

A.C.T. DEPARTMENT OF EDUCATION AND TRAINING

CHILD ABUSE AND NEGLECT
GUIDELINES FOR SCHOOLS AND PRESCHOOLS

**Protocol between Family Services,
Schools and Preschools**

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INTRODUCTION

On 1 June 1997 the ACT Government introduced legislation which requires certain professional groups to report suspected child abuse. The decision to mandate the reporting of child abuse in the ACT is an expression of the government's commitment to the *United Nation's Convention on the Rights of the Child*. It is also recognition of the vulnerable status of children and young people and the special protection they need in law.

No professional group is better placed to make a difference to the lives of children and young people suffering harm through abuse than those who see them every day at school or preschool. Adults who were abused as children have consistently identified the importance of educators as people who were in a position to watch, listen to, and assist them during difficult times.

The purpose of this document is to set out guidelines and procedures for responding to children and young people where there are concerns of abuse and/or neglect.

These guidelines should be read in conjunction with the booklet 'Reporting Child Abuse – Keeping Children and Young People Safe'. Another related document which outlines departmental policy in relation to risk situations involving students in the school environment is the *Policy and Guidelines for Dealing with Sexual Harassment, 1996*.

THE IMPORTANCE OF A SHARED RESPONSIBILITY FOR CHILDREN AND YOUNG PEOPLE

The care and protection of children and young people is a shared responsibility. No single agency has all the knowledge, skills or opportunities to respond effectively to children and young people who suffer abuse. An effective response requires cooperative and coordinated actions across a number of agencies.

The needs of children and young people are best met when professionals from the School Education Division and the Office for Children, Youth and Family Support work together to promote a cooperative partnership which is based on an understanding and respect for each other's roles and responsibilities.

ROLES AND RESPONSIBILITIES

Family Services - The role of Family Services in the care and protection of children and young people

The role of Family Services is prescribed in the ACT Children & Young People Act 1999.

The role includes receiving and assessing reports of suspected child abuse and neglect, appraising reports, coordinating a response to children and young people and their families aimed at keeping children and young people safe and, wherever possible, families together.

When children and young people are unable to live safely with their families, Family Services is responsible for initiating matters through the Children's Court and arranging care for them on a short or long term basis.

Key responsibilities – Family Services

- receive and -record_ reports of suspected child abuse and neglect
- determine an appropriate response to reports
- refer appropriate reports to police
- provide feedback to mandated reporters
- coordinate the provision of services to children and young people in need of care and protection
- initiate care proceedings through the ACT Children's Court
- arrange placement and follow up of children and young people in care placements
- develop, implement and undertake educational and preventative programs aimed at protecting children and young people from abuse and neglect.

The role of schools and preschools in the care and protection of children and young people

The role of schools and preschools in the care and protection of children and young people is to provide programs which aim to protect children and young people from abuse, assist them to effectively seek help and support the development of skills for positive, non-coercive relationships.

It is also the role of schools and preschools to assist in the recognition of suspected abuse and neglect, report suspected child abuse and neglect to Family Services and offer support to the child or young person within the normal duties of school and preschool staff.

Key responsibilities - schools and preschools

- provide educational programs in protective behaviours for children and young people
- protect children and young people at school and preschool from sexual, physical, emotional abuse and neglect, and from improper conduct of a sexual nature
- ensure all school and preschool staff are aware of the indicators of child abuse and neglect, their obligations to report and procedures for reporting
- work with other agencies, within agreed arrangements, to plan and provide services to protect children and young people and support families.

THE LAW IN THE ACT

What is child abuse?

Child abuse is a serious and complex problem that may occur in the lives of children and young people. Often it occurs in environments that are isolated and stressful and affects those who are most vulnerable.

Child abuse is the term used to describe different types of maltreatment inflicted on a child or young person. It includes non-accidental physical injury, neglect, emotional abuse, including psychological harm or sexual exploitation of children and young people and requires different and specialised responses.

In its most serious forms, abuse can lead to death or long term harm to the physical or emotional well being of a child or young person.

It is mandatory to report suspected cases of sexual abuse or non-accidental physical injury.

Who may report child abuse?

Under S 158 and S 159 (1) of the Children & Young People Act 1999, any person who believes or suspects that a child or young person has suffered physical, sexual, emotional abuse or neglect may make a report to Family Services.

Who must report child abuse?

Under S 159 (1) of the Children & Young People Act 1999 certain professionals must report suspected non-accidental injuries to children and young people and suspected sexual abuse. As a guide, it is expected that all DET employees will report when they have formed a reasonable suspicion that a child or young person has suffered or is suffering sexual abuse or non-accidental physical injury.

Legal protection for persons who notify suspected child abuse – Section 163

Any person who reports “in good faith” any form of suspected abuse to Family Services is immune from any form of civil liability in relation to the making of the report. “In good faith” simply means that the intention of the person who made the report was to ensure the child or young person is protected from harm.

Penalties

Failure of mandated persons to report suspected physical and/or sexual abuse of children is a criminal offence carrying a maximum penalty of fifty penalty units (\$5000.00) or 6 months imprisonment or both. It may also result in internal DET disciplinary action.

MAKING THE DECISION TO REPORT

When staff have concerns but are not sure whether they have sufficient grounds to report their concerns they should discuss their concerns with identified experienced staff within the school/preschool, such as the principal, deputy principal, preschool executive officer, student welfare teacher or school or preschool counsellor. This does not remove the responsibility of reporting from a mandated person and where an individual reasonably suspects that a child or young person has suffered sexual abuse or a non-accidental physical injury they must report this to Family Services. However, several mandated people may make a joint report in conjunction with their colleagues. When making a joint report each mandated person who has information regarding the report should be present to ensure a full account is presented.

Keeping Records – Section 162

Family Services' capacity to act to protect children and young people, particularly if action is necessary through the Children's Court, is highly dependent on factual evidence. Evidence must be gathered over time so that a coherent case can be built. It is therefore essential that concerns about children and young people are recorded accurately, dispassionately and expeditiously.

Notwithstanding the fact that grounds may not exist for reporting, it is important to record any information that may assist if action is required at a later point. This is particularly important in cases where neglect or harm through emotional abuse are the primary concerns.

In making a record of concerns remember the following.

Do

- write **exactly** what was observed or said
- note the date and time
- sign all records.

Do not

- express an opinion about what was observed or said
- interpret what was observed or said
- use emotive terms.

If a child or young person tells a member of staff something in the presence of another member of staff, it is important that both people sign the record as a true account of what was said.

Remember that records can be seen by others including the child or young person, the parents, Family Services, and the Court.

Responding to the child or young person

(Read in conjunction with the booklet 'Reporting Child Abuse – Keeping Children and Young People Safe'.)

The role of the member of staff to whom a child or young person discloses abuse is to listen carefully to anything that is said, pass on concerns quickly to Family Services, ensure the principal is aware of developments and help support the child or young person through any investigation which may follow the making of a report.

It is important that the staff member does not question the child or young person or investigate the matter beyond asking the child or young person in broad terms to tell what happened.

Most important from the child or young person's point of view is that he or she is believed and validated in the decision to tell, and that the adult hearing the disclosure is sympathetic and respectful. It is important not to make promises that cannot be kept.

If the child or young person says "Don't tell!"

Through Protective Behaviours training most children and young people know that adults cannot keep secrets about potentially harmful situations.

The member of staff should tell the child or young person that they have an ethical and legal duty to talk to someone to "find out what should happen next".

The child or young person should be assured by the member of staff that they will “come back and tell them what is going to happen next”.

Differences of opinion

While it is the responsibility of the individual member of staff to make the report, the member of staff should inform the principal of the school/preschool of his/her concerns. It may be decided that a joint report, made by the member of staff and the principal together, is appropriate. An important part of the principal's role is to ensure that the correct procedures are followed.

If there is a difference of opinion about whether reasonable grounds exist for a report, the staff member who believes that sufficient grounds exist should make the report.

Although discussion with the principal is the recommended first course of action in making reports of suspected abuse, on rare occasions this may not be possible. If the member of staff forms a view that to discuss the matter with their principal first would unduly delay a protective response then an immediate report to Family Services should take place. Under these circumstances it is advisable to inform the principal as soon as possible that a report has been made. It is important to note that responsibility for making a report rests with the individual and discussion with the principal/preschool principal does not remove this responsibility from the individual.

No medical examination of child or young person

If it is suspected that a child or young person has sustained injuries as a result of abuse a report to Family Services should take place **immediately**.

- Do not seek a medical examination (unless there are immediate health risks to the child or young person).
- Do not pressure the child or young person to show injuries that are covered by clothing.
- Do record any visible injury in detail (size, shape, colour, location).
- Wait for Family Services to assist. Family Services will determine the necessity for medical examination and will make the necessary arrangements.

Ongoing support for staff

Taking action in child protection matters is usually stressful for staff. The principal should ensure that any staff member involved in any case brought to the notice of Family Services is provided with opportunities for support and debriefing.

HOW TO MAKE A REPORT

A report is made by contacting the Centralised Intake Service on one of these telephone numbers:

1300 556 728	Mandated Persons line
1300 556 729	General Public line

AFTER A REPORT IS MADE

Decision about type of intervention

Family Services will decide on the level of intervention likely to produce the most positive outcome for the child or young person and the family. Some of the factors taken into account in determining the nature of the intervention include the:

- gravity of the alleged abuse and the necessity to exercise a legal intervention to ensure the safety of the child or young person
- history of abuse
- age, developmental level and maturity of the child or young person
- wishes of the child or young person about the nature of intervention

- willingness of other professionals involved with the child or young person to maintain a supportive and watchful role.

Informing the police

The Children & Young People Act 1999 makes clear that the responsibility to receive reports of suspected child abuse rests with the Chief Executive, Department of Education and Training. Family Services, as his/her delegate, is required to refer to the Australian Federal Police any allegations which may constitute a criminal offence. It is therefore not necessary for the school to inform the police of suspected child abuse.

Providing information to parents or caregivers

When a decision has been made to investigate suspected abuse Family Services and/or the police will inform parents that a report has been made. If Family Services advises the school not to inform parents the school must not inform parents.

When allegations involve a member of staff

Where the alleged perpetrator of the abuse is a member of staff refer to *Guidelines for Allegations of Abuse or Improper Conduct Involving a Member of School Staff* at the end of this document to determine how information about the complaint should be conveyed to parents. However if a child or young person has suffered non-accidental physical injury or sexual abuse, this must be reported to Family Services.

Family Services interview of the child or young person at school or preschool

Sometimes Family Services and/or the police may need to interview a child or young person at school/preschool. Where parents or caregivers are not implicated in allegations it is usually of assistance to the child or young person to have parents present during the interview.

In cases where there are concerns about the ongoing safety of the child or young person at home, or the possibility that either or both parents are implicated in the alleged abuse, an interview of the child or young person should proceed without parental consent.

Family Services will inform parents that an interview has taken place with the child or young person, on the same day that the interview occurs. Discretion will be exercised about the necessity to inform parents of an interview with an older child or young person when the child or young person expresses a strong wish that the interview remain confidential.

Family Services will ask if the child or young person wishes to have a member of staff as a "support person" present during the interview. The identified member of staff should be asked, but not compelled, to attend the interview.

Importance of support persons

It is particularly important that very young children are interviewed in the presence of a familiar adult.

Role of support person

The role of a "support person" is to provide general advice about the interview to the child or young person, be present during the interview, and provide support to the child or young person after the interview. Support persons should talk with Family Services prior to the interview for advice about how this role can be most effectively carried out.

COORDINATING THE FAMILY SERVICES VISIT

Before the interview

The school/preschool should

- check identity of Family Services and/or police officers
- check identity of child or young person to be interviewed (name and age)
- clarify interview process (venue, right of child or young person to refuse interview, advice to parents, role of support person)
- ensure Family Services is aware of the cultural background of the child or young person

- ensure that Family Services is aware of relevant information about the intellectual level of the child or young person and any difficulties he/she may have with communication
- allow Family Services time to speak with the “support person” prior to the interview.

The school/preschool should also

- explain to the child or young person that Family Services and/or the police are requesting an interview and ascertain whether the child or young person will take part in the interview
- explain the role of a “support person” to the child or young person
- ascertain if the child or young person wishes to have a “support person” present during the interview and who this might be
- assure the child or young person that the support person will be available after the interview for ongoing support.

During the interview

The support person may encourage the child or young person by saying “Family Services/police want to assist you. It is OK to tell Family Services/police what you told me before.”

The support person should remain quietly supportive. The support person should not ask the child or young person questions or answer questions on his/her behalf and should be careful not to “lead” the child or young person by reminding him/her of the detail of previous statements made to other people, such as “Tell Family Services/Police how your mum/dad hit you”.

After the interview

- wherever possible the child or young person should have an opportunity with the support person, or principal, or counsellor to express any concerns or fears about what will happen next
- support should continue to be offered to the child or young person on the days following the interview.

Family Services workers have a responsibility to

- ensure that the principal or preschool principal is briefed on the planned visit prior to arriving at the school
- inform the principal or preschool principal about what is likely to happen next.

Privacy issues

At all times respect should be shown for the privacy of the child or young person and his/her family. The venue for interviews should be removed from other staff and students. Any person with knowledge of the case or the report should be advised of the need for confidentiality. Information should only be shared on a “need to know” basis.

S404(1) of the Children & Young People Act 1999 makes clear that it is an offence for persons to divulge or communicate information, gained “under or by virtue of this Act” unless to divulge this information is “for the purposes of this Act”. This means that information should only be shared in the workplace or any other place, if to do so can clearly be linked with the care and protection of children.

EXCHANGE OF INFORMATION BETWEEN FAMILY SERVICES AND SCHOOLS

Under S28 and S29 of the Children & Young People Act 1999, the Chief Executive, ACT Department of Education and Training, through his/her delegate/s, may request specific information about children and young people who have been the subject of reports of suspected abuse.

If a Family Services worker telephones the school or preschool, the school or preschool should advise the caller that it is necessary to establish the identity of the person requesting the information and then telephone the Centralised Intake Service to confirm the request.

If there are concerns about the nature of the request, the Workplace and Legal Support Section should be contacted.

SOLICITORS AND COURTS

Practice arrangements in relation to matters before the Children's Court make it unlikely that staff from the Department of Education and Training will be called as witnesses before the Children's Court.

If, however, a solicitor makes contact with the school or preschool in connection with a child or young person, no questions should be answered by any staff member without the advice of the Workplace and Legal Support Section of the department or the Family Services' Court Unit.

Assistance from Family Services' Court Unit

The Family Services' Court Unit can assist with inquiries about the case and can prepare staff if they are required to provide information or appear before the Court.

HOW TO REPORT SUSPECTED CHILD ABUSE

Supportive response to child or young person

- convey belief
- do not quiz
- validate decision to tell
- make no promises.

Record statements or observations

- what was seen or said
- date/time
- sign.

Inform your supervisor/supervisor's delegate and together contact Family Services Centralised Intake Services:

1300 556 728 Mandated Persons line
1300 556 729 General Public line

- discuss the situation with the intake worker
- provide identifying information if advised by Family Services.

Discuss with Family Services about **informing parents** that a report has been made.

- If Family Services advise not to inform parents you must not inform them that a report has been made.
- Family Services will involve the Sexual Assault & Child Abuse Team of the Australian Federal Police if criminal offences appear to have been committed.

Family Services will confirm in writing that your report has been received.

Inform staff of any information from Family Services on a "need to know" basis.

Interview: If the child is to be interviewed at your agency/school/preschool, prepare by:

- checking the identity of the child or young person to be interviewed
- clarify interview process with Family Services - venue, right of child or young person to refuse, role of support person, advice to parents
- identify and brief the support person
- explain the role of support person to child or young person.

Support child or young person after intervention.

Support staff after intervention.

GUIDELINES FOR ALLEGATIONS OF ABUSE OR IMPROPER CONDUCT INVOLVING A MEMBER OF SCHOOL/PRESCHOOL STAFF

Introduction

These guidelines apply where allegations are made against staff relating to improper conduct against a child or young person, including abuse. Reports of such allegations may be received by the Department of Education and Training (DET) from principals, school counsellors, other school staff, students, parents, members of the community, Australian Federal Police, or other government agencies. All allegations are to be dealt with in confidence and in accordance with the principles of natural justice.

Where a mandated person believes that a child has suffered either non-accidental physical injury or sexual abuse, this must be reported to Family Services via the Centralised Intake Service.

Action by the Department

Action in response to an allegation against school/preschool staff relating to improper conduct of a sexual nature against a child or young person may be initiated within the department in the following ways:

Matter being investigated by Family Services

When an allegation is under investigation by Family Services, the Manager, Workplace and Legal Support and the relevant Director School Operations or the Director Children's Services should be informed as soon as possible.

If the allegation concerns a child or young person, the Manager, Care and Protection Services may discuss the interim placement and counselling of the child or young person with the Director concerned, should the allegation be deemed to place him/her at risk of future harm.

If the allegation concerns a staff member, the staff member may be redeployed to other duties or stood down pending investigation. If the investigation indicates misconduct may have occurred the staff member may be suspended with or without pay.

Matter referred to Director School Operations or Director Children's Services by Family Services without investigation

When an allegation is referred by Family Services to the Director School Operations or the Director Children's Services after a decision not to investigate, the Director School Operations or the Director Children's Services will consult with the Manager, Workplace and Legal Support. This discussion will determine the action to be taken.

If the allegation concerns a member of staff, the member of staff may be redeployed to other duties or stood down pending investigation. If the investigation indicates misconduct may have occurred the staff member may be suspended with or without pay.

Matter referred directly to School Operations

When an allegation is referred in the first instance to one of the Directors School Operations or to the Director Children's Services, the Director will report the matter to Family Services. The Director will consult with the Manager, Workplace and Legal Support who, in conjunction with Family Services, will determine the action to be taken.

If the allegation concerns a member of staff, the member of staff may be redeployed to other duties or stood down pending investigation. If the investigation indicates misconduct may have occurred the staff member may be suspended with or without pay.

Disciplinary Action

Where an allegation relating to improper conduct of a sexual nature by a staff member against a child or young person is brought to the attention of a school/preschool principal, the principal is under an obligation to take action.

The principal must consult the department's "*Policies and Guidelines for Dealing with Sexual Harassment, 1996*" and follow the procedures therein. It is recommended that the principal also discuss the allegation with the Manager, Workplace and Legal Support. The principal must refer the allegation to the Director School Operations or the Director Children's Services who will discuss the matter with the Manager, Care and Protection Services and the Manager, Workplace and Legal Support.

Section 9 of the *Public Sector Management Act 1994* sets out the general obligations of public employees. Failure to comply with Section 9 constitutes misconduct. The provisions of section 9 relate to but are not limited to:

- failure to exercise reasonable care and skill
- failure to act with probity
- failure to be courteous and sensitive to the rights, duties and aspirations of others
- harassment, being sexual or otherwise
- unlawful coercion
- failure to comply with the Act, the Standards and all other laws of the Territory
- taking improper advantage of position
- failure to comply with a lawful and reasonable direction.