*)
- ❖ the child being placed temporarily with friends or extended family members
- ❖ use of respite care or other voluntary out-of-home care arrangements
- ❖ when indicated, admission to hospital for treatment.

Removal of the child

Where it has not been possible to secure the agreement of a parent or caregiver to safe arrangements for the care of a child, the removal of the child from the home using the powers of the *Children (Care and Protection) Act 1987*, is indicated.



Before exercising these powers, carefully consider options for the safe care of the child and make it clear to the parents or caregiver that if they do not agree to safe arrangements, the powers to remove the child will be exercised.

Practice Point

Police can be used in the removal of a child to prevent a breach of the peace.

An officer of the Department of Community Services or a police officer may enter and search premises in which they suspect a child is in immediate danger of abuse, is in need of care or is on premises being used for the purposes of prostitution, acts of child prostitution or pornography. A child may be removed from such premises and kept in the care of the Director-General, Department of Community Services pending a care application being made to a Children's Court.



Parents, the person in charge of the premises, and children over 10 years of age must be given a verbal explanation of the reasons for the removal followed by written advice. It is good practice to also inform children under the age of 10 years why they are being removed from home.



Sections 60, 61, 61A, & 62 *Children (Care and Protection) Act 1987*, see Appendix, p.109.



Care proceedings before a Children's Court must be commenced within three days of removing a child under such circumstances.

Assumption of care

Where a child is in a safe place such as a hospital, respite service or family day care placement and an authorised officer of the Department of Community Services considers that it would not be in their best interests to



be removed from those premises by a parent or other person, the officer can assume care of that child on behalf of the Director-General. Exercising this power ensures that a child is not returned to an environment in which they are in immediate danger of further abuse. When care is assumed in this way the child may remain in the safe place for up to three days, in which time a care application must be made.



Section 62A *Children (Care and Protection) Act 1987*,
see Appendix, p.109.

Facilitating medical examinations



In some cases, investigations cannot usefully proceed unless the child is medically examined. Police officers and authorised officers of the Department of Community Services may serve a notice on a person who has the care of a child requiring that person to present the child for a medical examination. This power may be exercised only if they believe on reasonable grounds that a child under 16 years of age has been abused. From the time the child is presented for the medical examination until it has been completed, or until 72 hours has expired, the child is deemed to be in the custody of the Director-General, Department of Community Services, for the purposes of consenting to the medical examination.



This power should be exercised only when it has been established through direct contact with the parent or other person who has care of the child that they will not agree to the child's medical examination.



Section 23 *Children (Care and Protection) Act 1987*,
see Appendix, p.109.



Before serving a notice of this kind, detailed arrangements should be made with the medical practitioners, hospital or in the case of sexual abuse, a sexual assault service regarding the time and place of the medical examination. The names of children to be examined and any reasons given by the parent as to why they have not voluntarily agreed to the medical

Practice Point

It is important for practitioners to be sensitive to cultural issues when arranging and conducting medical examinations.

examination should be included. When arranging the medical examination, the medical practitioner concerned should be reminded that they are required by subsection 23(4) of the *Children (Care and Protection) Act 1987* to provide a written report of the examination to the Director-General, Department of Community Services.

When serving the notice, the parent should be told, as far as possible what are the concerns for the child and why it is considered necessary that the child be medically examined. It is appropriate to offer transport assistance or child care if this is required by the parents to enable them to present the child for the medical examination.

Where a parent or other person who has the care of a child fails to comply with the notice and does not present the child for medical examination, an officer of the Department of Community Services or a police officer can apply to an authorised justice for a search warrant. If granted, the search warrant empowers officers to search premises for the child and to remove the child and present the child to the medical practitioner.



Section 24 *Children (Care and Protection) Act 1987*, see Appendix, p.109.

Restraining an alleged abuser

Police have powers under the *Crimes (Apprehended Violence) Amendment Act 1989* to make an application to a local court seeking an interim apprehended violence order on behalf of the child. Such action should be considered if there are reasonable grounds to consider that a child may be subjected to further abuse if the alleged abuser remains in the household. An apprehended violence order may specifically require that a person not reside with or have contact with a child. Therefore, for practical purposes, the alleged abuser may be required to move from the home where the child resides.



In some cases an apprehended violence order will be sufficient to ensure the safety of a child. However in more serious cases, other action may be needed depending on the assessed level of risk to the child.



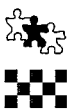
If an interim telephone order is sought, this may necessitate the child appearing in court for the hearing of the order.

Undertaking investigations



The purpose of investigations is to gather information which, when considered together with the outcomes of assessments, indicates what protective intervention, if any, is required.

Investigations can be undertaken by police officers or a delegated officer of the Department of Community Services. Police officers may use the information they gather as evidence to a court of a criminal offence. Information gathered by an officer of the Department of Community Services may also be used as evidence to a court of a criminal offence, as evidence in care proceedings or in evidence for disciplinary proceedings by an agency. More commonly, the information gathered by officers of the Department of Community Services is used to assess the risk to the child and any future needs of the child and family.



Officers of the Department of Community Services must advise police of all cases where it is suspected that a criminal offence has occurred in relation to a child.

“When children are required to undergo repeated interviews with investigators who have interests in different aspects of the investigation, their stories tend to lose immediacy and spontaneity. In reacting to what a child may feel is an unnecessary intrusion into his or her life, a child may begin to relate the experience without any emotion which often results in the statements appearing slick and rehearsed. A child may grow frustrated with the investigation process and become uncooperative. Other problems occur when a child picks up a new terminology from an interviewer and uses the adult term for actions or body parts, abandoning his or her original words.”¹

¹ Elder, D.P. (1991) “Investigation and Prosecution of Child Sexual Abuse Cases”, *Western State University Law Review*, 19, p.283.

Practice Point

In preparing to interview a child consider that to assist children, interviewers need to

- ◆ *recognise that children may have been threatened not to disclose or may think they will get into trouble for disclosing*
- ◆ *recognise that children may not want any family members, regardless of their role in the abuse, to get into trouble*
- ◆ *maintain a supportive approach, whilst not rewarding or punishing the child for giving details.*

Practice Point

In preparing to interview children, it is worthwhile considering whether the child requires a support person. The child should be consulted about whether they want a support person and if so who they want. It is important to heed the child's wishes in the choice of a support person.

Practice Point

In criminal matters, always use an interpreter if English is the child or parents' second language, or if the child and parents are not confident speaking and request an interpreter. When dealing with interpreters, always face the child and parents and talk to them, not the interpreter. In other matters, bilingual workers can be used.

Preparing to interview the child

The appropriately trained and experienced workers from Department of Community Services or the NSW Police Service will be involved in interviewing children. Planning for the interview is vital. Talk to fellow workers and decide where the interview will take place, who will lead and who will record the interview. Avoid confusion and being rushed by being prepared for the unexpected and remaining open to pausing the interview process if you need to confer with a colleague.

Consider key questions such as how best to engage the child or young person. Engaging the child may be facilitated by the use of a support person. Before interviewing in the presence of a support person, discuss their role with them. It is important that the support person does not participate or interfere in the interview process. This will be assisted if they are clear on how they can support the child, and how the interview process will be managed by the interviewers. Where interpreters are being used make sure they do not summarise or paraphrase the child's statements.

Other issues such as a suitable venue and time for the interview need to be carefully considered. These include using a quiet private room free of interruptions and taking breaks and refreshments as the child may require. If a child becomes distressed, suspend the interview.

For children with a disability, it may have taken a long time to disclose. They may not disclose until they trust an adult such as a teacher's aide or a respite care worker. These people are very important advocates for children with a disability. They represent constant adults who can interpret their communication accurately (eg. eye movements). If necessary consider having such an advocate available when planning to interview a child with a disability.

Interviewing children

When there are serious concerns for the safety of a child, interviews should be commenced immediately. In any circumstances, sufficient time should be set aside to complete the interview.



All persons that interview children must have attained the following skills:

- ❖ experience in the assessment and treatment of children and families where abuse has occurred
- ❖ specialised training in areas of child sexual and physical abuse and techniques for interviewing children
- ❖ understanding of legal issues and laws relevant to child abuse
- ❖ knowledge of child development, especially of language
- ❖ ability to give evidence.

Generally, the consent of parents should be sought before interviewing a child. However, in cases of serious abuse where there is either a concern for the future safety of the child or the possibility that either or both parents will intimidate the child, then an interview of a child should proceed without parental consent.

If interviewing children 12 years and over, their consent to be interviewed should be obtained. Understanding the child or young person's developmental stage is important. Ensure questions are open questions, (ie. not leading questions) age appropriate and contain only one thought.



It is the responsibility of the Department of Community Service to inform parents that an interview has been conducted before a child is collected from a school or service.

Interviews at school



DSE

Children often express their dislike for being interviewed at school. Principals also will permit an interview at school only where he or she has been assured by Department of Community Services or police that there is no suitable alternative. No student will be interviewed at the school against their wishes and it is the principal's responsibility to inform the student of this.

Note

Department of School Education has specific instructions for interviews of students at school. See Department of School Education Child Protection: Procedures for Recognising and Notifying Child Abuse and Neglect.

If interviews have to take place at schools, discuss with the principal how to make the school environment more conducive to interviewing children. Plan for the conclusion of the interview covering how the child will return to classroom or playground and how to handle other children's curiosity and possible questions.

For younger children who may be interviewed at pre-schools take particular attention to their need for breaks. If the child becomes distressed, stop the interview and appropriately comfort the child.

Refer

Department of Community Services Child Protection: Procedures for Recognising, Notifying and Responding to Child Abuse and Neglect.

NSW Police Service Child Protection: Procedures for Recognising, Notifying and Responding to Child Abuse and Neglect.

Department of School Education Child Protection: Procedures for Recognising and Notifying Child Abuse and Neglect.

Sight the child

In all cases that proceed to assessment and investigation, the child who is the subject of the notification, must be sighted by the officer conducting the investigation. In practice, this may mean that several visits need to be made to the child's home before it is possible to see the child. Where there is a concern that a child has been physically abused it will be necessary to see the child as soon as possible. This should be undertaken with the permission of a parent and with sensitivity to the child's age, dignity and privacy. It is advisable to do this in the presence of another adult who is not the alleged abuser. If, after repeated attempts, it has not been possible to see the child, consideration should be given to using statutory powers to search for the child.





Immediate action, p.64.

Interviewing parents



Persons with parental responsibility must always be interviewed, even if they live elsewhere. Other adults residing in the household should also be interviewed.

When it is necessary to use an accredited interpreter for either language or sign, it is essential that they are properly briefed on what is required of them, particularly if the interview is likely to be used for criminal proceedings.

Child and family assessments



With the family's agreement, a lot of information can be gathered that will assist in forming a picture of circumstances which may have lead to the abuse and the general functioning of the family. When conducting a comprehensive child and family assessment it is necessary to gain an understanding of:

- ❖ roles and relationships between family members and anyone else in the household (consider the intensity of relationship between the primary caregiver and their adult partner)
- ❖ age and level of functioning of both the children and parents
- ❖ parents' knowledge of child development, behaviour management and child rearing practices
- ❖ interactions between the parents and children
- ❖ family's strengths and resources
- ❖ access to supportive family members and other relatives or friends
- ❖ willingness of family to use community services and supports
- ❖ religious, racial, cultural, linguistic considerations
- ❖ family's perceptions of the problem
- ❖ solutions the family has already tried

Practice Point

Non-English speaking client families require more time for assessment and support during the process of child and family assessment due to cultural and linguistic factors.

Practice Point

Special consideration should also be given to parents with a cognitive limitation such as acquired brain injury, intellectual disability and psychiatric disability. These parents also require more time for assessment and should be supported by an advocate who can interpret and clarify information.

Practice Point

When completing a child and family assessment with Aboriginal families, be certain to take full account of extended family members and other community and cultural factors of significance. These issues should also be considered when conducting an assessment with families from non-English speaking backgrounds.

Practice Point

Parents should be advised that medical examinations, may provide no evidence that the child has been abused especially in cases of sexual abuse. This does not mean that the child's allegations are not true. The medical examination provides the opportunity to reassure the child and family and provide any necessary treatment.

- ❖ willingness and capacity to change
- ❖ capacity of parents to accept responsibility for circumstances and to see the child's needs as separate and more important than their own
- ❖ impact of migration or the refugee process
- ❖ family member with a disability
- ❖ stresses within the family.



If information during child and family assessments is collected in a consistent and systematic way, it can be objective, and with periodic reassessment, permit the family and practitioners to assess change in family strengths and weaknesses, and the impact of services.

Medical examinations

The medical examination of children can provide important information for both assessment of the child's needs and investigation of alleged abuse or neglect. Findings or opinions as the result of a medical examination can be used as evidence in care or criminal proceedings. Also, information from medical examinations, including findings and opinions, can be used to determine treatment or the need for other intervention such as counselling or support.

Medical examinations should follow the standard procedures for forensic examinations. In cases of child sexual abuse, medical examinations should be conducted only by doctors working as part of the Sexual Assault Service, using the child sexual assault forensic protocol. At Sexual Assault Services counselling is also available for the child and non-offending carer and family members.



NSW Health Child Protection: Procedures for Recognising and Notifying Child Abuse and Neglect.



In cases of physical abuse and neglect and sexual abuse, a support person should be present for the child. This person should be of the child's choice and may be their counsellor.





Psychological and developmental assessments



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The purpose of these assessments is to get expert opinion as to the level of functioning of the child, including their physical (eg. fine motor skills), verbal, emotional, social, scholastic and intellectual functioning.

Contributions by substitute caregivers

NGO

A substitute caregiver can often be in a good position to observe a child's behaviour. This does not mean that the caregiver interviews or probes the child for information. Rather, the caregiver keeps a record of everyday behaviours such as eating, sleeping, play. If a parent is having access to the child, the caregiver may also note the child's reactions to visits. The key worker should ensure that parents are informed that the caregiver has been asked to keep such information to assist in future planning to meet the child's needs.



Substitute caregivers may provide services for either non-government or government agencies. Where a substitute caregiver is contracted by a non-government agency, it is necessary for the non-government agency to be approached first by the case worker to request that the caregiver make a contribution to an assessment process. The non-government agency will then liaise with the caregiver regarding the request.



NGO

Monitoring the assessment and investigation plan

It is not possible for professionals to plan for all contingencies when assessing and investigating child abuse and neglect. Nor is it possible to anticipate what might emerge from investigations. It may be necessary to reassess tasks or to reconsider the need for immediate action in the light of new information. When changes are necessary it is the responsibility of the key worker to reconvene the assessment and planning meeting to reach agreement on changes. Where changes are of a more minor nature, the key worker should ensure all those involved are advised promptly. Cooperation and coordination of effort is essential to ensure that tasks are completed within planned timeframes.

"Who will monitor the overall intervention and how can it be safeguarded that a primary therapeutic intervention does not turn into a primary punitive intervention or a primary child protective intervention with secondary psychological damage to the child especially when the child does not return home".¹

Protective intervention

An interagency approach to protective intervention requires the involvement of multiple agencies in a coordinated manner. The various activities undertaken by agencies during this stage should represent a planned and coordinated response to the conclusions reached on the basis of the assessments and investigations already completed.

The first activity is to develop the protection plan, using the interagency approach. The plan guides and directs other intervention including care and support for the child, criminal prosecutions and care applications.

Protection plan

The purpose of a protection plan is to develop a recommended course of action which will ensure that where abuse or neglect has occurred, it is stopped and that the child receives the services, care and support appropriate to their developmental needs and the assessed needs of the family.

Protection planning meeting

To achieve this purpose the key worker who is from the Department of Community Services will convene a protection planning meeting. The meeting will bring together those who can provide information about the child and their family. Attendance should consist of the smallest number of people conducive to good decision making.

Practice Point

Other agencies can request the key worker convene a protection planning meeting. In making this request, talk over your concerns for the child and family with relevant staff from the Department of Community Services.

¹ Furniss, T. 1990. "Common mistakes & how to avoid them", in Oates, K., *Understanding & Managing Child Sexual Abuse*, Harcourt Brace Janovich.





There may well be less formal meetings of professionals to discuss aspects of a case, such as preliminary outcomes from investigations or assessments. These informal meetings do not replace the protection planning meeting.

The protection planning meeting is a critical interagency process which provides a forum for the pooling of the skills, knowledge and expertise of agencies and an opportunity to combine and coordinate these resources for the protection of the child.



Judgement is therefore required to ensure that those who can assist in developing the protection plan are involved. Those who have been gathering information to assess the degree of risk to the child including those who have undertaken examinations and assessments should be involved. Police should be invited to all protection planning meetings if they have been involved in the investigation.

Involving parents

As a general principle parents should be involved in protection planning meetings. They should have support available to them and the purpose and the outcome of the meeting should be explained to them.

Participation of the parents in all or part of the meeting may be inappropriate in some cases, particularly those involving serious allegations of abuse, and sexual abuse. Worker safety should also be considered where the threat of violence is present.

Practice principles for working with families are:

- ❖ they have a right to respect for their culture, child rearing customs and religious beliefs
- ❖ they have a right to contribute their views about services which effect them and to have these views taken into account
- ❖ they have a right to clear accurate information about services offered
- ❖ they have a right to privacy and confidentiality

Practice Point

Culture, customs and religious beliefs should not be detrimental to children's needs for care and protection or be an excuse for abuse. This includes customs which may be lawful in the country of origin but are unlawful in Australia, such as female genital mutilation.

- ❖ they have a right to express grievances about a service.

Note

A protection plan recommends action to be taken by agencies with statutory and service provision responsibilities. The planning meeting does not make decisions. It is the responsibility of each agency to decide whether to use their statutory powers in relation to the protection of children. One of the main purposes of a protection planning meeting is to minimise unilateral action. It is assumed therefore that recommendations will be implemented. Nevertheless, recommendations are not binding on individual agencies. If agencies cannot implement the recommendations, the meeting should be reconvened and the agency concerned explains why it has not been possible to carry out the agreed action.

Functions of a protection planning meeting

The functions of protection planning meetings are to:

- ❖ pool information from investigative interviews and family, medical, psychological and caregiver assessments
- ❖ assess ongoing risk to the child
- ❖ recommend to workers and agencies with statutory powers whether statutory action needs to be taken to lay criminal charges against any person or make a care application to a Children's Court
- ❖ recommend whether out-of-home care is required
- ❖ recommend whether services, care or support are required by the child and family
- ❖ recommend to the Department of Community Services whether to record the notification as 'substantiated' or 'not substantiated'
- ❖ agree when to reconvene the protection planning meeting.



DSE

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NGO**Note**

Non-government organisations and foster carers are major providers of substitute care. Their expertise in meeting childrens' and families' needs should be utilised.

In complex cases, the purpose of the protection planning meeting is unchanged. However, more time may need to be allocated for the meeting and a number of specialists may need to attend.

Conducting a protection planning meeting

Chairing a protection planning meeting requires skill and a knowledge of the roles and responsibilities of agencies, available resources and services, and an understanding of families' needs in a child protection context. Responsibility for chairing these meetings rests with the Department of Community Services. This could include an independent chairperson approved by the Department of Community Services. However, this approach should not override the requirements that the person chairing the meeting has the required knowledge and skills for the task.

In some instances it may be necessary to conduct the protection planning meeting via a telephone conference. This approach may be indicated in cases of serious abuse or neglect where immediate, decisive action is required.

In rural or remote areas, a telephone conference may be the preferred approach given the location of representatives from relevant agencies.

Recording the protection plan

Recommendations of protection planning meetings should be recorded and circulated only to those agencies with responsibility to action a recommendation. It is the responsibility of the person chairing the meeting to ensure this occurs within three days or sooner, if recommended by the meeting. The record is a record of the agency chairing the particular protection planning meeting. Where appropriate, a copy of the protection plan should be given to parents.

Practice Point

When organising out-of-home care try to place the child with friends or relatives as a first step. Parents may feel less threatened by such voluntary arrangements. Friends or relatives would naturally have to be assessed as to their protective capacity to ensure safety of the child. If substitute care is required, try and match the child's needs with the type of substitute care available. Consider also the child's ties to the local area in relation to school and peers. Always follow the child placement principle when placing Aboriginal children. Wherever possible, consult the child or young person and family regarding their choice of out-of-home care arrangements.

Practice Point

For the purpose of the protection planning meeting, expert advice from paediatricians, child psychologists, psychiatrists, occupational therapists, sexual assault counsellors, specialist child protection workers, ethnic workers, youth workers or other specialists may be best accessed via a telephone conference.

The meeting should record recommendations that arise from discussion. These recommendations may record who is going to do what and when, or other recommendations relevant to achieving client outcomes. Brief notes may also be made of the context to arriving at recommendations. Where there is dissension, those involved should be asked whether they want the issue recorded, prior to documentation.

Implementing the protection plan

The protection plan will recommend what protective intervention needs to be taken by agencies.

It may include one or more of the following major courses of action:

- ❖ care and support
- ❖ criminal prosecution
- ❖ care proceedings.

Alternatively, no further protective intervention may be required.

Note A recommendation to initiate care proceedings or to lay criminal charges does not mean that care and support services should not be offered to the child or family. Rather, the fact that such proceedings are recommended provides further reason why such services should be offered. Where a protection plan involves more than one course of action it is critical for the child and family that agencies coordinate intervention to minimise the likelihood of further trauma as a result of intervention.

Note Criminal prosecutions, by their nature, take time. While criminal prosecutions, care proceedings and services to support and care for the child may all be initiated simultaneously, and at times will be occurring in parallel, outcomes are more likely to be staggered over many months or even years.



DSE



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NGO



This highlights the importance of interagency cooperation and coordination throughout the child protection intervention process.

When protective intervention is no longer required



DSE

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Having analysed the outcomes of assessments and investigations, it may be concluded that there are no child protection concerns regarding the child. In these cases, the Department of Community Services would record the notification as 'not substantiated'. In other cases, there may still be unmet needs identified and a willingness by parents or caregivers to address these issues but they are not of sufficient concern to warrant protective intervention. Instead, services and support may be provided to the family by referral to non-government agencies or by accessing other family services of the Department of Community Services.

Family work services can be provided by the Department of Community Services under the child protection program. Such cases are not recorded on the child abuse register.

Care and support



DSE

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The central component of protective intervention is working with the child and family to secure a safe and protective environment responsive to the child's needs for care, support and nurturing and to strengthen the family's capacity to meet those needs.

The protection plan will recommend the action agencies need to take to care for and support the child and to assist parents. It will be tailored to meet the assessed needs of each child and their family and will take into account the impact of any criminal proceedings or care applications before the Children's Court.

Working with families



DSE

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In implementing those aspects of the protection plan which aim to offer care and support, professionals and agencies should seek to work in partnerships with families. Acknowledging the inevitable conflict between parents and agencies seeking to intervene to protect a child is fundamental to establishing a working

Practice Point

Community resources and infrastructure as well as accepted community child rearing standards, influence the nature of service responses where neglect of a child in an Aboriginal community is of concern. Realistic strategies which have the support of the extended family or community leaders should be sought.

Practice Point

Respond as you would to any child, in planning the protection plan for a child with a disability. With information and support, practitioners in family support and other agencies are able to effectively respond to the needs of both children with a disability and their parents.

relationship with parents. Equally, parents need to acknowledge that intervention will be provided to assist them to take responsibility for the proper care of their children and that they will need to work cooperatively with agencies.

Treating families with respect and being open and honest with them concerning the reasons for intervention and what it is hoped will be achieved, can help in establishing a working partnership with families.

Parents are most significant in the lives of their children. They have strengths that can be supported and developed and they can be active on behalf of themselves. It is only some parents, who are unable to play a constructive part in their children's lives due to the serious nature of the abuse sustained by the child.



Practice principles for working with families, p.76.

Respecting difference

Professionals and agencies should recognise that for effective intervention with families from non-English speaking communities, culturally appropriate support workers should be considered. Families should be consulted about their preference for involvement of ethnic specific agencies or use of mainstream services.

Issues which need to be approached sensitively include:

- ❖ reluctance for external help because of shame within their community
- ❖ belief that the harm is a result of an accepted cultural or religious practice
- ❖ fear that intervention will further exacerbate stress experienced by newly arrived and immigrant families
- ❖ association of intervention with previous experiences by refugees of torture, trauma or war
- ❖ practice of female genital mutilation.

A protection plan relating to an Aboriginal child and

family will have been developed taking into account the family's preference for involvement of a local Aboriginal agency, members of the local Aboriginal community or an Aboriginal worker. In working with Aboriginal families, the heterogeneous nature of Aboriginal communities must be acknowledged and reflected in the services offered and protective strategies mobilised at the community level. Resource availability and issues of location and mobility may also be factors requiring consideration in the development of protection plans.

Meeting needs



In offering care and support, intervention must remain child and family focused. Short- and long-term needs must be met. Also the concepts of service continuity and permanency planning must be addressed. Past service use and any outcomes need to be considered along with the parent's motivation and capacity to change. While each child and family will have unique needs, the service types which may be required include:

for the family –

- ❖ housing
- ❖ income support
- ❖ material assistance
- ❖ legal aid
- ❖ counselling
- ❖ domestic violence services
- ❖ alcohol and drug treatment
- ❖ advocacy services
- ❖ mental health services
- ❖ health care
- ❖ intensive family support
- ❖ child care
- ❖ respite care

for the child –

- ❖ temporary care
- ❖ health services
- ❖ child Sexual Assault Services
- ❖ counselling
- ❖ advocacy services
- ❖ therapy services
- ❖ education services
- ❖ school support
- ❖ recreation and cultural activities.

Criminal prosecutions

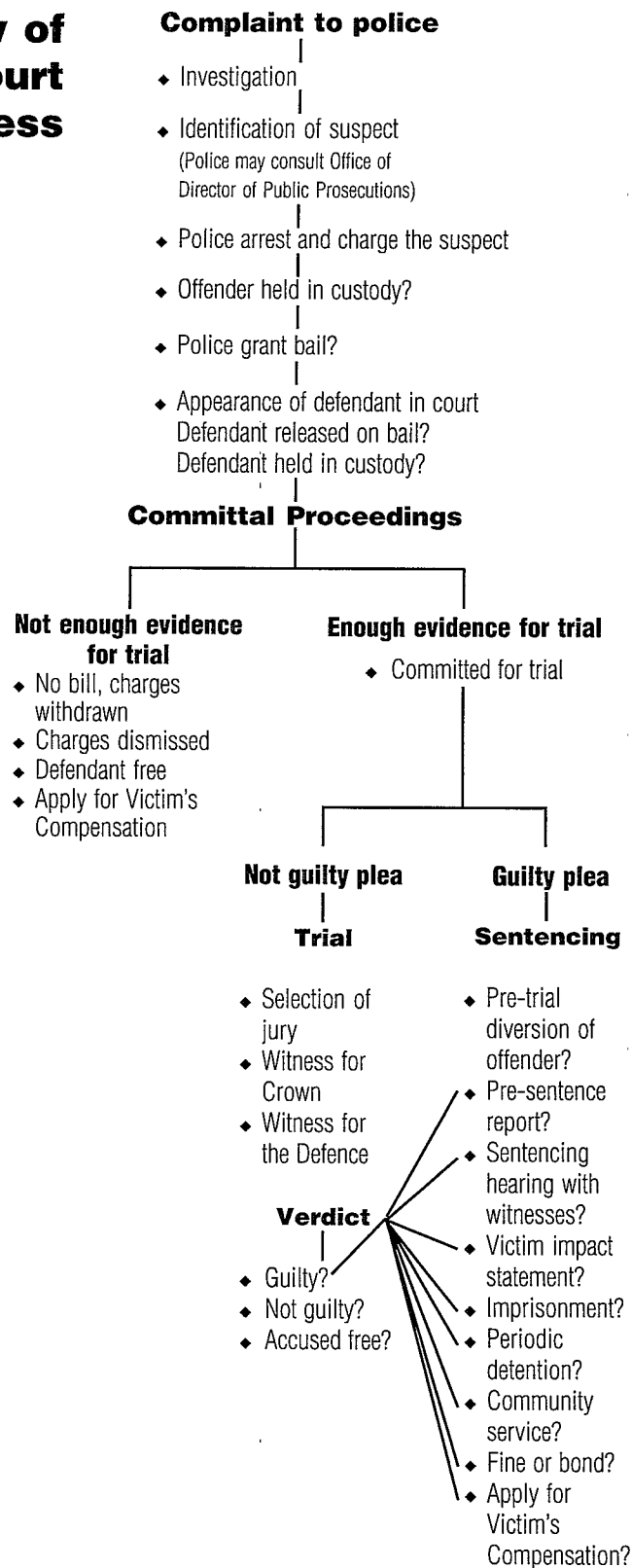
Laying criminal charges can have a profound effect on a child victim particularly when the person who is charged is a parent or parent figure, relative or person known and trusted by the child. The parent offering the child support, may also be dealing with the loss and grief associated with relationship breakdown in addition to the impact of the abuse of their child.

Feelings of guilt for what has happened, of breaking the promise to keep the secret or being disloyal to parents are common. Memories of the abuse or fear of the abuser can be powerfully rekindled. Thoughts about having to give evidence or to face the alleged offender can surface for the first time. All these feelings and thoughts can result in renewed stress for the child victim.

For the non-offending parent and other significant adults in the child's life, such as grandparents, the laying of criminal charges raises fears and uncertainties. Usual patterns of family relationships and daily living will be significantly altered. Family income or housing may change. An overwhelming sense of chaos or powerlessness may be experienced, even in those who have strongly advocated for a criminal prosecution.



Overview of Criminal Court Process



Practice Point

A coordinated interagency approach will reduce the trauma to a child victim during the court process. For this reason it is important that agencies with information about the child's emotional status during the period of preparation for the trial should advise the key worker. Changes of placement, attempted contact by the alleged offender, outcomes of care proceedings or other significant changes in circumstances should be conveyed to the key worker. It is the responsibility of the key worker to keep the prosecutor informed of these developments.

It is the responsibility of professionals and agencies to be responsive to these feelings and to carry out their work with children and families with the following in mind:

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

When it is recommended as part of a protective plan that criminal charges should be initiated, the police officer in charge of the case should seek advice. If the charges are of a summary nature, the sufficiency of the available evidence and appropriate charges should be discussed with a senior officer or police prosecutor.

When criminal charges in relation to child sexual assault or serious offences of violence against children are being considered, police may seek advice from the Office of the Director of Public Prosecutions regarding the sufficiency of available evidence, the appropriateness of charges and whether or not charges should be laid.

Coordinate proceedings

After criminal charges have been laid in relation to child sexual assault offences or serious offences involving violence against children, the police will forward a brief of evidence to the Office of the Director of Public Prosecutions. That Office will screen the brief and allocate it to a lawyer to prosecute or to brief and instruct a Crown Prosecutor.

It is at this stage that the Office of the Director of Public Prosecutions assumes responsibility for the coordination of the criminal proceedings.

Where charges do not involve child sexual assault offences or serious offences involving violence against children and are to be heard in a Local Court, the police retain responsibility for the prosecution. The police officer in charge of the case assumes responsibility for coordination of criminal proceedings.

Communicate changes



During the progress of criminal proceedings issues will arise that need to be communicated to those working with the child or their family. It is the responsibility of the Office of the Director of Public Prosecutions or the police officer in charge of the case, when less serious charges are involved, to inform the key worker on each occasion any of the following occurs:

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



It is the responsibility of the key worker to ensure this information is conveyed to other relevant agencies and, if appropriate, adjustments made to the protection plan in light of the new information.



Protection plan, p.75.

Court preparation of child victim



A child victim who is required to give evidence in criminal proceedings must be offered information to assist in understanding court processes and procedures. There should also be support offered from an adult of her or his choice. There should also be support offered from an adult of her or his choice who should be advised of the court support person by the lawyer from the Office of Public Prosecutions.

Interpreters need to be organised in advance of the court appearance of the child. It is a police responsibility to arrange interpreters in committals, and in trials. It is the responsibility of the lawyer from the Office of Public Prosecutions to notify the court that an interpreter is needed.

It is the responsibility of the Office of the Director of Public Prosecutions to ensure that a child is appropriately prepared to appear as a witness. This should involve the prosecutor meeting with the child and caregivers well prior to the commencement of proceedings in order to assess the needs in relation to that child. If a sexual assault service is involved, the prosecutor should liaise with that service and the key worker to discuss the child's specific needs with regard to court preparation and support.

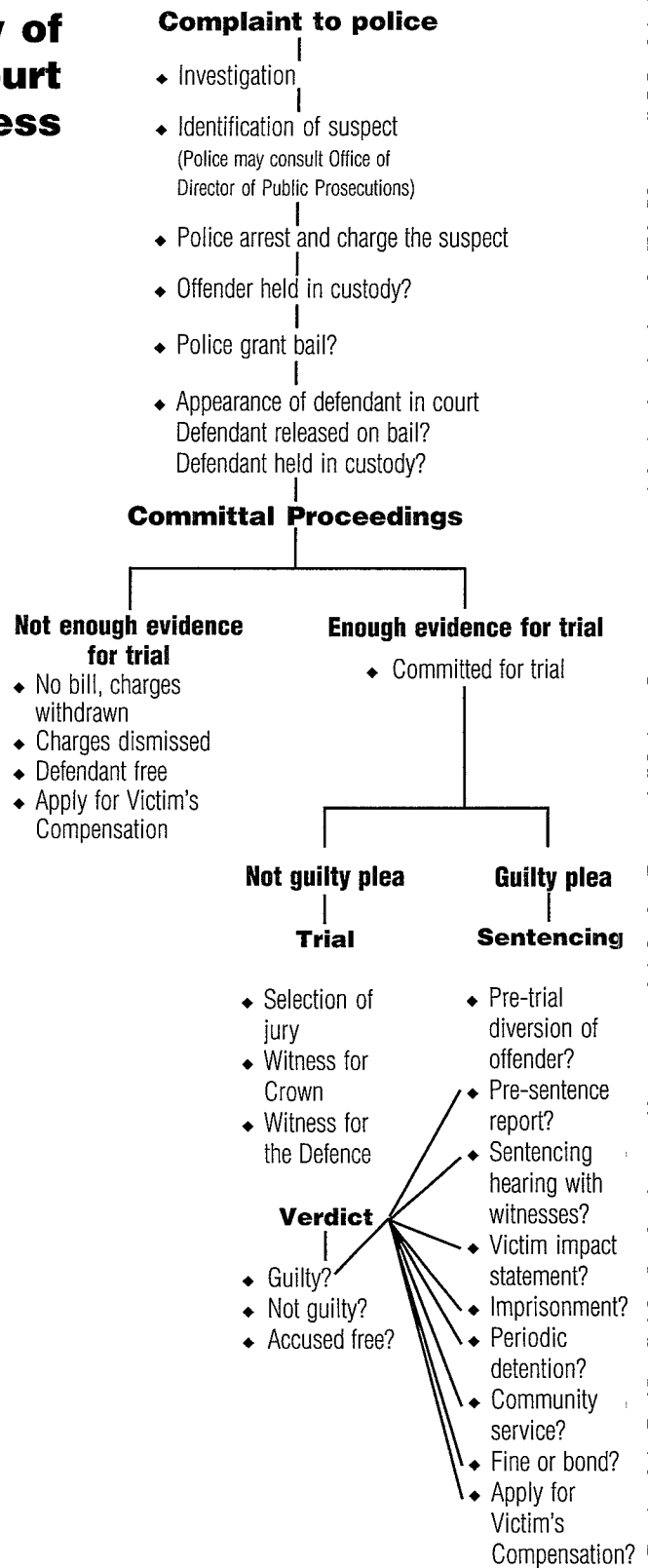
The prosecutor should at this meeting:

- ❖ assess the child's competence to give evidence
- ❖ form an appreciation of the child's developmental level, including language and conceptual skills, their capacity to understand time concepts and concepts in relation to locality and their capacity to concentrate
- ❖ form an appreciation of the child's level of anxiety in relation to the proceedings
- ❖ establish some trust and rapport with the child
- ❖ refer to a sexual assault service
- ❖ refer to the Witness Assistance Service of the Office of the Director of Public Prosecutions where appropriate.

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



Overview of Criminal Court Process



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Practice Point

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- ❖ breaches of bail conditions
- ❖ progress of proceedings
- ❖ charges withdrawn by the Crown (no bill applications)
- ❖ findings or determinations of courts
- ❖ sentencing decisions
- ❖ any other matter which arises and is relevant to the safety or welfare of the child.



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It is the responsibility of the key worker to ensure this information is conveyed to other relevant agencies and, if appropriate, adjustments made to the protection plan in light of the new information.



Protection plan, p.75.



Court preparation of child victim

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- ❖ the presence of a supportive person while giving evidence
- ❖ give evidence by closed circuit television (CCTV) or when CCTV facilities are not available then to alternate arrangements for giving evidence.



Crimes Amendment (Children's Evidence) Act 1996
No. 68 S405 CA, S405D, and S405F.

Disrobing (no wigs or gowns) by the judge and counsel may also be possible.



It must be made clear to the child and relevant parents or caregivers that court arrangements for the giving of evidence by the child are determined by the court. No promises can be given about these arrangements.



Office of the Director of Public Prosecutions,
Prosecution Policy and Guidelines.



NGO

All child witnesses and the supporting adult of her or his choice should attend a court preparation program. The New South Wales Sexual Assault Services conduct an accredited preparation program which has been developed taking into account all relevant law. Agencies working with children should facilitate a child's participation in such a program by providing transport for the child and supporting adult or by meeting other reasonable requests of the Sexual Assault Services.



This is a highly specialised area. Only those accredited to conduct court preparation programs should do so.



The Witness Assistance Service, attached to the Office of the Director of Public Prosecutions also provides some case work services to victims and other witnesses. Services include preparing the child and other witnesses to testify, court support and debriefing, assessment and referral to other services and facilitating liaison between victims, witnesses and the prosecution lawyers.

Counselling and support

A child who has been sexually abused is likely to be receiving counselling from a Sexual Assault Service. In cases of physical or emotional abuse the child may be receiving counselling from one of a number of agencies. Those providing counselling to child victims where criminal proceedings are in progress need to ensure they have established links with the child's key worker and that they are aware of court processes and procedures.



Court determinations

The Crown Prosecutor or prosecuting lawyer from the Office of the Director of Public Prosecutions is responsible for informing the child and the parents, caregivers or guardian and the key worker of the outcome of criminal proceedings or any plea bargaining agreements reached with the defence. In cases conducted by a police prosecutor, they may choose to delegate this task to the police officer in charge of the case.



Practice Point

At the end of the proceedings the prosecutor should take considerable time to discuss the outcome with the victim and caregiver, the child should generally always be praised no matter what the outcome and an acquittal or dismissal should always be framed positively in respect of the evidence given by the child.

When a final court outcome is reached the key worker should be given details of all orders made.

In cases where the Crown has made a no bill application and hence the charges are withdrawn, the key worker should reconvene the protection planning meeting to reassess the safety of the child and her or his ongoing care and support needs.

Similarly, if there is a 'not guilty' finding the key worker should reconvene the protection planning meeting.

Where a conviction has resulted and sentencing has occurred, the prosecutor should advise the key worker in writing of any comments of the sentencing judge.

Learning of a final court determination can be difficult for the child and caregivers. Past experiences and feelings can be rekindled and a sense of confusion or injustice may emerge if charges have been withdrawn or guilt has not been established. Support and counselling at this time is often required. It is for this reason that agencies involved in provision of care and support services should adopt an interagency approach to ensure that the ongoing needs of the child and the family are met.





Care proceedings

A care application can be made to a Children's Court by a delegated officer of the Department of Community Services if they have grounds to believe that a child is in need of care.



A Children's Court can only make a care order if the child is under 16 years of age.



Section 72 *Children (Care and Protection) Act 1987*, see Appendix, p.109.



A child is in need of care if adequate provision is not being made, or is likely not to be made, for the child's care or the child is being, or is likely to be, abused.



Section 10 *Children (Care and Protection) Act 1987*, see Appendix, p.109.



A care application must state the grounds on which it is alleged the child is in need of care. In any case, a care application shall not be made unless the Director-General of the Department of Community Services is satisfied that no alternative means are available to provide for the welfare of the child.



Section 57 *Children (Care and Protection) Act 1987*, see Appendix, p.109.



A protection plan will recommend initiating care proceedings. It is therefore important to ensure that a protection plan includes care and support for the child and the parent at all stages of care proceedings. A delegated officer of the Department of Community Services makes the decision about whether or not a care application will be made. In making this decision regard should be given to all the information and conclusion of the protection planning meeting. Preparation of the evidence for a care application should be undertaken in accordance with the procedures of the Department of Community Services, in consultation with departmental legal advisers.

Care proceedings have significant short- and long-term impacts on the child and the parents. Care proceedings which result in a child being declared a ward have the potential to irretrievably sever the relationship between a child and the parents. Experience nationally and internationally indicates that often wards are stigmatised, are vulnerable to further abuse, and that expectations about the services they will receive as wards are not realised. These considerations need to be balanced with the risks associated with failure to initiate care proceedings, including permanent physical or psychological impairment, parental rejection or abandonment, and death from non-accidental injury.

Children can be confused and fearful about the prospect of care proceedings. These feelings need to be addressed and appropriate support provided to them.

Parents can be angry, anxious, or feel betrayed by workers who are party to care proceedings. Feelings of powerlessness or frank denial of the seriousness of the concerns for the child are common. Efforts should be made to ensure that parents have access to legal representation and support agencies at this time. It is important that while these agencies seek to empower parents and support them during care proceedings, it is important that neither the focus on the child nor parental responsibilities are lost sight of when advocating on behalf of parents.

Note Care proceedings involving Aboriginal children evoke strong feelings among family members and the broader Aboriginal community because of the association between care proceedings and past practices of removing Aboriginal children from their families.

Refer 'Learning from the Past', Department of Community Services. 1994.

Note Practitioners should recognise and be sensitive to these feelings. Comment of parents should be sought to enable close consultations with representatives of Aboriginal agencies to occur prior to initiation of care proceedings. In practice, a Children's Court cannot make an order placing an Aboriginal child in the custody of a non-Aboriginal person unless it has first

considered the practicality of placing the child with an Aboriginal person.



Section 87 and subsection 72 (3) *Children (Care and Protection) Act 1987*, see Appendix, p.109.



DSE



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When care proceedings are initiated it is the responsibility of the officer making the application to ensure that the key worker is advised of the progress and outcome of the proceedings. The key worker will inform other relevant agencies of progress. In cases where criminal proceedings have also been initiated, the key worker must ensure that the police officer in charge of the case related to these proceedings, or the relevant person in the Office of the Director of Public Prosecutions, is kept informed of any progress or outcomes in the Children's Court.

Also, the officer making the care application should ensure that the key worker is advised if any matter which is of relevance to the child is before the Family Court of Australia so that appropriate liaison can occur with the Registrar of the Court and any appointed separate legal representative of the child.



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



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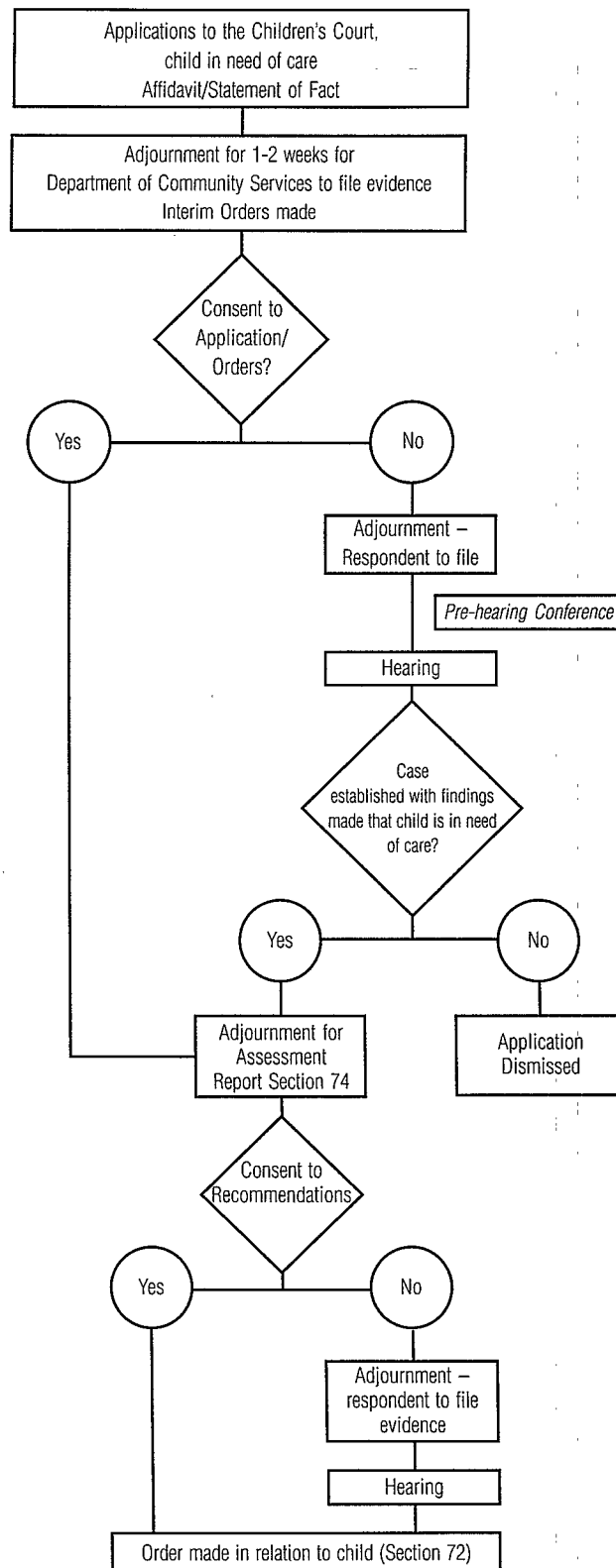
The outcome of care proceedings may involve an order by the Children's Court for the child to be placed in out-of-home care. This decision may be based on assessments and recommendations contained in reports to the Children's Court. Issues that need to be considered include:

- ❖ the ongoing suitability of the recommended placement
- ❖ location of the placement for continuing parental contact
- ❖ the child's reaction to the decision of the placement.

Practice Point

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

Overview of Children's Court Proceedings



protective intervention



Court ordered out-of-home care for Aboriginal children must be planned and implemented so that the child is placed with a person belonging to the same cultural group as the child. Only where the child or the family expresses a wish to the contrary is this principle not applied.



Section 87 and subsection 73 (3) *Children (Care and Protection) Act 1987*, see Appendix, p.109.

Ongoing care and support

Ongoing care and support is a critical stage which involves case planning and case review for the child. This stage is about coordinating the delivery of a range of care and support services that will work together over a period of time, to address the long-term needs of both the child and the family. Often momentum is lost at this stage. Therefore a committed interagency approach to care and support of children and families is required. It is also the stage where the motivation of parents may decrease and utilisation of services lapses. This emphasises the need for ongoing case review so that important changes are not overlooked.



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Case plan

When key milestones are achieved in protective intervention, such as determination of a care application, resolution of criminal proceedings or changes in the child's circumstances, further thought must be given to determining:



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- ❖ if the child still has protective needs which warrant intervention
- ❖ what kind of intervention is required
- ❖ which agencies need to be involved to provide these ongoing care and support services.

The effective planning and combination of services is vital if an integrated and coordinated response is to be made to both the child and family's needs. Similarly, the adjustment and review of the protection plan is necessary to ensure that as needs change so does intervention.

The case plan builds upon and updates the protection plan. The protection plan is often developed in a time of crisis. Case planning allows for meaningful discussion and input from agencies but, more importantly, the child and family after the immediate crisis.

In developing the case plan consider the following factors:

- ❖ have the child's circumstances changed because care proceedings have been finalised?
- ❖ do arrangements for out-of-home care need to be reassessed or changed?
- ❖ have the criminal proceedings been resolved?
- ❖ is there clarity about individual agencies' ongoing roles and expectations of the level, type and timeframe for services to be provided by each agency?
- ❖ what are the views and expectations of the child and family and have they changed at all?
- ❖ have all the agencies agreed to the case plan recommendations?

Case planning meeting

The case planning meeting is convened by the key worker. It is the responsibility of the key worker to ensure every child and family has a case plan which is updated regularly and at key milestones. Information provided to case planning meetings can be by way of written reports or verbal contributions. Regardless of the method of presentation, information needs to be current, accurate, based on thorough assessment and considered carefully by the case planning meeting.



Recording conclusions and recommendations of meetings is the responsibility of the key worker. Recommendations must be circulated to agencies with ongoing responsibilities in the case.

If any agency is unable to attend and recommendations made will impact in a significant way on that agency, these should not be seen as agreed until the key worker has canvassed these recommendations with that agency. The key worker may need to make contact with other agencies who were not present at the case planning meeting if referrals are required for ongoing care and support.



All agencies are, however, responsible for implementing their agreed care and support activities as part of achieving the case plan goals. The Department of Community Services as the agency with lead responsibility in child protection should approve the case plan. Agencies that may have an important and ongoing role in the case plan are non-government organisations, schools, health and police. The Office of the Director of Public Prosecutions may also continue involvement where criminal proceedings are outstanding.

In cases where the child returns home, particularly after a lengthy placement away, attention must be given to organising community support services for parents. These services must be reliable and be provided in the context where continuing monitoring has ceased. The supports organised for the family should be sufficient so that the placement does not break down.

Contingency plans are also helpful to parents if something does occur. These plans may provide parents with emergency telephone numbers and access to a safe adult if assistance is required. Parents need to be reassured that asking for help does not imply their child will be removed. Non-government organisations are often involved during this intensive family support stage.

Case plans should be updated at a minimum, every six months. Amendments to a case plan cannot occur unilaterally. Proposed amendments need to be referred to the key worker who will either seek agreement to changes by telephoning workers involved or call a case review meeting to discuss these changes.

Case planning meetings also provide the opportunity to discuss conflicts that may have arisen between agencies or between agencies and the family. Conflict may stem from disagreement about the level of intervention, the effects of intervention on the child and family, differing perceptions about the capabilities of parents to change, and differing expectations about the level and types of service to be provided by individual agencies. Reiterating the goal of intervention may assist in clarifying and resolving disagreements.

Case review

It is essential to good case practice that all cases involving children be formally reviewed at a minimum every six months or sooner, if:

- ❖ the child indicates she/he wants a change in the case plan
- ❖ the child's placement breaks down or alters significantly
- ❖ the child is the subject of a further allegation of abuse or neglect
- ❖ the child's behaviour, psychological state or health deteriorates
- ❖ the child is engaged in criminal activity
- ❖ other siblings are taken into care or are the subject of child abuse and neglect allegations
- ❖ major changes occur in the family structure or relationships
- ❖ the protective adult leaves the family
- ❖ the parent's psychological state or health deteriorates to the extent that it affects their parenting capacity
- ❖ the family moves
- ❖ other major stresses impact on the family
- ❖ the offender is released from custody, conditional release provisions are altered or supervision terminated.



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In situations of the death of a child, a case review is required even though the case will have been referred to the Child Death Review Team.

The key considerations in review meetings are to:

- ❖ assess what changes have occurred to make the child safer
- ❖ ensure the child's continued safety
- ❖ ensure the child's needs are being met
- ❖ ensure permanent, continuous arrangements are being put in place
- ❖ enable the child and family to participate and express their opinions as to future intervention goals.

Case reviews should include:

- ❖ looking at the status of the original allegations
- ❖ providing updates from agencies in relation to their intervention, particularly from the key worker
- ❖ assess progress towards case plan goals
- ❖ if progress has not occurred, explore the reasons why (eg. lack of follow through by an agency or change in client's presentation)
- ❖ identify any new concerns or other variables
- ❖ recommend alternative case plan goals or further service options.



As the Department of Community Services has lead responsibility in child protection, all recommendations of a case review should be considered by that Department before they are acted upon.



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The key worker is responsible for convening the case review meetings. It is essential that the worker with case responsibility also attends. A record of the meeting must be provided to all agencies, the child and family. This record will indicate what ongoing services are required.

The key worker has responsibility for the record and follow up implementation with other agencies.

Note

The views of the child and parents should be sought either at or prior to the case review meeting. As case reviews may involve a number of people, clients should be asked about how they wish to participate. It may not be appropriate or possible for parents to be involved in all parts of the review meeting. A separate advocate for the child and support person for the parents may be necessary when the family participates in the case review meeting.

Closure

Case closure is preceded by a case review meeting where a recommendation is made to close the case. It is very important that all the agencies are brought together at the review meeting prior to a case being closed, so that all information is presented and discussed.

The types of information to be discussed when considering recommending case closure are:

- ❖ what was the harm or risk which intervention aimed to alleviate
- ❖ what needed to change to achieve the child's safety and protection
- ❖ the extent to which these changes have been made
- ❖ the degree of change in parent's behaviour, child's needs and the home environment
- ❖ the reasons for closure of the case.

Note

Cases should not be closed if the child and family have not been seen recently and there is no current assessment of needs. Agencies ceasing service delivery is not a reason to close a case. Where the child states that they do not want the case to be closed, often phrasing this as wanting to remain a ward, this request should be respected. Where there is any ongoing criminal investigation and/or court proceedings, it is advisable that the case remains active.





Of critical concern in case closure is:

- ❖ whether the child has continuing protective needs
- ❖ whether intervention is still required to meet these needs
- ❖ what other supports or services are required to ensure the child's safety and protection.



NGO

Where a child is returned home or placed with relatives or guardians and there are no further protective concerns, consideration must be given to terminating guardianship.



Section 90 *Children (Care and Protection) Act 1987*, see Appendix, p.109.

DSE

Schools have an important role where the teacher may be the only significant other adult in the child's life. This significance may increase on closure of a case.

Older children being returned home should have their own safety plan. This should outline who the child may go to if requiring safety and protection. Remember children are often most vulnerable and need assistance outside of hours, so the safe adult must be accessible to the child and able to take action. Draw on the child's knowledge and feelings about who they believe can protect them. Confirm that this adult is willing to fulfil this role should the need arise.



The child is never responsible for ensuring their own protection, this is an adult responsibility.



School staff can only provide support within the scope of their normal duties.

When a child turns 18 years of age or is capable of living independently, case closure and termination of guardianship occurs. It is especially important to plan for the child's exit from guardianship as this is frequently a highly vulnerable time for young people. If relevant, the key worker should contact a leaving care service to ensure appropriate supports are in place as both the worker and the young person need to be confident that he or she can live independently and does have adequate financial resources, housing and supports to make a successful transition. If in doubt, the situation should be trialed prior to termination of guardianship.



In most cases, a minimum of six months should be sufficient time period to demonstrate the safety of the child in this situation or in being placed at home.

In the event of the death of a child, case closure would also occur but this would not occur until the circumstances of the child's death have been examined by relevant authorities and the safety and wellbeing of siblings assured.

The final decision to cease protective intervention lies with the Department of Community Services as the agency with lead responsibility. When a case is closed it is removed from active records. The worker with case responsibility also needs to write and inform other agencies, the child and family that the case has been closed. It may be appropriate for this letter to outline support and the involvement of other agencies.



Glossary

This Glossary explains terms which have a specific meaning within the context of the Guidelines as well as uncommon terms which have been included.

Advocate

A person who speaks in favour of another and endeavours to ensure that a client's views are fairly represented in child protection intervention. An advocate may include a supportive friend, a practitioner from an agency not involved in the intervention or other independent adult.

Agency

Both government and non-government bodies.

Assessment

Assessment and investigation plan

A plan developed by a number of agencies which documents what assessments and investigations will be undertaken in relation to a child protection notification.

Developmental assessment

An assessment by a health or education professional of the child's physical, social or cognitive development and functioning.

Child and family assessment

An assessment over time of the functioning of a particular family and the needs of a child.

Intake assessment

An assessment by an officer of the Department of Community Services of information contained in a notification, or gathered subsequent to the receipt of a notification which determines whether or not further child protection intervention is required.

Psychological assessment

An assessment by a psychologist, child psychiatrist, social worker, guidance or education worker of a child's neurological, intellectual, social, emotional, developmental or scholastic functioning.

Risk assessment

An assessment of the likelihood of further abuse or neglect of a child based on the seriousness and circumstances of past abuse and neglect, and the capacity of adults to protect the child.

Care application

An application to a Children's Court seeking a finding that a child is in need of care and the making of an order for care.

Care proceedings

Proceedings before a Children's Court in relation to a child in need of care.

Caregiver

A person who, while not a parent of the child, has actual custody of the child. A caregiver may provide the care with or without fee or reward and can include relatives, friends or acquaintances of a parent, residential care workers, child care workers, youth workers, nursing staff and foster parents.

Case plan

A plan developed and documented by agencies at a case planning meeting and recommending the agreed ongoing child protection intervention in a particular case.

Case planning meeting

A meeting involving a number of agencies to develop, document and agree upon a recommended case plan for a child and family involved in child protection intervention. The meeting may also involve the child, the parent and the child or parents' advocate.

Case review

A process involving a number of agencies to reassess and update a case plan, and agree upon recommended changes to a case plan. The meeting may also involve the child, the parent and the child or parents' advocate.

Child

Any person under 18 years of age, except where otherwise stated.

Closure

The decision to discontinue child protection intervention and the process of closing a child protection case.

Criminal proceedings

The processes and procedures of Local, District or Supreme Courts or Court of Criminal Appeal concerning criminal charges in relation to offences against a child for whom there are child protection concerns.

Female genital mutilation

Female Genital Mutilation (FGM) is the collective term for a number of procedures, involving cutting or removal of the external female genitalia. Some of these procedures are minor in nature, while others involve significant intervention. It is usually performed on girls or adolescent women. In the past, FGM has been called female circumcision.

Interpreter

Accredited language or sign interpreters and persons experienced in the use of facilitated communication techniques for people with disabilities.

Investigation

A process for gathering information in response to a notification about child abuse or neglect conducted by officers of the Department of Community Services or by police officers in response to a suspected criminal offence against a child. An investigation may include interviews and other enquiries into all of the child's circumstances and any risk to the future safety of the child.

Key worker

Following a notification a worker from the Department of Community Services is appointed as the key worker.

The role of the key worker is to coordinate the interagency intervention from assessment and investigation to closure.

After the child exits the protective intervention system the key worker can be an appropriate worker from any agency.

Notification

Information provided, in accordance with Section 22 of the *Children (Care and Protection) Act 1987*, by a person who forms the belief on reasonable grounds that a child has been abused, is in danger of being abused or is in need of care.

Notify

The act of making a notification to the Department of Community Services.

Organised abuse

Systematic activity by adults for the purpose of identifying, attracting, procuring, entrapping, exposing or engaging children in sexual activity to which they are not able to consent or which is contrary to accepted community standards. Often but not always, the activity is organised for profit.

Out-of-home care

The accommodation arrangements for a child who is not able to remain living with a parent or usual caregiver. Arrangements may be made voluntarily by parents or as the result of a Children's Court order. They can include care by relatives, friends, acquaintances of the child, foster care, residential care, shared family care and other forms of substitute care.

Practitioner

A person who works with or without fee or reward in any government or non-government setting for the benefit of children and includes police officers, teachers, psychologists, welfare workers, health workers and counsellors.

Protective intervention

The action taken by agencies to protect a child from abuse and neglect by the provision of care, services and support or the apprehension and prosecution of those responsible for their abuse.

Protection plan

A plan developed and documented by agencies at a protection planning meeting and recommending intervention in child protection cases based on the conclusions drawn from assessments and investigations. A protection plan may include any of the following types of intervention: care and support, criminal prosecution or care proceedings.

Protection planning meeting

A meeting of agencies to develop, document and agree on a recommended protection plan (formerly referred to as a case conference).

Reasonable grounds

Reasonable grounds is a question of fact and degree, having regard to the circumstances of each individual case including the nature and seriousness of the allegations made, the age and physical condition of the child, any corroborative evidence which exists, and other relevant matters.

Substantiation

A professional judgement formed by an officer of the Department of Community Services having regard to all information gathered in relation to the investigation and assessment of a notification.

Substitute care

See 'Out-of-home care'.

Systems Abuse

Harm done to children in the context of policies or programs that are designed to provide care or protection. It includes harm to children's welfare, development or security as the result of actions of individuals or as a result of the lack of suitable policies, practices or procedures within systems or institutions.

Appendix

Legislation

Relevant sections of the *Children (Care and Protection) Act 1987* and Regulations to the Act have been reproduced here for the convenience of practitioners.

Definitions

3.(1)

“abuse”, in relation to a child, means:

- (a) assault (including sexually assault) the child;
or
- (b) ill-treat the child; or
- (c) expose or subject the child to behaviour that psychologically harms the child,
whether or not, in any case, with the consent of the child;

Children in need of care

10.(1) For the purposes of this Act, a child is in need of care if:

- (a) adequate provision is not being made, or is likely not to be made, for the child's care;
- (b) the child is being, or is likely to be, abused; or
- (c) there is substantial and presently irretrievable breakdown in the relationship between the child and one or more of the child's parents.

(2) Without limiting the generality of subsection (1), a child who is residing in a non-Government children's home is in need of care:

- (a) if the child has been residing in the home for a period of 12 months or more:
and
- (b) if there has been no substantial contact during that period between the child and:
 - (i) any of the child's parents; or

- (ii) any person in whose care the child was immediately before the child began residing in the home.

(3) Without limiting the generality of subsection (1), a child is in need of care if:

- (a) the child is under the age of 6 months; and
- (b) the child is in the care of a person who is fostering the child in contravention of section 42; and
- (c) it appears that the person may continue to foster the child in contravention of that section.

Notification of child abuse

Section 22 incorporates the *Children (Care and Protection) Amendment (Disclosure of Information) Act 1996*.

22.(1) Any person who forms the belief upon reasonable grounds that a child who is under the age of 16 years:

- (a) has been or is in danger of being, abused; or
- (b) is a child in need of care,

may cause the Director-General to be notified of that belief and the grounds therefore, either orally or in writing.

(2) A person who, in the course of:

- (a) practising as a medical practitioner;
- (b) following another profession, calling or vocation prescribed by the regulations for the purposes of this subsection (other than the profession of a barrister or solicitor); or
- (c) exercising the functions of an office so prescribed, has reasonable grounds to suspect that a child who is under the age of 16 years has been abused (whether the abuse consisted of sexual assault or any other form of abuse) is required to comply with subsection (4) in respect of those grounds unless the person is a minister of religion or a person who is declared by the regulations to be exempt from the provisions of this subsection.

(3) A person who, in the course of:

- (a) following a profession, calling or vocation prescribed by the regulations for the purposes of this subsection (other than the profession of a barrister or solicitor);
- or

Insertion

Children (Care and Protection) Amendment (Disclosure of Information) Act 1996 No. 116

[1] Section 22 Notification of child abuse

Insert after section 22(a):

- (1A) Any person who forms the belief on reasonable grounds that a child who is aged 16 or 17 years has been, or is in danger of being abused, may notify the Director-General of that belief, and of the grounds for that belief, either orally or in writing.

(b) exercising the functions of an office so prescribed, has reasonable grounds to suspect that a child who is under the age of 16 years has been sexually assaulted is required to comply with subsection (4) in respect of those grounds unless the person is a minister of religion or a person who is declared by the regulations to be exempt from the provisions of this subsection.

(4) A person who is required to comply with this subsection in respect of having any grounds to suspect that a child who is under the age of 16 years has been abused (whether the abuse consisted of sexual assault or any other form of abuse) shall:

- (a) notify the Director-General of the name or a description of the child and those grounds; or
- (b) cause the Director-General to be so notified, promptly after those grounds arise.

(5) Regulations may be made with respect to the form of a notification under subsection (4) or with respect to the manner of making such a notification.

(6) A person who fails to comply with subsection (4) is guilty of an offence.

(7) When the Director-General has been notified under subsection (1) or (4), the Director-General shall:

- (a) promptly cause an investigation to be made into the matters notified to the Director-General; and
- (b) if the Director-General is satisfied that the child in respect of whom the Director-General was notified may have been, or is in danger of being, abused or is a child in need of care, take such action as the Director-General considers appropriate, which may include reporting those matters to a member of the police force.

(7A) Where a person notifies the Director-General under subsection (1A), the Director-General may (but is not required to) cause an investigation to be made into the matter so notified and (if appropriate) take action of the kind referred to in subsection (7)(b).

(7B) For the purposes of any investigation under this section or of any action arising out of such an investigation, the Director-General may do either or both of the following:

- (a) the Director-General may, in accordance with the requirements (if any) prescribed by the regulations, furnish

a prescribed body with information relating to the welfare of a particular child or class of children,

- (b) the Director-General may, in accordance with the requirements (if any) prescribed by the regulations, direct a prescribed body to furnish the Director-General with information relating to the welfare of a particular child or class of children.

(7C) It is the duty of a person to whom a direction is given under subsection (7B)(b) to comply with the requirements of the direction as soon as practicable.

(8) Where a notification is given under subsection (1), (1A) or (4) or information is furnished under subsection (7B) or (7C):-

- (a) the making of the notification or the furnishing of the information shall not in any proceedings before a court, tribunal or committee held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct;
- (b) no liability for defamation is incurred because of the making of the notification or the furnishing of the information;
- (c) the making of the notification or the furnishing of the information shall not constitute a ground for civil proceedings for malicious prosecution or for conspiracy;
- (d) the notification shall not be admissible in evidence in any proceedings before a court, tribunal or committee and no evidence of its contents shall be admissible;
- (e) a person shall not be compelled in any proceedings before a court, tribunal or committee to produce the notification, or any copy of or extract from the notification, or to disclose, or give any evidence of, any of the contents of the notification.

Paragraphs (d) and (e) do not apply in respect of information furnished under subsection (7B) or (7C).

(8A) A reference in subsection (8) to information furnished under subsection (7B) or (7C) extends to any information so furnished in good faith and with reasonable care.

(9) The provisions of subsection (8)(d) and (e) do not apply in relation to:

- (a) the admissibility in, or of, evidence of a notification under subsection (1) or (4);

- (b) the production of such a notification, a copy thereof or an extract therefrom; or
- (c) the disclosure or giving of evidence of the contents of such a notification, either:
- (d) in any proceedings before the Children's Court under this Act, or a court hearing or determining an appeal from a decision of the Children's Court under this Act, before which the child to whom the notification relates is brought for the purposes of proceedings under this Act; or
- (e) in support of, or in answer to, a charge or allegation made in proceedings referred to in subsection (8)(d) or (e) against any person in relation to that person's exercising any of that person's functions in pursuance of this Act.

(10) Subsection (8)(d) does not apply if a notification under subsection (1) or (4) is tendered in evidence, or evidence in respect of such a notification is given:

- (a) by the person by whom the notification was caused to be made; and
- (b) in answer to a charge or allegation made against that person in proceedings referred to in subsection (8)(d).

(11) Members of the Child Death Review Team, and any persons engaged as staff assisting the Team, are not required to comply with subsection (4) in respect of any matter coming to their notice in the course of the exercise by them of their functions as such members or assistants.

(12) A provision of any Act or law that prohibits or restricts the disclosure of information does not operate to prevent the provision of information (or affect a duty to provide information) under this section. Nothing in this subsection affects any obligation or power to provide information apart from this subsection.

(13) In this section:

prescribed body means:

- (a) the Police Service, a Government Department or a public authority, or
- (b) a government school, or a registered non-government school within the meaning of the *Education Reform Act 1990*, or
- (c) an area health service within the meaning of the *Area Health Services Act 1986*, or

- (d) a hospital or an authorised hospital within the meaning of the *Mental Health Act 1990*, or
- (e) an incorporated hospital or a separate institution within the meaning of the *Public Hospitals Act 1929*, or
- (f) any other body or class of bodies (including an unincorporated body or bodies) prescribed by the regulations for the purposes of this section).

Schedule 3 Savings and transitional provisions

Clause 1(1):

Children (Care and Protection) Amendment (Disclosure of Information) Act 1996.

Medical examination of abused children

23.(1) If the Director-General or a member of the police force believes on reasonable grounds (which may consist wholly or partly of information received by that person) that a child who is under the age of 16 years has been abused, the Director-General or the member of the police force, as the case may be, may serve a notice, in such form as may be prescribed by the regulations:

- (a) naming or describing the child; and
- (b) requiring the child to be forthwith presented to a medical practitioner specified or described in the notice at a hospital or some other place so specified for the purpose of the child's being medically examined,

on the person (whether or not a parent of the child) who appears to the Director-General or the member of the police force to have the care of the child for the time being.

(2) A person who fails to comply with the requirement contained in a notice served on the person under subsection (1) is guilty of an offence unless it is proved that the person did not have the care of the child at the time the notice was served.

(3) If a person fails to comply with the requirement contained in a notice served on the person under subsection (1), an authorised officer or a member of the police force may present the child in respect of whom the notice was served, or cause the child to be presented, to a medical practitioner at a hospital or elsewhere for the purpose of the child's being medically examined.

(4) When a child is presented to a medical practitioner under subsection (1) or (3):

- (a) the medical practitioner may carry out or cause to be carried out such medical examination of the child as the medical practitioner thinks fit, including examination at a hospital or place that is not the hospital or place specified in the notice referred to in subsection (1) in respect of the child;
- (b) the Director-General shall, from the time at which the child is presented to the medical practitioner until the expiration of:

- (i) such period of time as is reasonably necessary for the child to be examined in accordance with paragraph (a); or
 - (ii) 72 hours,

whichever period first expires, be deemed to be the guardian of the child for the purpose only of enabling the examination to be carried out; and

- (c) the medical practitioner or other person by whom any such medical examination has been carried out shall prepare a written report of the examination for transmission to the Director-General.

(5) No proceedings lie against an officer, medical practitioner, member of the police force or person employed at any hospital or other place at which a child is examined for or on account of any act, matter or thing done or ordered to be done by that person, and purporting to be done for the purpose of carrying out or assisting in carrying out the provisions of this section, if that person has acted in good faith and with reasonable care.

(6) If a medical practitioner or other person transmits a report to the Director-General pursuant to subsection (4)(c):

- (a) the transmission of the report shall not, in any proceedings before a court, tribunal or committee, be held to constitute a breach of professional etiquette or ethics or a departure from accepted standards of professional conduct; and
- (b) no liability for defamation is incurred because of the making of the report.

Power of search and removal of abused children

24.(1) An officer or member of the police force may apply to an authorised justice for a search warrant if the officer or member of the police force has reasonable grounds for believing that a person on whom a notice has been served under section 23(1) has failed to comply with the requirement contained in the notice.

(2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an officer or member of the police force named in the warrant:

- (a) to enter any premises specified in the warrant;
- (b) to search the premises for the presence of the child the subject of the notice under section 23(1); and
- (c) to remove the child and to present and to present the child to a medical practitioner under section 23(3).

(3) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(4) Without limiting the generality of section 18 of the Search Warrants Act 1985, a member of the police force or a medical practitioner, or both:

- (a) may accompany an officer executing a search warrant issued under this section;
- and
- (b) may take all reasonable steps to assist the officer in the exercise of the officer's functions under this section.

(5) It shall not be necessary in any search warrant issued under this section to name any particular child.

(6) An officer named in a search warrant, or a member of the police force, may, for the purpose of removing a child pursuant to the warrant, use all reasonable force.

Child abuse

25. A person who abuses a child, or causes or procures a child to be abused, is guilty of an offence.

Neglect of children

26. A person, whether or not the parent of the child, who, without reasonable excuse neglects to provide adequate and proper food, nursing, clothing, medical aid or lodging for a child in his or her care, is guilty of an offence.

Care applications

57.(1) An application for the making of an order under section 72 in respect of a child may be made:

- (a) by the Director-General; or
- (b) by any parent of the child who has the custody of the child if it is alleged that the child is in need of care on the grounds that there is a substantial and presently irretrievable breakdown in the relationship between the child and that parent.

(2) Such an application shall specify the grounds on which it is alleged that the child is in need of care.

(3) Such an application shall not be made by the Director-General unless the Director-General is satisfied that no adequate alternative means are available to provide for the welfare of the child.

Removal of children pursuant to order of the Children's Court

59.(1) If a care application has been made with respect to a child:

- (a) the Children's Court may make an order for the removal of the child from the premises specified in the order; and
- (b) an authorised officer, or a member of the police force, may, pursuant to the order, enter the premises, search the premises for the presence of the child and remove the child from the premises.

(2) An authorised officer, or a member of the police force, may, for the purposes of entering and searching premises and removing a child pursuant to an order in force under subsection (1), use all reasonable force.

(3) In exercising the powers conferred by this section, an authorised officer or member of the police force may observe and converse with any person present in the premises concerned.

Removal of children without warrant

60.(1) An authorised officer, or a member of the Police Force, may (without any authority other than that conferred by this subsection):

- (a) enter any premises in which the officer or member suspects that there is a person who is a child, if the officer or member suspects on reasonable grounds that the person is in need of care by virtue of the person's being in immediate danger of abuse; and

(b) search the premises for the presence of any such person;
and

(c) remove any such person from the premises.

(2) An authorised officer, or a member of the Police Force, may (without any authority other than that conferred by this subsection) remove from any public place any person the officer or member suspects is a child under the age of 16 years, if the officer or member suspects on reasonable grounds:

(a) that the person is in need of care; and

(b) that the person is not subject to the supervision or control of a responsible adult:

and

(c) that the person is living in or habitually frequenting a public place.

(3) An authorised officer, or a member of the Police Force, who suspects a person is a child and who suspects on reasonable grounds:

(a) that the person is in need of care; and

(b) that the person:

(i) is or has recently been on any premises where prostitution or acts of child prostitution take place or where persons are employed for pornographic purposes; or

(ii) is or has recently been participating in an act of child prostitution in any place or is being or has recently been employed for pornographic purposes in any place,

may (without any authority other than that conferred by this subsection):

(c) enter the premises or place (and any adjacent place, if the officer or member suspects on reasonable grounds that the person, having just left the premises or place, is in the adjacent place); and

(d) search for the person in the premises or place and in any such adjacent place;

and

(e) remove the person from the premises or place or any such adjacent place.

(4) An authorised officer, or a member of the Police Force, may use all reasonable force for the purposes of entering and searching any premises or place pursuant to this section and for the purpose of removing a person pursuant to this section.

(5) Until a person removed under this section is placed in the care of the Director-General, the person must be kept separately from any persons who are detained for committing offences or are on remand.

(6) In exercising the powers conferred by this section, an authorised officer or a member of the Police Force may observe and converse with any person present in any premises or place entered pursuant to this section.

(7) A person authorised to exercise powers by a subsection of this section may exercise any or all of the powers, as appropriate in the circumstances.

(8) In this section:

“act of child prostitution” has the same meaning as in section 91C of the Crimes Act 1900;

“place” means any place, whether or not a public place, and whether or not on premises;

“pornographic purposes” has the same meaning as in section 91G of the Crimes Act 1900.

Power of search and removal of children in need of care

61.(1) An officer or member of the police force may apply to an authorised justice for a search warrant if the officer or member of the police force has reasonable grounds for believing that there is in any premises a child in need of care.

(2) An authorised justice to whom such an application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an officer or member of the police force named in the warrant:

- (a) to enter any premises specified in the warrant;
- (b) to search the premises for the presence of the child; and
- (c) to remove the child from the premises.

(3) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

(4) Without limiting the generality of section 18 of the Search Warrants Act 1985, a member of the police force or a medical practitioner, or both:

(a) may accompany an officer executing a search warrant issued under this section;

and

(b) may take all reasonable steps to assist the officer in the exercise of the officer's functions under this section.

(5) It shall not be necessary in any search warrant issued under this section to name any particular child.

(6) An officer named in a search warrant, or a member of the police force, may, for the purpose of removing a child pursuant to the warrant, use all reasonable force.

(7) In exercising the powers conferred by this section, an authorised officer or member of the police force may observe and converse with any person present in the premises concerned.

Child to be informed of reasons for removal etc.

61A.(1) An officer or member of the police force who removes a child from any premises under section 59, 60 or 61 shall cause notice of:

(a) the name of the officer or member of the police force and of the fact that the officer or member of the police force is an officer or member of the police force;

and

(b) the reasons for which the child is being removed from the premises; and

(c) the fact that the law authorises the officer or member of the police force to remove the child from the premises; and

(d) the nature, and address, of the place to which the child is being removed; and

(e) what is likely to happen in relation to the care of the child as a consequence of his or her being removed from the premises,

to be given to the person (if any) on the premises who appears to the officer or member of the police force to have the care of the child for the time being and, in the case of a child who is of or above the age of 10 years, to the child.

(1A) Any such notice may be given verbally at the time the child is removed from the premises. However, if verbal notice is given, the officer or member of the police force must cause written notice to be given as soon as practicable after the child is removed.

(2) In giving such notice to a child, an officer or member of the police force shall do so in language that can be readily understood by the child.

(2A) At the time the child is removed from the premises, the officer or member of the police force must, if the child is of or above the age of 10 years:

- (a) inform the child that he or she may choose to contact any person; and
- (b) ensure that the child is given a reasonable opportunity and appropriate assistance to contact any such person.

(3) Failure to comply with any provision of this section does not vitiate any thing done under any other provision of this Act.

Care of children pending care proceedings

62.(1) If an officer or member of the police force removes a child from any premises under section 59, 60 or 61, the officer or member of the police force shall forthwith place the child in the care of the Director-General to be kept by the Director-General at a place approved by the Minister for the purposes of this section.

(2) If a child has been removed from any premises under section 60 or 61 and placed in the care of the Director-General, the Director-General shall not keep the child in the Director-General's care for more than 3 days unless the Director-General has, before the expiration of that period, made a care application in respect of the child.

(3) If a child has been removed from any premises under section 59, 60 or 61 and placed in the care of the Director-General, or has been placed in the care of the Director-General pursuant to an order under section 77, the Director-General may, subject to any order of the Children's Court:

- (a) discharge the child from the Director-General's care:
 - (i) without any undertakings being given;
 - (ii) upon the giving by a person responsible for the child of undertakings acceptable to the Director-General with respect to the care of the child;

-
- (iii) upon the giving by the child of undertakings acceptable to the Director-General with respect to the conduct of the child; or
 - (iv) upon the giving of undertakings referred to in both subparagraph (ii) and subparagraph (iii); or
- (b) keep the child in the Director-General's care or, where a person approved by the Director-General is willing to have the care of the child, place the child in the care of that person, pending the commencement of the hearing of the care application made or to be made in respect of the child.
- (4) While a child is in the care of the Director-General, the Director-General may, at any time before the hearing of the care application commences, exercise any of the functions conferred on the Director-General by subsection (3)(a).
- (5) In determining whether or not to exercise any function under subsection (3) or (4), the Director-General shall have regard only to the following matters:
- (a) any views expressed by the child as to whether the child wishes that function to be exercised;
 - (b) any views expressed by the child as to whether the child intends to return to the care of the person responsible for the child;
 - (c) whether the exercise by the Director-General of that function is likely to protect the welfare of the child;
 - (d) whether the failure by the Director-General to exercise that function is likely to endanger the welfare of any other person.
- (6) An undertaking referred to in subsection (3) shall be in writing signed by the person giving it and shall remain in force until the commencement of the hearing of the care application made or to be made in respect of the child to whom it relates.

Authorised officer may assume care of child in hospital etc.

62A.(1) If:

- (a) an authorised officer suspects on reasonable grounds that a child is in need of care by virtue of the child's being in immediate danger of abuse; and

(b) the officer is satisfied that it is not in the best interests of the child that the child be removed from the premises in which the child is currently located, the officer may, instead of removing the child from the premises pursuant to section 60 or 61, assume the care of the child in the name of, and on behalf of, the Director-General by means of an order in writing, signed by the officer and served on the person (whether or not a parent of the child) who appears to the officer to be in charge of the premises.

(2) A child does not cease to be in immediate danger of abuse merely because of the existence of temporary arrangements (including hospital accommodation) for the care of the child.

(3) An order under this section ceases to have effect, unless sooner revoked, on the expiration of 3 days after it was made unless the Director-General has, before the expiration of that period, made a care application with respect to the child.

(4) An order under this section does not cease to have effect merely because the child to whom it relates is transferred to different premises.

Duties of Director-General to give information to certain persons

62B.(1) If a child is in the care of the Director-General pursuant to section 62 or 62A, the Director-General:

(a) shall, as soon as practicable, cause notice of the fact that the child is in the care of the Director-General, and the fact that an application may be made to the Director-General for the discharge of the child from the care of the Director-General and the procedures for making such an application, to be given to:

(i) in the case of a child who is of or above the age of 10 years - the child; and

(ii) in the case of a child who is of or above the age of 16 years - such person as the child may nominate, being a person who can reasonably be located; and

(iii) each person responsible for the child who can reasonably be located;

and

(b) shall, in the case of a child who is under the age of 16 years, ensure that the child's parents are kept informed of the whereabouts of the child, unless the Director-General

has reason to believe that the disclosure of the child's whereabouts would be prejudicial to the welfare and interests of the child.

(2) The Children's Court, on the hearing of a care application made in respect of a child whose whereabouts have not been disclosed to a parent of the child, may order that the Director-General disclose the whereabouts of the child to such of the parents of the child as it may direct.

(3) Failure to comply with any provision of this section does not vitiate anything done under any other provision of this Act.

Children's Court's powers with respect to children in need of care

72.(1) If a care application is made with respect to a child, the Children's Court shall inquire into the matter and:

- (a) if it is not satisfied that the child is in need of care, it shall make an order dismissing the application;
- (b) if it is satisfied that the child is in need of care, it shall make an order dismissing the application;
 - (i) it may make an order accepting such undertakings (given by a person responsible for the child) as it thinks fit with respect to the care of the child;
 - (ii) it may make an order accepting such undertakings (given by the child) as it thinks fit with respect to the child's conduct; or
 - (iii) it may make an order accepting undertakings referred to in both subparagraph (i) and subparagraph (ii); or
- (c) if it is satisfied that the child is in need of care and that the making of an order under this paragraph is likely to result in a significant improvement in the standard of care being given to the child:
 - (i) it may make an order placing the child under the supervision of an officer (whether or not on the giving of undertakings referred to in paragraph (b)(i) or (ii) or both);
 - (ii) where a suitable person is willing to have the custody of the child—it may make an order placing the child in the custody of that person

(whether or not on the giving of undertakings referred to in paragraph (b)(i) or (ii) or both);
or

(iii) it may make an order declaring the child to be a ward under this Act,

for such period expiring on or before the day on which the child attains the age of 18 years as it thinks fit.

(2) In considering a care application in respect of a child, the Children's Court shall have regard to:

- (a) the need to protect the welfare of the child;
- (b) the views of the child;
- (c) the importance of encouraging continuing contact between the child and the persons responsible for the child;
- (d) the importance of preserving the particular cultural environment of the child;
- (e) the practicability of services and facilities being provided to the child without the need for the making of an order under subsection (1)(b) and (c); and
- (f) the objects of this Part.

(3) The Children's Court may make an order under subsection (1)(b) or (c) in respect of a child even though the child is not then in need of care of the Children's Court is satisfied that:

- (a) the child was in need of care when the circumstances that gave rise to the relevant care application occurred or existed; and
- (b) the child would be in need of care but for the existence of arrangements for the care of the child made under section 62 or 77.

(4) An undertaking referred to in subsection (1) shall be in writing signed by the person giving it and shall remain in force for such period (expiring on or before the day on which the child attains the age of 18 years) as may be specified in the undertaking.

(5) The Children's Court shall cause a copy of any undertaking referred to in subsection (1) to be served on the person giving it.

(6) If the Children's Court makes an order under subsection (1)(c), it shall cause a copy of the order to be forwarded to the Director-General.

(7) If:

- (a) an order is made with respect to a child under subsection (1)(c)(ii);
- (b) the person in whose custody the child is placed by the order is the principal officer of a private fostering agency; and
- (c) no undertakings of the kind referred to in subsection (1)(b)(i) were given by the principal officer on the making of the order,

the principal officer may place the child in the care of another person.

Restrictions on making orders under sec. 72

73.(1) An order shall not be made under section 72(1)(c) in respect of a child unless:

- (a) the child is under the age of 16 years; and
- (b) the Children's Court is satisfied that the exercise of its power under section 72(1)(b) would be wholly insufficient to meet the child's need for care.

(2) An order shall not be made under section 72(1)(c)(iii) in respect of a child unless the Children's Court is satisfied that the exercise of its power under a preceding subparagraph of that paragraph would be wholly insufficient to meet the child's need for care.

(3) If the Children's Court is of the opinion that a child the subject of a care application has been brought up substantially in accordance with a particular culture or is regarded as belonging to a particular cultural group, the Children's Court shall not, unless the child has expressed a wish to the contrary, make an order under section 72(1)(c)(ii) unless it has taken into account the practicability of making an order under that subparagraph placing the child in the custody of a person belonging to that cultural group.

(4) The Children's Court shall not make an order under section 72(1)(c) in respect of a child if the order would be inconsistent with any order in relation to the child made by the Supreme Court in the exercise of its jurisdiction with respect to the custody and guardianship of children.

Care of Aboriginal children

87. An Aboriginal child shall not be placed in the custody or care of another person under this Part unless:

- (a) the child is placed in the care of a member of the child's extended family, as recognised by the Aboriginal community to which the child belongs;
- (b) if it is not practicable for the child to be placed in accordance with paragraph (a) or it would be detrimental to the welfare of the child to be placed - the child is placed in the care of a member of the Aboriginal community to which the child belongs;
- (c) if it is not practicable for the child to be placed in accordance with paragraph (a) or (b) or it would be detrimental to the welfare of the child to be so placed - the child is placed in the care of a member of some other Aboriginal family residing in the vicinity of the child's usual place of residence; or
- (d) if it is not practicable for the child to be placed in accordance with paragraph (a), (b) or (c) or it would be detrimental to the welfare of the child to be so placed - the child is placed in the care of a suitable person approved by the Director-General after consultation with:
 - (i) members of the child's extended family, as recognised by the Aboriginal community to which the child belongs; and
 - (ii) such Aboriginal welfare organisations as are appropriate in relation to the child.

Guardianship of wards

90.(1) The Minister is the guardian of a ward, and, subject to this Act, has the custody of a ward to the exclusion of any other person, until:

- (a) the ward attains the age of 18 years;
- (b) the guardianship of the Minister:
 - (i) is terminated by the Minister under subsection (2); or
 - (ii) is terminated by the Supreme Court in the exercise of its jurisdiction with respect to the custody and guardianship of children; or

(c) the ward ceases to be a ward by virtue of any other provision of this Act, whichever first occurs.

(2) The Minister may terminate the Minister's guardianship of a ward.

(3) Where the Minister terminates the Minister's guardianship of a child who is a ward, the child ceases to be a ward.

(4) The guardianship of a child who has ceased to be a ward shall be determined as if the child had never been a ward.

Disclosure of information

115. A person who discloses any information obtained in connection with the administration or execution of this Act is guilty of an offence unless the disclosure is made:

- (a) with the consent of the person from whom the information was obtained;
- (b) in connection with the administration or execution of this Act;
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings;
- (d) in accordance with a requirement imposed under the Ombudsman Act 1974; or
- (e) with other lawful excuse.

Child Death Review Team

Children (Care and Protection) Amendment Act 1995 No.78

104. Duty of government agencies to assist the Team

(1) It is the duty of each of the following persons, namely:

- (a) the Director-General
- (b) the Department Head, Chief Executive Officer or senior member of any Department of the Government, statutory body or local authority
- (c) the Commissioner of Police
- (d) the State Coroner
- (e) the holder of any office prescribed by the regulations

to provide the Team with full and unrestricted access to records that are under the person's control, or whose production the person may, in an official capacity, reasonably require, being records to

which the Team reasonably requires access for the purpose of exercising its functions.

(2) Access to which the Team is entitled under subsection (1) includes the right to inspect and on request to be provided with copies of, any record referred to in that subsection and to inspect any non-documentary evidence associated with any such record.

(3) A provision of any Act or law that restricts or denies access to records does not prevent a person to whom subsection (1) applies from complying, or affect the person's duty to comply, with that subsection.

(4) The Minister is to enter into arrangements with Ministers responsible for other government agencies so as to settle procedures for the furnishing of information as required by this section.

Clause 10 of the Children (Care and Protection - General) Regulation 1988

Notification of Sexual Assault

(1) For the purposes of section 22(3)(a) of the Act, the following professions, vocations and callings are prescribed;

- (a) teaching (at a school);
- (b) counselling (at a school);
- (c) social work (at a school);
- (d) early childhood teaching (at a school).

(2) For the purposes of section 22(3)(b) of the Act, the following offices are prescribed:

- (a) Principal of a school;
- (b) Deputy Principal of a school.

(3) In this clause, a reference to a school is a reference to a State school or a registered school within the meaning of the Education and Public Instruction Act 1987.

List of key government departments' procedures for child protection intervention

- ❖ Department of Community Services Child Protection: Procedures for Recognising, Notifying and Responding to Child Abuse and Neglect.
- ❖ New South Wales Police Service Child Protection: Procedures for Recognising, Notifying and Responding to Child Abuse and Neglect.
- ❖ NSW Health Child Protection: Procedures for Recognising and Notifying Child Abuse and Neglect.
- ❖ Department of School Education Child Protection: Procedures for Recognising and Notifying Child Abuse and Neglect.

For further information on policies, protocols and guidelines please consult directly with the relevant agencies.

Interagency Guidelines

Tell us what you think

This second edition of the Interagency Guidelines for Child Protection was developed following a period of discussion and refinement with government and non-government policy and practice personnel. While we think we have accurately covered the key material we would like to know of any omissions or suggestions you may have detected for future editions.

▼ **Name (optional)** _____

▼ **Organisation** _____

▼ **Any omissions?**

▼ **Any errors?**

▼ **Suggestions for inclusion in future editions?**

▼ **Other comments?**

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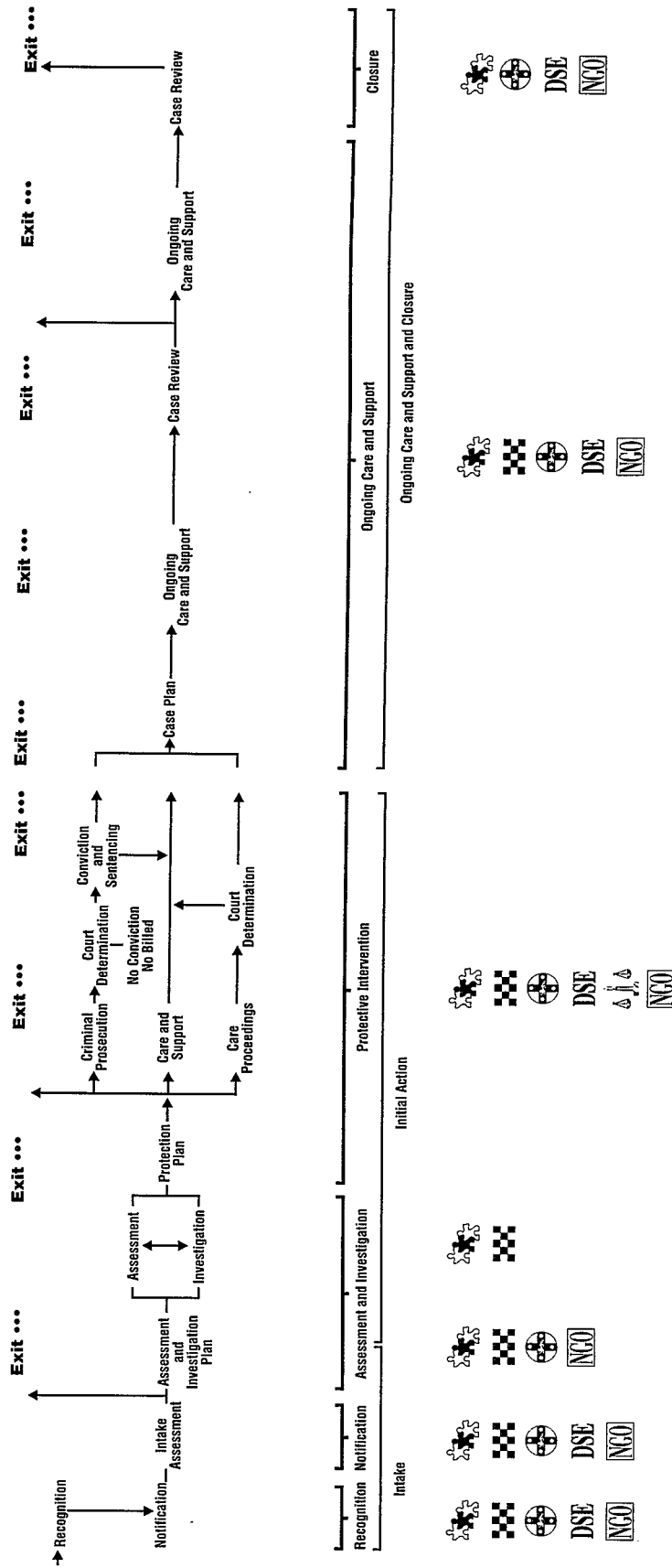
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NSW



COUNCIL

Interagency Approach in Practice



- NSW Health
- New South Wales Police Service
- Department of Community Services
- Department of School Education
- Office of the Director of Public Prosecutions
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